

VAARTA..Let's talk!

Alacrity Corporate Solutions Pvt. Ltd.



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Dear Reader,

*“गते शोको न कर्तव्यो भविष्यं नैव चिन्तयेत् । वर्तमानेन कालेन वर्तयन्ति विचक्षणाः ॥
One should not mourn for what is past, nor should worry about the future.
The wise men think and work according to the present.*

- Acharya Chankaya

The outbreak and rapid spread of the corona virus disease (COVID-19) has stirred markets and interrupted the business sector posing threat to the global economy. This pandemic is forcing companies to confront a myriad of challenges and hard questions about how they can and should do business during this global public health crisis.

Alacrity through its multidisciplinary team aims to assist business entities to address the wide range of regulatory and other business issues that companies face in responding to COVID-19. Alacrity being a true companion for the clients and people associated with it, puts all its knowledge, experience, and tools to *“foster prosperity to you”*

“VAARTA--- LETS TALK” is an initiative to keep in touch and share some legal insights and news about the changes in the corporate world. We want you to be updated with all the recent amendments and its impact on you as an organization.

It is a weekly circulation with each edition targeting one specific area of compliance.

This issue highlights and captures amendments and **Measures and Relief to MSMEs amid Covid 19.**

We will like to hear from you, please send your feedback to csarpita@alacritycorp.com for any improvements or suggestions.

Thank you in anticipation for your reading and sending your comments.

STAY HOME, STAY SAFE

Editorial team

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STIMULUS PACKAGE FOR MSMEs:

Over the last few decades, the micro small and medium enterprises (MSMEs) has emerged as a dynamic sector of the Indian economy and gradually has been recognized as the engine of economic growth, providing large employment opportunities at comparatively lower capital cost than large industries and also helping in industrialization of rural areas, thereby, reducing regional imbalances and promoting equitable development. Ministry of Micro, Small & Medium Enterprise (MSME) has envisioned MSMEs as a vibrant sector and has been working in their overall development through providing support to existing enterprises and encouraging creation of new enterprises.

The role of MSMEs is very vital in the overall growth of the industrial economy of India being a developing nation. MSME Sector with its flexibility has shown noteworthy capabilities and adaptability to endure the economic downturns and have shown its willingness to grow in the future.

The Covid-19 pandemic has impacted all sectors of the economy especially the Medium, Small and Micro Enterprises (MSMEs) of India . MSMEs have been the worst victim of Covid-19 induced lockdown and their vulnerability is witnessed as the hundreds of thousands of migrant workers across the country are stranded. Envisaging the issues and problems that MSMEs will face and to minimise the adversity to certain extent, the Finance Minister of India has announced new compliances and regulatory changes primarily focused on the MSME sector. Union Minister of Finance and Corporate Affairs Smt. Nirmala Sitharaman on 13th May, 2020 announced measures to help businesses, including micro, small and medium enterprises (MSMEs), recover from the economic impact of the coronavirus pandemic. This was a part of the Rs 20 lakh crore stimulus package announced by Prime Minister Narendra Modi to stimulate growth and help build Aatma Nirbhar Bharat i.e. a self-reliant India.

"Essentially, the goal is to build a self-reliant India that is why the Economic Package is called Aatma Nirbhar Bharat Abhiyaan. Citing the pillars on which we seek to build Aatma Nirbhar Bharat Abhiyaan, Smt. Sitharaman said our focus would be on land, labour, liquidity and law."

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Sources:

<https://msme.gov.in/>

<https://pib.gov.in> – (<https://pib.gov.in/PressReleseDetail.aspx?PRID=1623391>)

<https://www.finmin.nic.in/>

MSME

Micro Small & Medium Enterprises

Relief Measures for Atmanirbhar Bharat

I. **MSME – AN INTRODUCTION**

MSME stands for Micro, Small, and Medium Enterprises. In accordance with the Micro, Small, and Medium Enterprises Development (MSMED) Act in 2006, the enterprises are classified into two divisions.

