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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor.

INDUSTRIES AND MINES DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 24th October, 2019.

GUJARAT ORDINANCE NO. 1 OF 2019.

AN ORDINANCE

*to provide for exemption from certain approvals and inspections for
establishment and operation of the micro, small and medium enterprises in the
State of Gujarat and matters connected therewith or incidental thereto.*

WHEREAS with a view to promoting inclusive economic growth and employment generation, the State aims to address the specific needs of the micro, small and medium enterprises and promote entrepreneurship, it is expedient to give effect to exemption from certain approvals and inspections required for establishment and operation of micro, small and medium enterprises;

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate to provide for exemption from certain approvals and inspections for establishment and operation of the micro, small and medium enterprises in the State of Gujarat and for matters connected therewith or incidental thereto;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:-

1. **Short title, extent and commencement.** - (1) This Ordinance may be called the Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Ordinance, 2019.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. **Definitions.-** In this Ordinance, unless the context otherwise requires:-

(a) "Acknowledgement Certificate" means the acknowledgement certificate issued under section 5;

(b) "approval" means any permission, no-objection, clearance, consent, approval, registration, license and the like, required under Gujarat Law in connection with the establishment or operation of an enterprise in the State of Gujarat;

(c) "Competent Authority" means any department or agency of the Government or local authority, statutory body, State owned corporation, Panchayati Raj Institution, Municipality, Urban Development Authorities, Urban Improvement Trusts or any other authority or agency constituted or established by or under

any State Law or under administrative control of the Government, which is entrusted with the powers or responsibilities to grant or issue approval for establishment or operation of an enterprise in the State;

- (d) “District Level Facilitation Committee (DLFC)” means the District Level Facilitation Committee constituted under section 5 of the Gujarat Single window Clearance Act, 2017; Guj. 29 of 2017.
- (e) “enterprise” means a micro, small or medium enterprise;
- (f) “Government” means the Government of Gujarat;
- (g) “micro, small or medium enterprise” means the Micro, Small or Medium Enterprises, as defined in the Micro, Small and Medium Enterprises Development Act, 2006; 27 of 2006.
- (h) “nodal agency” means the nodal agency referred to in section 3;
- (i) “notification” means a notification published in the Gujarat Gazette and the word ‘notified’ shall be construed accordingly;
- (j) “prescribed” means prescribed by rules made under this Ordinance;
- (k) “State” means the State of Gujarat;
- (l) “Single Window Facilitation Committee (SWFC)” means the Single window Facilitation Committee constituted under section 6 of the Gujarat Single window Clearance Act, 2017; Guj. 29 of 2017.
- (m) “Undertaking” means a letter to be taken from enterprise under a prescribed format to include that the enterprise shall ensure appropriate labour welfare measures, adequate fire safety and environmental measures as required by the law.

3. Nodal Agency.- (1) Subject to superintendence, direction and control of the Government, the Investor Facilitation Agency (IFA) constituted under section 8 of the Gujarat Single window Clearance Act 2017 shall be the State level Nodal Agency for the purpose of this Ordinance.

Guj. 29 of 2017.

(2) Subject to superintendence, direction and control of the Government and the District Level Facilitation Committee, the District Industries Centre (DIC) shall be the District level Nodal Agency for the purpose of this Ordinance.

4. Powers and functions of nodal agencies.- (1) Subject to the superintendence, direction and control of the Government, the powers and functions of the nodal agencies shall be as follows:-

(a) to assist and facilitate establishment of enterprises in the State; and

(b) to maintain the records of Declaration of intent received and Acknowledgement Certificate issued under this Ordinance.

(2) The Government may assign such other powers and functions to the nodal agencies as it may deem fit for giving effect to the provisions of this Ordinance.

5. Filing of Declaration. - (1) Any person who intends to start an enterprise may furnish to the State level nodal agency a declaration of intent to start an enterprise in such form and in such manner as may be prescribed.

Explanation. - Any person who has moved the Competent Authority to so obtain all or any of the approvals as defined in clause (b) of section 2 before the commencement of this Ordinance may also opt to furnish declaration of intent to start an enterprise under this sub-section.

(2) On receipt of a declaration completed in all respects, the State level nodal agency shall, forthwith, issue an Acknowledgment Certificate, in the prescribed form to the person who furnished the declaration under sub-section (1).

6. Effect of the Acknowledgment Certificate.- (1) An acknowledgment certificate issued under section 5 shall for all purposes, have effect as if it is an approval as defined in clause (b) of section 2, for a period of three years from the date of its issuance and after the expiry of the said period of three years, the enterprise shall have to obtain required approvals as defined in clause (b) of section 2 within six months from the date of such expiry:

Provided that the enterprise may apply for necessary permission under the respective laws within a period of three years from the date of issuance of acknowledgment certificate:

Provided further that the acknowledgement certificate shall not entitle a person to use a land in deviation to the land use specified in the master plan wherever such plan is in force. It shall also not entitle a person to use the land falling in restricted category as specified in clause (b) of section 65B of the Gujarat Land Revenue Code, 1879:

Bom. V of 1879.

Provided also that any agricultural land on which a person wishes to start an enterprise shall be deemed to be a non-agricultural land under the provisions of section 65B of the Gujarat Land Revenue Code, 1879:

Bom. V of 1879.

Provided however that the enterprise shall not be given the relaxation from the provisions of-

- (i) section 73AA of the Gujarat Land Revenue Code, 1879;
- (ii) sections 43 and 63AA of The Gujarat Tenancy and Agricultural Lands Act, 1948;
- (iii) section 57 and 89A of the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958;
- (iv) section 55 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949.

Bom. V of 1879.

Bom. LXVII of
1948.

Bom. XCIX of
1958.

Sau. Ord. XLI of
1949.

(2) During the period of three years specified in sub-section (1), no competent authority shall undertake any inspection for the purpose of or in connection with, any approval as defined in clause (b) of section 2:

Provided that the competent authority shall be empowered to undertake an inspection during the said period of three years in cases where the enterprise has applied for necessary permission under the respective laws within a period of three years from the date of issuance of acknowledgment certificate.

7. **Exemption.** - Where the Government or any authority under it is empowered to exempt any enterprises from any approval or inspection or any provisions relating thereto under any Central Act, the Government or, as

the case may be, any such authority shall, subject to the provisions of such Central Act, exercise such powers to grant such exemption to an enterprise established in the State for at least a period of three years from the date of issue of the acknowledgement certificate issued under sub-section (2) of section 5.

8. Protection of action taken in good faith. - No suit prosecution or other legal proceedings shall lie against the Government or Nodal Agency or Competent Authority or any employee of the Government, Nodal Agency or Competent Authority in respect of anything which is done or intended to be done in good faith under this ordinance or any rules made thereunder.

9. Ordinance to override other laws.- (1) The provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any other State law, for the time being in force.

(2) In particular and without prejudice to the generality of the foregoing provisions of this ordinance, such provisions shall have effect notwithstanding anything inconsistent therewith contained in the following enactments and the provisions of these enactments shall be read as amended in conformity with the provisions of this Ordinance, namely:-

Bom. V of 1879.

(a) the Gujarat Land Revenue Code, 1879;

Bom. LXVII
of 1948.

(b) the Gujarat Tenancy and Agricultural Lands Act, 1948;

Bom. LIX of
1949.

(c) the Gujarat Provincial Municipal Corporations Act, 1949;

Sau. Ord. XLI
of 1949.

(d) the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance 1949;

Bom. XCIX
of 1958.

(e) the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958;

Guj. 34 of 1964.

(f) the Gujarat Municipalities Act, 1963;

President's Act
27 of 1976.

(g) the Gujarat Town Planning and Urban Development Act, 1976;

Guj. 18 of 1993.

(h) the Gujarat Panchayats Act, 1993.

10. **Savings.-** Subject to the provisions of section 7, nothing in this Ordinance shall be construed as exempting any enterprise from the application of the provisions of any law for the time being in force, or any regulatory measures and standards prescribed thereunder, except to the extent expressly provided in this Ordinance.

11. **Power to make rules.-** (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Ordinance.

(2) All rules made under this Ordinance shall be subject to the condition of previous publication.

(3) All rules made under this Ordinance shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

12. **Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for removing the difficulty:

Provided that no such order under this section shall be made after the expiry of a period of two years from the commencement of this Ordinance.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made before the State Legislature.

STATEMENT

Liberalization and globalization have positive impact on the industrial development in the State. Despite Government's efforts to attract investment and promote industries, it is experienced that one of the most critical reform challenges lies in improving the ease of doing business. With a view to secure this objective, it was considered necessary to prepare a blue-print for betterment of the business environment in the State. The State Government has taken up the activities related to simplification of various procedures for establishment of industries from the view point of prospective investors in the Industrial Sector.

The State Government is committed towards creating an investor friendly atmosphere in the State. Many steps have been taken in the past few years to promote investment and make the State of Gujarat investor friendly State and for that it is considered necessary to have a law which shall provide for exemption from certain approvals and inspections for establishment and operation of the micro, small and medium enterprises in the State of Gujarat. The salient features of the Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Ordinance, 2019 are as under:

- (1) Any entrepreneur who intends to start an enterprise will apply online for 'Declaration of Intent' and an 'Acknowledgment Certificate' will be issued immediately to the entrepreneur by the Nodal Agency.
- (2) By putting in place a robust mechanism whereby just filling 'Declaration of Intent' on the portal the entrepreneur will get Acknowledgment Certificate immediately online.
- (3) The enterprise will be exempted from the approvals and clearances for three years.
- (4) after expiry of three years, the enterprise shall have to obtain required approvals within six months.

The said Ordinance shall be the major step to promote entrepreneurship and materialize investment by the State Government and it would be a major law to facilitate investment, foster innovation and increase employment opportunities.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar.

Dated the 22nd October, 2019.

ACHARYA DEVVRAT,

Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

M. K. DAS,

Principal Secretary to Government.
