

Commissioner of Income Tax v. M/s. Alom Extrusions Limited

Civil Appeal No. 7771 of 2009 (arising out of SLP (C) No. 23851 of 2007) and connected proceedings (full list below)
[2009] 15 (ADDL.) SCR 1154 | 2009-11-25

Whether the Finance Act 2003 omission of section 43B's second proviso and corresponding widening of the first proviso operated only from 1 April 2004 or retrospectively from 1 April 1988 for the employer-contribution deduction controversy.

43B(b) | 43B first proviso | 43B second proviso (omitted by Finance Act 2003)

Two-judge bench | S. H. Kapadia, J. | H. L. Dattu, J.

Assessment years: See the source-scope notes; no year inferred.

Employer contribution holding; employee money and governing year require separate analysis

Alom applies the specified Finance Act 2003 changes retrospectively from 1 April 1988. Checkmate separately rejects extending that reasoning to late employees' contributions under section 36(1)(va) of the 1961 Act. The bounded Finance Act 2026 check records different employee-contribution wording under the 2025 Act; determine the governing year and savings provisions before using either deadline. No automatic 2025 mapping or current-law certificate.

[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 Paragraphs 44-45 / PDF pages 26, 27 / later judgment](#); [paragraphs Paragraphs 51-55 / PDF pages 31, 32, 33, 34 / later judgment](#)

01 FACTS OF THE CASE

The common judgment decided the Department's batch of appeals led by Alom Extrusions, together with two assessee appeals. The lead arose from the Calcutta High Court's judgment dated 15 May 2006 in ITA No. 22 of 2006. After condoning delay and granting leave, the Court identified one statutory question: the temporal effect of the Finance Act 2003 removal of section 43B's second proviso and amendment of its first proviso (reported proceeding details; paragraphs 1-8).

Before the 2003 amendment, the first proviso allowed the specified tax and other payments by the section 139(1) return due date, while the second proviso imposed a separate deadline for clause (b) welfare-fund contributions, adopting the due date defined below section 36(1)(va). Representations about hardship and the Kelkar Committee's report preceded deletion of the second proviso and extension of the first proviso, stated to take effect on 1 April 2004. The Revenue urged prospective application; the employer-assessees argued that the remedial change operated from 1 April 1988 (paragraphs 4-8 and 13-14).

In explaining the hardship, the Court referred to contributions deposited with the Regional Provident Fund Commissioner after 31 March and after the welfare-law deadline, but before filing the income-tax returns. Treating the 2003 change as exclusively prospective would deny the earlier payer any deduction under the old second proviso, while a payer delaying until after 1 April 2004 could obtain relief under the amended rule. No amount, individual assessment year or payment-date schedule for the lead appeal is supplied (paragraph 15).

Source: [reported judgment / paragraphs Proceeding details; paragraphs 1-8 / PDF pages 4, 5, 6, 7 / judgment](#); [reported judgment / paragraphs Paragraphs 14-15 / PDF pages 9, 10, 12, 13 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 43B as an actual-payment restriction designed to prevent deductions based solely on mercantile book entries. The original first proviso relieved the mismatch between an accounting-year end and statutory payment dates for its specified liabilities. Welfare-fund contributions remained separately constrained until the Finance Act 2003 removed the second proviso and widened the first. The Court regarded the combined change as curative because it removed the implementation hardship and put the relevant payments on a uniform footing (paragraphs 7-15).

Allied Motors, a binding three-judge decision, supplied the interpretative principle: a proviso curing an evident omission and unintended hardship can form part of the section from the point necessary to give the whole provision a workable meaning. Alom applied that principle to the distinct 2003 changes and selected 1 April 1988, when the first proviso was introduced. It also relied on J. H. Gotla for preferring an available construction that avoids an unintended absurd result. The conclusion concerned these identified curative changes, not a general rule that every taxpayer-beneficial amendment is retrospective (paragraphs 15-17).

The two timelines must remain separate. Allied Motors itself reads the original first proviso back to section 43B's inception on 1 April 1984. In Alom paragraph 15, one sentence instead describes Allied's retrospectivity as 1 April 1988, even though the immediately preceding account mentions the 1984 contention. The unchanged source contains that inconsistency; it does not alter Alom's own clear 1 April 1988 holding for the Finance Act 2003 amendment.

Nor should the employer-contribution holding be converted into a decision allowing late employees' contributions under section 36(1)(va). The source mentions section 2(24)(x) and quotes the due-date explanation, but the later, separately checked Checkmate decision explains that Alom did not address the statutory distinction between the employer's own contribution and employee money deducted or received and held for payment into the fund. That later distinction is recorded separately rather than attributed to the 2009 Court.

Source: [reported judgment / paragraphs Paragraphs 7-17 / PDF pages 6, 7, 8, 9, 10, 11, 12, 13 / judgment: bounded precedent source / paragraphs Unnumbered judicial text: inception, first proviso and retrospective construction / PDF pages 6, 10, 11, 12 / judgment: bounded later judicial source / paragraphs Paragraphs 32-38, 44-45 and 51-55 / PDF pages 18, 19, 20, 21, 26, 27, 31, 32, 33, 34 / later judgment](#)

03 JUDICIAL DECISION

The Court held that the Finance Act 2003 changes under examination were curative and operated retrospectively from 1 April 1988. It dismissed the Department's civil appeals with no order as to costs. Applying the same ruling, it set aside the impugned Bombay High Court judgment and order in Civil Appeal Nos. 7755 and 7757 of 2009 and allowed those assessee appeals, again without costs (paragraphs 17-19).

Source: [reported judgment / paragraphs Paragraphs 17-19 / PDF pages 13, 14 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the retrospectivity of the specified section 43B amendment

Revenue appeals dismissed; assessee Civil Appeal Nos. 7755 and 7757 of 2009 allowed and the impugned Bombay High Court judgment/order set aside; no costs

Historical amendment-effective-date issue decided

Covers the identified Finance Act 2003 amendment and employer-contribution controversy; not an adjudication of an independent employees' contribution deduction under section 36(1)(va), nor a quantified refund or present-law certification.

Source: [reported judgment / paragraphs Paragraphs 17-19 / PDF pages 13, 14 / judgment](#)

05 AKHB REVIEW POINT

Separate the payment's legal character before applying a date test. For the employer's own contribution controversy, record the assessment year, the applicable statutory version, the section 139(1) due date and evidence of actual payment. Alom supplies 1 April 1988 as the retrospective start for the specified 2003 changes. Allied's different 1 April 1984 holding must not be substituted for it, and the source's shorthand about filing a return should not displace the due-date wording of the reproduced proviso.

For employees' money, read the bounded Checkmate distinction: section 43B does not remove the separate welfare-law due-date condition under the 1961 Act's section 36(1)(va). This caution is itself year-sensitive. The separately read Finance Act 2026 provisions alter the employee-contribution wording in the 2025 Act from 1 April 2026, and the savings provisions require the governing year and proceeding to be checked. Neither the historical judgment nor this bounded later check certifies current PF/ESI compliance or automatically maps the holding to the 2025 Act.

Source: [reported judgment / paragraphs Paragraphs 7-8, 15 and 17-19 / PDF pages 6, 7, 12, 13, 14 / judgment](#); [bounded later judicial source / paragraphs Paragraphs 44-45 and 51-55 / PDF pages 26, 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](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 7771 of 2009 (arising out of SLP (C) No. 23851 of 2007) / Civil Appeal Nos. 7770, 7765, 7769, 7767, 7756, 7766, 7763, 7764, 7758, 7762, 7760, 7754, 7759, 7768 and 7761 of 2009 / Civil Appeal No. 7755 of 2009 (arising out of SLP (C) No. 20581 of 2008) / Civil Appeal No. 7757 of 2009 (arising out of SLP (C) No. 18380 of 2009)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(24)(x); 28; 36(1)(va) Explanation; 139(1)

OTHER PROVISIONS CONSIDERED

Finance Act 1983: introduction of section 43B from 1 April 1984; Finance Act 2003: omission of second proviso and amendment of first proviso, stated commencement 1 April 2004

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 43B(b); first and former second provisos

Role: principal holding

Basis: Actual-payment rule and retrospective effect of the Finance Act 2003 contribution-related amendment.

2.

Act: Income-tax Act, 1961

Section: 139(1)

Role: operative deadline reference

Basis: Return due date adopted by the widened first proviso.

3.

Act: Income-tax Act, 1961

Section: 2(24)(x); 36(1)(va) Explanation

Role: historical discussion and borrowed deadline; later distinction required

Basis: Mentioned/quoted in the source, but no independent adjudication of the employer-versus-employee eligibility distinction; Checkmate paragraphs 44-45 and 51-55 limit that use.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. H. Kapadia, 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-2009-11-25-alom-extrusions

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

Relationship: employer contribution holding distinguished from employee contribution eligibility

Summary: Checkmate paragraphs 44-45 explain Alom's employer-contribution/second-proviso issue and its failure to examine the separate employer/employee statutory classification; paragraphs 51-55 reject using section 43B to excuse late employees' contributions under section 36(1)(va). This bounded check does not establish comprehensive subsequent treatment.

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 26; 27

Paragraphs: Paragraphs 44-45

Source role: later judgment

2.

Source url: [Open cited source](#)

Pdf pages: 31; 32; 33; 34

Paragraphs: Paragraphs 51-55

Source role: later judgment

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 14 PDF pages; SHA-256

9e253710cf8e50af2e162eb19e3ba0d1e895129e26f510c74a419001b73538df. Original bytes preserved.

Judicial opening/author and appeal list on physical PDF page 4; paragraphs 1-19 on pages 5-14 (printed SCR 1158-1167).

Editorial headnotes and references occupy pages 1-4 above the judicial opening. No adjacent judgment within the bounded text.

Open cited source rendition

Paragraph 4 describes the former second proviso by reference to the return-filing deadline, inconsistent with the second proviso reproduced in paragraphs 7 and 13. The note uses the reproduced text and flags the source discrepancy.

Paragraph 15 contains the 1988/1984 Allied Motors retrospectivity inconsistency; the respective holdings are verified against both primary sources.

Paragraph 11 attributes insertion of the second proviso to Finance Act 1988. The bounded Checkmate paragraphs 35-37 instead identify the Finance Act 1987 provisos; no independent original Finance Act 1987 Gazette check is claimed.

Alom paragraph 10 discusses section 2(24)(x) in a pre-1984 narrative. Checkmate paragraphs 32-37 separately set out its insertion with section 36(1)(va) effective 1 April 1988 and the employer/employee distinction. The historical narrative is not silently adopted as a finding on employees' deduction entitlement.

The reported cover verifies the 25 November 2009 date, and the final page verifies the separate assessee-appeal disposition; no separate assessment years are inferred from cited cases.

Paragraph numbering is the preserved SCR rendition's 1-19; Checkmate's quoted alternate numbering is not substituted for these primary-source pins.

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

No assessment year for the Alom lead matter or other employer-contribution appeals is specified in the bounded judicial text. AY 1984-85 belongs to the quoted Allied Motors history; AY 2004-05 describes the Finance Act 2003 stated commencement, not an inferred year of these appeals.

Preserved reported source only; no separately retrieved signed 2009 original or fresh source acquisition is claimed.; Alom's own section 43B amendment holding is retained; the later Checkmate distinction is not described as wholesale overruling.

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: 14](#)

SHA-256: 9e253710cf8e50af2e162eb19e3ba0d1e895129e26f510c74a419001b73538df

[bounded precedent source - PDF pages: 13](#)

SHA-256: fe8f638562dd3547863086c6a9676bf45d3b720e37785bfc7b984fdb46080c8a

[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: Allied Motors \(P\) Ltd. v. Commissioner of Income Tax, Delhi](#)

[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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