NDA Update – Proposed amendment in Section 43B of the Income Tax Act w.e.f. A.Y. 2024-25, relating to payments to Micro & Small Enterprises

Section 43B reads as under (with the proposed amendment highlighted in red)

Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—

(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.

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."

As explained in the Memorandum to Finance Bill, 2023

Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Further, the proviso of this section allows deduction on accrual basis, if the amount is paid by due date of furnishing of the return of income.

In order to promote timely payments to micro and small enterprises, it is proposed to include payments made to such 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 Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment. However, it is also proposed that the proviso to section 43B of the Act shall not apply to such payments.

Thus, the proposed amendment to section 43B of the Act will allow the payment as deduction only on payment basis. It can be allowed on accrual basis only if the payment is within the time mandated under section 15 of the MSMED Act.

Therefore, it will be allowed in the year in which the liability is incurred:

- **If the payment is made during the financial year**
- **If the payment is made in the next year but within the due date as per MSMED Act**

However, it will not be allowed in the year in which the liability is incurred if the amount paid after the close of the year but not within due date as per MSMED Act. In such situation it will be allowed in the next year.

Under Section 43B, certain liabilities are allowed in the year in which these are incurred if the payment is made in the next year by the due date of furnishing of return. This benefit will not be available to liabilities towards Micro & Small Enterprises.

N D A & Associates

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Illustration

Invoice date	Payment due date as per PO	Payment due date as per MSMED Act	Payment date (Actual)	Deduction allowed in the F.Y.
01/01/2024	14/02/2024	14/02/2024	14/02/2024	2023-24
01/01/2024	14/02/2024	14/02/2024	14/04/2024	2024-25
01/01/2024	30/03/2024	14/02/2024	31/03/2024	2023-24
01/01/2024	30/03/2024	14/02/2024	14/04/2024	2024-25
01/01/2024	Not specified	15/01/2024	31/03/2024	2023-24
01/01/2024	Not specified	15/01/2024	14/04/2024	2024-25
01/03/2024	14/04/2024	14/04/2024	14/04/2024	2023-24
01/03/2024	14/04/2024	14/04/2024	15/04/2024	2024-25
01/03/2024	Not specified	15/03/2024	16/03/2024	2023-24
01/03/2024	Not specified	15/03/2024	02/04/2024	2024-25
20/03/2024	Not specified	04/04/2024	02/04/2024	2023-24
20/03/2024	Not specified	04/04/2024	06/04/2024	2024-25

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