

Government of Punjab
Department of Industries & Commerce

3) Scheme for grant of Relief and Concessions to Sick Small Scale Industrial units

Whereas, with a view to facilitate the development of Industry in the State, Government of Punjab have notified the “Industrial Policy – 2003” vide No. 5/58/2002/IIB/968 dated 26.3.2003, which inter-alia provides for grant of Relief and Concessions to Sick Small Scale Industrial units.

Now, therefore, to implement the scheme of Relief and Concessions set out in the aforesaid policy, the Governor of Punjab is pleased to notify detailed scheme as under:-

I. PREAMBLE

Small Scale Industries (SSI) constitutes an important and crucial segment of the industrial sector. With opening up and globalization of economy there has been considerable pressure on the performance of the SSIs, resulting in a number of them becoming sick. Although industrial sickness is an inherent part of the process of development, it causes unemployment, non-payment of state and central government dues, blocking of institutional finance and non-utilization of productive assets. Various factors responsible for causing sickness can be broadly categorized into internal and external factors.

The internal factors include:

- Technical causes such as obsolete technology and non-availability of skilled labour,
- Financial causes such as poor resource management, diversion of funds and deficiency of working capital and other funds, and,
 - Managerial causes such as lack of entrepreneurship, lack of professionalism and marketing problems.

The external factors include:

- Economic causes such as high cost of inputs, uneconomic size of the project, over estimation of demand and high break even point, and,
- Socio-political causes such as Government controls and its fiscal policies such as taxation and non-payment of subsidies and incentives in time, and, lack of physical and social infrastructure.

Therefore, concerted efforts are required to be initiated by the government and other concerned agencies for timely detection of sickness at its incipient stage. To facilitate the revival of viable sick industrial units, Government of India have set up a statutory board viz. Board for Industrial and Financial Reconstruction (BIFR) under the Sick Industrial Companies (Special Provisions) Act, 1985 (BIFR is now being replaced by Tribunals). Small Scale Industries do not, however, come under the purview of BIFR or said Tribunals. To help this sector, Reserve Bank of India (RBI) has issued guidelines to the scheduled commercial banks for rehabilitation of sick units. But the approach has not yielded the desired results and Non-Performing Assets (NPAs) have piled up year after year.

State Government has thus deemed expedient to set-up a State-Level Institutional mechanism, associating concerned state government departments, institutions, banks and industry associations to tackle this issue. The banks will be persuaded to voluntarily join this scheme and will also provide for timely identification of potentially viable sick units before it is too late for any revival.

This mechanism will assist in formulating a revival package for such closed down units which can be economically viable.

For this purpose a State-Level Industrial Revival Forum comprising of such institutions and agencies will be constituted which will consider concessions as provided in this scheme for the rehabilitation of the unit.

II. TITLE

This Scheme shall be known as "Scheme for Revival of Small Scale Viable Sick Industries."

III. OPERATIVE PERIOD

This Scheme shall come into operation with effect from 1st April, 2003.

IV. APPLICABILITY OF THE SCHEME

The Scheme shall be applicable only to Small Scale industrial units/ancillary units in the manufacturing / services sector whose total investment in fixed assets (including land & building) exceeds Rs. 25 lac.

V. ELIGIBILITY

Sick industrial units as defined in the RBI guidelines for rehabilitation of sick units issued vide No: RPCD. NO. PLNFS.BC.57/06.04.01/2001-2002 dated 16 January 2002, and fulfilling the criteria at IV above will be eligible under this scheme.

The scheme will not be applicable to the units becoming sick on account of wilful default.

VI. DEFINITIONS

1. Sick Unit: An SSI unit would be considered sick if

(a) Any of the borrowal accounts of the unit remains substandard for more than six months i.e. principal or interest, in respect of any of its borrowal accounts has remained overdue for a period exceeding one year. The requirement of overdue period exceeding one year will remain unchanged even if the present period for classification of an account as sub-standard, is reduced in due course; or

(b) there is erosion in the net worth due to accumulated cash losses to the extent of 50 percent of its net worth during the previous accounting year; and

(c) The unit has been in commercial production for at least two years.

2. Net Worth: In case of a limited company net worth means the sum total of paid up capital and free reserves. In case of a partnership/proprietary concern net worth means the sum total of partners/proprietor's capital and free reserves.

3. Free Reserves: Means all reserves created out of profit and share premium account but does not include reserves created out of revaluation of assets, written back depreciation under amalgamation provisions.

4. Bank: Means any public sector bank, District Co-operative Bank, Urban Co-operative Bank and any other bank which is a scheduled bank in terms of the second Schedule to the Reserve Bank of India Act.

5. Financial Institution: Means Industrial Development Bank of India, Industrial Finance corporation of India, Industrial Credit and Investment Corporation of India, Small Industries Development Bank of India, Punjab State Industrial Development Corporation, Punjab Financial Corporation or any other institution which is authorised under any law to advance term loans to industrial units.

6. Viable Sick Unit: A unit may be regarded as potentially viable if it would be in a position, after implementing a relief package spread over a period not exceeding five years from the commencement of the package from banks, financial institutions, Government (Central / State) and other concerned agencies, as may be necessary, to continue to service its repayment obligations as agreed upon including those forming part of the package, without the help of the concessions after the aforesaid period.

7. Dues Payable: Means amounts outstanding in respect of all statutory dues like Sales Tax, Central Excise, Electricity Duty, Energy Charges, Income Tax, Provident Fund or dues of such other authorities which have legal claims to receive payment from the unit.

8. State Government: Means Government of Punjab.

9. Special Cell: Means cell in the Industries Department.

10. Forum for Industrial Revival: Means the Forum appointed by the State Government for the implementation of this scheme.

11. Wilful Default: Means default as prescribed by RBI vides Circular DBOD No. DL. (W) BC. 110/20.16.003/2001-02 dated: 30th May 2002 covering the following:

- (a) Deliberate non-payment of the dues despite adequate cash flow and good net worth.
- (b) Siphoning off of funds to the detriment of the defaulting unit.
- (c) Assets financed have either not been purchased or have been sold and proceeds have been misutilised.
- (d) Misrepresentation / falsification of records.
- (e) Disposal / removal of securities without bank's knowledge.
- (f) Fraudulent transactions by the borrower.

12. Eligible Assets: Means the assets created during the period of two years from the date of sanction of the rehabilitation package subject to limit of additional investment as approved by the Board for rehabilitation of the sick unit. No assets acquired, created and / or paid for after this period shall be considered eligible.

13. Eligible Fixed Capital Investment: Means investment in:

a. Land: The actual price paid for the land to the extent needed for the industrial unit excluding land development charges but including land charges on expansion and modernisation within the period of and as part of the project for rehabilitation.

b. New Building: Means additional building constructed to accommodate additional machinery acquired for the purpose of balancing, expansion and modernisation within the period of and as part of the project for rehabilitation.

c. Other Construction: Means other civil work required for installing plant and machinery as a part of rehabilitation project or required for effluent treatment plant.

d. Plant and Machinery: Means new plant and machinery and imported second hand machinery and installation expenditure capitalised for plant and machinery, capital interest during construction cost not exceeding 5% of the total fixed capital investment.

e. Technical Know-how Fee: Technical know-how fees or drawing fees paid in lump sum to as approved by Govt. of Punjab in accordance with the policy in force from time to time or paid to laboratories recognised by the State Govt. or Central Govt.

f. Miscellaneous:

- the amount spent on rationalisation and other dues of workers.

- Amount spent on plant for pollution control measures including facility for collection and treatment of effluents and hazardous wastes.

- Amount spent on captive power generating sets for the connected load including the connected load for original plant.

- Assets acquired under Hire Purchase Scheme or Instalments System would be considered eligible, excluding the cost of interest, subject to condition that the industrial unit gives a specific legal undertaking that within the eligibility period the unit shall not return the said assets to the organisation from whom it was acquired, failing which the deferred amount becomes refundable and recoverable with penal interest at 12% p.a. within one month from the date of discontinuation of agreement under Hire Purchase Scheme or Instalments System.

g. Ineligible items: Working capital (whether raised through Bank or otherwise and including working capital margin), goodwill fees, engineering fees, commissioning fees, commissioning expenses, royalties (capitalised or otherwise), pre-operative expenses, expenditure on trucks, cars, vans, trailers, tractors and transport vehicles and catalysts will not be considered as eligible fixed investment for the purpose of this Scheme.

VII. RELIEFS & CONCESSIONS

The State Government may extend following concessions:

1. Deferment of recovery arrears of sales tax, purchase tax, electricity duty, power bills, house tax and water charges for a period upto five years. These funded dues be made repayable within a period of five years thereafter with interest at a specified rate.
2. Deferment of payment of electricity duty by the unit in respect of energy consumed, for a period of 2 years from the date of sanction of rehabilitation package. This relief/concession may be extended for two years after a review by the board. The amount so deferred will be recovered in six to ten half yearly instalments beginning from the financial year subsequent to the year in which the relevant two-year period expires. The deferred amount will carry interest as specified.
3. Exemption from power cuts to such units will be ensured. In case this is not possible in view of reduced power availability and other compelling demands, the board will reduce power cuts applicable to sick units to about 50% of the stipulated power cuts in case of other industrial units.
4. Prompt permission of the State Government to the sick units for the sale of surplus land.
5. Minimum charges for electricity connection would be exempted during the closure period.
6. Banks / financial institutions will grant reliefs and concessions to the potentially viable sick units as prescribed in appendix-II of RBI guidelines for rehabilitation of sick small-scale Industrial units issued vide Circular RPCD. NO. PLNFS.BC.57/06.04.01/2001-2002 dated: 16 January 2002.
7. In addition to reliefs/concessions envisaged in para-6 above, the benefit of one time settlement of outstanding dues can be considered, as envisaged in para-5 of the RBI guidelines.

While submitting proposal for Revival, the concessions sought from State Government / Banks / Financial Institutions should be fully quantified.

VIII. PROMOTER'S CONTRIBUTION

It is imperative that while rehabilitating a company / unit all concerned have to sacrifice. Accordingly, Promoter will contribute at least 20% of the cost of scheme as equity in a stipulated time frame.

IX. FORUM FOR REVIVAL OF SICK UNITS

State Level Forum for Industrial Revival shall comprise of following members:-

- | | |
|-----------------------------------------------|----------|
| (i) Principal Secretary Industries & Commerce | Chairman |
| (ii) Financial Commissioner, Taxation | Member |
| (iii) Principal Secretary, Power | Member |
| (iv) Chairman, PSEB | Member |

(v) Secretary, Local Government	Member
(vi) Managing Director, PSIDC	Member
(vii) Managing Director, PFC	Member
(viii) Representative of concerned Banks	Member
(ix) Regional Head, RBI	Member
(x) Director, Industries & Commerce	Member Secretary

The Forum will meet once in a month or earlier, if required.

X. PROCEDURE

1. Application for Registration

- (a) Financial institutions or banks desirous of reviving a sick unit financed by them may apply to the Special Cell in the Industries Department in the Form S(a) for availing of reliefs and concessions.
- (b) Any viable sick non-BIFR/SSI unit can also approach the Special Cell directly by applying in Form S(b).
- (c) Such applications should be accompanied by a proposed Revival Scheme giving the causes of sickness, Revival measures as per guidelines of Forum and promoters contribution and also audited Balance Sheets for last three years.

2. Preliminary Scrutiny

The Special cell will carry out a preliminary scrutiny mainly on the following aspects:

- (a) Is the applicant unit eligible for grant of reliefs under this Scheme in terms of Clause-V herein?
- (b) Is the applicant unit actually sick as defined in Clause-VI.1 herein?
- (c) Is the application accompanied by a proposed Revival scheme?
- (d) Is the application accompanied by the unit's audited accounts for preceding three years?
- (e) Are the auditor's remarks dealt and complied with fully and satisfactorily?

If the answers to the above questions are in the affirmative, the Special cell will register the application and give a registration number, which will be conveyed to the applicant in Format S(c). Such a scrutiny shall be complied within a period of maximum of 10 working days.

3. Reference to Consultants

The scheme shall then be referred by the Forum to an independent consultant from a panel of consultants approved by the Forum or given in the Directory of Industrial Consultants published by I.D.B.I. to:

- a) Indicate whether there has been mismanagement or willful siphoning off funds.
- b) Study if the unit in question is a 'viable sick unit' as defined in Clause-VI.1, and,
- c) If yes, prepare a draft revival scheme for the unit under the broad parameters of the scheme. The package will incorporate the reliefs and concessions to be granted by the various agencies and sacrifices to be borne by each of them, which will also be quantified. The consultant will complete the study within fifteen days and submit its report to the Special Cell. The cost of the study will be borne by the applicant.

4. Circulation amongst the Members of Forum

The Special Cell would examine the draft scheme of the consultant and place before the Forum. The Forum may give 'in principle' approval of the scheme as it is, or modify it, or refer it back to the consultant for fresh appraisal, or reject it.

5. Sanctions by the Concerned Agencies

After the 'in principle' approval of the Forum, the scheme will be referred to the concerned agencies, who shall grant their consent for the reliefs and concessions / sacrifices as envisaged, within a period of 30 days. In case they are not in a position to grant their consent within this time period, they will advise the Forum in writing accordingly, giving cogent reasons for non-grant of the reliefs and concessions as envisaged within the given time, failing which it would be considered as a deemed consent and the case will be considered accordingly by the Forum. In case the financing bank and / or financial institution are not agreeable to sanction rehabilitation assistance to the unit, they shall have to state cogent reasons for the consideration of the Forum.

Upon receipt of comments of the concerned agencies / banks, the scheme shall again be placed before the Forum. If the Forum is of the opinion that the final scheme as amended by the concerned agencies, or in respect of Government Departments as determined by the Forum, is a viable scheme, it shall sanction the scheme, and issue orders accordingly.

Decisions of Forum would be binding on all the Departments of the State Government.

6. Time frame for issuance of orders

The respective Departments of the State Government or its agencies participating in the revival programme of sick unit shall sanction the reliefs as decided by the Forum under the provisions of the respective Act/Rules, policy or provisions. They shall issue final orders sanctioning reliefs/concessions to the unit within one week of the receipt of the minutes of the meeting of the Forum wherein the decision to grant relief & concession to the concerned sick unit has been taken, failing which these shall be deemed to have been given. Similarly banks / financial institutions shall also sanction the reliefs envisaged in the scheme within 10 days of the receipt of orders of the Forum.

XI. TERMS AND CONDITIONS FOR GRANT OF RELIEFS

1. Forum will carry out periodical reviews, apart from annual review of the performance of the unit under revival. During the period of revival the unit shall arrange for auditing of its accounts by a firm of chartered accountants as approved by the Forum.
2. The unit which avails of reliefs under this Scheme shall neither declare dividend or nor pay interest on the deposits put up by the promoters during the currency of the revival package.
3. The industrial unit availing of the incentives under this Scheme shall install and effectively operate and maintain pollution control measures as per standards prescribed and approved by competent authority in this regard.
4. The industrial unit shall have to remain in production continuously, at least, till the expiry of the revival period granted by the Forum.
5. The industrial unit shall furnish details regarding production, employment or any other information, which the State Government and Forum may require from time to time.

S.C. Agrawal
Principal Secretary to Government, Punjab
Department of Industries & Commerce

FORM-S (a)

From

To

**The Director of Industries, Punjab,
Chandigarh**

Sir,

It is certified that M/s. _____ engaged in the manufacture of _____ has been financed by our bank / institution. The unit was sanctioned term loan and / or working capital of Rs. _____ on _____. Out of this, the unit has availed the loan / limit of Rs. _____ till _____. Following investment has been made by the unit:-

- (i) Land
- (ii) Building
- (iii) Plant & Machinery
- (iv) Other items.

On the basis of following factors, we have come to the conclusion that the unit has become sick:-

- 1.
- 2.

We feel that the unit is potentially viable for rehabilitation. We shall, therefore, request you to consider the unit for granting rehabilitation package as envisaged in the scheme notified by the State Government.

Signatures of authorized signatory.

Enclosures :-

1. (i) Proposed Revival Scheme
2. (ii) Balance Sheet for last 3 years
3. (iii) Copy of SSI Registration Certificate

FORM-S (b)

From

To

The Director of Industries, Punjab,
Chandigarh

Sir,

It is certified that our above said unit engaged in the manufacture of _____ has been financed by _____ (Bank / Financial Institution). The unit was sanctioned term loan and / or working capital of Rs. _____ on _____. Out of this, the unit has availed the loan / limit of Rs. _____ till _____. Following investment has been made in the unit:-

- (i) Land
- (ii) Building
- (iii) Plant & Machinery
- (iv) Other items.

On the basis of following factors, we have come to the conclusion that the unit has become sick:-

- 1.
- 2.

We feel that the unit is potentially viable for rehabilitation. We shall, therefore, request you to consider our unit for granting rehabilitation package as envisaged in the scheme notified by the State Government.

Signatures of authorized signatory.

Enclosures:-

- 1. (i) Proposed Revival Scheme
- 2. (ii) Balance Sheet for last 3 years
- 3. (iii) Copy of the SSI Registration

**FORMAT S(c)
RECEIPT**

We hereby acknowledge the receipt of your application for revival of sick unit which has been registered at Sr. No. _____ in this Department

For Director of Industries & Commerce, Punjab

Note : Please refer to NOTIFICATION Dated: 29th May, 2003 No. 5/58/2002/IIB/1510 :