

# **Kharabanda Associates**

## **Chartered Accountants**

### **Section 43B of the Income Tax Act**

Following clause (h) shall be inserted after clause (g) of section 43B by the Finance Act, 2023, w.e.f. 1-4-2024:

#### **Certain deductions to be only on actual payment**

- Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—  
*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*, 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.
- **Provided** that nothing contained in this section *[[except the provisions of clause(h)]]* shall apply in relation to any sum 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.

#### **Section 15 of the Micro, Small and Medium Enterprises Development Act, 2006**

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.

**Note:** *The Appointed Day is 15 days (which can be up to 45 days in case there is an agreement in writing) from the day of actual delivery of goods or the rendering of services.*

### **Example:**

- If agreement stipulated 20 days then payment is to be made within 20 days of invoice.
- If agreement stipulated 60 days then payment is to be made within 45 days of invoice.
- If no agreement then within 15 days of invoice.

### ✓ ***Definition of Micro and Small Enterprises***

#### **For Manufacturing Enterprises and Enterprises rendering services:-**

##### Micro Enterprises

- Investment in Plant and Machinery or Equipment: Not more than **INR 1 crore**
- Annual Turnover: Not more than **INR 5 crore**.

##### Small Enterprises

- Investment in Plant and Machinery or Equipment: Not more than **INR 10 crore**
- Annual Turnover: Not more than **INR 50 crore**.

### **Analysis of the above provision**

- In order to promote timely payments to micro and small enterprises, new provision has been introduced to include payments made to such enterprises within the ambit of section 43B of the Income Tax Act.
- Now while computing income of any business or professional entity, deduction for purchase of any goods/services availed from Micro and Small Enterprises shall be allowed only when payment is actually made. The payment for such purchases or services will be allowed on accrual basis only if the payment is within the time mandated under the Micro, Small and Medium Enterprises Development Act ('MSMED').
- The benefit of proviso to section 43B which allows deduction in respect of the sum which is actually paid by the assessee on or before the due date of furnishing of return of income under section 139(1) in respect of various other deductions such as tax, duty, cess, interest to banks, financial institutions etc. shall not be applicable in respect of such payments to Micro and Small Enterprises.

### **Implication of the above amendment**

- In case any entity carrying on business or profession has made purchase of any goods/services from a Micro or Small enterprise and the payment for such purchases or services has not been made during the year and it is outstanding as on 31st March, the same will not be allowed as a deduction while computing business income with the result that the income will go up by the amount of such

outstanding as on 31st March except where such outstanding payment as on 31st March are falling within the period of **15 days or 45 days** (where there is an agreement) from the date of 31st March and payment of the same is made in the subsequent period within the period of 15 days or 45 days, as the case may be, from the date of delivery of goods or availing of services.

- Purchase and Expenses incurred on or after 01<sup>st</sup> February every year is to be checked if relates to Micro or Small Enterprises then payment has to be made within time as per MSMED Act, 2006 (it is assumed that purchase and expenses incurred before 01 February, shall be anyhow paid up to 31<sup>st</sup> March) otherwise purchase/expense shall be disallowed and shall be allowed in the year of actual payment.

**Example:**

- As on 31-03-2024
- Amount payable to creditors (Micro & Small Enterprise) due more than 45 days- INR 5,00,000
- Net Profit for the A.Y. 2024-25- INR 1,00,000

Following is the impact on Net Profit:-

<b>S.No-</b>	<b>Details</b>	<b>Amount</b>
1	Net Profit for the A.Y. 2024-25	1,00,000
2	<b>Add:-</b> Amount payable to creditors (Micro & Small Enterprise) due more than 45 days	5,00,000
3	Total Net Profit	6,00,000