

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 85/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2019-20)

Swaroopa Simhadri, Income Tax Officer,
Serilingampally, Vs. Ward-8(3),
Ranga Reddy Hyderabad
[PAN No. GFVPS8655R]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Mohd. Afzal, AR
राजस्व द्वारा/Revenue by: Shri B. Sunil Kumar, DR

सुनवाई की तारीख/Date of hearing: 27/02/2023
घोषणा की तारीख/Pronouncement on: 28/02/2023

आदेश / ORDER

Aggrieved by the order dated 30/11/2022 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of one Swaroopa Simhadri ("the assessee") for the assessment year 2019-20, assessee preferred this appeal.

2. Grievance of the assessee in this matter is that while processing the return of income for the assessment year 2019-20, the CPC, Bengaluru did not consider the Foreign Tax Credit (FTC) under section 90 of the Income Tax Act, 1961 ('the Act') and raised the demand. Though the assessee happens to be a citizen of US, she came to India for business purpose for

more than 182 days, thereby becoming a resident in India and in that capacity, she offered all the incomes from India and abroad and paid the taxes.

3. According to the Revenue, the due date for filing the return of income and Form No. 67 in respect of the assessment year 2019-20 was 31/08/2019 whereas the assessee filed the return of income and form No. 67 on 27/07/2020. Learned CIT(A) also recorded that in terms of Rule 128(9) of the Income Tax Rules, 1962 ('the Rules'), such an FTC cannot be allowed to the assessee.

4. Learned AR submitted that it is a fact that the assessee filed the return of income on 27/07/2020 whereas originally, the due date for furnishing the return of income for the assessment year 2019-20 under section 139 of the Act was 31/08/2019, but vide notification No. 35/2020/F.No. 370142/23/2020-TPL, dated 24/06/2020, the CBDT extended such period upto 31/07/2020 and it was further extended vide notification No. 56/2020/F.No. 370142/23/2020-TPL, dated 29/07/2020, till 30/09/2020.

5. Learned DR does not dispute these two notifications.

6. Having gone through the record in the light of these two notifications, I am satisfied that whereas the due date for furnishing the return of income for the assessment year 2019-20 stood extended till 30/09/2020, the assessee filed her return of income on 27/07/2020 alongwith Form No. 67 and thereby there is sufficient compliance with the requirement of Rule 128(9) of the Rules. However, these two notifications missed the attention of the learned CIT(A), when the impugned order was passed.

7. In these circumstances, I hold that there is no violation of the requirements of Rule 128(9) of the Rules and the assessee is entitled to

claim the FTC. Learned Assessing Officer is directed to consider the same and grant relief.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 28th day of February, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 28/02/2023

TNMM

Copy forwarded to:

1. Swaroopa Simhadri, C/o. Md. Afzal, Advocate, # 402, Sherson's Residency, 11-5-465, Criminal Court Road, Red Hills, Hyderabad.
2. Income Tax Officer, Ward-8(3), Hyderabad.
3. DR, ITAT, Hyderabad.
4. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD