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**ಕೆನರಾ ವಾಣಿಜ್ಯ ಮತ್ತು ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆ**

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CIN : U91990KA1940PLC001135

**Ref. No:2023-24/0008**

**7<sup>th</sup> October, 2023**

Smt. Nirmala Sitaraman,  
Hon'ble Minister of Finance and Corporate Affairs,  
Government of India,  
A Wing, Shastri Bhawan,  
Rajendra Prasad Road,  
New Delhi -110 001.

Hon'ble Madam,

Sub: Inclusion of MSME under Section 53(1)(b) of IBC, 2016 for  
preference of payment.

Ref: Our letter dated 30.09.2022.

The Micro, Small, and Medium Enterprises (MSMEs) drive the Indian economy, so it's no surprise that the government's efforts to help them succeed have been widely praised.

There is little hope for MSMEs to get paid their dues after doing business with Limited Liability Companies (LLC) that end up before the National Company Law Tribunal (NCLT). These MSMEs lack the human resources and infrastructure to conduct customer-credit analysis, so they are hit particularly hard when the LLC is recommended for Resolution by the NCLT. When dealing with the Resolution Professional or the Committee of Creditors, MSMEs will be treated as operational creditors and will have very little leverage.

There is an urgent need to amend the Insolvency and Bankruptcy Code, 2016 so that MSMEs receive preference in the waterfall mechanism of asset distribution. The consensus is that MSMEs claim should be treated similarly to the workmen's dues by being included in Clause (b) of subsection 1 of Section 53. All cases currently pending before the NCLT or NCALT should be eligible for these benefits.

If this doesn't happen, it will be difficult for MSMEs caught in the web of companies that have gone to NCLT to survive. As a chamber that regularly hosts cases referred for arbitration or settlement pursuant to the MSMED Act of 2006, we can attest to the strain that small and medium-sized enterprises (SMEs) are under.

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We want to bring your attention to the NCLT, Ahmedabad-approved Resolution plan of GAIL (India) Limited to acquire M/S JBF Petrochemicals, Mangalore SEZ, Mangalore. Under the Resolution Plan, only 5.7% of the INR 44 Crs owed by M/s J B F Petrochemicals to 60 MSME units whose products and services were used in the building of the petrochemical complex was paid. Civil engineering, mechanical engineering, electrical engineering, instrumentation engineering, and the service sector have all been negatively impacted by this crisis. To say that business owners, employees, and their families are suffering would be an understatement.

**PRAYER:** We humbly request that you take steps to amend the Insolvency and Bankruptcy Code of 2016 to include MSME dues under Clause (b) of Subsection 1 of Section 53 on par with the workmen's dues.

Thanking you

Yours faithfully,  
For **KANARA CHAMBER OF COMMERCE & INDUSTRY**

**ANANTHESH V. PRABHU**  
**DIRECTOR / PRESIDENT**  
**DIN 07327024**

Cc: Affiliated bodies of KCCI.

**Affiliated to:**

Federation of Indian Chambers of Commerce & Industry, New Delhi. | Federation of Karnataka Chambers of Commerce & Industry, Bengaluru.

Confederation of Indian Industry (Southern Region), Bengaluru/Chennai. | Bangalore Chamber of Industry & Commerce, Bengaluru. | Indian Merchants' Chamber, Mumbai.

**For Mediation, Arbitration, Conciliation contact:**



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