

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

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

1. आयकरअपील सं ITA No.2069/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2018-19)
&
2. आयकरअपील सं ITA No.2070/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2019-20)

Shri Satishkumar Ekambaram 461, Chakranagar Paramathi-Velur, Namakkal-638 182.	बनम/ Vs.	ITO Ward-2, Namakkal.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. BJZPS-4367-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	None
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri AR.V. Srinivasan (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	04-11-2024
घोषणा की तारीख / Date of Pronouncement	:	04-11-2024

आदेश / ORDER

Per BENCH:

1. Aforesaid appeals by assessee for Assessment Years (AY) 2018-19 & 2019-20 have identical issue i.e., allowance of foreign tax credit (FTC). At the time of hearing, none appeared for assessee and accordingly, the appeals were heard with the able assistance of departmental representative.

2. The appeal for AY 2018-19 arises out of an order passed by Learned Addl. /Joint Commissioner of Income Tax (Appeals)-1, Jaipur, [CIT(A)] on 06-06-2024 in the matter of an intimation issued by CPC, Bengaluru u/s 143(1) on 10-06-2020 denying Foreign Tax Credit of Rs.9.59 Lacs as claimed by the assessee u/s 90. The same was denied for want of filing of requisite Form 67 along with return of income.

3. It emerges that the assessee filed original return of income on 30-08-2019 but it did not claim FTC of Rs.9.59 Lacs. The assessee revised return of income on 31-03-2019 and filed Form No. 67 on 30-03-2019. The ITR was processed by CPC and credit was not allowed since Form No.67 was filed belatedly. The Ld. CIT(A) confirmed the action of CPC since this claim was not made in the original return of income. As per Rule 128(9), this form was required to be furnished along with return of income u/s 139(1). Aggrieved, the assessee is in further appeal before us.

4. We find that the issue of foreign tax credit is covered in assessee's favor by the decision of 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. CIT(A) to grant impugned Foreign Tax Credit to the assessee after verifying Form No.67.

5. Since facts as well as issue in AY 2019-20 are *pari-materia* the same, our adjudication as above shall apply *mutatis-mutandis* to this year also.

6. Both the appeals stand allowed for statistical purposes.

Order pronounced on 04th November, 2024.

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 04-11-2024

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आदेशकीप्रतिलिपिअप्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF