“A Study of Legislations for SME’s in India, China & Germany”

Sandeep Hanasoge Nagaraja ¹
Department of Management Studies, Reva University
Rukmini Knowledge Park,
Kattigenahalli, Yelahanka, Bangalore-560 064

Dr. Geetha. M. Rajaram ²
Department of Finance and Strategy, Indus Business Academy
Indus Business Academy, Lakshmipura,
Tataguni Post, Kanakpura Main Road
Bangalore-560062

Abstract

Legislations are an important means by which governments of countries enforce policies which in turn helps in the growth of their economies. The SME sector plays a vital role in every country and the contribution of this sector both in terms of revenue and employment is tremendous. Each country has different legislations that govern the working of SME’s in that particular country. In this paper we will look at legislations that govern SME’s in India, China and Germany.

Keywords

SME Legislations, SMEs in India, SMEs in Germany, SMEs in China, Definition of SMEs, Laws for SMEs.

Introduction

Small and Medium scale industries are considered the backbone of any country’s economy. In the present decade we see that a lot of SME’s are coming up in almost all parts of the globe. It is well known fact that change is constant and this is no difference in the case of SME’s as well. The business environment in which SME’s operate is constantly fluctuating due to a number of factors. In order to ensure fair competition and strengthen the competitiveness of SME’s, governments bring in legislations to regulate these companies. These legislations not only provide a legal frame work for the SME’s they also provide the necessary support. (https://www.moeasmea.gov). Legislations are an important means by which governments of countries enforce policies which in turn helps in the growth of their economies. The SME sector plays a vital role in each of the country under study and the contribution of this sector both in terms of revenue and employment is tremendous. Each country has different legislations that govern the working of SME’s.

These laws are nothing but legal frameworks which aims to improve the approach to entrepreneurship in the country in which the SME’s exist. It also aims to simplify the regulatory and the policy environment

This paper will look into the legislations for SME’s in India, China and Germany. The laws in these countries that govern SME’s are as shown in the table below:

<table>
<thead>
<tr>
<th>India</th>
<th>China</th>
<th>Germany</th>
</tr>
</thead>
</table>

Table 1: SME laws in India, China and Germany. Source: Self

**Research Methodology**

Literature review has been adopted in this research paper. The data was collected from the documents published in the respective country’s government websites, gazette notifications, through academic papers, text books, journal articles, published thesis, etc., and as well as from documents in the public domain.

**Legislations for SME’s in India, China and Germany**

**India**

**Micro, Small and Medium Enterprises Development Act 2006**

As the number of SME’s increased in India and with it the concept of Small Scale Industrial Undertakings and Ancillary Undertakings became quite popular, the Government of India introduced the Micro, Small and Medium Enterprise Development Act which came into effect on 2nd October 2006. This was done by
issuing a notification under section 11B of the Industrial Development Regulation Act, 1951 and by a notified order to be regarded as a Small Scale Industrial Undertaking and Ancillary Undertaking (Dixit 2006). The MSMED Act clearly differentiates the manufacturing sector from that of the service sector based on the amount of investment. (Biswas Abhijeet 2013)

The main objectives of MSMED Act are:-

1. To enhance the competitiveness of MSME sector in this era of globalization
2. To facilitate the overall development of MSME sector
3. To Focus on all the issues related to MSME sector

(Biswas Abhijeet 2013)

The basic governing principles defined under this notification which is a part of the Industrial Development Regulatory Act 1951 are:

1. The Investment in Plant & Machinery or Land and Building and Plant & Machinery
2. The nature of ownership
3. The number of workers that can be employed
4. The nature, cost and quality of the product
5. Foreign Currency Exchange, if required for importing any machinery
6. Other relevant factors, as deemed necessary

(Dixit 2006).

The salient features of MSMED Act of 2006 are as follows:

1. This act was introduced in order to encourage SME culture in India by facilitating the promotion, development and enhancing the competitiveness of small and medium sized enterprises.
2. In this act a new concept “Enterprise” has been defined instead of “Industrial Undertaking”. This act also defines the “Micro, Small & Medium” Enterprises.
3. This Act also provides very clearly defined provisions for registration of an enterprise under this act.
4. This Act also provides various mechanisms for recovery of delayed payments.
5. An exhaustive list of activities of manufacturing and/or activities relating to providing a service that can be registered under this act has been included through various circulars.
6. This Act also provides a provision for exiting/shutting down an enterprise which is registered under this act.
There are six chapters in this law, Chapter 1 lays down the definitions of Micro, Small and Medium Scale Industries and other regulatory bodies that appear in this act in detail. Chapter 2 deals with the establishment of a National board for MSME’s. This chapter explains the rules and regulations and the process of constituting a national board for MSME’s and explains in detail the duties and responsibilities of the board as well as its constitution members. Chapter 3 explains the classification of enterprises, advisory committee and memorandum of MSME’s. Chapter 4 explains the measures for promotion, development and enhancement of competitiveness of MSME’s. Chapter 5 deals with the ways and means to deal with issues of payments that would be encountered by MSME’s on a regular basis. Last chapter which is chapter 6 explains the implementation of this act and also explains the exit process for any enterprise.

This law has been in existence for nearly 11 years now and it is necessary to evaluate how effective it has been in helping the growth of MSME’s and how many of its policies has been enforced. It has been found that this act has had significant impact on MSME and thereby fostering the growth of this sector. The notable impact of this act on the SME sector is as follows:

1. With the establishment of national SME board with a small board and by mandating quarterly meeting, it has ensured any problems encountered by any enterprise registered under this act is addressed immediately with the necessary corrective action implemented immediately.
2. By demarcating the manufacturing clearly from the service sector, it has encouraged entrepreneurs to indulge in service activity with the same rigor with which they engage in manufacturing.
3. By clearly explaining the investment ceiling, it has enabled existing small scale industries to upgrade to medium scale industry.
4. By providing a facility of registering companies under this act, the government has helped any SME to avail the benefits provided under this act immediately after establishment. Further it has enabled a hassle free registration process.
5. By defining clear Procurement policies it has ensured that the SME’s can procure and sell its goods and services without any problems.
6. By providing an option of rederessal of delayed payment and dispute resolution, it has ensured that the enterprises are provided with sufficient protection not affected by the problem of delayed payment or non-payment and quick redressal of all its problems.
7. It has provided clear directions for the quick and hassle free liquidation of an enterprise registered under this act with ease and without unnecessary complications.
(Biswa Abhijeet 2013)

**Manufacturing Enterprises:** The enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the industries (Development and regulation) Act, 1951. The Manufacturing Enterprise is defined in terms of investment level in plant & machinery. These are:

Small Enterprises: More than twenty five lakh rupees but does not exceed five crore rupees

Medium Enterprises: More than five crore rupees but does not exceed ten crore rupees

**Service Enterprises:** The enterprises engaged in providing or rendering of services and are defined in terms of investment in equipment.

The limit for investment in plant and machinery / equipment for manufacturing / service enterprises, as notified are as under:

Small Enterprises: More than ten lakh rupees but does not exceed two crore rupees

Medium Enterprises: More than two crore rupees but does not exceed five crore rupees

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**Table 2: Definition of SMEs – India, Source: Source Lahiri (2012)**

**China**

**The SME Promotion Law 2002**

![Diagram of SME setup in China](image)

The SME Promotion Law of China was passed in the year 2002. This law is a reflection of China Government’s strategic policies for the development of Chinese SME’s. It has to be noted that this law was first of its kind in the history of China which focused on the small and medium sector. This law clearly
emphasizes the government’s commitment to provide a better development environment for SME’s thereby fostering their growth and development. Moreover, this law has been found to be a significant step in enabling the development of SME’s in China and bringing this development into the ambit of a law thereby indicating the enhanced recognition of SME’s role in Chinese economy. (Ye Li 2014).

This act comprises 7 chapters which can be broadly classified into three groups. In the first group (Chapter 1), it explains the general principles and provide clear and precise definitions for SME’s and their legal status. This chapter further explains the support and protection that SME’s enjoy irrespective of the form or ownership. The only requirement for an enterprise is that it has to be in line with the policies that are laid down by this law and satisfy the social demand whereby it increases the employment opportunities.

Second group includes chapters that lay down rules and regulations and concrete policies which aid in the development of SME’s. This include the financial support provided by the central and state governments (Chapter 2), providing favourable policies and services that encourage the spirit of entrepreneurship (Chapter 3) and lastly help technological innovation (Chapter 4). The services and support provided by different government department and organizations are explained in (chapter 5). A very detailed procedure on how these departments should provide first class support to SME is explained in (Chapter 6). Third group which includes the last chapter or (Chapter 7) provides freedom for state governments to formulate supplementary regulations as and when necessary. (Ye Li 2014).

