

# **Employees' Contribution To PF And ESI Should Be Remitted Before The Due Date To Allow Income Tax Deduction: ITAT**

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The Bangalore Bench of the Income Tax Appellate Tribunal (ITAT) has held that the employees' contribution to PF and ESI should be remitted before the date for it to be allowable under Section 43B of the Income Tax Act.

The two-member bench of George K (Judicial Member) and Laxmi Prasad Sahu (Accountant Member) relied on the decision of the Supreme Court in the case of Checkmate Services (P.) Ltd. v. CIT, in which it was held that Section 43B (b) does not cover employees' contributions to PF, ESI, etc. deducted by employers from salaries of employees and that employees' contributions have to be deposited within the due date under Section 36(1) (va), i.e. due dates under the relevant employee welfare legislation like the PF Act, ESI Act, etc. failing which the same would be treated as income in the hands of the employer under section 2(24)

The assessee/appellant was served with an intimation under Section 143(1) by assessing the total income at Rs. 1,49,85,533. The reasons for the difference between the returned income and the assessed income under Section 143(1) were due to the disallowance of the late remittance of employees' contributions to PF and ESI.

The assessee preferred an appeal before the CIT (A). The CIT(A) noticed the difference between employer and employee contributions to PF and ESI and held that only the employer's contribution to PF and ESI is entitled to a deduction if it is paid prior to the due date of filing the return of income