FAQ

MSME SAMADHAAN-DELAYED PAYMENT MONITORING SYSTEM

Q1. What is MSME Samadhaan Portal?

MSME Samadhaan is a Portal created by Office of DC (MSME), Ministry of Micro, Small and Medium Enterprises (MSME) where Micro and Small Enterprises (MSEs) can file their applications online regarding delayed payments.

Q2. Does Ministry of MSME take action on applications filed on MSME Samadhaan Portal?

No, MSME SAMADHAAN online portal is developed by Ministry of MSME only to facilitate MSEs filing of their applications regarding delayed payments online. The application once filed is forwarded automatically online to the concerned Micro and Small Enterprise Facilitation Council (MSEFC) established by the State/UTs as per the provisions of MSMED Act, 2006. Action on the applications regarding delayed payment is taken by the concerned MSEFC only

Q3. Can Ministry of MSME intervene in matters of MSEFC?

No. Only the MSEFCs have been empowered as per MSMED Act, 2006 for taking decisions regarding its reference made with them. This office does not intervene in the matters of MSEFCs. Ministry of MSME cannot interfere with judicial functioning of MSEFCs.

Q4. Is filing of Udyam Registration (UR) mandatory to file applications on MSME Samadhaan Portal?

Yes, Udyam Registration (UR) is mandatory for availing all the schemes/benefits of this office including benefits under delayed payment provisions.

Q5. How can I get Udyam Registration (UR) Number?

Registration for Udyam can be done online on the Udyam portal accessible through official website of Ministry of MSME free of cost at following address:- https://udyamregistration.gov.in/Government-India/Ministry-MSME-registration.htm

Q6. Is prior registration of an enterprise mandatory for filing a case in MSEFC?

As per the provisions of MSMED Act, 2006 and also the judgment of Hon'ble Supreme Court, the benefits of MSME registration cannot be taken retrospective. Hence, prior registration of the enterprise before the date of disputed invoice is mandatory for filing an application.

Q7. Is it mandatory to file Delayed Payment Applications online on MSME Samadhaan Portal only?

No. MSME Samadhaan Portal has been created only to facilitate online applications regarding delayed payments.

Q8. Who can convert the application into Regular Reference Petition/claim case?

The applications are converted into case by the concerned MSEFC.

Q9. If there is no action on an application filed by MSEs, whom to contact?

After submission, the application is automatically forwarded online to the concerned MSEFC. Therefore, concerned MSEFC is to be contacted after filing the application online on MSME Samadhaan Portal. The contact address of concerned MSEFC is mentioned on the acknowledgement sent on the registered email of the applicant.

Q10. Is work order compulsory to file application on MSME Samadhaan Portal?

Yes, work order is compulsory. In case purchase order is oral, an affidavit to that effect is to be submitted.

Q11. How to upload multiple invoices?

Multiple invoices can be combined into single PDF and can be uploaded. The affidavit of oral purchase order is to be included in single PDF.

Q12. On which email OTP is sent?

OTP is sent to the registered email ID in Udyam Registration.

Q13. How can an application be closed by applicant enterprise?

1. Please check your application/case status by clicking on -

https://samadhaan.msme.gov.in/MyMsme/MSEFC/MSEFC_Entrepreneur_status.aspx

2. If application is converted into cases then MSEFC Council will take decision on the application / cases.

3. If your application is not converted into case then click on -

https://samadhaan.msme.gov.in/MyMsme/MSEFC/MSEFC_MSMEEntValidation.aspx

- Enter valid udyog aadhaar/ Udyam registration number and mobile number;
- OTP will be sent on registered email id in Udyog aadhaar/ Udyam registration number;
- Enter OTP;
- After that click on Update Payment link, check your application. Then an enterprise can do mutual settlement of the application

Q14. How can an enterprise having EM-II registration file an application on Samadhaan Portal?

An enterprise having EM-II registration needs to approach the MSEFC concerned and the MSEFC may facilitate it in manually filing the application on Samadhaan portal after verifying the relevant documents.

Q15. If an enterprise is getting an error while filing the application, “the date of UDYAM registration should be prior to the date of invoice in dispute”.

If you have Udyog Aadhaar please migrate your Udyog Aadhaar in Udyam registration (https://udyamregistration.gov.in/). After that the unit (with Udyog Aadhaar number in point no 3 in MSME Samadhaan) details will be displayed then please file your application from the unit.

Q16. If an enterprise is getting an error while filing the application “Classification year data does not exist. Please Update your Udyam Registration”.

Enterprises is requested to update the investment and turnover detail in Udyam registration.

Q17. What is the basis of Jurisdiction of MSEFCs?

