



Section 43B(h) & Year End Compliances

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Agenda

- ✓ **Section 43B(h) – Overview and Applicability**
- ✓ **Section 43B(h) – FAQ's**
- ✓ **Year End Compliances – Income Tax**
- ✓ **Year End Compliances – Indirect Tax**
- ✓ **Q&A**

Section 43B(h) – Overview and Applicability

Section 43B(h) – Overview & Applicability

- ✓ **Section 43B(h)** – Newly Introduced in Finance Act 2023; Applicable for AY 2024-25

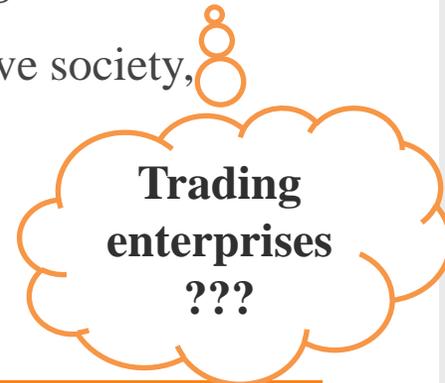
Following clause (h) shall be inserted after clause (g) of section 43B by the Finance Act, 2023, w.e.f. 1-4-2024:

*(h) 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 :*

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 43B(h) – Micro and Small Enterprise

- ✓ **Section 2(h) & 2(m) of the MSMED Act** defines ‘micro enterprise’ and ‘small enterprise’ to mean an enterprise classified as such under sub-section (1) of Section 7 of MSMED Act,
- ✓ Section 7 provides that the Central Government may classify **manufacturing or service enterprises**, whether proprietorship, HUF, association of persons, co-operative society, partnership firm, company into micro, small and medium enterprises.
- ✓ As per Notification No. 2119(E), dated 26-6-2020



Category	Net Investment in Plant & Machinery	Net Turnover
Micro Enterprise	Not exceeding 1 Crore	Not exceeding 5 Crore
Small Enterprise	Not exceeding 10 Crore	Not exceeding 50 Crore
Medium Enterprise	Not exceeding 50 Crore	Not exceeding 250 Crore

- ✓ Only micro and small enterprises are considered suppliers for the purpose of Section 43B(h). **Medium enterprises** are excluded.

Section 43B(h) – Time Limit for Payment

- ✓ Section 43B(h) refers to the limitation period specified under **Section 15** of the MSMED Act

Agreement between Parties	Time Limit
If agreement in place	As per agreement subject to a maximum of 45 days
If no agreement in place	expiry of the period of 15 days from the day of acceptance or the day of deemed acceptance

- ✓ Term ‘agreement’ not defined in the Act. Agreement can be written /oral. Agreement could also mean when one person makes an offer and another person agrees to it.

Appointed Date

Credit Period - Agreement	Date of acceptance	Due Date of Payment	Due Date – 43B	Remarks
30 Days	15-03-2024	14-04-2024	14-04-2024	As per Agreement
60 Days	15-03-2024	14-05-2024	29-04-2024	Cannot exceed 45 Days
No Agreement	15-03-2024	No Due Date	30-03-2024	Before Appointed Day

Section 43B(h) – Time Limit for Payment

Credit Period - Agreement	Date of Receipt	Due Date – MSMED Act	Date of Payment	Relevant AY in which deduction available
No Agreement	01-04-2023	15-04-2023	31-03-2024	AY 2024-25
No Agreement	20-03-2024	04-04-2024	04-04-2024	AY 2024-25
7 Days	28-03-2024	04-04-2024	04-04-2024	AY 2024-25
15 Days	20-03-2024	04-04-2024	12-04-2024	AY 2025-26
30 Days	20-03-2024	19-04-2024	15-04-2024	AY 2024-25
45 Days	20-02-2024	05-04-2024	06-04-2024	AY 2025-26
60 Days	20-02-2024	05-04-2024	20-04-2024	AY 2025-26
120 Days	01-01-2024	15-02-2024	30-04-2024	AY 2025-26

Section 43B(h) – FAQ's

? **Is it applicable to enterprises who have not registered/ don't have UDYAM?**

Section 2(n) – 'Supplier' means a micro or small enterprise that has filed a memorandum with authority referred to in Section 8(1)(i.e., Udyam Registration). 'Supplier' also includes:

- ✓ National Small Industries Corporation;
- ✓ Small Industries Development Corporation of a State or a Union territory; and
- ✓ Any company, co-operative society, trust or body registered or constituted under any law and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises.

