

Clarifications regarding FCs

- State Govt. & Ministry of MSME cannot intervene in matters of MSEFCs. Only the MSEFCs have been empowered as per MSMED Act, 2006 for taking decision regarding references made with them. Ministry of MSME cannot interfere with judicial functioning of MSEFC.
- Filing of Udyog Adhaar Memorandum (UAM) is Mandatory to file applications on MSME Samadhaan Portal.
- MSME Samadhaan Portal has been created only to facilitate online applications regarding delayed payments. Physical applications can also be filed at the concerned MSEFC.
- Work order is compulsory to file application on MSME Samadhaan Portal. An affidavit is required in oral purchase order.
- Categories admitted in MSEFCs are in respect of goods manufacturing and service rendering sector for which UAM has been obtained. These categories cannot be challenged by the respondent/buyer.
- There is no legal disqualification, if a case is decided after 90 days as stipulated in the Act.
- Council should deliver a conciliation award after the successful conciliation. It is called award by mutual consent. It is valid award and buyer cannot make appeal against it.
- Council members are judges having equal power. They should be well-versed in factual aspect of the case before them.
- Even under administrative exigencies, the Chairperson can not delegate the presiding power to another subordinate official or another members. But the meeting/proceedings can take place, if quorum of three members is

complete. Members can elect the Chairperson and take further proceedings. But it is necessary to mention why chairperson could not attend the hearing.

- There is provision for a Member Secretary as council Member, Member Secretary is acting as Registrar of MSEFC and Judge also when he sits in Council.
- A claim can be filed for interest alone where the claimant has received principal of dues already.
- If there is a false claim from the applicant the petition is to be rejected summarily.
- Receivables from buyer such as advance deposit, statutory deposits, other than supply of goods and services can be claimed in the claim before the Council.
- The penal interest is calculated on monthly compounding basis.
- There is the power of dissent to a member of Council in the proceedings. It is to be recorded. But majority decision prevails.
- When the conciliation conducted by Council fails, Council can take up Arbitration automatically.
- The Council has no power to review, revise or amend its own award. After final award, it becomes “Funcous officio” means having no relation to award.
- The Council is not required to appear in any court as it is only a formal party. If an Appellate Court reverts back the case to the Council, it is to be decided as per instruction of the Higher Court.

- Council can not deal with criminal offences related to subject matter of claim.
- A time barred receivable from a buyer can be decided by Council. No limitation is applicable in Arbitration by Council. But, delay and laches principal is applicable. Supplier sleeping over his legal rights cannot get assistance of Council.
- The necessary record to be maintained by the Council is:- petition with Purchase Order, Bills, delivery challans of goods and services and demand letter etc. are to be kept if the matter is challenged in any higher court. In any other case, where the amount is already realized by the supplier, it is at the discretion of the MSEFC.
- Notices can be served by e-mail/SMS/Whatsapp. Email is legal document and even Whatsapp.
- 3 notices are to be served to opposite party, if notices are not acknowledged. The notice of Council is to be published in daily Newspaper of the area where the Respondent is located. Then ex-parte proceedings can be initiated by Council.
- If the applicant abstains from the proceedings of the Council, it is the discretion of the MSEFC Council and it can exercise its own diligence by giving opportunity to the applicant since he has to prove his claim before council.
- Claim preparation is the responsibility of the claimant. It is advisable to get certified from C.A.
- Claim against deceased buyer or dissolved company of buyer is maintainable in Council. Deceased buyer is liable through his legal heir: