



# S. 43B of Income Tax Act - Payment to Micro and Small Enterprises

- Section 43B of the IT 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.
- In order to promote timely payments to micro and small enterprises, Finance Act, 2023 has provided that the amount payable to such enterprises beyond the time limit prescribed under Section 15 of MSMED Act will be allowed only on actual payment.
- Therefore, if any amount due to Micro and Small enterprises is outstanding/unpaid beyond prescribed time limit, the expense shall be disallowed and will be subsequently allowed in the year of payment.
- The deduction shall not be available even if such amount is paid after year end but before the due date of filing return of income.
- The above amendment is applicable from F.Y. 2023-24.

## 1. Background

- Micro enterprise and small enterprise shall have the meaning assigned to it in section 2(h) and Section 2(m) of the MSME Act.
- A micro enterprise is where the investment in Plant and Machinery or Equipment does not exceed INR 1 crore and turnover does not exceed INR 5 crore
- A small enterprise is where the investment in Plant and Machinery or Equipment does not exceed INR 10 crore and turnover does not exceed INR 50 crore

## 2. Micro & Small Enterprise

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- Section 15 of MSMED Act provides for below time limit for payments to MSME:
  - 15 days from the day of acceptance or the day of deemed acceptance - Where there is no agreement
  - The period agreed between the supplier and the buyer in writing shall not exceed 45 days from the day of acceptance or the day of deemed acceptance
- 'Day of acceptance' means, –
  - the day of the actual delivery of goods or the rendering of services; or
  - where any objection is made in writing by the buyer within 15 days of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

### 3. Prescribed time limit for payment

- To obtain declaration from all vendors (goods + services) regarding status of Micro and Small Enterprise. Medium enterprise i.e. having turnover of more than 50 Crore are not covered.
- To categorize Micro & Small Enterprise creditors separately in the accounting software.
- To review terms of payment and specifically mention the same in writing either on agreement or on invoice. Maximum 45 days is allowed as per MSME Act. In absence of specific terms, 15 days period will be assumed.
- To ensure payments to Micro and Small Enterprise are made within agreed terms (45/15 days). Failure of which may result in disallowance of expenditure under Income Tax and eventually increase in outflow of Income Tax.
- There is a view that traders would not be covered within the ambit of S. 43(B). However, the said issue lacks clarity as on date and said position may be prone to litigation.

## 4. Action Points

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# THANK YOU

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