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भाग—IV.

PART—IV

राष्ट्रीय राजधानी राज्य क्षेत्र, दिल्ली सरकार

GOVERNMENT OF THE NATIONAL CAPITAL TERRITORY OF DELHI

उद्योग विभाग

अधिसूचना

दिल्ली, 27 जुलाई, 2007

सं. एसीआई/पीसी/सीआई/2/2006/169.—सूक्ष्म, लघु एवं मध्यम उद्यम विकास अधिनियम, 2006 (2006 का 27) की धारा 2 के खंड (पी) तथा धारा 21 की उप-धारा (3) के साथ पठित धारा 30 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राष्ट्रीय राजधानी क्षेत्र दिल्ली के उपराज्यपाल निम्नलिखित नियम बनाते हैं, अर्थात् :-

प्रारंभिक

1. संक्षिप्त शीर्षक तथा प्रारम्भ.—(1) इन नियमों को दिल्ली सूक्ष्म तथा लघु उद्यम सरलीकरण परिषद् नियमावली, 2007 कहा जाए।

(2) ये दिल्ली राजपत्र में उनके अधिसूचना की तारीख से प्रभावी होंगे।

2. परिभाषाएँ.—इन नियमों में जब तक संदर्भ से अन्यथा अपेक्षित न हो :-

(क) "अधिनियम" का अर्थ है सूक्ष्म, लघु तथा मध्यम उद्यम विकास अधिनियम, 2006 (2007 का 27);

(ख) "मध्यस्थता एवं समाधान अधिनियम" का अर्थ है

मध्यस्थता एवं समाधान अधिनियम, 1996 (1996 का 26);

(ग) "अध्यक्ष" का अर्थ है अधिनियम की धारा 21 की उप-धारा (1) के खंड (i) के अधीन नियुक्त परिषद् का अध्यक्ष;

(घ) "परिषद्" का अर्थ है अधिनियम की धारा 20 के अधीन सरकार द्वारा गठित दिल्ली सूक्ष्म एवं लघु उद्यम सरलीकरण परिषद्;

(ङ) "दिल्ली" का अर्थ है राष्ट्रीय राजधानी क्षेत्र दिल्ली;

(च) "सरकार" का अर्थ है अनुच्छेद 239 के अधीन राष्ट्रपति द्वारा नियुक्त एवं संविधान के अनुच्छेद 239कक के अधीन नामोदिष्ट राष्ट्रीय राजधानी क्षेत्र दिल्ली के उपराज्यपाल;

(छ) "संस्थान" का अर्थ है अधिनियम की धारा 18 की उप-धारा (2) तथा (3) में उल्लिखित वैकल्पिक विवाद निपटान सेवा उपलब्ध वाले केन्द्र अथवा संस्थान;

(ज) "उपराज्यपाल" का अर्थ है संविधान के अनुच्छेद 239 के अधीन राष्ट्रपति द्वारा नियुक्त राष्ट्रीय राजधानी क्षेत्र दिल्ली का उपराज्यपाल यहाँ बाद में सरकार को संदर्भित समस्त मामले राष्ट्रीय राजधानी

द्वारा संदर्भ/आवेदन की प्राप्ति के पंद्रह दिन के भीतर आवेदन पत्र का विस्तृत अपना उत्तर खरीददार से प्रस्तुत करवाएगा या आगामी ऐसे समय के भीतर जो पंद्रह दिन से अधिक न हो; पर्याप्त कारण के आधार पर वह अनुमति दे सकते हैं।

