

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'A', कोलकाता  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.1663/Kol/2024  
Assessment Year: 2018-19

Creative Tannery Limited ..... Appellant  
P-73A, Lake Road, Lake Gardens,  
Kolkata-700019.  
(PAN: AACCC6385M)

vs.

ACIT, Company Circle-1(2), Kolkata ..... Respondent

**Appearances by:**

Shri B.R. Dutta, FCA appeared on behalf of the Appellant.

Sm. Archana Gupta, Addl. CIT, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing :October 01, 2024

Date of pronouncing the order :November, 18, 2024

**आदेश / ORDER**

**Per Sanjay Garg, Judicial Member :**

The present appeal has been preferred by the assessee against the order dated 27.06.2024 of the Ld. Commissioner of Income Tax, (Appeal), Kolkata-20 [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for AY 2018-19.

2. Brief facts of the case are that in the assessment proceedings carried out u/s. 143(3) of the Act, the Assessing Officer (in short the "AO") made the addition of Rs.16,05,030/- by applying 8% profit rate in respect of unaccounted/out of books sales made by the assessee. The AO further made the addition of Rs.6,79,457/- on account of disallowance u/s. 36(1)(va) of the Act.

3. Being aggrieved by the said addition made by the AO, the assessee preferred appeal before the Ld. CIT(A). However, during the appellate proceedings, the assessee made a request for withdrawal of the appeal stating, as under:

*“This is with reference to our appeal. Please note that we have already paid taxes assessed by the Ld. ACIT. Hence, we do not want to challenge addition made for the AY. Hence, we request you to drop the proceedings and oblige.”*

4. The Ld. CIT(A) accordingly, allowed the assessee to withdraw the appeal and dismissed the appeal as withdrawn. Now, assessee has come in appeal pleading that the Ld. CIT(A) was not justified in allowing the assessee to withdraw its appeal without considering the validity of the additions on merits.

5. It is to be noted that the assessee, itself, had made a request before the Ld. CIT(A) that it was not interested in contesting the additions made by the AO and that it had already paid due taxes and that the appeal of the assessee may be dismissed as withdrawn. Though, there was a discretion available to the Ld. CIT(A) either to accept the aforesaid request of the assessee or to reject it, if it was a case, in his view, of enhancement of income, however, there was no statutory obligation cast upon the Ld. CIT(A) to decide the appeal on merits, even though, the assessee has requested that its appeal may be dismissed as withdrawn. In view of this, there is no merit in the appeal of the assessee and the same is accordingly dismissed.

6. In the result, the appeal of the assessee stands dismissed.

Order is pronounced in the open court on 18.11.2024.

Sd/-

**[Sanjay Awasthi]**

लेखा सदस्य/Accountant Member

Dated: 18.11.2024.

JD Sr. P.S

Sd/-

**[Sanjay Garg]**

न्यायिक सदस्य/Judicial Member

*Copy of the order forwarded to:*

1. **Appellant – Creative Tannery Limited**
2. **Respondent – ACIT, Central Circle-1(2), Kolkata**
3. **CIT(A), Kolkata-20.**
4. **Pr.CIT**
4. **CIT(DR),**

//True copy//

By order

Assistant Registrar, Kolkata Benches