

## Income Tax Act- Msme rule

As per my opinion and understanding, Any change to the rule can be made only in the next budget in July, adding to it that no change is possible before that because it has to be approved by parliament. Even an ordinance route is not feasible as parliament will not be in session to approve it till July. Some other provision needs to be activated if the deferment is on cards.

It's in the media circle, news channels, since last few days that the rule implementation has been proposed to be deferred by a year but no official announcement has been made till today 7.3.2024

### Critical Analysis of amendment to section 43B (h)-Timely payments to Micro and Small Enterprises

1. Amendment of timely Payments to msme in 15/45 days is applicable w.e.f. FY starting from 01.04.2023, means delayed payments or no payments in case of micro and small creditors and debtors as outstanding on 31.03.2023 and brought forward to FY 2023-2024 will not be disallowed during AY 2024-25.
2. Due to overriding effect of section 43B over other provisions of the act, above is also to be complied in all sections except of presumptive income 44AD, 44ADA, 44AE which itself has overriding effects

3. Changes are applicable in cases of supply received from Micro and Small enterprises only and NOT in case of Medium enterprises.

4. Micro and Small Enterprises are those as defined under MSME Act as per the size of annual turnover and investments in P&M, both conditions to be satisfied:

-Micro: Turnover upto 5CR and P&M gross block upto 1CR

-Small: Turnover upto 50CR and P&M gross block upto 10CR

5. Micro and Small Enterprises need to be mandatorily regd MSME to get the benefit of timely payments. unregistered micro and small enterprises are outside the purview of these amendments.

6. As per Office Memorandum No. 5/2(2)/2021-E/P & G/Policy dated 02-07-2021, wholesale and retail trader are entitled for UDYAM registration only for the benefit of Priority Sector Lending only. So, purchase from traders would be outside the purview of these amendments.

7. As per Sec 2(b) of MSME Development Act, 2006,

Appointed day means

the day following immediately after the expiry of the period of 15 days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

the 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 regarding acceptance of goods or services within 15 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;

the day of deemed acceptance means

where no objection is made in writing by the buyer regarding acceptance of goods or services within 15 days from the day of delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of service.

8. Interests, if any paid for delays being 3 times of bank rate  $4.25\% \times 3 = 12.75\%$  and debited to PL will be liable for disallowance due to being of penal nature.

9. There will be no changes in the accounting of books due to this amendment which will only result in disallowance of purchases/expenses as debited.

10. Examples:

a. Goods purchased on 1st July 2023, delivery made on 10th July, no objections raised, payment made on 15th July. Allowable in FY 2023-24

b. Goods purchased on 1st July 2023, delivery made on 10th July, no objections raised, payment made on 10 April 2024. Allowable in FY 2024-25.

c. Goods purchased on 1st July 2023, delivery made on 10th July, no objections raised, payment made on 10 March 2024. Allowable in FY 2023-24.

d. Goods purchased on 1st July 2023, delivery made on 10th July, no objections raised, payment made on 10 December 2024. Allowable in FY 2024-25.

a. Goods purchased on 1st July 2023, delivery made on 10th July, objections raised on 10th July 2023, objection removed on 12th July 2023, payment made on 17th July 2023. Allowable in FY 2023-24.