

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री रवीश सूद , न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.Nos.575, 576, 577 & 578/VIZ/2025
(निर्धारणवर्ष/ Assessment Years:2017-18, 2018-19, 2019-20 & 2020-21)**

Viswateja Spinning Mills (P.) Ltd., Boyapalem Village Boyapalem to Phirangipuram Road Venkayalapadu Post Edlapadu Mandalam Guntur District – 522233 Andhra Pradesh [PAN:AABCV8759M]	Vs.	Income Tax Officer (TDS) -Ward – 1 Income Tax Office CR Buildings, Kannavari Thota Guntur – 522001 Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	24.11.2025
घोषणा की तारीख/Date of Pronouncement	:	03.12.2025

आदेश /O R D E R

PER BENCH:

1. These appeals are filed by the assessee against different orders of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide respective DIN & Order No. as stated below: -

ITA No. (A.Y.)	DIN & Order No.	Dated
ITA No. 575/VIZ/2025 (A.Y. 2017-18)	ITBA/NFAC/S/250/2025-26/1078863671(1)	24.07.2025
ITA No. 576/VIZ/2025 (A.Y. 2018-19)	ITBA/NFAC/S/250/2025-26/1078865136(1)	24.07.2025
ITA No. 577/VIZ/2025 (A.Y. 2019-20)	ITBA/NFAC/S/250/2025-26/1078864604(1)	24.07.2025
ITA No. 578/VIZ/2025 (A.Y. 2020-21)	ITBA/NFAC/S/250/2025-26/1078864152(1)	24.07.2025

2. Since the appeals are belonging to same assessee, therefore, all these appeals are clubbed and heard together and a consolidated order being passed. Firstly, we take up the appeal in ITA No. 575/VIZ/2025 (A.Y. 2017-18) as lead appeal and brief facts are culled out therefrom.

ITA No. 575/VIZ/2025 (A.Y. 2017-18)

3. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order No. ITBA/NFAC/S/250/2025-26/1078863671(1) dated 24.07.2025 for the A.Y.2017-18 arising out of order passed under section 206C of Income Tax Act, 1961 (in short ‘Act’) dated 31.03.2021.

4. Brief facts of the case are that, a TDS Survey Operation under section 133A(2A) of the Act was conducted in the office premises of the assessee on 03.02.2020 to verify the assessee’s compliance to the TDS/TCS provisions as per Chapter XVIIB of the Act. Consequent to the survey, the assessee furnished

the information called for. On verification of the information furnished by the assessee, the Ld. Assessing Officer [hereinafter in short “Ld. AO”] noticed that assessee has made cotton waste sales within the State and out of the State during the F.Ys. 2016-17 to 2019-20 as under: -

SALE OF COTTON WASTE	FIN. YEAR 2019-20 (UPTO 03.02.2020)	FIN. YEAR 2018-19	FIN. YEAR 2017-18	FIN. YEAR 2016-17
AP	9,76,57,467	7,03,53,213	5,09,66,586	5,08,00,898
Direct Export	--	3,63,71,044	6,61,31,277	4,89,85,725
Merchant Export	--	--	10,84,052	77,63,142
OS	3,15,39,253	5,48,47,036	3,60,13,242	3,22,08,323
Total	12,91,96,720	16,15,71,292	15,41,95,157	13,97,58,088

5. However, Ld. AO observed that as per section 206C of the Act, assessee should have collected 1% TCS on such sales. On being confronted with non-collection of TCS, assessee submitted that the by-product namely cotton waste has been used by “open ended spinning mills” and hence the provisions of TCS are not covered on such cotton waste sales. Ld. AO not being satisfied with the reply of the assessee found that the assessee has failed to collect the TCS as per the provisions of section 206C of the Act and proceeded to raise a demand by a common order for the A.Y. 2017-18 to A.Y.2020-21 as follows: -

Sr.No.	F.Y	A.Y	Demand (Rs.)
1.	2016-17	2017-18	13,97,506
2.	2017-18	2018-19	12,56,196
3.	2018-19	2019-20	16,63,520
4.	2019-20	2020-21	16,45,810

6. On being aggrieved by the order of the Ld. AO, assessee carried the matter in appeal before Ld. CIT(A). The Ld. CIT(A) observed that the assessee has failed to comply with the statutory mechanism prescribed under the Act by furnishing Form No. 27C declarations and therefore sustained the order of the Ld.AO by dismissing the appeal of the assessee.

7. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following grounds of appeal: -

“1. The order of learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in upholding the action of the assessing officer in raising demand of Rs.9,10,924 u/s 206C(6) and demand of Rs.4,86,582 u/s 206C(7) of the Act.

3. The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the cotton waste sold by the appellant is not 'scrap' and hence the provisions of S.206C are not applicable to the appellant.

4. Any other grounds may be urged at the time of hearing.”

8. Ground Nos. 1 & 4 are general in nature and needs no adjudication.

9. Ground Nos. 2 & 3 challenges the demand raised by the Ld. AO considering the cotton waste sold by the assessee as scrap under provisions of section 206C of the Act. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the cotton waste when used as the raw material in the open-ended spinning mills, it cannot be considered as the scrap under the under provisions of section 206C of the Act. He referred to the

explanation provided to section 206C of the Act wherein the “Scrap” has been defined. He submitted that scrap means waste and scrap from the manufacture or mechanical working of the materials which is “DEFINITELY NOT USABLE AS SUCH” because of breakage, cutting up, wear and other reasons. He further submitted that the cotton waste has been sold to various open-ended spinning mills who use the same as the raw material in their spinning mills. He referred to the written submissions made before the Ld. CIT(A) stating the above facts. He also submitted that he has filed declarations from the traders to whom the cotton waste was sold which was in turn sold to the open-ended spinning mills by such traders for production of yarn. Ld.AR submitted that the Ld. CIT(A) erred in sustaining the addition made by the Ld. AO purely on the technical fact that the assessee has not furnished Form No. 27C. He also referred to written submissions in Paper Book Page No. 17 wherein the cotton waste so generated during the manufacturing process is used as a raw material by open end spinning mills for manufacture of low count yarn / coarse yarn using the rotor spinning technology. However, he submitted that these submissions were not accepted by the Revenue Authorities. Ld.AR also further submitted that he relied on the following decisions: -

- i. *CIT v. Adisankara Spinning Mills (P.) Ltd., [2014] 362 ITR 233 (Madras).*
- ii. *Pr. CIT (TDS) v. Safari Fine Clothing (P.) Ltd., [2018] 89 taxmann.com 129 (Gujarat).*
- iii. *CIT (TDS) v. Priya Blue Industries (P.) Ltd., (2016) 65 Taxmann.com 206 (Gujarat).*

10. He further submitted that various judicial pronouncements relied on by the assessee has clearly confirmed the ratio, when the waste are usable as such, they do not fall within the definition of scrap for the purpose of tax collection at source. He therefore pleaded that the demand raised under section 206C of the Act be quashed.

11. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] submitted that assessee ought to have collected taxes at source on the cotton waste and should also have provided Form No. 27C in case of sales to the Traders. Since the assessee has failed to do so, the demand raised by the Ld.AO needs to be sustained.

12. We have heard both the sides and perused the material available on record. It is an admitted and undisputed fact that the assessee has generated cotton waste from its manufacturing activities and has sold the same to various manufacturing units and traders as detailed in the assessment order. The contention of the Ld.AO is that cotton waste being a scrap, the provisions of section 206C of the Act, is attracted and assessee ought to have collected the tax at source arising out of the sales of cotton waste. In this connection, we extract below section 206C of the Act and Explanation (b) to Section 206C sub-section 1 of the Act, as under: -

“206C (1) Every person being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the

time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

Sl. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic Liquor for human consumption	One per cent
(ii)	Tendu leaves	Five per cent
(iii)	Timber obtained under a forest lease	Two and one-half per cent
(iv)	Timber obtained by any mode other than under a forest lease	Two and one-half per cent
(vi)	Scrap	One per cent]
[(vii)	Minerals, being coal or lignite or iron ore	One per cent:]

.....

Explanation - For the purposes of this section, -

.....

(b) "scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;"

13. From the plain reading of the above definition of scrap, we are of the considered view that there is a merit in the argument of the Ld. AR, the assessee ought not to have collect the tax on such sales made by the assessee.

14. The Hon'ble Madras High Court in the case of CIT v. Adisankara Spinning Mills (P.) Ltd., (supra), held as follows: -

"2. As far as the second question is concerned, the Tribunal has noted in paragraph 3 that the assessee had obtained Form 27C from the buyers of the cotton waste. In the course of the appellate proceedings, the same was also filed before the assessing authority by applying the provisions of section 154 of the Act. The Tribunal held that the assessee having filed the statutory form, viz., Form

27C, the technical breach was liable to be condoned by following the decision of this court in the case of CIT v. A.N. Arunachalam [1994] 208 ITR 481/75 Taxman 529 (Mad.). Therefore, we do not find any scope to entertain the said question.

3. As far as the first question is concerned, it related to sale of cotton waste. According to the Revenue, the said sale should be construed as sale of scrap within the meaning of Explanation (b) to section 206C of the Income-tax Act.

Explanation (b) of section 206C reads as follows :

"scrap' means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons."

4. When we examined the said issue, we have noted the findings of the Tribunal in paragraph 5 of the order impugned in this appeal. The Tribunal has specifically found that in the process of manufacture of cotton yarn, cotton waste came to be generated and the use of the said waste by another manufacturer shows that it was used as raw material by the purchaser. Even the learned Departmental representative stated before the Tribunal that the cotton waste disposed of by the respondent-assessee, was reused as raw material for manufacture of lower count of cotton yarn and it does not come under the definition of scrap as defined in Explanation (b) to section 206C of the Act. As the said conclusion of the Tribunal having been reached as a finding of fact, we do not find any question of law much less substantial question of law to be considered in this appeal. The tax case appeal is, therefore, dismissed. No costs. Consequently, M. P. No. 1 of 2010 is also dismissed."

15. Further, the Hon'ble Gujarat High Court in the case of Pr. CIT (TDS) v.

Safari Fine Clothing (P.) Ltd., (supra) held in Para No. 9 as follows: -

"9. On a plain reading of the above definition, it is evident that the scrap is something that is generated from manufacture or mechanical working of materials. In the present case, both, the Commissioner (Appeals) as well as the Tribunal, have recorded concurrent findings of fact to the effect that the manufacturing activity of the assessee was to cut garments into smaller pieces to create rags, wipers or chindi, as per the specifications and as per the orders placed by various buyers. It has also come on record that the products manufactured by the assessee are classified under the Excise Laws under headings 63.09 and 63.10.

Categorical findings of fact had been recorded by the Commissioner (Appeals) to the effect that the assessee was actually processing the imported garments to cut them into smaller pieces as per the requirements of various end users and the rags were being further used for manufacturing knitwear, blankets, mattresses, pillows, etc. and the chindis were being used for manufacturing bathroom mats, coasters, and similar items, while the industrial wipers were utilized for various industries for cleaning of hands and machinery, etc. during the manufacturing activity. It has further been found that the items brought into existence by the assessee were used as raw material for production of some other items and were definitely usable as such. The expression "scrap" as defined under clause (b) of the Explanation to section 206C of the Act, clearly provides that scrap means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such. In the facts of the present case, the rags, wipers or chindi are actually products manufactured by the assessee and are used as such by the buyers for the purpose of manufacturing other items and are not products which cannot be used as such because of breakage, cutting up, wear and other reasons. The articles manufactured by the respondent assessee, therefore, would not fall within the ambit of the expression "scrap" as envisaged in clause (b) of the Explanation to section 206C of the Act."

16. The Hon'ble Gujarat High Court in the case of CIT (TDS) v. Priya Blue Industries (P.) Ltd., (supra) in Para No. 7 held as follows: -

"7. Section 206C of the Act bears the heading, "Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap etc." and provides that every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax. The nature of goods specified at serial No.(vi) is scrap, and the percentage provided is 1%. The expression of scrap is defined under clause (b) to the Explanation to section 206 of the Act, to mean waste and scrap from manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons. On a plain reading of the said expression, it is evident that any material which is usable as such would not fall within the ambit of the expression

"scrap" as envisaged under clause (b) of the Explanation to section 206C of the Act."

17. In the instant case, we find that the Ld. CIT(A) prima facie agreed with the view that the cotton waste sold by the assessee is not liable for TCS but however he concludes that assessee has not furnished Form No. 27C which is mandatory requirement. The case relied on the by the Ld.AR in the case of CIT v. Adisankara Spinning Mills (P.) Ltd. (supra), the Hon'ble Gujarat High Court has held that filing of the statutory Form No. 27C being a technical breach was liable to be condoned as held in the case of CIT v. A.N. Arunachalam [[1994] 208 ITR 481 (Madras)] by the Hon'ble Madras High Court.

18. In the instant case, the assessee has submitted the declarations from the Traders that the use of products which is considered as a raw material for the open-ended spinning mills. Respectfully following the above judicial precedents as discussed above, we are of the opinion that the provisions of section 206C is not attracted in the case of the assessee, accordingly, we remit the matter back to the file of Ld. AO to examine whether the supplies have been made to "open ended spinning mills" where the cotton waste is being used as raw material and thereafter allow the claim of the assessee in accordance with law. Accordingly, Grounds raised by the assessee are statistically allowed.

19. In the result, appeal of the assessee is allowed for statistical purposes.

ITA No. 576/VIZ/2025 (A.Y. 2018-19).

ITA No. 577/VIZ/2025 (A.Y. 2019-20).

ITA No. 578/VIZ/2025 (A.Y. 2020-21).

20. Now coming to the appeals filed by the assessee relating to A.Y.2018-19, A.Y. 2019-20 & A.Y. 2020-21, the grounds raised by the assessee are identical to that of the Grounds raised in ITA No.575/Viz/2025 for the A.Y. 2017-18. Since there is no change in the facts and circumstances of the case, our decision rendered in ITA No. 575/Viz/2025 for the A.Y.2017-18 shall *mutatis mutandis* applies to the appeals relating to A.Y. 2018-19, A.Y. 2019-20 & A.Y. 2020-21. Accordingly, grounds raised by the assessee are statistically allowed.

21. In the result, appeals filed by the assessee are allowed for statistical purposes.

22. To sum up, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 03rd December, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 03.12.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Viswateja Spinning Mills (P.) Ltd.,**
Boyapalem Village, Boyapalem to Phirangipuram
Road, Venkayalapadu Post, Edlapadu Mandalam
Guntur District – 522233, Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer (TDS) Ward – 1**
Income Tax Office
CR Buildings, Kannavari Thota
Guntur – 522001
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam