

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘T’ DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
&
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

I.T.A. No.919/DEL/2021
Assessment Year 2016-17

Sheela Foams Ltd., 604 Ashadeep, 9 Hailey Road, New Delhi.	Vs.	ACIT, Central Circle-6, New Delhi.
TAN/PAN: AAACS0189B		
(Appellant)		(Respondent)

Appellant by:	Ms. Somya Jain, CA		
Respondent by:	Shri Amit Kumar Jain, Sr.DR		
Date of hearing:	09	11	2022
Date of pronouncement:	24	11	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee against the final order dated 31.05.2021 passed by the Assessing Officer for the Assessment Year 2016-17, in pursuance of direction given by the Dispute Resolution Panel-1 vide order dated 17.03.2021.

2. During the course of hearing, at the outset, the ld. counsel for the assessee submitted he has the instruction to withdraw this appeal and furnished a copy of request letter dated 09.11.2022 which is placed on record.

3. In his rival submissions, learned Department Representative did not object if the appeal of the assessee is dismissed as withdrawn.

4. After considering the submissions of both the parties and the material available on record, it is noticed that the assessee-company furnished a letter dated 09.11.2022 stating therein as under:

“The captioned appeal is fixed for hearing before the Hon’ble Bench today. In this regard, it is respectfully submitted that the only issue raised in the captioned appeal is regarding deduction of education cess on income tax amounting to Rs. 1,18,01,634 claimed during the course of assessment proceedings in terms of law clarified by the Hon’ble Rajasthan High Court in the case of Chambal Fertilisers and Chemicals Ltd. vs JCIT: D.B Income-tax Appeal No.52/2018 and Hon’ble Bombay High Court in the case of Sesa Goa Ltd. vs. JCIT: 423 ITR 426 (Bom) which was not allowed by the assessing officer.

Vide Finance Act 2022, Explanation 3 has been inserted in section 40(a)(ii) of the Act, w.e.f., 01.04.2005, clarifying that for the purposes of this sub-clause, the term “tax” includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.

In view of the aforesaid, it is respectfully submitted that on instructions of the appellant, we crave the leave to withdraw the captioned appeal. The appellant may accordingly be allowed to withdraw the appeal.

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We trust that our request shall be acceded to. The appellant will be grateful for this kindness.”

5. In view of the above, we dismiss the appeal of the assessee as withdrawn.
6. In the result, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the open Court on 24/11/2022.

Sd/-

**[NARENDER KUMAR CHOUDHRY]
JUDICIAL MEMBER**

DATED: /11/2022

prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar

		Date
1.	Draft dictated on	09.11.2022
2.	Draft placed before author	09.11.2022
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	
6.	Kept for pronouncement on	
7.	File comes back to PS/Sr. PS	
8.	Uploaded on	
9.	File sent to the Bench Clerk	
10.	Date on which file goes to the AR	
11.	Date on which file goes to the Head Clerk.	
12.	Date of dispatch of Order.	