

**FORTY-NINTH REPORT
COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

**MINISTRY OF DEFENCE
(DEPARTMENT OF MILITARY AFFAIRS)**

**AND
MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES**

(Presented to Lok Sabha on 09.08.2023)



**LOK SABHA SECRETARIAT
NEW DELHI**

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Harish Dwivedi - *Chairperson*

MEMBERS

2. Shri Anto Antony
3. Shri Hanuman Beniwal
4. Prof. Sanjay Sadashivrao Mandlik
5. Shri P. Ravindhranath
6. Dr. Jayanta Kumar Roy
7. Shri Brijendra Singh
8. Shri Sunil Kumar Singh
9. Shri Sushil Kumar Singh
10. Shri Manoj Kumar Tiwari
11. Shri Prabhubhai Nagarbhai Vasava
12. Shri Rajan Baburao Vichare
13. Vacant
14. Vacant
15. Vacant

SECRETARIAT

1. Shri T.G. Chandrasekhar - Additional Secretary
2. Shri Raju Srivastava - Joint Secretary
3. Shri Anand Kumar Hansda - Assistant Executive Officer

**FORTY-NINTH REPORT OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Forty-Ninth Report (Seventeenth Lok Sabha) of the Committee to the House on the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited.

2. The Committee considered and adopted the draft Forty-Ninth Report at their sitting held on 8 August, 2023.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

**HARISH DWIVEDI,
Chairperson,
Committee on Petitions.**

08 August, 2023

17 Sravana, 1945 (Saka)

REPORT

REPRESENTATION OF SHRI UMAKANT MISHRA REQUESTING FOR RELEASE OF PAYMENT BY TITAGARH WAGONS LIMITED.

Shri Umakant Mishra submitted a representation addressed to Hon'ble Chairperson, Committee on Petitions, Lok Sabha requesting for release of payment by Titagarh Wagons Limited.

2. In his representation, Shri Umakant Mishra *inter alia* submitted that he is the sole proprietor of Shree Sai Puja Enterprise, which is registered under the MSME and having its Registered Office at 150G, B.T. Road, P.S. – Khardah, District - 24 Parganas (North), Kolkata – 700 119, West Bengal.

3. The representationist, Shri Umakant Mishra, while raising his grievances in the representation regarding non-payment of outstanding dues by Titagarh Wagons Limited, brought out the following facts:-

- (i) *He, being the proprietor of the Shree Sai Puja Enterprise, has been running business transactions with the Titagarh Wagons Limited having its Registered Office at 756, Anandapur, Kolkata - 700 107, West Bengal, in the way which relates to nature of works and services, namely, Foundry Production, Labour Supply, J.C.B. Hydra and Dumper Supply and Assembly & Erection Services for Integrated Field Shelter for NBC Protection meant for Indian Air Force and Indian Railways.*
- (ii) *During the year 2020 amidst Covid-19, Titagah Wagons Limited had stopped payment against the works costing a large amount of money, done by Shree Sai Puja Enterprises, despite the fact that he had been providing the supply of goods and services unflinchingly for India Air Force and Indian Railways on the basis of their verbal orders/directions and communications.*
- (iii) *Although the employer, in this case, is M/s. Titagarh Wagons Limited; the Principle Employer is Government of India, viz., (i) Indian Railways and; (ii) Indian Air Force. Therefore, in pursuance of his due payments,*

he had made several follow-ups through email and even physically approaching the officials concerned in the higher management, but to no avail.

- (iv) Consequently, the pending bills, in both ways, with purchase orders and without purchase orders, stand to the approximate tune of above Rs. 8,73,96,283/- (Rupees Eight Crore Seventy Three Lakh Ninety Six Thousand Two Hundred and Eighty Three), which the Company, i.e., Titagarh Wagons Limited is liable to release for him. However, due to such procrastinate act of the Company, a huge amount of GSTN Tax to the approximate tune of above Rs. 3 crore has been lying pending on his part; which is in fact not an act of negligence on his part rather it amounts to violation of the rules and regulations framed under GST regime and makes the Company an intentional defaulter itself.*
- (v) Notwithstanding the emerged crisis due to non-payment of outstanding dues by the Titagarh Wagons Limited, he has been striving hard for fulfillment of his principal liability in terms of making payments to his labourers and vendors, in order to save his organization's reputation in the society. Evidently, there is no note of dissatisfaction or grudges in respect of his works/services provided for nation's development.*

4. The representationist, Shri Umakant Mishra has therefore, drawn attention towards his grievances and requested that Titagarh Wagons Limited should release the payments due so that he could fulfill his obligations in terms of paying all his existing GST dues and other liabilities, such as payment of salaries, PF & ESI dues to his labourers, vendors, etc., who are dependent upon his Company, i.e., Shree Sai Puja Enterprise for their livelihood.

5. The Committee on Petitions took up the representation of Shri Umakant Mishra for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the representation was forwarded to the Ministry of Railways (Railway Board), Ministry of Defence and also to the Ministry of Micro, Small & Medium Enterprises for furnishing their comments on the issues raised therein.

6. In response thereto, the Ministry of Railways (Railway Board) vide their Office Memorandum No. 2022/RS(I)/954/7/Misc. dated 20 June, 2022, furnished the following comments in the matter:-

"It is stated that the issue of non-payment of bills of M/s. Shree Sai Puja Enterprises, Kolkata for an amount of Rs. 8,73,96,283/- (Rupees Eight Crore Seventy Three Lakh Ninety Six Thousand Two Hundred Eighty Three only) by M/s. Titagarh Wagon's Limited is their internal matter and Railway Board is not involved in this case. If they are not getting payment from M/s. Titagarh Wagons Limited, they should take the legal action against M/s. Titagarh Wagon's Limited.

It is, therefore, informed that Railway Board neither advises M/s. Titagarh Wagons Limited nor takes any action against them."

7. The Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence vide their communication dated 12 July, 2022, furnished the following para wise comments in the matter:-

"Indian Air Force (IAF) has entered into Contract (Refer Contract No. B/28704/NBC-5/GS/WE-6/D (GS-IV)/TWL DATED 25 SEP 14) with M/s. Titagarh Wagons Ltd., Kolkata for Commissioning and Installation of Integrated Field Shelter at 11 bases. IAF is not in any contractual obligations with respect to any business transactions with the petitioner (Shri Umakant Mishra sole proprietor of Shree Sai Puja Enterprise, Khardah, 24 Parganas, (North Kolkata), as our contract is only with M/s. Titagarh Wagons Limited.

Indian Air Force (IAF) has entered into Contract (Refer Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL DATED 25 SEP 14) with M/s. Titagarh Wagons Ltd, Kolkata for Commissioning and Installation of Integrated Field Shelter at 11 bases. There are no pending dues against M/s. Titagarh Wagons Ltd, Kolkata as on date. As there is no contractual binding between IAF and 'M/s. Shree Sai Puja Enterprise'. Therefore, IAF has never given any verbal orders and directions nor has made any oral communication with the petitioner.

Indian Air Force (IAF) has entered into Contract (Refer Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL DATED 25 SEP 14) with M/s. Titagarh

Wagons Ltd, Kolkata for Commissioning and Installation of Integrated Field Shelter at 11 bases. Hence, it is reiterated that Indian Air Force (IAF) is NOT (R) NOT principle employer for either Mr. Umakant Mishra S/o Late Bhagwat Mishra or with 'M/s.Shree Sai Puja Enterprise'.

Indian Air Force (IAF) has NOT (R) NOT entered into any contract with Mr. Umakant Mishra S/o Late Bhagwat Mishra or with 'M/s.Shree Sai Puja Enterprise'. Hence, NIL comments are offered on the subject.

Since Indian Air Force (IAF) has NOT (R) NOT taken any services whatsoever, it may be from either Mr. Umakant Mishra S/o Late Bhagwat Mishra or with 'M/s.Shree Sai Puja Enterprise', there is NO (R) NO liability exists between IAF and Mr. Umakant Mishra S/o Late Bhagwat Mishra or with M/s.Shree Sai Puja Enterprise."

8. The Ministry of Micro, Small & Medium Enterprises vide their communication dated 21 June, 2022 addressed to the Managing Director, M/s. Titagarh Wagons Limited and endorsed to the Committee on Petitions Branch provided the following information in the matter:-

"The Micro, Small and Medium Enterprise Development (MSMED) Act, 2006 (Section 15) clearly stipulates that MSME dues should be paid within 45 days. Also the Ministry of MSME has come out with several instructions and notifications to Central PSUs/Central Ministries and State Government Departments to ensure timely payments (Annexure-I)"

9. In connection with the comprehensive examination of the instant representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited in light of the above comments furnished by the Ministry of Railways (Railway Board) and the Ministry of Defence, the Committee on Petitions held a briefing meeting with the representatives of the Ministry of Railways (Railway Board) and the Ministry of Defence on 13 July, 2022.

10. During the said briefing meeting, before hearing the views of the representatives of the Ministries, the Committee expressed their views, as under:-

- (i) The Ministry of Railways (Railway Board), while furnishing their comments in the matter, have inter-alia stated that the issue of non-payment of bills of M/s. Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited is their internal matter and Railway Board is not involved in this case. On the other hand, the Directorate of Armament & Safety Equipment (Air Headquarters) have also contended that the Indian Air Force had entered into a contract for some works with M/s. Titagarh Wagons Limited and therefore, they have no liability towards M/s. Shree Sai Puja Enterprise. Considering the averments made by the Railway Board and the Air Headquarters, it cannot be concluded that the dispute regarding non-payment of dues involving the two entities, i.e., M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise has nothing to do with the 'Principal Employers, i.e., the Ministries of Railways (Railway Board) and Defence (Department of Defence Production).
- (ii) M/s. Titagarh Wagons Limited supply various types of equipment to Ministry of Railways (Railway Board) and the Indian Air Force through Air Headquarters/Ministry of Defence (Department of Defence Production) and, therefore, they are the Principal Employers; whereas, M/s. Titagarh Wagons Limited happens to be the main contractor. Moreover, since the main contractor has sub-contracted the works/services to M/s. Shree Sai Puja Enterprise for manufacture/supply of various items, they could be termed as sub-contractor. There could not be any dispute till all the payments are made to M/s. Titagarh Wagons Limited who, in turn, release the dues to M/s. Shree Sai Puja Enterprise. However, since the payments were stopped to M/s. Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited, the said amount rose to a whopping Rs. 8.74 crore.
- (iii) In terms of Section 15 of the MSME Development Act, 2006, the buyer has to make payment to the supplier within 45 days from the date of acceptance of orders. Therefore, the Ministries owe responsibility to ensure that the sub-contractor(s) also receive payment/dues from the main contractor.
- (iv) In various Government Undertakings, especially the Ministries of Railways (Railway Board) and Defence, a mechanism is required to be

developed whereby, the Principal Employer/Buyer should obtain a written declaration from their main contractor(s) to the effect that the payments are also made to their sub-contractor(s), failing which legal action would be initiated against them including black listing of such errant contractor(s).

11. In response thereto, the major points put forth by the representatives before the Committee, were as under:-

(A) Ministry of Railways (Railway Board)

- (i) The Railway Board placed orders to M/s. Titagarh Wagons Limited for supply of only finished goods. The Railway Board has enlisted more than one lakh suppliers involving, approximately, seven lakh contracts, per year. Railway Board undertake a small part of business with M/s. Titagarh Wagons Limited, which is around 20 to 25 percent. Wagon manufacturing does not involve foundry production works. However, if the labour works have also been sub-contracted, the Railway Board have no role in the internal affairs of the supplier Company.*
- (ii) The definition of 'Principal Employer' under the Contract Labour Act, 1970, covers any person responsible for the supervision control of the establishment. Since the Railway Board do not have supervision and control on the premises of the suppliers and, therefore, it does not come under the purview of the said definition.*
- (iii) The Railway Board is neither the 'Owner' nor 'the Occupier' of the establishment/factory as per the Factories Act, 1948 and hence, the Board is not covered under the provision(s) of the Contract Labour Act, 1970.*
- (iv) Railway Board has a third party inspecting agency called RDSO, which inspects the finished goods or the different stages of their production with a view to following the safety standards.*

- (v) *Whenever, the Railway Board give order for supply of finished goods, there is no provision of any sub-contract. However, in case, the suppliers have to sub-contract the works/services, they have to obtain written permission from the Railway Board.*
- (vi) *As a matter of common prudence, the Railway Board has already sought written comments from the M/s. Titagarh Wagons Limited. As a matter of fact, M/s. Shree Sai Puja Enterprise has no involvement in the works of wagons' manufacturing. Even if the complaints made by M/s. Shree Sai Puja Enterprise are genuine, the Board has no locus standi on the issue.*

(B) Ministry of Defence

- (i) *Indian Air Force (IAF) has entered into contract with M/s. Titagarh Wagons Limited in September, 2014 for commissioning and installation of Integrated Field Shelter for NBC protection at 11 Air Force Bases. The said works are still going on at 3 Base(s).*
- (ii) *The total cost of the project was Rs. 60.49 crore. IAF has already paid Rs. 50 crore and at present, there is no amount pending on their part.*
- (iii) *IAF is not aware that M/s. Titagarh Wagons Limited has sub-contracted any work(s) to M/s. Shree Sai Puja Enterprise. Therefore, IAF would take up the matter with the M/s. Titagarh Wagons Limited and verify as to whether they have sub-contracted any work(s) to any Company.*

12. Subsequently, the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence vide their communication dated 20 July, 2022, furnished the following information:-

"As per directions of the Committee on Petitions during briefing held on 13 July, 2022, a meeting was conducted on 15 July, 2022 at Dilbagh Hall at Air.HQ (AB), CGO Complex, New Delhi under Chairmanship of Air Cmde ASE with respect to the representation of Shri Umakant Mishra requesting release of

payment by M/s. Titagarh Wagon's limited, Kolkata. The meeting was attended by the Representative(s) of IAF, M/s. TWL, Kolkata and M/s. Shree Sai Puja Enterprise, Kolkata. Minutes of subject meeting have been forwarded to M/s. Titagarh Wagons Limited, Kolkata and M/s. Shree Sai Puja Enterprise, Kolkata.

During the course of meeting, the Chairman directed M/s. TWL, Kolkata to resolve the issue in a time bound manner. Further, detailed report on subject matter has been put up to PSO for approval. Post approval of the said report, the same shall be submitted to the Committee of Petitions Branch, Lok Sabha at the earliest for kind perusal."

13. In the meantime, the representationist, Shri Umakant Mishra submitted a rejoinder dated 12 December, 2022 to his previous representation, addressed to Hon'ble Chairperson, Committee on Petitions, Lok Sabha requesting for release of payment by Titagarh Wagons Limited wherein, while reiterating his grievances, he *inter alia* brought out the following facts:-

- (i) *Despite the fact that his case regarding complaint against M/s. Titagarh Wagons Limited for non-release of payments is presently under enquiry of the Committee on Petitions, the authorities of M/s. Titagarh Wagons Limited are continuously threatening him to withdraw his complaint stating that no dues would be cleared as they have their influence in managing the authorities of Indian Railways and Indian Air Force.*
- (ii) *He had been issued the identity card and gate pass, which clearly proves that he along with his labourers were working very hard and accomplished the assignments in supplying and repairing the products in the areas under the control of Indian Railways and Indian Air Force.*
- (iii) *His vendors, suppliers, workmen, down the line, are unable to enjoy their statutory rights given under the ESIC and PF Acts due to stoppage of payments on the part of the Titagarh Wagons Limited and hence, they are pressurizing him for clearing their dues.*
- (iv) *Several small vendors, labourers, etc., and their families are dependent upon him and due to non clearance of the dues by M/s. Titagarh Wagons Limited, they have fallen in great financial stringency for which*

the concerned authorities of Indian Railways and Indian Air force are solely responsible.

14. Since some new facts had emerged in the rejoinder dated 12 December, 2022 of Shri Umakant Mishra, the same was accordingly forwarded to the Ministry of Railways (Railway Board) and the Ministry of Defence for furnishing their comments on the issues raised therein *vide* Lok Sabha Secretariat Office Memorandum dated 23 December, 2022.

15. In pursuance thereof, the Ministry of Railways (Railway Board) *vide* their Office Memorandum No. 2022/RS(I)/954/7/Misc. dated 12 January, 2023 furnished the following comments:-

*"It is informed that in this matter, in reference to Committee on Petitions Branch's Office Memorandum No. 11/CPB/2022/R-304 dated 7.6.2022, a reply was sent *vide* Railway Board's Office Memorandum of even number dated 20.6.2022. In the reply, it was mentioned that the issue of non-payment of bills of Shree Sai Puja Enterprises (SSPE) by M/s. Titagarh Wagons Limited (TWL) is their internal matter and Ministry of Railways is not involved in this case.*

*Further, on the direction of Hon'ble Petition Committee of Parliament (Lok Sabha), efforts were made to bring both firms/parties across the table to enable them to sort out their differences *vide* meeting arranged on 18.7.2022 (copy of Record Note is enclosed as Annexure-II). Subsequently, M/s. SSPE and M/s. TWL interacted amongst them and submitted their submission directly to Petition Committee of Parliament *vide* their letters dated 23.8.2022 and 19.9.2022 respectively (Copy enclosed as Annexure-III). M/s. TWL in their response dated 19.9.2022 have submitted to have cleared all the valid and legitimate dues of M/s. SSPE with counter claim of return of advance payment with applicable interest from M/s. SSPE due to them.*

In reference to Office Memorandum under reference, it is stated that M/s. Shree Sai Puja Enterprises is neither dealing in Railways' tenders nor performed any labour work/assignment in Railway controlled/supervised area. In such situation, issue of any claim by M/s. Shree Sai Puja Enterprises (SSPE) against M/s Titagarh Wagons Limited (TWL) or counter claim by M/s.

TWL against M/s. SSPE is their internal matter and beyond the scope of interference or control by Ministry of Railways.

16. The Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence *vide* their communication dated 24 January, 2023, furnished the following comments:-

"Reference is made to the representation of Shri Umakant Mishra, Proprietor of Shree Sai Puja Enterprise, Kolkata received from the Committee of Petitions Branch, Lok Sabha Secretariat vide Letter No. 11/CPB/2022/R-304 (E-191417) dated 23 December, 2022 and the following correspondences-

- (a) Minutes of meeting held on 15 July, 2022 at Air HQ (AB)(Annexure-IV)*
- (b) Letter No. Air HQ/S78954/1/ASEA (NBC) dated 12 July, 2022 addressed to the Committee on Petitions Branch (Annexure-V)*
- (c) Letter No. Air HQ/S78954/1/ASEA (NBC Maint) dated 2 September, 2022 addressed to Titagarh Wagons Limited (Annexure-VI)*
- (d) Letter dated 19 September, 2022 received from M/s. TWL (Annexure-VII)*

A similar representation was made by Shri Umakant Mishra on the same issue and was duly addressed by organizing a tripartite meeting by IAF with M/s. TWL Kolkata & Shri Umakant Mishra. As per directions of Committee of Petitions Branch, a meeting was conducted on 15 July, 2022 at Dilbagh Hall at Air HQ(AB), CGO Complex, New Delhi under Chairmanship of Air Cmde ASE with Director of M/s .Titagarh Wagons Limited, Kolkata to verify the claim made regarding non-payment of bills for an amount of Rs 5.1 crore submitted by Shri Umakant Mishra and settle the issue. A reply on the action taken was forwarded to Committee of Petitions Branch vide Letter No. Air HQ/S78954/1/ASEA (NBC) dated 12 July, 2022.

A second meeting was held by IAF with M/s. TWL Kolkata under Chairmanship of ACAS(Wpn) on 16 August, 2022 to check the progress M/s. TWL had confirmed that discussions are being held with the firm for settlement of dues. A letter No. Air HQ/S78954/1/ASEA (NBC Maint) dated 2 September, 2022 was sent to M/s. TWL to forward the status of settlement.

Contract for supply and installation of Qty 55 Integrated Field Shelters of IAF bases has been signed by MoD with M/s. Titagarh Wagons Limited vide Contract No. B/28704/NBC-5/GS/WE-6/D/(GSIV)/TWL dated 25 September, 2014. The firm Shree Sai Puja Enterprise is not a party in this contract and has no legal right for any claims either with MoD or IAF. It is understood from the representations, that M/s. TWL has engaged this firm for execution of certain works of this contract and both the firms have to resolve the issue.

M/s. TWL in their reply dated 19 September, 2022 stated that the company had paid and cleared all valid and legitimate dues to Shree Sai Puja Enterprise and that the claim made by Shri Umakant Mishra is fictitious without any supporting document or PO given by M/s. TWL. The reply from M/s. TWL was also addressed to Honorable M.P., Shri Harish Dwivedi, Chairman, Committee on Petitions.

It is requested that Committee on Petitions Branch may apprise Shri Umakant Mishra of M/s. Shree Sai Puja Enterprise with the inputs forwarded by M/s. TWL, Kolkata, either to amicably settle the issue or take recourse through legal means. As brought out above IAF has no legal authority to mediate in this case as the contract of supply of IFS is signed with M/s. TWL and not with M/s. Shree Sai Puja Enterprise."

17. In the meantime, the Ministry of Railways (Railway Board) vide their Office Memorandum No. 2022/RS(I)/954/7/Misc. dated 8 February, 2023 furnished the following information concerning the subject matter:-

"M/s. Titagarh Wagons Limited vide their Letter dated 07.02.2023 intimated this Ministry that they have filed a Suit for recovery and defamation, bearing Title Suit No. 126 of 2023, valued at Rs. 1,45,39,367/- and Rs. 100,00,00,000/- respectively, against Shri Umakant Mishra, Proprietor of Shree Sai Puja Enterprise, before the Ld. 3rd Civil Judge (Senior Division) at Barasat."

18. The Committee, thereafter, held further briefing meeting with the representatives of the Ministry of Railways (Railway Board) and the Ministry of Defence on the rejoinder dated 12 December, 2022 and a subsequent representation dated 17 December 2022 of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited on 9 February, 2023.

19. During the briefing meeting, the Committee on Petitions, while recalling the deliberations held with the representatives of the Ministry of Railways (Railway Board) and the Ministry of Defence (Air Force Headquarters) on the representation of Shri Umakant Mishra for release of payment by Titagarh Wagons Limited during the briefing meeting held on 13 July, 2022, sought further clarifications in the matter, as under:-

- (i) *During the sitting held on 13 July, 2022, the Committee had directed that with a view to resolving the issues put forward by the representationist, Shri Umakant Mishra, the Ministries should adopt a legally acclaimed approach by way of calling the representatives of the M/s Shree Sai Puja Enterprise to ascertain the facts and resolve the dispute amicably through mediation. Further, they should look into the matter by not confining themselves to the legal aspects but also applying the principles of natural justice so that MSMEs do not suffer due to non-payment of dues by the Principal Contractor(s). In pursuance thereof, the Railway Board and the Air Force Headquarters/Indian Air Force had put in their efforts to arrange and hold meetings to bring both the Firms, viz., M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise across the table for sorting out their differences. Despite this, the situation remains the same. In view of this, what further efforts could be taken by the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters to amicably settle the issue, once and for all?*
- (ii) *Whatever services have been rendered by the M/s. Shree Sai Puja Enterprise to the M/s. Titagarh Wagons Limited, including supply of labourers, etc., for that it has to pay for its contributions towards Provident Fund, ESI, etc., in respect of its employees/workers, down the*

line, as part of legal obligations. However, M/s. Shree Sai Puja Enterprise would not be able to fulfill its obligations due to non-payment of dues by the M/s. Titagarh Wagons Limited thereby, ultimately creating problems for its employees/workers. In such a scenario, whether the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters could put in their concerted efforts to impress upon the M/s. Titagarh Wagons Limited to clear/settle all the dues of M/s. Shree Sai Puja Enterprise so that the interests of workers are safeguarded, in terms of their social security?

- (iii) The averments made by M/s. Titagarh Wagons Limited in regard to release of payment to M/s. Shree Sai Puja Enterprise through their various communications appear to be ambiguous and inconsistent. Considering the dubious role of the Company, in question, which is eventually affecting the image of prestigious institutions, viz., Indian Railways and Indian Air Force, as its actions have an adverse impact on the lives of common people, should the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters not conduct an independent inquiry against M/s. Titagarh Wagons Limited on the basis of which necessary actions could be initiated, if irregularities are found?

21. During the second briefing meeting held on 9 February, 2023, the representatives of the Ministry of Railways (Railway Board)/Ministry of Defence (Department of Military Affairs) put forth the following major points before the Committee:-

- (i) The Railway Board place orders to M/s. Titagarh Wagons Limited for supply of manufactured wagons as 'finished goods'. The 'Contract' with the Company does not cover subletting/sub-contracting for further supply of services/goods. Further, the Board has no role in the internal affairs of the supplier Company.
- (ii) As per information furnished by M/s. Titagarh Wagons Limited, no payment is pending on their part in respect to M/s. Shree Sai Puja Enterprise. M/s. Titagarh Wagons Limited have informed that M/s. Shree Sai Puja Enterprise have not paid the dues to the Sales Tax Authority

out of the payment already made to them and their dispute is actually with the GST Department.

- (iii) M/s. Titagarh Wagons Limited have informed that they have filed a suit for recovery of approximately Rs. 1.45 crore from M/s. Shree Sai Puja Enterprise in a Civil Court, Kolkata.*
- (iv) On the directions of the Committee, efforts have been made to resolve the issue by calling both the parties in the meeting(s) to sort out their differences besides talking to them personally through telephonic medium. But unfortunately, the issues could not be resolved.*
- (v) The internal dispute between M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise regarding payment of bills is beyond the scope of interference and control of the Ministry of Railways (Railway Board).*

22. Subsequently, the Ministry of Railways (Railway Board) vide their Office Memorandum No. 2022/RS(I)/954/7/Misc. dated 06.03.2023 furnished their final comments in the matter, as under:-

"In this regard, it is informed that in this matter, replies were sent vide Railway Board's Office Memoranda dated 20.06.2022, 12.01.2023, 07.02.2023 and 08.02.2023 in reference to Committee on Petitions Branch's Office Memoranda.

It has already been clarified that the issue of non-payment of bills of Shree Sai Puja Enterprise (SSPE) by M/s. Titagarh Wagons Limited (TWL) is their internal matter and Railway Board is not involved in this case. On the direction of the Committee on Petitions, efforts were made to resolve the issue whereas this Ministry is not involved in this matter. It is very unfortunate that even after the efforts of this Ministry, this issue could not be resolved. M/s. TWL has now informed that they have filed a Suit at Barasat Court against the Proprietor of SSPE.

During the briefing held on 09.02.2023 on this issue, all the points have already been clarified orally by the officers of this Ministry to the Hon'ble Committee on

Petitions. Committee on Petitions suggested to consider conducting impartial enquiry within the framework of contract and communicate Railways' final opinion within 15 days time. Entire matter has been revisited by Railways and it has been opined that M/s. Titagarh Wagons Ltd. was awarded contract for supply of finished wagons manufactured in M/s. Titagarh Wagons Ltd's premises where Railway has no control over establishment or otherwise. As such Railway is not Principal Employer in the subject matter and cannot have any influence in internal dispute of claim/counter claim between M/s. TWL and M/s. SSPE within the frame work of its contract for supply of finished wagons with M/s. TWL Moreover, the subject matter of internal dispute of M/s. TWL and M/s. SSPE is now sub-judice and any influence by Railways at this stage without any legal standing is uncalled for. Accordingly, Railways would like to submit request to the Committee on Petitions to allow matter of internal dispute between M/s. TWL & M/s. SSPE to be decided by legal framework only."

OBSERVATIONS/RECOMMENDATIONS

Ensuring timely payment to the Micro and Small Enterprises

23. The Committee while meticulously examining the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited *vis-a-vis* the information furnished by the Ministry of Micro, Small & Medium Enterprises *vide* Office of the Development Commissioner (Micro, Small & Medium Enterprises) Letter dated 21 June, 2022 addressed to the Managing Director, M/s. Titagarh Wagons Limited and endorsed to the Committee on Petitions Branch, Lok Sabha Secretariat, note that Section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, unambiguously stipulates that MSME dues are ought to be paid within 45 days from the date acceptance of goods and/or services. Section 15 (Liability of buyer to make payment) under Chapter V of the MSMED Act, 2006 on '*Delayed Payments to Micro and Small Enterprises*' states, as under:-

"15. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance."

24. Further, Section 18 (Reference to Micro and Small Enterprises Facilitation Council) of the Act *ibid* states as under:-

"18.(1)Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

- (2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.**
- (3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.**
- (4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.**
- (5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference."**

25. Based on the provisions, the Committee further note that there exist express provision(s) for establishment of Micro and Small Enterprise Facilitation Council by the State Governments which acts as 'Dispute

Resolution Forums for MSMEs, including those related to delayed payments for their settlement upon getting such references, filings, applications, etc., under the MSMED Act, 2006.

26. In this context, the Committee also acknowledge that the Ministry of Micro, Small & Medium Enterprises have issued various instructions and notifications to the Central Ministries/Departments/Central PSUs and State Government Departments to ensure timely payment to the Micro and Small Enterprises. Further, the details of application(s) filed by the Entrepreneurs/MSE Units regarding delayed payment issues and the status thereof are supposed to be uploaded/updated on the MSME-SAMADHAAN Web Portal (Delayed Payment Monitoring System).

27. Needless to mention that the Micro, Small & Medium Enterprises Sector, particularly the Small Scale Industry or the Small Enterprises sub-sector, has emerged as a highly vibrant and dynamic sector of the Indian economy over the last few decades. As the Small Scale Industry/Enterprise Sector has been emerging as an engine of growth in most of the developed and newly industrialized countries, India's vision of emerging as an economic super power in the 21st century could be realized through effective promotion and development of this specific Sector. Over the years, the Government of India have been supporting the Small Scale Sector through various policy measures which acted as a catalyst in promoting this Sector in order to make it more growth oriented and enable it to withstand the pressure from global competition. As a matter of fact, the recently launched '*Atmanirbhar Bharat*

Abhiyaan' or Self-Reliant India Movement by the Government of India also envisages various policy measures through stimulus packages, tranches, etc., to the MSME Sector for its revival during and post the Covid-19 pandemic period.

28. In this backdrop, it is evident that the issue of delayed payment of dues particularly to the Micro and Small Enterprises (MSEs) would pose as a threat to the growth and development of the MSME Sector, as a whole. The issue of delayed payment, being one of the major post sale problems, therefore, needs immediate attention of the Government and other stakeholders. In the considered opinion of the Committee, the Government, whose role has to be that of an effective and efficient facilitator in creating a conducive environment for MSME businesses to thrive, must intervene through appropriate policy measures/formulations for effecting prompt payment to the MSEs so that fair and transparent dealing in the matters of payment as well as friendly relations amongst Micro and Small Enterprises/Entrepreneurs can be ensured, which are indeed key to the success of any business. In this context, the Committee urge the Ministry of Micro, Small & Medium Enterprises to ensure strict compliance of the relevant provision(s) under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and the Rules, Guidelines, Instructions, etc., made thereunder regarding delayed payments to the Micro and Small Enterprises (MSEs). Further, the Office of the Development Commissioner for Micro, Small & Medium Enterprises should constantly monitor the implementation of various policies and programmes of the Government for the promotion and development of MSMEs in the country. Besides, the Ministry

should also liaise with the Departments concerned of the Central and State Governments/PSUs in order to ensure that the Micro and Small Enterprises Facilitation Councils, which act as Conciliator or Arbitrator for settlement of outstanding dues between the parties, are effectively working and are being monitored properly and constantly, both at the Central as well as at the State levels. In addition to these, the Ministry should also issue necessary Guidelines, Instructions, etc., to all the Central Ministries/Departments/Central PSUs and also to the State Government Departments concerned for resolution of issues regarding non-payment/delayed payment of dues to MSEs in a time bound manner while ensuring that the details/status of the same are updated on the MSME-SAMADHAAN Web Portal on a regular basis. The Committee would like to be apprised of the necessary steps taken/proposed to be taken in regard to all the above mentioned aspects within three months from the date of presentation of this Report to the House.

Ensuring prompt payments to the Sub-Contractor(s) by the Main Contractor in the MSME Sector

29. The Committee, after painstakingly going through the issues/points raised by the representationist, Shri Umakant Mishra, in his representation and examining the same in the light of comments furnished thereon by the Ministry of Railways (Railway Board) and the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence, note that M/s. Titagarh Wagons Limited is being awarded contracts by the Indian Railways for supply of finished wagons to be manufactured in the premises of M/s. Titagarh Wagons Limited and by the Indian Air Force (IAF) for commissioning and

installation of Integrated Field Shelter at 11 Air Bases. However, as per the averments made by the Ministry of Railways (Railway Board), the issue of non-payment of bills of M/s. Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited is their internal matter and Railway Board is not involved in this case. Further, as per the averments made by the Directorate of Armament & Safety Equipment (Air Headquarters)/Ministry of Defence, Indian Air Force had although entered into Contract *vide* Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL dated 25 September, 2014 with M/s. Titagarh Wagons Limited, Kolkata for commissioning and installation of Integrated Field Shelter at 11 Air Bases. However, the IAF was not in any contractual obligations with respect to any business transactions with the representationist, Shri Umakant Mishra, the sole proprietor of Shree Sai Puja Enterprise, Khardah, 24 Parganas, (North Kolkata), as their contract was only with M/s. Titagarh Wagons Limited.

30. The Committee, however, note from the submissions made by the representationist, Shri Umakant Mishra, in his representation, that an amount to the tune of around Rs. 9 crore is pending on the part of M/s. Titagarh Wagons Limited for supply of labour/goods and services rendered by his Company, *i.e.*, M/s. Shree Sai Puja Enterprise. The representationist, Shri Mishra, has therefore, requested for releasing his rightful dues by M/s. Titagarh Wagons Limited so that he could fulfill his statutory obligations in terms of paying all the outstanding GST dues and other liabilities such as salary, PF and ESI dues, etc., towards his employees/workers who are dependent upon his Company for their livelihood.

31. Juxtaposing the aforementioned averments made by the Ministry of Railways (Railway Board) and the Ministry of Defence with the solemn submission and request made by the representationist in his representation, one aspect becomes evident that M/s. Shree Sai Puja Enterprise had been, in fact, hired by M/s. Titagarh Wagons Limited for supply of labour/goods and services and/or for execution of works eventually meant for Indian Railways and Indian Air Force.

32. The Committee while noting the grievances of the representationist, Shri Umakant Mishra about the non-payment of outstanding dues by M/s. Titagarh Wagons Limited to M/s. Shree Sai Puja Enterprise are dismayed to note that the Ministry of Railways (Railway Board) and the Ministry of Defence, though not being the Principal Employers, have failed to ensure the timely payment by their main supplier, *i.e.*, M/s. Titagarh Wagons Limited to its sub-contractor, *i.e.*, M/s. Shree Sai Puja Enterprise in spite of the goods and services supplied/provided by M/s. Shree Sai Puja Enterprise to M/s. Titagarh Wagons Limited to the best of their ability even in the restrictive situation during Covid-19 pandemic period, M/s. Titagarh Wagons Limited have failed to release the outstanding dues. The representationist, Shri Mishra has also informed that the inordinate delay in releasing the payment by M/s. Titagarh Wagons Limited had led to serious functional/operational as well as financial hardships to the representationist such as non-payment of Goods & Services Tax, non-compliance of various statutory obligations like delayed payments of salary to the employees, workers/labourers, vendors, etc., and depositing employers' share of Provident Fund, ESI dues, etc.

33. As far as 'Liability of buyer to make payment to supplier' vis-a-vis problem with regard to non-payment or delayed payment in the Micro and Small Enterprise Sector is concerned, the Committee are of the view that the intents behind incorporation of Section 15 in the Micro, Small and Medium Enterprise Development Act, 2006 which provides for payment of MSME dues by the buyer to the supplier within 45 days from the day of acceptance or the day of deemed acceptance for supplying any goods or rendering any services, would not serve the purpose unless the main contracting firm(s) make prompt payment to its sub-contractor(s) for supplying any goods and/or hiring their services, thereby making the Act *ibid* as a whole or the Rules made thereunder ineffective.

34. The Committee feel that the Government should set an example of being a good employer by not only ensuring timely payment to its main contracting firm(s) on one hand but also at the same time ensure expeditious release of the payment by the main contracting firm(s) to the sub-contracting firm(s) so that the poor labourers/workers who had been employed by any such sub-contracting firm(s) should not be deprived of their legitimate rights in terms of their remunerations and end up becoming the ultimate pitiable sufferers. Besides, it should be an endeavour of the Government to be an effective facilitator for time bound resolution/settlement of issues/complaints regarding non-payment or delayed payment of outstanding dues through various existing Alternative Dispute Resolution Mechanism(s), statutory or otherwise, which would enable settling of any dispute without getting into the intricacies of the Court thereby saving precious time and resources. This would not only obviate

the unnecessary and avoidable litigations but would also reduce the burden of our Courts.

35. Indian Railways, being the single largest and the most extensive employer in the Country which provides direct or indirect employment to millions of people and secondly, the Indian Air Force which is an Organisation of strategic importance having connotation of National Security, are indeed the face of the Government. As these Government Organisations have been availing the services of M/s. Titagarh Wagons Limited for supply of goods/services, any complaint(s) by the third party contractor(s) against M/s. Titagarh Wagons Limited, would eventually dent the reputation of the Government in terms of accountability and professionalism as the supplied goods or rendered services/works are ultimately meant for the Government.

36. Notwithstanding the foregoing stipulations, the Committee are of the view that whenever the Main Contractor enters into any formal agreement with the Sub-Contractor(s) for execution of work or supply of goods/services, it should be ensured by the Government Authorities concerned that the agreement shall clearly define the scope of work supposed to be carried out by the Sub-Contractor(s) besides the terms and conditions in regard to payment in an unambiguous manner. In this context, the Committee recommend that the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should explore the feasibility for formulating a mechanism whereby, the Principal Employer/Buyer could obtain a written declaration from their Main Contractor(s) to the effect that the payments are released promptly to

their Sub-contractor(s), failing which legal action would be initiated against them including black-listing of such errant Contractor(s). Such mechanism would certainly act, on one hand, as a deterrent for such errant Contractor(s) who deliberately delay the release of payments to their Sub-contractor(s) which eventually cause unnecessary delay in execution/supply of contracted work/goods and services and also compromise quality thereof; and on the other hand, it would also act as a protective shield for the vulnerable Sub-contractor(s) who do not find mention in the Contract/Agreement Documents between the Principal Employer/Buyer and the Main Contractor(s).

37. In this sequel, the Committee further recommend that the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should ensure that the Rules/Guidelines regarding payments to Micro and Small Enterprise under the MSMED Act, 2006 and Instructions/Notifications issued by the Ministry of Micro, Small and Medium Enterprises from time to time should be scrupulously followed and at the same time, their implementation should also be monitored constantly by the Organisations/PSUs under their control. The Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs), in this regard, are now required to work out on a workable mechanism to bring in transparency and resolving complaints related to payments to the Micro, Small and Medium Enterprises hired by the Organisations/PSUs under them in a time bound manner. The Committee would like to be apprised of the necessary steps taken/proposed to be taken on all the above aspects within three months from the date of presentation of this Report to the House.

Amicable resolution of payment dispute between M/s. TWL and M/s. SSPE through mediation and negotiation

38. Based on the information furnished by the Ministry of Railways (Railway Board) and the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence, the Committee note that in pursuance of the Committee's directions during the briefing meeting held on 13 July, 2022, with the representatives of both the Ministries, a meeting was organised on 15 July, 2022 at Dilbagh Hall at Air Headquarters (Antyodaya Bhawan), CGO Complex, New Delhi under the Chairmanship of Air Cmde ASE with respect to the representation of Shri Umakant Mishra requesting release of payment by M/s. Titagarh Wagons Limited, Kolkata, which was attended by the representative(s) of Indian Air Force, M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise. During the course of said meeting, the Chairman had directed M/s. Titagarh Wagons Limited to resolve the issue in a time bound manner. Besides, another meeting was also arranged on 18 July, 2022 under the aegis of the Ministry of Railways (Railway Board), wherein, efforts were made to bring, both the Firms/Parties across the table to enable them to sort out their differences in an amicable manner. Subsequently, M/s. Titagarh Wagons Limited, in their communication dated 19 September, 2022, had submitted that they have cleared all the valid and legitimate dues of M/s. Shree Sai Puja Enterprise.

39. In this connection, the Committee further note that another meeting was held by the Indian Air Force with M/s. Titagarh Wagons Limited under the

Chairmanship of ACAS (Wpn) on 16 August, 2022 to check the progress of the case, wherein, M/s. Titagarh Wagons Limited had confirmed that discussions are being held with the firm for settlement of dues, as informed by the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence. The Committee were informed by the Ministry of Defence that M/s. Titagarh Wagons Limited *vide* their communication dated 19 September, 2022 had responded that the Company had paid and cleared all the valid and legitimate dues in respect to M/s. Shree Sai Puja Enterprise and the claim made by Shri Umakant Mishra was fictitious and without any supporting document(s) or Purchase Order(s) given by M/s. Titagarh Wagons limited.

40. The Committee acknowledge with appreciation that the efforts made by the Ministry of Railways (Railway Board) and the Ministry of Defence for inviting the representatives of M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise and arranging meetings for settlement of payment-related dispute at the behest of the Committee. Notwithstanding the efforts made, it appears that both the firms are not making much headway on resolution of the dispute despite having discussions on three occasions. The Committee are, therefore, of the opinion that both the Ministries, *viz.*, the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should look into the matter by not confining themselves to the technical or legal aspects but also applying the principles of natural justice. It is desirable that the Ministries should endeavour to extend all possible help and support to both the Parties while having sympathetic and humanitarian considerations in order to resolve the long pending issue amicably and in a time bound manner so that small

enterprises such as M/s. Shree Sai Puja Enterprises do not suffer due to non-payment of outstanding dues by the main contractors/bigger enterprises; and at the same time, the poor workers/labourers who are working with the small enterprises/sub-contractors also should not suffer from financial difficulties due to non-payment/delayed payment of salaries/wages while safeguarding their social security in terms of regular payments towards ESI and PF schemes. The Committee, therefore, would like to urge the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) to adopt a legally acclaimed approach by way of again inviting the representationist, Shri Umakant Mishra, the Proprietor of M/s. Shree Sai Puja Enterprise and the Senior Executives of M/s. Titagarh Wagons Limited and arrange a meeting under their aegis so that their respective claims can be verified and the long drawn payment dispute between them can be resolved amicably once and for all through mediation and negotiation and also up to the satisfaction of both the Parties. The Committee would like to apprise of the requisite efforts taken by both the Ministries in this direction and would also like to await the positive outcome of this case in the form of a final settlement within three months from the date of presentation of this Report to the House.

NEW DELHI;

HARISH DWIVEDI,
Chairperson,
Committee on Petitions.

08 August, 2023
17 Sravana, 1945 (Saka)

4/2(2)/2021-E/P&G/Policy (Pt.1)
Government of India
Ministry of MSME
Office of Development Commissioner (MSME)
(Policy & Governance Division)

Nirman Bhavan, New Delhi
Dated:- 26.04.2021

OFFICE MEMORANDUM

Subject: Inclusion of New Provisions in SAMADHAAN Portal.

I am directed to state that Ministry of MSME, Government of India, has received several representations from Central Ministries/Government Departments that even after making payment to the sellers (MSEs) the cases are shown as pending on the SAMADHAAN Portal against them, which gives the wrong impression of pendency of payment of dues to MSEs. Hence, a provision related to uploading the payment certificate for the payment made by Central Ministries/Government Departments against the dues of MSE filed applications/ cases has been devised in the SAMADHAAN web portal by NIC team.

2. Further, you are requested to nominate an officer from your Ministry/ Department, not below the level of Director, as the nodal officer for the delayed payment issues. The name and contact details of the nominated officer may be intimated to this office.

3. As you may be aware, AatmaNirbhar Bharat announcements made by Hon'ble Union Finance Minister, in the recent economic package, specifically included the payment of dues to MSEs as one of the strategies to revive the MSME sector. It is requested to kindly examine the matter and issue necessary directions for release of the due amount to MSEs.

Ishita G. Tripathy

(Dr. Ishita G. Tripathy)
Additional Development Commissioner
Tel.No. 23061847
E-mail: ishita.tripathy@nic.in

To,
All Secretaries of Ministries/Departments.
Government of India



D.O. No.16/08/2018-P&G/Policy(P.U.)

11th June, 2020

Dear Sir / Madam

You are aware that delayed payments to the MSMEs is one of the biggest challenges which this sector is facing. Particularly, in the present situation, while overall supply chain has been badly affected, release of the receivables from the Departments/Organizations/PSUs under your control would go a long way in restarting the economic cycle at the grass-root level. This would help in protecting the jobs and livelihoods of laes of people. Release of this amount will also enable the MSMEs in production of certain essential medical and auxiliary items required in the fight against Covid-19. This will also lead to reduction of imports and eventual export of such items.

Concerned with the situation and looking towards the benefit of releasing these receivable payments, Hon'ble Finance Minister, while announcing the recent economic package of Atmnirbhar Bharat, had specifically covered this point as one of the strategies to revive the MSME sector. As per the announcement dated 13.5.2020, such receivables/dues have to be released by the Government agencies and PSUs within 45 days.

It may also be noted that even the MSMED Act, 2006, provides for a maximum gap of 45 days for payment 'from the day of acceptance or the day of deemed acceptance.'

I am providing herewith a web-link of the details of payments which are due from the Organizations. However, these are only the cases where the MSMEs have filed the cases for payment as an option of last resort. But, there may be many more instances of delayed payments to several other MSMEs who have not lodged such complaints.

I request for your intervention and direction to all the organizations under the control of your State including as follows:

- Direction and Co-ordination with MSE facilitation councils to expedite the pending cases;
- Direction to all agencies specially PSUs to make payments to MSMEs where matters are clear;
- Direction to the agencies and PSUs of your State to join and transact on the TReDS platform designed by GOI for discounting of bills of MSMEs.

Once again, I seek your cooperation and request you to kindly see that the payments due to MSMEs are decided and released at the earliest. I also request you to kindly appoint a nodal officer for this purpose. We will be happy to share more details in this regard. The details of cases filed can be accessed on our portal [https:// samadhan.msme.gov.in](https://samadhan.msme.gov.in). I will be grateful for expeditious action and a fortnightly report in the enclosed format.

With kind regards,

Yours sincerely,

(A.K. Sharma)

Encl: As above.

All Chief Secretaries of States/ UT's

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Format for Fortnightly Report

Name of the State:

Name & Designation of the Nodal Officer:

S. No.	Name of Dptt. / PSUs	Total due payment beyond 45 days as on 13 th May, 2020 (in Rs. crore)	Payment made after 13 th May, 2020 (in Rs. crore)	Total outstanding as on 1 st June, 2020 (in Rs. crore)	Remarks and further action plan towards release of Payments

ए. के. शर्मा

सचिव

A. K. Sharma

Secretary

संयुक्त सचिव (नीति एवं प्रशा.)
Joint Secretary (P.S.A.)
उ. अ. सं. सं. नं. 453986
दिनांक/Date: 19/05/20



सत्यमेव जयते

MSME

भारत सरकार

सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय
उद्योग भवन, राफी मार्ग, नई दिल्ली-110 011

GOVERNMENT OF INDIA

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES
UDYOG BHAWAN, RAFI MARG, NEW DELHI-110 011

D.O. No. 16/08/2018-P&G/Policy (Pt.II)

18th May, 2020

Dear Sir / Madam,

At the outset, I seek your good wishes on taking over as Secretary, Ministry of Micro, Small and Medium Enterprises.

You are aware that payment to the MSMEs is one of the biggest challenges which this sector is facing. Particularly, in the present situation, while overall supply chains has also been badly affected, release of the receivables from your Ministry / Department / Organisation would go a long way in restarting the economic cycle at the grass-root level. This will help in protecting jobs and livelihoods of lacs of people. Release of this amount may also enable the MSMEs in production of certain essential medical and auxiliary items required in the fight against COVID 19. This will also lead to reduction in import of such items.

Concerned with the situation and looking towards the benefit of releasing these receivable payments, Hon'ble Finance Minister, while announcing the recent economic package, has specifically covered this point as one of the strategies to revive the MSME sector. As per the announcement dated 13.5.2020, such receivables have to be released by the Government agencies and PSUs within 45 days.

I am providing herewith a web-link of the details of payments which are due from the Organisations under your Ministry and also the PSUs attached to your Ministry. These are the cases where the MSMEs have filed the cases for payment as an option of last resort. But, there may be many more instances of delayed payments to several other MSMEs who have not lodged such complaints.

I request for your intervention and direction to all the organizations under the control of your Ministry to fulfill the announcement from Hon'ble Finance Minister to release the payments immediately. I also take this opportunity to request you to see that the agencies and PSUs attached to your Ministry also join and transact on the TReDS platform designed for discounting of bills of MSMEs and operated by the TReDS Exchanges as approved by the Department of Financial Services.

Once again, I seek your cooperation and request you to kindly see that the payments due to MSMEs are released at the earliest. We will be happy to share more details in this regard. The details can also be accessed on our portal <https://samadhaan.msme.gov.in>.

With kind regards,

Yours sincerely,

(A.K. Sharma)

To

All Secretaries to the GOI

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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 31]
No. 31]नई दिल्ली, शुक्रवार, जून 16, 2006 / ज्यैष्ठ 26, 1928
NEW DELHI, FRIDAY, JUNE 16, 2006 / JYAISTHA 26, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 16th June, 2006/Jyaistha 26, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 16th June, 2006, and is hereby published for general information:—

THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006

No. 27 OF 2006

[16th June, 2006.]

An Act to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

WHEREAS a declaration as to expediency of control of certain industries by the Union was made under section 2 of the Industries (Development and Regulation) Act, 1951;

AND WHEREAS it is expedient to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Micro, Small and Medium Enterprises Development Act, 2006.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Advisory Committee" means the committee constituted by the Central Government under sub-section (2) of section 7;

(b) "appointed day" means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Explanation.—For the purposes of this clause,—

(i) "the day of acceptance" means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) "Board" means the National Board for Micro, Small and Medium Enterprises established under section 3;

(d) "buyer" means whoever buys any goods or receives any services from a supplier for consideration;

(e) "enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 or engaged in providing or rendering of any service or services; 65 of 1951.

(f) "goods" means every kind of movable property other than actionable claims and money;

(g) "medium enterprise" means an enterprise classified as such under sub-clause (iii) of clause (a) or sub-clause (iii) of clause (b) of sub-section (1) of section 7;

(h) "micro enterprise" means an enterprise classified as such under sub-clause (i) of clause (a) or sub-clause (i) of clause (b) of sub-section (1) of section 7;

(i) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981; 61 of 1981.

(j) "notification" means a notification published in the Official Gazette;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(m) "small enterprise" means an enterprise classified as such under sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b) of sub-section (1) of section 7;

(n) "supplier" means a micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8, and includes,—

(i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956; 1 of 1956.

1 of 1956.

(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956;

(iii) any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises;

39 of 1989.

(o) "Small Industries Bank" means the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989;

(p) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution.

CHAPTER II

NATIONAL BOARD FOR MICRO, SMALL AND MEDIUM ENTERPRISES

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board to be known as the National Board for Micro, Small and Medium Enterprises. Establishment of Board.

(2) The head office of the Board shall be at Delhi.

(3) The Board shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises who shall be the *ex officio* Chairperson of the Board;

(b) the Minister of State or a Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises who shall be *ex officio* Vice-Chairperson of the Board, and where there is no such Minister of State or Deputy Minister, such person as may be appointed by the Central Government to be the Vice-Chairperson of the Board;

(c) six Ministers of the State Governments having administrative control of the departments of small scale industries or, as the case may be, micro, small and medium enterprises, to be appointed by the Central Government to represent such regions of the country as may be notified by the Central Government in this behalf, *ex officio*;

(d) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(e) the Administrator of a Union territory to be appointed by the Central Government, *ex officio*;

(f) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises, *ex officio*;

(g) four Secretaries to the Government of India, to represent the Ministries of the Central Government dealing with commerce and industry, finance, food processing industries, labour and planning to be appointed by the Central Government, *ex officio*;

(h) the Chairman of the Board of Directors of the National Bank, *ex officio*;

(i) the Chairman and managing director of the Board of Directors of the Small Industries Bank, *ex officio*;

(j) the Chairman, Indian Banks Association, *ex officio*;

(k) one officer of the Reserve Bank, not below the rank of an Executive Director, to be appointed by the Central Government to represent the Reserve Bank;

(l) twenty persons to represent the associations of micro, small and medium enterprises, including not less than three persons representing associations of women's enterprises and not less than three persons representing associations of micro enterprises, to be appointed by the Central Government;

(m) three persons of eminence, one each from the fields of economics, industry and science and technology, not less than one of whom shall be a woman, to be appointed by the Central Government;

(n) two representatives of Central Trade Union Organisations, to be appointed by the Central Government; and

(o) one officer not below the rank of Joint Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises to be appointed by the Central Government, who shall be the Member-Secretary of the Board, *ex officio*.

(4) The term of office of the members of the Board, other than *ex officio* members of the Board, the manner of filling vacancies, and the procedure to be followed in the discharge of their functions by the members of the Board, shall be such as may be prescribed:

Provided that the term of office of an *ex officio* member of the Board shall continue so long as he holds the office by virtue of which he is such a member.

(5) No act or proceedings of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board;

or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

(6) The Board shall meet at least once in every three months in a year.

(7) The Board may associate with itself, in such manner and for such purposes as it may deem necessary, any person or persons whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated but shall not have the right to vote.

(8) Without prejudice to sub-section (7) the Chairperson of the Board shall, for not less than two of the meetings of the Board in a year, invite such Ministers of the State Governments having administrative control of the departments of small scale industries or, as the case may be, the micro, small and medium enterprises, or the Administrators of Union territories and representatives of such other associations of micro, small and medium enterprises, as he may deem necessary for carrying out the purposes of this Act.

(9) It is hereby declared that the office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Removal of
member from
Board.

4. (1) The Central Government may remove a member of the Board from it, if he—

(a) is, or at any time has been, adjudged as insolvent; or

(b) is, or becomes, of unsound mind and stands so declared by a competent court; or

(c) refuses to act or becomes incapable of acting as a member of the Board; or

(d) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(e) has so abused, in the opinion of the Central Government, his position as a member of the Board as to render his continuance in the Board detrimental to the interests of the general public.

(2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the grounds specified in clauses (c) to (e) of that sub-section unless he has been given a reasonable opportunity of being heard in the matter.

5. The Board shall, subject to the general directions of the Central Government, perform all or any of the following functions, namely:—

Functions of Board.

(a) examine the factors affecting the promotion and development of micro, small and medium enterprises and review the policies and programmes of the Central Government in regard to facilitating the promotion and development and enhancing the competitiveness of such enterprises and the impact thereof on such enterprises;

(b) make recommendations on matters referred to in clause (a) or on any other matter referred to it by the Central Government which, in the opinion of that Government, is necessary or expedient for facilitating the promotion and development and enhancing the competitiveness of the micro, small and medium enterprises; and

(c) advise the Central Government on the use of the Fund or Funds constituted under section 12.

6. Subject to other provisions of this Act, the Member-Secretary of the Board shall exercise such powers and perform such functions as may be prescribed.

Powers and functions of Member-Secretary of Board.

CHAPTER III

CLASSIFICATION OF ENTERPRISES, ADVISORY COMMITTEE AND MEMORANDUM OF MICRO, SMALL AND MEDIUM ENTERPRISES

65 of 1951. 7. (1) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951, the Central Government may, for the purposes of this Act, by notification and having regard to the provisions of sub-sections (4) and (5), classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called,—

Classification of enterprises.

65 of 1951. (a) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as—

(i) a micro enterprise, where the investment in plant and machinery does not exceed twenty-five lakh rupees;

(ii) a small enterprise, where the investment in plant and machinery is more than twenty-five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

(b) in the case of the enterprises engaged in providing or rendering of services, as—

(i) a micro enterprise, where the investment in equipment does not exceed ten lakh rupees;

(ii) a small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees; or

(iii) a medium enterprise, where the investment in equipment is more than two crore rupees but does not exceed five crore rupees.

Explanation 1.—For the removal of doubts, it is hereby clarified that in calculating the investment in plant and machinery, the cost of pollution control, research and development,

industrial safety devices and such other items as may be specified, by notification, shall be excluded.

Explanation 2.—It is clarified that the provisions of section 29B of the Industries (Development and Regulation) Act, 1951, shall be applicable to the enterprises specified in sub-clauses (i) and (ii) of clause (a) of sub-section (1) of this section. 65 of 1951.

(2) The Central Government shall, by notification, constitute an Advisory Committee consisting of the following members, namely:—

(a) the Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the small and medium enterprises who shall be the Chairperson, *ex officio*;

(b) not more than five officers of the Central Government possessing necessary expertise in matters relating to micro, small and medium enterprises, members, *ex officio*;

(c) not more than three representatives of the State Governments, members, *ex officio*; and

(d) one representative each of the associations of micro, small and medium enterprises, members, *ex officio*.

(3) The Member-Secretary of the Board shall also be the *ex officio* Member-Secretary of the Advisory Committee.

(4) The Central Government shall, prior to classifying any class or classes of enterprises under sub-section (1), obtain the recommendations of the Advisory Committee.

(5) The Advisory Committee shall examine the matters referred to it by the Board in connection with any subject referred to in section 5 and furnish its recommendations to the Board.

(6) The Central Government may seek the advice of the Advisory Committee on any of the matters specified in section 9, 10, 11, 12 or 14 of Chapter IV.

(7) The State Government may seek advice of the Advisory Committee on any of the matters specified in the rules made under section 30.

(8) The Advisory Committee shall, after considering the following matters, communicate its recommendations or advice to the Central Government or, as the case may be, State Government or the Board, namely:—

(a) the level of employment in a class or classes of enterprises;

(b) the level of investments in plant and machinery or equipment in a class or classes of enterprises;

(c) the need of higher investment in plant and machinery or equipment for technological upgradation, employment generation and enhanced competitiveness of the class or classes of enterprises;

(d) the possibility of promoting and diffusing entrepreneurship in micro, small or medium enterprises; and

(e) the international standards for classification of small and medium enterprises.

(9) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951 and clause (h) of section 2 of the Khadi and Village Industries Commission Act, 1956, the Central Government may, while classifying any class or classes of enterprises under sub-section (1), vary, from time to time, the criterion of investment and also consider criteria or standards in respect of employment or turnover of the enterprises and include in such classification the micro or tiny enterprises or the village enterprises, as part of small enterprises. 65 of 1951. 61 of 1956.

8. (1) Any person who intends to establish,—

(a) a micro or small enterprise, may, at his discretion; or

(b) a medium enterprise engaged in providing or rendering of services may, at his discretion; or

(c) a medium enterprise engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951,

65 of 1951.

shall file the memorandum of micro, small or, as the case may be, of medium enterprise with such authority as may be specified by the State Government under sub-section (4) or the Central Government under sub-section (3):

Provided that any person who, before the commencement of this Act, established—

(a) a small scale industry and obtained a registration certificate, may, at his discretion; and

(b) an industry engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, having investment in plant and machinery of more than one crore rupees but not exceeding ten crore rupees and, in pursuance of the notification of the Government of India in the erstwhile Ministry of Industry (Department of Industrial Development) number S.O. 477(E), dated the 25th July, 1991 filed an Industrial Entrepreneur's Memorandum,

65 of 1951.

shall within one hundred and eighty days from the commencement of this Act, file the memorandum, in accordance with the provisions of this Act.

(2) The form of the memorandum, the procedure of its filing and other matters incidental thereto shall be such as may be notified by the Central Government after obtaining the recommendations of the Advisory Committee in this behalf.

(3) The authority with which the memorandum shall be filed by a medium enterprise shall be such as may be specified, by notification, by the Central Government.

(4) The State Government shall, by notification, specify the authority with which a micro or small enterprise may file the memorandum.

(5) The authorities specified under sub-sections (3) and (4) shall follow, for the purposes of this section, the procedure notified by the Central Government under sub-section (2).

CHAPTER IV

MEASURES FOR PROMOTION, DEVELOPMENT AND ENHANCEMENT OF COMPETITIVENESS OF MICRO, SMALL AND MEDIUM ENTERPRISES

9. The Central Government may, from time to time, for the purposes of facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises, particularly of the micro and small enterprises, by way of development of skill in the employees, management and entrepreneurs, provisioning for technological upgradation, marketing assistance or infrastructure facilities and cluster development of such enterprises with a view to strengthening backward and forward linkages, specify, by notification, such programmes, guidelines or instructions, as it may deem fit.

Measures for
promotion
and
development.

10. The policies and practices in respect of credit to the micro, small and medium enterprises shall be progressive and such as may be specified in the guidelines or instructions issued by the Reserve Bank, from time to time, to ensure timely and smooth flow of credit to

Credit
facilities.

such enterprises, minimise the incidence of sickness among and enhance the competitiveness of such enterprises.

Procurement preference policy. 11. For facilitating promotion and development of micro and small enterprises, the Central Government or the State Government may, by order notify from time to time, preference policies in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries or departments, as the case may be, or its aided institutions and public sector enterprises.

Funds. 12. There shall be constituted, by notification, one or more Funds to be called by such name as may be specified in the notification and there shall be credited thereto any grants made by the Central Government under section 13.

Grants by Central Government. 13. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit to the Fund or Funds by way of grants for the purposes of this Act, such sums of money as that Government may consider necessary to provide.

Administration and utilisation of Fund or Funds. 14. (1) The Central Government shall have the power to administer the Fund or Funds in such manner as may be prescribed.

(2) The Fund or Funds shall be utilised exclusively for the measures specified in sub-section (1) of section 9,

(3) The Central Government shall be responsible for the coordination and ensuring timely utilisation and release of sums in accordance with such criteria as may be prescribed.

CHAPTER V

DELAYED PAYMENTS TO MICRO AND SMALL ENTERPRISES

Liability of buyer to make payment. 15. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

Date from which and rate at which interest is payable. 16. Where any buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rate notified by the Reserve Bank.

Recovery of amount due. 17. For any goods supplied or services rendered by the supplier, the buyer shall be liable to pay the amount with interest thereon as provided under section 16.

Reference to Micro and Small Enterprises Facilitation Council. 18. (1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 shall apply to such a dispute as if the conciliation was initiated under Part III of that Act. 26 of 1996.

26 of 1996.

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.

19. No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such court:

Application for setting aside decree, award or order.

Provided that pending disposal of the application to set aside the decree, award or order, the court shall order that such percentage of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case, subject to such conditions as it deems necessary to impose.

20. The State Government shall, by notification, establish one or more Micro and Small Enterprises Facilitation Councils, at such places, exercising such jurisdiction and for such areas, as may be specified in the notification.

Establishment of Micro and Small Enterprises Facilitation Council.

21. (1) The Micro and Small Enterprise Facilitation Council shall consist of not less than three but not more than five members to be appointed from amongst the following categories, namely:—

Composition of Micro and Small Enterprises Facilitation Council.

(i) Director of Industries, by whatever name called, or any other officer not below the rank of such Director, in the Department of the State Government having administrative control of the small scale industries or, as the case may be, micro, small and medium enterprises; and

(ii) one or more office-bearers or representatives of associations of micro or small industry or enterprises in the State; and

(iii) one or more representatives of banks and financial institutions lending to micro or small enterprises; or

(iv) one or more persons having special knowledge in the field of industry, finance, law, trade or commerce.

(2) The person appointed under clause (i) of sub-section (1) shall be the Chairperson of the Micro and Small Enterprises Facilitation Council.

(3) The composition of the Micro and Small Enterprises Facilitation Council, the manner of filling vacancies of its members and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed by the State Government.

22. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall furnish the following additional information in his annual statement of accounts, namely:—

Requirement to specify unpaid amount with interest in the annual statement of accounts.

(i) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;

(ii) the amount of interest paid by the buyer in terms of section 16, along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;

(iii) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act;

(iv) the amount of interest accrued and remaining unpaid at the end of each accounting year; and

(v) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under section 23.

Interest not to be allowed as deduction from income.

23. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction. 43 of 1961.

Overriding effect.

24. The provisions of sections 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Scheme for closure of business of micro, small and medium enterprises.

25. Notwithstanding anything contained in any law for the time being in force, the Central Government may, with a view to facilitating closure of business by a micro, small or medium enterprise, not being a company registered under the Companies Act, 1956, notify a Scheme within one year from the date of commencement of this Act. 1 of 1956.

CHAPTER VI

MISCELLANEOUS

Appointment of officers and other employees.

26. (1) The Central Government or the State Government may appoint such officers with such designations and such other employees as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The Officers appointed under sub-section (1) may, for the purposes of this Act, by order require any person to furnish such information, in such form, as may be prescribed.

Penalty for contravention of section 8 or section 22 or section 26.

27. (1) Whoever intentionally contravenes or attempts to contravene or abets the contravention of any of the provisions contained in sub-section (1) of section 8 or sub-section (2) of section 26 shall be punishable—

(a) in the case of the first conviction, with fine which may extend to rupees one thousand; and

(b) in the case of second or subsequent conviction, with fine which shall not be less than rupees one thousand but may extend to rupees ten thousand.

(2) Where a buyer contravenes the provisions of section 22, he shall be punishable with fine which shall not be less than rupees ten thousand.

Jurisdiction of courts.

28. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Power to make rules.

29. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of the members of the Board, the manner of filling vacancies, and the procedure to be followed in the discharge of functions by the members of the Board under sub-section (4) of section 3;

- (b) the powers and functions of the Member-Secretary under section 6;
- (c) the manner in which the Fund may be administered under sub-section (1) of section 14;
- (d) the criteria based on which sums may be released under sub-section (3) of section 14;
- (e) the information to be furnished and the form in which it is to be furnished under sub-section (2) of section 26; and
- (f) any other matter which is to be or may be prescribed under this Act.

(3) Every notification issued under section 9 and every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or rule or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

30. (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

Power to
make rules
by State
Government.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition of the Micro and Small Enterprises Facilitation Council, the manner of filling vacancies of the members and the procedure to be followed in the discharge of their functions by the members of the Micro and Small Enterprises Facilitation Council under sub-section (3) of section 21;

(b) any other matter which is to be or may be, prescribed under this Act.

(3) The rule made under this section shall, as soon as may be after it is made, be laid before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature, before that House.

31. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

32. (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 is hereby repealed.

Repeal of Act
32 of 1993.

(2) Notwithstanding such repeal, anything done or any action taken under the Act so repealed under sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act.

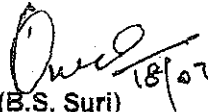
K. N. CHATURVEDI,
Secy. to the Govt. of India.

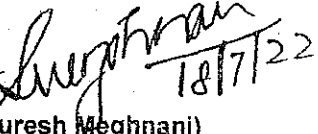
Record notes of the meeting held on 18.07.2022 in connection with Representation of Sh. Umakant Mishra addressed to Hon'ble Chairperson, Petition Committee of Parliament (Lok Sabha) for release of payment by Titagarh Wagons Ltd.

Ref: Directions of Hon'ble Petition Committee of Parliament (Lok Sabha) dt. 13.07.2022

- 1.0 Directions of Hon'ble Petition Committee of Parliament (Lok Sabha) dt. 13.07.2022 referred above were communicated to M/s Titagarh Wagons Ltd. & M/s Shree Sai Puja Enterprise vide letter no. 2022/RS(I)/954/7/Misc.dt. 13.07.2022 (Annex.-A)
- 1.1 Accordingly Sh. Umakant Mishra representing M/s Shree Sai Puja Enterprise & Sh. B.S. Suri representing M/s Titagarh Wagons Ltd. attended meeting in chamber of EDRS(S), Railway Board on 18.07.2022 at 15.00 Hrs.
- 2.0 During the meeting Sh. Umakant Mishra handed over one document giving details of pending bills with M/s Titagarh Wagons Ltd. for labour / hydra /machinery charges etc. said to have been provided to carry out railway related foundary work amounting to Rs.3,52,96,283.88 and Rs.21,00000/- total Rs.3,73,95,283.88 (Annex-B).
- 2.1 Sh. Umakant Mishra stated that officials at M/s Titagarh Wagons Ltd. are aware of these pending bills but they have yet to settle the dues. Sh. Umakant Mishra also informed that he has met Sh. Sudipto Mukherjee, Director Operations M/s Titagarh Wagons Ltd. on 14.07.2022 in this matter with request to clear the issue.
- 2.2 EDRS(S), Railway Board suggested that Sh. Umakant Mishra to meet Sh. Sudipto Mukherjee, Director in M/s Titagarh Wagons Ltd. again in this week itself, who should arrange to settle the issue after examination of stated dues, if any.
- 2.3 Sh. Umakant Mishra have agreed to meet Sh. Sudipto Mukherjee, Director Operations in M/s Titagarh Wagons Ltd. in this week and submit his claims again to them.
- 3.0 Accordingly, Sh. Umakant Mishra and M/s Titagarh Wagons Ltd. are expected to sort out the issue mutually by 22.07.2022 and confirm the same to Railway Board on mail id- drswskt@gmail.com. Based on reply/response received from Sh. Umakant Mishra and M/s Titagarh Wagons Ltd. further discussion / meeting will be held in Railway Board, if need be.
- 4.0 Meeting ended with thanks from EDRS(S), Railway Board to both the parties attending the meeting. Copies of this note is being handed over to both the parties.


(Umakant Mishra)
Shree Sai Puja Enterprise,

 18/07/22
(B.S. Suri)
M/s Titagarh Wagons Ltd.

 18/7/22
(Suresh Meghnani)
EDRS(S)/Rly. Board

Copy to : Sh. G.C. Dobhal, Additional Director, Committee on Petitions Branch, Lok Sabha



SHREE SAI PUJA ENTERPRISE

R. P. Gupta, Path (150, B.T. Road), Titagarh, Kolkata - 700 119

GST No - 19ACYFS8430JIZ6

SAC No-

Ref. No.....

Date 23/08/2022

TO
SRI HARISH DWIVEDI (M.P)
THE HONOURABLE CHAIRPERSON
PETITION COMMITTEE OF PARLIAMENT LOKSABHA
22, DUPLEX NORTH AVENUE
DELHI- 110001

Honourable Sir,

I, Umakant Mishra, S/o Late Bhagwat Mishra of 150G, B.T. Rod, P.O:- Titagrah, P.S:- Khardah, Dist:- North 24 Parganas, Kolkata- 700119, West Bengal being the proprietor of Shree Sai Puja Enterprise registered under MSME and having its registered office at 150G, B.T. Rod, P.O:- Titagrah, P.S:- Khardah, Dist:- North 24 Parganas, Kolkata- 700119, West Bengal would like to place my humble submission before your Honour's platform that, I have made a written complain to you on the basis of which you have directed the department of MSME, the department of Indian Railway Board, the Department of Indian Air Force to sought out the issue accordingly a triparte meeting between myself, Mr. B.S. Suri being the representative of M/S Titagarh Wagons Limited and both in presence of the authority of Indian Railways and Indian Air Force and in pursuance of both the meetings I was called by the Titagarh Wagons Limited on 22/07/2022 where a meeting had been held on and between myself, Mr. Sudipta Mukherjee being the director and I have been assured that my dues could be cleared of. Again on 25/07/2022 and 26/07/2022, simultaneously a meeting was held on and between myself, Mr. Sudipta Mukherjee and one Mr Anil Agarwal being the CFO/Director wherein, I have been told that MD. Of Titagarh Wagons Ltd. Had been a visit in Italy and my dues would be cleared on soon after his arrival. Again on 12/08/2022, I had a



SHREE SAI PUJA ENTERPRISE

R. P. Gupta Poth (150 B.T Road), Titagarh, Kolkata - 700 119

GST No - 19ACYFS8430JIZ6 2 SAC No-

Ref. No.....

Date..23/08/2022

meeting with the legal department and Sri Anil Agarwal wherein I had been instructed to make a written representation to the authority of GST stating the facts that soon with the clearance of my dues by Titagarh Wagons Limited my outstanding dues would be cleared off and accordingly I wrote the letter to the GST Authority on 16/08/2022 but since 22/07/2022 till today the only result I have received, his assurance only and not a single payment has been released from their end.

It is pertinent to mention here that the Honourable Prime Minister of India has been striving for making a slaver free India but the big shots of the society likewise, TWL (Titagarh Wagons Ltd.) has always been trying to build their castle over the skeleton of small businessman like me upon whom a number of people are depending for their livelihood and also I assure your Highness soon I receive my dues I shall clear off all my dues and liabilities for the Government of India in G.S.T.

Thanking You in Advance!!!

Yours sincerely,

SHREE SAI PUJA ENTERPRISE

Umakant Mishra

[UMAKANT MISHRA]

MOB:-9874222404

9874222404

Copy to:-

- ✓ 1) Mr G.C. Dobhal, Additional Director Commission of Petitions Branch Secretary, Parliament.
- 2) Mr. VSRK Reddy, GpCapt, GpCapt ASE 'A'.
- 3) Mr. Suresh Meghnani, EDRS (S)/ Rly, Board.
- 4) Mr. Amit Kumar Tamaria, Joint Director, MSME.



Dated: 19.09.2022

To,
Sri Harish Dwivedi (M.P.),
The Honourable Chairperson,
Petition Committee of Parliament, Lok Sabha,
22, Duplex North Avenue,
Delhi-110001.

Sir,

Sub: Letter dated 23rd August, 2022 addressed to you by Uma Kant Mishra, Proprietor of Shree Sai Puja Enterprise, Kolkata

We are in receipt of the aforesaid letter and the enclosures thereto, which have been forwarded to your good office by Sri Uma Kant Mishra, Proprietor of Shree Sai Puja Enterprise, imputing alleged non-payment by us as reason for his inability to discharge his liability to make payment of goods and services tax. We have also taken note of the contents of the enclosures to the letter under reference and are writing to you hereby to put forth our response to the allegations leveled against us by the said Uma Kant Mishra.

At the onset we would like to state that the contentions, allegations and claims as furnished by the said Uma Kant Mishra is entirely fictitious and lacks any cogent merit or justification. The purported amounts as claimed by the said Uma Kant Mishra is entirely frivolous and without being backed up by any supportive Purchase Order, Work Order or any other substantiating document. It is imperative to bring to your attention Sir that these baseless and incorrect claims made by the said Uma Kant Mishra is nothing but an attempt on his part to cover up and camouflage his deficiency and default in non-payment of statutory GST dues as collected by him and thereby evading responsibility thereon. His imaginary and fabricated claims thus call for *ab initio* dismissal.

It is highly disturbing and distressing to state that the blatant attempt of the said Uma Kant Mishra to squarely put the blame on us for the said non-payment of statutory dues on his part, is nothing but a depraved tactics to divert the attention of his wrong-doing and default of non-payment of GST, duly collected but not paid.

His malafide intentions would be clear when we state that the purported allegation as made by the said Uma Kant Mishra in his letters as addressed to you, claiming that we have failed to make payments during the Covid pandemic, which in itself is totally frivolous and false and lacks any merit. In fact, a sum of Rs 70,00,000 was disbursed to Shree Sai Puja Enterprise even during the peak Covid time within the period of 23.03.2020 to 30.06.2020 which evidently highlights and establishes the extreme ill-motive and notoriety of the said Uma Kant Mishra.

His brazen attempt to put allegations on us for non-payment is nothing but a tactics with ulterior motives to deviate from his statutory and obligatory responsibilities. In this regard we would like to bring to your notice Sir, that for that part of work assigned to him by us, it has remained incomplete after considerable delay and non-adherence to the specific timelines, for reasons best known to him. Needless to say, this abject unprofessionalism, and lack of ethics on



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TITAGARH WAGONS LIMITED

CIN: L27320WB1997PLC084819

Registered & Corporate Office: Titagarh Towers, 756, Anandapur, E. M. Bypass, Kolkata 700 107, India
Phone: +91 33 4019 0800 | Fax: +91 33 4019 0823, +91 33 4019 0826 | Email: corp@titagarh.in | Web: www.titagarh.in



part of the said Uma Kant Mishra, have resulted in great distress and loss of face and reputation for us.

It also finds merit here to state that the claims as furnished by the said Uma Kant Mishra, mostly are not backed up by any supportive valid contract or PO or any proper supporting documentation which thus in itself challenges and questions the veracity of such claim *prima facie*. His vexatious intentions will become more glaring when we state that even the advance figure as mentioned by him in his communication itself is incorrect.

Please also note Sir, that our Company has paid and cleared all the valid and legitimate dues of the said Shree Sai Puja Enterprise, which have always been disbursed on time without any delay. Noteworthy here is, as on date, we have gone overboard in paying him an extra sum of money in the form of advance for which to our utter incredulity, the said Uma Kant Mishra did not feel it necessary to execute the work as assigned to him and thus, he is under obligation to return us such advance amount as paid to him with applicable interest as accrued.

It will not be out of place to state here that the said Uma Kant Mishra, on some pretext or the other, often used to visit our office premises at Kolkata and unnecessarily used to spend hours therein trying to put pressure on our internal staff to make good his frivolous and fictitious claim.

It is evident that such facts and information, have been cunningly and purposefully concealed from you in all the letter communications as made by the said Uma Kant Mishra which exposes his malicious intent and odious motive.

Thus, in the light of the above, it is evident that being fully aware of the aforesaid position, the proprietor of Shree Sai Puja Enterprise has deliberately embarked on an attempt to disparage us and tarnish our reputation before our customers.

The entire exercise has been planned and commenced to coerce and arm twist us into making payments for work claimed to have been done, but no record of which is available with us, neither with the said Uma Kant Mishra.

In each and every meeting between Uma Kant Mishra and our management, the said Uma Kant Mishra has failed to substantiate his assertion that any sum is or could be due or payable by us to Shree Sai Puja Enterprise much less the fantastic figures being bandied about. He has failed to provide any supporting document, ledger, copy of any PO, which establishes any bit of his imaginative and fictitious claim amount.

Having not had his way with us and having not been able to extract any money from us by his nefarious design, the said Uma Kant Mishra has now threatened us to write to the Railway Board for withholding our payments and realization of the concocted demands of Shree Sai Puja Enterprise being bandied about by him.

We would thus urge you, Sir, to see through this charade of a person, who is undertaking this reprehensible course of action only to deflect attention from the fact that he is a defaulter in making payment of goods and services tax (GST) collected by him, but not deposited with the



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appropriate authorities, by raising fictitious and frivolous claims without any proper evidence or supportive document thereby trying to defraud the Government by escaping his liability of making payments which he is otherwise statutorily bound to.

We would be glad to deal with any further queries that you may have in this regard.

Yours faithfully,

For Titagarh Wagons Limited

Rajarshi Ranjan Maity
General Manager Legal



C.C.

- ✓ 1. Mr. G.C. Dobhal,
Additional Director Commission of Petitions Branch Secretary,
Parliament House Annexe,
New Delhi - 110001
2. Mr. VSRK Reddy,
GpCapt, GpCapt ASE 'A',
Dte of Armt & Safety Eqpt,
Air HQ (Antyodaya Bhawan),
B-2 Wing, 13th Floor,
CGO Complex, Lodhi Road,
New Delhi - 100003
3. Mr. Suresh Meghnani, EDRS (S),
Railway Board,
Rail Bhavan,
Raisina Marg,
New Delhi - 110001
4. Mr. Amit Kumar Tamaría,
Ministry of Micro, Small & Medium Enterprises Government of India,
Nirman Bhavan, 7th Floor,
Maulana Azad Road,
New Delhi - 110108

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Tele: 011 - 23010231 IP: 21217703

Copy No.

AIR HQ/S 78954/1/ASE A (NBC Maint)

19 Jul 22

MINUTES OF MEETING ON REPRESENTATION OF M/S SHREE SAI PUJA ENTERPRISE,
KOLKATA HELD AT 1500 H ON 15 JUL 22 AT AIR HQ (AB),
CGO COMPLEX, LODHI ROAD, NEW DELHI

1. Following were present:-

IAF

Air Cmde	K Harisankar, VSM	Air Cmde ASE	Chairman
Gp Capt	VSRK Reddy	Gp Capt ASE 'A'	Member
Gp Capt	Rajesh K Snehi	Gp Capt Acq (F)	Member
Gp Capt	C S Rajwar	Gp Capt ASE Lgs 'A'	Member
Gp Capt	Neeraj Chaubey	Gp Capt Ops(NBC)	Member
Gp Capt	Sanjeev Bindra	JD Jag (Air-1)	Member
Gp Capt	S Saksena	Gp Capt ASE NBC (Maint)	Secretary

M/s TWL

Mr Baljeet Singh Suri
Mr Chitban Jain

Project Manager, M/s TWL
Rep from M/s TWL

M/s Shree Sai Puja Enterprises

Mr Umakant Mishra

M/s Shree Sai Puja Enterprises Petitioner

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2

INTRODUCTION

2. A Contract was signed by MoD for Qty 55 Integrated Field Shelter (IFS) with M/s Titagarh Wagons Limited, Kolkata (M/s TWL, Kolkata) on 25 Sep 2014 vide Contract No B/28704/NBC-5/GS/WE-6 for installation at 11 Airbases of IAF. Committee of Petitions Branch, Lok Sabha had informed vide 11/CPB/2022/R-304 dated 07 Jun 22 that Mr Umakant Mishra sole proprietor of M/s Shree Sai Puja Enterprise has filed a petition in regards to non- payment of dues for the services provided by him by employer Viz M/s TWL, Kolkata. A meeting was conducted by Committee of Petitions Branch, Lok Sabha on 13 Jul 22 at Parliament House Annexe, New Delhi.

3. As per directions of Committee of Petitions Branch, a meeting was conducted on 15 Jul 22 at 1500 hrs at Dilbagh Hall at Air HQ(AB), CGO Complex, Lodhi Road, New Delhi under chairmanship of Air Cmde ASE with respect to the representation of Shri Umakant Mishra requesting to release of payment by M/s Titagarh Wagons limited, Kolkata.

