



ગુજરાત વેપારી મહામંડળ

# Gujarat Chamber of Commerce & Industry



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Hon. Secretary

**Mahesh Puj**  
Hon. Secretary (R)

**Navroz Tarapore**  
Hon. Treasurer

28<sup>th</sup> February, 2022 / 15248

To,  
**Shri Amit Kumar Tamaria**  
Deputy Director (MSME Policy)  
Office of the Development Commissioner (MSME)  
Room No. 710, Nirman Bhavan  
New Delhi.

**Sub: Suggestions regarding Draft National Policy for Micro, Small and Medium Enterprises in India**

Respected Sir,

Greetings from Gujarat Chamber of Commerce and Industry (GCCCI).

In reference to your Office Memorandum dated 9<sup>th</sup> February, 2022 we are sending herewith some important suggestions regarding the Draft National Policy for Micro, Small and Medium Enterprises in India, with a request to consider them positively and incorporate them while preparing the final Policy.

With Regards,

Sincerely,

**Hemant Shah**  
President.

**Encl:** As above



# Gujarat Chamber of Commerce & Industry

## Suggestions regarding the Draft National Policy for Micro, Small and Medium Enterprises in India

### 1. Denial of MSME benefits by Departments

Some Departments, PWDs and PSUs are inserting special Conditions in their Tender/ Procurement Documents to over-rule the benefits specified under the MSMED Act. Necessary clauses shall be inserted to ensure that the MSMED Act benefits like exemption of Tender fee, EMD, price preference etc. are available to all MSMEs in the construction sector. Such benefits shall be made mandatory and non-negotiable by the Act.

### 2. Inclusion of “Works Contract”

All enterprises doing Manufacturing and Services are eligible to register as per the MSMED Act, based on their investment/turnover specified in the Act. Those who are doing Services along with material transfers – like Works Contract- are considered under the “Service Sector” as per the Act. In fact, most of the construction activities are listed in Sec F and all construction/ contracting enterprises were issued registration as per the same. However, we notice that the present registrations for construction activities are given under Manufacturing activity. This may result in more confusion and related litigation. Suitable amendments may please be incorporated to avoid such confusion and related problems to MSMEs.

There are also instances, where justice and MSME benefits are being denied to many on the ground that Works contract is not covered/ listed in MSME list of manufacturing/services. Departments are also referring to judgments wherein the court termed construction activity or a contract as “Works Contract” which according to the Court is not specifically listed in the MSME list of manufacturing/services. It may please be noted that all the construction activities listed in Sec-F of NIC code is included in Works Contract under the constitution too.

Therefore, in order to avoid confusion, related litigation and also to deliver justice as contemplated in the Act, it is requested that “Works Contract” may please be included in the list of manufacturing/services.

### 3. Dispute resolution through MSEFCs

The Council has jurisdiction to act as an Arbitrator or Conciliator under this Act. Any such issue/dispute referred to the ‘Council’ shall be decided within a period of **45 days**. This will avoid the time-consuming and costly legal process through the civil courts. This is an amazing provision. But, truth is not anywhere near. We may like to point out that in reality the time taken is much more than 45 days and in many cases months and years. All Micro, Small and Medium Enterprises need to be brought under the purview of the MSEFCs and it shall be made mandatory to resolve the dispute within the prescribed time as given in the MSMED Act.



# Gujarat Chamber of Commerce & Industry

Similarly, it is important to include specific provisions in the Act to have a fast track system in the MSEFCs to resolve the payment disputes of MSMEs facing NPA issues from their Banks.

## 4. Tribunal/Appellate Authority for MSEFCs

We request you to kindly consider the creation of Tribunal/Appellate Authority for MSMEC which will help easy and faster dispute resolution. Approaching a HC or SC will lead to substantial time loss and defeat the purpose and spirit of the Act. Hence the Act may please be amended to create a legal frame work for setting up and functioning of Tribunal/Appellate Authority.

## 5. Execution of MSEFC orders/awards

It may please be noted that confusion with regard to execution of MSEFC awards still remain. MSEFCs are to be empowered to execute the orders by suitable amendment of the Act or by order.

## 6. Trade Body Representatives in MSEFCs

Representatives of trade bodies including BAI to be nominated in all the MSEFCs

## 7. Panel of Mediators and Arbitrators

As the disputes pertaining to Construction Industry could be more technical and complex in nature conciliation and arbitration would require the services of experts in the relevant fields. Therefore, a panel of experts in relevant engineering and legal matters with sufficient qualification, experience and integrity may please be created in all MSEFCs.

## 8. Mandatory registration before entering into a contract for seeking benefits under MSME Act

There are instances where the benefits of MSME Act is being denied to organizations which did not have a UDYAM registration prior to entering into a contract, but obtained subsequently. We request that no one shall be penalized on this account. It is further requested that in worst case, they may be made eligible for the benefits under the Act from the date of their registration with the MSME.

## 9. MSME Act implementation monitoring committees

It is requested that Monitoring Committees may please be created at Central and State Levels for monitoring the implementation of MSME Act in letter and spirit which may include representatives from industry, Financial Institutions plus legal experts as well as officials like Director Industries, and Principal Secretary – Industries etc.