



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
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RBI/2010-11/305

RPCD.SME & NFS.BC.No. 35 /06.02.31 (P)/2010-11

December 6, 2010

To,
The Chairman / Managing Director
All Scheduled Commercial Banks
(excluding RRBs)

Madam / Dear Sir

Ownership of units – Two or more undertakings under the same ownership – Status of the unit

Please refer to our circular RPCD.No.PLNFS.No.BC.67/06.03.01/93-94 dated November 22, 1993 on the captioned subject (copy enclosed) wherein banks were advised to follow the guidelines outlined in Notification No. S.O.2 (E) dated 1 January 1993 issued by Government of India, Ministry of Industry for the purpose of determining Small Scale Industries status of the units.

2. As the MSMED Act, 2006 does not provide for clubbing of investments of different enterprises set up by the same person / company for the purpose of classification as micro, small and medium enterprises, Government of India, vide office memorandum No.5(10)2007 MSME/POL dated April 15, 2009, have intimated that the provision, as notified in Gazette Notification No. S.O.2 (E) dated 1 January 1993, of clubbing of investments of two or more enterprises under the same ownership for the purpose of classification of industrial undertakings as SSI (further notified in the principal notification No. S.O.857 (E) dated December 10, 1997), has been rescinded vide Notification No. S.O.563 (E) dated February 27, 2009. Copies of the Notifications are enclosed.

3. You are advised to issue suitable instructions to your branches / controlling office and accord wide publicity to the same.

Yours faithfully

Sd/-

(B.P. Vijayendra)

Chief General Manager

Encl: as above

All Scheduled Commercial Bank

Dear Sir,

**Ownership of Units - Two or more Undertakings
under the Same Ownership - Status of the Unit**

Please refer to para 2 of our circular RPCD.No.PLNFS.BC.88/PS.72/91-92 dated 12 February 1992 advising you of the decision of Government of India to keep operation of the instructions on clubbing of investments for determining the status of units referred to in our circular RPCD.No.PLNFS.BC.76/PS.72/88-89 dated 25 February 1989 in abeyance till further orders. Government of India Ministry of Industry have now outlined detailed guidelines in respect of equity participations and the meaning of the terms owned, controlled and a subsidiary for the purpose of getting qualified as Small Scale Industries undertakings etc. vide Gazette Notification No. S.O.2 (E) dated 1 January 1993. A copy of the Notification is enclosed. We advise that for the purpose of determining the Small Scale Industries status of the units in term of our circular dated 25 February 1989, you may please follow the guidelines now outlined by Government of India.

We shall be glad if you will please issue suitable instructions to your branches/controlling office.

Yours faithfully,

Sd/-

(Avinash Misra)
Joint Chief Officer

(Published in Extraordinary Gazette of India In Part II Section 3
Sub-Section (ii) Dated 1st January, 1993)

Ministry of Industry
(Department of Industrial Development)
New Delhi

Notification

S.O.2 (E) whereas the Central Government considers it necessary with a view to ascertaining which ancillary and small scale industrial undertaking need supportive measures, exemptions or other favourable treatment, under the Industries (Development and Regulation) Act, 1951 for the purposes specified in section 11-B of the said Act:

And whereas the draft Notification was laid before each House of Parliament for a period of 30 days as required under Subsection (3) of Section 11-B of the said Act.

And whereas no modification in the proposed Notification has been suggested by both Houses of Parliament.

Now, therefore, in exercise of the powers conferred by Subsection (1) of Section 11-B and Sub-section (1) of Section 29-B of the said Act, the Central Government for the purposes of further specifying the requirements which shall be complied with by the industrial undertakings to enable them to be regarded as an ancillary or a small scale industrial undertaking for the purposes of the said Act,, makes the following amendments in the Notification of the Government of India in the Ministry of Industry (Department of Industrial Development) No. S.O.232 (E) dated the 2nd April, 1991 namely :

In the said Notification, in the Table, in paragraph II the existing note shall be numbered as Note 1 thereof and after Note1, as so numbered, the following Explanation and Note shall be inserted, namely :

Explanation : For the purposes of this Note

(A) "Owned" shall have the meaning as derived from the definition of the expression "owner" specified in clause (f) of Section 3 of the Industries (Development & Regulation) Act, 1951 (65 of 1951);

