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# Pandemic Legal intelligence

## Impact on MSMEs amidst Covid-19



**Legal intelligence Series - COVID | XXXI**

AHMEDABAD | BENGALURU | NEW DELHI | KOLKATA | MUMBAI

## **MSME - FAQs**

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## **Micro, Small & Medium Enterprises**

MSMEs have played a vital role in our economy and with low investment, it is giving the maximum employment in the country providing wide area of products and services.

During the lockdown, the MSMEs are suffering because of the sudden break in operations, thereby creating a situation of panic.

Some important questions addressed to us are answered below:



## Meaning of MSME

### 1. Which enterprises are considered as the Micro, Small and Medium Enterprises?

Answer: The Government of India has enacted the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 in terms of which the definition of micro, small and medium enterprises is as under:

Enterprises engaged in the manufacture or production, processing or preservation of goods as specified below:

- a) A micro enterprise is an enterprise where investment in plant and machinery does not exceed Rs. 25 Lakh;
- b) A small enterprise is an enterprise where the investment in plant and machinery is more than Rs. 25 Lakh but does not exceed Rs. 5 Crore;
- c) A medium enterprise is an enterprise where the investment in plant and machinery is more than Rs.5 Crore but does not exceed Rs.10 crore.

Enterprises engaged in providing or rendering of services as specified below:

- a) A micro enterprise is an enterprise where the investment in equipment does not exceed Rs. 10 Lakh;
- b) A small enterprise is an enterprise where the investment in equipment is more than Rs.10 Lakh but does not exceed Rs. 2 Crore;
- c) A medium enterprise is an enterprise where the investment in equipment is more than Rs. 2 Crore but does not exceed Rs. 5 Crore.



## Compliance Relief under Taxation Laws

**3. Whether the Central Government has given any relief with respect to compliance under several taxation laws including, GST and Income Tax?**

Answer: Yes, the Ministry of Finance has announced several relief measures relating to statutory and regulatory compliance matters in view of Covid-19 outbreak.

The Central Government has brought in the **Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020 on 31st March, 2020** which provides for extension of various time limits under the Taxation laws viz, the Income Tax Act, 1961, the Central Excise Act, 1944, the Customs Act, 1962 etc. Further, various notifications and circulars were issued for the compliance relaxation under the GST law.

Visit [covid19.amlegals.com](https://covid19.amlegals.com) for a detailed white paper on relaxation given under Direct Tax Law and GST Law.



### 4. Whether the threshold for initiating insolvency proceedings under the Insolvency and Bankruptcy Code, 2016 ('IBC') has been increased?

Answer: Yes, considering the Covid-19 outbreak, the Ministry of Corporate Affairs, vide Notification S.O. 1205 (E) dated 24th March, 2020, enhanced the "minimum default threshold from INR One Lakh to INR One Crore.

That the said notification was issued post announcement made by the Hon'ble Finance Minister on 24th March 2020, wherein the Hon'ble Minister highlighted the amendment as a measure for protection of the interest of medium, small and micro enterprises ("MSME") during this COVID-19 outbreak. The Press release dated 24th March 2020 issued by the Ministry of Finance read as under:

*"Due to the emerging financial distress faced by most companies on account of the large-scale economic distress caused by COVID 19, it has been decided to raise the threshold of default under section 4 of the IBC 2016 to Rs 1 crore (from the existing threshold of Rs 1 lakh). This will by and large prevent triggering of insolvency proceedings against MSMEs."*

Therefore, the amendment has proved to be a supporting medium for MSMEs to save them from insolvency proceedings due to default in payment because of Covid-19 situation.



## 5. Whether the timeline of Corporate Insolvency Resolution Process has been extended?

Answer: The Ministry of Corporate Affairs through the Insolvency and Bankruptcy Board of India, vide Notification No. IBBI/2019-20/GN/REG059 dated 29.03.2020, notified the amendment in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 29th March, 2020.

Regulation 40C has been inserted to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2020 to provide that the lockdown period shall be excluded for the purpose of calculation of the timeline of the Corporate Insolvency Resolution Process.

Visit [covid19.amlegals.com](https://www.covid19.amlegals.com) for a detailed white paper on IBC.



## Condonation of delay in filing documents on MCA 21

**6. Whether the Ministry of Corporate Affairs granted any relief to the Companies and LLP for delay in filing documents on MCA21?**

**Answer:** The Ministry of Corporate Affairs vide Circular No. 12/2020 dated 30th March, 2020 and Circular No. 12/2020 dated 30th March, 2020, introduced the Companies Fresh Start Scheme, 2020 and revised the LLP Settlement Scheme, 2020.

