

No.2(3)/1/2007-MSME Pol.(Pt.)
Government of India
Ministry of Micro, Small and Medium Enterprises
Office of the Development Commissioner
(Micro, Small and Medium Enterprises)
'A'-Wing, 7th floor, Nirman Bhavan,
New Delhi-110011.

Dated : 1 August 2007

Subject : Filing of Entrepreneurs Memorandum by Medium Enterprises.

The proviso of Section 8(1) of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 contains that an industry having an investment in plant and machinery of more than Rs.1.00 crore but not exceeding Rs.10.00 crore which had filed Industrial Entrepreneurs Memorandum with Department of IP&P in pursuance of Notification No.S.O.477(E) dated 25 July 1991 shall file the E.M. with the District Industries Centre concerned within 180 days from the commencement of this Act. However, a number of clarifications are being sought whether such enterprises which have not filed the E.M. within 180 days of the commencement of this Act can be allowed to file E.M.

2. MSMED Act 2006 under Section 31 empowers the Central Government to remove any difficulty that may arise in giving effect to the provisions of this Act by making an order to that effect. However, it may not be necessary to take recourse to the provisions of Section 31 since a closer reading of the proviso to Section 8 (1) reveals that there is no bar on the cited enterprises (investment in P & M more than Rs.1.00 crore but not exceeding Rs.10.00 crore, etc.) from filing the said E.M., which they were enjoined to do within 180 days of 2 October 2006. That being the case, such enterprises may be prompted to file these Memoranda at least now. In fact, the State Governments, through the DICs, could be requested to inform such enterprises that they must file such E.Ms. expeditiously. It is worth mentioning here that MSMED Act, 2006 is facilitatory in nature and not regulatory.
3. To summarise the whole issue:
 - (i) For micro and small enterprises and for medium enterprises rendering service there is no limitation of 180 days from 2 October 2006 for filing of EM. It is voluntary for them and these enterprises can file EM anytime they decide to do.
 - (ii) The kind of enterprises, mentioned in para 1 of this letter and which could not file the EM within 180 days from 2 October 2006, may be allowed to file EM as they have not been debarred from filing of EM after 180 days in MSMED Act, 2006.

Sd/-
(P.K.Sinha)
Deputy Director (MSME Pol.)
Tel.No.011-23061544

To,

As per list.

MSME

OFFICE OF THE DEVELOPMENT COMMISSIONER,
MICRO, SMALL, MEDIUM ENTERPRISES
MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES,
GOVERNMENT OF INDIA,
Nirman Bhavan, 7th floor, Maulana Azad Road,
New Delhi-110011.

5 (2)/2007-MSME POL

Dated 27.7.2007

Shri D.R.Bhamare,
Joint Director of Industries (MMR),
Government of Maharashtra,
Opp: Tata Nagar, V.N.Purav Marg,
Chunabhatti (E), Mumbai-400 002.

Subject : **Inclusion of installation and commissioning activity in the MSE registration certificate/acknowledgement.**

Sir,

Please refer to your letter No.JDI/MMR/SSI/Installation & commissioning/2007/19773 dated 14.2.2007 on the above subject.

The MSMED Act 2006 has come into force w.e.f. 2 October 2006 doing away with the earlier process of SSI registration. The Act defines both manufacturing and service activities separately based on investment in 'Plant and Machinery' and 'Equipments' respectively. Accordingly, as per the provision of the Act, an Entrepreneurs Memorandum (EM) format has been notified vide Notification No.S.O.1643 (E) dated 30.9.2006, amended vide notification No.S.O.941(E) dated 07.6.2007, which provides for separate filing of EM for the manufacturing and service activities based on the investment criteria as prescribed in the Act. Therefore, an enterprise engaged both in manufacturing as well as service activity has to file two separate EMs, one for manufacturing activity and other for service activity with same ownership/management, office/work address etc.

Further, as per the provision of Section 8 (1) (a) & (b) of the MSMED Act, 2006, the existing micro and small enterprises and medium enterprises rendering services may, at their discretion, file an EM, whereas, the existing enterprises having investment in plant and machinery above Rs.one crore prior to 2 October 2006 and engaged in the manufacture or production of goods pertaining to any industry specified in First Schedule to the I(D&R) Act 1951 shall have to file the EM within 180 days from the commencement of the Act.

Yours faithfully,
Sd/-
(P.K.Sinha)
Dy.Director (MSME POLICY)

Copy to:-

1. Secretary (Industries)/Director of Industries, |
All States/Uts | for information
2. Director,SISIs/Br.SISIs. |

Yours faithfully,
Sd/-
(P.K.Sinha)
Dy.Director (MSME POLICY)

OFFICE OF THE DEVELOPMENT COMMISSIONER,
MICRO, SMALL, MEDIUM ENTERPRISES
MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES,
GOVERNMENT OF INDIA,
Nirman Bhavan, 7th floor, Maulana Azad Road,
New Delhi-110011.

5 (2)/2007-MSME POL

Dated 10.8.2007

To,

The Director,
Small Industries Service Institute,
Kurla Andheri Road, Sakinaka,
Mumbai-400 072.

Subject :- Clarification regarding filing of EM under MSMED Act 2006.

Sir,

Kindly refer to your letter No.EI/ND-DC/MSME Pol/2007-08/187/1127 dated 08.6.2007 on the above subject.

3. The requisite clarifications on the points raised in the letter under reference are as under :-

Sr. No.	Point Raised	Clarification
1.	It has been informed by the JDIs & GMs of DIC that SSI units are filing EM of 2-3 units under same management at different places and different names. Whether clubbing of SSI units are to be considered for registration of SSI & Medium Scale units.	The MSMED Act 2006 does not provide for clubbing of investments. However, the issue is under consideration of the Government and clarification shall be issued in due course.
2.	If Small/Medium enterprise having plant and machinery between Rs.1 crore to Rs.10 crore have not filed EM within 180 days, what course of action should be taken by DIC ?	A copy of this office letter No.2 (3)/1/2007-MSME Pol (Pt.) dated 01 August 2007, in this regard, is enclosed.
3.	Can forest based units also file memoranda under MSMED Act 2006 ?	Under the MSMED Act 2006, the enterprises engaged in manufacturing or production of goods mentioned in the First Schedule of the Industrial (Development & Regulation) Act 1951 can file EM. The Notification No.S.O.941 (E) dated 7.6.2007 for the amendment in the EM format notified under the MSMED Act 2006 is enclosed for your information and reference. To envisage further it is clarified that the filing of EM and acknowledgement of the same do not bestow any legal right. The enterprise is required to seek requisite clearance/licence/permit required under statutory obligation stipulated under the laws of Central Government/State Government/UT Administrations/Court Orders.

4.	Whether on line filing of EM without Signature is valid? Acknowledgement given to unit without signature is valid ?	This can be done with a proper system for authentication of the EM filed and Acknowledgement issued. Online documents bear e-signature (digital signature).
5.	Can compulsory licensing units like explosives etc.file EM under MSMED Act 2006 ?	Same as Sl.No.3 above.
6.	In MSMED Act 2006 GM, DIC's,are empowered for issuing acknowledgement. Can he delegate the power of issuing acknowledgement to his subordinate ?	The authority of GM, DIC can be delegated to subordinate officers with proper order from the State Government. Sub-section (4) of Section 8 and the notification issued there under may please be referred. Notification No.S.O.1636 (E) dated 29 September 2006 and S.O.1909 (E) dated 7 November 2006 have authorized GM, DIC or any District level officer of equivalent rank in the Directorate or the Department dealing with micro, small and medium enterprises of the State Government or the Union Territory Admn. The State Government, through a separate order may declare any officer of the Department dealing with micro, small and medium enterprises of the State/UT as equivalent to the post of GM, DIC for this purpose.
7.	Provide latest list of service enterprises.	Under the MSMED Act 2006, the service enterprises are classified as micro, small and medium enterprise on the basis of investment in the "Equipments". There is no restriction on filing of EM by any service enterprises i.e.all service enterprises can file EM under the MSMED Act 2006. There is not illustrative list of enterprises rendering services at present. A study in this regard is in progress.

Yours faithfully,

Encl:- As above

Sd/-
(P.K.Sinha)
Dy.Director (MSME POL.)

MSME

OFFICE OF THE DEVELOPMENT COMMISSIONER,
MICRO, SMALL, MEDIUM INDUSTRIES
MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES,
GOVERNMENT OF INDIA,
Nirman Bhavan, 7th floor, Maulana Azad Road,
New Delhi-110011.

5 (2)/2007-MSME POL

Dated 21.8.2007

Dy. Director of Industries (SSI-P),
Directorate of Industries, New Administrative Building,
Opp: Mantralaya, Mumbai-400 032.

Subject :- **Clarification on Micro, Small and Medium enterprises
Development Act 2006- reg.**

Sir,

Please refer to your letter No.SSIP/118/MSMED/ Suggestion/07/A-2961

dated 19.1.2007 on the above subject.

2. If a unit is carrying out activities only occasionally, the nature of operation of the unit is taken as " Casual". There is no illustrative list of such units.
3. The MSMED Act does not provide for clubbing of investments for classification of enterprises as micro, small or medium. However, the matter is under consideration of the Government and clarification will be issued in due course.

Yours faithfully,

Sd/-

(P.K.Sinha)

Dy. Director (MSME POLICY)

Copy to :-

Shri D.R.Bhamare,
Joint Director of Industries (MMR),
Government of Maharashtra,
|ICL Building, Opp: Tata Nagar,
Chunabhatti (E), Mumbai-400 002.

for information war's. your letter no.
JDI/MMR/MSMED Act-2006/2007/251
dated 12.4.2007

Sd/-

(P.K.Sinha)

Dy. Director (MSME POLICY)