4. Rep of M/s TWL and Rep of M/s Shree Sai Puja Enterprise were intimated for meeting vide letter of even reference dated 14 Jul 22. Initially discussions were held with Rep of M/s TWL and sole proprietor of M/s Shree Sai Puja Enterprise, Kolkata individually. Subsequently discussions were held with Reps of both firms together. The Chairman has informed directions of Committee of Petitions that the dispute needs to be settled at the earnest. Also, Chairman informed that a report needs to be submitted with in a week. The details of discussion are as follows:-

<u>AGENDA POINTS</u>	<u>ACTION</u>	<u>INFO</u>
<u>ITEM I: DISCUSSION WITH M/S TWL, KOLKATA</u>		
<p>5. Mr. Baljeet Singh Suri Rep of M/s TWL informed that the firm has hired M/s Shree Sai Puja Enterprise, Kolkata for certain services i.r.o installation of IFS. He further informed that major payment for the services by M/s Shree Sai Puja Enterprise, Kolkata has already been paid barring minor payment due. He further stated that M/s TWL shall process the genuine bills of M/s Shree Sai Puja Enterprise, Kolkata if submitted. Mr. Baljeet Singh Suri Rep of M/s TWL also informed that dues amounting to Rs. 7.5 Cr (approx) have been paid to M/s Shree Sai Puja Enterprise, Kolkata. Gp Capt ASE 'A' has sought clarification on the following:-</p> <p>(a) Contract for outsourcing services to M/s Shree Sai Puja Enterprise, Kolkata.</p> <p>(b) As per the out sourcing how much work order has</p>		

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<p>been placed on M/s Shree Sai Puja Enterprise, Kolkata and the progress there on in monetary terms.</p> <p>Decision: The Chairman directed M/s TWL to resolve the issue as soon as possible and submit report by 18 Jul 22.</p> <p style="text-align: center;"><u>ITEM II: DISCUSSION WITH M/S SHREE SAI PUJA ENTERPRISE, KOLKATA</u></p> <p>6. Mr. Umakant Mishra sole proprietor of M/s Shree Sai Puja Enterprise informed that firm has provided labour and erection services for installation of IFS to M/s TWL, Kolkata. The firm has participated for installation of IFS at six IAF bases viz. AF Johdpur, Nal, Suratgarh, Naliya, Bhuj and Jaisalmer for Qty-05 IFS at each base. He further informed that the cumulative total of bills amount to 10.18 Cr against work order of M/s TWL, Kolkata. Out of total amount due, five crore rupees has already been paid in advance by M/s TWL. Hence, amount 5.18 Cr (approx) is due to be paid to M/s Shree Sai Puja Enterprise.</p>	<p style="text-align: center;">M/s TWL</p>	<p style="text-align: center;">M/s Shree Sai Puja enterprises</p>
<p>Decision: The Chairman directed M/s Shree Sai Puja Enterprise to submit a copy of pending bills as claimed during ibid meeting.</p> <p style="text-align: center;"><u>ITEM III: DISCUSSION WITH REPS OF BOTH FIRMS</u></p> <p>7. After meeting with the Rep of both firms individually, discussions were held with Reps of M/s TWL and M/s Shree Sai Puja enterprises together. Shri Umakant Mishra of M/s Shree Sai Puja Enterprise has submitted a copy of bills and work order to IAF and Rep of M/s Titagarh Wagons Limited, Kolkata in respect of services rendered by the firm towards installation of Integrated Field Shelter (IFS) at various IAF bases and requested M/s TWL to release the payment due (Approx 5.18 Cr). Rep of M/s TWL has expressed that these bills needs to be verified by the accounts section of M/s TWL and requested for more time for submitting report. Gp Capt ASE A has requested M/s TWL to expedite the verification process as the same need to be settled at the earliest.</p>	<p style="text-align: center;">M/s Shree Sai Puja enterprises</p>	<p style="text-align: center;">Dte of ASE NBC (Maint) & M/s TWL</p>
<p>Decision. The Chairman directed M/s TWL to settle the dispute at the earliest. He further directed M/s TWL to submit a report to this Dte latest by 18 Jul 22 for onward submission to Committee of Petitions Brach, Lok Sabha.</p>	<p style="text-align: center;">M/s TWL</p>	<p style="text-align: center;">M/s Shree Sai Puja enterprises & Dte of ASE NBC (Maint)</p>

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4

CONCLUSION

8. The Chairman intimated that the present delivery period for remaining IFS is 30 Sep 22. Further he intimated M/s TWL to take remedial measures so as to progress the commissioning of the remaining IFS at Air Force Station Adampur, Halwara and Sirinagar smoothly. He once again reiterated that M/s TWL shall pay the pending dues to M/s Shree Sai Puja Enterprise. There being no further points was concluded at 1700hrs.



(S Saksena)
Gp Capt
Member Secretary

Distribution	No of Copies	Copy No(s)	Method of Dispatch	Remarks
M/s Titagarh Wagons Ltd, Kolkata	One	Two	By Registered Post	
M/s Titagarh Wagons Ltd, Delhi Branch	One	Three	By Hand	
M/s Shree Sai Puja Enterprises	One	Four	By Registered Post	
Committee Of Petitions Branch, Lok Sabha	One	Five	By Registered Post	
Gp Capt Acq (F)	One	Six	By E-Office (IAF)	
Gp Capt Ops (NBC)	One	Seven	By E-Office (IAF)	
JD Jag (Air-1)	One	Eight	By E-Office (IAF)	
File	One	One		

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Dte of Armt & Safety Eqpt
Air HQ (Antyodaya Bhawan)
B-II Wing, 13th Floor
Complex, Lodhi Road
New Delhi-110003

Air HQ/S 78954/1/ASEA (NBC)

12 Jul 22

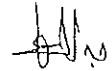
COMMITTEE ON PETITIONS BRANCH (K.A.O. Mr. G C DOBHAL, ADDL DIRECTOR)
PARLIAMENT HOUSE ANNEXE
NEW DELHI-110001

**REPRESENTATION OF SHRI UMAKANT MISHRA REQUESTING
TO RELEASE OF PAYMENT BY TITAGARH WAGON'S LTD**

1. Reference is made to your letter No.11/CPB/2022/R-304 dated 07 & 28 Jun 22.
2. Vide ibid referred letter point-wise comments on representation of Shri Umakant Mishra was sought for perusal and consideration of the Committee of Petitions, Lok Sabha. Appended below are the point-wise comments to the queries :-
 - (a) **Reply to Para 1.** Indian Air Force (IAF) has entered into Contract (Refer Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL DATED 25 SEP 14) with M/s Titagarh Wagons Ltd, Kolkata for Commissioning and Installation of Integrated Field Shelter at 11 bases. IAF is not in any contractual obligations with respect to any business transactions with the petitioner (Shri Umakant Mishra sole proprietor of Shree Sai Puja Enterprise, Khardah, 24 Parganas, (North Kolkata), as our contract is only with M/s Titagarh Wagons Limited.
 - (b) **Reply to Para 2.** Indian Air Force (IAF) has entered into Contract (Refer Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL DATED 25 SEP 14) with M/s Titagarh Wagons Ltd, Kolkata for Commissioning and Installation of Integrated Field Shelter at 11 bases. There are no pending dues against M/s Titagarh Wagons Ltd, Kolkata as on date. As there is no contractual binding between IAF and "M/s Shree Sai Puja Enterprise". Therefore, IAF has never given any verbal orders and directions nor has made any oral communication with the petitioner.
 - (c) **Reply to Para 3.** Indian Air Force (IAF) has entered into Contract (Refer Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL DATED 25 SEP 14) with M/s Titagarh Wagons Ltd, Kolkata for Commissioning and Installation of Integrated Field Shelter at 11 bases. Hence, it is reiterated that Indian Air Force (IAF) is NOT (R) NOT principle employer for either Mr. Umakant Mishra S/o Late Bhagwat Mishra or with "M/s Shree Sai Puja Enterprise".

(d) Reply to Para 4. Indian Air Force (IAF) has NOT (R) NOT entered into any contract with Mr. Umakant Mishra S/o Late Bhagwat Mishra or with "M/s Shree Sai Puja Enterprise". Hence, NIL comments are offered on the subject.

(e) Reply to Para 5. Since Indian Air Force (IAF) has NOT (R) NOT taken any services whatsoever, it may be from either Mr. Umakant Mishra S/o Late Bhagwat Mishra or with "M/s Shree Sai Puja Enterprise", there is NO (R) NO liability exists between IAF and Mr. Umakant Mishra S/o Late Bhagwat Mishra or with "M/s Shree Sai Puja Enterprise".



(VSRK Reddy)
Gp Capt
Gp Capt ASE 'A'

12 Jul 22

Copy to:-

SO to JS (Air)
Room No-1234
Ashoka Hotel
New Delhi-110001

दूरभाष/ Tele: 21217703
फैक्स/ Fax : 011-24362036

शस्त्र एवं सुरक्षा उपकरण निदेशालय
Dte of Armt & Safety Eqpt
वायु सेना मुख्यालय/ Air HQs
बी. - 2 विंग, 13वीं मंजिल
B - 2 Wing, 13th Floor
अंत्योदय भवन/ Antyodaya Bhawan
नई दिल्ली/ New Delhi - 110003

Air HQ/S 78954/1/ASE A (NBC Maint)

02 Sep 22

Titagarh Wagons Limited [K.A.O. Mr. Saket Kandoi, Senior Vice President]
Titagarh Towers,
756, Anandpur, EM Bypass,
Kolkata-700107
(Fax: 033-40190823/ 826)

SETTLEMENT OF PROJECTED DUES OF SHREE SAI PUJA ENTERPRISES

Dear Sir,

1. Reference is made to the following:-
 - (a) Minutes of Meeting held on 16 Aug 22 at Air HQ (AB).
 - (b) Minutes of Meeting held on 15 Jul 22 at Air HQ (AB).
 - (c) Letter received from M/s Sheee Sai Puja Enterprise dated 23 Aug 22 (copy annexed).
2. Based on outcome of meeting held at this HQ on 15 Jul 22 and 16 Aug 22, M/s TWL had conveyed that discussion has been held with the vendor and an understanding has been arrived for settlement of dues. Please refer Para 11 of MoM held on 16 Aug 22 at Air HQ (AB), on subject issue.
3. Echelons of Ministry of Defence has sought the said documents from IAF and this Dte needs to present the same to Committee of Petitions Branch, Lok Sabha. Despite protracted telephonic conversations with Shri Subhranil, rep of M/s TWL, Kolkata and numerous correspondence, reply is still awaited from M/s TWL, Kolkata.
4. Considering the gravity of the case, your personal intervention in the subject matter is solicited to forward the confirmation with documents on settlement of the dues of Shri Umakant Mishra at the earliest, to this Dte.



(K Harisankar)
Air Cmde
Air Cmde ASE



Dated: 19.09.2022

To,
Sri Harish Dwivedi (M.P.),
The Honourable Chairperson,
Petition Committee of Parliament, Lok Sabha,
22, Duplex North Avenue,
Delhi-110001.

Sir,

Sub: Letter dated 23rd August, 2022 addressed to you by Uma Kant Mishra, Proprietor of Shree Sai Puja Enterprise, Kolkata

We are in receipt of the aforesaid letter and the enclosures thereto, which have been forwarded to your good office by Sri Uma Kant Mishra, Proprietor of Shree Sai Puja Enterprise, imputing alleged non-payment by us as reason for his inability to discharge his liability to make payment of goods and services tax. We have also taken note of the contents of the enclosures to the letter under reference and are writing to you hereby to put forth our response to the allegations leveled against us by the said Uma Kant Mishra.

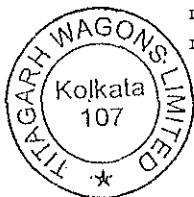
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It is highly disturbing and distressing to state that the blatant attempt of the said Uma Kant Mishra to squarely put the blame on us for the said non-payment of statutory dues on his part, is nothing but a depraved tactics to divert the attention of his wrong-doing and default of non-payment of GST, duly collected but not paid.

His malafide intentions would be clear when we state that the purported allegation as made by the said Uma Kant Mishra in his letters as addressed to you, claiming that we have failed to make payments during the Covid pandemic, which in itself is totally frivolous and false and lacks any merit. In fact, a sum of Rs 70,00,000 was disbursed to Shree Sai Puja Enterprise even during the peak Covid time within the period of 23.03.2020 to 30.06.2020 which evidently highlights and establishes the extreme ill-motive and notoriety of the said Uma Kant Mishra.

His brazen attempt to put allegations on us for non-payment is nothing but a tactics with ulterior motives to deviate from his statutory and obligatory responsibilities. In this regard we would like to bring to your notice Sir, that for that part of work assigned to him by us, it has remained incomplete after considerable delay and non-adherence to the specific timelines, for reasons best known to him. Needless to say, this abject unprofessionalism, and lack of ethics on

ACAS (WP) Office
Dy. No. 01/2022
Date 23/9/22



Put up for kind perusal of
ACAS (WP) please

TITAGARH WAGONS LIMITED

CIN: L27320WB1997PLC084819

Registered & Corporate Office: Titagarh Towers, 756, Anandapur, E. M. Bypass, Kolkata 700 107, India
Phone: +91 33 4019 0800 | Fax: +91 33 4019 0823, +91 33 4019 0826 | Email: corp@titagarh.in | Web: www.titagarh.in



part of the said Uma Kant Mishra, have resulted in great distress and loss of face and reputation for us.

It also finds merit here to state that the claims as furnished by the said Uma Kant Mishra, mostly are not backed up by any supportive valid contract or PO or any proper supporting documentation which thus in itself challenges and questions the veracity of such claim *prima facie*. His vexatious intentions will become more glaring when we state that even the advance figure as mentioned by him in his communication itself is incorrect.

Please also note Sir, that our Company has paid and cleared all the valid and legitimate dues of the said Shree Sai Puja Enterprise, which have always been disbursed on time without any delay. Noteworthy here is, as on date, we have gone overboard in paying him an extra sum of money in the form of advance for which to our utter incredulity, the said Uma Kant Mishra did not feel it necessary to execute the work as assigned to him and thus, he is under obligation to return us such advance amount as paid to him with applicable interest as accrued.

It will not be out of place to state here that the said Uma Kant Mishra, on some pretext or the other, often used to visit our office premises at Kolkata and unnecessarily used to spend hours therein trying to put pressure on our internal staff to make good his frivolous and fictitious claim.

It is evident that such facts and information, have been cunningly and purposefully concealed from you in all the letter communications as made by the said Uma Kant Mishra which exposes his malicious intent and odious motive.

Thus, in the light of the above, it is evident that being fully aware of the aforesaid position, the proprietor of Shree Sai Puja Enterprise has deliberately embarked on an attempt to disparage us and tarnish our reputation before our customers.

The entire exercise has been planned and commenced to coerce and arm twist us into making payments for work claimed to have been done, but no record of which is available with us, neither with the said Uma Kant Mishra.

In each and every meeting between Uma Kant Mishra and our management, the said Uma Kant Mishra has failed to substantiate his assertion that any sum is or could be due or payable by us to Shree Sai Puja Enterprise much less the fantastic figures being bandied about. He has failed to provide any supporting document, ledger, copy of any PO, which establishes any bit of his imaginative and fictitious claim amount.

Having not had his way with us and having not been able to extract any money from us by his nefarious design, the said Uma Kant Mishra has now threatened us to write to the Railway Board for withholding our payments and realization of the concocted demands of Shree Sai Puja Enterprise being bandied about by him.

We would thus urge you, Sir, to see through this charade of a person, who is undertaking this reprehensible course of action only to deflect attention from the fact that he is a defaulter in making payment of goods and services tax (GST) collected by him, but not deposited with the



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appropriate authorities, by raising fictitious and frivolous claims without any proper evidence or supportive document thereby trying to defraud the Government by escaping his liability of making payments which he is otherwise statutorily bound to.

We would be glad to deal with any further queries that you may have in this regard.

Yours faithfully,

For Titagarh Wagons Limited

Rajarshi Ranjan Maity
General Manager Legal



C.C.

1. Mr. G.C. Dobhal,
Additional Director Commission of Petitions Branch Secretary,
Parliament House Annexe,
New Delhi - 110001
2. Mr. VSRK Reddy,
GpCapt, GpCapt ASE 'A',
Dte of Arml & Safety Eqpt,
Air HQ (Antyodaya Bhawan),
B-2 Wing, 13th Floor,
CGO Complex, Lodhi Road,
New Delhi - 100003
3. Mr. Suresh Meghmani, EDRS (S),
Railway Board,
Rail Bhavan,
Raisina Marg,
New Delhi - 110001
4. Mr. Amit Kumar Tamaria,
Ministry of Micro, Small & Medium Enterprises Government of India,
Nirman Bhavan, 7th Floor,
Maulana Azad Road,
New Delhi - 110108

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**MINUTES OF THE TWENTY SECOND SITTING OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

The Committee met on Wednesday, 13 July, 2022 from 1200 hrs. to 1300 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Harish Dwivedi - Chairperson

MEMBERS

2. Prof. Sanjay Sadashivrao Mandlik
3. Shri Arvind Ganpat Sawant
4. Shri Brijendra Singh
5. Shri Manoj Kumar Tiwari

SECRETARIAT

1. Shri Raju Srivastava - Director
2. Shri G.C. Dobhal - Additional Director

WITNESSES

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

1. Shri Atul Gupta - Principal Executive Director
(Railway Stores)
2. Shri Suresh Menghnani - Executive Director
(Railway Stores)

**MINISTRY OF DEFENCE
(DEPARTMENT OF DEFENCE PRODUCTION)**

1. AVM Hardeep Bains - Joint Secretary (Air & Staff Duties)
2. AVM JK Nayak - Joint Secretary (ACS System)
3. Air Cmde K Harisankar - Air Equipment

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

[The representatives of the Ministries of Railways (Railway Board) and Defence (Department of Defence Production) were ushered in]

3. After welcoming the representatives of the Ministries of Railways (Railway Board) and Defence (Department of Defence Production), the Hon'ble Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. Before hearing the views of the representatives of the Ministries, the Committee sought clarifications in relation to the representation of Shri Umakant Mishra for release of payment by Titagarh Wagons Limited, as under:-

- (i) The Ministry of Railways (Railway Board), while furnishing their comments in the matter, have *inter-alia* stated that the issue of non-payment of bills of M/s. Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited is their internal matter and Railway Board is not involved in this case. On the other hand, the Directorate of Armament & Safety Equipment (Air Headquarters) have also contended that the Indian Air Force had entered into a contract for some works with M/s. Titagarh Wagons Limited and therefore, they have no liability towards M/s. Shree Sai Puja Enterprise. Considering the averments made by the Railway Board and the Air Headquarters, can it be concluded that the dispute regarding non-payment of dues involving the two entities, *i.e.*, M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise has nothing to do with the 'Principal Employers, *i.e.*, the Ministries of Railways (Railway Board) and Defence (Department of Defence Production)?
- (ii) M/s. Titagarh Wagons Limited supply various types of equipment to Ministry of Railways (Railway Board) and the Indian Air Force through Air Headquarters/Ministry of Defence (Department of Defence Production) and, therefore, they are the Principal Employers; whereas, M/s. Titagarh Wagons Limited happens to be the main contractor. Moreover, since the main contractor has sub-contracted the works/services to M/s. Shree Sai Puja Enterprise for manufacture/supply of various items, they could be termed as sub-contractor. There could not be any dispute till all the payments are made to M/s. Titagarh Wagons Limited who, in turn, release the dues to M/s. Shree Sai Puja Enterprise. However, since the payments were stopped to M/s. Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited, the said amount rose to a whopping Rs. 8.74 crore. In this backdrop, whether it is a fact that Ministry of Railways (Railway Board) and the Indian Air Force through Air Headquarters/Ministry of Defence (Department of Defence Production) have

already made payments to M/s. Titagarh Wagons Limited in respect of manufacture/supply of various items/equipment? If so, who would ensure release of payment to the sub-contractor, i.e., Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited?

- (iii) In terms of Section 15 of the MSME Development Act, 2006, the buyer has to make payment to the supplier within 45 days from the date of acceptance of orders. Therefore, the Ministries owe responsibility to ensure that the sub-contractor(s) also receive payment/dues from the main contractor.
- (iv) In various Government Undertakings, especially the Ministries of Railways (Railway Board) and Defence, whether a mechanism could be developed whereby, the Principal Employer/Buyer could obtain a written declaration from their main contractor(s) to the effect that the payments are also made to their sub-contractor(s), failing which legal action would be initiated against them including black listing of such errant contractor(s)?

4. In response thereto, the major points put forth by the representatives of the Ministry of Railways (Railway Board), before the Committee, were as under:-

- (i) The Railway Board placed orders to M/s. Titagarh Wagons Limited for supply of only finished goods. The Railway Board has enlisted more than one lakh suppliers involving, approximately, seven lakh contracts, per year. Railway Board undertake a small part of business with M/s. Titagarh Wagons Limited, which is around 20 to 25 percent. Wagon manufacturing does not involve foundry production works. However, if the labour works have also been sub-contracted, the Railway Board have no role in the internal affairs of the supplier Company.
- (ii) The definition of 'Principal Employer' under the Contract Labour Act, 1970, covers any person responsible for the supervision control of the establishment. Since the Railway Board do not have supervision and control on the premises of the suppliers and, therefore, it does not come under the purview of the said definition.
- (iii) The Railway Board is neither the 'Owner' nor 'the Occupier' of the establishment/factory as per the Factories Act, 1948 and hence, the Board is not covered under the provision(s) of the Contract Labour Act, 1970.
- (iv) Railway Board has a third party inspecting agency called RDSO, which inspects the finished goods or the different stages of their production with a view to following the safety standards.

- (v) Whenever, the Railway Board give order for supply of finished goods, there is no provision of any sub-contract. However, in case, the suppliers have to sub-contract the works/services, they have to obtain written permission from the Railway Board.
- (vi) As a matter of common prudence, the Railway Board has already sought written comments from the M/s. Titagarh Wagons Limited. As a matter of fact, M/s. Shree Sai Puja Enterprise has no involvement in the works of wagons' manufacturing. Even if the complaints made by M/s. Shree Sai Puja Enterprise are genuine, the Board has no *locus standi* on the issue.

5. The representatives of the Defence (Department of Defence Production) put forth major points before the Committee, as under:-

- (i) Indian Air Force (IAF) has entered into contract with M/s. Titagarh Wagons Limited in September, 2014 for commissioning and installation of Integrated Field Shelter for NBC protection at 11 Air Force Bases. The said works are still going on at 3 Base(s).
- (ii) The total cost of the project was Rs. 60.49 crore. IAF has already paid Rs. 50 crore and at present, there is no amount pending on their part.
- (iii) IAF is not aware that M/s. Titagarh Wagons Limited has sub-contracted any work(s) to M/s. Shree Sai Puja Enterprise. Therefore, IAF would take up the matter with the M/s. Titagarh Wagons Limited and verify as to whether they have sub-contracted any work(s) to any Company.

6. After hearing the views of the representatives of the Ministries of Railways (Railway Board) and Defence (Department of Defence Production), the Committee expressed their views, as under:-

- (i) With a view to resolving the issues put forward by the representationist, the Ministries should adopt a legally acclaimed approach by way of calling the representatives of the M/s Shree Sai Puja Enterprise to ascertain the facts and resolve the dispute amicably through mediation.
- (ii) The Ministries should look into the matter by not confining themselves to the legal aspects but also applying the principles of natural justice so that MSMEs do not suffer due to non-payment of dues by the main contractor(s).

[The representatives of the Ministries of Railways (Railway Board) and Defence (Department of Defence Production), then, withdrew]

7.	***	***	***	***	***	***
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16.	***	***	***	***	***	***

The Committee, then, adjourned.

*** Does not pertain to this Report.

**MINUTES OF THE TWENTY SEVENTH SITTING OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

The Committee met on Thursday, 9 February, 2023 from 1500 hrs. to 1700 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Harish Dwivedi - Chairperson

MEMBERS

2. Shri Anto Antony
3. Shri Hanuman Beniwal
4. Dr. Jayanta Kumar Roy
5. Shri Brijendra Singh
6. Shri Sunil Kumar Singh
7. Shri Sushil Kumar Singh
8. Shri Prabhubhai Nagarbhai Vasava

SECRETARIAT

1. Shri Raju Srivastava - Director
2. Shri Tenzin Gyaltsen - Deputy Secretary
3. Shri Harish Kumar Sethi - Under Secretary

WITNESSES

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

1. Shri Navin Gulati - Member (Traction & Rolling Stock)
2. Shri Suresh Menghnani - Executive Director(Railway Stores)

**MINISTRY OF DEFENCE
(DEPARTMENT OF MILITARY AFFAIRS)**

1. Air Vice Marshal Hardeep Bains - JS (Air)
2. Air Commodore VSRK Reddy - Air Cmde (DASE)
3. Group Captain C. S. Rajwar - Gp Capt (DASE)
4. Wing Commander Ashish Kakkar - Wg Cdr (DASE)

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

3. *** *** *** *** *** ***

4. *** *** *** *** *** ***

5. *** *** *** *** *** ***

6. *** *** *** *** *** ***

[The representatives of the Ministries of Railways (Railway Board) and (Defence Department of Military Affairs) were ushered in]

7. After welcoming the representatives of the Ministries of Railways (Railway Board) and Defence (Department of Military Affairs), the Hon'ble Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. The Committee, while recalling the deliberations held with the representatives from the Ministries of Railways (Railway Board) and Defence (Air Force Headquarters) on the representation of Shri Umakant Mishra for release of payment by Titagarh Wagons Limited during the briefing meeting held on 13 July, 2022, sought further clarifications in the matter, as under:-

- (i) During the sitting held on 13 July, 2022, the Committee had directed that with a view to resolving the issues put forward by the representationist, Shri Umakant Mishra, the Ministries should adopt a legally acclaimed approach by way of calling the representatives of the M/s. Shree Sai Puja Enterprise to ascertain the facts and resolve the dispute amicably through mediation. Further, they should look into the matter by not confining themselves to the legal aspects but also applying the principles of natural justice so that MSMEs do not suffer due to non-payment of dues by the Principal Contractor(s). In pursuance thereof, the Railway Board and the Air Force Headquarters/Indian Air Force had put in their efforts to arrange and hold meetings to bring both the Firms, viz., M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise across the table for sorting out their differences. Despite this, the situation remains the same. In view of this, what further efforts could be taken by the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters to amicably settle the issue, once and for all?
- (ii) Whatever services have been rendered by the M/s. Shree Sai Puja Enterprise to the M/s. Titagarh Wagons Limited, including supply of labours, etc., for that

it has to pay for its contributions towards Provident Fund, ESI, etc., in respect of its employees/workers, down the line, as part of legal obligations. However, M/s. Shree Sai Puja Enterprise would not be able to fulfill its obligations due to non-payment of dues by the M/s. Titagarh Wagons Limited thereby, ultimately creating problems for its employees/workers. In such a scenario, whether the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters could put in their concerted efforts to impress upon the M/s. Titagarh Wagons Limited to clear/settle all the dues of M/s. Shree Sai Puja Enterprise so that the interests of workers are safeguarded, in terms of their social security?

- (iii) The averments made by M/s. Titagarh Wagons Limited in regard to release of payment to M/s. Shree Sai Puja Enterprise through their various communications appear to be ambiguous and inconsistent. Considering the dubious role of the Company, in question, which is eventually affecting the image of prestigious institutions, viz., Indian Railways and Indian Air Force, as its actions have an adverse impact on the lives of common people, should the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters not conduct an independent inquiry against M/s. Titagarh Wagons Limited on the basis of which necessary actions could be initiated, if irregularities are found?

8. In response thereto, the major points put forth by the representatives of the Ministry of Railways (Railway Board)/Ministry of Defence (Department of Military Affairs), before the Committee, were as under:-

- (i) The Railway Board place orders to M/s. Titagarh Wagons Limited for supply of manufactured wagons as 'finished goods'. The 'Contract' with the Company does not cover subletting/sub-contracting for further supply of services/goods. Further, the Board has no role in the internal affairs of the supplier Company.
- (ii) As per information furnished by M/s. Titagarh Wagons Limited, no payment is pending on their part in respect to M/s. Shree Sai Puja Enterprise. M/s. Titagarh Wagons Limited have informed that M/s. Shree Sai Puja Enterprise have not paid the dues to the Sales Tax Authority out of the payment already made to them and their dispute is actually with the GST Department.
- (iii) M/s. Titagarh Wagons Limited have informed that they have filed a suit for recovery of approximately Rs. 1.45 crore from M/s. Shree Sai Puja Enterprise in a Civil Court, Kolkata.
- (iv) On the directions of the Committee, efforts have been made to resolve the issue by calling both the parties in the meeting(s) to sort out their differences

besides talking to them personally through telephonic medium. But unfortunately, the issues could not be resolved.

- (v) The internal dispute between M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise regarding payment of bills is beyond the scope of interference and control of the Ministry of Railways (Railway Board).

9. After hearing the views of the representatives of the Ministries of Railways (Railway Board) and Defence (Department of Defence Production), the Committee expressed their views, as under:-

- (i) The Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs)/Air Force Headquarters should weigh the option of initiating an independent inquiry against M/s. Titagarh Wagons Limited in order to assess their business relations with the Company.
- (ii) The Ministries of Railways (Railway Board) and Defence (Department of Defence Production) should apprise the Committee of their final opinion in the matter within 15 days' time.

[The representatives of the Ministries of Railways (Railway Board) and Defence (Department of Defence Production), then, withdrew]

10. *** *** *** *** *** ***

The Committee, then, adjourned.

*** Does not pertain to this Report.