

Scheme for Relief to the Sick
Industrial Company registered
with the BIFR & GBIFR

GOVERNMENT OF GUJARAT

Industries and Mines Department

Government Resolution No: BFR/(HPC)/102003/3537/P

Sachivalaya, Gandhinagar

Dated the 12th May 2004

- Read: - [1] Industries and Mines Department, Govt. Resolution
No: LMI-1090/116/B/273-P, Dated: 28-6-1991
[2] Industries and Mines Department, Govt. Resolution
No: STU-1091/3224-CH, Dated: 20-6-1991
[3] Industries and Mines Department, Govt. Resolution
No: STU/1098/668/CH, Dated: 14-8-1998

PREAMBLE

The Government of Gujarat has issued guidelines vide Resolution referred at serial No: 1 above, for the grant of relief and concessions to the Sick Industrial Company of the Gujarat State, registered with the BIFR under Sick Industrial Companies (Special Provision) Act-1985. Govt. has also issued separate orders, for the grant of relief/concessions to Sick Small Scale Industries, vide Govt. resolutions referred to above at Sr. No. 2 and 3.

RESOLUTION

In supercession of the Government Resolution referred to above at serial number [1] and in partial modification of Govt. resolutions referred to at Sr. No. 2 & 3, the Government of Gujarat has decided as follows a new policy for the grant of the relief and concessions to the Sick Industrial Companies registered with the BIFR and also to small scale and Non-BIFR Sick Viable units registered with GBIFR.

1. Applicability:-

- 1.1 The provisions of the reliefs and concessions contained in this Resolution will be applicable as a part of Rehabilitation scheme only to those Sick Industrial Companies, which have been declared sick by the BIFR, or to those Small Scale and Non-BIFR Sick Viable Industries, which have been declared sick by the GBIFR. Policy announced by GR

dated 28-6-91 referred to at Sr.No.1 in the preamble is forthwith withdrawn and Govt. resolutions referred to at Sr. No: 2 and 3 in the preamble shall stand modified in pursuance of this Govt. Resolution.

1.2 This Scheme will remain in force for 3 years.

2. Reliefs and Concessions under 50% Deferment Scheme:-

2.1 For the purpose of this GR;

(i) "Competent authority" shall mean Principal Secretary, Industries and Mines Department in the BIFR cases and Industries Commissioner in the GBIFR cases.

(ii) "sick unit" shall mean an industrial unit which has been declared as sick unit either by BIFR or GBIFR.

2.2 A sick unit, which intends to avail of relief and concessions mentioned in this GR will be entitled to avail the benefit of 50% deferment of Sales Tax and Electricity duty and it shall be required to make payment to the Government to the extent of 50% of the amounts of sales tax and electricity duty (hereinafter referred to as "taxes") that have become accrued and payable to the State Government from the date on which the sick unit has filed reference in the BIFR or made application to the GBIFR. In respect of the taxes that have become accrued and payable for the period commencing from the date as aforesaid till and ending on the date of the order of the competent authority, such unit may select any of the following options for the purpose of making payment to the Government and submit its application, as regards option, to the competent authority at the time of making reference to the BIFR or filing application before GBIFR.

Option	Period during which amount of taxes shall be paid	Down Payment	Relief/remission towards interest and penalty
1	If sick unit makes payment of the 50% of the amount of taxes within 6 months of the order by the competent authority.	10%	Remission of the entire amount of interest, penal interest and penalty.
2	If sick unit makes payment of the 50% of the amount of taxes within 18 months of	15%	(i) Remission in the interest beyond 9%. Accordingly, the unit shall be required to make

	the order by the competent authority.		<p>payment of simple interest at the rate of 9% on the unpaid amount of taxes from the due date of payment.</p> <p>(ii) Remission of the entire amount of penal interest and penalty.</p>
3	If sick unit makes payment of the 50% of the amount of taxes within 30 months of the order by the competent authority.	20%	<p>(i) Remission in the interest beyond 12%. Accordingly, the unit shall be required to make payment of simple interest at the rate of 12% on the unpaid amount of taxes from the due date of payment.</p> <p>(ii) Remission of the entire amount of penal interest and penalty.</p>

2.2 (a) The amount of down payment payable as per the option given by the sick unit shall be paid within two months of the order issued by the competent authority. Down payment is required to be made with reference to the amounts of taxes only.

2.2. (b) The unit shall pay the remaining amount (i.e. after excluding the amount of down payment) of taxes alongwith interest payable (as per column 4 above) in equal and monthly installments commencing in the month subsequent to the month in which down payment is made. Such monthly installments shall be paid during the period specified in column 2 above, as may be applicable as per the option.

2.2 (c) If the unit fails to make down payment or payment of any of the installments in accordance with the option given by it, it will not be entitled to any remission of interest or penalty under this GR. Accordingly, such a defaulter will be required to make full payment of tax, interest and penalty, without any relief.

2.3 As regards any arrears or unpaid amounts, in respect of any period prior to the date of reference to the BIFR or the date of application to GBIFR, of any State taxes, other dues of State Government such as water charges, royalty, cess etc. as also outstanding dues payable to Gujarat Electricity Board, Gujarat Industrial Investment Corporation Ltd., Gujarat State Financial Corporation, Gujarat Industrial Development Corporation or Gujarat Maritime Board, the sick unit shall make the payment in accordance with paragraph 3 of this GR. The unit shall give in writing its consent for the payment of these

outstanding dues in the manner prescribed in para 3. Those units, which fail to make payment accordingly, will not be entitled to any relief or concessions under this GR.

- 2.4 Those sick units which are liable to pay minimum charges of electricity or water for the past period, may make an application to the competent authority for reduction in the committed quantity of electricity or water. On receiving such an application, the competent authority may issue an order within 15 days of such an application, declaring that the reduction in the committed quantity of electricity or water shall apply to the outstanding dues. Sick unit will be required to make payment of outstanding amount of minimum charges to be calculated as per the order of the competent authority; and such payment shall be made in the manner prescribed in paragraph 3 of this G.R.
- 2.5 Those units which give consent in writing for payment of old outstanding dues as per paragraph 3 of this G.R. and also give the option as per paragraph 2.2. may be granted deferment towards sales tax and electricity duty (hereinafter referred to "taxes") in the following manner:
- (a) The benefit of deferment of taxes will be available for maximum seven years or upto the time when the networth of the sick unit becomes positive, whichever occurs earlier. The period of 7 years shall commence from the date of application/reference made to BIFR/GBIFR. The cash flow of the sick unit will be scrutinized every year; and after ensuring satisfactory cash flow, Govt. orders for relief will be issued for further period.
 - (b) The interest @ 9% p.a. on simple basis will be charged on amount of deferment of Sales Tax and electricity Duty. This interest will be applicable from due date till the payment is made to the Government.
 - (c) The rate of interest at 9% referred to in (b) above will apply to only those cases where in concerned bank or financial institution also agree to charge interest at the rate of 9% on their outstanding and future dues. In case, concerned bank or financial institution decides to charge interest at any rate above the rate of 9%, that higher rate of interest shall apply in respect of deferred dues of taxes under this paragraph.

- (d) The unit shall be required to make payment of deferred dues of taxes in equal and monthly installments spread over the period equal to the period for which deferment has been availed of. First installment shall be payable in the month subsequent to the month in which deferment period referred to in para 2.5(a) is over.
- (e) During the period of rehabilitation scheme, the sick unit will have to regularly pay all the Government dues and dues payable to Board/Corporations .
- (f) The total quantum of financial sacrifice of the Government of Gujarat should be **"Matching and Equitable"** on the pro-rata basis with the total quantum of financial sacrifice of the Banks & Financial Institutions taken together and also with the total quantum of financial sacrifice of the promoters. The total amount of financial sacrifice of the Government of Gujarat should in no case exceed the total amount of financial sacrifice of the Banks & Financial Institutions taken together and the amount of financial sacrifice of the promoters.
- (g) The difference between the amount of interest, penalty and penal interest leviable under the provisions of the respective Acts and Rules, and the amount of interest, penalty and penal interest actually payable and paid as per the options mentioned in Para-2 and Para-3 will be treated as the financial sacrifice of the Government of Gujarat.
- (h) The relief to be granted under this policy will be subject to the condition that the sick company and the promoters of the sick company follow the principles of **"Financial Discipline"** and **"Financial Propriety"** for their expenditures. For this purpose, a **"Performance Audit"** of the sick unit, more particularly for discipline of expenditure, will be carried out every year, and only if the results of **"Performance Audit"** are found satisfactory, then the orders for extension of the reliefs granted earlier will be issued. The **"Performance Audit"** and **"Cashflow Analysis"** will be done through the recognized Chartered Accountants only. Government of Gujarat will fix necessary criteria for verification of the **"Financial Discipline"** and **"Financial Propriety"**.

- (i) The Government of Gujarat will have the powers to appoint a Government nominee on the Board of Directors of the sick company getting the reliefs from the Government.

3. Reliefs & Concessions under OTS Scheme :-

3.1 One time settlement of the dues pertaining to the period prior to the date of reference to the BIFR or as the case may be, the date of application to GBIFR.

A sick unit, which is required to make payment of any outstanding dues in respect of the period prior to the date of reference to the BIFR or as the case may be, the date of application to GBIFR, may give option to make payment of such outstanding dues in the manner stipulated below:

Option	Period during which amount of outstanding dues shall be paid	Down Payment	Remission towards interest and penalty
1	If sick unit makes entire payment of all the outstanding dues within 6 months of the order by the competent authority.	10%	Remission of the entire amount of interest, penal interest and penalty.
2	If sick unit makes entire payment of all the outstanding dues within 18 months of the order by the competent authority.	15%	(i) Remission in the interest beyond 9%. Accordingly, the unit shall be required to make payment of simple interest at the rate of 9% on the unpaid amount of taxes from the due date of payment. (ii) Remission of the entire amount of penal interest and penalty.
3	If sick unit makes entire payment of all the outstanding dues within 30 months of the order by the competent authority.	20%	(i) Remission in the interest beyond 12%. Accordingly, the unit shall be required to make payment of simple interest at the rate of 12% on the unpaid amount of taxes from the due date of payment. (ii) Remission of the entire amount of penal interest and penalty.

3.2.(a) For the purpose of this paragraph, "outstanding dues" shall mean any amount accrued and payable towards State taxes, other dues of the

State Government, such as water charges, royalty etc., and also the dues payable to GIIC, GSFC, GIDC, GEB and GMB.

3.2(b) The amount of down payment payable as per the option given by the sick unit shall be paid within two months of the order issued by the competent authority. Down payment is required to be made with reference to the amount of taxes and the principal amounts of other dues referred to in para 3.2(a) above.

3.2(c) The unit shall pay the remaining amount (i.e. after excluding the amount of down payment) of taxes and other dues alongwith interest payable (as per column 4 above) in equal and monthly installments commencing in the month subsequent to the month in which down payment is made. Such monthly installments shall be paid during the period specified in column 2 above as may be applicable as per the option.

3.2(j) If the unit fails to make down payment or payment of any of the installments in accordance with the option given by it, it will not be entitled to any remission of interest or penalty under this GR. Accordingly, such a defaulter will be required to make full payment of tax, interest and penalty, without any relief.

3.2(e) 50% of the amount of the Sales tax and Electricity duty accruing after the date of reference to BIFR or the application to the GBIFR will have to be paid in due course as per the rules and for the remaining 50% of the amount of the Sales Tax and Electricity Duty, the benefit of deferment as per Para 2 of this GR will be available.