(B) "Subsidiary" shall have the same meaning as in clause (47) of Section 2, read with Section 4, of the Companies Act, 1956 (1 of 1956);

(C) The expression "controlled by any other industrial undertaking" means as under:-

i) where two or more industrial undertakings are set up by the same person as a proprietor, each of such industrial undertakings shall be considered to be controlled by the other industrial undertaking or undertakings;

ii) where two or more industrial undertakings are set up as partnership firms under the Indian Partnership Act, 1932 (1 of 1932) and one or more partners are common partner or partners in such firms, each such undertaking shall be considered to be controlled by the other undertaking or undertakings;

iii) where industrial undertakings are set up by companies under the Companies Act, 1956 (1 of 1956), an industrial undertaking shall be considered to be controlled by other industrial undertaking if

a) the equity holding by other industrial undertaking in it exceeds 24% of its total equity; or

b) the management control of an undertaking is passed on to the other industrial undertaking by way of the Managing Director of the first mentioned undertaking being also the Managing Director or Director in the other industrial undertaking or the majority of Directors on the Board of the first mentioned undertaking being the equity holders in the other industrial undertaking in terms of the provisions of (a) and (b) of sub-clause (iv);

iv) The extent of equity participation by other industrial undertaking or undertakings in the undertaking as per sub-clause (iii) above shall be worked out as follows :

a) the equity participation by other industrial undertaking shall include both foreign and domestic equity;

b) equity participation by other industrial undertaking shall mean total equity held in an industrial undertaking by other industrial undertaking or undertakings, whether small scale or otherwise, put together as well as the equity held by persons who are Directors in any other industrial undertaking or undertakings;

c) equity held by a person, having special technical qualification and experience, appointed as a Director in a small scale industrial undertaking, to the extent of qualification shares, if so provided in the Articles of Association, shall not be counted in computing the equity held by other industrial undertaking or undertakings even if the person concerned is a Director in other industrial undertaking or undertakings;

v) where an industrial undertaking is a subsidiary of or is owned or controlled by any other industrial undertaking or undertakings in terms of sub-clause (i) sub-clauses (ii) or sub-clause (iii) and if the total investment in fixed assets in plant and machinery of the first mentioned industrial undertaking and the other industrial undertaking or undertakings clubbed together exceeds the limit of investment specified in paragraph I or II of this Table, as the case may be, none of these industrial undertakings shall be considered to be a small scale or ancillary industrial undertaking.

Note 2:

a) In calculating the value of plant and machinery for the purpose of this Notification, the original price thereof, irrespective of whether the plant and machinery are new or second hand, shall be taken into account.

b) In calculating the value of plant and machinery, the following shall be excluded, namely :

i) the cost of equipments such as tools, jigs, dies moulds and spare parts for maintenance and the cost of consumable stores;

- ii) the cost of installation of plant & machinery;
 - iii) the cost of Research and Development (R & D) equipment and pollution control equipment;
 - iv) the cost of generation sets, extra transformer, etc. installed by the undertaking as per the regulations of the State Electricity Board;
 - v) the bank charges and service charges paid to the National Small Industries Corporation or the State Small Industries Corporation;
 - vi) the cost involved in procurement or installation of cables, wiring, bus bars, electrical control panels (not those mounted on individual machines), oil circuit breakers/miniature circuit breakers, etc., which are necessarily to be used for providing electrical power to the plant and machinery/safety measures;
 - vii) the cost of gas producer plant;
 - viii) transportation charges (excluding of taxes e.g. Sales tax, Excise etc.) for indigenous machinery from the place of manufacturing to the site of the factory;
 - ix) charges paid for technical know-how for erection of plant and machinery;
 - x) cost of such storage tanks which store raw materials finished products only and are not linked with the manufacturing process; and
 - xi) cost of fire fighting equipments.
- c) In the case of imported machinery, the following shall be included in calculating the value, namely:
- i) Import duty (excluding miscellaneous expenses as transportation from the port to the site of the factory, demurrage paid at the port);
 - ii) the shipping charges;
 - iii) Customs clearance charges; and
 - iv) Sales tax.

Sd/-

(S. Behura)
Joint Secretary