

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

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

**आयकरअपील सं./ ITA Nos.616, 617 & 618/Chny/2024
(निर्धारणवर्ष / Assessment Years: 2018-19, 2019-20 & 2022-2023)**

Shri. Rajesh Babashankar,
C3, 3rd floor, Crescent Park Road,
Gandhi Nagar, Besant Nagar,
Chennai 600 020.

Vs. The Assistant Commissioner of
Income Tax,
Non Corporate Circle 10(1)
Chennai.

[PAN: AAGPR 3145K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: None

प्रत्यर्थी की ओर से /Respondent by

: Shri. S. Easwar, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 20.05.2024

घोषणा की तारीख /Date of Pronouncement

: 29.05.2024

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

Aforesaid appeals by assessee for Assessment Years (AYs) 2018-19, 2019-20 & 2022-23 arises out of an orders of even date 08.01.2024 passed by the ADDL./JCIT (A)-2, Office of the Commissioner of Income Tax (Appeals), JAIPUR in the matter of an intimation issued by CPC u/s 143(1) of the Act on 04-12-2020,

19.03.2021 and 07.07.2023 denying Foreign Tax Credit of Rs.3,54,423/-, Rs.3,64,612/- and Rs.5,24,379/- respectively since the assessee did not file Form 67 along with the return of income. The assessee filed this forms on 14.12.2020, 31.08.2019 and 22.11.2022 respectively. 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. During hearing none has appeared for assessee. The Ld. Sr. DR has pleaded for dismissal of the appeals.

3. We find that this issue has been decided in favour of the assessee's by the Co-ordinate Bench 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 *Duraishwamy Kumaraswamy in 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.

4. In the result, the appeals filed by the assessee in ITA Nos. 616, 617 &618/Chny/2024 for assessment Years 2018-19, 2019-20 & 2022-2023

stand allowed.

Order pronounced in the open court on 29th day of May, 2024.

Sd/-

(मनोज कुमार अग्रवाल)
(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai:

दिनांक Dated : 29-05-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)
(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**