

"Scheme for relief and concessions to the viable Sick Industrial Enterprises"

GOVERNMENT OF GUJARAT
Industries and Mines Department
G.R.No. MTS/IND/2015/701426/P
Shivalaya, Gandhinagar,
DI. 11/8/2017

- Read:** [1] Gujarat Industrial Policy 2015
[2] I. & M. D. G. R. No. BFR/TF/CP/102010/3537/P, Dt. 12-05-2004
[3] I. & M. D. G. R. No. BFR/TF/CP/102010/4356/00/P, Dt. 15-07-2010
[4] I. & M. D. G. R. No. SSJ-102014-924840-CH, Dt. 19-01-2015
[5] I. & M. D. G. R. No. MJS/IG/2015/701426/P Dt. 28-07-2016

1.0 Preamble:

Gujarat contributes more than 7.5 percent to India's GDP and 18 percent to India's fixed capital. More than 10% of the country's factories are in Gujarat while its manufacturing sector contributes 28% to its GSDP. Besides a robust primary economy, Gujarat is also one of the most industrialized states with dominance in many industry sectors. However, there are some sick enterprises out of large number of manufacturing enterprises in the state.

Sick enterprises lead to problems like unemployment, revenue loss to State and Central Government and increase in non-productive assets. Sickness is due to various reasons like obsolete product or technology, poor management, financial and marketing problems etc. This needs support from financial institutions, Government and loan owners for converting non-productive assets to productive assets.

State Government earlier vide G.R. dated 12/05/2004 and 15/07/2010 had introduced Schemes for relief to the sick industrial companies regional with the BIFR/VGBIFR. Under these schemes, number of sick enterprises has taken advantage for rehabilitation of their units. As the time limit of these existing schemes are over, it was under consideration of State Government to give relief and concessions to viable sick MSMEs and large enterprise for converting their non-productive assets into productive assets.

The State Government has introduced new Industrial Policy in January 2015 with aim of comprehensive social and economic development. Under the New Industrial Policy 2015, Government of Gujarat has issued a G.R. read as [4] shows, announcing a scheme for rehabilitation of sick Micro, Small and Medium Enterprises (MSME) and also the assistance for preparing Diagnostic Report/Plant Rehabilitation Scheme (DRS) to sick MSMEs.



In view of the above context and representation of number of sick units, Chamber of Commerce & Industry and Industries Associations for relief and concessions, state Government vide Resolution dated 28/07/2016 issued a scheme for relief and concessions to the viable Sick Industrial Enterprises registered with BIFR or AIFER.

Subsequent to issuance of this GR, vide notification issued by Ministry of Finance (Department of Financial Services), New Delhi dated 25-11-2016, the Sick Industrial Companies (Special Provisions), Act, 1985, has been repealed from 1st December, 2016. BIFR & AIFER stand dissolved with effect from that date. Considering this, it was under consideration for modification of the GR dated 20/07/2016.

2.0 Revision:

Government is pleased to introduce modified scheme for Rehabilitation of sick enterprises with grant of relief and concessions to the Sick viable industrial enterprises fulfilling the criteria for registration as sick enterprise.

3.0 The Scheme:

The Scheme shall be known as "Scheme for relief and concessions to the viable Sick Industrial Enterprises."

4.0 Time limit for application:

To avail benefit under this scheme, the sick industrial enterprise shall have to apply within two years from the date of issue of this GR.

5.0 Definition:

- 1) "Competent authority" shall mean Additional Chief Secretary/ Principal Secretary, Industries and Mines Department, Industries Commissioner / Commissioner (MSME) as the case may be;
- 2) "Sick enterprise" shall mean an industrial enterprise which has been fulfilling the criteria for registration as sick enterprise.
- 3) "Overriding dues" means the dues accrued up to 31st March of the financial year preceding the date of application submitted under the scheme, and payable towards State taxes and other dues of the State Government (excise, electricity duty, water charges levied by the state departments) and also dues payable to GIC, GSFC, GIDC, GUVNL & companies under it (formerly known as GIC), GMB, GWSB and GWL.
- 4) Net Worth: In case of a limited company, net worth means the sum total of paid up capital and free reserves. In case of a partnership/proprietor concern net worth means the sum total of partners' / proprietor's capital and free reserves.
Free Reserves: Means all reserves created out of profit and share premium account but does not include reserves created out of revaluation of assets, written back depreciation under amalgamation provisions.

- 5) **Bank:** Means any public sector bank, District Co-operative Bank, Urban Co-operative Bank and any other bank which is a scheduled bank as terms of the second schedule in the Reserve Bank of India Act.
- 6) **Financial Institution:** Means Industrial Finance Corporation of India, Industrial Investment Bank of India, Small Industries Development Bank of India, Gujarat Industrial Investment Corporation Ltd., Gujarat State Financial Corporation or other institution which is authorized under any law to advance term loans to industrial enterprises.
- 7) **Viable Sick Enterprises:** (a) For Micro, Small and Medium industrial enterprise means an enterprise having EM Part II acknowledgement under MSME Act/Udyog Achar (b) for Large industrial enterprise means an enterprise having SIA registration / or any License/ registration issued by competent authority and (c) Industrial enterprise fulfilling the criteria of registration as sick enterprise and is technically feasible and commercially viable as per Draft Rehabilitation Scheme (DRS) Techno Economic Viability (TEV) report from State Central Financial Institutions, Gujarat Industrial and Technical Consultancy Organization Limited (GITCO), Nationalized Banks or their Associates.
- 8) **State Government:** Means the Government of Gujarat.
- 9) **Relief and Concessions:** Means relief and concessions declared under this GR specifically as per paragraph 4.0.
- 10) **Net VAT:** Means the tax including Additional Tax paid on sale of product after adjusting the tax credit of tax, including Additional Tax on purchases, under Gujarat Value Added Tax Act, 2005.

6.0 Eligibility:

I. Micro, Small and Medium industrial enterprise

Any Micro, Small and Medium industrial enterprise registered under MSME Act having EM Part II / Udyog Achar acknowledgement and fulfilling the following criteria of a sick enterprise will be eligible.

- a) There is erosion in the net worth due to accumulated losses to the extent of 50 percent of its net worth during the previous accounting year,
- b) The enterprise has been in commercial production for at least two years.

II. Large industrial enterprise

Any Large industrial enterprise fulfilling the following criteria of a sick industrial enterprise will be eligible.

- a) The enterprise should have SIA registration/ or any License/ Registration issued by competent authority.
- b) There is erosion in the net worth due to accumulated losses to the extent of 50 percent of its net worth, during the previous accounting year.
- c) The enterprise should be incorporated before 5 years and has been in commercial production for at least two years.

- III. Units becoming sick on account of willful mismanagement, willful default, unauthorized diversion of funds, disputes among partners / promoters, etc. should not be classified as sick units and accordingly should not be eligible for any relief and concessions. In such cases steps should be taken for recovery of loan & dues. The declaration of a borrower as a willful defaulter should be done strictly in accordance with the extant RBI guidelines.
- IV. The sick enterprise which has availed benefit of OTS under previous scheme of the State Government vide G.O. dated 12/05/2004 or 15/07/2010 would not be eligible for Settlement of Dues mentioned in para 7.1 under this scheme.
- V. The cases that have applied under G.O. (date) 12/05/2004 and / or 15/07/2010 but have not yet been sanctioned shall be eligible for relief and concessions under the respective schemes. However, option will be available to such cases to opt under this scheme subject to fulfilment of eligibility criteria under this scheme.
- VI. The cases that have been sanctioned relief and concessions under G.O. vide G.O. dated 12/05/2004 or 15/07/2010 but not availed the benefit under the respective schemes will be eligible for relief and concessions under this scheme subject to fulfilment of eligibility criteria under this scheme.

7.0 Relief and concessions:-

7.1 Settlement of Dues:

- 7.1.1 A sick enterprise, which is required to make payment of any outstanding dues under the scheme may give option to make payment of such outstanding dues in the manner stipulated below:

Option	Period during which amount of outstanding dues shall be paid	Dues Payment	Relief
(1)	(2)	(3)	(4)
1	If a sick enterprise makes entire payment of all the outstanding principal dues and expenses incurred by the concerned government office(s) within 6 months of the sanction letter.	10%	Remission of the entire amount of interest, penal interest and penalty
2	If a sick enterprise makes entire payment of all the outstanding principal dues and expenses incurred by the concerned government office(s), within 24 months of the sanction letter. In such case, the sick industrial enterprise will be required to pay simple interest @ 9 % on the outstanding principal dues and expenses incurred by the concerned government office(s) payable from the date of sanction letter issued under this	10%	Remission of entire amount of interest, penal interest and penalty

- 7.1.2 The amount of down payment payable by the sick enterprise shall be paid within one month of the issue of sanction letter under option 1 and within two months under option 2. The Down Payment is required to be made with reference to principal outstanding dues and recoverable expenses incurred by the concerned government officer(s).
- 7.1.3 The enterprise shall pay the remaining amount (i.e. after deducting the amount of Down Payment) of principal outstanding dues and expenses incurred by the concerned government officer(s), along with interest payable (under option 2) in equal and monthly installments commencing in the month subsequent to the month in which Down Payment is made and in the remaining months within the time period prescribed in paragraph 7.1.1 above. The simple interest (under option 2) shall be charged on reducing balance of the outstanding settlement dues.
- 7.1.4 If the enterprise fails to make Down payment / subsequent payment as stipulated above in paragraphs 7.1.2 and 7.1.3, Industries Commissioner/Commissioner/CSME as the case may be, would be the competent authority to condone such delayed period for payment within the period already approved by competent committee with simple interest at the rate of 11% p.a. on the amount of delayed payment for the period of delay.
- 7.1.5 If the enterprise fails to make Down payment / subsequent payments within the stipulated period, ACS/PS (S&M) would be the competent authority to condone the delayed period for a maximum of 12 months with 11% p.a. simple interest on such delayed period under all payment options. However, only that sick enterprise which has made payment of atleast 50% of settlement amount as per sanction letter would be eligible for such condoning.
- 7.1.6 The payment as per the sanction letter shall be made in an escrow account opened by GIDC for the purpose. In the event of payment not being made within the stipulated time period as mentioned in paragraph 7.1.2 to 7.1.5 above, as also non fulfillment of various compliances stipulated in the sanction letter, the amount so paid under the scheme in Escrow account shall be forfeited and shall be transferred to the respective nodal departments and will be adjusted towards their overdue.

7.2 Reimbursement of electricity duty:

- 7.2.1 The eligible sick enterprise will be entitled to reimbursement of electricity duty paid for 3 years i.e. 100% reimbursement for first year, 75% for second year and 50% for third year, after issuance of sanction letter or commencement of production, whichever is later. The reimbursement shall be made within 60 days from the last date of the calendar quarter, subject to fulfillment of compliances.
- 7.2.2 The eligible sick enterprise classified as Labour Intensive units would be eligible to get reimbursement of electricity duty for an additional period of one year (50% of electricity duty paid). The list of Labour intensive industries/units shall be notified separately for the purpose of this OR by the State Government (i.e.3+1 year).



