No. 2(3)/1/2007-MSME Pol.(Pt.)
Government of India
Ministry of Micro, Small and Medium Enterprises
Office of the Development Commissioner
(Micro, Small and Medium Enterprises)
‘A’-Wing, 7th Floor, Nirman Bhavan
New Delhi-110011.

Dated: 1 August 2007

Subject: Filing of Entrepreneurs Memorandum by Medium Enterprises.

The proviso of Section 8(1) of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 contains that an industry having an investment in plant and machinery of more than Rs.1.00 crore but not exceeding Rs.10.00 crore which had filed Industrial Entrepreneurs Memorandum with Department of IP&P in pursuance of Notification No. S.O.477(E) dated 25 July 1991 shall file the E.M. with the District Industries Centre concerned within 180 days from the commencement of this Act. However, a number of clarifications are being sought whether such enterprises which have not filed the E.M. within 180 days of the commencement of this Act can be allowed to file E.M.

2. MSMED Act 2006 under Section 31 empowers the Central Government to remove any difficulty that may arise in giving effect to the provisions of this Act by making an order to that effect. However, it may not be necessary to take recourse to the provisions of Section 31 since a closer reading of the proviso to Section 8(1) reveals that there is no bar on the cited enterprises (investment in P&M more than Rs.1.00 crore but not exceeding Rs.10.00 crore, etc.) from filing the said E.M., which they were enjoined to do within 180 days of 2 October 2006. That being the case, such enterprises may be prompted to file these Memoranda at least now. In fact, the State Governments, through the DICs, could be requested to inform such enterprises that they must file such E.M.s. expeditiously. It is worth mentioning here that MSMED Act, 2006 is facilitatory in nature and not regulatory.

3. To summarise the whole issue:

(i) For micro and small enterprises and for medium enterprises rendering service there is no limitation of 180 days from 2 October 2006 for filing of EM. It is voluntary for them and these enterprises can file EM anytime they decide to do.

(ii) The kind of enterprises, mentioned in para 1 of this letter and which could not file the EM within 180 days from 2 October 2006, may be allowed to file EM as they have not been debarred from filing of EM after 180 days in MSMED Act, 2006.

(P.K. Sinha)
Deputy Director (MSME Pol.)
Tel.No.011-23061544

To

As per list.