

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI
(AT e-Court, PUNE)

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.12 & 13/PAN/2021

निर्धारण वर्ष / Assessment Years : 2018-19 & 2019-20

M/s. Blackcat Services, CL/112, Near Old Post Office, New Vaddem, Vasco Da Gama – 403802, Goa PAN : AAGFB3686F	Vs.	ACIT, Circle-1(1), Panaji
Appellant		Respondent

Assessee by Shri Sandip Bhandare
Revenue by Shri N. Shrikanth

Date of hearing 03-07-2023

Date of pronouncement 04-07-2023

आदेश / ORDER

PER R.S. SYAL, VP :

These two appeals by the assessee are directed against the orders passed by the Id. CIT(A) in National Faceless Appeal Centre (NFAC), Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter called 'the Act') in relation to the assessment years 2018-19 & 2019-20. Both the appeals are based on similar facts and common grounds of appeal, we are, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. The only issue raised in both the appeals is against the confirmation of disallowance of Employees Share of ESIC & PF deposited beyond the due date under the respective Acts but before the due date of filing return u/s.139(1) of the Act. In the intimations issued u/s.143(1), the AO made the above disallowances, which came to be affirmed in the first appeal. Aggrieved thereby, the assessee has approached the Tribunal.

3. We have heard the rival submissions and gone through the relevant material on record. The issue of making disallowance u/s.36(1)(va) in respect of Employees share of ESIC and PF deposited beyond the due date under the respective Acts but before the time limit for filing the return u/s.139(1) is no more *res integra* in view of the judgment of Hon'ble Supreme Court in *Checkmate Services P. Ltd. & Ors. VS. CIT & Ors. (2022) 448 ITR 518 (SC)* holding that the deduction u/s.36(1)(va) can be allowed only if the employees' share in the relevant funds is deposited by the employer before the due date stipulated in respective Acts and further that the due date u/s.139(1) of the Act is alien for this purpose. The ld. AR was fair enough to accept the legal position against the assessee by virtue of *Checkmate Services P. Ltd. (supra)*. In view of the above enunciation of law by the highest court of the land, the view taken

by the ld. CIT(A) deserves to be countenanced. We order accordingly.

4. In the result, both the appeals are dismissed.

Order pronounced in the Open Court on 04th July, 2023.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 04th July, 2023
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The respondent
3. The Pr.CIT concerned
4. DR, ITAT, Panaji Bench, Panaji
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	03-07-2023	Sr.PS
2.	Draft placed before author	04-07-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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