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Ministry of MSME, Govt. of India,  
Udyog Bhawan, New Delhi

**Subject: Important issues for discussions in High Level Task Force Meeting scheduled to be held on 25<sup>th</sup> Sep 2009**

Sir,

We have submitted outlines of few important issues related to MSME in the meeting with Hon.ble Prime Minister on 17<sup>th</sup> August 09. The details of the issues as well as possible solutions are being submitted to you as under in line with the agenda for High level task force circulated to the members:

| Sno.                                 | Issue  | Problem   | Solution/Suggestion   |
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| <b>(A) Issues related to Finance</b> |  |   |   |
| 1                                    | Sub-target for micro enterprises under priority sector lending | Banks are generally reluctant to issue small loans as such Micro Sector is the worst affected sector.   | Apart from earmarking 6% of Net bank Credit to Micro Enterprises, <b>this sector need to be facilitated to use this facility. Industry associations may be involved in this facilitation process. It is also important to identify the reasons for low level of financing to the sector which is due to reluctance of Banks to finance small loans and poor growth of manufacturing sector etc.</b> |
| 2                                    | Setting up National Fund for the Unorganised Sector            | We agree with the status as stated in the agenda  | We also agree with the recommendations  |
| 3                                    | Interest Subvention on Micro Enterprises Loans                 | Contribution of Micro & Small Enterprises Sector towards our society is similar to agriculture sector. However the MSE Sector is not treated equally. | We recommended that the interest rates on loans for MSE should be the same as that for Agriculture Sector. <b>In the task Force Agenda subvention of 3% interest is proposed for Micro Enterprises only. Interest rates under CGFT Scheme should also be covered under this subvention proposal</b>   |
| 4                                    | A)Setting up of SME Exchange                                   | We agree with the need and status as stated in the Task Force Agenda.   | We agree with the recommendations as stated in the agenda.  |

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|  | <p>b)Other suggestions on Finance to MSME's :<br/>Personal Gaurantee</p> <p>Popularisation of CGFT Scheme</p> <p>FDI in SME</p> <p>Loans against property</p> | <p>Banks insist on Personal guarantee for private limited companies, in this manner in practice they convert a limited company into a unlimited liability company. This is more so in case of SSI Sector as against no such provision in Medium and large companies. Incidentally in European and other developed nations ,there is no provision of personal guarantee of Directors.</p> <p>CGFT is a good scheme however the beneficiaries lack awareness about the scheme.</p> <p>The present limit of 49% FDI participation in SME is too low. it is difficult for majority of SME's to contribute rest 51% equity.</p> <p>At present loans against property are not available to MSME.</p> | <p>Banks may be directed to take a enlightened view not to insist personal guarantee.</p> <p>Aggressive awareness campaign is therefore required to make the scheme popular.</p> <p>The present limit of 49% FDI participation in SME should be enhanced to 75%</p> <p>Loans should be extended to MSME against property as are made available for Traders.</p> |
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**(B) Issues related to Ministry of MSME, Got. of India**

