

Maximizing Tax Benefits for MSMEs: Decoding Section 43B(h) Amendment

In a bid to support for Micro, Small, and Medium Enterprises (MSMEs), the recent amendment to Section 43B of the Income Tax Act has brought forth significant changes. Let's delve into the crux of this amendment and its implications:

Key Highlights of Section 43B(h) Amendment

1. Introduction to Amendment

The Finance Act, 2023 introduced clause (h) after clause (g) of section 43B, focusing on payments to Micro or Small Enterprises (MSEs).

2. Criteria for MSEs

MSEs are defined based on investment in Plant and Machinery or Equipment and Annual Turnover thresholds. Investment in plant and machinery and turnover subject to 1/5 crore respectively for micro enterprises and 10 /50 crore for small enterprises.

3. Payment Timelines

Payments to MSEs beyond the limits specified in Section 15 of the MSME Act, 2006 are subject to the amendment **i.e., 15/45 days**. Deductions for such payments are allowed in the year of payment rather than the year of due.

4. Applicability and Exclusions

- Effective from AY 2024-25, not applicable for outstanding amounts as of 31/03/2023.
- Applies only to Micro or Small Enterprises, excluding Medium Enterprises.
- Applicable only to payments for creditor outstanding as of 31-03-2024.
- Not applicable to assessee opting for presumptive taxation under section 44AD/44ADA/44AE.
- Buyer is not mandatory to be MSME.

5. Tax Implications

Non-compliance leads to the amount becoming taxable income for the assessee, with deductions available in the year of payment.

6. Interest Obligations

Delayed payments incur compound interest obligations to the supplier, with rates linked to the RBI-notified Bank Interest.

7. Supplier Responsibility

Suppliers must intimate their MSME registration to buyers to avoid disallowance under section 43B(h).

8. Capital Expenditure Exemption

No disallowance under section 43B(h) for dues outstanding related to capital expenditure.

9. Exclusion of Traders

Section 43B(h) isn't applicable for dues outstanding to traders as per the MSMED Act's definition of enterprise.

10. Udyam Registration and Compliance

Enterprises with Udyam Registration must update information on the portal to maintain their status.

Conclusion

The amendment to Section 43B aims to streamline payments to MSMEs, ensuring timely disbursements and tax benefits. However, buyer must take written declaration duly signed/sealed from suppliers on his letterhead to support his argument in case of future litigation. Understanding its nuances is crucial for both enterprises and tax authorities to foster a conducive environment for MSME growth.