This law has been in effect for nearly 16 years and it is prudent to evaluate the effectiveness of it in fostering the growth of SME sector and also on how many of its policies have been enforced. According to Mr. Li Yizgong, the minister of MIIT, the special funds that were earmarked for SME’s under this law were not granted until 2010 and was only in the planning phase for nearly 8 years after the law came into effect. Further according to MIIT, the first instalment of the grants were released only in the year 2011. This grant provided for only for four types of funds; 1) to support business operations, 2) to build a SME credit system, 3) to improve the SME managerial level and 4) to encourage SMEs to participate in International trade fairs. In 2011 it was found that this law had to be amended as it was no longer suitable for the current economic situation Chinese SME’s were in. Some of the amendments included more stringent and relevant regulations, more so on SME property ownership and new laws to protect financial institutions and to create new methods to provide financial assistance to SME’s. (Ye Li 2014).
<table>
<thead>
<tr>
<th>Size/Category</th>
<th>Industries</th>
<th>Employment based</th>
<th>Total Assets</th>
<th>Business Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Industry</td>
<td>&lt;300</td>
<td>&lt;¥ 40 Million</td>
<td>&lt;¥ 30 Million</td>
</tr>
<tr>
<td></td>
<td>Construction</td>
<td>&lt;600</td>
<td>&lt;¥ 40 Million</td>
<td>&lt;¥ 30 Million</td>
</tr>
<tr>
<td></td>
<td>Wholesale</td>
<td>&lt;100</td>
<td>&lt;¥ 40 Million</td>
<td>&lt;¥ 30 Million</td>
</tr>
<tr>
<td></td>
<td>Retail</td>
<td>&lt;100</td>
<td>&lt;¥ 10 Million</td>
<td>&lt;¥ 30 Million</td>
</tr>
<tr>
<td></td>
<td>Transport</td>
<td>&lt;500</td>
<td></td>
<td>&lt;¥ 30 Million</td>
</tr>
<tr>
<td></td>
<td>Post</td>
<td>&lt;400</td>
<td></td>
<td>&lt;¥ 30 Million</td>
</tr>
<tr>
<td></td>
<td>Hotel &amp; Restaurant</td>
<td>&lt;400</td>
<td></td>
<td>&lt;¥ 30 Million</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Size/Category</th>
<th>Industries</th>
<th>Employment based</th>
<th>Total Assets</th>
<th>Business Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medium</td>
<td>Industry</td>
<td>300-2000</td>
<td>&lt;¥ 40 Million- ¥ 400 Million</td>
<td>30 Million- ¥ 300 Million</td>
</tr>
<tr>
<td></td>
<td>Construction</td>
<td>600-3000</td>
<td>&lt;¥ 40 Million- ¥ 400 Million</td>
<td>30 Million- ¥ 300 Million</td>
</tr>
<tr>
<td></td>
<td>Wholesale</td>
<td>100-200</td>
<td>&lt;¥ 40 Million- ¥ 400 Million</td>
<td>30 Million- ¥ 300 Million</td>
</tr>
<tr>
<td></td>
<td>Retail</td>
<td>100-500</td>
<td></td>
<td>100 Million- ¥ 150 Million</td>
</tr>
<tr>
<td></td>
<td>Transport</td>
<td>500-3000</td>
<td></td>
<td>30 Million- ¥ 300 Million</td>
</tr>
<tr>
<td></td>
<td>Post</td>
<td>400-1000</td>
<td></td>
<td>30 Million- ¥ 300 Million</td>
</tr>
<tr>
<td></td>
<td>Hotel &amp; Restaurant</td>
<td>400-800</td>
<td></td>
<td>30 Million- ¥ 150 Million</td>
</tr>
</tbody>
</table>

Table 3: Definition of small and medium enterprises in China (Source McLean Et Al (2013))
The Small Business Act for Europe (2008) is more than not considered to be not an act but more as an initiative by the Council of European Commission which provides “guiding principles” which enable the members of the European Council to foster the growth of SME’s in their respective countries. It is more a common framework or rules and regulations defined by the European Commission to be followed by every member nation. This act aims at creating an environment in which entrepreneurs and family-run businesses can grow and also provides a conducive environment in which the spirit of entrepreneurship is rewarded. This act has been developed on the principle of “Think Small First” and it facilitates SME’s to access the required financial assistance and also provides a legal and business environment that supports timely payments in all commercial transactions that SME’s enter. (Dilger 2016).

The Small Business Act for Europe which was introduced by the European Commission took into consideration the provision of similar kinds of Acts in countries such as US, India, Japan and China. But by and large this act was mainly based on the US Small Business Administration Act (SBA) and most of the definitions in this act is based on the SBA. It has also crafted all the eligibility criteria and programs on SBA more so on access to finance. But in other aspects the commission differed significantly from SBA. It is to be noted here that a lot of features of this act has also been influenced by major countries of Asia. (Dilger 2016).

The Small Business Act for Europe represents the political and economic context of all the EU member nations. The primary purpose of this act is to help small business to grow and foster competitive markets by preventing large enterprises forming oligopolies and monopolies. It also addresses the market failures due to the difficulties faced by small businesses such as accessing capital, etc. However, there has been a lot of amendments after it was enforced mainly due to the severe economic crises that Europe faced from time to time. (Dilger 2016).

The basic guiding principles on which the Small business act for Europe is based are the following:
1. Establish an environment in which SME’s can thrive and entrepreneurship rewarded.
2. To safeguard the interest owners of the companies and provide another opportunity to entrepreneurs who have faced failure.
3. Formulate regulations in accordance to the “Think Small First” principle”.
4. Ensure that the administrations responds quickly to the needs of the SME’s.
5. To develop a public policy in accordance to the needs of the SME’s and encourage SME participation in public procurement and make use of the financial aid that the government provides.
6. Ensure that SME’s have access to financial assistance and develop a framework that provides a supportive environment to SME’s and provide necessary help for SME’s to receive timely payments.
7. Ensure that SME’s benefit from the opportunities that a single market offers.
8. Support SME’s to upgrade their skills and help them in their pursuit of innovation.
9. Provide assistance to SME’s to overcome their challenges and convert them into their strengths.
10. Ensure that SME’s get the necessary support so that they can benefit from the growth of markets.

(Dilger 2016).
This act has been in force for nearly 10 years. It is prudent to evaluate the effectiveness of this act on how it has supported SME’s and helped them grow and the extent to which the policies mentioned have been implemented. First of all, the EU commission included in the SBA for Europe, a number of examples of policies that it felt that SME’s in member countries benefitted from or was planning to adopt based on the broad guiding principles defined. It encouraged member countries to take necessary actions to foster SME growth and further simplify and harmonise their rules for SME’s to achieve rationalization across EU. Second, it encouraged member countries to increase investment support for SME’s and directed member countries to reduce value added tax for products provided by SME’s. Third, it asked its members to consult all the necessary stake holders including SME’s for at least 8 weeks before passing any legislative and administrative proposal that has a direct impact on SME’s. (Dilger 2016).

In 2011, EU commission reviewed the SBA for Europe on its performance from 2008 to 2010 and found that there has been some progress in meeting its overall objectives. It found through a survey that the SME’s experienced less administrative hurdles when it came to accessing public procurement and also got better opportunities for joint bidding. It was also found in the review that more than 100,000 SME’s received financial support through various programs that came under the ambit of SBA for Europe.
(Dilger 2016).

<table>
<thead>
<tr>
<th>Enterprise Category</th>
<th>Head Count</th>
<th>Turnover</th>
<th>Balance sheet total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medium</td>
<td>&lt;250</td>
<td>≤€ 50 million</td>
<td>≤€ 43 million</td>
</tr>
<tr>
<td>Small</td>
<td>&lt;50</td>
<td>≤€ 10 million</td>
<td>≤€ 10 million</td>
</tr>
<tr>
<td>Micro</td>
<td>&lt;10</td>
<td>≤€ 2 million</td>
<td>≤€ 2 million</td>
</tr>
</tbody>
</table>

Table 4 Definition of Small and medium enterprises in Germany (Source McLean Et Al (2013))

Conclusion

We can conclude by saying that the business environment would continue to become more complex in the coming days and a lot more companies would attempt to internationalise. The business environment would also change as we know change is the only thing that is constant. The governments would therefore continue to amend or introduce new laws in response to these changes. Moreover, as intra-country trade increases, many more problems would also show up. The government would also have to take these into account when formulating new laws and regulations.

References

Robert Jay Dilger (2016), The European Union’s Small Business Act: A Different Approach Congressional Research Service
Maclean Colin, (2013), Internationalization, Business Development Officer, [online],available at http://www.cedsag.com/LinkClick.aspx?fileticket=xVRGM5gU1iM%3D&tabid=169&mid=568
MSMED 2006 Government of India 2006