The enterprise may select MSEFC of State of corporate office or MSEFC of State of unit as mentioned in Udyam Registration, the place from where the dispute of delayed payment arises. i.e. Enterprise may select MSEFC on the basis of the registered office as well as its branch units given in the Udyam Registration

Q18. Whether the claim from a supplier engaged in services/trading sector can be admitted by Council?

Categories admitted in MSEFCs are in respect of good manufacturing and service rendering sector for which UR has been obtained except registration for NIC codes 45, 46 & 47 and MSEs registered as trading units.

Q19. Whether a legal notice by the supplier to buyer is necessary before filling the case in the Council?

No.

Q20. Can a claim be filed for interest alone where the claimant has received principal of dues already?

Yes.

Q21. If there is a false claim from the applicant, can a penalty be imposed by Council?

No. The petition is to be rejected summarily.

Q22. Whether Council should decide on breach of contract between buyer and supplier, such as rejection of goods for quality deficiencies by buyer as a ground for refusal of dues to supplier?

Breach of contract is not within scope of MSMED Act, 2006. Rejection of goods should be genuine within 15 days of the receipt of goods and its immediate communication to supplier.

Q23. How is the penal interest calculated? Whether on (monthly or quarterly) rests.

On a monthly compounding basis.

Q24. Whether the jurisdiction of State Council can be extended to a district where no council is available?

Yes.

Q25. Is there the power of dissent to a member of Council in the proceedings and insisting on recording in minutes?

Yes, the member can dissent. It is to be recorded. But majority decision prevails.

Q26. Whether the members of MSEFC participating in conciliation are barred from being members in Arbitration proceedings?

No. It is not commercial conciliation or analysis of various contractual liabilities. It is simple arbitration to get compliance of Section 16 of MSMED Act, 2006.

Q27. Who is empowered to constitute additional Councils?

State Government under Section 20 of MSMED Act, 2006.

Q28. What is the process of execution of Award and the role of Council in assisting the Claimant?

Procedure is under Section 36 of Arbitration and Conciliation Act, 1996.

Q29. Whether a Government Department as a buyer can be proceeded against in the Council.

Yes.

Q30. If the same or related subject matter is under another court proceedings, whether a claim is admissible in Council?

If amount is claimed in the Civil Court, then it cannot be claimed before MSEFC.

Q31. If an Appellate Court reverts back the case to the Council how it should be dealt with?

It is to be decided as per instructions of the Higher Court.

Q32. Whether Council can deal with criminal offences related to subject matter of claim?

No.

Q33. Whether a time barred receivable from a buyer can be decided by Council?

Limitation Act is applicable as per Supreme Court judgment in Silpi Industries vs. Kerala Govt.

Q34. Whether the claim should be submitted in hard copy also.

Yes. It is necessary as submission is required duly signed and verified.

Q35. How the Council should react, if the applicant abstains from the proceedings of the Council?

It is at the discretion of the MSEFC Council and it can exercise it own diligence by giving opportunity to the applicant since he has to prove his claim before council.

Q36. Is the Award binding on foreign buyer?

No. The provisions of delayed payment under MSMED Act, 2006 are not applicable to overseas companies.

Q37. Whether a claim against deceased buyer or dissolved company of buyer is maintainable in Council?

Deceased buyer is liable through his legal heirs: But dissolved company is always under some authority and claim is maintainable.

Q38. How the company and partnership entities can be represented in the proceedings?

A Company through its M.D. with resolution of Board of Directors and Partnership firms through its Managing Partner/s.

Q39. Is it absolutely necessary to have purchase/work order as evidence? Can council allow secondary and corroborated evidence?

No. Acknowledgements on invoice, delivery challans or part payment, email etc. are all accepted.

Q40. Whether Members of Council are liable for prosecution if inadvertently an erroneous judgment is delivered by the Council?

No. On the contrary they are expected to act without fear and favour.

Q41. Whether an Award should be with seal of the Council? Who should preserve the original?

Yes. Award should bear round seal on every page. Original is to be retained by the MSEFC and only certified copies are to be delivered.

Q42. Whether consent by absentee members for Award can be obtained by circulation to fulfill quorum requirement?

The physical presence of quorum of three Members is must as per MSMED Act, 2006.

Q43. Whether delayed payment provision under MSMED Act, 2006 are applicable in case of enterprises growing from Small enterprises to Medium enterprises?

Changes have been made in the Samadhaan Portal in accordance with S.O.4926 (E) dated 18.10.2022. The Notification mentions that in case of an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an enterprise shall continue to avail of all non-tax benefits of the category (micro or small or medium) it was in before the re-classification, for a period of three years from the date of such upward change. Accordingly, a small enterprise growing to Medium and covered by the Notification can avail the provision for delayed payment as per Chapter-V of the MSMED Act, 2006.

Disclaimers:

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