sEc. 43B

In computation of income under the head **Profits and Gains of Business or Profession** (PGBP), some of the expenses are allowed under Income Tax Act 1961 and can be claimed by the assessee **only in the year in which the payment is actually made**. This is irrespective of the previous year in which the liability to pay such sum was incurred by the assessee.

As per Section 43B

Notwithstanding anything contained **in any other provision** of this Act, a deduction ***otherwise*** allowable under this Act in respect of; {Here Notwithstanding anything contained in any other provisions of this act denotes that ***section 43B overrides all the sections in Income Tax Act, 1961.***}

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); **Shall be allowed as deduction only in the previous year in which such sum is actually paid**.

☞ It is of significance to remember that Sec 43B is applicable in case of tax, duty, cess or fee **only when** such items are paid under statute.

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;

Shall be allowed as deduction only in the previous year in which such sum is actually paid.

☞ It is worth noting that SEC.43B is applicable ***only to*** **Employer's contribution** and is **not applicable** to Employees' contribution.

ABOUT EMPLOYEES' CONTRIBUTION

Sec. 2(24)(x) states as under

Income includes;

any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, or any other fund for the welfare of such employees.

Sec. 36(1)(va)

Deduction shall be allowed for any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds **on or before the due date.**

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Note:
Here **Due Date** means date by which assessee is required **as an employer**, to credit an employees' contribution to the employees' account in relevant fund.

- **Explanation:** The reason why the employees' contribution is treated as income is because **employer's contribution is debited to profit and loss account** while **employees' contribution is not debited to profit and loss account but is treated as liabilities and provisions.**
- So, in simple words, for income tax act purpose,
  - o Employees' contribution is treated as business income u/s 2(24) (x) and deduction is made from such income u/s 36(1) (va) if the contribution is paid within the due date of such contribution.

c) Any Sum Payable as Bonus or Commission to Employee for Services Rendered; **shall be allowed as deduction only in the previous year in which such sum is actually paid**.

☞ It is worth noting that Sec 43B is applicable when bonus or commission is **payable to employees only when** some services are rendered by the employees.

☞ This means that ***there must be an establishment of Employer-Employee relationship*** between the employer and the employee.

☞ This item is referred in section 36(1) (ii).

☞ **In other words if commission is paid to an agent, Sec 43B is not applicable as here there is an Agent-Principal relationship.**

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; **Shall be allowed as deduction only in the previous year in which such sum is actually paid**.

☞ If any sum payable by an assessee as interest on any loan is **converted by the financial institution into a fresh loan,** the interest so converted and not actually paid, shall not be deemed as actually payment

☞ The converted interest will be eligible for deduction in the computation of income of the previous year in which the converted interest is actually paid.

e) Any Sum Payable By The Assessee **AS INTEREST** On Any Loan Or Advances From

- A Scheduled Bank
- In Accordance with the Terms and Conditions of the Agreement Governing Such Loan or Advances; **shall be allowed as deduction only in the previous year in which such sum is actually paid**.

☞ If any sum payable by an assessee as interest on any loan is **converted by the financial institution into a fresh loan,** the interest so converted and not actually paid, shall not be deemed as actually payment

☞ The converted interest will be eligible for deduction in the computation of income of the previous year in which the converted interest is actually paid.

f) Any Sum Payable by the Assessee **as an Employer** In Lieu Of Any Leave at the Credit of His Employee **shall be allowed as deduction only in the previous year in which such sum is actually paid**.

Exception: When deductible on accrual basis

The **exception is applicable** if the **FOLLOWING THREE CONDITIONS ARE SATISFIED**;

1. Assessee keeps books of accounts **on mercantile basis**
2. Payment in respect of aforesaid expenses
   - is actually made
   - on or before
   - the due date of submission of return of income under sec 139(1)
3. The evidence of such payment is submitted along with return of income.

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