

MSMEs: The Need For Legal Support

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MSMEs in India

MSMEs include micro, small and medium-level enterprises that operate across almost all the sectors such as manufacturing, processing or service. They have become a key force in the Indian economy in terms of rural industrialization, entrepreneurship, and economic empowerment. These enterprises have contributed immensely to India's total production and revenue. To further this, the government has rolled out several schemes and policies to encourage people to set up such firms. The percentage of MSMEs in India increased at a CAGR of 18.5 per cent between 2019 and 2020. MSMEs in India received 9.5 trillion in loans in FY2021 (a 40 per cent increase from the previous year) [1].

Support for MSMEs was taken to the next level via the Aatmanirbhar Bharat Abhiyan Scheme 2020, wherein the scope of enterprises covered under this header expanded. The recently passed change, which now includes 'annual turnover', does away with the distinction between the manufacturing and service industries. MSMEs now have improved access to funding, loan financing, and equity injection because of the new programme [2].

Frequent Issues

Although the schemes and policies launched by the government are encouraging the MSMEs in India, there are certain pertinent issues encountered by these enterprises regularly. These issues are mainly legal, managerial, or compliance-related. Some of them are noted below:

- Maintaining many licenses, registrations, approvals, and reporting standards while adhering to numerous rules due to a lack of resources and time.
- Keeping up with the emerging technologies and their interaction with business and legal requirements.
- Protecting their intellectual properties, and ensuring that there is no case of infringement.
- Obtaining swift certification for patent registrations, trade name registrations, or trademark copyright.

The points listed above are not exhaustive, as there can be other issues varying with the type of product/business of these enterprises. Hence, it has become imperative for these companies to seek assistance from lawyers. For such a reason, it is important to realize the areas where lawyers can help these companies.

Legal Avenues For MSMEs in India

A lot of MSMEs struggle to meet their business goals, even though there is a plethora of opportunities for them. This usually occurs due to failure in marketing plans, financial structure, business planning, and managerial choices. Here is when the lawyers/consultants can help these budding enterprises. Some of the most important points where these enterprises can seek help are:

- Registration under the MSMED Act of 2006 and guidance on areas relating to compliance, benefits, and investments for MSMEs.
- Maintaining a record of the updates needed to advance the registration procedure.
- Business structuring, shareholding structure, financial compliance advice, etc.
- Obtaining loans without collateral from the SIDBI and other sources.
- Drafting important legal documentation for the company, such as contracts, and agreements.
- IP protection and strategy.

Apart from these basic legal requirements, enterprises must focus on several other areas that have been evolving regularly. These would primarily revolve around the intersection of technology with the products/business. With the widened definition of MSMEs, new-age start-ups ups can get themselves registered as an MSME. Now, it is not a hidden fact that these startups often leverage intensive technology to improve their offerings and customer experience. Such companies need to take note of all the compliances concerning data protection and privacy.

India has also been in the process of introducing a comprehensive set of rules for data protection. New entrants to the market need to formulate a strong strategy for collecting, storing, using, and sharing data. They must use a 'privacy by design' approach, which means incorporating security and privacy into the creation of their system(s). They would also need to develop procedures for responding to requests from users who want to exercise certain data-related rights. In addition, gaining certifications for their hardware and software, maintaining sensitive data locally, and developing the technological ability to share the data with the government for policy-making objectives are all necessary.

These tasks might be daunting for companies which have been operating without seeking any legal assistance. This is primarily because there is a need for a clear overview of all legal policy requirements to ensure that the business's products or services are completely compliant with the existing regulations. Further, there are some other similar complicated areas where legal assistance can be extremely helpful, such as FDI/NRI investments, tax compliance, fund-raising, etc.

Conclusion

It is clear that enterprises under MSMEs in India (including startups) need robust legal support to help them stay legally compliant. Further, it is also crucial to protect their assets, both tangible and non-tangible. However, two major hurdles which stop these new enterprises from seeking legal assistance are a lack of financial resources and a lack of awareness. Lawyers ought to provide standardized common legal services and cost-effective legal solutions for MSMEs in India and start-ups.

To create awareness among these enterprises about the need for staying

legally compliant, a joint effort from the government and legal fraternity is required. This will highlight the areas where legal support can be sought from the MSMEs, with the aim of providing cost-effective solutions. This will be a noteworthy step in furtherance of the government's efforts to smoothen the pathway of progress for MSMEs in India while reducing the challenge of regulatory compliance concerns.

1. <https://yourstory.com/smbstory/legal-support-help-msmes-tackle-challenges-self-reliant-india/amp>
2. <https://www.clearias.com/atmanirbhar-bharat-abhiyan/>