

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

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MANU KUMAR GIRI, HON'BLE JUDICIAL MEMBE AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **972 & 973/Chny/2024**  
निर्धारण वर्ष / Assessment Years: 2019-20 & 2020-21

Income Tax Officer,  
Room No. 607, 6<sup>th</sup> Floor, Annex V.  
Building, 121 M.G. Road,  
Chennai – 600 034.

Sandeep Kumar Singh,  
Flat No. 1-G, Door No. 148,  
Prithvi Apartments, Perambur  
Barracks Road,  
Vepery, Chennai – 600 007.  
**[PAN: ASHPS-1760-N]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. N. Vijay Kumar, CA

प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 24.06.2024

घोषणा की तारीख/Date of Pronouncement : 28.06.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

1. Aforesaid appeals by revenue for Assessment Years (AY) 2019-20 and 2020-21 arises out of two separate orders passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 19-02-2024 in the matter of an order passed by the Assessing Officer u/s 154 of the Act on 02.02.2023 and 03.08.2022, denying Foreign Tax Credit of Rs.1,78,791/- and Rs.2,40,721/- for assessment years 2019-20 and 2020-21, respectively. Since the assessee

did not file Form 67 along with the return of income. The assessee filed Form 67 on 16.03.2022 for Rs.2,40,721/- for the assessment year 2020-21 and on 25.11.2021 for Rs.1,78,791/- for the assessment year 2019-20. The Ld. CIT(A), considering the Form no. 67 filed for both the assessment years by the assessee during the first appellate proceedings as the filing of this firm in terms of Rule 128 was only directory in nature and hence directed the Assessing Officer to accept the tax credit and allowed the appeal. Aggrieved, the revenue is in further appeal before us.

2. At the outset, we find that there is a delay of 5 days in appeal filed by the revenue in ITA No. 973/Chny/2024 for assessment year 2020-21, for which petition for condonation of delay along with reasons for delay has been filed. After considering the petition filed by the revenue and also hearing both the parties, we find that there is a reasonable cause for the revenue in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the revenue for adjudication.

3. We find that this issue has been decided in assessee's favour by this Tribunal in the case of (i) **ITO vs. Smt. Chengam Durga (ITA No.1491/Chny/2023 dated 08-04-2024)** (ii) **Amit Singh Baid Mehta vs ADIT, CPC in ITA No. 265 & 266/Chny/2023 dated 28.06.2013** and 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.

4. In the result, appeals filed by the revenue for both the assessment years are dismissed.

Order pronounced in the open court on 28<sup>th</sup> June, 2024 at Chennai.

**Sd/-**  
(मनु कुमार गिरि)  
**(MANU KUMAR GIRI)**  
न्यायिक सदस्य/**Judicial Member**

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S. R. RAGHUNATHA)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 28<sup>th</sup> June, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT- Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF