

REGISTRATION PROCEDURE UNDER MSMED ACT, 2006

**Amey V. Morajkar Trainee, MRM ASSOCIATES Practicing Company Secretaries
Student Company Secretary**

INTRODUCTION

During the last decade, Indian economy went through massive shift of balance from socialism to capitalism. The doors of our huge and lucrative market were opened to the multi national giants. As a result of this, Darwin's theory of survival of the fittest was witnessed to a greater extent and all the inefficient units, whether in manufacturing or in service sectors either opting to shut down the activities or to merge with these International Conglomerates. Well this was just the beginning of the nightmare for small industrial units. And at this point of time, the need was observed by many of the expert committees, for a comprehensive central enactment to provide an appropriate legal framework to facilitate the growth and development of the small scale sector. Further the growing need was felt to extend policy support to the small scale sector to enable them to grow and adopt better technologies to achieve higher productivity and remain competitive in the era of globalization.

The existing enactment for the development and growth of SSI was Industries (Development and Regulation) Act, 1951. But due to the dynamic structure of the market, there was a need for the independent piece of legislation with comprehensive set of legal provisions for Micro small and medium scale industries. It was fulfilled by introduction of the Micro, Small and Medium Enterprise Development Act, 2006. The act received assent of the president on 16th June 2006. The Act was introduced by keeping an eye on the following objectives:

- To enable the Micro, small and medium enterprises to efficiently compete with international competition
- To promote the growth of micro, small and medium enterprises on large scale to effectively tackle the widespread problems of unemployment and poverty
- To extend benefits of various government schemes at one stop to the SSI units
- To safeguard SSI from financial harassment in the hands of big industries

CLASSIFICATION OF ENTERPRISES UNDER MSMED ACT:

As the industrial giants outsource their non core business requirements to the small enterprises, the onus is on them to ensure that they do not make any default while making dealings with the small units, other wise they have to face strict legal consequences for such negligence. As per the provisions of the MSMED Act, 2006, while making payment to the Micro, small or medium enterprise the buyer has to ensure that the said enterprise has registered under MSMED Act. The payments made to units registered as Micro, small or medium shall be separately disclosed in the financial statements of the buyers and it should also include defaults made in payment if any. The statutory auditor of the buyer has shouldered the responsibility to verify the said details. To ensure the compliance of legislation, most of the clients of micro, small and medium

enterprises are asking for MSMED registration and therefore there is a huge spur in small units opting for MSMED registration.

The MSMED Act, 2006 distinguishes between Micro, Small, and Medium enterprises based on the investment made in plant and machinery. Since the investment is a key indicator of quantum of activities of an enterprise, it needs a regular revision in tune with the inflation and devaluing money value. For the purpose of registration under MSMED Act, 2006, the new establishments (who are yet to start the activities) shall submit a statement of proposed value of investment in plant and machinery (manufacturing units) or value of equipment (service industry units). The existing units shall value investment in plant and machinery or equipments as the case may be, based on last audited balance sheet. For determining the status of an enterprise, following slabs have been prescribed.

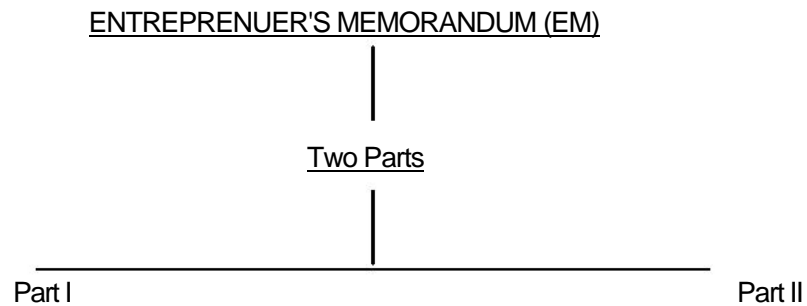
SR. NO.	TYPE OF ENTERPRISE EQUIPMENTS (RUPEES IN LACS)	INVESTMENT IN PLANT AND MACHINERY OR	
		SERVICE SECTOR	MANUFACTURING SECTOR
1.	Micro	Upto 10 lacs	Upto 25Lacs
2.	Small	Above 10 lacs upto 200 lacs	Above 25 lacs upto 500 lacs
3.	Medium	Above 200 lacs upto 500 lacs	Above 500 lacs upto 1000 lacs

REGISTRATION & FILING OF MEMORANDUM:

Filing of Entrepreneurs Memorandum (EM) is optional for the Micro and Small enterprises, but is compulsory for the Medium enterprises (Except Medium enterprises in service sector). The memorandum is to be filed with the General Manager of District Industries Centre of the concerned district.

For Pune district, the address of DIC is:
 District Industries Centre,
 Agriculture College Campus, Shivaji
 Nagar, Pune 411005

1. The EM is divided in two parts i.e. Part -I and Part -II.



- i) Any person who **intends to establish** Micro, Small or Medium Enterprise, whether in manufacturing or in service sector, shall file **Part -I** and **after commencing the production shall file Part -II**. The validity of Part -I is for two years, after the lapse of which, no renewal will be granted
- ii) But the **existing units** who have already commenced production or rendering services shall file **Part -II directly without filing Part -I**.

