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India: The Micro, Small and Medium Enterprises Development (Amendment) Bill, 2018

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The Micro, Small and Medium Enterprises Development Act, 2006 ("**Act**") was enacted with a view to facilitate the promotion and development of micro, small and medium enterprises ("**MSMEs**") and to enhance the competitiveness between them. The MSMEs are significant in providing large employment opportunities at a relatively lower capital cost than larger industries and are also imperative in facilitating industrialization of rural and backward areas which results in assuring more equitable distribution of national income.

In order to align the Act with the contemporary times, need was felt to change the criterion of classification of enterprises. The Micro, Small and Medium Enterprises Development (Amendment) Bill, 2018 ("**Bill**") was introduced in the Lok Sabha by the Minister of State for MSMEs, Mr. Giriraj Singh, on July 23, 2018, with the objective of encouraging ease in doing business and making the norms of classification of enterprises growth oriented. The Bill seeks to amend the Act and appears to be a major overhaul in the manner in which MSMEs are classified under the Act and proposes to bring about a change in the criterion of classification of MSMEs from the present classification based on investment in plant and machinery or equipment to a fresh and uniform criterion for all MSMEs based on their annual turnover. The proposed classification of MSMEs as per the Bill is as follows:

- i. Micro Enterprise: Where the annual turnover does not exceed Five Crores.
- ii. Small Enterprise: Where the annual turnover is more than Five Crores but does not exceed Seventy-Five Crores.
- iii. Medium Enterprise: Where the annual turnover is more than Seventy-Five Crores but does not exceed Two Hundred and Fifty Crores.

Further, the Bill also proposes to confer power upon the Central Government to vary the turnover limits by way of a notification, which shall not exceed thrice the limits as specified above, for the purpose of development of MSMEs.

Furthermore, under the Act, the Central Government may classify micro, tiny, or village enterprises as part of small enterprises. The Bill proposes to widen this classification and seeks to include micro, tiny, or village enterprises as part of small as well as medium enterprises.

Presently, the MSMEs are classified and regulated under the Act on the basis of investment in plant and machinery for manufacturing units, and investment in equipment for service enterprises. The following slabs are prescribed under the Act for classification of the enterprises:

A. In case of enterprises engaged in manufacture or production of goods:

- i. Micro Enterprise: Where the investment in plant and machinery does not exceed Twenty-Five Lakhs.
- ii. Small Enterprise: Where the investment in plant and machinery is more than Twenty-Five Lakhs but does not exceed Five Crores.
- iii. Medium Enterprise: Where the investment in plant and machinery is more than Five Crores but does not exceed Ten Crores.

B. In case of enterprises engaged in providing or rendering of services:

- i. Micro Enterprise: Where the investment in equipment does not exceed Ten Lakhs.
- ii. Small Enterprise: Where the investment in equipment is more than Ten Lakhs but does not exceed Two Crores.
- iii. Medium Enterprise: Where the investment in equipment is more than Two Crores but does not exceed Five Crores.

These amendments in the Bill have been proposed as it was detected that classifying enterprises by taking investment in plant and machinery or equipment as the criterion entailed physical verification which has associated transaction costs. Also, it was observed that there was a penchant amongst the promoters of the enterprises to keep the investment smaller in size in order to derive the benefits associated with the micro or small enterprises category. If the annual turnover is considered as the criterion for classification, the information available with the Goods and Service Tax Network and other sources can be utilized for categorization of the enterprises and this will pave way towards a transparent and objective classification system and eliminate the requirement of inspections. The Bill aims to promote its objective of facilitating ease in doing business by making way for a robust and less-cumbersome procedure for classification aimed at growth rather than investment and aligned with the new tax regime.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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