

Allied Motors (P) Ltd. v. Commissioner of Income Tax, Delhi

Tax Reference No. 2 of 1993 / Tax Reference No. 1 of 1994 / Civil Appeal No. 3175 (NT) of 1991 / Civil Appeal No. 2380 of 1991

[1997] 2 SCR 780 | 1997-03-10

Whether sales tax collected in the last quarter and paid after the previous year but within the sales-tax law's permitted period was disallowable under section 43B, or whether the 1987 first proviso applied retrospectively from the section's inception.

43B(a) | 43B first proviso | 43B Explanation 2

Three-judge bench | A. M. Ahmadi, CJI | Sujata V. Manohar, J. | K. Venkataswami, J.

Assessment years: 1984-85

Historical sales-tax ruling with amendment-specific retrospective effect

Allied Motors reads the original first proviso back to 1 April 1984; Alom's distinct 2003-amendment holding starts on 1 April 1988. Neither automatically determines employees' contribution deductions or the 2025 Act position. The bounded Checkmate and later statutory caveats require the relevant year and statutory version to be identified.

[paragraphs Section 1\(2\)\(a\) / PDF pages 1 / statute](#); [paragraphs Section 39 / PDF pages 41 / statute](#); [paragraphs Section 536\(1\), \(2\)\(a\)-\(e\), \(3\)-\(4\), selected savings provisions / PDF pages 584, 585, 589 / statute](#); [paragraphs Paragraph 15 / PDF pages 11, 12, 13 / judgment](#); [paragraphs Paragraph 38 / PDF pages 21 / later judgment](#); [paragraphs Paragraphs 44-45 and 51-55 / PDF pages 26, 27, 31, 32, 33, 34 / later judgment](#)

01 FACTS OF THE CASE

Two income-tax references under section 256(1) and two civil appeals raised a common section 43B question. The Court used the facts in Tax Reference No. 2 of 1993. For AY 1984-85, the relevant accounting period ended on 30 June 1983. The assessee returned income of Rs. 1,91,940 and claimed deduction of Rs. 5,78,240 representing sales tax collected in the last quarter, payable within thirty days after that quarter ended. The referred question stated that payment occurred after the previous year but within the sales-tax law's permitted time (unnumbered opening judicial text, physical page 4).

The Income-tax Officer disallowed the sales-tax deduction under section 43B, newly effective from 1 April 1984. The Commissioner (Appeals) dismissed the appeal; the Tribunal followed the Delhi High Court decisions in Sanghi Motors and Escorts and did likewise. Civil Appeal No. 3175 (NT) of 1991, arising from Escorts, was heard with the references. The first proviso had not yet been on the statute book for these earlier assessments: it was inserted by the Finance Act 1987 with stated effect from 1 April 1988, while Explanation 2 was later made retrospective from 1 April 1984 (physical pages 4-6).

The assessees argued that the first proviso remedied a hardship created by the original section and therefore had to operate from the section's inception. The Revenue's contrary position found support in the Delhi High Court's prospective-only approach. The case concerned the deduction for paid sales tax, not an independently pleaded employees' provident-fund contribution claim.

Source: [reported judgment / paragraphs Proceeding details and unnumbered judicial text, printed SCR 782-785 / PDF pages 3, 4, 5, 6 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

Before section 43B, a mercantile taxpayer could deduct qualifying accrued liabilities. The Court examined the 1983 Finance Bill memorandum and Budget speech to identify the targeted abuse: taxpayers deducted statutory liabilities while leaving them unpaid for long periods. The section's unqualified actual-payment language also caught a different situation, namely sales tax for a final quarter that was lawfully payable and paid only in the following accounting year. Preventing deduction in that situation was an unintended hardship. The first proviso addressed it by allowing the specified payments made on or before the applicable section 139(1) return due date, with the evidence required by the historical text (physical pages 5-8).

The Court read the main section, first proviso and Explanation 2 together. Explanation 2, expressly retrospective from 1 April 1984, made clear that a liability incurred in the previous year was within section 43B even if its statutory payment date fell later. The 1989 explanatory memorandum and Circular No. 550 assumed the proviso would protect timely payments from the hardship that clarification otherwise created. Isolating the proviso as prospective while giving Explanation 2 retrospective operation would defeat that legislative scheme (physical pages 9-11).

Applying reasonable construction, the Court held that a proviso supplying an obvious omission and curing unintended consequences must be treated as retrospective where required to make the section workable. It relied on Goodyear India and R. B. Jodha Mal Kuthiala and discussed the favourable High Court decisions in Chandulal Venichand, Sri Jagannath Steel and Jamshedpur Motor Accessories Stores. The Delhi High Court's prospective-only view could not stand. The conclusion reads the first proviso into section 43B from its inception, 1 April 1984; the enactment's stated 1 April 1988 start and the judicially determined retrospective effect are different propositions (physical pages 10-13).

