



THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS ACT, 1993

An Act to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

1. Short title, extent and commencement. -(1) This Act may be called the Interest on Delayed Payments to Small Scale Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 23rd day of September, 1992.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) “ancillary industrial undertaking” has the meaning assigned to it by clause (aa) of Section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951);

(b) “appointed day” means the day following immediately after the expiry of the period of thirty 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 clauses, —

(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 thirty 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 thirty days from the day of the delivery of goods or the rendering of service, the day of the actual delivery of goods or the rendering of services;

(c) “buyer” means whoever buys any goods or receives any services from a supplier for consideration;

(d) “goods” means every kind of movable property other than actionable claims and money;

(e) “small scale industrial undertaking” has the meaning assigned to it by clause (j) of Section 3 of the Industrial (Development and Regulation) Act, 1951 (65 of 1951);

(f) “supplier” means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or:—

[1] [(i) Union territory and includes,—

(i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956 (1 of 1956);

(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956 (1 of 1956).]

3. Liability of buyer to make payment. — Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefore 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.

[2] [Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed one hundred and twenty days from the day of acceptance or the day of deemed acceptance.]

[3] [4. Date from which and rate at which interest is payable.—Where any buyer fails to make payment of the amount to the amount to the supplier, as required under Section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at one-and-a-half time of Prime Lending Rate charged by the State Bank of India.

Explanation—For the purposes of this section "Prime Lending Rate' means the Prime Lending Rate of the State Bank of India which is available to the best borrowers of the bank."]

5. Liability of buyer to pay compound interest. — Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in Section 4 on the amount due to the supplier.

6. Recovery of amount due. — [4] [(1) The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of Sections 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

[5] [(2) Notwithstanding anything contained in sub-section (1), any party to a dispute may make a reference to the Industry Facilitation Council for a acting as an arbitrator or conciliator in respect of the matter referred to in that sub-section and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such dispute as if the arbitration or conciliation were pursuant to an arbitration agreement referred to in sub-section (1) of Section 7 of that Act.]

7. Appeal. — No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

[6] [7A. Establishment of Industry Facilitation Council.—The State Government may, by notification in the Official Gazette, establish one or more Industry Facilitation Councils at such places exercising such jurisdiction and for such areas, as may be specified in the notification.

7B. Composition of Industry Facilitation Council.—(1) The Industry Facilitation Council shall consist of one or more members to be appointed from amongst the following categories:—

(i) Director of Industries by whatever name called or any other officer not below the rank of such Director, of the State Government.

(ii) representatives of banks and financial institution;

(iii) officer bearers or representative of State Industry Associations; and

(iv) persons having special knowledge in the field of Industry, Finance, Law, Trade and Commerce.

(2) The person appointed under clause (i) of sub-section (1) shall be the Chairperson of the Industry Facilitation Council.

(3) The composition of the Industry Facilitation Council, the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions, by, the members shall be such as may be prescribed by rule by the State Government.

7C. Laying of rules before State Legislature.—Every notification issued and every rule made by the State Government under this Act shall be laid, as soon as may be after it is issued or made, before the State Legislature.]

8. Requirement to specify unpaid amount with interest in the annual statement of accounts. — Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

9. Interest not to be allowed as deduction from income. — Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.

10. Over-riding effect. — The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

11. Repeal and saving. — (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993 (Ord. 4 of 1993.) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

Amendment 1998

[1] Sub. by Act No. 23 of 1998 (w.e.f. 10.8.1998)

[2] Ins. by Act No. 23 of 1998 (w.e.f. 10.8.1998)

[3] Sub. by Act No. 23 of 1998 (w.e.f. 10.8.1998)

[4] Renumbered as sub-section (1) by Act No. 23 of 1998 (w.e.f. 10.8.1998)

[5] Ins. by Act No. 23 of 1998 (w.e.f. 10.8.1998)

[6] Sec. 7A, 7B, 7C Ins. by Act No. 23 of 1998 (w.e.f. 10.8.1998)