

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.412/PUN/2024

Assessment Year 2020-21

Mrunmayee Nandan Bhawkar, 35/507, Netajinagar, Wanavdi – 411040, Maharashtra.  PAN : AYUPB9867F	vs.	The ITO, Ward-14(3), Pune
(Appellant)		(Respondent)

For Assessee :	Shri C.H. Naniwadekar
For Revenue :	Shri Manish Mehta

Date of Hearing :	22.03.2024
Date of Pronouncement :	25.04.2024

**ORDER**

This assessee's appeal for assessment year 2020-21, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1050339607(1), dated 03.01.2024, involving proceedings u/s.154 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

- "1. The learned CIT(A) erred both on facts and in law in not allowing the valid claim of relief u/s. 90 of the Act of Rs.2,21,741/- of the taxes paid by the assessee outside India merely on the ground that the assessee did not file Form 67 at the time of filing of her return of income which is merely a technical default. He failed to appreciate*

*the settled position in law that filing of Form 67 is directory/procedural in nature and not mandatory.*

2. *Without prejudice to Ground No. 1, the learned CIT(A) erred both on facts and in law in not allowing the valid claim of relief u/s. 90 of the Act of Rs.2,21,741/- of the taxes paid by the assessee outside India by contending that the subject disallowance by the learned AO at CPC is not a mistake apparent from records for the purpose of rectification u/s. 154 of the Act. He failed to appreciate the fact as well as the law that, the issue involved is not debatable and there is only one view possible on the issue, even if it involves long drawn process of reasoning.”*

3. Suffice to say, the assessee's sole substantive grievance herein challenges both the learned lower authorities action disallowing him Foreign Tax Credit "FTC" for the reason that he had filed the corresponding Form 67 belatedly than within the "due" date of filing return of income u/s. 139(1) of the Act. The Revenue would hardly dispute the clinching fact that the assessee had indeed submitted the Form 67 before the CPC's processing dated 09.01.2023 i.e. on 05.02.2021. This being the clinching fact herein, I am of the considered opinion that both the learned lower authorities could not have rejected the assessee's impugned Foreign Tax Credit claim for the above stated sole ground. Case law Duraiswamy Kumaraswamy Vs. Pr. CIT reported in (2024) 460 ITR 615 (Mad.) had already settled the issue that Rule 128 of the Income Tax Rules prescribing Form 67 hereinabove, is directory and not mandatory in nature. Faced with this situation, I hereby accept the assessee's instant sole substantive grievance in principle and direct the CPC, Bangalore to finalize assessee's afresh computation in above terms as per law.

4. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 25.04.2024.

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated : 25<sup>th</sup> April, 2024

Ravi/-  
Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.