

UNION BUDGET 2023

AMENDED PROVISIONS OF SECTION 43B



13. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2024,—

Certain deductions to be only on actual payment.

43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—

- (a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or
- (b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, or

- (c) any sum referred to in clause (ii) of sub-section (1) of [section 36](#), or
- (d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution or a State financial corporation or a State industrial investment corporation, in accordance with the terms and conditions of the agreement governing such loan or borrowing, or
- (da) any sum payable by the assessee as interest on any loan or borrowing from **a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company** “such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf”, in accordance with the terms and conditions of the agreement governing such loan or borrowing, or
- (e) any sum payable by the assessee as interest on any loan or advances from a scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank in accordance with the terms and conditions of the agreement governing such loan or advances, or
- (f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee, or
- (g) any sum payable by the assessee to the Indian Railways for the use of railway assets,

Or “(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 return⁹⁹.

Explanation 1.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (a) or clause (b) of this section is allowed in computing the income referred to in [section 28](#) of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1983, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee,

the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 2.—For the purposes of clause (a), as in force at all material times, "any sum payable" means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law.

Explanation 3.—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (c) or clause (d) of this section is allowed in computing the income referred to in [section 28](#) of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3A.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (e) of this section is allowed in computing the income referred to in [section 28](#) of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1996, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee,

the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3AA.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (da) is allowed in computing the income referred to in [section 28](#), of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2019, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3B.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (f) of this section is allowed in computing the income, referred to in [section 28](#), of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3C.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest

payable under clause (d) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing¹*[or debenture or any other instrument by which the liability to pay is deferred to a future date]* shall not be deemed to have been actually paid.]

Explanation 3CA.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (da), shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing¹*[or debenture or any other instrument by which the liability to pay is deferred to a future date]* shall not be deemed to have been actually paid.

Explanation 3D.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (e) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or advance²*[or debenture or any other instrument by which the liability to pay is deferred to a future date]* shall not be deemed to have been actually paid.

Explanation 4.—For the purposes of this section,—

(a) "public financial institutions" shall have the meaning assigned to it in section 4A³ of the Companies Act, 1956 (1 of 1956);

(aa) "scheduled bank" shall have the meaning assigned to it in the *Explanation* to clause (iii) of sub-section (5) of [section 11](#);

(b) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(c) "State industrial investment corporation" means a Government\company within the meaning of section 617⁴ of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and eligible for deduction under clause (viii) of sub-section (1) of section 36;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of [section 80P](#);

(e) "deposit taking non-banking financial company" means a non-banking financial company which is accepting or holding public deposits and is registered with the Reserve Bank of India under the provisions of the Reserve Bank of India Act, 1934 (2 of 1934);

“(e) “micro enterprise” shall have the meaning assigned to it in clause (h) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006;”;

(f) "non-banking financial company" shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(g) "systemically important non-deposit taking non-banking financial company" means a non-banking financial company which is not accepting or holding public deposits and having total assets of not less than five hundred crore rupees as per the last audited balance sheet and is registered with the Reserve Bank of India under the provisions of the Reserve Bank of India Act, 1934 (2 of 1934).

‘(g) “small enterprise” shall have the meaning assigned to it in clause (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006.’.

⁵[*Explanation 5*.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of [section 2](#) applies.]

1	Invoice received in FY 23-24 on 5th of Dec. 24	
A	FY 23-24	
i.	Not paid till 31-03-24	Not allowable in FY 23-24 as per the amended provisions of S. 43B.
ii	Paid in FY 23-24	Allowable in FY 23-24 as per the amended provisions of S. 43B.
B.	FY 24-25	
I	Not paid till 31-03-25	Already disallowed in FY 23-24 as per the amended provisions of S. 43B therefore no further action is required on non-payment.
ii.	Paid in FY 24-25	Disallowed in FY 23-24 as per amended provisions of S. 43B therefore shall be allowed in FY 24-25 on payment basis as per the said amended provisions.
2.	Invoice Recd. in FY 23-24 on 5th of March 24.	
A	FY 23-24	
i.	Not paid till 31-03-24	In FY 23-24 as 45 days does not cross as on 31 st March, 24. Amended provisions of S. 43B shall not applicable as for amended S. 43B amount should be payable

		beyond the time limit specified in section 15 i.e. 45 days. Therefore, the same is allowable as general deduction u/s 37 of the Act.
ii.	Paid in FY 23-24 itself	No impact as already allowable as general expenses u/s 37 of the Act.
B	FY 24-25	
i.	Not paid till 31-03-25	Amended S. 43B cannot make applicable in FY 24-25 as not claiming in FY 24-25 and already claimed in FY 23-24 as general expense as per S 37.
	NOTE: Legal provisions are not in Sync with intention of the law accordingly need to be dealt with at the time of final amendment and to be clarified whether required to be reversed if not paid in next year by revising the return.	
ii.	Paid in FY 24-25	Already allowed in FY 23-24 therefore not allowable again at the time of payment.
3.	<u>OLD DUES</u>	

