

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Viral Doshi

The change in the definition of MSMEs

This correctly is an important amendment/announcement from the IBC standpoint. (broaden the precise scope of MSME)

The low threshold in the stringent definition of MSME has inevitably aroused a terrible fear among the MSMEs for securing any available benefits to MSMEs

In direct order to adequately provide the major relief to the MSME sector in such a pandemic situation, the government has carefully revised the operational definition of MSMEs

Existing and revised definition of MSMEs

Existing MSME Classifications
Criteria: Investment in Plant & Machinery or equipment

Classification	Micro	Small	Medium
Mfg. Enterprises	Investment < INR 25 Lac	Investment < INR 5 cr.	Investment < INR 10 cr.
Services Enterprise	Investment < INR 10 Lac	Investment < INR 2 cr.	Investment < INR 5 cr.
Revised MSME Classification			
Composite Criteria: Investment and Annual Turnover			
Classification	Micro	Small	Medium
Manufacturing and services	Investment < INR 1 cr. And Turnover < INR 5 cr.	Investment < INR 10 cr. And Turnover < INR 50 cr.	Investment < INR 20 cr. And Turnover < INR 100 cr.

In the specific case of MSME, the provisions enumerated under section 29A - Persons not eligible to be resolution applicants (clause c and h) would be inapplicable

It is pertinent to note that Section 240A of IB Code had already introduced by the government earlier before the changed in the operational definition of MSME

In other specific words, in case, the CD is an MSME, which typically relates to such promoters who have become NPA can also bid for their bankrupt companies and resolution applicants for MSME including the promoter of such MSME can now also bid even though they have provided the personal guarantees to creditors that have been invoked by the lenders.

However, the government of India is likely to suspend the operational section of IB Code i.e. section 7,9 and 10 (Initiation of corporate insolvency resolution process by financial creditor, operation creditors and corporate debtor respectively) for a specific period of one year but yet to typically receive a copy of the ordinance to this profound effect.

For more details on updates, visit www.wirc-icai.org

•••