

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER

AND

SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER

**ITA NOs. 3875, 3876, 3877, 3878 & 4180/MUM/2023
(A.Ys: 2008-09, 2009-10, 2010-11, 2011-12 & 2012-13)**

INDACO JEANS PVT LTD 384, Kaushal House, V S Marg Prabhadevi, Mumbai -400028 PAN: AAKCS7348N	v.	ITO TDS II Ground Floor Qureshi Mension Gokhale Road Navpada, Thane -400602
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Ashwin Chhag
Department Represented by	:	Shri H.M. Bhatt
Date of conclusion of Hearing	:	14.03.2024
Date of Pronouncement	:	20.03.2024

ORDER

PER BENCH

1. These appeal are filed by the assessee against different orders of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] dated 16.02.2023 for the A.Ys. 2008-09 to 2012-13.

2. Since the issues raised in all the appeals are identical, therefore, for the sake of convenience, these appeals are clubbed, heard and disposed off by this consolidated order. We are taking Appeal in ITA.No. 3875/MUM/2023 for Assessment Year 2018-09 as a lead appeal.

3. Brief facts of the case are, assessee received the demand notice dated 15.02.2017 for the period 2007-08 to 2012-13 with a demand of ₹.18,64,764/- from the office of Tax Authorities (TDS) –II, Thane, Mumbai. When the assessee was enquired about the details of the above demand, assessee was served with a detailed outstanding demand assessment years wise. Subsequently, the assessee filed the rectification application under section 154 of Income-tax Act, 1961 (in short "Act") before Assessing Officer and against the above said application, no rectification order was passed by the Assessing Officer. It was submitted that assessee has filed the above said rectification through E-mail as well as by a hardcopy. Since no intimation forthcoming, the assessee preferred an appeal before Ld.CIT(A). After considering the submissions of the assessee Ld. CIT(A), directed the Assessing Officer to pass the rectification order and for the sake of clarity it is reproduced below: -

"5. From the above, it can be understood that this appeal is filed against rectification u/s.154 of the Act by the Assessing Officer. It is clear that the appeal is not supported by any order as per provisions of Section 246A of the Act to adjudicate. The only grievance of the

is that it had not received order against rectification petition filed u/s.154 before the AO. In this regard, the Officer i.e. ITO TDS – II, Thane is directed to provide the appellant with a copy of rectification order passed against the request for rectification for the year under consideration on receipt of this order. The TDS Range head is also directed to monitor and arrange copy of rectification order to the appellant. In case, the Officer failed to provide copy of order, the appellant is advised to file a grievance before the CIT(TDS)Thane.”

4. The above said order of the Ld. CIT(A) was passed on 16.02.2023 for all the assessment year under consideration. Even after the direction of the Ld. CIT(A), as per the submissions of the Ld. AR of the assessee, the order giving effect was not passed till date.

5. Aggrieved, assessee preferred an appeal before us and raised following grounds in its appeal:

"1. Ld. NFAC, Delhi is erred to raise technical reason and hold that The appeal is defective u/s.246A of the Act when the facts and grounds of appeal are very precise that the demand raised is without authority of the law for the want of speaking order, demand notice And above all time barred. Under the Act. In view of these, giving direction to the AO to provide the rectification order is mere case of multiplication and prolonging the litigation. It is urged to quash the demand.

2. Appellant craves leave to add, alter or amend the ground of appeal.”

6. At the time of hearing, Ld.AR of the assessee brought to our notice the detailed facts of this case and on the other hand, Ld. DR also filed a letter dated 04.03.2024 from the Assessing Officer. As per which Assessing Officer has sent an email dated 04.05.2023 to registered email of the assessee as per TRACES records i.e. cajigneshsavla@gmail.com,

requesting assessee for providing details in respect of any pending rectification application made with this office for the Financial years under consideration. For the sake of clarity, the contents of the letter are reproduced below: -

'2. In this regard, it is submitted that on verification of records, this office has not found any pending for of outstanding demand in respect of AYs 2008-09 to A.Y. 2012-13.

3. Further, in respect of action taken in of the direction of the CIT(A)NFAC vide para 5 of page 3, in his order u/s 250 of the Act for the AY 2008-09 to AY 2012- 13 dated 16.02.2023, this office had sent an e-mail dated to registered e-mail id of the assessee as per TRACES records i.e. cajigneshsavla@gmail.com, requesting assessee for providing details in respect of any pending application made with this office for FYs 2007-08 to 2011-12 (i.e AY 2008-09 to AY 2012-13) the same is as under,

"Therefore, in order to enable this office to pass any speaking orders, you are hereby requested to provide copies of rectification applications, if any, filed to this office." It is submitted that till date no reply has been received from the assessee in this regard.

Submitted for your kind perusal and necessary action."

7. In this regard it was submitted that assessee has not filed any information against the above said request through email. Before us, Ld.AR of the assessee filed a physical copy of the rectification application in the form of paper book. After considering the detailed submissions and facts on record we deem it fit and proper to direct the Assessing Officer to pass the relevant rectification order under section 154 of the Act and we direct the assessee to forward the rectification application which was filed before us in the form of Paper Book to the office of Tax Authorities

(TDS)-II, Thane, Mumbai. We direct the Assessing Officer to pass the relevant rectification order within a period of two (2) months from the date of this order without any further delay and it is needless to say that proper opportunity of being heard to the assessee. Accordingly, appeals filed by the assessee are allowed for statistical purpose.

8. In the result, appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the open court on 20th March, 2024.

Sd/-
(ABY T VARKEY)
JUDICIAL MEMBER

Mumbai / Dated 20.03.2024
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum