

**IMPORTANT****TO ALL MEMBERS OF THE ASSOCIATION:****Dear Sir,**

As you are probably aware, CMAI has been making Representations to Shri Narayan Rane, Hon'ble Minister of Micro, Small and Medium Enterprises that a Mechanism be put in place to promote timely payments to MSME and disincentive non-payment of outstanding dues within the 45-days time frame provided by the MSMED Act.

We are glad to inform you that the efforts of CMAI have borne fruits and now the Government of India in its Finance Bill, 2023 proposes to include payments made to Micro and Small Enterprises within the ambit of Section 43B of the Act. This will promote timely payments to Micro and Small Enterprises.

**AMENDMENTS PROPOSED IN THE FINANCE BILL, 2023**

In order to promote timely payments to Micro and Small Enterprises, the Finance Bill, 2023. proposes to include payments made to Micro and Small Enterprises within the ambit of Section 43B of the Act. Accordingly, it is proposed to insert a new clause (h) in Section 43B of the Act to provide that any sum payable by the assessee to a Micro or Small Enterprise beyond the time limit specified in Section 15 of the MSMED Act shall be allowed as deduction only on actual payment.

It is also proposed that the proviso to Section 43B of the Act shall not apply to such payments.

This Amendment will take effect from 1<sup>st</sup> April 2024 and will accordingly apply from Assessment Year 2024-25.

**Section 15 in The Micro, Small and Medium Enterprises Development Act, 2006**

**15. Liability of Buyer to make payment.**—Where any supplier, supplies any goods or renders any services to any buyer, the buyer shall make payment thereof 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.

**Applicability**

The Proposed Amendment will apply to payments falling due on or after 1<sup>st</sup> April 2024 and will not apply to any unpaid amounts brought forward from past years on 1<sup>st</sup> April, 2024.

To explain further we give below Four Likely Scenarios:

**Scenario 1:** Payments made within due date prescribed under MSME Act

Provisions of Section 43B of the Act shall not apply and these payments will be allowed as deduction as per provision of the Income Tax Act.

**Illustration-** M/s ABC is a Micro Enterprise, having valid Udhyam Certificate, who has raised an invoice dated 16<sup>th</sup> July 2023 on M/s XYZ. The payment terms on the invoice mentions Payment within 45days M/s XYZ pays within 45 days i.e before 30<sup>th</sup> August 2023 then this payment will be allowed as Expenses by the Income tax Authority.

**Scenario 2:** Payments not made within due date prescribed under MSME Act; but made before end of relevant Financial year

In such a scenario, Provisions of Section 43B of the Act would be attracted. However, since the payment is made within the same Financial year, it should be allowed as the deduction in the same financial year.

**Illustration-** M/s ABC is a Micro Enterprise registered who has raised an invoice dated 16<sup>th</sup> July 2023 on M/s RST. The payment terms on the invoice mentions Payment within 45days M/s RST pays after 45 days ie. Say on 30<sup>th</sup> September 2023 then this payment will attract Provisions of Section 43B. However since its paid in the Financial Year it will be allowed as Expenses by the Income tax Authority in Income Tax Return for FY 2023-24.

**Scenario 3:** Expenses accrued in financial year; but due for payment in subsequent financial year and paid within due date prescribed under MSME Act

In such a scenario, based on accrual, deduction can be claimed in year of accrual on the basis that the payments are made within the due date prescribed under MSME Act and therefore such sums are not covered by Provisions of Section 43B of the Act.

**Illustration-** M/s ABC is a Micro Enterprise, having valid Udhyam Certificate, who has raised an invoice dated 30<sup>th</sup> March 2024 on M/s XYZ. The payment terms on the invoice mentions Payment within 45 days M/s XYZ pays within 45 days i.e before 14<sup>th</sup> May 2024 then this payment will be allowed as Expenses by the Income tax Authority on accrual basis in Income Tax Return for FY 2023-24.

**Scenario 4:** Expenses accrued in financial year; due for payment in subsequent financial year and not paid within due date prescribed under MSME Act

In such a Scenario, Provisions of Section 43B would be attracted. Since the payment is not made within the due date prescribed under MSME Act, Deduction may not be allowed in the Financial year in which the accrual is made.

Deduction may be claimed in the Financial year in which the actual payment is made.

**Illustration-** M/s ABC is a Micro Enterprise, having valid Udhya Certificate, who has raised an invoice dated 30<sup>th</sup> March 2024 on M/s XYZ. The payment terms on the invoice mentions Payment within 45days M/s XYZ pays after 90 days from the bill date i.e on 28<sup>th</sup> June 2024. In this Scenario, Provisions of Section 43B of the Act would be attracted and this payment will be dis-allowed as Expenses by the Income tax Authority on accrual basis in Income Tax Return for FY 2023-24. The Deduction may be claimed by M/s XYZ only in the Income Tax Return for FY 2024-25.

All Members having valid MSME Udhya Certificate are advised to clearly print the Udhya Aadhar Number alongwith Payment Terms on their Invoices/Contracts.

In case you have any queries regarding this Amendment to Section 43B please contact Mr. Sanjay Bhalekar, Joint Director & Registrar – Conciliation & Arbitration on Mob No.919819692580 or by E-mail to [cna2@cmai.in](mailto:cna2@cmai.in).

Thanking you,

Yours truly,



**P. Chandrasekharan**  
**Senior Director & Secretary**