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**Newsflash : Overview of New Framework for MSME
Eligibility and Registration Aspects**

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1.0 Background

In accordance with the announcement made by Hon'ble Prime Minister on 12 May 2020 pertaining to special economic and comprehensive stimulus package of Rs 20 lakh crores, the Hon'ble Finance Minister, on 13 May 2020, announced various measures for relief and credit support related to businesses, especially MSME related relaxations to support Indian Economy's fight against COVID-19. Apart from the same, the definition criteria for recognition of MSMEs were also significantly altered. In accordance with the same, the Government issued a Notification [S.O. 2119(E). dated 26 June 2020] providing for the revised classification criteria, the calculation aspects and the registration procedure for the MSMEs. This Newsflash intends to provide an overview on the various aspects i.e. mainly classification, calculation aspects and registration procedure for MSMEs as covered by the said notification.

2.0 Meaning/ Classification Criteria of MSMEs

The Government of India has enacted the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 in terms of which the classification of MSMEs was based upon the threshold criteria for Investment in Plant & Machinery or Equipment. **However, this criteria has now been significantly altered to 'Investment in Plant & Machinery and Annual Turnover'**. Also, the revised definition has removed the distinction between the Manufacturing and Service sector. The initial and revised threshold limits for classification are as provided below:

Existing MSME Classification			
Criteria : Investment in Plant & Machinery or Equipment			
Classification	Micro	Small	Medium
Mfg. Enterprises	Investment =< Rs. 25 lacs	Investment =< Rs. 5 cr.	Investment =< Rs. 10 cr.
Service Enterprises	Investment =< Rs. 10 lacs	Investment =< Rs. 2 cr.	Investment =< Rs. 5 cr.
Revised MSME Classification			
<u>Composite Criteria</u> : Investment in Plant & Machinery or Equipment <u>and Annual Turnover</u>			
Classification	Micro	Small	Medium
Mfg. and Service Enterprises	Investment =< Rs. 1 cr. and Turnover =< Rs. 5 cr.	Investment =< Rs. 10 cr. and Turnover =< Rs. 50 cr.	Investment =< Rs. 50 cr. and Turnover =< Rs. 250 cr.

Under the new provisions, both the conditions of Investment and Turnover need to be satisfied to be classified as MSME. Also, all units with Goods and Services Tax Identification Number (GSTIN) listed against the same Permanent Account Number (PAN) shall be collectively treated as one enterprise and the turnover and investment figures for all of such entities shall be seen together and only the aggregate values will be considered for deciding the category as micro, small or medium enterprise.

2.1 Investment Criteria

The computation of the value of investment in Plant and Machinery or Equipment would be computed as per the Income Tax returns (ITRs) filed for the previous years by the enterprise and in case of newly set up enterprises, where no such returns are filed by the enterprise, the investment will be based on self-declaration of the promoter of the enterprise. While making such self-declaration, the purchase (invoice) value of plant and machinery or equipment (whether purchased first hand or second hand) exclusive of Goods and Services Tax (GST) should be considered. However, such relaxation of self-declaration would cease to exist after the 31st March of the financial year in which the enterprise files its first ITR.

Moreover, the term “Plant and Machinery or Equipment” would include all those assets which are treated as plant and machinery as per the Income Tax Rules, 1962 framed under the Income Tax Act, 1961 (other than land and building, furniture and fittings). In computation of the same, the cost of the following items would be excluded while computing the threshold:

- i. equipment such as tools, jigs, dyes, moulds and spare parts for maintenance and the cost of consumables stores;
- ii. installation of plant and machinery;
- iii. research and development equipment and pollution controlled equipment
- iv. power generation set and extra transformer installed by the enterprise as per regulations of the State Electricity Board;
- v. bank charges and service charges paid to the National Small Industries Corporation or the State Small Industries Corporation;
- vi. 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;
- vii. gas producer plants;

- viii. transportation charges (excluding sales-tax or value added tax and excise duty) for indigenous machinery from the place of their manufacture to the
- ix. site of the enterprise;
- x. charges paid for technical know-how for erection of plant and machinery;
- xi. such storage tanks which store raw material and finished products and
- xii. are not linked with the manufacturing process; and
- xiii. firefighting equipment

2.2 Turnover Criteria

The turnover criteria did not form a part of the initial criteria for classification of MSMEs as per the MSME Act, 2006. The turnover criteria would be considered as mentioned in the ITRs and GST returns of the enterprise and where such enterprise does not hold a Permanent Account Number ('PAN'), the turnover would be on a self-declaration basis for a period up to 31st March, 2021 and thereafter, the enterprise would have to mandatorily obtain PAN and GSTIN. Also, in the computation of the turnover threshold, Exports of any goods or services or both would not be included.

3.0 Compliance Procedures

3.1 Registration Procedure

3.1.1 Registration for the existing enterprises

All the existing enterprises registered till 30th June, 2020, shall be re-classified in accordance with the revised criteria and would have to register again on the Udyam Registration portal on or after the 1st day of July, 2020. However, registration for the enterprises which are registered prior to 30th June, 2020 would continue to remain valid upto 31 March, 2021. Also, enterprises which are registered with any other organisation under the Ministry of Micro, Small and Medium Enterprises shall register itself under the Udyam Registration (*which is described in detail in Point 3.1.2 below*).

3.1.2 Registration for the new enterprises

The Registration would be required to be done on the Udyam Registration portal by way of filing up and submission of the necessary form on completion of which, a permanent identity number known as Udyam Registration number and Udyam Registration certificate would be provided to the enterprise. However, In case of any discrepancy or complaint, the General Manager of the District Industries Centre of the concerned District shall undertake an enquiry for verification of the details of Udyam Registration submitted by the enterprise and thereafter forward the matter with necessary remarks to the Director or Commissioner or Industry Secretary concerned of the State Government who after issuing a notice to the enterprise and after giving an opportunity to present its case and based on the findings, may amend the details or recommend to the Ministry of MSME for cancellation of the Udyam Registration Certificate.

Any number of activities including manufacturing or service or both may be specified or added in a one Udyam Registration and hence, every entity would have only a single registration. Also, in case an enterprise is duly registered as an Udyam with PAN, any deficiency of information for previous years when it did not have PAN shall be filled up on self-declaration basis. Any person who intends to register based on self-declaration would not be required to upload documents, papers, certificates or any proof.

The Champions Control Rooms functioning in various institutions and offices of the Ministry of Micro, Small and Medium Enterprises including the Development Institutes (MSME-DI) and District Industries Centres (DICs) shall act as Single Window Systems for facilitating the registration process and further handholding of the MSMEs.

The enterprises would be mandatorily required to provide the following while registering on the portal:

Nature of the Enterprise	Mandatory Requirements*
Proprietorship Firm	Aadhaar number of the Proprietor
Partnership Firm	Aadhaar number of the Managing Partner
Hindu Undivided Family (HUF)	Aadhaar number of the Karta
Company or a Limited Liability Partnership	Aadhaar number of the authorised signatory, PAN, GSTIN
Cooperative Society or a Society or a Trust	Aadhaar number of the authorised signatory, PAN, GSTIN

Note* : Any person who is not able to file the Udyam Registration for any reason including for lack of Aadhaar number, may approach any of the Single Window Systems for Udyam Registration purposes with his Aadhaar enrolment identity slip or copy of Aadhaar enrolment request or bank photo pass book or voter identity card or passport or driving licence and the Single Window Systems will facilitate the process including getting an Aadhaar number and thereafter in the further process of Udyam Registration.

Such registration would not be on a chargeable basis. However, it is necessary for every applicant to provide the correct information on the portal as any intentional misrepresentation or attempts to suppress the self-declared facts and figures appearing in the Udyam Registration or updation process shall be liable to a penalty.

3.2 Updation of Information and Re-classification on the Udyam Portal

Every enterprise with Udyam Registration number shall, on a time-to-time basis, update its information online on the Udyam Registration portal such as the details of the ITR and the GST Return for the previous financial year and such other additional information as may be required, on self-declaration basis. Moreover, any failure to update the relevant information within the period specified in the online Udyam Registration portal will render the enterprise liable for suspension of its status. The Government may suo-moto update the details from any information furnished or gathered from Government's sources including ITR or GST return.

Such information provided would be used for the purpose of updating or re-classification of the enterprise. In case of an upward change (i.e. from a lower to a higher category) in terms of **either of the composite criteria** i.e. either investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an enterprise will maintain its prevailing status till expiry of one year from the close of the year of registration.

However, in case of any reverse-graduation (i.e. sliding down from a higher category to lower category) of an enterprise, whether as a result of re-classification or due to actual changes in **both the elements of the composite criteria**, the enterprise will continue in its present category till the closure of the financial year and it will be given the benefit of the changed status only with effect from 1st April of the financial year following the year in which such change took place. Any case of graduation or reverse graduation would be duly communicated to the enterprises.

In case of re-classification, it is pertinent to note that an enterprise would be placed in the next higher category on satisfaction or crossing of ceiling limits of either of the composite criteria but no enterprise shall be placed in the lower category unless it goes below the ceiling limits specified for its present category in both the criteria of investment as well as turnover.

For instance, a micro enterprise which has an investment of Rs. 50 lakhs but crosses the turnover of Rs. 6 crores would, though, be re-classified as a small enterprise, it would maintain its prevailing status till expiry of one year from the close of the year of registration.

On the other hand, where the turnover of a medium enterprise falls to 48 crores and its investment falls to Rs. 8 crores in FY 2021-22, the enterprise will continue in its present

category till the closure of the financial year and it will be given the benefit of the changed status only with effect from 1st April of the financial year following the year in which such change took place i.e the status would change w.e.f. 1 April 2022.

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This Newsflash has summarized on the various aspects of Classification, Calculation aspects and Registration procedure for MSMEs as covered by the Notification [S.O. 2119(E). dated 26 June 2020] issued by the Government. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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