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Written by [Aanchal Magazine](#)

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A new clause (h) in Section 43B allowed for deduction for larger companies against payments done to MSMEs only after they were actually paid. (File Photo)

A new provision in the Income-Tax Act in Budget 2023-24 that aimed to secure payments to micro, small and medium enterprises (MSMEs) within 45 days of supply of goods or services has resulted in a peculiar problem — that of large companies canceling orders to registered MSMEs and placing these with unregistered MSMEs.

While some MSME associations have approached the Supreme Court against the new norm, the Union MSME Ministry is learnt to have reached out to industry players for solutions. It has asked stakeholders to suggest ways to resolve the issues arising from the I-T Act and to recommend possible alternate mechanisms for timely clearance of MSME bills.

This is the second time the Ministry is reaching out to MSMEs. A fortnight after presenting the [Interim Budget](#) for 2024-25, it had formally written to them seeking comments on the new clause in Section 43B of the I-T Act introduced in 2023-24 that aimed to secure timely payments for smaller units. A new clause (h) in Section 43B allowed for deduction for larger companies against payments done to MSMEs only after they were actually paid. Larger companies were otherwise not allowed to make deductions in their tax returns, resulting in the prospect of increased tax liability.

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This led to a peculiar problem. As balance sheets get audited in the assessment year 2024-25 for transactions in financial year 2023-24, bigger companies started flagging concerns about ballooning tax liability; and many MSME owners too reported cancellation of orders due to the new tax clause. MSMEs also pointed to big companies shifting business to unregistered MSMEs, as it lends them the flexibility to not meet the mandatory provision and continue with a longer payment cycle of 90-120 days, people aware of the developments said.

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“Many cancellations have been reported from MSMEs such as ancillary units and dedicated suppliers. Some corporations are also trying to force suppliers to cancel their MSME registration. Most people realised the full impact of the tax provision only towards January-end because they were supposed to get the payments by March 31 but did not. The earlier payment cycle between the buyer and the supplier would be longer, say 90 days or 120 days. But now companies don’t want to buy from an MSME,” said KE Raghunathan, National Chairman, Association of Indian Entrepreneurs



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Though the scheme was well intentioned, it led to negative results, he said. “Most of the time, it is the companies making losses that resort to not paying (MSMEs) on time and even if they come to pay the penalty, the beneficiary is the I-T department and not the MSME that suffers. The scheme was well intentioned but has resulted in negative results,” Raghunathan said.

The new provision has also unintentionally resulted in a competition between registered and unregistered MSMEs, with many smaller entities opting to de-register themselves to survive and not lose business. “They (companies) want to purchase goods from the MSMEs not having a registration. For small players, they have to supply, otherwise business will collapse. To avoid competition, MSMEs are surrendering their registrations,” said Jalapathi K, Secretary, [Tamil Nadu](#) and Puducherry Chartered Accountants’ Association.

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But some industry players said considerable time was given to the stakeholders to adjust to the new tax provision and issues surfaced only when balance sheets were finalised. “A full year was given to people to prepare. It did not come in this year’s budget, but last year’s budget. Everybody knew it was going to kick in from April 1. Large corporations will face problems, they usually ask for 180 days (payment cycle), they have enough money, let them pay in time, what is the issue,” said Anil Bhardwaj, Secretary General, Federation of Indian Micro and Small & Medium Enterprises.

“The new clause (h) in Section 43B is not detrimental to MSMEs, rather it will instil discipline into commercial practices. India’s large companies, PSUs, would learn to start paying in time, at least at the time when balance sheets are finalised. People are not aware this provision kicks in only when the balance sheet is prepared. It is extra pressure at the time of paying income tax, there is a problem only if one has not paid,” he said.

Queries sent by [The Indian Express](#) on this issue to the Secretary, MSME Ministry, did not elicit a

response.

The amendment stated that payments made to MSMEs beyond the time limit specified in Section 15 of the MSME Development (MSMED) Act would be allowed as a deduction only in the previous year in which the sum has been actually paid. Section 15 of the MSMED Act mandates payments to MSMEs within the time period of 45 days as per the written agreement. If there is no such written agreement, the payment needs to be made within 15 days.

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Data shared by the MSME Ministry in Parliament in February this year said that 2.28 crore MSMEs registered during July 1, 2020 to January 30, 2024 on its Udyam portal, while 1.28 crore micro enterprises registered on the Udyam Assist Platform during January 11, 2023 to January 30, 2024.

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As on January 30 this year, around 35,396 MSMEs cancelled their Udyam registration due to shut down of business during July 1, 2020 to January 30, 2024, the data showed. Sector-wise split showed that out of 35,396 cancelled registrations, 9,308 were from the manufacturing sector, 9,511 from trading and 16,577 were from services.

Tax experts, however, are of the view that the payment timelines are unrealistic and the government needs to reconsider extending it to at least the time of filing of returns rather than at the end of a financial year. “Practically speaking these timelines are not practical. Even for large business houses, it is tough for companies to complete payments within 45 days. Now they are facing difficulties in getting as expenditure is getting disallowed for those business houses. Because of these disallowances, it is leading to an increase in their tax liability. Just to not have this situation, they are not dealing with MSMEs and due to which their business is getting impacted,” Sanjoli Maheshwari, Executive Director, Nangia Andersen India, told The Indian Express.

While industry association FISME does not want any course correction from the government, others offered options such as mandatory bill discounting and extension of the payment timelines as possible solutions.

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