



MSME ACT, 2006

MICRO, SMALL AND MEDIUM ENTERPRISES

An Act to provide for facilitating the promotion, development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

MSME Act provides that any Enterprise which receive certain goods or services from the Enterprises which are registered under this act and the payment is to be made by the receiver of the goods and services then irrespective of their agreements,

- the payment is to be made within 45 days, and
- in case there is no written agreement then the payment is to be made within 15 days of the appointed date

MICRO ENTERPRISES

Net investment in plant
and machinery or
equipment up to Rs.1 crore
and net turnover \leq Rs.5
crores

SMALL ENTERPRISES

Net investment in plant
and machinery or
equipment \leq Rs.10 crores
and net turnover \leq Rs.50
crores

MEDIUM ENTERPRISES

Net investment in plant
and machinery or
equipment \leq Rs.50 crores
and net turnover \leq Rs.250
crores

TURNOVER LIMITS

Type of enterprise	Investment	Turnover
Micro	Rs 1 crore	Rs 5 crore
Small	Rs 10 crore	Rs 50 crore
Medium	Rs 50 crore	Rs 250 crore

UNDERSTANDING CLAUSE H IN SECTION 43B OF THE INCOME TAX ACT AND THE MSME ACT

The newly inserted Clause H in section 43b of the income tax act regarding micro and small Enterprises under the MSME act 2006. It explains the provisions of the MSME act, the impact of the Finance act 2023, and the applicability of section 43b to different types of entities. It also emphasizes the importance of compliance and reporting for auditors.

DEFINATION OF MSME

Old Definition of MSME	New Definition of MSME
Different threshold limits for manufacturing and service sectors	Uniform threshold limits for manufacturing and service sectors
Excluded retail and wholesale sectors	Includes retail and wholesale sectors
Threshold limits not adjusted for inflation	Threshold limits adjusted for inflation
Cost of equipment not adjusted for depreciation	Cost of equipment adjusted for depreciation
Depreciated cost calculated as per commercial rates	Depreciated cost calculated as per IT rules
Upward limits of turnovers and investments were too low	Upward limits of turnovers and investments have been raised
Export turnover included in total turnover	Export turnover excluded from total turnover

The Finance Act 2023 inserted Section 43B(h), which stipulates that any sum owed to Micro, Small and Medium Enterprises (MSME) for goods supplied or services given may be deducted in the same year if it is paid within the deadline stipulated by the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006.

AIM -

To address the issue of working capital scarcity in the MSME industry and promote prompt payments to micro and small businesses.

APPLICABLE-

This clause is applicable when an enterprise is buying goods or taking services from an enterprise registered under the MSMED Act, 2006. Notably, the registration of the buyer under the MSMED Act, 2006, is not mandatory.

NEW MSME 45 DAYS PAYMENT RULE

Business enterprises are required to pay MSMEs within 45 days, as per section 15 of the MSMED Act, 2006, depending on the presence of a written agreement. In the absence of a written agreement, payment should be made within 15 days. In case there is a written agreement, payment shall be made as per the agreed-upon timeline, not exceeding 45 days.

This deduction is applicable in the previous year when the sum is actually paid.

It comes into effect from April 1, 2024.

MSME ACT & ITS PROVISIONS

ASAP and Associates LLP

01

The Income Tax Act has an overriding effect on interest payments disallowance.

02

Section 43b under the Income Tax Act has been excluded from certain provisions (such as bonus, duty taxes etc)

03

The Ministry of MSME and Corporate Affairs have issued compliance notifications for companies.

CONSEQUENCES OF DELAYED PAYMENTS

In the case of late payment to an MSME,
interest is applicable.

- **Rate of interest:** Compound interest at the times of the bank rate notified by the Reserve Bank of India (RBI).
- **Date from which interest is payable:** Appointed day or the date as per the agreement, as the case may be.
- Deduction of this interest is not allowed as an expense, as per the Income-Tax Act (ITA), 1961

RECENT COMPLIANCE REQUIREMENTS

- Section 43b under the Income Tax Act has been excluded from certain provisions, like bonus, the duty tax and cess, the interest to Banks.
- Payment are allowed if they the payment is made within the due date and not if they are paid before the due date of filing of the original return
- The Income Tax Act has an overriding effect on interest payments disallowance.
- The Ministry of MSME and Corporate Affairs have issued compliance notifications for companies.

EXAMPLE ON CLAUSE H

Sr. No.	Day of acceptance of any goods or services by a buyer from a supplier	Credit period (Days)	Actual date of payment	Deduction allowed in which FY
1	29/03/2024	60	25/05/2024	FY 2024-25
2	01/04/2024	45	21/05/2024	FY 2024-25
3	31/01/2024	15	20/02/2024	FY 2023-24
4	11/09/2023	20	03/10/2023	FY 2023-24
5	30/11/2023	30	20/12/2023	FY 2023-24
6	21/04/2024	40	20/06/2024	FY 2024-25
7	15/12/2023	–	05/04/2024	FY 2024-25
8	10/11/2023	–	30/11/2023	FY 2023-24

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CLARIFICATIONS ON MSME ACT AND 43B DISALLOWANCES

01

Traders registered under MSME Act only get benefits for priority sector lending, not 43B disallowances. (Memorandum issued on 2nd July 2021)

02

Double disallowance under 40AIA and 43B does not apply if deduction is not claimed.

03

Opening balances of udyam registered entities are not considered for 43B disallowances.

04

44AD and 44ADA would not be covered because the section itself says that it will be deemed that all the deductions from 28 to 43c would be allowed

MANDATORY DISCLOSURES AND AUDITING REQUIREMENTS IN FINANCIAL STATEMENTS

- Nondeduction of TDS and disclosure requirements under section 40
- Applicability of section 43B to entities with less than 10 crores and no cash transactions
- Auditors' responsibility for delayed payment disclosures as per section 22 of the MSME Act

AUDITING STANDARDS AND REPORTING FOR MSME 43B

- Ensure appropriate disallowance and income tax provision
- Auditors should ensure materiality and report it
- Appropriate reporting for non-provision of interest and dues

THANK YOU