

Samadhaan Portal

Q 1 . What is MSME Samadhaan Portal?

Ans : 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.

Q 2 . Do Ministry of MSME take action on applications filed on MSME Samadhaan Portal?

Ans : 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.

Q 3 . Can Ministry of MSME intervene in matters of MSEFC.

Ans : 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 MSEFC. In short Ministry of MSME cannot interfere with judicial functioning of MSEFC.

Q 4 . Is filing of Udyog Aadhaar Memorandum (UAM) Mandatory to file applications on MSME Samadhaan Portal?

Ans : Yes, UAM is mandatory to file applications online on MSME Samadhaan Portal.

Q 5 . How can I get Udyog Aadhaar Memorandum (UAM) Number?

Ans : Registration for Udyog Aadhaar can be done online on the official website of Ministry of MSME free of cost at following address :

[Click Here](#)

Q 6 . Is it mandatory to file Delayed Payment Applications online on MSME Samadhaan Portal only?

Ans : No. MSME Samadhaan Portal has been created only to facilitate online applications regarding delayed payments. Physical applications can also be filed at the concerned MSEFC.

Q 7 . Who can convert the application into Regular Reference Petition/claim case?

Ans : The applications are converted into case by the concerned MSEFC.

Q 8 . If there is no action on an application filed by MSEs, whom to contact?

Ans : After submission, the application is automatically forwarded online to 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.

Q 9 . Is work order compulsory to file application on MSME Samadhaan Portal?

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

Q 10 . How to upload multiple invoices?

Ans : 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.

Q 11 . Is it mandatory to file Delayed Payment Applications online on MSME Samadhaan Portal only?

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Q 16 . On which email OTP is sent?

Ans : The OTP is sent to the registered email ID in Udyog Aadhaar.

Q 17 . Whether the claim from a supplier engaged in services/trading sector can be admitted by Council ?

Ans : Categories admitted in MSEFCs are in respect of good manufacturing and service rendering sector for which UAM has been obtained. These categories cannot be challenged by the respondent/buyer.

Q 18 . Whether an appellate court can allow an appeal against Award of Council without depositing of 75% of Award amount? How the amount is released?

Ans : Application under Section 19 of the MSMED Act, 2006 cannot be entertained by any court. Deposited amount can be released to the applicant as per the directions to the Court.

Q 19 . Is there any legal disqualification, if a case is decided after 90 days as stipulated in the Act?

Ans : No. It is the act of court for which applicant cannot suffer.

Q 20 . Whether the silence of the buyer after physical receipt of goods can make a claim ineligible for admission by the Council?

Ans : No. The silence of buyer is confirmation of liabilities upon him.

Q 21 . Whether 90 days period for settlement of claim starts from the date of filling the case or issue of notice to buyer?

Ans : No. This time period begins only after notice of Arbitration under Section 18(3) of MSMED Act, 2006.

Q 22 . Whether council should deliver a conciliation award after the successful conciliation?

Ans : Yes. It is called award by mutual consent. It is valid award and buyer cannot make appeal against it.

Q 23 . What are the responsibilities and powers of Council members?

Ans : They are judges having equal power. They should be well-versed in factual aspect of the case before them.

Q 24 . Under administrative exigencies whether the Chairperson can delegate the presiding power to another subordinate official or another member?

Ans : No. But the meeting/proceeding can take place, if Coram of three members is complete, members can elect the Chairperson and take further proceedings. It is necessary to mention why Chairperson could not attend the hearing.

Q 25 . Whether there is provision for a Member Secretary as council Member and whether he can act as a Member in case of any exigency?

Ans : Yes. Member Secretary is acting as Registrar of MSEFC and judge also when he sits in Council.

Q 26 . Whether a claim can be filed for interest alone where the claimant has received principal of dues already?

Ans : Yes.

Q 27 . Whether the receivables due in a claim before the enactment of Act can be adjudicated by Council?

Ans : Only the claim under Section 6 of Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertaking Act, 1993 if pending, before IFC or Civil Courts, they can be considered. However, to approach the MSEFC, liberty of court is to be obtained on earlier claims.

Q 28 . If there is a false, claim from the applicant whether a penalty can be imposed by Council?

Ans : No. The petition is to be rejected summarily.

Q 29 . Whether grace period given for MSEs registration to the supplier can be considered while entertaining the claim.

Ans : It is not hurdle in the matter of claim.

Q 30 . Whether receivables from buyer such as advance deposit. EMD, Statutory deposits as other than supply of goods and services can be claimed in the claim before the Council?

Ans : Yes. It includes in the total due amount.

Q 31 . 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.

Ans : 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.

Q 32 . How the penal interest is calculated whether on monthly or quarterly rests?

Ans : On a monthly compounding basis.

Q 33 . Whether the jurisdiction of State Council can be extended to a district where no council is available?

Ans : Yes.

Q 34 . Is there the power of dissent to a member of Council in the proceedings and insisting on recording in minutes?

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

Q 35 . If the conciliation conducted by Council fails whether Council can take up Arbitration automatically?

Ans : Yes, diverse view is taken by Bombay High court. But Supreme Court says that conciliation and arbitration are the legally vested functions of the Council.

Q 36 . Is it sufficient for Chairman or any member alone to participate in conciliation?

Ans : Yes.

Q 37 . Whether members of MSEFC participating in conciliation are barred from being members in Arbitration proceedings?

Ans : 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.

Q 38 . Who is empowered to constitute additional Councils?

Ans : State government under Section 20 of MSMED Act, 2006.

Q 39 . What is the process of execution of Award and the role of Council in assisting the Claimant?

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

Q 40 . Whether the Council has power to review, revise or amend its own award?

Ans : No. After final award it becomes "Functus officio" means having no relation to award.

Q 41 . Whether a Government Department as a buyer can be proceeded against in the Council.

Ans : Yes.

Q 42 . Whenever a notice is received by Council from an Appellate Court to represent as witness. What procedure is to be followed by the Council?

Ans : The Council is not required to appear in any court as it is only a formal party.

Q 43 . What are legal implications for claimant in case of inordinate delay between the pronouncement of judgment and delivery of copies to concerned parties?

Ans : The date of receipt of the copy of award is only effective date.

Q 44 . If the same or related subject matter is under another court proceedings, whether a claim is admissible in Council?

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

Q 45 . If an Appellate Court reverts the case to the Council how it should be dealt with?

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

Q 46 . What is the impact of insolvency proceedings on the proceedings taken up in the Council?

Ans : The Award by MSEFC is to be communicated to Interim Resolution Professional (IRP) and then to NCLT as per procedural law.

Q 47 . Whether an Award holder from MSEFC can gain any preference as creditor in Insolvency proceedings?

Ans : Yes. The Award Holder is considered as a secured creditor.

Q 48 . Whether notices should be served to a dissolved buyer firm and partners even if subsequently reconstituted/merged with a new entity?

Ans : Yes, in partnership liabilities are unlimited. It is a lengthy procedure as first claim is to be kept alive.

Q 49 . Whether the request of any party to have representation by an attorney or any other authorized agent can be allowed by Council? If so what are the conditions to be fulfilled?

Ans : Yes. By way of irrevocable power of Attorney. His commitment must be binding upon buyer. Resolution is required for this.

Q 50 . Whether a time barred receivable from a buyer can be decided by Council?

Ans : Yes. No limitation is applicable in Arbitration by Council. But, delay and latches principle is applicable. Supplier sleeping over his legal rights cannot get assistance of Council.

Q 51 . What are the exemptions available under the law of Limitation in treating a receivable from limitation of time barring?

Ans : Law of limitation is not applicable. However, there should not be delay and latches on the part of the supplier.

Q 52 . Whether the council is entitled to undertake summary proceedings without following strict rules of evidence? If so what are the areas in which such approach can be adopted?

Ans : It is only summary proceedings and on the basis of affidavits of both the parties, the dispute can be resolved.

Q 53 . If time is the essence of contract, how the Council should treat the rejection of goods by buyer?

Ans : The MSMED Act, 2006 is set in motion after supplies of goods and services made by supplier and buyer accepts them but does not pay the bill within 45 days.

Q 54 . What are the records to be maintained by the council? What is the time limit for preservation of such records?

Ans : Petition with Purchase Order, Bills, delivery challans of goods and services and demand letter etc. are to be kept if the matter is challenged in any higher court. In any other case, where the amount is already realized by the supplier, it is at the discretion of the MSEFC.

Q 55 . Whether notices can be served by e-mail/SMS/Whatsapp?

Ans : Yes. Email is legal document and even Whatsapp.

Q 56 . Whether the claim should be submitted in hard copy also.?

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

Q 57 . How many notices are to be served to opposite party if notices are not acknowledgement? What are next steps for declaring ex-parte proceedings?

Ans : The notice of Council is to be published in daily Newspaper of the area where the Respondent is located, with the orders of Council after 3 notices are issued.

Q 58 . How the Council should react, if the applicant abstains from the proceedings of the Council?

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

Q 59 . Is the Award binding on foreign buyer?

Ans : Yes. When the supplier is a micro or small enterprises and agreement is made between Micro/ Small Enterprises in India. Goods are purchased/taken by foreign buyer and he returns to his country. Payment terms are not honored in these circumstances, matter can be filed before the Council. After following due procedure of law, the Council can issue award and same could be sent to both Consulates i.e Foreign buyers Consulate in that country. It can be enforced.

Q 60 . Whether proceedings can be conducted in local language?

Ans : Yes. With English also so that Higher Court should understand later on.

Q 61 . Who should prepare claim statement and is there a need for verification by a Chartered Accountant?

Ans : Claim preparation is the responsibility of the claimant. It is advisable to get certified from C.A.

Q 62 . Whether a claim against deceased buyer or dissolved company of buyer is maintainable in Council?

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

Q 63 . How company and partnership entities can be represented in the proceedings?

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

Q 64 . Is it absolute necessary to have purchase/work order as evidence? Can council allow secondary and corroborated evidence?

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Q 65 . Whether Members of Council are liable for prosecution if inadvertently an erroneous judgment is delivered by the Council?

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

Q 66 . Whether an Award should be with seal of the Council? Who should preserve the original?

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

Q 67 . Whether consent by absentee members for Award can be obtained by circulation to fulfill quorum requirement?

Ans : The Coram of three Members physically is must.

Q 68 . What is MSME Samadhaan Portal?

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