? **Does it apply to the sum payable to Retail Traders or Wholesalers?**

- ✓ Para 2 of Office Memorandum: No. 5/2(2)/2020/E/P&G/POLICY dated 2-7-2021 included Retail and wholesale trades as MSMEs were allowed to be registered on Udyam Registration Portal. However, benefits to Retail and Wholesale trade MSMEs were restricted to Priority Sector Lending only. Office memorandum 1/4(1)/2021- P&G Policy, dated 01.09.2021, further clarifies that the benefit to Retail and wholesale trade MSMEs are restricted up to priority sector landing only and other benefit, including provisions of delayed payment as per MSME Act, 2006, are excluded

Section 43B(h) – FAQ's

? **Reclassification of Supplier from Small to Medium after delivery of Goods?**

- 43B(h) will apply. Status to be checked at time of delivery of goods and services and not at time of payment.

? **Applicability to Capital Expenditure? Disallowance of Depreciation?**

- Not applicable as such capital expenditure is usually not claimed as deduction from income for the previous year. Depreciation also need not be disallowed in absence of any specific provision

? **Applicability to Unpaid GST component of Invoice?**

- If Input Tax Credit is claimed, no disallowance; If such GST has been debited to P&L account, then such GST also need to be disallowed

? **Applicable to Balance Outstanding for previous years?**

- As the deduction has already been claimed for such expenses in previous years and no expense is being claimed in the current year, the provisions should not apply to balances remaining unpaid from 31 March 2023

? **Assessee opting for presumptive scheme of taxation -44AD/AE/ADA?**

- Not Applicable as Section 44AD/AE/ADA has a 'non-obstante' clause overriding provision of Section 28 to Section 43C

Section 43B(h) – FAQ's

? **Account Payee Cheque issued before Due Date under 43B(h)?**

- As per interpretation laid down under Negotiable Instruments Act, 1881, date of tendering of cheque should be considered as date of payment. However, to avoid litigation, you may seek a declaration from Vendor that the Cheque was collected before the stipulated time.
- PDC's cannot be considered if the date of cheque is beyond the appointment date

? **What if any charitable trust is making payment to an MSME? Does 43B(h) apply**

- Section 43B(h) applies to an assessee carrying on a business or profession whose income is computed under the head 'business and profession'. Income of 'Charitable trusts' are computed under Sections 11 to 13, which are special provisions governing the taxation of charitable or religious institutions. In absence of specific provisions, Section 43B(h) will not impact the computation of the application of income under Section 11 of the Act. However, under Section 16 of the MSMED Act, interest is payable if the trust delays payments to micro or small enterprises.

Year End Compliances

Year End Compliances – Income Tax

- ✓ Applicability of TDS under 194Q- Purchase of Goods
- ✓ Applicability of TCS under 206C(1H) – Receipts
- ✓ **Payment of Advance Tax – 15 March 24**; If missed, you can pay before 31 Mar
- ✓ **Deductions under Chapter VIA** –Invested before 31 Mar
- ✓ **Booking Provision for Expenses** and ensure TDS is appropriately deducted
- ✓ Verification of **Physical Stock in hand** and reconciliation with the books
- ✓ Filing of ITR-U for AY 2021-22 – 31 Mar 2024
- ✓ Reconciliation of TDS deductible with TDS returns
- ✓ Compliances under **Section 43B**
- ✓ Review **cash balance**

Year End Compliances - GST

- ✓ Opting into **Composition Scheme by 31 March 2024.**
- ✓ Applicability of **E-invoicing from 01 April 2024** – Limit of **INR 5 Cr**
- ✓ **Letter of Undertaking ('LUT')** - Apply LUT for exporters who make **direct export of goods/services or supplies to SEZ without payment of GST** - Form GST RFD 11 for FY 2024-25.
- ✓ **New Series of invoicing** from FY 2024-25
- ✓ Applicability of HSN/SAC Code – 8/ 6 / 4 Digits - Turnover is above Rs.5 Crore then 6 digit HSN/SAC code mandatory for all supply (B2B and B2C) w.e.f. 01/04/2024
- ✓ Reconcile Sales with GST returns for any omissions; File amendment in Mar 24; Avoid reconciliation in GSTR9
- ✓ Reconcile ITC with Books/2B; Annual Reversal under Rule 42/43
- ✓ Payment of GST under RCM
- ✓ Filing of ITC-04 – Goods sent on Job work

Questions...

Thank You...
