

1. Legal Provision - Certain deductions to be only on actual payment -

Section 43B(h) of Income Tax Act provides as follows –

Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of -

⁴³**[(h) any sum payable by the assessee to a micro or small enterprise beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006.),] shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him**

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¹⁴**[Provided that nothing contained in this section ⁴⁴[[except the provisions of clause (h)]] shall apply in relation to any sum ¹⁵[***] which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.**

²⁶**[Explanation 4.-For the purposes of this section,-**

³⁶⁴⁵**[(e) "micro enterprise" shall have the meaning assigned to it in clause (h) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006.);]**

...

⁴⁶**[(g) "small enterprise" shall have the meaning assigned to it in clause (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).]]**

2. Memorandum to finance bill 2023 specified as follows –

Promoting timely payments to Micro and Small Enterprises

[Section 43B](#) of the Act provides for certain deductions to be allowed only on actual payment. Further, the proviso of this section allows deduction on accrual basis, if the amount is paid by due date of furnishing of the return of income.

2. In order to promote timely payments to micro and small enterprises, it is proposed to include payments made to such enterprises within the ambit of [section 43B](#) of the Act. Accordingly, it is proposed to insert a new [clause \(h\) in section 43B](#) of the Act to provide that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment. However, it is also proposed that the proviso to [section 43B](#) of the Act shall not apply to such payments.

3. Section 15 of the MSMED Act mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days. Thus, the proposed amendment to [section 43B](#) of the Act will allow the payment as deduction only on payment basis. It can be allowed on accrual basis only if the payment is within the time mandated under section 15 of the MSMED Act.

4. This amendment will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-25 and subsequent assessment years.

[3. Relevant MSME Act snapshots are as follows –](#)

Section 15. Liability of buyer to make payment:

Where any **supplier** supplies any **goods or renders any services** to any buyer, the buyer shall make payment therefor **on or before the date agreed upon** between him and the supplier **in writing** or, where there is no agreement in this behalf, **before the appointed day**:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days **from the day of acceptance or the day of deemed acceptance**.

Section 16 - Date from which and rate at which interest is payable:

Where any **buyer fails to make payment** of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any agreement

between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount **from the appointed day** or, as the case may be, from the date immediately following the date agreed upon, at **three times of the bank rate** notified by the Reserve Bank.

Section 2(b) "appointed day' means the day following immediately after the expiry of the period of **fifteen days** from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Explanation.--For the purposes of this clause,--

(i) "the day of acceptance" means,--

(a) the day of the **actual delivery of goods or the rendering of services**; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, **the day on which such objection is removed by the supplier**;

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the **day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services**;

S2 (e) "enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the **manufacture or production of goods**, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (55 of 1951) or **engaged in providing or rendering of any service or services**;

S2 (n) "supplier" means a micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8, and includes,--

(i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956 (1 of 1956);

(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956 (1 of 1956);

(iii) any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises;

Section 2(h) of the MSMED Act defines “micro enterprise” to mean an enterprise classified as such under sub-section (1) of Section 7

Section 2(m) of the MSMED Act defines “small enterprise” to mean an enterprise classified as such under sub-section (1) of Section 7

Section 7(1) of the MSMED Act provides that the Central Government may, for the purposes of this Act, **by notification** (in the Official Gazette), classify any class or classes of manufacturing or service enterprises, whether proprietorship, HUF, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called, into:

- Micro Enterprises
- Small Enterprises
 - Medium Enterprises