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| 5 | <p>Amendments to MSMED Act,2006 - Delayed payments to Micro and small Enterprises.</p> | <p>MSMED Act 2006 provides for the solution for the delayed payments to Micro and Small Enterprises in Chapter-5. The provisions of the Act are not being implemented properly. For example:-</p> <p>(a) Cases in MSME facilitative Councils remain pending for as long as 6 months to 1 year whereas Act provide that the cases should be decided within 90 days.</p> <p>(b) Meetings of the Facilitation Council are not held every month as provided in the Act. Either the Meetings are not scheduled regularly or even if these are scheduled, the meetings are cancelled due to other pressing assignments of the Chairperson i.e Director Industries of the State.</p> <p>(c) Section 16 &amp;17 of the Act provides for payment of interest at three times of the bank rates in case payments are delayed. However these provisions are</p> | <p>(a) It is recommended that Ministry of MSME Govt. of India may ask for regular information from the Facilitation Councils on Number of cases received and disposed off with corresponding dates. This information may also be displayed on Ministry of MSME website State wise.</p> <p>(b) Holding Facilitation Council Meetings every month should be made mandatory. For any reason if the Chairman is not present, provision may be notified for alternative arrangements.</p> <p>(c) The payment of Interest at three times of the bank rate should be made mandatory in case payments</p> |
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|  |  | <p>not implemented while issuing the awards by the Facilitation Councils.</p> <p><b>(d)</b> Section -22 of the Act which provides for requirement to specify unpaid amount with interest in the annual statement of accounts by the buyers is not being implemented and monitored properly.</p> <p><b>(e)</b> Section-26 of the Act provides for appointment of Officers and other employees for the purpose of this Act who will require any person to furnish such information, in such form, as may be prescribed. Such appointments have not been made as yet.</p> | <p>are delayed beyond 45 days as stipulated in the Act. Government should make it mandatory for all State and Central government / semi-government undertakings to make payment of interest along with the bills, whenever the payments are being made after the contracted period. It is next to impossible for SSI units to take up litigation thru facilitation councils or otherwise, against large public sector undertakings who are sole buyers of equipments. These buyers are compulsive defaulters and since the Govt. understands the plight of MSME units it should make this mandatory for Govt / semi Govt undertakings and other Corporate Bodies. This would go a long way in easing the payment problems of MSE's, as interest paid by these undertakings become auditable and responsibilities will get fixed.</p> <p><b>(d &amp;e)</b> As provided in Section -26 of the Act, the Officers and other employees may be appointment urgently at Central Govt. and State Govt levels to ensure the implementation of the Act specially to ensure the implementation of Section 15,16,17 and 22 of the MSME Act.</p> <p>Govt/Semi Govt departments should secure funds before placing orders.</p> <p>Ministry of MSME as well as Industry Association may advise MSE's to print MSME Memorandum No.</p> |
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|  |  |   | on the Bills/Invoices so that whenever such Bill/Invoice reaches the buyer it is known to him that the unit is MSE and his payments are to be cleared within stipulated time period as provided in the Act.  |
| 6  | <p>Rehabilitation of Sick SME's-</p> <p>Rehabilitation of viable closed and Sick Micro and Small and Medium Units and easy exit route for unviable unit.</p> | <p>As per Govt. data more than 1/3 rd of the total Micro , Small and Medium units in the Country are either closed or sick. This accounts for loss of huge human and financial resources as well as loss of employment opportunities.</p> <p>We agree with the status and recommendations as stated in the agenda of the Task Force however would like to highlight few additional causes of the problem as under:</p> <p>Sick units are not left with their own equity and for rehabilitation they are not in a position to contribute even 10% of the equity required for rehabilitation.</p> <p>Promoter of the sick units invariably take the shelter of the Hon'ble courts to protect himself from prosecutions. In such situations the preconditions of the financial institution is to withdraw the case for considering the rehabilitation.</p> | <p>Though there are guidelines for rehabilitation of Sick Micro &amp; Small Enterprises yet the process is ineffective and time consuming. Even the guidelines of the Reserve Bank are not being followed by the Financial Institutions. As such the process has to be made time bound at the same time we strongly recommended for creation of a special fund to waive off the loans of potentially viable units as has been done for the farmers in the country.</p> <p>SIDBI may help MSME for rehabilitation by providing 10% equity for long term and at lower rate of interest. If need be special fund may earmarked for this purpose.</p> <p>Precondition to withdraw the court case for rehabilitation should not be there.</p> <p>Large /Medium /Small Units purchasing MSME Sick units may be permitted to set off accumulated losses (to the extent of purchase value) of sick MSME Units purchased by them from their taxable income.</p> |
| <b>(c) Issues related to Ministry of Labour Govt. of India</b> |  |   |  |
| 7  | Separate set of Labour Laws and other Acts for   | Micro & Small Entrepreneurs generally run their business single handedly. They are also easing out the big National   | There is a need for separate single & simple set of Law and Act for Micro & Small  |

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|    | MSE's  | <p>problem of unemployment firstly by getting self employed and then creating employment to others. Their contribution to the society is no less than a Farmer of our Country. Hence they need to be treated differently compared to large enterprises.</p> <p>As on date more than 35 Acts are applicable on MSE's exactly the same way as these are applicable to large Enterprises. It is practically impossible for a Micro and Small Entrepreneur to follow and implement all the provisions of these Acts. Hence the Micro &amp; Small Entrepreneur always run their business in a state of fear to be caught on the wrong foot. Hence are being exploited in the hands of the inspectors always.</p> <p>It may be noted that Micro entrepreneurs are acting as a nursery for training the workers for higher level enterprises.</p>   | Enterprises to run their business.  |
| 8  | <b>Procurement Preference Policy for Micro and Small Enterprises</b>   |  |   |
| a) | Discrimination in purchases by Govt departments against MSME by imposing turnover/production Capacity/other conditions such that MSME are not able to even participate in the tenders. | <p>Ministry of MSME is holding discussion on how MSME's are provided preference in Govt/Semi Govt. purchases. Contrary to these efforts, many Govt./Semi Govt. departments are imposing conditions in their tenders such as Minimum Turnover or Minimum Production Capacity so that MSME are not able to even participate in the tenders.</p> <p>Vide Letter No.22(1)/2003/EP&amp;M dated 29-7-2003 O/O Development Commissioner Ministry of MSME have issued clear instructions to extend certain benefits to Small Scale Units in Govt. Store Purchase Programme. Most of the Govt. departments and undertakings do not follow these instructions . There are large number of violations however to highlight the matter we are submitting a live example as under:</p> <p>“MSME of the country who are supplying transformers to the UPPCL and its subsidiary DISCOMS have to pay very high earnest money when participating in tenders. No exemption is given to SSI units of the state as is being done in many other states, and no exemption is being provided to units registered with NSIC or DGS&amp;D. High turnovers have become a precondition to</p> | Govt of India may ensure that such discriminatory practices against MSME are stopped immediately. |

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|    |   | participate in tenders and most SSI units are unable to participate in tenders as they do not meet the turnover conditions. 10 % security deposits are required to be submitted before commencement of supplies, and these security guarantees have to be valid for a period of 4years to cover the warranty period of transformers supplied. This in reality works out to SSI units being compelled to take high bank guarantee limits, of upto 40% of turnover, from banks at high costs which will eventually make these units sick. Most of the SSI units supplying have been working with UPPCL for 15-20 years and approx. 6 months of supply bills are outstanding with UUPCL and the DISCOMS at all points of time.” |   |
| b) | Purchase preference for MSME  | Exclusive reservation that existed earlier for SSI has been abolished as on date. No organization is ready to provide price preference to MSME as on date. MSME have to supply products with competing quality. Even the facilities announced for registered MSME such as Free Tenders, Exemption from payment of earnest money, waiver of Security deposit etc are not provided by number of organizations all over the country. MSME are not equipped financially to advertise their products & services as Large Enterprises and MNC’s can do. As such ,MSME find it difficult to sell their products/Services even if these are competitive in price as well as quality.   | MSME contribution in manufacturing sector in India is more than 45 %. As such provision in the Act it self should be made to reserve at least 40-50% of the quantity of purchase by any department from MSME at competitive price & quality.  |
| 9  | Issues relating to Insolvency / Bankruptcy and Exit Policy                            |  |   |
|    | There is no easy exit route for the entrepreneurs so that they can do something else. | Sickness of Industry is a natural process and no entrepreneur desires the sickness of his enterprise deliberately. Sickness therefore is not a crime, but our laws are such that the entrepreneur is threatened of imprisonment in such event. Un-viable units do not get an easy exit route and the entrepreneur is not able to get rid of the complexities some time throughout his life.  | As such there is an immediate need for an easy , respectable and time bound exist process for MSE’s and a special INSOLVANCY/Bankruptcy ACT may be provided for MSME. The provisions of Criminal proceedings against an Entrepreneur except for provisions of IPC may be scraped from all Acts / Laws in force. |
| 10 | Issues relating to taxation   |  |   |
| a) | Implementation of   | Hon’ble Union Finance Minister has   | We recommend that   |