This is a construction of the particular remedial sales-tax proviso and its interaction with Explanation 2. References to employer welfare liabilities in the 1983 memorandum explain the section's original purpose; they do not turn this case into a holding on the separate conditions governing employees' contributions.

Source: [reported judgment / paragraphs Unnumbered judicial text, printed SCR 784-792 / PDF pages 5, 6, 7, 8, 9, 10, 11, 12, 13 / judgment](#)

03 JUDICIAL DECISION

The first proviso was read as part of section 43B from its inception on 1 April 1984. The Court allowed the civil appeals and answered the income-tax references in favour of the assesseees and against the Revenue, with no order as to costs. It rejected the Delhi High Court's view that the proviso was available only prospectively (physical pages 10-13).

Source: [reported judgment / paragraphs Retrospective construction and operative closing, printed SCR 789-792 / PDF pages 10, 11, 12, 13 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assesseees

Civil appeals allowed; income-tax references answered for the assesseees and against the Revenue; no costs

Historical first-proviso retrospectivity and referred sales-tax deduction issue decided

Lead facts are AY 1984-85 sales tax paid after year-end within the permitted statutory period. No present-law certification, automatic extension to every later amendment or determination of employees' contribution eligibility.

Source: [reported judgment / paragraphs Operative closing, printed SCR 792 / PDF pages 13 / judgment](#)

05 AKHB REVIEW POINT

Keep three historical dates distinct: section 43B began on 1 April 1984; the 1987 first proviso stated a 1 April 1988 commencement; Allied Motors construed that proviso as operative from the section's 1984 inception. The analysis turns on the identified defect, the proviso's curative function and the contemporaneous retrospective Explanation 2, rather than a free-standing rule that every beneficial amendment must relate back. In a legacy claim, preserve evidence of the liability period, actual payment and the applicable return due date under the historical wording.

Alom later applied Allied's construction principle to a different amendment and selected 1 April 1988 for the Finance Act 2003 contribution-related changes. Its isolated sentence assigning 1988 to Allied's own retrospectivity must not overwrite this judgment's 1984 analysis. Neither decision should be used without separating employer contributions from employee money: Checkmate's bounded 1961 Act distinction and the separately checked later statutory change require a governing-year inquiry, not mechanical precedent carryover.

Source: [reported judgment / paragraphs Lead facts, historical dates, integrated construction and outcome / PDF pages 4, 5, 6, 10, 11, 12, 13 / judgment](#); [bounded later judicial source / paragraphs Paragraphs 15-17 / PDF pages 11, 12, 13 / later judgment](#); [bounded later judicial source / paragraphs Paragraphs 38, 44-45 and 51-55 / PDF pages 21, 26, 27, 31, 32, 33, 34 / later judgment](#); [bounded statutory source / paragraphs Sections 1\(2\)\(a\), 39 / PDF pages 1, 41 / statute](#); [bounded statutory source / paragraphs Section 536 selected repeal-and-savings provisions / PDF pages 584, 585, 589 / statute](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

28; 139(1); 145; 256(1)

OTHER PROVISIONS CONSIDERED

Finance Act 1983: section 43B effective 1 April 1984; Finance Act 1987: first proviso with stated commencement 1 April 1988; Finance Act 1989: Explanation 2 retrospective from 1 April 1984; CBDT Circular No. 550 dated 1 January 1990, reproduced in the judgment

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 43B(a); first proviso; Explanation 2

Role: principal holding

Basis: Actual payment of sales tax; curative first proviso and retrospective definition of sum payable construed together.

2.

Act: Income-tax Act, 1961

Section: 139(1)

Role: deadline incorporated by proviso

Basis: Applicable return due date in the historical proviso.

3.

Act: Income-tax Act, 1961

Section: 145; 28

Role: accounting and computation context

Basis: Mercantile accounting and business-income computation background.

4.

Act: Income-tax Act, 1961

Section: 256(1)

Role: procedural

Basis: Two income-tax references heard with the two civil appeals.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sujata V. Manohar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER STATUTORY CHANGE AND LIMITS OF THE CHECK

Status: specific existing auxiliary sources reused and relevant passages read

Summary: For the employee-contribution distinction only, Finance Act 2026 section 39 substituted Income-tax Act 2025 section 29(1)(e) with a return-filing due-date condition under section 263(1); section 1(2)(a) supplies commencement on 1 April 2026. This is a substantive later-law caution, not an automatic crosswalk for either historical judgment. The selected section 536 repeal-and-savings text preserves the need to determine the governing tax year and proceeding; the newer deadline is not by itself retrospective relief under the 1961 Act. No post-Finance Act 2026 completeness is certified.

Source url: [Open cited source](#)

Pdf pages: 1; 41

Paragraphs: Finance Act 2026 sections 1(2)(a), 39

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: Section 1(2)(a)

Source role: statute

2.

Source url: [Open cited source](#)

Pdf pages: 41

Paragraphs: Section 39

Source role: statute

3.

Source url: [Open cited source](#)

Pdf pages: 584; 585; 589

Paragraphs: Section 536(1), (2)(a)-(e), (3)-(4), selected savings provisions

Source role: statute

Limits: No new general provision mapping; no full later-Act/notification audit. Existing statutory sources and limitations reused.

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-1997-03-10-allied-motors

Later case id: sc-2009-11-25-alom-extrusions

Relationship: binding curative amendment principle applied to distinct 2003 changes

Summary: Alom relies on Allied Motors as a binding three-judge precedent but reaches its own 1 April 1988 effective date for the 2003 contribution-related changes. The source's inconsistent sentence about Allied's date is flagged.

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: Paragraph 15

Source role: judgment

2.

Earlier case id: sc-1997-03-10-allied-motors

Later case id: sc-2022-10-12-checkmate-services

Relationship: cited for section43B object with employee eligibility distinguished

Summary: Checkmate paragraph 38 cites Allied for section 43B's anti-deferral purpose. Its later analysis of Alom and section 36(1)(va) preserves the employer/employee distinction; it does not purport to overturn Allied's historical sales-tax holding. Only the identified passages were checked.

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 21

Paragraphs: Paragraph 38

Source role: later judgment

2.

Source url: [Open cited source](#)

Pdf pages: 26; 27; 31; 32; 33; 34

Paragraphs: Paragraphs 44-45 and 51-55

Source role: later judgment

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 13 PDF pages; SHA-256

fe8f638562dd3547863086c6a9676bf45d3b720e37785bfc7b984fdb46080c8a. Original bytes preserved.

Judicial-delivery line at the end of physical PDF page 3; authored, unnumbered judicial text on physical PDF pages 4-13 (printed SCR 783-792). Editorial headnotes/references and proceeding details precede it on pages 1-3. No adjacent judgment within the bounded text.

[Open cited source rendition](#)

Judicial paragraphs are unnumbered in the preserved SCR rendition; physical-page and printed-page pins are supplied rather than invented paragraph numbers.

The precise lead assessment year, accounting-year end, returned income and disputed sales-tax amount come from judicial text on physical page 4, not merely the headnote.

The companion proceeding numbers appear in the source's proceeding/counsel details on physical page 3 and the judicial opening on page 4; no companion assessment years are inferred.

Alom paragraph 15 later contains an inconsistent 1988 description of Allied's first-proviso retrospectivity; the 1997 primary source's 1984-inception analysis controls this note.

Reported SCR citation verified from the source pages. The catalogue INSC identifier is not promoted to a source-printed neutral citation.

AY 1984-85 and the accounting year ending 30 June 1983 are expressly stated for the lead Tax Reference No. 2 of 1993. No separate assessment years are inferred for the companion reference or appeals.

Preserved reported source only; no separately retrieved signed 1997 original is claimed.; The original sales-tax deadline is part of the historical facts and is not offered as present GST, sales-tax or welfare-fund compliance advice.

STATUTORY SCOPE

Historical Income-tax Act 1961 provisions as reproduced in the primary judgments, with only the specifically bounded later Checkmate and Finance Act 2026/section 536 caveats described separately.

No automatic Income-tax Act 2025 crosswalk, comprehensive later-legislation audit or present compliance certification. The existing auxiliary-source manifest records an uncompleted full-text check of the subsequent Taxation and Other Laws (Amendment) Act 2026; the Finance Act 2026 consolidation is not treated as an exhaustive current statute.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, reviews, stays, reversals and later judicial treatment have not been comprehensively checked. The separately identified Alom/Allied/Checkmate links are bounded checks, not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 13](#)

SHA-256: fe8f638562dd3547863086c6a9676bf45d3b720e37785bfc7b984fdb46080c8a

[bounded later judicial source - PDF pages: 14](#)

SHA-256: 9e253710cf8e50af2e162eb19e3ba0d1e895129e26f510c74a419001b73538df

[bounded later judicial source - PDF pages: 34](#)

SHA-256: adf443b06d71ad681376b1811da680ed4ca154e35fa34453aeb005ff6825eec1

[bounded statutory source - PDF pages: 121](#)

SHA-256: f01136356e61b2534328153941a68f13afd06fe8587d347757c89101d9cc564f

[bounded statutory source - PDF pages: 686](#)

SHA-256: d54a0ed6a91673d1a4fbcef9b5e472c3efe441139fae38f85a5a0c5b2cfc998b

[Related note: Commissioner of Income Tax v. M/s. Alom Extrusions Limited](#)

[Related note: Checkmate Services P. Ltd. v. Commissioner of Income Tax-1](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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