READINGS FOR UNIT 3

Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 which was notified on October 2, 2006, deals with the definition of MSMEs. The MSMED Act, 2006 defines the Micro, Small and Medium Enterprises based on

1. the investment in plant and machinery for those engaged in manufacturing or production, processing or preservation of **goods** and
2. the investment in equipment for enterprises engaged in providing or rendering of **services**.

The guidelines with regard to investment in plant and machinery or equipment as defined in the MSMED Act, 2006 are:

Manufacturing Enterprises	
• Micro Enterprises	• Investment up to ₹ 25 Lakh.
• Small Enterprises	• Investment above ₹ 25 Lakh & up to ₹ 5 Crore.
• Medium Enterprises	• Investment above ₹ 5 Crore & upto ₹10 Crore.
Service Enterprises	
• Micro Enterprises	• Investment up to ₹ 10 Lakh.
• Small Enterprises	• Investment above ₹ 10 Lakh & up to ₹ 2 Crore.
• Medium Enterprises	• Investment above ₹ 2 Crore & up to ₹ 5 Crore.

In 2018, the Cabinet approved a draft which proposes to change the definition of MSMEs. As per the new proposal, MSMEs should be defined based on annual sales turnover instead of the investment criterion. Also, there will be no distinction between manufacturing and service unit. The proposed thresholds are Micro – up to Rs 5 crore; Small – up to Rs 75 crore and Medium – up to Rs 250 crore

The Micro, Small and Medium Enterprises occupies strategic importance in terms of output (about 45% of manufacturing output), exports (about 40% of the total exports) and employment (about 69 million persons in over 29 million units throughout the country) based on the Planning Commission, 2012. It is observed worldwide that as income increases the share of the informal sector decreases and that of the formal SME sector increases.

Role of Micro Enterprises in Economic Development! We intend in this article to appreciate the important role played by micro and small enterprises in economic development of India. How do you define economic development? The commonest definition could be 'an increase in real per capita income of a person resulting in improvement in the levels of living'. The development of small-scale industries contributes to the increase in per capita income, i.e., economic development in various ways.

It generates immediate employment opportunities with relatively low capital/investment, promotes more equitable distribution of national income, makes effective mobilization of untapped capital and human skills and leads to dispersal of manufacturing activities all over the country, leading to growth of villages, small towns and economically lagging regions. This promotes to balanced regional development as well.

To generate large scale employment

In India, capital is scarce and labour abundant. MSMEs are thought to have lower capital-output and capital-labour ratios than large-scale industries, and therefore, better serve growth and employment objectives. The MSME sector in India has grown significantly since 1960 – with an average annual growth rate of 4.4% in the number of units and 4.62% in employment (currently employing 30 million). Not only do MSMEs generate the highest employment per capita investment, but they also go a long way in checking rural-urban migration by providing people living in isolated areas with a sustainable source of employment

To sustain economic growth and increase exports

Non-traditional products account for more than 95% of the MSME exports (dominating in the export of sports goods, readymade garments, plastic products etc.). Since these products are mostly handcrafted and hence eco-friendly, there exists a tremendous potential to expand the quantum of MSME led exports. Also, MSMEs act as ancillary industries for Large Scale Industries providing them with raw materials, vital components and backward linkages e.g. large scale cycle manufacturers of Ludhiana rely heavily on the MSMEs of Malerkotla which produce cycle parts.

Making Growth Inclusive

MSMEs are instruments of inclusive growth which touch upon the lives of the most vulnerable and marginalized. For many families, it is the only source of livelihood. Thus, instead of taking a welfare approach, this sector seeks to empower people to break the cycle of poverty and deprivation. It focuses on people’s skills and agency. However, different segments of the MSME sector are dominated by different social groups.

INDUSTRIAL FINANCE

Finance is considered as the life-force of industry. Without getting adequate finance industrial development is not at all possible. Due to the lack of adequate finance, industrial development in India could not achieve a significant position and shape. Industries require both short term, medium term and long term finance for meeting their requirements of fixed capital expenditure and also to meet their working capital needs.

Long-Term, Medium-Term and Short-Term Finance:
Long term finance for industries includes those financial resources which are advanced to the industries by the banks for a period of 3 years and above. Long term finance is quite important for the expansion and modernisation of industrial projects and also to meet its fixed capital expenditure requirement.

Long term finance is mostly available from the sale of shares and debentures, and loan from term lending financial institutions like IDBI, IFCI, ICICI etc. Medium term loan is also available from banks and other financial institutions for a period above 1 year and up to 3 years.

Short-term finance for industries includes those financial resources which are advanced by hanks to the industries for a period varying between 1 month to 12 months. Short-term finance is required to meet working capital needs and other sundry expenses of the industrial projects. Commercial banks offer short term loans on cash-credit basis on the security or stocks and overdraft facilities to the industries. Industries can also raise short term finance by raising public deposits for one to three years.

Sources of Industrial Finance:
Following are some of the major sources from which Indian industries are getting their necessary finance in a regular manner:
(a) Shares and Debentures:
Indian industries are normally raising a major portion of their capital by selling shares in low denominations of Rs. 10 each. Share may be a preference share or an ordinary share. Debentures are also issued in the capital market by the companies and in recent years convertible debentures are gradually becoming more popular.

(b) Public Deposits:
Another source of industrial finance is the deposit raised from the public. Ahmedabad textile industry was primarily established on the basis of public deposit. Besides, Cotton Mills of Mumbai and Sholapur. Tea Gardens of Assam and Bengal have also raised their fixed capital in sufficient quantity through public deposit.

In recent years, many industrial firms have joined hands in inviting deposits from public for one to three years by offering attractive rates of interest. The main defect of this source is that these deposits may be withdrawn at any moment and cannot be used for long-term investment projects.

(c) Commercial Banks:
Commercial banks are also offering short-term loans on cash-credit basis on the security of stock and on the additional guarantee of the managing agent. The commercial banks are generally advancing loan for meeting working capital needs of the industries in the form of advancing loan, overdraft, and cash credit facilities against government securities and pledge of stocks.

Commercial Banks, nowadays, have been advancing medium term loan to the industries particularly since the establishment of IDBI.

(d) Indigenous Bankers:
In India indigenous bankers have been rendering important services to industry in time of their difficulty. In urban areas both the small and medium size industries are getting sufficient finance from indigenous bankers. But these Indigenous bankers normally charge exorbitant rate of interest on such loan.

Retained Profits:

Retained profits or undistributed profits of the industries are also being ploughed back into the industry for meeting its requirements of replacement, modernisation and expansion.

Finance for small scale and medium sized industries:

The small scale and medium sized industries are also getting their necessary finance from (a) Commercial banks, (b) Credit Guarantee scheme for small scale industries which is cancelled by the Government in recent years and subsequently the work is entrusted with the Deposit Insurance and Credit Guarantee Corporation, (c) National Small Industries Corporation (NISC).

At the end of June 1980, all the Commercial banks advanced loans to the extent of Rs. 3,520 crore. Again the Deposit Insurance and Credit Guarantee Corporation has guaranteed advances to the small industries worth Rs. 7,500 crore at the end of June 1986. Further, the NISC has supplied machinery to the small scale industries under its hire-purchase schemes to the extent of Rs. 174 crore during the period 1955 to 1984.

But the system of industrial finance followed in India is not at all satisfactory as it suffers from the problem of inadequacy, rigidity, defectiveness, costliness and insignificant attention of State Governments.

TERM LENDING INSTITUTES

Industrial Finance Corporation of India (IFCI):
After the Second World War, there was a great need for the expansion of industries in India. Again with the introduction of planned industrial development, the industrial finance became inadequate to meet the requirements of industrial development of the country. Thus in July 1, 1948 the Industrial Finance Corporation of India (IFCI) was established by the Government under a special Act.

The prime object of IFCI is to provide medium term and long-term finance to public limited companies and co-operative organisations. The authorized share capital of the IFCI is now raised to Rs. 20 crore. The IDBI, scheduled banks, insurance companies, investment trusts and co-operative banks are the shareholders of the IFCI.

Later, by an amendment to the IFCI Act, private limited companies have become eligible to get financial assistance from IFCI. After the establishment of Industrial Development Bank of India (IDBI) in 1964, the IFCI became a subsidiary to the IDBI.

Again on 24th March, 1993 the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Bill 1993 was passed in the Parliament in order to privatize the IFCI Now IFCI would be free to raise resources from the open market and face competition.

The Corporation is authorized to perform the following functions:

(i) Granting loans and advances to industrial concerns and subscribing to the shares and debentures floated by them;

(ii) Underwriting the issue of stocks, shares, debentures and bonds of industrial concerns provided these stocks, shares etc., are disposed of by the Corporation within seven years;

(iii) Guarantees loans raised by industrial concerns in the capital market;

(iv) Granting loans in foreign currencies to specified industries; and

(v) Guarantees deferred payments in respect of imports of capital goods made by approved industrial concerns.

The IFCI is authorized to advance long and medium term finance only to those companies which are engaged in manufacturing, mining, shipping and generation and distribution of electricity. Now the Corporation's capacity to advance loan or to assist a single concern is limited to Rs. 1 crore and the period of loans should not exceed 25 years. The corporation is charging rate of interest on loan at the rate of 11.25 per cent on rupee loan and 11.50 per cent on foreign loan.

The corporation is giving more preference in advancing finance to (i) new entrepreneurs, (ii) projects aimed at exploring new areas of technology, (iii) prospect of the projects in earning foreign exchange, (iv) projects involved for producing inputs for raising agricultural production, (v) projects involved in the production of essential consumer goods, and (vi) projects located in notified list.

Industrial Credit and Investment Corporation of India (ICICI):

In January 1955, the Industrial Credit and Investment Corporation of India was set up with the sponsorship of the World Bank for the development of small and medium industries in the private sector. The corporation was having an authorized capital of Rs. 60 crore and a subscribed Capital to the extent of Rs. 22 crore. The issued capital of this Corporation has been subscribed by Indian banks, insurance companies, individuals and corporations of United States, British eastern exchange banks and other companies and the general public in India.

The major functions of the Corporation are:

(i) To assist industrial concerns with loans and guarantees for loans either in rupees or in any foreign currency;

(ii) To assist in the creation, expansion and modernisation of the industrial units lying within private sector;

(iii) To encourage and promote private capital, both internal and external, to participate in such enterprises;

(iv) To underwrite ordinary and preference shares and debentures and subscribes directly to ordinary and preference shares issues; and

(v) To encourage and promote private ownership of industrial investment along with the expansion of investment markets.

Up to March 1997, since its inception, the Corporation has sanctioned total financial assistance to the extent of Rs. 81,857 crore but the total amount of disbursement was Rs. 48,094 crore. This financial assistance includes foreign currency loan, rupee loan, guarantees and subscription of shares and debentures. Further, ICICI is also trying to develop new industries in backward regions of the country and in this respect total amount of loan sanctioned by this Corporation till March 1992 was to the tune of Rs, 5,600 crore.

ICICI has also started leasing operation in 1983 for modernisation, computerization, energy conservation, export orientation etc. In the mean time, ICICI has been privatized and it has expanded its business into wide areas. Total amount of loan sanctioned by ICICI increased from Rs. 8,491.4 crore in 1993-94 to Rs. 55,815 crore in 2000-01 and then declined to Rs. 36,229 crore in 2001-02. However, the total disbursement of loan by the ICICI was Rs. 4,413 grore in 1993-94 and then it increased to Rs. 31,664 crore in 2000-01 and then declined to Rs. 25,831 crore in 2001-02.

The Industrial Development Bank of India (IDBI):

In order to meet the needs of rapid industrialisation in the country and to coordinate the activities of all agencies a new institution with huge financial resources was necessary. Thus, to fulfill this two-fold objective, the Government of India has decided to set up the Industrial Development Bank of India (IDBI). Accordingly in July 1964, the IDBI was set up formally to provide term finance to industries. Till 1976 this bank was a wholly owned subsidiary of the Reserve Bank of India. But ill 1976 the IDBI was delinked from the RBI and was taken over by the Government of India. Since then IDBI became an autonomous, corporation.

Following are the man functions of IDBI:

(i) Coordinating Agency:

The first important function of IDBI is to co-ordinate the activities of all other institutions which are connected with the financing of industrial development. Thus to establish a harmonious relationship among the term lending institutions IDBI is working as a central coordinating agency.

(ii) Direct Financial Assistance:

The IDBI provides direct financial assistance and thus works as a development financing institution.

(a) Directly grant loans and advances to industrial units,

(b) Subscribes, purchases or underwrites shares, debentures, bonds and stocks,

(c) Has the option open to convert its loans, advances into equity shares, of the concerned industries units, and

(d) Guarantees loans taken by industrial units from scheduled co-operative banks.

(iii) Refinancing:

The IDBI is also helping the industrial units indirectly. The Bank (a) refinances long term loans repayable within 3 to 25 years given by IFCI, SFC and other financial institutions, (b) refinances medium term loan repayable within 3 to 10 years advanced by scheduled banks and State Co-operative banks, (c) refinances export credit given by scheduled banks and the State co-operative banks.

(iv) Special Assistance:

The IDBI has created a special fund known as “Development Association Fund” for assisting those industrial units which are not in a position to secure fund in normal course due to its low rate of return.

(v) Promotional Agency:

The bank is undertaking promotional activities like marketing, investment research surveys, techno-economic studies and providing technical and administrative guidance to any industrial unit for its promotion, management and expansion.

Till the end of March 1997, the IDBI had sanctioned financial assistance to the extent of Rs. 81,857 crore out of which Rs. 48,094 crore was disbursed.

In recent years, the business of IDBI increased considerably. Total loan sanctioned by IDBI increased from Rs. 12,086 crore in 1993-94 to Rs. 27,442 crore in 2005-06 and the volume of disbursement during the same period increased from Rs. 8,096 crore to Rs. 12,984 crore.

Unit Trust of India (UTI):

To assist the small investors of middle income group in finding a safe and remunerative investment, the Unit Trust of India (UTI) was established in February 1964. The Unit Trust had an initial capital worth Rs. 5 crore contributed by RBI, Insurance Companies, State Bank of India, Scheduled banks and other financial institutions.

Objectives:

(i) It stimulates savings among the middle and low-income groups and to mobilize these savings for further investment.

(ii) It helps the small investor to derive a share of the profits earned by trade and industry of the country.

To achieve these two objective the Trust sell Units among the small investors, invest the sale proceeds of the Units in industrial and corporate securities and finally pay dividends to the buyer of its units. Till June 1993, total number of Unit Holders registered with the Trust was nearly 20 million and their total amount of investment was Rs. 34,000 crore. Total investment fund of the Trust as on June 1990 was nearly Rs. 17,496 crore, of which about 59 per cent was invested in shares and debentures of the corporate sector and the remaining 41 per cent was kept in the form of deposits in bank.

The Trust has already invested in the securities of 300 sound industries. Total amount of loan sanctioned by UTI decreased from Rs. 8,332.6 crore in 1993-94 to Rs. 6,770 crore in 2000-01 and then further declined drastically to Rs. 991 crore in 2001-02.

MRTP Act

"When a large number of concerns engaged in the production or distribution of different commodities are in the controlling hands of one individual or family or group of persons ….. Concentration of economic power will also be clearly considered to exist.

The Government appointed Monopolies Inquiry Commission (MIC) enquired into monopoly power and restrictive trade practices of the private sector and submitted its report in 1965. The Monopolistic Inquiry Commission was concerned with the two manifestations of economic power, viz., monopolistic practices and restrictive trade practices. "One such manifestation is the achievement by one or more units in an industry of such a dominant position that they are able to control the market by regulating prices or output or eliminating competition. (Monopolistic practices). Another is the adoption by producers and distributors, even though they do not such a dominant position, of practices which restrain competition and thereby deprive the community of the benefit effects of Competition. The Government of India enacted Monopolies and Restrictive Trade Practices 1969, with an objective of preventing the concentration of economic power to the common detriment of the public, for the control of the monopolies and prohibition of monopolistic and restrictive trade practices. The MRTP Commission was set up to deal with the cases pertaining to the provisions of the MRTP Act. In the wake of globalization, the Indian Government liberalized its regulations making the flow of foreign investment into India simply thereby increasing the number of foreign investors doing business in India.

