MICRO, SMALL AND MEDIUM ENTERPRISES- A STUDY

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DATE EFFECTIVE FROM AND OBJECTIVE

- 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.

- .This Act came into force on 2-10-2006.

ENTERPRISE [SECTION 2(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.

CLASSIFICATION [SECTION 7]

- The Central Government is empowered to classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking or any other legal entity as micro, small or medium enterprise.
- This section overrides section 11B of the Industries (Development and Regulation) Act, 1951.

CLASSIFICATION – MANUFACTURING ENTERPRISE

Classification As	Conditions As to Investment In Plant And Machinery	Does Enterprise Need To Satisfy Conditions of Section 29B of Industrial Development Act
Micro Enterprise	Not to exceed twenty- five lakh rupees	Yes
Small Enterprise	More than twenty-five lakh rupees but Not To Exceed five crore rupees	Yes
Medium Enterprise	More than five crore rupees but not to exceed ten crore rupees	No

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CLASSIFICATION – MANUFACTURING ENTERPRISE

- Above enterprises to be 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. The Government has specified that enterprise employing plant and machinery in the process of value addition to the final product having a distinct name or character or use may also be classified as above.

VALUE OF PLANT AND MACHINERY

- Costs That Shall Be Excluded

- Equipment such as tools, jigs, dies, moulds and spare parts for maintenance and the cost of consumable stores
- Installation cost of Plant And Machinery
- Research and development equipment and pollution control equipment
- Power generation set and extra transformer installed by the enterprise as per the regulations of the State Electricity Board
- bank charges and service charges paid to the National Small Industries Corporation or the State Small Industries Corporation

VALUE OF PLANT AND MACHINERY

- Costs That Shall Be Excluded

- Procurement or installation of cables, wiring, bus bars, electrical control panels (not mounted on individual machines), oil circuit breakers or miniature circuit breakers which are necessarily to be used for providing electrical power to the plant and machinery or for safety measures
- gas producer plants
- transportation charges (excluding sales-tax or value added tax and excise duty) for indigenous machinery from the place of their manufacture to the site of the enterprise
- charges paid for technical know-how for erection of plant and machinery
- such storage tanks which store raw materials and finished products only and are not linked with the manufacturing process
- fire fighting equipment

VALUE OF PLANT AND MACHINERY

- Only Cost of Plant And Machinery to Be Taken so any other item of cost shall be excluded including GST
- In the case of imported machinery following shall be added
- Import duty (excluding miscellaneous expenses such as transportation from the port to the site of the factory, demurrage a paid at the port)
- Shipping charges
- Custom Clearance Charges
- Sales tax or VAT (Now IGST)

CLASSIFICATION – SERVICE ENTERPRISE

Classification As	Condition As to Investment in Equipment
Micro Enterprise	Not To Exceed Rs. 10 Lakhs
Small Enterprise	More than Rs. 10 lakhs and Not To Exceed Rs. 2 Crores
Medium Enterprise	More than Rs. 2 Crores But Not To Exceed Rs. 5 Crores

PROPOSED CLASSIFICATION

- Proposed classification based on investment and turnover criteria.
- Manufacturing and service merged

Micro	Investment < Rs. 1 crore Turnover < Rs. 5 crore
Small	Investment < Rs. 10 crore Turnover < Rs. 50 crore
Medium	Investment < Rs. 20 crore Turnover < Rs. 100 crore

DUTY OF MEDIUM ENTERPRISE

- 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 has to file Memorandum with specified authority.
- Micro or Small Enterprise can file this memorandum at its option.
- It is always beneficial to file the Memorandum.

TIME LIMIT FOR PAYMENT

- If one is buyer of goods or services from a supplier then payment must be made within time limits as specified under.
- "Buyer" means whoever buys any goods or receives any services from a supplier for consideration.
- **"Goods" means every kind of movable property other than actionable claims and money. Immovable property is out of scope of this Act.**

Situation	Time Limit	Remarks
Where agreement exists as to date of payment	On or before the agreed date. Agreed date cannot exceed a period of 45 days from day of acceptance or the day of deemed acceptance.	
Where there is no agreement	Before Appointed Day	**'Appointed day' means 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.**

DAY OF ACCEPTANCE

Day of Acceptance (Where No Objection Raised in Writing By Buyer)	Day of Acceptance (Where Objection Raised in Writing By Buyer)	Day of Deemed Acceptance
Day of the actual delivery of goods or the rendering of services	Day of removal of objection, where such removal is made within fifteen days from the day of the delivery of goods or the rendering of services	Day of the actual delivery of goods or the rendering of services, where no objection is raised within fifteen days from the day of the delivery of goods or the rendering of services

WHO IS SUPPLIER

- "Supplier" means a micro or small enterprise, which has filed a memorandum with the authority . Filing of Memorandum with specified authority is a must to get advantage of MSME Act.
- Supplier includes 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

FAILURE CONSEQUENCES

- If buyer fails to pay amount due to supplier within time limit as above then interest payable by buyer.
- Interest to be paid at 3 times the bank rate specified by RBI.
- Interest payable for period from appointed day or, from the date immediately following the date agreed upon on compounding basis.
- This interest payment is compulsory even if agreement to contrary exist among parties.
- For any goods supplied or services rendered by the supplier, the buyer shall be liable to pay the amount with interest thereon.
- Interest payable not deductible under IT Act, 1961.

DUTY OF BUYER WHERE REQUIRED TO GET ACCOUNTS AUDITED

- **Following shall be disclosed in the accounts**

- 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;
- 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;
- 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 MSME Act;
- the amount of interest accrued and remaining unpaid at the end of each accounting year; and
- 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.

DUTY OF COMPANY BEING A BUYER

- Any Company being buyer of goods or supply of services from micro and small enterprise whose payments to micro and small enterprise exceed forty five days from the date of acceptance or the date of deemed acceptance of the goods. or services, shall submit a half yearly return to the Ministry of Corporate Affairs stating the following: (a) The amount of payments due; and (b) The reasons of the delay.

WHAT IF CATEGORY OF ENTERPRISE CHANGES

- If an enterprise falling under any of the three categories of enterprises as defined in the Act, graduates to a higher category from its original category or beyond the purview of the Act, then it shall continue to avail all non-tax benefits of its original category notified by the Ministry of Micro, Small and Medium Enterprises for a period of three years from the date of such graduation to the higher category.- Vide Notification Dated 1-11-2013

DUTY OF ENTERPRISE

- To File Udyog Aadhar Memorandum in Form-1
- Any number of activities including manufacturing or service or both may be specified in the memorandum
- The memorandum shall be filed on self certification basis and no additional document is required to be uploaded at the time of such filing
- In case of change in address or addition or deletion of activities by the enterprises or for other changes, the proprietor or the managing partner or an authorised person may apply for amendment of the existing memorandum
- The General Manager of the District Industries Center of the concerned district shall undertake enquiry and verification of the memorandum submitted by the enterprise and in case of any discrepancy, issue a notice to the enterprise, giving it an opportunity to present its case and based on the findings, he may amend the memorandum or cancel the Registration Certificate if already issued

DUTY OF ENTERPRISE-AADHAAR LINKAGE

Nature of Enterprise	Whose Aadhaar Number Be Provided
Proprietorship Firm	Proprietor
Partnership Firm	Managing Partner
HUF	Karta
A company or a limited liability partnership or a co-operative society or a society or a trust	Permanent Account Number(PAN) of the organisation along with Aadhaar number of the authorised signatory

CAN TRADING FIRM BE REGISTERED AS MSME

- No. Trading activity is neither a manufacturing activity nor a service activity hence cannot register as MSME. Further, NIC Code necessary while filing MSME Memorandum, which require NIC Code. NIC Code relating to Trading Activity (Code Number 45 to 47) are not allowed in Aadhaar Memorandum.

EMERGENCY SUPPORT TO MSME

- Immediate credit of upto 20% of outstanding credit as on 29.02.2020
- Borrowers with upto Rs. 25 crore of outstanding credit and Rs. 100 crore turnover eligible
- Loans to have 4 years tenure and moratorium of 12 months for principle repayment (Means interest will be payable)
- No guarantee fee, no fresh collateral required
- New credit line to be guaranteed by government on principal and repayment
- Scheme to be availed of upto 31.10.2020
- Government to provide CGTMSE support upto Rs. 4000 crore
- Rs. 50000 crore equity infusion in MSME via FoF
- MSME dues from Government and CPSEs to be cleared in 45 days (Benefit to get MSME category)

Thank You

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