- 7.2.3 Eligible Micro, Small and Medium enterprises would get reimbursement of electricity duty for an additional period of one year @ 50% of electricity duty paid (i.e. 31 years) and (3+2 years, if it is labour intensive and Micro, Small and Medium enterprise).
- 7.2.4 The benefit of reimbursement of electricity duty shall be available only if the electricity is purchased from a State Government owned electricity / power distribution licensee. An industrial unit generating power from its captive power plant or getting it from non-government owned power plant through open access will not be eligible for reimbursement of electricity duty.
- 7.2.5 The benefit of reimbursement of electricity duty paid shall be available only till such time as the enterprise continues under the same management as on the date of issue of sanction letter under this GR.
- 7.3 Incentive for additional fixed capital investment made by eligible sick enterprises:
- 7.3.1 If the existing promoter / management of a sick enterprise infuse fresh capital for revival of the unit, then 75% of the amount of such additional fixed capital investment shall be eligible for reimbursement of Net VAT to the extent of 75%.
- 7.3.2 The infusion of such additional fixed capital investment shall be as per the DRS / TRV report. Such infusion of additional investment should not be less than 10% of gross block of the unit as per the balance sheet as on the 31st of March of the immediately preceding financial year.
- 7.3.3 The eligible fixed capital investment should have been made within 18 months from the date of submission of DRS / TRV report or from the date of sanction letter issued under the scheme.
- 7.3.4 The eligible Net VAT reimbursement shall be availed within 5 years from the date of sanction of relief under the scheme or commencement of production, whichever is later.
- 7.3.5 Net VAT reimbursement will be available on total production including production from existing machinery.
- 7.3.6 The benefit of reimbursement of Net VAT shall be available only till such time as the enterprise continues under the same management as on the date of sanction of relief and concessions under this GR.
- 7.4 Incentive for fixed capital investment made by eligible sick enterprise for generation of renewable energy for captive use:
- 7.4.1 If the existing promoter / management of a sick enterprise make fixed capital investment for generation of renewable energy for captive use, 75% of the capital expenditure on such investment shall be eligible for reimbursement @ 75% of Net VAT paid. The benefit of Net VAT reimbursement shall have to be realized within 5 years from the date of commencement of power generation from such plant.
- 7.4.2 The benefit of reimbursement of Net VAT shall be available only till such time as the enterprise continues under the same management as on the date of sanction of relief and concessions under this GR.

7.5 Relief and Concessions to eligible sick enterprises to avail unutilized Sales Tax/ VAT incentive under any earlier Incentive Scheme and Katch Package 2001 of the State Government:

7.5.1 Eligible sick enterprise that has availed incentive under any earlier Incentive Scheme and/or Katch Package 2001 of the State Government, and has not availed fully the incentive amount eligible under the respective scheme, would be entitled to avail 75% of the balance unutilized incentive already approved under the respective scheme, within a further period of 75% of the eligible period approved under the respective incentive scheme, from the date of sanction of relief under this GR or commencement of production, whichever is later.

7.5.2 The benefit to avail the balance unutilized Sales Tax or VAT incentive, as applicable, shall be available only till such time as the enterprise continues under the same management as on the date of sanction of relief and concessions under this GR.

7.5.3 The benefit to avail the balance unutilized Sales Tax/ VAT incentive shall be subject to

- a) At least 25% of mentioned Sales Tax/ VAT incentive has been availed prior to application under this scheme;
- b) The benefit shall be available subject to clearance of other Government dues pending, if any.

7.6 Entitlement by sick enterprises to avail electricity supply through Open Access:

A sick industrial enterprise getting relief and concessions under this scheme shall be entitled to source power from any supplier including open access as per the provisions of Open Access Regulation of GERC.

8.0 Sick enterprises taken over by new promoter/ management;

8.1 Sick enterprise taken over by a new promoter/ Management would be eligible for relief and concessions available to sick enterprise as mentioned in paragraphs 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6 under this scheme.

8.2 This benefit will be available only if there is a distinct change of management in the real sense.

8.3 The benefit in paragraphs 7.2, 7.3, 7.4, 7.5 and 7.6 under the scheme shall be available only till such time as the enterprise continues under the same management as on the date of sanction of relief and concessions under this GR.

9.0 Procedure:

1. The applicant enterprise shall have to apply to the office of the Industries Commissioner/ Commissioner(SME) as the case may be, in a prescribed application form with required details for availing relief and concessions. Such application should be accompanied by a proposed rehabilitation scheme for investors repayments of dues to the banks/financial institutions, if any, as well as outstanding dues of the State Government, State PSUs. Further, the applicant should

be accompanied by the audited accounts of the enterprise for the preceding three years, with the auditor's remarks duly corrected with.

2. Registration to Micro, Small and Medium Enterprises fulfilling the criteria for registration mentioned in the G.R., will be given by the office of the MSME Commissioner.
3. Registration to Large Enterprises fulfilling the criteria for registration mentioned in the G.R., will be given by the Industries Commissioner.
4. The cases having total outstanding dues upto Rs.10 crore will be decided by a committee chaired by the Industries Commissioner/Commissioner(MSME) as the case may be, as mentioned in paragraph 10.1 of this G.R.
5. The cases having total outstanding dues above Rs.10 crore upto Rs.25 crore will be decided by a committee chaired by Additional Chief Secretary/Principal Secretary (Industries & Mines department), as mentioned in paragraph 10.2 of this G.R.
6. The cases having total outstanding dues above Rs.25 crore and up to Rs 50 crore will be decided by a committee chaired by the Chief Secretary, as mentioned in paragraph 10.3 of this G.R.
7. The cases having total outstanding dues above Rs. 50 crore will be decided by a High Power Committee (HPC) chaired by the Hon'ble Chief Minister, as mentioned in paragraph 10.4 of this G.R.
8. An application for relief and concession received under this scheme, not specifically falling under paragraphs 9.4 to 9.7 above, shall be decided by the Committee chaired by Chief Secretary as mentioned in paragraph 10.3 of this G.R.
9. The cases to be placed before High Power Committee will first be placed before the committee chaired by Chief Secretary for examination and recommendation to HPC.

10.0 Competent Committee:

10.1 Committee headed by Industries Commissioner / Commissioner(MSME) as the case may be:

1. Industries Commissioner / Commissioner (MSME)	Chairman
2. Managing Director, G.S.F.C.	Member
3. VC & MD, GIDC	Member
4. Special Commissioner, Commercial Tax	Member
5. Commissioner, Electricity Dept.	Member
6. Joint Deputy Secretary, Finance Dept.	Member
7. Joint Dy. Secretary, Industries & Mines department	Member
8. General Manager, State bank & Chairman, S.I.R.C. cell	Member
9. Representative of Gujarat Chamber of Commerce & Industry	Member
10. Representative of GSSIF	Member
11. Representative of Leghu Udyog Bhawan	Member
12. Adl. Jt. Commissioner of Industries	Member Secretary

- 10.2 Committee headed by Addl. Chief Secretary/ Principal Secretary (IHD):
- | | | |
|----|--|------------------|
| 1. | Add. Chief Secretary / Principal Secretary (IHD) | Chairman |
| 2. | Secretary Expenditure, Finance Dept. | Member |
| 3. | Secretary of concerned Department/s | Member |
| 4. | WC & MDC (IHD) | Member |
| 5. | Industries Commissioner/Commissioner(MSME)
as the case may be | Member |
| 6. | Add. Industries Commissioner | Member Secretary |
- 10.3 Committee headed by Chief Secretary (CS):
- | | | |
|----|--|------------------|
| 1. | Chief Secretary | Chairman |
| 2. | Add. Chief Secretary / Principal Secretary, Finance Dept. | Member |
| 3. | Add. Chief Secretary / Principal Secretary (IHD) | Member |
| 4. | Secretary of concerned Department/s | Member |
| 5. | Industries Commissioner/Commissioner(MSME)
as the case may be | Member Secretary |
- 10.4 High Power Committee:
- | | | |
|----|--|------------------|
| 1. | Hon. Chief Minister | Chairman |
| 2. | Hon. Finance Minister | Member |
| 3. | Hon. Industries Minister | Member |
| 4. | Chief Secretary | Member |
| 5. | Add. Chief Secretary/ Principal Secretary, Finance Dept. | Member |
| 6. | Add. Chief Secretary/ Principal Secretary, Ind. & Mias Dept. | Member |
| 7. | Industries Commissioner/Commissioner(MSME)
as the case may be | Member Secretary |

The Chairman of the above committees may call any officer as deemed necessary from other departments.

11.3 Conditions for availing VAT incentive under Paragraph 7.3, 7.4 & 7.5:

1. Sick enterprise eligible for reimbursement of Net VAT shall be considered as a normal dealer under the Gujarat Value Added Tax Act, 2003 and file returns made there under. The incentive shall be available in the form of reimbursement only.
2. Eligible sick enterprise will be allowed reimbursement of net VAT paid to the extent or terms as outlined under paragraph 7.3.1 and 7.4.1 of this resolution.
3. Eligible sick enterprise shall manufacture the goods on its own for which it is eligible for incentive.
4. Eligible sick enterprise shall remain in production during the incentive period.
5. Eligible sick enterprise shall have to make co-payment and submit returns.
6. VAT Concessions are available only upto 30-6-2017. In the GST regime, necessary modifications will be made as may be decided by the State Government and the decision of the state government shall be final.

11.2 Other Terms and Conditions:

- 1) The dues certified by the concerned department/office and approved by respective committee under the scheme would be considered for relief and concessions. Any revision in the outstanding dues made by department/office before approval of the respective committee would be considered under this scheme.
- 2) In case of any increase in outstanding dues other than approved by the competent committee, due to assessment, audit, appeal, revision or for any other reason, the enterprise shall abide by the same.
- 3) In case of any question of interpretation or clarification relating to this GR, the decision of the committee chaired by the Chief Secretary will be final and binding on all.
- 4) The relief and concessions expected from the Government of Gujarat should be critical and need based for the revival of the company.
- 5) The relief and concessions mentioned in this GR shall not be automatically available to a sick enterprise, but shall be considered on the merits of each individual case.
- 6) Industries Commissioner/Commissioner (MSME) as the case may be, will prescribe application form, check list and such other documents necessary for applying, processing and sanctioning of reliefs and concessions under this scheme.
- 7) The working unit shall be kept under observation for one year, during which period the unit shall have to pay all the current dues regularly. In case of a closed unit, it shall be kept under observation for one year after restarting the production, during which period the unit shall have to pay all the current dues regularly. If unit sectional relief and concessions under this scheme, fails thereafter to pay the current dues, the relief and concessions sanctioned under this scheme shall be liable to be cancelled.
- 8) The concerned department of the State Government, or State PSU's or other offices under it, participating in this rehabilitation programme of sick enterprise, shall take necessary action for implementation of the scheme, as decided by the respective committee.
- 9) The industrial enterprise who has already applied for relief and concessions under GR dated 28/07/2016, such application will be automatically considered under this GR.

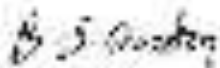
12.0 Budget provision:

The expenditure on this account will be met from the sanctioned grant of the respective financial year under the following budget head:

- | | | |
|----|----------------|---|
| 1. | Demand No | 49 (Plan) |
| 2. | Major Head | 2852 (Cottage and Small Industries) |
| 3. | Sub-Major Head | 82 (General) |
| 4. | Minor Head | 600 Other expenditure |
| 5. | Sub-Minor Head | (25) IND-6, Rehabilitation programmes for Sick Industries |

This issues with the concurrence of Finance Department dated 6.9.2017 in the department file of own number:

By order and in the name of Governor of Gujarat


(E.S. Mishra)
Joint Secretary
Industries and Mines Department

To,

1. Secretary to H.E. The Governor *
2. PE to All Ministries
1. Principal Secretary to Hon.CM
4. Under Secretary to Chief Secretary
5. All Departments, Sachivalaya, Gandhinagar
(with a request to inform all the concerned under their departments)
6. All Heads of Departments/Banks/Corporations/Institutions under Industries & Mines Department
7. Industries Commissioner, Gandhinagar
8. Commissioner (MIME), Gandhinagar
9. All DDC's
10. Commissioner of Commercial Tax, Ashram Road, Ahmedabad
11. Accountant General, Ahmedabad/Hubli *
12. Pay and Accounts Officer, Ahmedabad/ Gandhinagar
13. All branches of Industries & Mines Department
14. All leading Financial Institutions/ Banks/ Industries' Associations (through Industries Commissioner)
15. H.C. I.O. Industries & Mines Department for uploading on website
16. Select file

*By letter