

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.1491/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2021-22)**

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| <b>ITO</b><br>Non-Corporate Ward-19(4)<br>Chennai.       | <b>बनम / Vs.</b> | <b>Smt. Chengam Durga</b><br>50, Kasi Estate, Ashok Nagar,<br>Jafferkhanpet, Chennai-600 083. |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>ACHPD-0525-G</b> |                  |   |
| (पीलार्थी/ <b>Appellant</b> )                            | :                | (प्रत्यर्थी / <b>Respondent</b> )   |

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| अपीलार्थीकीओरसे/ <b>Appellant by</b>   | : | Shri D. Hema Bhupal (JCIT)-Ld. Sr. DR |
| प्रत्यर्थीकीओरसे/ <b>Respondent by</b> | : | Shri K.R.Sudersan (CA) -Ld. AR        |

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| सुनवाईकीतारीख/ <b>Date of Hearing</b>       | : | 08-04-2024 |
| घोषणाकीतारीख / <b>Date of Pronouncement</b> | : | 08-04-2024 |

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2021-22 arises out of an order passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 16-10-2023 in the matter of rectification order passed by CPC u/s 154 of the act on 23-08-2022. The grounds raised by the Revenue read as under:

1. The order of the Ld. CIT(A) is contrary to facts and circumstances of the case.
2. The Ld.CIT(A) erred in holding that filing of Form 67 cannot be treated as mandatory rather it is directory in nature by placing reliance on the decision of ITAT

Bangalore in the case of Brinda Ramakrishna Vs. ITO in ITA No.454/Bang/2021 and decision of the ITAT, Jaipur in ITA No.71/JP /2023 dated 10.05.2023.

3. The Ld. CIT(A) erred in allowing relief to the assessee by placing reliance on the decision of ITAT Bangalore in the case of Brinda Ramakrishna Vs. ITO in ITA No.454/Bang/2021 and decision of the ITAT, Jaipur in ITA No.71/JP/2023 dated 10.05.2023 whereas it is settled law that power of condonation of CBDT/Central Govt. cannot be taken away by any other person.

As is evident, the revenue is aggrieved by grant of foreign tax credit (FTC) despite the fact that Form No.67 was not filed by the assessee within due date of filing of return of income. Having heard rival submissions, our adjudication would be as under.

2. The assessee filed return of income on 09.09.2021 and claimed relief u/s 90 for Rs.1.51 Lacs. The return was processed by CPC u/s 143(1) on 05.07.2022 wherein this credit was denied since the assessee did not file applicable Form No.67 to claim the said relief. The assessee filed Form No.67 along with rectification application u/s 154 on 18.07.2022 in respect of her claim. However, CPC again denied the same in an intimation issued u/s 154. Upon further appeal, Ld. CIT(A), relying on the decision of Bangalore Tribunal in the case of **Brinda Ramakrishna vs ITO (ITA No.454/Bang/2021 dated 17.11.2021)**, directed Ld. AO to grant the credit as per Form No.67. Aggrieved, the revenue is in further appeal before us.

3. We find that this issue is squarely covered by the cited decision of Bangalore Tribunal. Recently, Hon'ble High Court of Madras in the case of **Duraiswamy Kumaraswamy (WP No.5834 of 2022 & ors. order dated 06.10.2023)** held that filing of aforesaid form in terms of Rule 128 is only directory in nature. The rule is only for the implementation of the provisions of the act and it will always be directory in nature. Respectfully following the same, we dismiss the appeal.

4. The appeal stand dismissed.

*Order pronounced in open court on 08<sup>th</sup> April, 2024.*

**Sd/-**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 08-04-2024  
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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF