

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA
डॉ मनीष बोरड, लेखा सटस्य एवं श्री संजय शर्मा, न्यायिक सदस्य के समक्ष
[Before Dr. Manish Borad, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 633/Kol/2024
Assessment Year: 2019-20

Soumitra Ganguly (PAN: ACYPG 1144 M)	Vs.	ITO, Ward-61(3), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	29.08.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	06.09.2024
For the Appellant/ निर्धारिती की ओर से	None
For the Respondent/ राजस्व की ओर से	Shri Pradip Kumar Biswas, Addl. CIT

ORDER / आदेश

Per Manish Borad, AM:

This appeal at the instance of assessee is directed against the order of Ld. Commissioner of Income Tax (Appeals)-Addl/JCIT(A)-2, Mumbai (hereinafter referred to as Ld. CIT(A)] dated 29.01.2024 for AY 2019-20.

2. The following grounds of appeal raised by the assessee are as under:

i) That on facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the disallowance of foreign tax credit amounting to INR 11,42,039/- and disregarding Form 67 filed by the appellant to claim the said credit.

ii) Without prejudice to above, intimation issued u/s 143(1) of the Act by Centralized Processing Center (CPC) is bad in law and liable to be quashed inasmuch as the intimation has sought to make adjustment on account of a debatable issue without giving any opportunity of being heard to the Appellant.

iii) That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in levying interest u/s 234B and 234C of the Income Tax Act, 1961.

The Appellant craves leave to add to, alter, amend and/or withdraw any ground or grounds of appeal either or during the course of hearing appeal.

3. When the case was called for none appeared on behalf of the assessee even though the notice of hearing has been sent by RPAD on 19.08.2024. On observing that small issue has been raised against the denial of Foreign Tax Credit of Rs. 11,42,039/- we decide to adjudicate the same with the assistance of Ld. D.R and available records.

4. The sole grievance of the assessee is that the Ld. CIT(A) erred in upholding the disallowance of foreign tax credit (in short FTC) of Rs. 11,42,039/- and also raised the grounds that CPC did not provide any opportunity before making the adjustment in the intimation u/s 143(1) of the Act.

5. The ld. D.R supported the order of Ld. CIT(A).

6. We have heard the Ld. D.R and perused the records placed before us. We notice that the assessee is a resident and ordinarily resident filed his original return of income on 29.07.2019 for AY 2019-20 which was subsequently revised on 31.07.2020. During the year under consideration, the assessee being resident, was liable to pay tax on its global income. Apart from the salary earned in India, the assessee has earned income from outside India (United States of America). The salary income received by the assessee in USA was also subject to tax and the same amounted to Rs. 62,58,617/- for

the period from 02.04.2018 to 31.12.2018. The said income has duly been offered to tax in the income tax return. However, a sum of Rs. 11,42,039/- was deducted at source by the employer in USA. The assessee furnished Form 67 claiming FTC of Rs. 11,42,039/- . The FTC claimed by the assessee has been denied on account of delay in filing Form 67.

7. We find that this issue has been raised before this Tribunal on multiple occasions and it has been consistently held that filing of Form 67 is directory in nature and therefore even if it is belatedly filed but is placed on record before the revenue authorities, that before passing of an order, if the facts are verifiable then the legitimate claim made by the assessee should be allowed. We find support from the decision of this Tribunal in the case of *Bijender Singh vs. ITO in ITA No. 445/Kol/2024 dated 12.06.2024* and also the decision of Tribunal in case of *Krishna Kumar Choudhury vs. DCIT in ITA No. 113/Kol/2023 dated 13.04.2023*. Respectfully following the consistently view taken by this Tribunal and on finding that the Form 67 has been filed with all necessary details, we therefore set aside the finding of Ld. CIT(A) and allow the grounds raised by the assessee claiming the alleged FTC of Rs. 11,42,039/- and direct the AO to accept the Form 67 filed by the assessee and allow the alleged FTC in accordance with law.

7. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 6th September, 2024

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)

(Manish Borad/मनीष बोरड)

Judicial Member/न्यायिक सदस्य

Accountant Member/लेखा सदस्य

Dated: 6th September, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Soumitra Ganguly, 2/3, Ekdalia Road, Ekdalia, Kolkata-700019
2. Respondent – ITO, Ward-61(3), Kolkata.
3. Ld. CIT(A)- Addl/JCIT (A)-2, Mumbai
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata