

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 1473/Ahd/2024  
(Assessment Year: 2021-22)

Narendra Vishnubhai Mistry, 40, Nalini Park, Nr. Shreyas School, Station Road, Padra, Vadodara-391440 PAN : ABVPM 1325 Q	Vs.	Income Tax Officer, Ward 1(2)(2), Vadodara
<b>(Appellant)</b>	..	<b>(Respondent)</b>
<b>Appellant by :</b>	Shri M.K. Patel, AR	
<b>Respondent by:</b>	Smt. Mamta Singh, Sr DR	
<b>Date of Hearing</b>	19.11.2024	
<b>Date of Pronouncement</b>	22.11.2024	

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT :**

This appeal has been filed by the Assessee against the order passed by the office of the Commissioner of Income-tax (Appeals), ADDL/JCIT(A)-7, Mumbai (hereinafter referred to as "CIT(A)" for short), dated 14.06.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2021-22.

2. The Assessee has taken following grounds of appeal:-

*"1. The Learned CIT (Appeals) erred in holding that no express powers have been vested of any authority to condone the delay in filing of Form 67.*

*2. The Learned CIT (Appeals) erred in holding that the appellant was not entitled to claim relief of Rs. 10,28,529 since he had failed to file form 67 read with Rule 128.*

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*3. The Learned CIT (Appeals) erred in disregarding the submission made during the course of appellate proceedings and further erred in holding that as per Rule 128 prevailed u/s 90 of the Act.*

*4. The Learned CIT (Appeals) erred in confirming the denial of the foreign tax credit amounting to Rs. 10,28,519/-.*

*5. Your appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.”*

3. The facts of the case are that the Assessee during the year under consideration has filed his return of income on 29.12.2021 declaring total income of Rs. 50,62,800/-. The Assessee received an intimation under section 143(1) of the Act dated 22.03.2022 wherein the credit for Foreign Tax Credit (FTC) was not allowed and demand of Rs.12,50,630/- has been raised. The Assessee has thereafter filed application u/s 154 of the Act for rectification of the mistake regarding non-allowance of Foreign Tax Credit (FTC); however, the Assessing Officer rejected the application filed by the assessee vide rectification order u/s 154 of the Act on 12.09.2023 owing to the delay of filing Form No. 67.

4. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the ld. CIT(A) who also dismissed the appeal of the assessee on the ground that the assessee has not followed Rule 128 in respect of filing Form No. 67 on or before the due date of filing the return of income for the relevant assessment year.

5. Aggrieved, the assessee is now in appeal before the Tribunal.

6. It is an undisputable fact that the assessee has paid taxes in India as well as abroad and the tax paid in the foreign country are eligible to be

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credited towards the total tax payments. Since the factum is not in dispute, delay in filing cannot prejudice the right of the assessee to claim Foreign Tax Credit (FTC). Keeping in view the specificities of the instant case, the Revenue is hereby directed to accord Foreign Tax Credit (FTC) to the assessee and carry out rectification.

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

**The order is pronounced in the open Court on 22.11.2024**

Sd/-

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**(DR. B.R.R. KUMAR)**  
**VICE-PRESIDENT**

Ahmedabad; Dated 22/11/2024

*btk*

**आदेश की प्रतिलिपि ँ ग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

True Copy

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**