

MSME APPLICABILITY CRITERIA

All manufacturing, service industries, wholesale, and retail traders that fulfil the revised MSME classification criteria of annual turnover and investment can apply for MSME registration. Thus, the MSME registration eligibility depends on an entity's annual turnover and investment. The following entities are eligible for MSME registration:

- ❖ Individuals, startups, business owners, and entrepreneurs
- ❖ Private and Public limited companies
- ❖ Sole proprietorship
- ❖ Partnership firm
- ❖ Limited Liability Partnerships (LLPs)
- ❖ Co-operative societies
- ❖ Trusts

Note: It's important to note that the registration under the MSME Act, 2006, is not mandatory.

Revised MSME classification criteria of annual turnover and investment

Revised MSME Classification			
Criteria	Micro	Small	Medium
Investment in Plant and Machinery or Equipment	Does not exceeds Rs.1 crore	Does not exceeds Rs.10 crore	Does not exceeds Rs.50 crore
Annual Turnover	Does not exceeds Rs.5 crore	Does not exceeds Rs.50 crore	Does not exceeds Rs.250 crore

Section 15 of MSME Act, 2006: Liability of buyer to make payment

- ❖ If **written signed agreement is available between buyer and supplier**, the buyer should make payment to the supplier of the goods or services **within 45 days** from the date of acceptance of the goods or services.

Provided that if credit period specified in the agreement between parties **exceeds 45 days**, then, notwithstanding the agreement, the **payment has to be made within the period of 45 days**.

Note: If payment made after 45 days but, in the same year of purchase then, in that case deduction shall be allowed in that year itself.

Example to understand the provision.

Bill Date	Due Date as per MSME Act (45days)	Payment Date	Agreement made with Supplier	Year of Deduction of Purchase
15 May 2023	30 June 2023	31 March 2024	Yes	FY 2023-24
15 May 2023	30 June 2023	3 April 2024	Yes	FY 2024-25
1 January 2024	15 February 2024	15 February 2024	Yes	FY 2023-24
1 January 2024	15 February 2024	31 March 2024	Yes	FY 2023-24
1 January 2024	15 February 2024	10 April 2024	Yes	FY 2024-25
20 February 2024	5 April 2024	5 April 2024	Yes	FY 2023-24
20 February 2024	5 April 2024	6 April 2024	Yes	FY 2024-25

- ❖ If there is **no agreement between the supplier and the buyer** then, payment is to be **made within 15 days**

Example to understand the provision.

Bill Date	Due Date as per MSME Act (15 days)	Payment Date	Year of Deduction of Purchase
15 May 2023	30 May 2023	31 March 2024	FY 2023-24
15 May 2023	30 May 2023	10 April 2024	FY 2024-25
1 January 2024	15 January 2024	15 January 2024	FY 2023-24
1 January 2024	15 January 2024	31 March 2024	FY 2023-24
1 January 2024	15 January 2024	1 April 2024	FY 2024-25
20 February 2024	5 March 2024	5 March 2024	FY 2023-24
20 February 2024	5 March 2024	31 March 2024	FY 2023-24
20 February 2024	5 March 2024	6 April 2024	FY 2024-25

What if buyer fails to make payment in 45 days to supplier registered under MSME?

Section 16 of the MSME Act provides, where any buyer fails to make payment to the supplier, as required under section 15, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day (day after expiry of 45 / 15 days) at **three times of the bank rate notified by the Reserve Bank of India.**

The MSME supplier can also file an application before the **Micro and Small Enterprises Facilitation Council (MSEFC)** in case of non-payment or delayed payment by the buyer.

Example to understand the provision.

A Ltd purchased goods on credit from B Ltd value Rs. 5,00,000/-. Invoice date -25th February, 2024

Part Payment made on Following Dates	Allowed as Expenses in the Year	
	No Agreement Between Buyer & Seller Due Date: 11 th March, 2024	Agreement present Between Buyer & Seller Due Date: 10 th April, 2024
1st part - 5th March 2024 Rs. 1,00,000/-	2023-2024	2023-2024
2nd part - 25th March 2024 Rs 2,00,000/-	2023-2024 (Int. Payable)	2023-2024
3rd part - 10th April 2024 Rs 1,00,000/-	2024-2025 (Int. Payable)**	2023-2024
4th part - 15th April 2024 Rs. 1,00,000/-	2024-2025 (Int. Payable)**	2024-2025 (Int. Payable) **

****It means that if you fails to pay on due date or till the last date of FY then, interest will payable and purchase/expense will be disallowed as deduction and if payment is made on due date, then no interest liability will get attracted and deduction of purchase/expenses will be allowed in same year but, if payment made after due date and till the last date of FY, then it will result in allowance of such purchase/expense but, interest will be payable on delayed payment.**

(Interest payable to the supplier is 3 times of the bank rate notified by the Reserve Bank of India compounding on monthly basis)

Impact on Computation of Total Income

❖ Interest on Delayed Payment

As per section 16 of the MSMED Act, the payment of interest on delayed payment is in the nature of penalty. Therefore, Payment of interest on delayed payment to MSME shall **not be allowable as deduction** for the purposes of computation of income under the Income Tax Act, 1961.

If, the buyer has claimed such payment of interest as expenses in its statement of profit & loss then, **such expenses to be added back to Net Profit** while computing the total income under Income Tax Act, 1961.

As per clause 22 of the Tax Audit, Tax Auditor should report the amount of interest inadmissible u/s 23 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED, Act 2006).

❖ Delayed payment of Principal

As per Section 43B (h) of Income Tax Act, 1961, if payments to Micro & Small Enterprises remains outstanding for **more than specified time limit** at the end of the financial year (i.e., 31.03.20XX)** then, the said amount will be considered as taxable income for the assessee in such financial year.

The assessee can claim the deduction of the amount declared as income in previous financial year, in the financial year when the payment is made.

** Specified time limit If Written agreement between Buyer & Supplier then, maximum of 45 Days. If No Written agreement between the Buyer & Supplier then, maximum of 15 Days

Changes need to be done in Books of Account by the buyer

From current financial year 2023-24, we need to bifurcate creditors in balance sheet in the following way:

1. Creditors of micro enterprises and small enterprises
2. Creditors of other than micro enterprises and small enterprises

Compliance Check for all Assessee:

From current financial year (2023-24), we need to check bill of each and every party and if they have written UDHYAM no. on their bills then, we need to change HEAD of such creditor account under "**Creditors of Micro Enterprises and Small Enterprises**", Rest all creditors should be under "**Creditors of enterprises and small enterprises**".

We need to send letter to each and every creditor to find out whether they are registered under Udyam or not and also to all the new creditors. We must have evidence of enquiry with creditors (Mail, Post etc.) because it is duty of company.

If once, we get confirmation from the creditors that they are not registered and afterward creditor got himself registered under UDHYAM then it is his duty to inform such thing to company. New and current creditor's confirmation is duty of company.

(Caution: Sometimes payment of firms in same group are outstanding so take care of that as well)