- (vii) अधिनियम की धारा 18 के अंतर्गत कोई आवेदन पत्र प्राप्त होने पर परिषद् के चेयरपर्सन कारण की जांच तथा इसके बारे में खरीददार के उत्तर की जांच करवाएगा तथा उस संदर्भ से संतुष्ट होने पर देरी से किए गए भुगतान को प्रथम दृष्ट मामला बनाते हुए परिषद् की तत्काल अगले बैठक में विचार के लिये रखवाएगा, अध्यक्ष यह सुनिश्चित करेगा कि परिषद् की पिछली बैठक की तिथि से दो सप्ताह के भीतर प्रत्येक प्राप्त संदर्भ की जांच की जाए और यदि उचित पाया जाए तो इसे परिषद् की अगली बैठक में विचारार्थ रखा जाए।
- (viii) परिषद् या तो स्वयं किसी संदर्भ में समझौता कार्यवाही कर सकती है या वैकल्पिक विवाद निपटान सेवा प्रदान करने वाले किसी संस्थान या केन्द्र में विवाद को भेजकर विवाद का निपटान कर सकती है। मध्यस्थता एवं समाधान अधिनियम, 1995 की धारा 65 से 81 के प्रावधान इस पर इसी प्रकार लागू होंगे मानों समझौता कार्यवाही अधिनियम के भाग-3 के अंतर्गत शुरू की गई हो।
- (ix) परिषद् जिस संस्थान को समझौते के लिये मामला भेजा गया है वह संबंधित आपूर्तिकर्ता एवं खरीददार दोनों पक्षों को अपने सामने बुलाने संबंधी नोटिस जारी करके उपस्थित होने के लिये कहेगा। दोनों पक्षों के उपस्थिति होने पर परिषद् या संस्थान पहले खरीददार एवं आपूर्तिकर्ता के बीच समझौता कराने का प्रयास करेगा। संस्थान परिषद् से संदर्भ मिलने पर पंद्रह दिन के भीतर या परिषद् द्वारा विनिर्दिष्ट अवधि के भीतर अपनी रिपोर्ट भेजेगा।
- (x) जब इस समझौता कार्यवाही से विवाद के निपटान का कोई रास्ता नहीं निकाला तो परिषद् या तो स्वयं अंतिम निपटान हेतु मध्यस्थ का कार्य करेंगे अथवा मध्यस्थता एवं समाधान अधिनियम, 1996 के प्रावधानों के अनुसार मध्यस्थता हेतु किसी संस्थान को भेजेगा। आपूर्तिकर्ता या खरीददार स्वयं या किसी न्यायालय में पंजीकृत अपने अधिवक्ता के माध्यम से अपने मामले को परिषद् या संस्थान के सामने मध्यस्थता कार्यवाहियों के दौरान प्रस्तुत कर सकता है। संस्थान परिषद् को अपनी रिपोर्ट परिषद् द्वारा निश्चित समय प्रस्तुत करेगा।
- (xi) परिषद् का कोई भी निर्णय परिषद् की बैठक में उपस्थित सदस्यों के बहुमत से किया जाएगा।

(xii) परिषद् मध्यस्थता एवं समाधान अधिनियम, 1996 की धारा 31 के अनुसार तथा अधिनियम की धारा 18 की उप-धारा (5) में विनिर्दिष्ट समय के भीतर अपना मध्यस्थता अवार्ड देगी। इस अवार्ड पर तत्समय लागू करने के अनुसार स्टाम्प किया जाएगा। अवार्ड की प्रतियां आवेदन प्रस्तुत करने के सात दिन के भीतर उपलब्ध कराई जाएंगी।

(xiii) तत्समय प्रचलित किसी अन्य कानून में कुछ भी असंगत रहते हुए अधिनियम की धारा 15 से 23 तक के उपबंध प्रभावी होंगे।

(xiv) अध्यक्ष या अध्यक्ष द्वारा अधिकृत कोई अन्य अधिकारी परिषद् की प्रत्येक बैठक की कार्यवाही जिसमें परिषद् की वार्षिक प्रगति रिपोर्ट भी शामिल है, अधिनियम की धारा 7 की उप-धारा 3 के अंतर्गत गठित सलाहकार समिति के सदस्य सचिव को भेजेगा।

राष्ट्रीय राजधानी क्षेत्र दिल्ली के उपराज्यपाल के आदेश से तथा उनके नाम पर,
एस. के. एस. यादव, उप सचिव

INDUSTRIES DEPARTMENT

NOTIFICATION

Delhi, the 27th July, 2007

No. ACI/PC/CI/2/2006/169.—In exercise of the powers conferred by Section 30 read with sub-section (3) of Section 21 and clause (p) of Section 2 of the Micro, Small and Medium Enterprise Development Act, 2006 (27 of 2006), the Lt. Governor of National Capital Territory of Delhi hereby makes the following rules, namely:—

PRELIMINARY

1. Short title and commencement.—(1) These rules may be called the Delhi Micro and Small Enterprises Facilitation Council Rules, 2007.

(2) They shall come into force with effect from the date of their notification in the Delhi Gazette.

2. Definitions.— In these rules, unless the context otherwise requires, —

- (a) "Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);
- (b) "Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (26 of 1996);
- (c) "Chairperson" means the Chairperson of the Council appointed under clause (i) of sub-section (1) of Section 21 of the Act;
- (d) "Council" means the Delhi Micro and Small Enterprises Facilitation Council.

Enterprises Facilitation Council, established by the Government under Section 20 of the Act;

- (c) "Delhi" means the National Capital Territory of Delhi;
- (f) "Government" means the Lt. Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution;
- (g) "Institute" means an institution or centre providing alternate dispute resolution service referred to in sub-sections (2) and (3) of Section 18 of the Act;
- (h) "Lt. Governor" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 of the Constitution. All reference to Government hereinafter shall, in the case of the Government of N.C.T. of Delhi, mean the Administrator;
- (i) "member" means a member of the Council;
- (j) "section" means a section of the Act;
- (k) The words and expressions used and not defined, but defined in the Act shall have the meanings assigned to them in the Act.

3. Manner of appointment, etc.—

- (a) The Government shall appoint the representatives, specified in clauses (ii), (iii) or (iv) of sub-section (1) of Section 21, as member of the Council.
- (b) When a member of the Council dies or resigns or is deemed to have resigned or is removed from office or becomes incapable of acting as a member, the Government may, by notification in the Official Gazette, appoint a person to fill that vacancy.
- (c) A member, other than the Chairperson, shall hold office for a period not exceeding two years from the date of his appointment.
- (d) A member appointed under clauses (ii), (iii) and (iv) of sub-section (1) of Section 21 of the Act shall cease to be a member of the Council if he ceases to represent the category or interest from which he was so appointed.
- (e) Any member of the Council may resign from the Council by tendering one month's notice in writing to the Government. The power to accept the resignation of a member shall vest

in the Government.

- (f) The Government may remove any member from office.—
 - (i) If he is of unsound mind and stands so declared by a competent court, or
 - (ii) If he becomes bankrupt or insolvent or suspends payment to his creditors, or if he is convicted of any offence which is punishable under the Indian Penal Code, 1860 (Act XI.V of 1860); or
 - (iii) If he absents himself from three consecutive meetings of the Council without the leave of the Chairperson, and in any case from five consecutive meetings; or
 - (iv) If he acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

4. Procedure to be followed in the discharge of functions of the Council.—

- (i) The Council shall meet at least once a month.
- (ii) At least seven days' notice shall ordinarily be given for any meeting. However, in case of urgency a meeting may be called at such shorter notice as the Chairperson may consider sufficient.
- (iii) The Council may appoint or engage the services of one or more experts in terms of Section 26 of the Arbitration and Conciliation Act.
- (iv) The Council or a party to the dispute with the approval of the Council may apply to the court under Section 27 of the Arbitration and Conciliation Act for assistance in taking evidence.
- (v) The reference/application of the aggrieved micro or small enterprise supplier shall contain full particulars of the supplier and its status, supplied goods or services, terms of payment, if any, agreed between the supplier and buyer, actual payment received with date, amount due and the interest duly calculated under Section 16 of the Act, supported by an affidavit, with necessary court fee stamp affixed thereon. The Chairperson of the Council may require any petitioner to provide further particulars of

- the claim or any relevant documents in support of the claim as he may consider necessary for the purpose of the proceedings. If the petitioner fails or omits to do so within fifteen days of receipt of such communication or within such further time as the Chairperson may, for sufficient cause, allow, the Council may terminate the proceedings without prejudice to the right of the petitioner to make fresh reference if he is otherwise entitled so to do. The petitioner shall also simultaneously send a copy of the reference to the buyer or buyers against whom the reference is directed.
- (vi) The reference/application shall be acknowledged forthwith if it is delivered at the office of the Council. Where the reference/application is received by registered post, its receipt shall be acknowledged on the same day. The Chairperson shall cause the buyer to furnish his detailed response to the reference within fifteen days of receipt of the reference by the buyer or within such further time not exceeding fifteen days, as he may, for sufficient cause, allow.
- (vii) On receipt of a reference under Section 18 of the Act, the Chairperson of the Council shall cause the reference and the buyers response thereto to be examined and, on being satisfied with the reference making a *prima facie* case of delayed payment, cause the reference to be placed before the Council at its next immediate meeting for consideration. The Chairperson shall also ensure that each reference received within two weeks of the date of the last preceding meeting of the Council is examined and, if found in order, is placed for consideration of the Council at its next immediate meeting.
- (viii) The Council shall either itself conduct conciliation in each reference placed before it or seek the assistance of any institute or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation. The provisions of Sections 65 to 81 of the Arbitration and Conciliation Act, 1996 shall apply to such a reference as if the conciliation was initiated under part III of that Act.
- (ix) The Council or the Institute to which it has been referred for conciliation shall require the supplier and the buyer concerned to appear before it by issuing notices to both parties in this behalf. On the appearance of both parties, the Council or the institute shall first make efforts to bring about conciliation between the buyer and the supplier. The institute shall submit its report to the Council within fifteen days of reference from the Council or within such period as the Council may specify.
- (x) When such conciliation does not lead to settlement of the dispute, the Council shall either itself act as an Arbitrator for final settlement of the dispute or refer it to an institute for such arbitration, in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The supplier or the buyer may, either in person or through his lawyer registered with any court, present his case before the Council or the institute during the arbitration proceedings. The institute shall submit its report to the Council within such time as the Council may stipulate.
- (xi) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.
- (xii) The Council shall make an arbitral award in accordance with Section 31 of the Arbitration and Conciliation Act, 1996 and within the time specified in sub-section (5) of Section 18 of the Act. The award shall be stamped in accordance with the relevant law in force. Copies of the award shall be made available within seven days of filing of an application.
- (xiii) The provisions of Sections 15 to 23 of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
- (xiv) The Chairperson or any other officer authorized by the Chairperson shall forward the proceedings of every meeting of the Council including annual progress report of the Council to the Member Secretary of the Advisory Committee constituted under sub-section (3) of Section 7 of the Act.

By Order and in the Name of the
Lt. Governor of the National
Capital Territory of Delhi,
S.K.S. YADAV, Dy. Secy.