	Invoice recd. in FY 22-23 or before (i.e. dues relating to period prior to applicability of amended provisions.)	
i)	Paid in FY 23-24	No impact as already allowed in FY 22-23 before applicability of amended provisions.
ii)	Not paid	No impact as already allowed in FY 22-23 before applicability of amended provisions

Annexure- 1 Relevant Provisions of The Micro, Small and Medium Enterprises Development Act, 2006

Section 15.

Liability of buyer to make payment.

Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

S. 2(b) "appointed day" means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Explanation.--For the purposes of this clause,--

(i) "the day of acceptance" means,--

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services

within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(h) "micro enterprise" means an enterprise classified as such under sub-clause (i) of clause (a) or sub-clause (i) of clause (b) of sub-section (1) of section 7;

(m) "small enterprise" means an enterprise classified as such under sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b) of sub-section (1) of section 7;

Section 7

Classification of enterprises

(1) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government may, for the purposes of this Act, by notification and having regard to the provisions of sub-sections (4) and (5), classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called,--

(a) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951),as--

(i) a micro enterprise, where the investment in plant and machinery does not exceed twenty-five lakh rupees;

(ii) a small enterprise, where the investment in plant and machinery is more than twenty-five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

(b) in the case of the enterprises engaged in providing or rendering of services, as--

(i) a micro enterprise, where the investment in equipment does not exceed ten lakh rupees;

- (ii) a small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees; or
- (iii) a medium enterprise, where the investment in equipment is more than two crore rupees but does not exceed five crore rupees.

Explanation 1.--For the removal of doubts, it is hereby clarified that in calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other items as may be specified, by notification, shall be excluded.

Explanation 2.--It is clarified that the provisions of section 29B of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall be applicable to the enterprises specified in sub-clauses (i) and (ii) of clause (a) of sub-section (1) of this section.

(2) The Central Government shall, by notification, constitute an Advisory Committee consisting of the following members, namely:--

- (a) the Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the small and medium enterprises who shall be the Chairperson, ex officio;
- (b) not more than five officers of the Central Government possessing necessary expertise in matters relating to micro, small and medium enterprises, members, ex officio;

(c) not more than three representatives of the State Governments, members, ex officio; and

(d) one representative each of the associations of micro, small and medium enterprises, members, ex officio.

(3) The Member-Secretary of the Board shall also be the ex officio Member-Secretary of the Advisory Committee.

(4) The Central Government shall, prior to classifying any class or classes of enterprises under sub-section (1), obtain the recommendations of the Advisory Committee.

(5) The Advisory Committee shall examine the matters referred to it by the Board in connection with any subject referred to in section 5 and furnish its recommendations to the Board.

(6) The Central Government may seek the advice of the Advisory Committee on any of the matters specified in section 9, 10, 11, 12 or 14 of Chapter IV.

(7) The State Government may seek advice of the Advisory Committee on any of the matters specified in the rules made under section 30.

(8) The Advisory Committee shall, after considering the following matters, communicate its recommendations or advice to the Central Government or, as the case may be, State Government or the Board, namely:--

(a) the level of employment in a class or classes of enterprises;

(b) the level of investments in plant and machinery or equipment in a class or classes of enterprises;

(c) the need of higher investment in plant and machinery or equipment for technological up gradation,

employment generation and enhanced competitiveness of the class or classes of enterprises;

(d) the possibility of promoting and diffusing entrepreneurship in micro, small or medium enterprises; and

(e) the international standards for classification of small and medium enterprises.

(9) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951 (65 of 1951) and clause (h) of section 2 of the Khari and Village Industries Commission Act, 1956 (61 of 1956), the Central Government may, while classifying any class or classes of enterprises under sub-section (1), vary, from time to time, the criterion of investment and also consider criteria or standards in respect of employment or turnover of the enterprises and include in such classification the micro or tiny enterprises or the village enterprises, as part of small enterprises.

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