

## **MICRO , SMALL AND MEDIUM ENTERPRISES & KEY CHANGES IN BUDGET 2023**

*Dear Friends,*

*As you are aware that MSMEs are the backbones of industrial development in any country. These MSMEs are the main source of generation of employment and act as key supporter to various types of big industrial houses and entities.*

*MSMEs play a key role in economic development. The sector accounts for over 80% of businesses and contributes to more than half of the employee share. The share of the formal MSME sector in the GDP is up to 40% in emerging economies. The importance of the sector in India's economic growth cannot be over-emphasized. With the presence of over 63 million MSMEs employing over 110 million people staggered across services, manufacturing sector contributes nearly 30% to the GDP. Maharashtra has about 48 lakh MSME accounting for about 8% of the total MSMEs in the country. The ambitious target of \$5 billion economy with a 25% contribution from the manufacturing sector will require the MSME sector to play a pivotal role.*

*Five years ago, there were 6.3 crore MSMEs and today there are more than 9 crore MSMEs in the country. Out of these, 1.5 crore MSMEs are under GST. The remaining MSMEs also need finance from banks and NBFCs but are not on the radar of banks because they don't have Udyam number.*

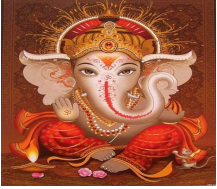
*As mentioned above MSMEs are the backbone of industrial sector in India. These MSMEs are spread all over India and majority of them are in State of Maharashtra. The Government has brought various schemes to promote development and ease of doing business for these MSMEs. There are various concessions and rebates , incentives have been provided by the Government. These MSMEs are eligible for concessional, collateral free loans and in some cases, bank provides performance guarantee for them according to schemes of the Government.*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: [cs.deepakpsingh@gmail.com](mailto:cs.deepakpsingh@gmail.com)



## **LET'S CONSIDER DEFINITION**

### **MSME DEFINITION UNDER MSMED ACT, 2006**

*The classification of Micro, Small and Medium Enterprises is defined under the MSMED Act 2006 amendment dated 01/06/2020. The Micro, Small and Medium Enterprises is based on the Investment in Plant, Machinery or Equipment values (excluding land and building) and Annual Turnover. This shall come into effect from 01.07.2020.*

- **MICRO ENTERPRISE**: *Where the investment in Plant and Machinery or Equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.*
- **SMALL ENTERPRISE**: *Where the investment in Plant and Machinery or Equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees.*
- **MEDIUM ENTERPRISES**: *Where the investment in Plant and Machinery or Equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: [cs.deepakpsingh@gmail.com](mailto:cs.deepakpsingh@gmail.com)



**CLASSIFICATION OF ENTERPRISES (PRINCIPAL TRADE IN FIRST SCHEDULE OF IDR ACT, 1951)**

**Revised MSME CLASSIFICATION as per MSME ACT 2006 w.e.f. 01/07/2020**

**Composite Criteria: INVESTMENT In PLANT & MACHINERY / EQUIPMENT And ANNUAL TURNOVER**

<b>Classification</b>	<b>Micro Enterprises</b>	<b>Small Enterprises</b>	<b>Medium Enterprises</b>
<b>Manufacturing Enterprises and Services Enterprises</b>	Investment in Plant and Machinery or Equipment: Not more than Rs. 1 Crore & Turnover: Not more than Rs. 5 Crore	Investment in Plant and Machinery or Equipment: Not more than Rs.10 crore & Turnover: Not more than Rs. 50 Crore	Investment in Plant and Machinery or Equipment: Not more than Rs.50 Crore & Turnover: Not more than Rs. 250 Crore

**CONTRIBUTION OF MSMES AND COTTAGE INDUSTRY TO GDP**

**Posted On: 19 DEC 2022 1:15PM by PIB Delhi**

1. As per the information received from Ministry of Statistics and Programme Implementation, the share of MSME Gross Value Added (GVA) in all India Gross Domestic Product (GDP) is as follows:

<b>Year</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
<b>Share of MSME GVA in All India GDP (%)</b>	30.50	30.50	26.83

2. As per the information received from Directorate General of Commercial Intelligence & Statistics, the share of export of specified MSME related products in all India Export is as follows:

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



Description	2019-20	2020-21	2021-22	2022-23 (up to Aug. 2022)
<b>Share of export of MSME related products in All India Export (in %)</b>	49.77	49.35	45.03	42.67

3. As per Udyam Registration portal, the total number of persons employed in MSMEs which are incorporated during the last 3 years and the current year is as follows.

Year	2019-20	2020-21	2021-22	2022-23 (up to 07.12.2022)
<b>All India</b>	65,64,458	1,12,27,745	1,30,19,919	84,23,452

4. As per the information received from Ministry of Statistics and Programme Implementation, the share of Manufacturing MSME Gross Value Added (GVA) in all India Manufacturing Gross Value Added (GVA) is as follows:

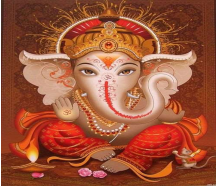
Year	2018-19	2019-20	2020-21
<b>Share of manufacturing MSME GVA in All India manufacturing GVA (%)</b>	40.60	40.67	38.47

**FCS DEEPAK P. SINGH**

(B.Sc., LLB, FCS, AIII, CRMP)

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



*Ministry of MSME implements various schemes/programmes for the promotion and development of Micro, Small and Medium Enterprises (MSMEs) sector across the country inter alia include;*

- i) Prime Minister's Employment Generation Programme (PMEGP);*
- ii) Micro and Small Enterprises-Cluster Development Programme (MSE-CDP);*
- iii) Scheme of Fund for Regeneration of Traditional Industries (SFURTI);*
- iv) Credit Guarantee Scheme for Micro and Small Enterprises (CGTMSE) and*
- v) A Scheme for Promoting Innovation, Rural Industry & Entrepreneurship (ASPIRE).*

*The Government has taken a number of recent initiatives to support MSMEs in the country, which inter alia include:*

- i. Rs. 5 lakh crore Collateral Free Automatic Loans for business, including MSMEs.*
- ii. Rs. 50,000 crore equity infusion through MSME Self-Reliant India Fund.*
- iii. New revised criteria for classification of MSMEs.*
- iv. No global tenders for procurement up to Rs. 200 crores.*
- v. "Udyam Registration" for MSMEs, for Ease of Doing Business.*
- vi. Launching of an online Portal "Champions" in June, 2020 to cover many aspects of e-governance including grievance redress and handholding of MSMEs.*
- vii. Inclusion of Retail and Wholesale trades as MSMEs w.e.f. 02nd July, 2021.*
- viii. Non-tax benefits extended for 3 years in case of an upward change in status of MSMEs.*

*NOTE THAT : This information was given by Minister of State for Micro, Small and Medium Enterprises.*

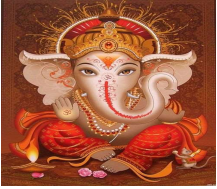
*[<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1884734>]*

**FCS DEEPAK P. SINGH**

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## **WHAT IS NEW FOR MSMEs IN NEW BUDGET PROPOSALS**

### **TAX BENEFITS PROVIDED TO MSMES AND STARTUPS**

#### **1. INCREASE IN THRESHOLD LIMITS UNDER THE PRESUMPTIVE TAXATION SCHEME;**

*The threshold limits for the presumptive taxation scheme are increased from Rs.2 crores to Rs.3 crores for eligible businesses to promote non-cash transactions and ease compliance. This increased limit will apply only in the case the aggregate of the amounts or amounts received in cash during the year does not exceed 5% of the total gross turnover/receipts.*

#### **2. CONCESSIONAL TAX TO NEW MANUFACTURING CO-OPERATIVE SOCIETIES**

*The Budget 2023 provides an option to pay tax at a concessional rate of 15% for a new co-operative society established on or after 01/04/2023, commencing production or manufacture by 31/03/2024 and does not avail of any specified deduction or incentive subject to compliance of terms and conditions given in the Rules.*

#### **3. RELIEF TO STARTUPS IN CARRYING FORWARD AND SETTING OFF LOSSES**

*The Budget 2023 provided relief to startups by giving the benefit of carry forward of losses on a change of shareholding of startups from seven years to ten years. The condition of continuity of a minimum of 51% shareholding to set off of carried-forward losses is relaxed for eligible startups if all company shareholders continue to hold those shares.*

#### **4. DATE OF INCORPORATION OF STARTUPS EXTENDED FOR TAX EXEMPTION**

*Certain startups are eligible for tax benefits if they are incorporated before 01/04/2023. The period of incorporation of such eligible startups for receiving tax benefits is extended by one more year, i.e. 01/04/2024.*

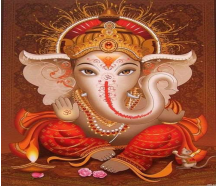
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**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com





## **5. EASE IN CLAIMING AMORTISATION DEDUCTION OF PRELIMINARY EXPENDITURES**

*At present, the assessee or a concern approved by the Board should carry out the activity of an enterprise for claiming amortisation of certain preliminary expenses. To simplify the process of claiming amortisation of preliminary expenses, Budget 2023 proposed to remove the condition of a concern approved by the Board to carry out the activity in connection with these expenses. The government will prescribe the format for reporting such expenses by the assessee.*

## **6. PROMOTE TIMELY PAYMENTS TO MSMES**

*The Budget 2023 proposed to include payments made to MSMEs within the ambit of Section 43B of the Income Tax Act, 1961, to promote timely payments to MSMEs. Thus, a deduction for such payments will only be allowed when it is actually paid. It will be allowed on an accrual basis only when the payment is made within the time prescribed under the Micro, Small and Medium Enterprises Development Act.*

## **7. OTHER BENEFITS PROVIDED TO MSMES AND STARTUPS**

### **i) EXTENSION OF CREDIT GUARANTEE SCHEME FOR MSMES**

*The Budget 2023 proposed to revamp the Credit Guarantee Scheme for MSMEs, which will be effective from 01/04/2023 through an infusion of Rs.9,000 crore in the corpus. It will enable additional collateral-free guaranteed credit of Rs.2 lakh crore, and the cost of the credit will be reduced by about 1%.*

### **ii) VIVAD SE VISHWAS I – RELIEF FOR MSMES**

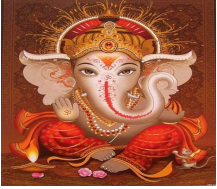
*In the case of failure to execute contracts by MSMEs during the Covid period, the government and government undertakings will return 95% of the forfeited amount relating to performance or bid security to them.*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



**iii) SETTING UP OF AGRICULTURE ACCELERATOR FUND FOR AGRI-STARTUPS**

*An Agriculture Accelerator Fund will be set up to promote and encourage Agri-startups by young entrepreneurs in rural areas. The Fund will aim to bring affordable and innovative solutions for challenges faced by farmers. It will also help to bring modern technologies to transform agricultural practices and increase profitability and productivity.*

**iv) A COMMON BUSINESS IDENTIFIER FOR BUSINESSES**

*The PAN will be the common identifier in all digital systems of specified government agencies for business establishments required to have a PAN. It will be facilitated through a legal mandate and bring ease of doing business.*

**v) SETTING UP OF ENTITY DIGILOCKER FOR MSMES**

*An Entity Digi Locker will be set up for use by MSMEs and large businesses. It will be towards sharing and storing documents online securely with various regulators, banks, authorities and other business entities.*

**vi) MEASURES TO ENHANCE BUSINESS AT GIFT IFSC**

*The Budget 2023 proposed various initiatives to enhance business activities in GIFT IFSC, which are as follows:*

- Delegating powers under the SEZ Act to IFSCA to avoid dual regulation*
- Single window IT system for regulatory approval and registration*
- Permitting acquisition financing by IFSC banking units of foreign banks*
- Establishing a subsidiary of EXIM Bank for trade re-financing*
- Recognizing offshore derivative instruments as valid contracts*

*MSMEs are the growth engines of our country and contribute immensely to economic development. The measure and benefits provided in the Budget 2023-24 to MSMEs and startups will provide ease of compliance and business.*

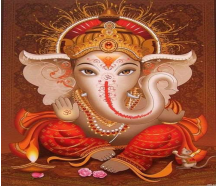
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Email ID: cs.deepakpsingh@gmail.com





**LET'S CONSIDER CHANGES IN INCOME TAX ACT, 1961 AND MSMED ACT, 2006 RELATED TO PAYMENT OF MSMEs DUE.**

**SECTION 15 OF MSMED ACT, 2006 -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;*

- i) on or before the date agreed upon between him and the supplier in writing or,*
- ii) 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.*

***It means that the maximum period that is allowed under the MSMED Act for payment to be made is 45 days from the date of delivery of goods or receipt of services, if no objections are made within 15 days from such a date. In the event of any objections being made, then the number of days gets extended by the number of days taken to remove the objection***

**SECTION 2(b) OF MSMED ACT, 2006**

**“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;*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

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**(li) “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;

**SECTION 2 (N)** "supplier" means a micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8, and includes,—

- (i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956 (1 of 1956);
- (ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956 (1 of 1956);
- (iii) any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises.

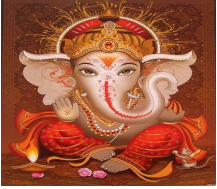
**PLEASE NOTE THAT:** the buyer of any goods or provisions of services from MSME will require to intimate the MSME within a period of 15 days from the date of receipt of goods or services related to any complaint, etc. of goods or services in writing to the MSME. Then Day of Acceptance is the date on which such objection will have been removed by the MSME. If no objection has been made by the buyer to the MSME in writing then Day of Deemed Acceptance is the date on which actual delivery of goods or services rendered. Appointed Date if the date immediately followed the “ Date of Acceptance or the Date of Deemed Acceptance” as defined above.

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



## **LET'S CONSIDER AN EXAMPLE**

### **EXAMPLE 1**

***No. credit period in writing and no objection in writing from buyer***

*Date of order : 3-1-2009*

*Date of Supply: 3-2-2009*

*Credit Period : Nil*

*Objection in writing: No*

*Date of acceptance or deemed acceptance: 3-2-2009*

*Appointed Day : 18-2-2009*

*Payment to be made on or before appointed day 18-2-2009*

### **EXAMPLE 2**

***Credit period of 60 days in writing and no objection in writing from Buyer***

*Date of order: 3-1-2009*

*Date of Supply: 3-2-2009*

*Credit Period :60 days*

*Due date for payment as per agreement : 4-4-2009*

*Objection in writing : No*

*Appointed date: 03-02-2009*

*Date of payment : 20-3-2009*

**PLEASE NOTE:** *in no case the payment period, be more than 45 days from the date of appointed date.*

### **EXAMPLE 3**

**No credit period but objection from buyer**

*Date of order : 03-01-2009*

*Date of Supply : 03-02-2009*

*Credit Period : NIL*

*Date of objection in writing : 15-2-2009*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



*Date of removal of objection: 20-2-2009*

*Appointed day: 20-02-2009*

*Payment to be made on or before appointed day 20-02-2009.*

**PLEASE NOTE:** *If the objection is made after 15 days from the date of supply, the same shall not be considered and the appointed date in this case will be 18-2-2009 i.e., 15 days from the date of actual delivery of goods. Accordingly, the due date of payment will be 20-02-2009.*

### **CHANGES IN BUDGET RELATED TO MSMED ACT, 2006**

*Deduction for payments to Micro and small suppliers will now be on actual payment basis and not on payable basis as per amendment to Section 43B of the Income Tax Act, 1961 in this Budget.*

*A new clause has been added effective from 1.4.2024 the following clause has been inserted in section 43B of the Income Tax Act.*

*"(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,";*

*Further the proviso in the section has been amended as follows :*

*in the proviso, after the words "nothing contained in this section", the brackets, words and letter "[except the provisions of clause (h)]" shall be inserted;*

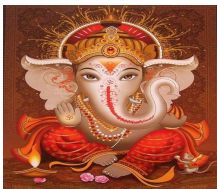
*Thus, a combined reading of the above amendments means that any overdue amount to Micro and Small enterprises, by any assessee as on 31st March of a year should have been paid on or before 31st March i.e. the amount outstanding as payable should not be beyond the due date as in Section 15 of MSME Act.*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



### **SECTION 43B OF INCOME TAX ACT, 1961**

*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);*

*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;*

*c) any sum payable as bonus or commission to employee for services rendered;*

*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;*

*e) any sum payable by the assessee as interest on any loan or advances from a scheduled bank or (wef A.y 2018-19 from 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;*

*f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee.*

*g) any sum payable to Indian Railways for the use of railway Assets (wef A.y 2017-18).*

*(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.*

**FCS DEEPAK P. SINGH**

**(B.Sc., LLB, FCS, AIII, CRMP)**

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



*Section 43B to include certain payments made to Railways shall be allowed as deduction only in the previous year in which such sum is actually paid.*

*This is irrespective of the previous year in which the liability to pay such sum was incurred by the assessee.*

**Provided that** : *Notwithstanding anything contained in any other provisions of this act' denotes that section 43B overrides all the sections in Income Tax Act, 1961, except the provisions of clause (h).*

**CONCLUSION:** *It means that the deduction of payment to business entity related to purchase of goods or provisions of services will be available only when entity make actual payment to MSMEs within time period as may be prescribed under provisions of MSMED Act, 2006. As earlier a provision has been made for payment to MSMEs according to accounting practices but now after budget provisions entities has to make actual payment before 31<sup>st</sup> March of the year.*

**DISCLAIMER:** *the article presented here is only for sharing information to the readers. The view is personal, shall not be considered as advice. In cane of necessity do consult with professionals for more clarity and understanding of subject matter.*

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