

## Micro, Small and Medium Enterprise – how to transact with them?

Revised Classification of limits applicable w.e.f 1st July 2020

### Composite Criteria: Investment in Plant & Machinery/equipment and Annual Turnover

CLASSIFICATION	MICRO	SMALL	MEDIUM
Manufacturing Enterprises and Enterprises rendering Services	Investment in Plant and Machinery or Equipment: Not more than Rs.1 crore and Annual Turnover ; not more than Rs. 5 crore	Investment in Plant and Machinery or Equipment: Not more than Rs.10 crore and Annual Turnover ; not more than Rs. 50 crore	Investment in Plant and Machinery or Equipment: Not more than Rs.50 crore and Annual Turnover ; not more than Rs. 250 crore

The meaning of “plant and machinery or equipment”: This shall have the same meaning as assigned to the plant and Machinery in the Income Tax Rules, 1962, framed under the Income Tax Act, 1961. The investment shall include only all tangible assets.

However investment in Plant and Machinery does not include land, building, pollution control, research and development, industrial safety devices and furniture and fittings such other items as may be specified, by notification, shall be excluded. Electrical fittings provided with the plant and machinery shall be included but not if they are installed separately. Value of investment in P & M shall be the written down value as per Income Tax rates on the date of application.

The payments for purchases from Micro and Small enterprises are to be made within 45 days. The consequences of non-payment or delayed payment is discussed here.

Consequences of non-payment within the time limit specified in section 15 of the MSMED act of 2006?

MSMED Act, 2006

If the payment is not made within 45 days if there is an agreement or within 15 days with no agreement to the Micro or Small enterprises, [*Section 15 and 16 of the MSME Act, 2006*] having valid *Udhyam registration*, then the buyer is liable to pay compound interest with the monthly rests, on the amount, from the appointed day or the day immediately following the day agreed upon, at 3 times of bank rate specified by the Reserve Bank of India. Bank rate notified by the RBI (with effect from 08.02.2023) is 6.75%., 3 times therefore means 20.25% on compounding basis (Interest on interest) is payable

## New section introduced in the Income Tax Act: Section 43B(h)

Delayed payment (other than interest) shall be allowed as deduction in the financial year in which it is actually paid and not in the year in which it is incurred. The proviso specified in section 43B shall not be applicable for this clause (h).

### Illustrations:

(1). A Ltd. purchased goods from B (P) Ltd, a registered MS enterprise in Udyam registration portal, for Rs. 1,00,000 on 01.05.2023. The goods were delivered to A Ltd on 02.05.2023. There is no written agreement between them regarding the payment terms. A Ltd. makes payment to B (P) Ltd on 02.06.2023.

As there is no written agreement specifying the date of payment, payment has to be made within 15 days from the date of actual delivery of goods (i.e.,) before 17.05.2023. Since payment is not made within the specified time limit, A Ltd is liable to pay compound interest to B (P) Ltd. at 3 times the bank rate specified (*Now it is 20.25%*) by the Reserve Bank, from 17.05.2023 to 02.06.2023. However, since the date of actual payment also falls under the same financial year 2023-24 in which it is accrued, this amount (payable for supply of goods or services alone) will be allowed as deduction in the same year itself.

(1A). Suppose, let's assume the same transaction was happened on 02.03.2024, and the payment was made on 02.04.2024 and there was no written agreement. Then, as specified earlier, A Ltd, is liable to pay compound interest, from 17.03.2024 to 02.04.2024, at 3 times bank rate notified by the RBI.

Since the amount was paid on 02.04.2024 (*in the next financial year*), *it will be disallowed under Section 43B(h) for the year ended 31.3.2024 and will be allowed as a deduction in the Financial year 2024-2025.*

On account of the specific disallowance of interest under Section 23 of the MEMED Act, 2006, Interest payable for the period from 17.3.2024 to 31.3.2024 will not be allowed as a deduction as well as interest payable for one day (ie) 01.04.2024. .

(2). A Ltd. purchased goods from B Ltd, a registered MS enterprise registered under UDYAM Scheme, for Rs. 2,00,000 on 01.09.2023. The credit period agreed upon in writing between A Ltd & B Ltd, was 10 days. And the payment was made on 13.09.2023.

Here, payment was made after the date agreed upon (10.09.2023) and so A Ltd is liable to pay interest for 3 days. such interest will be not be allowed as a deduction for the purpose of computing the taxable income of A Ltd even though A Ltd has deducted tax at source on the interest paid to B Ltd

(2A). Suppose, in the same transaction, let's assume, the credit period agreed upon in writing was 60 days. And the payment was made on 29.10.2023. Here though the payment was made before the date agreed upon in writing, A Ltd is liable to pay interest (from 16.10.2023 to 29.10.2023) as the date agreed upon in writing between the parties, cannot exceed 45 days as specified in the provisions of the act.

(3) Suppose B Ltd is a Trader and not a manufacturer, then the provisions of 43B(h) will not be attracted since Traders are excluded from the definition of small or medium enterprise, notwithstanding that B Ltd has obtained UDYAM registration.

Reporting requirements in Financial Statements as per Companies act of 2013 (already in force not amended by the Act)

- The total outstanding dues, to Micro and Small enterprises have to be shown separately in the schedule TRADE PAYABLES.
- The following are the disclosure requirements as per MSMED act, 2006.
  - Principal amount and interest amount remaining unpaid.
  - Interest paid by the company along with the amount of payment made, beyond the appointed day.
  - Interest due and payable for the period of delay in making payment but without adding interest specified under MSMED act 2006.
  - Interest accrued and remaining unpaid.
  - Interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the Micro and small enterprises.
- Measures to be taken:
  - If you are dealing with M and/ or S enterprises:
    - Mere purchase order cannot be considered as written agreement. Purchase orders have to be supported with written agreement, specifying the credit period. Written agreement has to be duly signed by the competent authority.
    - It is desirable you enter into a contract with the M or S enterprise in writing specifically mentioning credit period agreed between the parties and get the agreement signed. Make it as an open ended agreement.
    - It is imperative to obtain copy of the UDYAM registration. If the supplier has not registered under MSMED Act, 2006, obtain a declaration from the existing suppliers in the below mentioned format as soon as possible, every year.
    - And in case of any new suppliers enrolled during the year, it is advised to obtain such declaration before making any transactions with them.

- In case of any Micro and Small enterprise suppliers, make payment within the time specified, to such enterprises, in order to avoid interest on late payments and disallowance under section 43B (h).or punitive action by MSMED Authorities on any day

If you are an enterprise Manufacturing goods or rendering service :

- Register as MS enterprise (*if the conditions are satisfied*) in Udhyam registration portal, as the aforesaid protective measures are entitled only for registered MS enterprise.
- Provide the copy of your Udhyam registration certificate to your customers so that they are aware of the fact that you are registered MS enterprise and. It helps you in receiving early payments.
- Mere purchase order cannot be considered as written agreement. Purchase orders have to be supported with written agreement, specifying the credit period. Written agreement has to be duly signed by the competent authority.
- If the payment is not received within the time limit specified, collect interest. Or make complaint with the concerned official

Declaration to be obtained by you from the suppliers or provided by you to your customers:

*[In the letter head of the party]*

CONFIRMATION ON APPLICABILITY OF "MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT", 2006 (MSMED ACT).

Name of the Organisation:

PAN Number:

We hereby confirm that, we are

- |                     |     |
|---------------------|-----|
| a) Not registered   | [ ] |
| b) Registered ,     | [ ] |
| • Micro Enterprise  | [ ] |
| • Small Enterprise  | [ ] |
| • Medium Enterprise | [ ] |

(tick appropriate box)

Under the "Micro, Small and Medium Enterprises Development Act", 2006 and the provisions of this act is applicable to our organisation.

MSME / Udhyam Registration Number: \_\_\_\_\_.

Date of Registration with Udhyam: \_\_\_\_\_.

In case of any changes in the above furnished information, it will be duly informed.

*seal*

*Authorised Signatory*

Date:

Name of the person: \_\_\_\_\_.

Place:

Designation:\_\_\_\_\_.