

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA Nos.2004 & 2005/De1/2023
Assessment Years: 2019-20 & 2018-19

Sh. Sandeep Aggarwal, Vinod Arora & Co., 210-211-212 2 nd Floor, Apna Bazar, Gurgaon	Vs.	ACIT, Circle-58(1), New Delhi
PAN :AABPA6834D		
(Appellant)		(Respondent)

Assessee by	Sh. Sandeep Sapra, Advocate
Department by	Sh. Anuj Garg, Sr. DR

Date of hearing	29.11.2023
Date of pronouncement	07.12.2023

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT

Captioned appeals by the assessee arise out of two separate orders, both dated 27.05.2023, passed by National Faceless Appeal Centre (NFAC) pertaining to assessment years 2018-19 and 2019-20.

2. The solitary issue in dispute in both the appeals relates to disallowance of Foreign Tax Credit (FTC) for non-furnishing/delayed furnishing of Form No. 67.

3. Briefly the facts are, in the return of income filed for the impugned assessment years, the assessee had claimed FTC. However, Form No. 67 as provided for claiming FTC relief under section 90/91 of the Act read with Rule 128(1) of the Income Tax Rules, 1962 could not be uploaded by the assessee. Subsequently, the assessee uploaded Form No. 67. However, prior to that the return of income filed by the assessee was processed under section 143(1) of the Act by the Central Processing Centre (CPC) and assessee's claims of FTC were declined due to non-furnishing of Form 67. Thereafter, the assessee filed applications under section 154 of the Act seeking rectification of mistake. However, such applications were also rejected. Against the orders of rejection passed under section 154 of the Act, the assessee preferred appeals before learned first appeal authority. However, learned first appellate authority dismissed the appeals.

4. We have considered rival submissions and perused the materials on record. The issue is no more *res integra* in view of plethora of decisions rendered by different Benches of the Tribunal. In case of Ms. Brinda Rama Krishna Vs. ITO, ITA No. 454/Bang/2021, order dated 17.11.2021, the Coordinate Bench has held that the provisions requiring furnishing of Form 67 are

directory and not mandatory. The Bench has further held that there is nothing in Rule 128 to suggest that in case of non-furnishing of Form 67, claim of FTC has to be denied. Following decisions are in similar lines:

- i. *Sonia Sharma Vs. ITO, ITA No.316/Del/2023, dated 27.04.2023*
- ii. *Sh. Sanjeev Aggarwal Vs. DCIT, ITA No. 71/JP/2023, dated 10.05.2023*
- iii. *Rohan Hattangadi Vs. CIT(A), ITA No.1896/Mum/2022, dated 02.12.2022*

5. Though, we are conscious of a contrary decision of Coordinate Bench in case of Muralikrishna Vaddi vs ACIT, ITA No.267/Viz/2021, order dated 14.06.2022 for AY 2018-19, however, we are disinclined to rely upon such decision as it has not taken note of the earlier decision of the Tribunal in case of Ms. Brinda Ram Krishna (supra). Thus, in view of the aforesaid, we direct the Assessing Officer to allow assessee's claim of FTC in both the assessment years under dispute.

6. In the result, appeals are allowed.

Order pronounced in the open court on 7th December, 2023

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 7th December, 2023.
RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi