



IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2329/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Nandkumar Chandra, C-907, Gagan Lawish, Behind Dharmavat Petrol Pump, Pisoli, Pune – 411 060, Maharashtra PAN : AHEPC5758N	Vs.	ITO, Ward-13(1), Pune
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Sourabh Nayak
Date of hearing	:	18.12.2024
Date of pronouncement	:	23.12.2024

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

This appeal filed by the assessee pertaining to the assessment year 2018-19 is directed against the order dated 19.09.2024 passed [in short "the Act"] by the Addl./JCIT(A)-6, Chennai u/s.250 of the Income Tax Act, 1961 which in turn is arising out of Intimation order passed u/s.143(1) dated 23.05.2020.



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*Nandkumar Chandra*

2. Briefly, the facts of the case are that the appellant is an individual (Resident) deriving income under the head “salary”. During the year under consideration, the appellant worked with Emerson Electric Company (India) Private Limited. On an international assignment, he went to United Kingdom for the period 04.01.2017 to 10.09.2017. The appellant filed the Return of Income for the A.Y.2018-19 on 26.03.2019 declaring total income of Rs.25,27,840/- after claiming credit for Foreign Tax paid of Rs.3,69,731/- u/s.90 read with Article 24(2) of India-UK Double Taxation Avoidance Agreement. However, the Form No.67 was filed by the appellant on 22.03.2019. The CPC, Bangalore, vide Intimation dated 23.05.2020 denied the claim for credit of TDS, as Form No.67 was not filed within prescribed time.

3. Being aggrieved by the above Intimation, an appeal was filed before the NFAC, who vide impugned order had confirmed the action of the CPC, Bangalore denying the claim of credit for Foreign Tax paid, as the Form No.67 was filed belatedly, i.e., beyond the due date for filing of the return of income.



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4. Now the appellant is in appeal before the Tribunal challenging the order passed by ld. NFAC affirming the action of the CPC.

5. When the matter was called for, none appeared on behalf of the appellant despite due service of notice of hearing. However, the assessee has filed the written submissions relying on various decisions. I therefore proceed to dispose of the appeal with the able assistance from the ld. Departmental Representative *ex parte* qua the assessee and the material available on record.

6. The ld. Departmental Representative submits that CPC, Bangalore was justified in denying the credit for Foreign Tax paid, as the assessee had not filed Form No.67 as per amended provisions of the Income Tax Rules.

7. I heard the ld. ld. Departmental Representative and perused the material on record. The issue in the present appeal is that whether or not the CPC, Bangalore is justified in denying the credit for Foreign Tax paid for the reason that the Form No.67 was not filed within the due date for filing of



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the return of income as specified under the provisions of section 139(1) of the Income Tax Act, 1961 ('the Act'). Admittedly, in the present case, Form No.67 was not filed within the due date for filing of the return of income under the provisions of section 139(1), but Form No.67 was filed on 22.03.2019. The CPC, Bangalore had processed the return of income as on 23.05.2020, which means that Form No.67 was very much available with the CPC, Bangalore. Therefore, the CPC, Bangalore cannot deny the claim for credit for foreign tax paid merely because Form No.67 was not filed within the due date specified for filing the return of income under the provisions of section 139(1) of the Act, as it is merely a directory. My view is fortified by the judgment of Hon'ble Madras High Court in the case of *Duraiswamy Kumaraswamy Vs. The PCIT and others in W.P.No.5834/2022 dated 06.10.2023* wherein it has been held that filing of FTC in terms of the Rule 128 is only directory in nature. The rule is only for the implementation of the provisions of the Act and it will always be directory in nature. I further find support from the decision of this Tribunal in the case of *Samiran Arunkumar Dutta Vs. DCIT*



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– ITA No.1195/PUN/2024 dated 14.08.2024 where also assessee was employed with same employer but Foreign Tax Credit was allowed even when Form No.67 was filed belatedly observing as follows :

*“7. I heard the ld. Sr. DR and perused the material on record. The issue in the present appeal is that whether or not the CPC, Bangalore is justified in denying the credit for Foreign Tax paid for the reason that the Form No.67 was not filed within the due date for filing of the return of income as specified under the provisions of section 139(1) of the Income Tax Act, 1961 (‘the Act’). Admittedly, in the present case, Form No.67 was not filed within the due date for filing of the return of income under the provisions of section 139(1), but Form No.67 was filed on 30.03.2021. The CPC, Bangalore had processed the return of income as on 24.12.2021, which means that Form No.67 was very much available with the CPC, Bangalore. Therefore, the CPC, Bangalore cannot deny the claim for credit for foreign tax paid merely because Form No.67 was not filed within the due date specified for filing the return of income under the provisions of section 139(1) of the Act, as it is merely a directory. Therefore, I direct the CPC, Bangalore to amend the Intimation u/s 143(1) of the Act by taking into consideration the Form No.67 filed by the appellant. Accordingly, the grounds of appeal filed by the assessee stands partly allowed.”*

8. In light of above, I direct the CPC, Bangalore to amend the Intimation u/s 143(1) of the Act by taking into consideration the Form No.67 filed by the appellant. Accordingly, the grounds of appeal No.1 filed by the assessee stands allowed. Other grounds being general and consequential in nature needs no adjudication.



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

Order pronounced on this 23<sup>rd</sup> day of December, 2024.

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> December, 2024.  
Satisfy

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच,  
पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.