

**ARTICLE on MCA Notification dated 22 January, 2019 on
“MSME”**

Ministry of Corporate Affairs vide Notification dated **January 22, 2019**, requires that

A. Applicability:

To all the companies, who

- (a) receive supplies of any goods and services from Micro or Small Enterprise (“MSME”) and
- (b) whose **payment exceeds 45 days** from the ***Date of Acceptance*** or from the ***Date of Deemed Acceptance*** of the goods or services as per the provisions of section 9 of the Micro, Small and Medium Enterprises Development Act, 2006. **(referred to as “Specified Companies”)**

For the definition of **Date of Acceptance** or the **Date of Deemed Acceptance** please refer to section 15 and 2(b) of MSME Act 2006 detailed as below;

Section 2(b)

“appointed day” means the day following immediately after the expiry of the period of **15 days from the day of acceptance or the day of deemed acceptance** of any goods or any services by a buyer from a supplier.

Explanation.—For the purposes of this clause,—

(i) “the day of acceptance” means,—

- (a) the day of the actual delivery of goods or the rendering of services; or
- (b) where any objection is made in writing by the buyer regarding acceptance of goods or services within **15 days from the day of the delivery of goods or the rendering of services**, the day on which such objection is removed by the supplier;

(ii) “the day of deemed acceptance” means, where no objection is made in writing by the buyer regarding acceptance of goods or services **within 15 days from the day of the delivery of goods or the rendering of services**, the day of the actual delivery of goods or the rendering of services;

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Section 15 of MSME act 2006 reads as follow ;

Liability of buyer to make payment.—Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

B. Every Specified Companies shall file “**MSME Form I**” with the Ministry of Corporate Affairs, within **30 (thirty) days** from the date of the said Notification and every half yearly as well, stating *(1) the amount of payment due and (2) the reason of the delay.*

C. MSME Form I should *also* be filed on a half-yearly basis i.e:

- on /before 30th April for the period October to March and
- on /before 31st October for the period April to September.

D. In case of non- compliance, the Company and every officer in default shall be punishable under Section 405 (4) of the Companies Act, 2013 with a fine and/ or imprisonment, which reads as follow :

If any company fails to comply with an order made under sub-section (1) or subsection (3), or knowingly furnishes any information or statistics which is incorrect or incomplete in any material respect, the company shall be punishable with fine which may extend to twenty-five thousand rupees and every officer of the company who is in default, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to three lakh rupees, or with both.

The Link of the above notification is as under:

http://www.mca.gov.in/Ministry/pdf/MSMESpecifiedCompanies_22012019.pdf

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E. Entities to be identified as Micro or Small enterprises :-

Definitions of Micro or Small Enterprises

In accordance with the provision of Micro, Small & Medium Enterprises Development (MSMED) Act, 2006 the Micro, Small and Medium Enterprises (MSME) , any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called are classified in two classes namely Manufacturing Enterprises and Service Enterprises.

- 1. Manufacturing Enterprises-** The enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951) or employing plant and machinery in the process of value addition to the final product having a distinct name or character or use. The Manufacturing Enterprise are defined in terms of investment in Plant & Machinery.
- 2. Service Enterprises:-** The enterprises engaged in providing or rendering of services and are defined in terms of investment in equipment.

The limit for investment in plant and machinery / equipment for manufacturing / service enterprises, as notified, vide S.O. 1642(E) dtd.29-09-2006 are as under

Sector	MICRO	SMALL
Manufacturing Sector	Investment in Plant and Machinery not exceeding INR 25 Lakhs.	Investment in Plant and Machinery exceeding INR 25 Lakhs but not exceeding INR 5 crores
Service Sector	Investment in equipment not exceeding INR 10 Lakhs.	Investment in equipment exceeding INR 10 Lakhs but not exceeding INR. 2 crores.

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