

SCHEME FOR EXCISE RELIEF FOR WEAK INDUSTRIAL UNITS

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SCHEME FOR EXCISE RELIEF FOR WEAK INDUSTRIAL UNITS

The Government of India are pleased to make the following Scheme with a view to help weak industrial units to expeditiously regain their viability by providing excise Loan through the Designated Financial Institutions, who will be acting as agents of the Central Government.

1. Short Title :-

This Scheme may be called the "Scheme for Excise Relief for Weak Industrial Units".

2. Commencement and Duration :-

It shall come into force on the 17th day of October, 1989 and remain in force till it is discontinued.

3. Applicability :-

The Scheme shall apply to any industrial company, whose accumulated losses, as at the end of any financial year, have resulted in erosion of 50% or more of its maximum net worth during the immediately preceding five financial years. The Scheme shall confine itself to industrial undertakings which means any undertaking pertaining to a scheduled industry carried on in one or more factories by any company but does not include an ancillary industrial undertaking as defined in clause (aa) of Section 3 of the Industries (Development and Regulation) Act, 1951.

4. Definitions :-

In this Scheme unless the context otherwise requires -

(a) 'Company' means a company as defined in Section 3 of the Companies Act, 1956 but does not include a Government company as defined in Section 617 of the Act,

(b) 'Designated Financial Institution' means any of the following institutions, namely:-

(i) Industrial Development Bank of India (IDBI)

(ii) Industrial Finance Corporation of India (IFCI)

(iii) The Industrial Credit and Investment Corporation of India Ltd. (ICICI)

(iv) Industrial Reconstruction Bank of India (IRBI) and

(v) Such other financial institution which the Central Government may specify in this behalf;

(c) 'eligible unit' means an industrial unit to which the scheme is applicable

(d) 'Empowered Committee' means the Committee constituted by the Central Government in the Department of Economic Affairs, Ministry of Finance for the purpose of this Scheme :

(e) 'Excise Loan' means the loan granted and disbursed by the Central Government under the Scheme;

(f) 'Industrial Company' means a company which owns one or more industrial undertakings;

(g) 'Net Worth' in relation to any company means the sum total of the paid up capital and free reserves;

(h) 'Rehabilitation package' means a scheme approved by a Designated Financial Institution for ensuring long term viability of the eligible unit which may include measures such as financial restructuring modernisation, expansion or diversification and addition of balancing equipment, reduction of pressing creditors or statutory liabilities, labour rationalisation, provision of margin money for working capital, technology acquisition payments, repayment of term loans or such other measures as may be determined by the Designated Financial Institution for the purposes of rehabilitation, modernisation or diversification;

(i) 'Scheduled Industry' means any of the industries specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as amended from time to time.

5. Amount of Excise Loan :-

(i) The eligible unit will be granted Excise Loan not exceeding 50% of the excise duty actually paid for three years subsequent to the date of approval of the rehabilitation package by the Empowered Committee. The total amount given by way of such Excise loan shall not, in any case, exceed 25% of the overall cost of the rehabilitation package.

(ii) Where the eligible unit fulfils the following conditions, it will be granted excise loan not exceeding 50% of the excise duty paid for 5 years from the date of the approval of the rehabilitation package by the Empowered Committee subject to the total amount not exceeding 33% of the overall cost of the rehabilitation package;

(a) BIFR recommends the relief as a part of a rehabilitation package approved by them;

(b) 1000 or more employees are engaged by the concerned sick unit; and

(c) Substantial sacrifices on the part of the State Governments and financial institutions are also involved. Further, the condition regarding approval of rehabilitation package by BIFR will only apply to units which are under its purview. For those sick units which are not within the purview particularly those in the public sector and those taken over by the Central Government and State Governments, the Government will consider these concessions on the recommendation of a rehabilitation package worked out by the appropriate financial institutions. There would be no change in the other terms and conditions of the Scheme as notified in the Trade Notice mentioned above.

6. Terms :-

(i) Nature: The Excise Loan will be secured by the assets of the Company acquired pursuant to the Rehabilitation package, ranking paripassu with the charges to be created in favour of financial institutions/banks to the extent of their financial assistance to the Rehabilitation package. Where no fresh assets are created pursuant to the Rehabilitation package, the Excise Loan will be secured by a

second charge on the existing assets or any other form of security approved by the Empowered Committee.

(ii) Rate of Interest : The Excise Loan will be interest-free.

(iii) Repayment: The Excise Loan shall be repayable within seven years in instalments as determined after a moratorium of three years commencing from the date of last disbursement of the Excise Loan.

(iv) The eligible unit shall, during currency of the Excise Loan, submit such progress reports as may be required by the Central Government or Designated Financial Institution about the progress in the implementation of the Rehabilitation package.

7. Procedure for sanction and disbursement of Excise Loan

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(i) The Excise Loan will be disbursed to the eligible units through the Designated Financial Institution.

(ii) The eligible unit, after finalisation of package, may make an application to the Designated Financial Institution for sanction of Excise Loan. The Designated Financial Institution shall process the application and forward the same with its recommendations to the Empowered Committee.

(iii) On receipt of the approval for the Excise Loan from the Empowered Committee the Designated Financial Institution shall communicate the sanction to the eligible unit.

(iv) The eligible unit will be required to enter into an agreement with the Designated Financial Institution incorporating therein such terms and conditions as may be stipulated by it for grant of Excise Loan.

(v) The disbursement out of the Excise Loan shall be made by the Designated Financial Institution in terms of the Rehabilitation package at the end of each financial year or on such frequency as may be decided over a period of 3 years on compliance of the terms and conditions and on furnishing proof of payments of Excise Duty to the satisfaction of the Designated Financial Institution.

8. Right of the Central Government and Designated Financial Institution :-

(i) Every eligible unit availing of the Excise Loan shall furnish to the

Designated Financial Institution, a certificate in such form as may be required, indicating the manner of utilisation of the Excise Loan.

(ii) In the event of eligible unit committing a default in payment of instalment of Excise Loan, it shall be liable to pay on the defaulted amount till repayment, liquidated damages at a rate, which shall be equivalent to the prevailing rate of interest for grant of term loans by the Designated Financial Institution.

(iii) Without prejudice to clause (ii) above, the Designated Financial Institution shall have the right to call upon the eligible unit to refund in one lump sum the amount of Excise Loan together with the liquidated damages, if any, if -

(a) the eligible unit fails to implement the Rehabilitation package and utilise the Excise Loan to the satisfaction of the Designated Financial Institution,

(b) the eligible unit commits four successive defaults, in repayment of instalment of Excise Loan;

(c) in the opinion of the Designated Financial Institution, the eligible unit has failed to regain its viability and there are no prospects of restoring the same within a reasonable time; and

(d) the Central Government or Designated Financial Institution is satisfied that the Excise Loan has been obtained by misrepresentation as to an essential fact or by furnishing false information or if the unit goes out of production within three years after approval of rehabilitation package.

(iv) Where an eligible unit is called upon to repay the defaulted instalments together with liquidated damages, if any or it has otherwise become liable to refund the outstanding Excise Loan under Clause (iii) above, but it fails to pay or, as the case may be, refund the amount, the Central Government, or if so required by the Central Government, the Designated Financial Institution, shall proceed to recover full amount from the eligible unit.