

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “B” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and  
**Dr. A.L. Saini, Accountant Member**

**ITA No.323-325/Kol/2016**  
Assessment Year :2007-08

M/s Varrsana Ispat Ltd. 46C, Chorwringhee Road, Kolkata-71 <b>[PAN No.CALV 0215 E]</b>	<b>V/s.</b>	Commissioner of Income Tax, Appeals-24, ITO, Ward-59(4)/TDS, Kolkata
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

**ITA No.1249/Kol/2016**  
Assessment Year :2008-09

M/s Varrsana Ispat Ltd. Everest House, 46C, Chowringhee Road, 15 <sup>th</sup> Floor, R.No. 15B, Kolkata-71 <b>[PAN No.CALV 0215 E]</b>	<b>V/s.</b>	Income Tax Officer (TDS), Ward-59(4), 10B, Middleton Row, Kolkata- 71
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

आवेदक की ओर से/By Assessee	Shri Ravi Tulsayan, FCA
राजस्व की ओर से/By Respondent	Shri S. Dasgupta, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	30-05-2018
घोषणा की तारीख/Date of Pronouncement	31-05-2018

**आदेश /ORDER**

**PER S.S.Godara, Judicial Member:-**

These four assessee's appeal(s) pertain to three quarters of Financial Year 2007-08 and first quarter in financial year 2008-09 (assessment year 2008-09 & 2009-10), arise against Commissioner of Income Tax (Appeals)-24, Kolkata's common order dated 30.11.2015, passed in 673, 674 & 675/CIT(A)-24/Kol/2011-12 in former three and dated 11.04.216 in respect of fourth case;

respectively, involving proceedings u/s 201(1) r.w. Section 201(1A) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. It appears at the outset that the assessee's instant four appeal(s) challenge correctness of both the lower authorities identical action raising Section 201(1) r.w. 201(1A) demands of ₹1,03,720 & ₹34,240/-, ₹7190 & ₹2,800, ₹14,90,150/- & ₹5,36,454/- & ₹13,410/- and ₹4,430; (appeal-wise); respectively by concluding that there has been short deduction / collection of tax in corresponding quarters at its behest.

3. Learned counsel representing assessee takes us to the CIT(A)'s common order (supra) for the instant sole issue rejecting its arguments by way of the following discussion:-

*"4. The appellant or its AR didn't avail of the opportunity of being heard. From the submission, dt NIL it appears that the claim is that there is no short deduction in respect of various payments hit by the provisions of sec. 194A, 194I & 194J of Income Tax Act, 1961. When the submission was received, a copy of the same was sent to the AO for the required verification and report. Vide the AO's report, dt. 07.11.2014 it is seen that the appellant has made payments without obtaining the PANs or wrong PANs were entered in the TDS statement. The AO is of the view that the appellant has defaulted. The Assessing Officer's said report is vague and doesn't help appreciate when he wants to say even in respect of the points covered in his so called remand report dt. 07.11.2014.*

*5. The appellant apparently is not keen for hearing. The TDS liability u/s. 201 of the ITA Act, 1961 is determined by the system called TRACES. The appellant has not even indicated whether it tried to rectify the statement in TRACES. It is also not known if it tried what was the difficulty in updating the TDS details in the said TRACES. A case like this is first attempted by accessing the TRACES facility which forms the base of the order u/s. 201. In case of difficulty in reducing liability to an amount agreeable to the tax deductor, the issues are expected to be brought to the knowledge of the AO or CIT(A) who can take corrective steps to align mismatch to the liability in terms of the Act and Rules. The appellant is silent on whether any attempt was made to rectify the TRACES working. The AR or the appellant has failed to take-up the matter before me as is clear from the non-compliance to various notices described above. I, therefore am not in a position to even appreciate how the grievance if any can be addressed by the AO or the CIT(A). I feel that no further time will help resolve the grievances if any. I have no reason to interfere with the order appealed against. The grounds therefore, are not allowed and the appeal is dismissed."*

There is no dispute that the factual position relating to the impugned demand is very much identical in assessee's fourth appeal as well.

4. Learned counsel refers to assessee's paper book before us. He invites our attention to page 29 "TRACES" (TDS reconciliation. Analysis & Correction Exercising System) indicating the impugned reconciliation difference to have been settled at department level itself. Mr. Dasgupa points out that all these developments alongwith assessee's TDS returns for all the impugned quarters. Form-16 in case of Shri Anil Kumar's salary, challans, payees' ledgers, party-wise list & ITR acknowledgement forming part of the case records need to be verified afresh. He is very fair in not disputing the fact that the said "TRACES" details forming part of case record seem to be *prima facie* correct. Be that as it may, both parties are *ad idem* that the impugned factual issue is more a reconciliation exercise of the TDS deduction figures as updated in the department's website. We therefore accept assessee's sole substantive grievance for statistical purpose and leave it open for the Assessing Officer to carry out the necessary factually verification as per law after affording adequate opportunity of hearing.

6. These four assessee's appeals are allowed for statistical purpose.

Order pronounced in the open court 31/05/2018

Sd/-

(लेखा सदस्य)

(Dr. A.L. Saini)

(Accountant Member)

Kolkata,

\*Dkp, Sr.P.S

दिनांक:- 31/05/2018 कोलकाता ।

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. आवेदक/Assessee-M/s Varrsana Ipat Ltd. 46C, Chowringhee Road, Kolkata-71
2. राजस्व/Revenue-ITO (TDS) Ward-59(4), 10B, Middleton Row, Kolkata-71
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

Sd/-

(न्यायिक सदस्य)

(S.S.Godara)

(Judicial Member)

By order/आदेश से,

Sr. Private Secretary, Head of Office/DDO

आयकर अपीलीय अधिकरण,

कोलकाता ।