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|    | GST                                      | announced in his budget speech that GST will be applicable from April 2010. IIA welcome the decision. However is concerned about the preparations for implementation of this progressive tax system. The preparations should start immediately. It is important to note that VAT System was also thought of implemented uniformly in the Country. However it did not happened so and there are lot of variations in the VAT Rates among various states. Such variations if exists in GST, will defeat the purpose of if. | vigorous awareness campaign about the system and consultative process should be launched immediately. There should be <b>single rate of GST</b> for all commodities/items all over the country. The HSN Code as is used in Excise duty system should be used to define the goods and services clearly. For Micro and Small Enterprises a suitable threshold limit of turnover may be set for exemption.  |
| b) | Tax Holidays.                            | Govt. of India / State Govt's have been announcing tax holidays for certain regions/industries in the past, with an objective to promote industrialization in these regions. IIA support the incentives for industrialization in difficult area however it has been observed that few incentives such as tax holidays have harmed the old/existing industries.   | It is recommended that for difficult regions and for priority areas the new industries may be incentivised such that the old/existing industries are not thrown out of business. It is therefore recommended that in order to promote industrialization in difficult areas, Govt . may consider providing capital subsidy and freight subsidy etc but tax holidays are not recommended in any circumstances with the objective to provide level playing field to all industries. |
| c) | Excise Duty                              | The present exemption limit of Rs. 1.5 crore is too low  | The exemption limit should be increased to 3 crores atleast.   |
| d) | Services Tax on Goods Transport Services | Shifting the responsibility of payment of service tax by MSE has resulted in increasing the burden of Micro & Small Entrepreneur. We had requested in our earlier representation also that MSME should be exempted from this burden.   | All MSME Sector industries should be exempted from paying Service tax on GTS and also thus having to needlessly get registered under Service Tax and file two half yearly returns per annum.<br>It is against the basic principle of Service tax also that the service provider is exempted of the responsibility and the service user is burdened.  |
| e) | C.S.T                                    | CST has not been phase out as yet as   | We recommend that C.S.T  |

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|   |   | promised by the Govt. It may hinder with the implementation of G.S.T.  | should be phased out before April 2010.   |
| <b>(D) Other Issues which may be considered by the Task Force</b> |   |  |   |
| 1   | Consent from Pollution Control for Non Polluting Industries | Though 220 industries have been identifies as Non Polluting Industries yet they are required to take consent from the Pollution Control Department to this effect. This creates lot of inconvenience and un-necessary burden especially for MSME's. Even for other than 220 exempted industries number of industries which are non polluting are clubbed in a particular category such as paint industry is clubbed with Chemical Industries.<br>To highlight the issue it is submitted for the information of the Task Force that IT companies like TCS have to struggle for obtaining consent of the Pollution Control Board in Lucknow for months together. | It is recommended that the 220 non polluting industries in MSME sector may be exempted from taking the consent of the Pollution Control Department. At the same time other industries may also be identified which are non polluting. |
| 2   | Imprisonment of the Entrepreneur under various Act          | There are provisions of imprisonment of the Entrepreneurs under various acts such as Land & Revenue Act, Labour Laws etc. Entreprenure is not a criminal unless he committees crime under IPC.   | As such the entrepreneurs should not be prosecuted / imprisoned except for offences committed under IPC.  |

Thanking you

Yours truly,

Anil Gupta  
President