

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA Nos.930 & 931/Mum/2023
(A.Ys. 2019-20 & 2020-21)**

Sharda Maheshwari 22, Chitrakoot Altamount Road, Mumbai – 400 026	Vs.	CPC, Circle 19(3) 1 st Floor, Matru Mandir Tardeo Road, Mumbai - 400007
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AIZPM9914E		
Appellant	..	Respondent

Appellant by :	N.R. Agrawal
Respondent by :	Harmesh Lal

Date of Hearing	08.06.2023
Date of Pronouncement	13.06.2023

आदेश / ORDER

Per Amarjit Singh (AM):

These two appeals filed by the assessee are directed against the different order of CIT(A) u/s 250 of the Act of NFAC, Delhi, dated 21.03.2023 and 17.03.2023. Since these appeals are based on similar issue and identical facts therefore, for the sake of convenience both these appeals are adjudicated together by taking ITA No. 930/Mum/2023 as a lead case and its finding will be applied mutatis mutandis to the other appeal.

ITA No. 930/Mum/2023 (AY: 2019-20)

“The ld. CIT(A) erred in confirming the non-credit of foreign tax credit Rs.2,31,213/- u/s 90/91.”

2. The fact in brief is that the assessee had claimed tax paid in foreign country to the amount of Rs.2,31,213/- which was not granted by the CPC Bangalore.

3. The assessee filed appeal before the ld. CIT(A) stating that she is entitled to foreign tax paid credit u/s 90 of the Act. However, the ld. CIT(A) vide order dated 21.03.2023 dismissed the appeal of the assessee holding that it is mandatory to file statement in form no. 67 on or before the due date specified for furnishing return of income under sub-section (1) of Sec. 139 to claim foreign tax credit. Since the assessee failed to furnish Form No. 67 on or before due date of filing return of income, therefore, the ld. CIT(A) has disallowed the claim of foreign tax credit amounting to Rs.2,31,213/-.

4. During the course of appellate proceedings before us the ld. Counsel at the outset submitted that case of the assessee is covered by the decision of coordinate benches of the ITAT wherein similar issue of identical facts has been decided in favour of the assessee.

- “(i) Sonakshi Sinha Vs. CIT vide ITA No. 1704/Mum/2022*
- (ii) Nirmala Murli Relwani Vs. ADIT vide ITA No. 2094/Mum/2022*
- (iii) Anuj Bhagwati Vs. DCIT, Circle 1(1)(1) vide ITA No. 1844 & 1845/Mum/2022.”*

On the other hand, the ld. D.R supported the order of lower authorities.

5. Heard both the sides and perused the material on record. During the course of assessment the AO has not given credit of Rs.2,31,213/- for tax deducted in foreign country. Thereafter, the assessee filed rectification application u/s 154 of the Act, however, the CPC has denied such credit in the rectification order. The ld. CIT(A) has also rejected the claim of the assessee of foreign tax credit on the ground that assessee has not filed form 67 on or before the due date specified

for furnishing return of income under sub-section (1) of Sec. 139 to claim foreign tax credit.

6. With the assistance ld. Representative we have perused the judicial pronouncements on the similar issue and identical facts of the coordinate benches, Mumbai as referred by the ld. Counsel in this order.

7. In the case of Sonakshi Sinha Vs. CIT vide ITA No. 1704/Mum/2022 for assessment year 2018-19 it is held that Rule 128 does not prescribe denial of credit of foreign tax credit and Sec. 90 or Sec. 91 also do not prescribe timeline for filing of such declaration on or before due date of filing return of income. Further, by the amendment to the Rule w.e.f 01.04.2022, the assessee can file such Form no. 67 on or before the end of the assessment year, therefore, legislature in its own wisdom has extended such date which is beyond the due date of filing of return of income.

8. We have also perused the decision of ITAT in the case of Nirmala Murli Relwani Vs. ADIT wherein held that mere delay in filing form no. 67 as per Rule 128(9) as they stood during the year under consideration will not preclude the assessee from claiming the benefit of foreign tax credit in respect of tax paid outside India.

9. On similar proposition we have also perused the decision of ITAT in the case of Anuj Bhagwati Vs. DCIT, Circle 1(1)(1).

10. We find that issue raised before the Tribunal in this year is similar to the issue adjudicated by the coordinate benches of the ITAT Mumbai in the cases referred supra therefore, following the decision of coordinate bench as referred above we direct the assessee to allow the foreign tax credit. Accordingly, this appeal of the assessee is allowed.

ITA No. 931/Mum/2023

9. Since the facts and issue in this appeal are similar to the ITA No. 930/Mum/2023 which we have adjudicated supra therefore applying its finding as mutatis mutandis this appeal of the assessee is also allowed.

10. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 13.06.2023

Sd/-

Sd/-

(Sandeep Singh Karhail)
Judicial Member

(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 13.06.2023

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.