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MSME – Changes you need to know

Direct Tax

Indirect tax

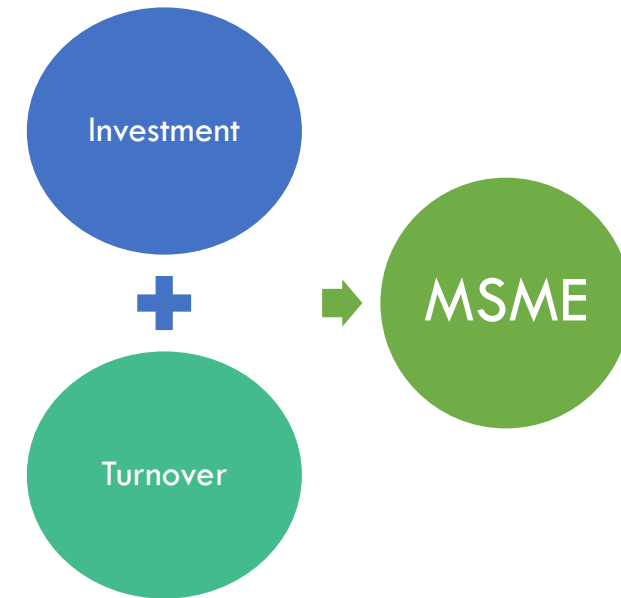
Make in India & MSME

As we enter 74th year of independence the Country and Government is moving towards to “**Atmanirbhar Bharath**” MSME sector has emerged as a substantial force to recon with in terms its contribution to the economy.

MSME sector will be key part of Indias dreams in **Make In India** and **Atmanirbhar Bharath** objectives

The Central Government has already made this clear by announcing several schemes to support the MSME in addition to the existing impetus being given by the GST Council and Industrial Policy. The biggest benefit is the **new definition** of MSME which covers many more organizations.

This will lead to faster growth of the sector and encourage the enterprise to grow substantially with access to finances, market forces, trade and export and strengthen our Make in India movement.



Revised Definition		
Entity Type	Investment not exceeding	Turnover not Exceeding
Micro Enterprise	1 crore	5 crores
Medium Enterprise	10 crores	50 crores
Small Enterprise	50 crores	250 crores

Implications of Large Enterprises

- As more and more enterprise register and come under the ambit of MSME act, this will also lead to changes in the procurement strategy of large Corporates. MSME Act lays down stringent payment guidelines for PSU/ State/ Central Governments as well as large public companies.
- It will also change the cash flow pattern for the Large Corporates as they see need to pay the vendors on time. It might also question the business models and cash flow patterns of large companies including EOUs which have realizations beyond 120 days.
- It will give rise to review more and more innovative funding solutions such as vendor discounting, increased usage of TReDS platform and give rise to new payment products as well.



MSME Payment Guidelines

Payment delayed beyond 45 days

Compound interest rate of 3 times RBI notified rate

Payment delayed beyond 90 days

Escalation on MSME portal Samadhan

Year End Audit Disclosures

Every entity with compulsory audit has to disclose dues to MSME and interest need to be accrued as applicable



DIRECT TAX

Important updates

Further extension of due date for filing of ITR for AY 2019-20.

CBDT vide **Notification No. 56/2020 dated 29.07.2020** has further extended the due date for filing of **belated or revised return** of income for **Assessment Year 2019-20 to 30 September 2020**

Partial Relaxation from interest u/s 234A to resident individuals not liable to pay advance tax

CBDT vide **Notification No. 56/2020 dated 29.07.2020** has provided that any amount paid u/s 140A (Self-Assessment Tax) **within the due date as per Act (without considering extension)**, by person referred to in section 207(2) [Resident Individual not having Business income and is of age 60 years or more at any time during the previous year] shall be deemed to be the advance tax. Therefore any payment made within the due date as per act (without considering extension) will be allowed to be reduced from the amount on which interest u/s 234A is to be calculated.

Case laws

Amendment made by Finance Act, 2014 to section 40(a)(ia) restricting disallowance for non-compliance with TDS to 30% of the amount is amendment of a substantive provision and cannot be applied retrospectively.

Hon'ble Supreme Court observed that the amendment made by Finance Act 2014 is amendment of substantive provision and the benefit of same cannot be given retrospectively.

