

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "G" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) AND  
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 1376/MUM/2021  
Assessment Year: 2013-14  
&  
ITA No. 1377/MUM/2021  
Assessment Year: 2014-15  
&  
ITA No. 1372/MUM/2021  
Assessment Year: 2015-16  
&  
ITA No. 1373/MUM/2021  
Assessment Year: 2016-17  
&  
ITA No. 1374/MUM/2021  
Assessment Year: 2017-18  
&  
ITA No. 1375/MUM/2021  
Assessment Year: 2018-19**

Shoppers Stop Limited,  
5<sup>th</sup> Floor, Umang Tower, Malad Link  
Road, Mindspace, Malad (West),  
Mumbai-400064.

**PAN No. AABCS 4383 A  
Appellant**

**Vs.** Dy. Commissioner of Income  
Tax, Central Circle-4(2),  
Room No. 1918, Air India  
Building, Nariman Point,  
Mumbai-400021.

**Respondent**

Assessee by : Mr. Manan Mathuria, AR  
Revenue by : Mr. Jasbir Chouhan, CIT-DR

Date of Hearing : 04/05/2022  
Date of pronouncement : 04/05/2022

**ORDER**

**PER BENCH**

These appeals have been filed by the assessee against separate orders, each dated 24.06.2021, passed by the Ld. Commissioner of Income-Tax (Appeals)-52, Mumbai [in short 'the Ld. CIT(A)'] for assessment years 2013-14 to 2018-19 respectively.

2. At the outset, before us the Ld. counsel of the assessee submitted that while filing the return of income u/s 153A of the Income Tax Act, 1961 (in short 'the Act'), the assessee did not claim deduction of 'education cess' and 'higher and secondary education cess'. The said ground was first time raised before the Ld. CIT(A) however, same has been rejected by him.

3. Aggrieved by the order of Ld. CIT(A), the assessee filed an appeal before the Tribunal in all the respective years, raising the grounds for seeking deduction of education cess of higher and secondary education cess in view of the principle laid down by the

decision of the Hon'ble Jurisdictional High Court in the case of **Sesa Goa Ltd. v. Jt. CIT [117 Taxmann.com 96]**, Hon'ble Rajasthan High Court in the case of **Chambal Fertilizers & Chemicals Limited v. Joint Commissioner of Income Tax [(2019) 107 Taxmann.com 484 (Rajasthan)]**

4. Before us the assessee has submitted that in view of insertion of Explanation 3 to section 40(a)(ii) of the Act w.e.f. 01.04.2005, the principles laid down in the decisions cited while filing appeal shall no longer apply. The relevant extract of the Explanation is reproduced below.

*“For the removal of doubts, it is hereby clarified that for the purpose of this sub-clause, the term “tax” shall include and shall be deemed to have always included any surcharge or cesss, by whatever name called, on such tax”*

4.1 In view of the above submission, the assessee sought to withdraw all the captioned appeals. The Ld. Departmental Representative (DR) did not object for the same.

5. The withdrawal of the appeals sought by the assessee is permitted and accordingly, all these appeals are dismissed as infructuous.

**Order pronounced in the open Court on 04/05/2022.**

Sd/-

**(RAHUL CHAUDHARY)  
JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;

Dated: 04/05/2022

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary)  
**ITAT, Mumbai**