

To  
**The Hon'ble Prime Minister**  
 Govt. of India  
 New Delhi

**Subject: Issues / problems of MSME under present economic crisis and IIA suggestions to address them**

Sir,

Indian Industries Association an apex body of MSME is submitting the following issue and problems of MSME with possible solutions for your kind consideration in the meeting on 8<sup>th</sup> December 2008 at Delhi.

S.N	Issue/ Legislation	Problem	Solution/ Suggestion
1	Safe Guards against threat of Cheap imports	In view of emerging global financial crisis, there is a threat of cheap import particularly from China flooding the Indian Market. MSME needs to be protected from these cheap imports. In view of the WTO obligations, we have to find out ways to deal with this situation. At the same time precautions have be taken not to restrict the raw materials which domestic MSME needs and imports. Though this is a complex exercise yet is a compulsory exercise to be done in a time bound manner by involving experts, concerned departments and MSME Associations.	IIA suggest to constitute a study Group of all concerned at the earliest with a permanent office at the National level as well as at all State headquarter level.
2	Threat of delayed/no payments and reduced orders from large companies	Most MSME are supplying products & services to large industries. When large industries are in problem, this hits the MSME even more. Big units falter in payment and do not take produce of MSME. As such, all MSME's supplying components, raw materials and intermediary products to big companies are facing the problem of reduced orders and delayed/non payments.	As such we submit following suggestions to tide over the situation:- (a) The purchase and price preference policy for MSME for Govt. purchases may be implemented strictly. (b) MSME Act 2006 states a provision of payment to MSME within 45 days. Large Units are not making payments even in 45 days and MSME can not afford to complain against them due to fear of loosing further orders. While addressing package for large units, government must address this issue with large units to ensure timely payments to their suppliers. (c) Governments at the Central as well as State level should enhance spending on infrastructure development projects to stimulate the demand across all products form MSME Sector.

3	MSME Financing	<p>Informally it is learned that though the banks have adequate finance with them but they are reluctant to lend money to MSME Sector for fear of their becoming sick under the present volatile situation. The credit guarantee scheme which was launched 5-6 years back has also not served the purpose and banks are generally reluctant to implement the scheme. Micro and Small Scale Sector finds a place in the priority sector lending but there is no separate allocation of funds for this sector in the scheme. Generally the rate of interest at which fund are available to MSME Sector are very high. MSME Sector Generally do not get the input material on credit however they are compelled to sell there outputs on credit.</p>	<ul style="list-style-type: none"> <li>• In order to ensure adequate credit flow to MSME Sector which fall under overall priority sector lending of the banking system a separate allocation for this sector should be made and suitable mechanism should be put in place to monitor the utility of this fund.</li> <li>• The interest rates applicable to MSME Sector should be rationalised and these should be linked to the interest rates on savings deposits paid by bank and should not be more than 5% +SB Rate.</li> <li>• Banks should be encouraged to be more liberal in stipulating conditions while lending to MSME Sector. This can be achieved if the banks take full benefits available to them under various refinance / security schemes of Govt. of India e.g CGFT , DICGC etc.</li> <li>• MSME's having a good track record during the past 3-5 years and finding difficulty to make payments for the govt. dues / banks instalments under the present circumstances may be given soft treatment.</li> <li>• It is suggested that it should be made compulsory for the banks to advertise the availability of loan without Collateral security Upto Rs. 50 lacs (now increased to Rs.1 crore) similar to their advertisement for Home, Vehicles and Domestic Loans. They should also display in the bank branches by means of banners and hoardings in public places, as already suggested by the Finance Ministry.</li> </ul>
4	Labour Laws & Inspector Raj	<p>Labour Laws as applicable to MSME are too cumbersome hence practically not possible for this sector to comply with all the provisions of the law hence need simplification. The issue of Labour Law Liberalisation for Micro and Small Scale Sector is pending since long.</p>	<ul style="list-style-type: none"> <li>• Simpler Labour Laws for MSME employing less then 50 workers are required. Factory Act and EPF Act should also be applicable for MSME employing more than 50 workers.</li> <li>• Appropriate amendment in section 10 of the Contract Labour (Regulation &amp; Abolition) Act 1970 to the effect that the employment of contract labour cannot be prohibited in MSME.</li> <li>• Complete removal of Inspector Raj with an alternative system to</li> </ul>

			ensure necessary compliance of Labour Laws and workers welfare.
5	Uniform VAT and Tax Rates	One of the objective of introducing the VAT System was to have uniform VAT Rates all over the Country so that industry remains competitive with other states. This principle is being flouted by many states. Even the Govt. of India has announced special tax concessions to certain areas / states which discriminates the MSME of one state with the other hence affects competitiveness and promotes unhealthy competition.	The VAT and Tax Rates should be uniform all over the country so that a level playing field is provided to all entrepreneurs
6	Exports	Exporters are the worst hit sector under the present circumstances. Bankers are also tuff on Exporters too. Though RBI has constituted SLBC Sub-Committees for Export Promotion but this Committee is also ineffective because it is Chaired by the representative of the Bank itself, who generally favours the bank. Bankers are not doing the forward contracts with the exporters neither they are reimbursing their sanctioned limits in foreign currencies. Most of the exporters are not getting packing credit in foreign currencies. R.B.I. as also withdrawn interest subsidy which has further compounded the problems of exporters. Buyers are advising the exporters to hold the shipments because of the recession.	<p>1 Banks must be advised to Co-operate with the exporters in terms of interest and advances in foreign currencies.</p> <p>2. The S.L.B.C. sub-committees for export promotion at stat level should be chaired by non-banking officer.</p>
7	Service Tax	<p>Finance Bill 2004 reintroduced service tax on goods transport services by road. Subsequently Erstwhile Notification No 43/97 dtd. 5.11.1997 was also reintroduced as Notification No 35/2004 dated. 3.12.2004, by which seven categories of GTS availers are required to pay service tax. On previous occasion, Mr. P. Chidambaram, who incidentally was the finance minister then also, had some very practical counsel, and realizing the plight that SSI entrepreneurs would have to undergo if provisions of Notification 43/97 was pressed on them, introduced trade notice No 356/01/97-TRU dtd. 6<sup>th</sup>.Feb.`1998, by which certain categories of industry / trading organizations from payment of service tax on GTS such as registered SSI and exclusively trading firms etc. were exempted from payment of service tax on GTS.</p> <p>However, on this particular occasion, except the proprietorship concerns, all other class of service availers in trade and industry have to pay service tax on GTS, where as for the proprietorship firms, the transporters have to pay.</p> <p>The peculiar aspect of this provision is that while all the seven entities covered under Not. No. 35/2004 have to obtain service tax registration, pay service tax and further file returns, the transporters are not spared of the same either, as they too have to collect some part of service tax and pay.</p>	<b>We strongly suggest reintroduction of Trade notice No 356/01/97-TRU Dtd. 6<sup>th</sup>.Feb.1998 in new avatar, where registered MSMEs be exempted from having to pay service tax for GTS availed and instead the transporters must be asked to pay the service tax just as in case of proprietorship concerns. Thus allowing all MSMEs registered for availing GTS services to de-register and not having to file half-yearly ST-3 returns.</b>
8	Central	<b>Restoration of notification No. 9/2003 dtd. 1.3.2003</b>	We therefore strongly feel that

	Excise	<p>SSI Sector till 31<sup>st</sup>.Mar. `2005 had two options viz a viz Central Excise Duty.</p> <p>a. A SSI unit could avail full excise exemption from excise duty up to clearance of Rs 1 crore, under notification No. 8/2003 dtd. 1.3.2003</p> <p>b. A SSI unit could avail CENVAT credit on inputs and pay excise duty at a concessional rate, which was 60% of normal tariff rate, under notification No. 9/2003 dtd. 1.3.2003</p> <p>Before tampering with any of the above two notifications, it is important to understand the profile of SSI units availing either of the two options.</p> <p>Those SSI units which manufacture goods and sell directly to the final consumer (who are not able to avail of any CENVAT credit) avail option a – i.e. notification No 8/2003.</p> <p>Those SSI units which manufacture goods that are used as industrial inputs, avail of option b i.e. notification No 9/2003, because their customers (who happen to be industrial consumers) avail full credit of CENVAT paid on goods purchased regardless of tariff rate – 8% or 16%. These are also the class of SSIs, which are classified as organized SSI. Now the issue is, how did these units benefit from concessional rate?</p> <ol style="list-style-type: none"> <li>1. It is known to all that the on going terms of trade dictate credit period ranging from 60 days to 120 days and in some cases even more. Where as the duty payable on the goods cleared in a particular month has to be paid by 5<sup>th</sup>. of next calendar month. Therefore higher the CENVAT duty involved higher is the working capital requirement. A very plain arithmetical calculation would show that working capital requirement would climb up by 6 – 8% when concession permitted under notification No 9/2003 is withdrawn. This is precisely what has happened when Finance bill 2005 rescinded notification No 9/2003 w.e.f. 1.4.2005.</li> <li>2. Central Sales Tax is charged inclusive of CENVAT (we shall not take state sales tax here as most states have switched to VAT), therefore a marginal benefit in terms of landed cost that SSI had viz a viz large sector players has also been lost. One would emphasize here that although the benefit was restricted to annual clearance of Rs One crore, but an in-depth study would show that a substantial percentage of SSI operates with in this band, and only a small percentage are able to cross the threshold of Rs One crore.</li> </ol>	<p>rescinding of notification No 9/2003 is an ill advised hasty step just as it was done in 1997 – incidentally then also Mr. P. Chidambaram was the finance minister, when the concession under Notification No 11/97 Dtd. 1.3.1997 was rescinded by finance bill 1997. However, on that occasion, the finance minister quickly got the right counsel and restored the concession by Notification No 38/97 Dtd. 27.06.97</p> <p>We further feel that, the union government has increased the turnover ceiling of SSI to Rs 4 crore from Rs 3 crore, and simultaneously removed the benefit of Notification No 9/2003, which by itself is a humorous dichotomy. If one takes away notification 9/2003, what is the relevance of raising the turnover ceiling to Rs 4 crore? In fact a more plausible and logical step would be to raise the turnover ceiling for availing notification 9/2003 to Rs 4 crore.</p> <p><b>We therefore very strongly suggest that –</b></p> <ol style="list-style-type: none"> <li><b>A. Restore Notification No. 9/2003 dtd. 1.3.2003.</b></li> <li><b>B. Raise the turnover ceiling for availing notification No. 9/2003 to Rs 4 crore.</b></li> </ol>
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		<p><b><u>Exemption to MSMEs from notification No. 39/2008 and 40/2008 dtd. 29.9.2008</u></b></p> <p>By virtue of above notifications, every registered manufacturer under Central Excise has to necessarily file an annual Capacity Return on annual basis.</p> <p>This is an extremely cumbersome document for MSMEs, which are essentially one / two men shows. It is pertinent to point out that since rescinding notification No. 09/2003 effective from 1.4.2006, all MSMEs who avail CENVAT credit form first clearance, have to</p> <ol style="list-style-type: none"> <li>1. File returns in ER3 on monthly basis instead of quarterly basis as earlier.</li> <li>2. Deposit duty by 5<sup>th</sup>.of every month instead of 15<sup>th</sup>. as earlier.</li> </ol>	<p><b>All MSMEs should be exempted from filing ER – 7 annual capacity returns under aforesaid notifications.</b></p>
		<p><b><u>Excise exemption limit of Rs 1.5 crore is inadequate</u></b></p>	<p>The limit should be enhanced to Rs 5.0 crores.</p>
9	Income Tax	<p>Introduction of Fringe Benefit Tax (FBT), Bank Cash Transaction Tax (BCTT), and tightening of Income Tax Deduction At Source (TDS) regime has virtually converted an Entrepreneur in MSME Sector into a Clerk.</p> <ol style="list-style-type: none"> <li>1. One fails to figure out what kind of fringe benefit can flow to any one under MSME business model.</li> <li>2. How much cash transaction can an entrepreneur from MSME sector indulge into?</li> <li>3. What is the real benefit accruing to the government by subjecting MSME sector to</li> </ol>	<p><b>MSMEs should be completely exempted from –</b></p> <ol style="list-style-type: none"> <li>1. <b>FBT.</b></li> <li>2. <b>BCTT.</b></li> <li>3. <b>Income Tax TDS.</b></li> </ol>

		<p>TDS regime?</p> <p>In fact a detailed cost benefit analysis would reveal that none of the above is actually converting into any kind of tangible gains for the government. Instead precious productive resource of the country is being squandered away into revenue neutral cumbersome paper work on part of entrepreneur. Where as the resource strapped government Tax officials compromise on quality of their efforts.</p>	
10		<p>In MSEME Sector the rate of sickness is very high due to several reasons and there is no easy exit for them so that they can do something else. Under various Acts, the penal provision of prosecution are very harsh on MSME sector and it is very difficult for lone entrepreneur to attend to all cases simultaneously.</p>	<ul style="list-style-type: none"> <li>• Simple exit route for MSME should be provided.</li> <li>• Special INSOLVENCY ACT for MSME should be provided.</li> <li>• Govt should Create a separate body which approves all penal actions initiated under any ACT on entrepreneur under MSME</li> </ul>
11	Sub-Committee of MSME Board	<p>MSME Board is operational at Central level which is meeting regularly every quarter and discussion on policy issues is held in the Board. Under the present circumstances there is a need to monitor the situation more frequently at the National level.</p>	<p>A sub- Committee of MSME Board under the Chairmanship of Secretary, MSME Govt of India may be constituted to review and discuss the situation of MSME on monthly basis till the crisis are on.</p>
12	Decrease in the Demand for MSME Products	<p>Demand for the products of MSME has declined sharply due to the present crises</p>	<p>The Central Excise duty rates should be slashed by 50 % across the board with immediate effect to create demand in the market for a period upto 31<sup>st</sup> march 2009 initially.</p>

We hope you will be kind enough to consider our proposals and suggestions favourably.

Thanking you,

Yours truly,

Praveen Sadana  
President  
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