1. **Manufacturing enterprises** – engaged in the manufacturing or production of goods in any industry
2. **Service enterprises** – engaged in providing or rendering services

II. **OLD MSME DEFINITION UNDER MSMED ACT, 2006**

MANUFACTURING ENTERPRISES	
Enterprises	Investment in plant & machinery
Micro Enterprises	< or = Rs. 25 lakhs
Small Enterprises	> Rs. 25 Lakhs but < 5 crores
Medium Enterprises	> 5 Crores but < Rs. 10 Crores

SERVICE SECTOR	
Enterprises	Investment in plant & machinery
Micro Enterprises	< or = Rs. 10 lakh
Small Enterprises	> Rs. 10 lakhs but < Rs. 2 Crores
Medium Enterprises	> Rs. 2 crores but < Rs. 5 Crores

III. NEW DEFINITION OF MSME:

On 13th May 2020, Finance Minister Smt. Nirmala Sitharaman announced the new definition of MSMEs. Following are the key highlights of amended definition.

- an additional criterion of turnover introduced; earlier investment was the only criteria.
- The Investment criteria for such enterprises have been revised upwards.
- The distinction between manufacturing and service sector is eliminated.

Existing and Revised Definition of MSMEs



Existing MSME Classification			
Criteria : Investment in Plant & Machinery or Equipment			
Classification	Micro	Small	Medium
Mfg. Enterprises	Investment < Rs. 25 lac	Investment < Rs. 5 cr.	Investment < Rs. 10 cr.
Services Enterprise	Investment < Rs. 10 lac	Investment < Rs. 2 cr.	Investment < Rs. 5 cr.

Revised MSME Classification			
Composite Criteria : Investment And Annual Turnover			
Classification	Micro	Small	Medium
Manufacturing & Services	Investment < Rs. 1 cr. and Turnover < Rs.5 cr.	Investment < Rs. 10 cr. and Turnover < Rs.50 cr.	Investment < Rs. 20 cr. and Turnover < Rs.100 cr.

IV. AN ANALYSIS- NEED FOR CHANGE IN DEFINITION:

The amendment in definition come almost two years after the MSME Development (Amendment) Bill which was earlier proposed to change the definition purely based on turnover. However, due to resistance and opposition from some groups it was not passed through.

The government of India on 13th May, 2020 announced new Definition and has broadened the **definition of Micro, Small and Medium Enterprises (MSMEs)** by introducing a "turnover"

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criterion and revising the limit of investment in machinery or equipment. This change in definition is being considered as a reform measure that aims to reverse the conventional thinking of units staying small to qualify for MSME benefits.

At the press conference addressed by Finance Minister Smt. Nirmala Sitharaman stated that To address MSMEs fear of outgrowing in size to receive benefits given by the government to businesses categorized as per the current MSME definition the new definition is being introduced that will help businesses tide over the current crisis and will bring about many benefits that will aid MSMEs growth.

As per the new definition, manufacturing and service MSMEs falls under a common metric that is a mix of investment in plants and machinery or equipment and turnover. It is expected that this definitional change in MSME sector will have more output in future. The upward revision in the investment limits will help in the seamless development of the MSMEs in the country. In these challenging times, the need of hour is having a robust MSME for improving the economic stability of the country and making it highly "Atmanirbhar" i.e. self-reliant and internationally competitive.

The need for change in definition was also felt as currently there is no check on the investment in plant and machinery claimed by an enterprise and is based on self-authentication. With the definition requiring turnover, firms would need to register under Goods and Services Tax (GST) regime thereby making them eligible for the scheme which will help in better monitoring as the GST registration is a more stringent process and has relatively more authenticated information.

V. **HIGHLIGHTS OF STIMULUS PACKAGE FOR MSMES:**

Out of the 16 steps announced by Sitharaman on 13th May, 2020, the majority of them were aimed at MSMEs. Most of the measures announced by the finance minister on Wednesday are credit-focused or aimed at solving liquidity concerns faced by MSMEs and the NBFC sector.

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Sl. No.	SUMMARY OF THE ANNOUNCEMENTS	
1.	Collateral Free Automatic Loans worth Rs.3 lakh crores	<ul style="list-style-type: none">• 100% Credit Guarantee• 12-month moratorium on payment of principal• No Guarantee Fee& Collaterals• Tenor– 4 years• To benefit 45 lakh MSME Units
2.	Udyam se Udyog ka Naya Bharat!	<ul style="list-style-type: none">• Stressed MSMEs or MSMEs with NPA loans will be eligible• More than 2 lakh MSMEs likely to be benefitted• Government to infuse Rs.4000 crore in Credit Guarantee Trust Fund for MSEs
3.	Big boost for the MSME Sector!	<ul style="list-style-type: none">• Fund of Funds created to infuse equity worth Rs.50,000 crore in the MSME Sector• A Rs.10,000 crore Corpus Fund created.• To help potential MSMEs in expansion
4.	Growth beyond leaps and bounds with new defined MSMEs- D	<ul style="list-style-type: none">• Distinction between manufacturing and services MSMEs removed.• Investment limits revised upwardly.• Criterion of turnover added.
5.	Local hoga Global!	<ul style="list-style-type: none">• Global tenders to be disallowed for Government tenders upto Rs.200 crore• Step to enable MSMEs to participate in the Government procurement process.
6.	Other Measures	<ul style="list-style-type: none">• Government of India and CPSEs to clear all receivables of MSMEs in the next 45 days• E-market linkages for MSMEs across the board to provide marketing opportunities.

The key highlights of the measures concerning MSME are briefed below:

1. Rs. 3 lakh crores Collateral-free automatic loans for business including MSMEs:

To provide additional funding to jumpstart operations once again, the government has decided to provide Rs. **3 lakh crores** in **collateral-free automatic** loans to MSMEs. This Emergency Credit line will be given by banks and NBFCs for an amount up to 20% of the MSME's entire outstanding credit as on 29th February 2020.

- **Eligibility:** Borrowers with a turnover of up to Rs. 100 crore and an outstanding credit of up to Rs. 25 crore are eligible for obtaining credit under this scheme.
- **Tenure:** The loans will be given for a tenure of 4 years, and there will be a moratorium of 12 months on principal repayment.
- **No fresh collateral/Guarantee:** The interest rate will be capped and the MSME will not be required to produce any additional collateral or guarantee.
- **100% credit guarantee** cover to banks and NBFCs on principal and interest.
- **Validity:** The scheme can be availed until 31st October 2020. Its benefits are expected to aid 45 lakh business units across the country.

Simply stated, if any MSME wants to take a loan of "X" amount from a bank/Financial institutions now, it can be availed without any additional collateral and in case if the business entity fails to repay that loan, then the Govt. will step in and make good all of that "X" amount subject to conditions aforesaid.

2. Rs 20,000 crore Subordinate Debt for Stressed MSMEs

The second measure is a 'subordinate debt scheme' worth Rs 20,000 crore which is mainly for MSMEs who are already struggling with existing debt and are unlikely to get fresh funding from banks or financial Institutions. This scheme will allow banks and NBFCs to give loans to MSMEs which are already considered to be as 'stressed' and are thus less credit worthy. For such stressed MSMEs, the government will only provide partial credit guarantee support to banks. The details of scheme are below:

- Provision made for Rs. 20,000 crores subordinate debt for two lakh MSMEs which are NPA or are stressed.
- Government will support them with Rs. 4,000 Cr. to Credit Guarantee Trust for Micro and Small enterprises (CGTMSE).
- Banks are expected to provide the subordinate-debt to promoters of such MSMEs equal to 15% of his existing stake in the unit subject to a maximum of Rs 75 lakhs.

3. Rs 50,000 crores equity infusion through MSME Fund of Funds:

Another measure introduced by the Government is that of creating a Rs 50,000-crore fund which will infuse equity into "viable" MSMEs, thereby helping them in their expansion and growth. The Government has proposed that it will contribute only Rs 10,000 crore into this and get other major PSU institutions to help fund the balance amount.

The main idea behind this is that MSMEs who are facing cash crunch on account of the nationwide lockdown will be able to apply for some working capital that will keep their businesses survive until they are able operate normally like before.

In doing this, the government also hopes to protect the employment that MSMEs create and thus save jobs of many.

The details of scheme are below

- Govt will set up a Fund of Funds (FoF) with a corpus of Rs 10,000 crore that will provide equity funding support for MSMEs.
- The Fund of Funds shall be operated through a Mother and a few Daughter funds.
- It is expected that with leverage of 1:4 at the level of daughter funds, the Fund of Funds will be able to mobilise equity of about Rs 50,000 crores.

4. Govt. expands scope for global tenders for MSMEs:

To protect the MSMEs from unfair competition from foreign companies, the Govt. has decided to take a major step towards self-reliant India by disallowing Government procurement tenders up 200 crores and thereby banning 'global companies' for participating in government tenders that are worth up to Rs 200 crore.. This is also a step towards a "Atmanirbhar Bharat" as it would give major boost to MSME sector in India.

5. Other Measures for MSME:

The government will make sure to provide e-linkage to all the MSMEs to allow them to function in the absence of Trade fairs, exhibitions and mass participation events of industries.

Also, the government of India and CPSEs will clear all the outstanding receivables to MSMEs within the next 45 days.

VI. **OTHER RELIEF MEASURES IN VIEW OF COVID-19 BENEFICIAL FOR MSME:**

The Government of India amidst this pandemic has announced various relief measures concerning the corporate sector including MSMEs. The MSME sector has been hit hard due to nationwide lockdown and therefore the Government of India from time to time has been releasing various relief measure to combat the disruptions and to stay afloat in this challenging time. Below are various relief measures in view of pandemic beneficial for MSME Sector stated very concisely.

➤ **INSOLVENCY AND BANKRUPTCY CODE:**

- **Increase in threshold limit for default value:** The Minimum threshold limit to initiate insolvency proceedings raised from 1 lakh to 1 crore.
- **Insolvency Resolution framework for MSME:** It has been decided to notify new special insolvency resolution framework for MSME under section 240A of the Insolvency and Bankruptcy Code, 2016.
- **Suspension of IBC proceedings:** To deal with challenging time arising from COVID-19, it has decided for suspension of fresh initiation of Insolvency and Bankruptcy Code, 2016 up to one year depending upon the pandemic situation.
- **Exclusion few debts from definition of default:** COVID-19 related debt would be excluded from the definition of default under the Insolvency and Bankruptcy Code for the purpose of triggering insolvency proceedings.

➤ **THE COMPANIES ACT, 2013:**

- **Reduction in penalties:** Lower penalties for all defaults for small companies, one person companies, producer companies and start-ups.
- **Decriminalization of violation under Companies Act:** Violations involving minor technical and procedural defaults such as shortcomings in CSR reporting, inadequacies in board report, filing defaults and delay in holding AGMs will be decriminalized from Companies Act.

- **Introduction of Companies Fresh Start Scheme 2020** for waiver of additional filing fees for delayed filings by Companies including MSMEs.

➤ **RESERVE BANK OF INDIA:**

- Reduction in Cash reserve Ratio
- Rescheduling of payments
- Ease of working capital financing
- Classification as special Mention Account (SMA) and Non-performing assets(NPA)
- Extension of realization period of export processing
- Targeted Long-Term Repo Operations 2.0
- Refinancing Facilities for all India Financial Institutions (AIFIS)
- Liquidity adjustment Facility: Fixed rate reverse repo rate

➤ **INCOME TAX ACT AND OTHER INDIRECT TAX REGULATIONS:**

Reduction in rate of Tax deduction at Source (TDS) and Tax Collection at source for certain non-salaried specified payments, Extension in due dates with respect to various compliance under the Income Tax Act and GST regulations.

➤ **LABOUR LAWS & ALLIED REGULATIONS:**

The Ministry of Labour and employment has granted extension of due dates for compliance and has also announced various other relief under EPF and allied regulations.


- **Department for Promotion of Industry and Internal trade** has announced for Setting up of a Control Room in DPIIT to monitor the issues of internal trade, manufacturing, delivery & logistics of essential commodities during the lockdown period. The details can be accessed at <https://dipp.gov.in/sites/default/files/Control%20Room.pdf>

VII. EXISTING BENEFITS TO MSMES:


<p>1. MSME Registration/ Udyog aadhaar</p>	<ul style="list-style-type: none">• Registration is voluntary• No fees for registration• Online and instant Registration• Easy and hassle-free process• Minimum Documents• Self- Declaration• Registration helps in availing plethora of benefits
<p>2. Benefits available to Registered MSMEs: The concept of Udyog Aadhaar and ease of registration have thus originated to ensure wider coverage of MSMEs to avail the benefits under various Schemes of Central/ State governments</p>	<ul style="list-style-type: none">• Collateral free and subsidised interest loans• Credit guarantee scheme• Various exemptions under the direct tax and indirect laws• Reduction in fee for filing patents and trademarks• Protection from delayed payments• Financial assistance from the Government of India.• Various Subsidies• Exemptions while applying for government tenders
<p>Existing Schemes for MSMEs</p>	<p>There are plethora of schemes available for MSME. For more details- please access https://msme.gov.in/all-schemes</p>

VIII. PORTALS FOR MSMES:

➤ RECENTLY LAUNCHED

Portal Name	Link	Purpose
<p>CHAMPIONS stands here for Creation and Harmonious Application of Modern Processes for Increasing the Output and National Strength.</p> 	<p>https://champions.gov.in</p>	<p>Recently launched to assist Indian MSMEs to emerge as National and Global CHAMPIONS by solving their grievances and encouraging, supporting, helping and hand holding them.</p> <p>Three basic objectives:</p> <ul style="list-style-type: none"> ➤ Support: to help the MSMEs in this difficult situation in terms of finance, raw materials, labour, permissions, etc. ➤ Explore- to help them capture new opportunities like manufacturing of medical accessories and products like PPEs, masks, etc. ➤ Promote: to identify the sparks, i.e., the bright MSMEs who can not only withstand but can also become national and international champions.

➤ EXISTING PORTALS

Portal Name	Link	Purpose
 MSME SAMADHAN	https://samadhaan.msme.gov.in	MSME Samadhaan is a Portal created by Office of DC(MSME), Ministry of Micro, Small and Medium Enterprises (MSME) where Micro and Small Enterprises (MSEs) can file their applications online regarding delayed payments.
MSME SAMBANDH	https://sambandh.msme.gov.in	In order to make the Public Procurement Policy more effective, a Public Procurement Portal "MSME SAMBANDH" was launched on 8th December, 2017. The Portal tracks the procurement made by CPSEs from MSEs including SC-ST MSEs on a quarterly basis and contains the necessary information relating to the requirement of CPSEs in terms of items required, quantity, specifications, last purchase price etc. Therefore, the portal helps in effective monitoring while also enabling MSEs to build their capacities and participate in Public Procurement market.
MSME SAMPARK	http://sampark.msme.gov.in	The MSME Sampark portal is a digital platform, wherein, jobseekers (passed out trainees / students of 18 MSME Technology Centres) and recruiters (various reputed national & multinational companies) register themselves for getting employment and getting right kind of manpower respectively.

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Udyog Aadhaar	https://udyogaadhaar.gov.in	National Portal for Registration of Micro, Small & Medium Enterprises
MSME Databank	http://www.msmedatabank.in/	MSME DataBank has facility for registration of three type of organizations, namely: <ol style="list-style-type: none">1. MSME – this registration is for Individual MSME Units.2. Association – this link is for registration by Industry Associations.3. MSME Development Organizations – this link is for registration by various organizations under Ministry of MSME, like DC-MSME, NSIC, KVIC, Coir Board, MGRI, NIMSME, etc.
MY MSME	https://my.msme.gov.in	My MSME portal gives access to several mobile apps, and useful links specific to MSMEs
Others	Trade Receivables Discounting System (TReDS)	TReDS is an electronic platform for facilitating the financing / discounting of trade receivables of Micro, Small and Medium Enterprises (MSMEs) through multiple financiers. These receivables can be due from corporates and other buyers, including Government Departments and Public Sector Undertakings (PSUs). The list of 'Payment System Operators' authorised by the Reserve Bank of India to set up and operate in India under the Payment and Settlement Systems Act, 2007 can be accessed at https://m.rbi.org.in/Scripts/PublicationsView.aspx?id=12043

KEY TAKEAWAY:

We can say that MSMEs are the heart of the Indian economy and has been contributing in various arenas. Worldwide Governments have been announcing a wide array of measures to instil confidence and liquidity into their small business lines . The government of India has announced this stimulus package focused on the MSME sector to address medium- and long-term issues with an objective to be Atmanirbhar Bharat (Self-reliant India). The relief measures announced by the Government of India will enable MSME sector to stay afloat and carry out their businesses better in near future. Beside the fiscal measure introduced, the change in the definition is a major step as it will enable the MSMEs to join and march in the Big league and compete globally.

This Crisis in indeed an opportunity in disguise for small businesses and keeping fast changing business environment in view this is the best time to recreate, innovate, put a long-term strategy in place to be prepared for future uncertainty. The MSMEs should try to make use of the relief measures and should plan their organisation specific strategy to reopen their business activity, in a phased manner, following various social distancing norms as announced by the Government of India.

Together we as part of business environment along with cooperation of the government will have to work in tandem to ensure that we all survive this crisis and be ready for uncertainty in terms of this pandemic and be prepared, resilient and open to changes in terms of our business activities.

LET'S WORK TOGETHER FOR ATMANIRBHAR BHARAT ABHIYAAN!

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Disclaimer: The views stated are personal and should not be construed as a legal opinion.