

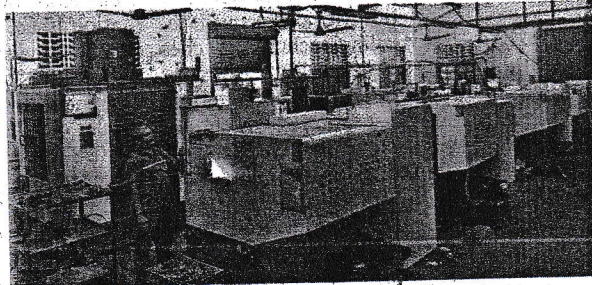
Timely MSME payments: With model poll code in force, postponement of IT Act amendment unlikely

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As model code of conduct is in operation, postponing the implementation of amendment in Income Tax Act related to deduction on timely payments to micro and small enterprises seems very unlikely.

According to Finance Act 2023, the amendment will take effect from April 1, 2024, and will accordingly apply to the assessment year 2024-25 and subsequent assessment years. Many organisations, including exporters and trade bodies, are pressing hard for postponement. Micro enterprises mean a unit where the investment in plant and machinery or equipment does not exceed ₹1 crore and turnover does not exceed ₹5 crore. For small enterprises, these figures will be ₹10 crore and ₹50 crore, respectively.

Sources in the government explained that the provision allowing deduction for expenditure only when the payment is actually made is prescribed through the Finance Act. "A change can be made either through amending the Finance Act or promulgating the Ordinance for immediate relief," the sources



NO CHANGE, AS OF NOW. If new government decides to change the provision, it can do through the new Finance Bill, which will be part of the full Union Budget

said. Amendment is not possible as general elections have been announced. The Ordinance cannot be promulgated as both Houses have been prorogued. "Considering Model Code of Conduct (MCC) is in force, no policy decision is expected until and unless there is really big crisis and government has no option but to change the decision," another source added.

TO SUPPORT MSMEs

This means no change is possible. However, if the new government decides to change the provision, it can do through the new Finance Bill, which will be part of the full Union Budget.

While presenting the Union Budget for FY24, Finance

Minister Nirmala Sitharaman had said: "To support MSMEs in timely receipt of payments, I propose to allow deduction for expenditure incurred on payments made to them only when payment is actually made." To implement this provision, a clause was inserted into Section 43B of the Income Tax Act.

The said section 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," the explanatory memorandum to the tax provisions said.

NEW CLAUSE

Further, a new clause (h) was inserted in section 43B of the Income Tax Act. This was done 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."

Section 15 of the MSMED Act mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days. Thus, the 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," the memorandum said.