

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं ITA No.58/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2021-22)

Asan Meera Sahib 4/436-C, 8 th Middle Street Thiyagarajanagar, Tirunelveli-627 011.	बनाम/ Vs.	ITO Ward-1 Tirunelveli.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. ASLPA-5183-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri G. Tarun (Advocate)-Ld.AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri P. Sajit Kumar (JCIT)-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	16-04-2024
घोषणा की तारीख / Date of Pronouncement	:	16-04-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee 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 20-12-2023 in the matter of an intimation issued by CPC u/s 143(1) of the Act on 21-09-2022 denying Foreign Tax Credit of Rs.3,86,724/- for want of filing of Form 67 along with the return of income. The assessee filed this Form on 21-09-2022. The Ld. CIT(A) confirmed the denial of Foreign Tax Credit considering the provisions of Rule 128 (8) & (9) which

mandate the assessee to file this form along with the return of income. Aggrieved, the assessee is in further appeal before us.

2. We find that this issue has been decided in assessee's favor by this Tribunal in the case of **ITO vs. Smt. Chengam Durga (ITA No.1491/Chny/2023 dated 08-04-2024)**. The bench considering the decision of 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 this form in terms of Rule 128 was only directory in nature. The rule is only for the implementation of the provisions of the act and it would always be directory in nature. Respectfully following the same, we direct Ld. AO to grant impugned Foreign Tax Credit to the assessee.

3. The appeal stand allowed.

Order pronounced on 16th April, 2024.

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/-p (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 16-04-2024
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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