Both the schemes provide a one-time waiver of additional filing fees for delayed filings by the companies or LLPs with the Registrar of Companies. The Schemes are effective from 1st April, 2020 and will exist till 30th September, 2020. The benefit is available not only to the companies or LLPs which may not able to file Documents in time during the lockdown, but also includes existing defaulting companies or LLPs.

**However, the above schemes are subject to certain exceptions mentioned therein.**



## Grievance Redressal for Food Processing Industries

**7. What are the steps taken by the Central Government to address the issues faced by the Food Processing Industries during the current Covid-19 lockdown?**

**Answer:** The Ministry of Food Processing Industries vide Press Release dated 30th March, 2020 has formed a Task Force to address the grievances and resolve the problems faced by Food Processing and ancillary Industries. The Hon'ble Minister of Food Processing Industries also urged the need for a uniform format in all states regarding manufacture and movement of food products.

Visit [covid19.amlegals.com](https://covid19.amlegals.com) for a detailed white paper on Food Industries.



### 8. Whether the movement of essential goods or services is allowed during the lockdown?

Answer: The Ministry of Home Affairs, vide **Order No. 40- 3/2020-DM-I(A)** dated 24th March 2020 (as amended) allowed the movement of essential goods and services. Further, the Ministry of Home Affairs issued a **Standard Operating Procedure** for supply of essential goods on 24th March, 2020 and directed all the State/ UT to setup a control room/ office with helpline to address the grievance or undue hardship faced by the supplier of essential goods or services.

Additionally, **Department for Promotion of Industry and Internal Trade (DPIIT)**, under the Ministry of Commerce and Industry, has set up a control room to monitor in real time the status of transportation and delivery of goods, manufacturing, delivery of essential commodities to common man and the difficulties being faced by various stakeholders during the lockdown period.



## Employees

**9. Whether the employees of the MSME can withdraw the non-refundable amount from their Employee Provident Fund ('EPF') account?**

**Answer:** The Ministry of Labour and Employment vide Notification F. No. S-35012/01/2020-SS-II(Pt.) dated 29th March, 2020 allowed the Employee Provident Fund account holder to withdraw up to 3 months of basic wages and dearness allowance or 75% of the amount standing to the member's credit in the EPF account, whichever is less from the non-refundable advance by EPF members/subscribers during the pandemic.



## Online Platform to help Businesses

### 10. Whether the Government has created any platform for businesses issues redressal?

Answer: Yes, the Government has designed the Invest India Business Immunity Platform as a comprehensive resource to help businesses and investors get real-time updates on India's active response to Covid-19.

This platform keeps a regular track on developments in controlling the Covid-19 spread, provides the latest information on various Central and State Government initiatives, gives access to special provisions, and answers and resolves queries through emails and on WhatsApp.

You can access the same at: <https://www.investindia.gov.in/>.



### 11. Whether Central Government has granted any relief to the Power Distribution Companies?

Answer: The Ministry of Power, vide press release dated 28th March 2020, stated that due to the lockdown, consumers are unable to pay their dues to the Distribution Companies ('Discoms') which has affected the liquidity position of the Discoms thereby impairing their ability to pay to the generating and transmission companies. Considering the above situation, the Ministry announced for the following relief to for the Discoms:

- CPSU Generation / Transmission Companies will continue supply/ transmission of electricity even to Discoms which have large outstanding dues to the Generation / Transmission companies. During the present emergency there will be no curtailment of supply to any DISCOM.
- **Till 31st May 2020, the payment security mechanism to be maintained by the Distribution Companies with the Generating Companies for dispatch of power shall be reduced by fifty percent.**
- Directions have been issued to the Central Electricity Regulatory Commission to provide a moratorium of three months to Discoms to make payments to generating companies and transmission licensees and not to levy penal rates of late payment surcharge. State Governments are being requested to issue similar directions to State Electricity Regulatory Commissions.



## Loan Rescheduling

**12. Whether the MSMEs can reschedule the payment of instalment for the terms loan or working capital facilities from the Banks or other lending institution?**

Answer: Yes, the Reserve Bank of India, vide Circular No. RBI/2019-20/186 dated 27.03.2020, announced a regulatory package for the borrowers and the lending institutions. All borrowers, including MSMEs, can avail the benefit of the package announced by the Reserved Bank of India.

Visit [covid19.amlegals.com](https://www.covid19.amlegals.com) for a detailed white paper on Relief announced by the RBI.



## ABOUT US

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