2. Application for registration can be made by following persons:

- a) A Director of the company, who is authorised by Resolution, passed by Board in this regard.
- b) Any partner of the Partnership Firm
- c) Sole proprietor for proprietorship firm
- d) Any person authorised by the organization in this connection.

Information of applicant as to name, residential address, contact number and e-mail id shall be stated in the application form.

For the administrative convenience, address of Enterprise shall be given as address for communication in Point 2 (a) of the registration form.

3. As the application is made on behalf of the enterprise, it requires following information

- a) **Name of the Enterprise**
- b) **Location of the Enterprise**- It should be the exact location of unit for which registration is sought, and it may be different from the registered office of the company. There are various codes allocated to different districts and states by the government. The relevant codes regarding village or town where the activity is, or is proposed to be carried out shall be filled with the help of list available at respective DIC.
- c) **Category of the Enterprise**- The category of the enterprise shall be decided as per investment in plant and machinery or equipments.
- d) **Nature of Activity**- It will be either manufacturing or Service as the case may be.

- e) **Nature of operation-** Registration is granted to all enterprises whether the activities are of perennial (on going or continuous), seasonal or casual in nature.
- f) **Month of installation of plant and machinery or equipments** has to be stated in the form. It should be noted that, the month required is month of installation and not the month of commencement of production. It should be noted that, if the plant and machinery is installed in phased manner, month of first such installation shall be mentioned.
For part I registration, proposed schedule of installation of plant and machinery shall be provided as annexure.
- g) **Other Information-** Other information is required with regard to whether the unit for which registration is sought is ancillary unit or not, in case of manufacturing unit details of registration under Factories Act, 1948 and the type of organization whether Public company, Private Company, Partnership Firm etc.

4. The activity of the enterprise shall be identified with utmost care as the registration certificate is issued with regard to main activity and proposed activity of the company. Main activity of the company shall be identified with the help of National Industrial Classification (NIC), 2004.
Proposed Activity of the company shall be identified with the help of ASICC, 2000.

Both the NIC and ASICC classification lists are available at the office of DIC.

5. Information as to investment in Fixed Assets (in Rupees lakhs) of the enterprise such as Land, Building, Plant & Machinery (for manufacturing units) and Equipments (for servicing units) shall be stated in the form. Existing enterprise shall arrive this value based on the latest audited balance sheet and the new enterprise shall disclose the proposed value of investment.

If the land and building is leased, rented or owned, copy of said agreement alongwith extract of Index II shall also be submitted as proof of status of investment. It should be noted that, the proof shall be given in respect of the location of enterprise and not the registered office of the company as these two may be different from each other.

If there is any foreign equity participation in fixed assets of the company, its value shall also be discussed.

6. The Disclosure of installed capacity of machinery per annum, in terms of quantity and units shall be stated in the registration form.
Units in service industry are not required to provide these details.
7. The power requirements of enterprise, in terms of Horse Power or kilo Watts shall also be stated alongwith requirements of any other sources of power (such as coal, oil, generator etc.)

8. Details of Employment:

a) In part -I of the memorandum, the details of expected employment shall be given alongwith bifurcation of manpower in three categories namely,

- Management and office staff
- Supervisory Personnel
- Workers

b) In part -II of the memorandum additional information of total male and female staff in all the three categories mentioned above shall also be provided.

9. The EM also requires that the details of all partners or directors, needed to be disclosed i.e. Entrepreneur's Profile. These details shall provide for

- Full names of the director or partners
- Male/ Female
- Category such as SC/ ST/ OBC/ OTHER or PHYSICALLY CHALLENGED
- Knowledge level of the person i.e. Technical Graduate, management graduate, post graduate, other graduate, undergraduate etc.
- Equity participation of the said person in the enterprise (in Rupees and in %)
- Whether the said person holds any stake in other manufacturing unit

If the space provided in the form is not sufficient, a separate sheet shall be attached in this regard.

10. Date of commencement of productivity or activity shall be mentioned and the applicant shall sign all the four copies of memorandum under the rubber stamp of enterprise.

11. The Memorandum shall be filed in four copies, and it shall be accompanied by

- Copy of Board Resolution (in case the unit is company),
- Income Tax Receipt for tax payment for the last assessment year (applicable only to existing units),
- Proof of nature of investment in Land and Building. The proof will either be ownership documents (if the same is owned by the company/ partnership firm) or agreement of lease or rent, as the case may be. Extract of Index II for the said premises shall also be part of attachment
- It is advisable to submit a copy of No Objection Certificate (NOC) for carrying on the business activities from the concerned Municipal Corporation or Grampanchayat.

After receiving the memorandum, complete in all respect, General Manager of DIC will issue acknowledgment after allotting EM number. If the memorandum is received in person, acknowledgment will be issued on the same day and if the memorandum is received by post then the acknowledgment will be sent by post and shall be received within five working days.

In case of change in the investment or change of products and services for which the EM has already being filled, the enterprises shall inform DIC in writing within 3 months of

such change. No specific format is specified in this regard. The same fact should be intimated to DIC and simultaneously wide publicity be given in newspaper

After going through the norms for registration under MSMED Act and the Registration procedure we can say that the Government has taken a strong step towards providing a helping hand to the micro, small and medium enterprises by keeping the registration procedure simple so that, the enterprises can avail various benefits of registration under the said legislation. The professionals like Company Secretaries can indulge into this new area and help the enterprises in obtaining registrations easily.