

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "G" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Narender Kumar Choudhry (JM)

I.T.A. No. 2578/Mum/2023 (A.Y. 2019-20)

Sumit Sinha A-1703/4, Tribeca CH Hiranandani Estate, G.B. Road Thane-W-400607.  PAN : AUHPS4797F (Appellant)	Vs.	ADIT, CPC Bengaluru    (Respondent)
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Assessee by	Shri Ketan Ved & Ms. Urvi Mehta
Department by	Shri Ram Prakash Rastogi
Date of Hearing	01.11.2023
Date of Pronouncement	02.11.2023

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 30-05-2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the assessment year 2019-20. The grounds urged by the assessee relates to the following issues:-

- (a) Denial of relief u/s 90 of the Act vis-à-vis Foreign taxes of Rs.9,15,589/- paid.
- (b) Interest charged u/s 234B of the Act
- (c) Interest charged u/s 234C of the Act.

The Ld A.R submitted that the charging of interest u/s 234B is consequential in nature. With regard to the interest charged u/s 234C of the Act, he prayed that the AO may be directed to charge the same on returned income. Accordingly, we direct the AO to ensure that the interest u/s 234C is charged on returned income.

2. With regard to the first issue, the Ld A.R submitted that the assessee is a resident and ordinarily resident in India during the year under consideration and hence global income is liable to be assessed in the hands of the assessee. During the year under consideration, the assessee has moved from Singapore to India. The assessee had earned salary income of Rs.51,39,320/- in Singapore and the same was offered to tax. He has also earned dividend income of Rs.2,61,391/- in USA and the same was also offered to tax. The assessee had paid tax on both the above said income in the respective Countries. The Ld A.R submitted that the assessee is eligible to claim relief u/s 90 of the Act read with DTAA entered with the respective Countries.

3. The Ld A.R submitted that the assessee filed return of income for the year under consideration u/s 139(1) of the Act on 31.08.2019. (It is pertinent to note that the CBDT had extended the time limit u/s 139(1) for AY 2019-20 to 31.08.2019, vide its order dated 23<sup>rd</sup> July, 2019). The assessee also filed prescribed form, viz., Form 67 on 19-08-2019 claiming Foreign tax credit of Rs.6,45,866/-. Since there was short claim of Foreign tax credit, the assessee filed revised return of income on 20-07-2020. Accordingly, a Revised Form No.67 was filed on 17-06-2020 claiming Foreign tax credit of Rs.9,15,589/-. He submitted that the time limit for filing revised return of income for AY 2019-20 was extended by CBDT upto 30<sup>th</sup> November, 2020 by CBDT, vide its order dated 30<sup>th</sup> September, 2020. Accordingly, the Ld A.R submitted that both the original return of income and revised return of income were filed within the time limits prescribed under the Act as extended by CBDT for AY 2019-20.

4. The Ld A.R submitted that the CPC did give credit of Foreign Tax credit while processing return of income. Hence the assessee filed a rectification petition u/s 154 of the Act before CPC and then also the Foreign Tax credit was not given. He submitted that the CPC did not cite any reason for

rejecting the same. Accordingly, the assessee filed an appeal before Ld CIT(A).

5. The Ld A.R submitted that the Ld CIT(A) dismissed the appeal of the assessee under the erroneous impression that the assessee did not file return of income within the time prescribed u/s 139(1) of the Act and also did not file Form No.67 within the prescribed time limit. He submitted that he has demonstrated that the assessee has, in fact, filed both within the prescribed statutory time limit. Accordingly, he submitted that the Ld CIT(A) was not justified in dismissing the appeal on the basis of incorrect facts.

6. We have heard Ld D.R and perused the record. The assessee has furnished copies of acknowledgement for filing original as well as revised return of incomes, original and revised Form no.67, the CBDT circulars extending the time limits for AY 2019-20 u/s 139(1) and 139(5) of the Act in his paper book. On a perusal of them, we notice that both the returns of income and both Form no.67 have been filed within the prescribed statutory time limits as extended by CBDT. Accordingly, we agree with the contentions of Ld A.R that the Ld CIT(A) has rejected the appeal of the assessee on the basis of incorrect facts. Since the assessee has claimed Foreign Tax Credit as per the provisions of the Act, we hold that he is entitled for the same. Accordingly, we set aside the order passed by Ld CIT(A) and direct the AO to allow the Foreign Tax credit by duly examining the claim of the assessee on the basis of documents furnished by the assessee and in accordance with the law. The assessee should be provided with adequate opportunity of being heard.

7. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in on 02.11.2023.

Sd/-  
(Narender Kumar Choudhry)  
Judicial Member

Sd/-  
(B.R. Baskaran)  
Accountant Member

Mumbai.; Dated : 02/10/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai