

# Info Capsule

## **GUIDELINES OF SPECIAL CREDIT LINKED CAPITAL SUBSIDY SCHEME (SCLCSS) FOR SC/ST MICRO & SMALL ENTERPRISES<sup>1</sup>**

Manufacturing has emerged as one of the high growth sectors in India. 'Make in India' program has been launched to place India on the world map as a manufacturing hub and give global recognition to the Indian economy.

Presently, the Ministry of Micro, Small and Medium Enterprises (MSME) is operating a scheme for technology upgradation of Micro & Small Enterprises called the Credit Linked Capital Subsidy Scheme (CLCSS). CLCSS aims at up-gradation of technology and 15% (subject to maximum of Rs.15.00 lakhs) upfront subsidy on capital investment for technology upgradation is provided to micro and small enterprises for modernization of their production equipment (plant and machinery).

As being the case with MSE sector in general, SC/ST owned MSEs continue with outdated technology and plant & machinery and due to lack of awareness and inadequate finance, the problem gets further compounded and put them in disadvantageous position as they lose out on economy of scale. The existing CLCSS has been able to benefit negligible number of SC/ST MSEs. The Public Procurement Policy mandates each Central Ministry/Deptt./PSUs to procure at least 4% of its total annual procurement requirement from SC/ST owned MSEs. In order to make SC/ST MSEs more participative in the public procurement, it is imperative to promote new enterprises and support the existing enterprises in their expansion. Hence, a new scheme providing assistance in the form of subsidy for capital investment in plant & machinery, linked to credit, is requirement of the day.

## **MAINTAINABILITY OF SUIT UNDER CONSUMER PROTECTION ACT, 1986<sup>2</sup>**

In a matter for the claim of the protection of consumers' rights, plaintiff Mr. X filed a case before the District Consumer Disputes Redressal Forum, at Noida, Uttar Pradesh. Plaintiff stated that that he is a consumer of electricity having Connection No.1/7884 with connected load of 20 H.P. and He is running his husking mill through connected load.

He challenged the bill for Rs. 3,73,935/- raised by the ABC State Electricity Board which was raised on the ground of unauthorized extension of load of 8 H.P.

<sup>1</sup> Available at : [www.msme.gov.in/sites/default/files/guidelines-SCLCSS1.PDF](http://www.msme.gov.in/sites/default/files/guidelines-SCLCSS1.PDF)

<sup>2</sup> Also see, U.P. Power Corporation Ltd. & Ors v. Anis Ahmad, CIVIL APPEAL NO. 5466 OF 2012 (arising out of SLP (C) No.35906 of 2011)

The Defendant, ABC Electricity Board filed the objections and raised the question of maintainability of the application.

- It was stated by the defendant that consumer was enjoying Industrial connection and, therefore, does not fall within the definition of "consumer" under the Consumer Protection Act, 1986.
- The Act defines consumer in section 2 (d) as a person who buys goods or hires services for consideration or a price paid or promised to be paid but does not include a person who buys goods or hires services from the applicability of defines consumer as a person who has bought goods or hires services for commercial purposes.
- The supreme court of India has observed that a person who buys goods or hires services for any activity intended to generate profit commercial activity is outside the purview of the definition contained in Consumer Protection Act, 1986.
- It was further alleged that a police case being No.19/2005 dated February 26, 2005 has already been lodged against Mr. X for theft of electricity, therefore, the consumer forum has no jurisdiction to entertain the application.
- Further, this matter should be filed under the Electricity Act, 2003 and not under the Consumer Protection Act, 1986.

### **Matter in Issue**

Whether the suit is maintainable under the Consumer Protection Act, 1986 or whether the plaintiff is a "consumer" for the purpose of this Act.

### **Decision**

In view of the observation made above, it was held:

- In case of inconsistency between the Electricity Act, 2003 and the Consumer Protection Act, 1986, the provisions of Consumer Protection Act will prevail.
- But ipso facto it will not vest the Consumer Forum with the power to redress any dispute with regard to the matters which do not come within the meaning of "service" as defined under Section 2(1) (o) or "complaint" as defined under Section 2(1) (c) of the Consumer Protection Act, 1986.
- Further, if the plaintiff is not a consumer as per the definition under Section 2(1) (c) of the Consumer Protection Act, 1986, then also suit is not maintainable.
- Therefore, the matter was dismissed by the District Consumer Forum.

### **Team ICSI**

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