Objectives of the MRTP Act The main objectives of the MRTP Act are as follows;

1. Prevention of concentration of economic power to the common detriment;

2. Control of monopolies

3. Prohibition of monopolistic trade practices;

4. Prohibition of restrictive trade practices

5. Prohibition of unfair trade practices.

Difference between MRTP ACT and Competition Act

Basis	MRTP	Competition ACT
Base	It is based upon Pre- Liberalization	It is based upon Post-Liberalization
Focus	Curbing Monopolies	Promoting Competition
Registration of Agreements	Compulsory registration of agreements relating to restrictive trade practices	It does not provide for registration of agreement
Dominance	Under MRTP, Dominance itself is bad	Under Competition Act, Dominance per se is not but only abuse of dominance is considered bad
Provisions for combination	Does not contain provisions of combination	Competition Act contain provisions of combination
Penalties	No Penalties for offences	Penalties for offences
Principles	Rule of law approach	Rule of reason approach
Competition Advocacy	No competition Advocacy role for the MRTP	CCI has competition advocacy role
Exclusion	Blanket exclusion of intellectual property rights	Exclusion of intellectual property rights, but unreasonable restriction covered
Provision for Unfair Trade practices	Provisions was there in MRTP Act (Section 36A)	Not included in the new completion Act and now under purview of Consumer protection Act

Competition Act

On December 16, 2002, the Lok Sabha passed a Bill to replace the MRTP (Monopolies and Restrictive Trade Practices) Act, 1969 which was enacted to curb the tendency to create monopoly in commerce, trade and industry. The Act is known as Competition Act, 2002 or Antitrust Law.

In 1999, Government of India appointed a committee on “Competition Policy and Law” under the Chairmanship of Sri S.V.S. Raghvan. In the year 2000, this committee submitted its report. Accordingly, the competition Act, 2002 was framed and passed on the basis of recommendation of this committee.

This Act was enforced on 13th January 2003. Later on, the government made some amendments through passing of competition (Amendment) Bill, 2007. This Act covers whole of India except Jammu and Kashmir. This Act smoothly replaced the MRTP Act.

Under the new laws, hardly 100 of the 6,000 big industries would come under the purview of the Act. An industry having assets of Rs 1,000 crore Or more or having a annual turnover of Rs 3,000 crore or more would attract the provisions of the new law, i.e., Competition Law or Antitrust Law. The Act provides for the constitution of Competition Commission of India (CCI) which is a corporate body with quasi-judicial powers. The order of this Commission can be challenged only in the Supreme Court. The Commission shall be headed by a Chairman and there would not be more than 10 members of the Commission to be appointed by the Government of India. After its formation, the CCI has taken over MRTP commission (MRTPC). Accordingly MRTPC was dissolved and all pending cases of MRTPC were either disposed within a year or shifted to CCI. The pending unfair Trade Practice (UTPs) cases have been shifted to concerned consumer courts formed under consumer protection Act. 1986.

Objectives:

1. To promote healthy competition in the market.

2. To prevent those practices which are having adverse effect on competition.

3. To protect the interests of concerns in a suitable manner.

4. To ensure freedom of trade in Indian markets.

5. To prevent abuses of dominant position in the market actively.

6. Regulating the operation and activities of combinations (acquisitions, mergers and amalgamation).

7. Creating awareness and imparting training about the competition Act.

Main Features of Competition Act, 2002:

1. Competition Act is a very compact and smaller legislation which includes only 66 sections.

2. Competition commission of India (CCI) is constituted under the Act.

3. This Act restricts agreements having adverse effect on competition in India.

4. This Act suitably regulates acquisitions, mergers and amalgamation of enterprises.

5. Under the purview of this Act, the central Government appointed director General for conducting detail investigation of anti-competition agreements for arresting CCI.

6. This Act is flexible enough to change its provisions as per needs.

7. Civil courts do not have any jurisdiction to entertain any suit which is within the purview of this Act.

8. This Act possesses penalty provision.

9. Competition Act has replaced MRTP Act.

10. Under this Act, “Competition Fund” has been created.

NOTE: **Competition Act is not applicable in the following cases**

Public Financial Institutions, Foreign Institutional Investors (FIIs), Banks, Venture capital Funds (VCFs), Agreements related to intellectual property rights (IPRs) such as trademarks, patents, copyrights etc and Central Government has the authority to exempt any class of enterprises from the provisions of Act in the common interest of national security or public interest.

Conclusion:

It can now be concluded that the competition Act, 2002 is landmark legislation. The main aim of this Act is to promote competition and curb all anti-competitive agreements. This Act restricts the abuses of dominant enterprises. It can also regulate any kind of combinations beyond a particular size. Thus this Act does not curb monopolies rather it curbs abuses of monopolies.

Thus, the competition Act is expected to play a responsible role in changing the control mechanism related to monopoly and restrictive trade practices and is also expected to protect the interest of the small and medium industries in the country besides giving consumers more powers to redress their grievances.