

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

ITA No. 261 to 263/Ran/2023

(Assessment Years-2014-15 to 2016-17)

Sri Krishna Nutritions India Private Limited, Room No. 5, 1st Floor, 7/1A, Grant Lane, Kolkata-700012 (West Bengal) PAN No. AAOCS 9282 P	Vs.	A.C.I.T., Central Circle-2, Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Sri R.R. Mittal, A.R.
Department represented by	Shri Khub Chand Pandya, Sr.DR
Date of hearing	09/06/2025
Date of pronouncement	09/06/2025

ORDER

PER: BENCH

1. These are three appeals filed by the assessee against the orders of the Id. CIT(A), Patna-3, Patna dated 29/11/2023 and 28/11/2023 for the A.Y. 2014-15 to 2016-17 respectively.
2. Sri R.R. Mittal, Id A.R. is represented on behalf of the assessee and Shri Khub Chand Pandya, Id. Sr.DR is represented on behalf of the revenue. It was submitted by the Id. Authorised Representative of the assessee that there was a search on the premises of the assessee and as a consequence of the search, assessments have been completed. It was the submission that in the course of assessment, it was noticed that the assessee had made payment to labour sardars. It was a submission that as the assessee had not deducted TDS on the payments to the labour sardars, the Assessing Officer had invoked the provisions of Section 40(a)(ia) and had disallowed the payments to the three labour sardars. It was the submission that on appeal, the Id. CIT(A) had held that 100%

disallowance was not permissible for non-deduction of TDS and had restricted the disallowance to 30%. It was the submission that the payments to the labour sardars did not attract the disallowance at all as no TDS was liable to be made on such payments. For this proposition, the Id. AR placed reliance upon the decisions of Coordinate Benches this Tribunal, Kolkata Benches in the case of ITO Vs M/s Kwaliti Construction in ITA No. 18/Kol/2014 dated 14/10/2016, decision in the case of ACIT Vs Dilip Saha in ITA No. 582/Kol/2014 dated 05/05/2017 and the decision in the case of Samanwaya Vs ACIT in ITA No. 484/Kol/2008 dated 23/04/2009 wherein, the Coordinate Benches of this Tribunal has categorically held that the labour sardars in the present case has no locus standi as labour contractors or as labour sardar and labour contractor are as different as chalk and cheese, there was no contract between the assessee and the labour sardars for supply of labourers and without which there cannot be any application under Section 194C of the Act and as such the invocation of the provisions of Section 40(a)(ia) of the Act was outside the scope and ambit of such enactment. It was submission that in the decision of the Coordinate Benches of this Tribunal in the case of ITO vs. M/s Kwaliti Construction (supra) had categorically given a finding that the payments to the labour sardars cannot be treated as liable to TDS under Section 194C of the Act. It was a prayer that the addition as confirmed by the Id. CIT(A) of 30% may be deleted.

3. In reply, the Id. Sr.DR vehemently supported the order of the Id. CIT(A). it was a submission that the payment by the assessee was to three individuals. The payment to the individuals were liable for TDS in so far as they were liable to provide the labours to the assessee. It was the submission that the payments exceeded the prescribed limits and therefore, the provisions of Section 194C

applied. It was a submission that as no TDS had been made, the provisions of Section 40(a)(ia) of the Act had been invoked. It was a prayer that the order of the Id. CIT(A) be upheld.

4. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that it is an admitted fact that three persons to whom the payments had been made are the labour bosses more known as labour mates or labour leaders of the group. This fact is not disputed. When the labour charges are paid through a labour leader on behalf of other labourers, obviously no TDS is liable to be made in so far as the labour charges paid to the number of employees would not exceed the prescribed limit provided under Section 194C of the Act. Just because the assessee has identified and made the payments to one leader for a group does not mean that the TDS is liable to be made. Further it is noticed that the Coordinate Benches of this Tribunal has categorically held that the payments made to the labour sardars are not liable for TDS. In the circumstances, respectfully following the judicial precedents as referred to above, the additions as confirmed by the Id. CIT(A) stands deleted in so far as it is held that the assessee was not liable to deduct TDS under Section 194C of the Act. In the result, appeals of the assessee are allowed.
5. In the result, all these three appeals of assessee are allowed.

Order announced in open court on 09th June, 2025.

(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

(GEORGE MATHAN)
JUDICIAL MEMBER

Ranchi, Dated: 09/06/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue

3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi