



**Varaiya and Shah LLP**  
Chartered Accountants

## MSME Alert

### Payments to Micro or Small Enterprises for Goods or Services :

**This alert is for those who are involved in any business/professional activities.**

- I. Please refer to our email dated 07<sup>th</sup> February 2023 on "Highlights – Finance Bill 2023"

Point ii of Section "Corporate Tax" therein reads as under:

*"Payments to Micro and small enterprise: Deduction of expenditure for goods procured or service received from Micro and small enterprise will be allowed only if payment thereof is made within the time specified in their relevant Act (time specified means time specified in Agreement which cannot exceed 45 days, if no time specified, then it is 15days). However, such expenditure if not paid within specified time, will be allowed in the year of payment."*

The above provision [Section 43B(h)] is effective from financial year 2023-24 (Ass. Year 2024-2025).

The section reads as under:

*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.*

It is extremely important to understand the implication of above new provision.

Meaning: It says that every buyer of goods or services from any micro or small enterprises SHALL make payment of such supply to the concerned supplier, within the date agreed upon & if no such date is agreed upon, then within 15 days from the date of supply. The "date agreed upon" in writing cannot exceed 45 days from the date of supply. So, by an agreement, if credit period is 60 days, the payment shall still be made within 45 days.

II. Please see following examples:

**F.Y. 2023-24**

Sr. No.	Date of supply goods on service	Periods of credit	Payment made on	Tax Effect
I	1 <sup>st</sup> July 2023	45 days as agreed upon	5 <sup>th</sup> Sept. 2023	Allowable in 23-24 since all dates fall in 23-24 & paid within 45 days
II	1 <sup>st</sup> July 2023	45 days as agreed upon	10 <sup>th</sup> Oct. 2023 (beyond due date)	Although paid beyond 45days, allowable in 23-24 since all dates fall in 23-24
III	1 <sup>st</sup> July 2023	15 days since no agreement	1 <sup>st</sup> Sept. 2023 (beyond due date)	Although paid beyond 15days, allowable in 23-24 since all dates fall in 23-24

**[ Thus, as long as date of supply, the expiry of 45 days (if agreed upon in writing) or 15 days (if no date of payment specified) and payment fall in the same year, such purchases will be allowed in the same year.]**

Sr. No.	Date of supply goods on service	Periods of credit	Payment made on	Tax Effect
IV	20 <sup>th</sup> February 2024	45 days as agreed upon	5 <sup>th</sup> April 2024	Allowable in FY 2023-24 since paid within 45 days
V	20 <sup>th</sup> February 2024	45 days as agreed upon	20 <sup>th</sup> April 2024 (beyond due date)	Allowable in FY 2024 -25 i.e., the year of payment
VI	20 <sup>th</sup> February 2024	15 days since no agreement	5 <sup>th</sup> April 2024 (beyond due date)	Allowable in FY 2024 -25 i.e., the year of payment

### III. Criterion for Micro and Small Enterprise:

#### Micro Enterprise:

- i. Investment in Plant and Machinery does not exceed 1 Crore
- ii. Turnover does not exceed 5 Crore

#### Small Enterprise:

- i. Investment in Plant and Machinery does not exceed 10 Crore
- ii. Turnover does not exceed 50 Crore

### IV. Interest for late payment:

#### Section 16 of the MSMED Act, 2006

*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 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.*

***Such interest is not allowable under the Income tax Act, 1961.***

### V. Section 22 of the MSMED Act, 2006 provides:

*Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall furnish the following additional information in his annual statement of accounts, namely:*

- i. the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;*
- ii. the amount of interest paid by the buyer in terms of section 16, along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;*
- iii. the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act;*
- iv. the amount of interest accrued and remaining unpaid at the end of each accounting year; and*

- v. *the amount of further interest remaining due and payable even in the succeeding years. Until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under section 23.*

**Conclusion:**

- 1. Buyers/recipients of goods and services should make payment within stipulated time so as to avoid disallowance in the year of purchase and to avoid interest on delayed payment.**
- 2. Micro and Small enterprises should get registered under MSMED ACT, 2006 so as to secure payment of supply of goods and services within stipulated time.**

Thanking You,

We, at Varaiya & Shah LLP

Date: 17<sup>th</sup> January, 2024

*As compiled by – Mr Akshay Mokha*

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