[Shree Choudhary Transport Company Vs. Income Tax Officer – Supreme Court order dated 29.07.2020 - 4 NYPCTR 402 (SC)]

Amount taken as temporarily financial accommodation for the purpose of business doesn't attract the rigours of section 2(22)(e)

Hon'ble ITAT Delhi observed that the assessee company has received, repaid, given and received back amounts from and to subsidiary company which would clearly show that the transactions are in the nature of purely temporarily financial accommodation for the business purposes and held that provisions of section 2(22)(e) cannot be applied and such receipt cannot be treated as deemed dividend.

[Exotica Housing & Infrastructure Company Vs. Income Tax Officer – ITAT Delhi - order dated 24.06.2020 - ITA No.5188/Del/2019]

INDIRECT TAX



Central Board of Direct Taxes
(CBDT)



**MOU SIGNED
BETWEEN CBDT
AND CBIC TO
FACILITATE
BILATERAL
DATA SHARING**

CBIC & CBDT SIGN MOU TO FACILITATE BILATERAL DATA SHARING

- *A Memorandum of Understanding was signed between the CBDT & CBIC, on July 21, 2020, for data exchange between the two organisations. This MoU will facilitate the sharing of data and information on an automatic and regular basis. [refer Annexure-1]*
- *This MoU supersedes the MoU signed between CBDT and the erstwhile CBEC in the year 2015*
- *This MoU is highly significant as it covers The Goods and Services Tax Network (GSTIN), the repository of all GST related*
- *Under the MoU, the CBIC will share the GST data based on the PAN of the supplier.*
- *Free flow of information between CBDT and GSTIN will help in profiling tax payers in terms of their compliance track record and preempt any tax evasion*

E-invoicing of GST compulsory from Oct 1, with higher threshold of Rs.500 Cr

To whom does it apply?

- A registered person whose aggregate turnover in a financial year exceeds **Rs. 500 Crores**, while making a B2B Invoice shall have to issue tax invoice containing particulars as contained in **Form GST INV - 01** after obtaining an Invoice Reference Number (IRN).

Are there any exceptions to the above?

- However, following registered person are exempted from requirement to generate e-Invoice:
 - an insurer or a banking company or a financial institution, including a non-banking financial company;
 - a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage;
 - a supplier supplying passenger transportation service; or
 - a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.
 - a Special Economic Zone (SEZ) Unit.

CBIC & CBDT SIGN MOU TO FACILITATE BILATERAL DATA SHARING

Income Tax Portal showing GSTR-2A Data

- Soon after signing the MoU, Income Tax portal now showing GSTR-2A data of the taxpayers basis the PAN no. as mentioned in the GST no. of the assessee
- Assessee having business income needs to ensure that their income tax returns and GST returns correlate
- ***Income Tax Returns requires the taxpayers to mention the following details pertaining to GST***
 - Details of taxes levied on sale (CGST, SGST, IGST & UTGST) and these details should match with the electronic liability register on the GST portal
 - Details of CGST, SGST, IGST & UTGST paid on procurements and ITC claimed thereon, these details should match with electronic credit register on the GST portal
 - If any GST Refund is receivable from the Govt. and not credit to P&L, then the details of the same should be disclosed in the ITR
 - Taxpayers are required to furnish the GST registration number in the Income Tax return
 - Taxpayers are required to mention turnover or gross receipts as mentioned in the GST returns

Case laws

Refund of ITC in case of inverted duty structure, Not allowing refund of unutilized input tax credit relatable to input services is ultra vires the provision of Section 54(3) of the CGST Act, 2017.

Hon'ble High Court observed that Explanation (a) to Rule 89(5) which denies the refund of “unutilised input tax” paid on “input services” as part of “input tax credit” accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017. The Court also rejected the plea of the respondent to stay the operation, implementation and execution of the judgment.

[VKC FOOTSTEPS INDIA PVT. LTD. VERSUS UNION OF INDIA & 2 OTHER (S) Vs. 2020 (7) TMI 726 - GUJARAT HIGH COURT]

Detention of goods as the tax was not mentioned separately in the e-way bill. Authorities detained goods on the allegation that there was a discrepancy in the e-way bill that accompanied the transportation of the goods under Section 129 of GST Act.

It was held that the power of detention under Section 129 is to be exercised only in cases where a transportation of goods is seen to be in contravention of the provisions of the Act and Rules and not simply because a document relevant for assessment does not contain details of tax payment.

[M.S. STEEL AND PIPES VERSUS ASST. STATE TAX OFFICER, COMMISSIONER OF STATE GST 2020 (8) TMI 481 - KERALA HIGH COURT]



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