4. Authority for Sanction :-

- 4.1 The cases of the units declared as sick by the GBIFR will be decided by the committee chaired by the Industries Commissioner.
- 4.2 The cases of the company declared as sick by the BIFR and having outstanding of past dues amounting to more than Rs. 5 Crores will be decided by the High Power Committee chaired by Hon'ble Chief Minister.
- 4.3 The cases of the company declared as sick by the BIFR and having an outstanding of past dues amounting to up to Rs. 5 Crores will be decided by the Committee chaired by the Chief Secretary.

5. Other Terms and Conditions:-

- 5.1 In case of any question of interpretation or clarification relating to this resolution, the decision of HPC will be final.
- 5.2 The relief & concessions expected from the Government of Gujarat should be critical and need based for the revival of the company.
- 5.3 There should be substantial contribution from the promoters in the revival scheme. For this purpose, the Operating Agency and company should provide to the Government of Gujarat the details of quantified figures of sacrifice of the promoters and the percentage of contribution from the promoters in the revival scheme and details of such contribution.
- 5.4 All the relief mentioned in this resolution are not automatically available to any sick company. After considering the merits of the individual case, the matter of granting the reliefs and concessions will be decided by the respective committee mentioned in para-4.

6. Monitoring :-

- 6.1 For evaluating and monitoring the performance and progress of the companies declared sick by the BIFR, a separate "Monitoring Cell" consisting of professional and other personnel will be created in the Industries and Mines Department.
- 6.2 For evaluating and monitoring the performance and progress of the companies declared sick by the GBIFR, a separate "Monitoring Cell" consisting of professional and other personnel will be created in the office of the Industries Commissioner.
- 6.3 Whenever the "Monitoring Cell" notices any discrepancy or serious deviation in the implementation of the sanctioned scheme, the "Monitoring Cell" will bring such facts to the notice of the respective committee.

For GBIFR cases, a separate GR consolidating various earlier GRs will be issued subsequently.

For proper implementation of both the Schemes viz. OTS & 50% Deferment Scheme, detailed procedure and formats will be prescribed subsequently.

This issues with the concurrence of Finance Department dated 1-3-2004 on this department's file of even number.

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



(G.C. Bhavsar)

Under Secretary to Government of Gujarat,
Industries and Mines Department

Copy to:-

- The secretary to the Governor.
- The Principal Secretary to the Chief Minister.
- All Personal Secretary to the Ministers.
- The Principal Secretary, Finance Department, Sachivalya, Gandhinagar.
- The Principal Secretary, Energy & Petrochemicals Department, Sachivalya.
- All Departments of Secretariat, Sachivalya, Gandhinagar.
- The Industries Commissioner, Udhyogbhavan, Gandhinagar.
- The Commissioner of Sales Tax, Ahmedabad.
- The Managing Director, G.I.I.C., Udhyogbhavan, Gandhinagar.
- The Managing Director, G.S.F.C., Udhyogbhavan, Gandhinagar.
- The Managing Director, G.I.D.C., Udhyogbhavan, Gandhinagar.
- The Chief Executive Officer, Gujarat Maritime Board, Gandhinagar.
- The CEI & Collector of Electricity Duty, Udhyogbhavan, Gandhinagar.
- The General Manager, GEB, Vadodara.
- The Accountant General, Ahmedabad. / Rajkot.
- The Pay and Accounts Office, Gandhinagar.
- The Registrar, Board for Industrial and Financial Reconstruction (BIFR), New Delhi.
- The Registrar, Appellate Authority for Industrial and Financial Reconstruction (AAIFR), New Delhi
- All Leading Financial Institutions/Banks.
- All Heads of Departments under Industries and Mines Department.
- All Board/Corporations under Industries and Mines Department.
- All District Industries Centers (D.I.C.S.).
- All Branches of Industries and Mines Department.
- The Select File.