

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

**BEFORE SHRI NARENDRA KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.816/M/2024
Assessment Year: 2016-17**

Krishival Foods Ltd. (formerly known as Empyrean Cashews Pvt. Ltd.) 1309, Lodha Supermus Powai, Saki Vihar Road, Opp. MTNL Office, Mumbai- 400072. PAN: AADCE6583A	Vs.	The Assistant Commissioner of Income Tax- Circle 9(2)(2) Aayakar Bhavan, Maharashi Karave Road, Mumbai - 400020.
(Appellant)		(Respondent)

Present for :

Assessee by : Shri Abhishek Khandelwal (Virtually Present)

Revenue by : Shri P. D. Chougule (Addl. CIT) SR. DR.

Date of Hearing : 29 . 07 . 2024

Date of Pronouncement : 28 . 08 . 2024

O R D E R

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short]

vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1059048921(1)

Dated 26/12/2023 for the Assessment Year 2016-17.

2. Following grounds of appeal have been raised by the appellant:

1. *“On the facts and circumstances of the case and present law, the Ld. CIT(A) has erred in not allowing the deduction claimed u/s. 80JJA of the Act amounting to Rs.66,43,462/-.*
2. *The appellant craves leave to add, amend, alter or delete the said ground(s) of the appeal.”*

3. When the appeal of the appellant was taken up for hearing, it was found that the appellant has filed two appeals on the same grounds of appeal for the same assessment year i.e. ITA No. 816/Mum/2024 and ITA No. 857/Mum/2024 (A.Y. 2016-17). When the appellant was asked why two appeal were filed, it was submitted by the appellant as under:-

*“To,
The Hon'ble Income Tax Appellate Tribunal,
"E" Bench, 4th floor, Pratihtha Bhavan,
Old CGO Annex Bldg.,
M .K. Road
Mumbai 400 020*

Respected Sir/Madam,

Reg.: M/s. Krishival Foods Limited

[Formerly known as M/s. Empyrean Cashews Pvt Ltd]

PAN.: AADCE6583A

Appeal No.: ITA No.857/Mum/2024 & ITA No.816/Mum/2024

*Sub.: Application for withdrawal of duplicate appeal filed for the
A.Y. 2016-17.*

With respect to the above, on behalf of our above-mentioned client, we would like to state that the appellant has filed an appeal before Your Honour for the A.Y. 2016-17.

The appellant has inadvertently filed two appeals i.e. via online mode on 16.02.2024 having Appeal No.816/Mum/2024 & manually on 26.02.2024 having Appeal No.857/Mum/2024. As seen from the ITAT's portal, both the appeals were showing as "Heard". The screenshot of ITAT portal is enclosed herewith as Annexure 1 for your ready reference and records.

We would also like to submit that the latest hearing in the above case for the Appeal No.857/Mum/2024 was held & heard on 07.08.2024. The screenshot of same is attached herewith as Annexure 2 for your ready reference and records.

The hearing prior to that was held on 29.07.2024 when both the appeals were listed and the AR had made oral representation for withdrawing 1 appeal on coming to know of 2 appeals inadvertently having been filed.

Now, we are also making the said communication and prayer to Your Honour vide this written communication that the Appeal



No.816/Mum/2024 filed via Online Mode must be consider as withdrawn in which the hearing is showing as pending in Your Honour's records.

Inconvenience caused to Your Honour is highly regretted.

Thanking You,

Yours sincerely,

For A B Nemani & Associates
Chartered Accountants

Sd/-
Authorised Signatory”

4. Since, the appellant has withdrawn the above appeal, the appeal is dismissed as withdrawn.
5. In the result, the appeal is dismissed.

Order pronounced in the open court on 28.08.2024.

Sd/-
NARENDRA KUMAR CHOUDHRY
JUDICIAL MEMBER

Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER

Mumbai, Dated: 28.08.2024.
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//



By Order

Dy/Asstt. Registrar, ITAT, Mumbai.