



**IN THE INCOME TAX APPELLATE TRIBUNAL,
RANCHI BENCH, RANCHI**

**BEFORES/SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

ITA No.24/RAN/2021
Assessment Year: 2016-17

BKB Transport Pvt Ltd.,2F, Vatika Apartment, Line Tank Road, Ranci-834001	Vs.	Pr. CIT, Ranchi
PAN/GIR No.AAACB 7488 C		
(Appellant)	..	(Respondent)

Assessee by : Shri R.R.Mittal, AR
Revenue by :Smt. Rinku Singh, CIT DR

Date of Hearing : 09/06/2025
Date of Pronouncement : 09/06/2025

ORDER

Per Bench

This is an appeal filed by the assessee against the order passed u/s.263 of the Act by Pr. CIT, Ranchi in Appeal N. PCIT, Ranchi/Revision-263- /100000156274/2020 dated 18.3.2021 for the assessment year 2016-17

2. Smt. Rinku Singh, Ld CIT DR appeared for the revenue and Shri R.R.Mittal, Id AR appeared for the assessee.

3. It was submitted by Id AR that the original assessment order came to be passed u/s.143(3) of the Act on 20.12.2018, wherein, the returned income of the assessee came to be accepted. It was the submission that subsequently, an order u/s.263 of the Act came to be passed on 18.3.2021, wherein, the Pr. CIT has proposed and directed the AO to disallow the PF and ESIC in respect of the delayed payment. It was the submission that admittedly, as on today, there is a decision of Hon'ble Supreme Court in the case of Checkmate Services Pvt Ltd., vs CIT (2022), 448 ITR 518, It was the submission that the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt Ltd (supra) was of 2022 and when the order u/s.263 was passed in 2021, the order of the Hon'ble Supreme Court in the case of Checkmate Services Pvt Ltd., was not available and the issue at that point of time was a debatable issue. It was the submission that under similar circumstances the Hon'ble Calcutta High Court in the case of Pr. CIT vs SPPL Property Management (P) Ltd., (2023) 151 taxmann.com 103(Cal) has categorically held in para 7 that the issue at that point before the decision of the Hon'ble Supreme Court being a debatable issue and order u/s.263 of the Act cannot be passed treating the assessment order as order erroneous insofar as prejudicial to the interest of the revenue. The findings of the Hon'ble High Court in para 7 is as follows:

“Before we go into the three heads, under which action was initiated under [Section 263](#) of the Act, we have to first examine as to whether the assumption of jurisdiction by the PCIT under [Section 263](#) was just and proper. With regard to the first and third issues, the assessing officer had issued notice under [section 142\(1\)](#) on 1st of May, 2019 and issued a questionnaire form and the assessee had submitted all the relevant details which have been noted by the Tribunal. Further, there is another question with regard to the details of expenses head-wise, where assessee had deducted tax at source. The Tribunal on going through the assessment records found that the questionnaire on the issues raised by the assessing officer called for the details of expenses appearing in the audited P & L Account and various replies filed by the assessee and the Tribunal found that the assessing officer has specifically carried out an enquiry regarding provisions for doubtful debts and air-conditioner expenses and the specific reply given by the assessee was also taken note of. With regard to the issues regarding the provisions for doubtful debts, the Tribunal noted that the assessee during the regular course of business as claimed to have been shown sales, in the preceding years of which, some sales turned bad and the same has been written off in the books of accounts as bad debts which the assessee is entitled for and, therefore, found the claim to be admissible. Similarly, for air-conditioner charges the assessee had filed complete details along with tax deducted on the charges paid and the bills were also placed in the form of a paper book which the Tribunal perused and found the same to be acceptable. Thus, the Tribunal concluded that on both these issues, namely with regard to the provisions for doubtful debts and air-conditioner expenses, the assessing officer had conducted a detailed enquiry and thereafter completed the assessment. Secondly, it was held that the PCIT had erred in invoking the revisional jurisdiction under [Section 263](#) of the Act. The law on the subject is well settled, that if it is found, that the assessing officer has in fact conducted an enquiry, merely because the PCIT is of a different opinion, it would not justify action under [Section 263](#) of the Act. The other issue with regard to the provident fund contribution, as mentioned, the assessment order was of the year 2017-18 and on the date, when the assessing officer completed the assessment, the law on the subject as laid down by the jurisdictional High Court, namely this Court is in the case of [Commissioner of Income Tax Circle - 1, Kolkata Vs. Vijay Shree Ltd.](#) [2014] 43 taxmann.com 396 (Calcutta). Thus the assessing officer had followed the decision of this Court in the said case and had completed the assessment. Thus the assessing officer having followed the decision of the Jurisdictional High Court which held the field, at the relevant point of time, the assessment cannot be held to be prejudicial to the interest of revenue.”

4. In reply, Id CIT DR submitted that the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt Ltd., (supra) has been rendered admittedly in 2022. It was the submission that once the Hon'ble Supreme Court rendered on a particular proposition of law, the said proposition is deemed to be effective right from the insertion of the provisions into the statute. It was the submission that just because there are controversy and contrary decisions of various High Court on the issue, prior to the final decision of the Hon'ble Supreme Court would not make the issue debatable once the decision has been rendered by the Hon'ble Supreme Court. It was the submission that the order passed u/s.263 of the Act by the Pr. CIT is liable to be upheld.

5. We have considered the rival submissions. We are also live to the arguments as raised by Id CIT DR that once the Hon'ble Supreme Court lays down a law, or a proposition of law the same is to be considered from the time when the law has been introduced into the statute. However, we are also bound by the decision of the Hon'ble Supreme Court in the case of Vegetable Products, 88 ITR 192 (SC), wherein, it has been held that if there is a proposition in favour of the assessee same is to be considered first. when two views are possible, the view which is favorable to the assessee has to be followed. A perusal of the decision of the Hon'ble Calcutta High Court in the case of SPPL Property Management Pvt Ltd., (supra), which has been extracted to above, clearly shows that in the case of order u/s.263 that in regard to issue of PF and ESIC, the Hon'ble High Court after considering the decision of Hon'ble Supreme Court in

the case of Checkmate Services Pvt Ltd (supra) has held that the order u/s.263 could not have been passed. Therefore, respectfully following the decision of the Hon'ble Calcutta High Court in the case of SPPL Property Management Pt Ltd.(supra), the order passed by the Pr. CT u/s.263 in the case of the assessee for the impugned assessment year stands quashed.

6. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 9/06/2025.

Sd/-

(RATNESH NANDAN SAHAY)

ACCOUNTANT MEMBER

Sd/-

(GEORGE MATHAN)

JUDICIAL MEMBER

Ranchi; Dated 09/06/2025
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The appellant: BKB Transport Pvt Ltd.,2F, Vatika Apartment, Line Tank Road, Ranchi-834001
2. The Respondent: Pr. CIT, Ranchi
3. The CIT(A)-Ranchi
4. Pr.CIT,Ranchi
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Ranchi