

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1030/Chny/2025  
निर्धारणवर्ष/Assessment Year: 2021-22

Manoj Madhukar Gajarlwar, B 1005, Mantri Serene, Thoraipakkam, 200 ft. Radial, Pallavaram S.O., Pallavaram, Kanchipuram-600 043	v.	The ACIT, NCC-22(1), Tambaram.
[PAN: ACCPG 9951 E]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.Girish Sonthlia, Advocate (by virtual)
प्रत्यर्थी की ओर से /Respondent by	:	DR is on leave
सुनवाईकीतारीख/Date of Hearing	:	17.06.2025
घोषणाकीतारीख /Date of Pronouncement	:	04.07.2025

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), (hereinafter referred to as 'Ld.CIT(A)'), Addl./JCIT(A)-5, Delhi, dated 19.02.2025 for the Assessment Year (hereinafter referred to as 'AY') 2021-22.

**2.** The only grievance of the assessee is against the action of the Ld.CIT(A) denying the Foreign Tax Credit (FTC) as claimed by the assessee.



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**3.** The brief facts are that the assessee, an individual, filed his return of income (RoI) for the AY 2021-22 on 13.01.2022 vide Acknowledgment No.925977730130122, declaring taxable income of Rs.1,82,68,230/- and deposited self-assessment tax of Rs.17,06,510/- thereon after claiming relief u/s.90/90A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') of Rs.49,24,755/-. During the year under consideration, assessee was employed with Royal Enfield (Thailand) Ltd. During the relevant AY 2021-22, the employer company in Thailand deducted and deposited tax of Rs.49,24,755/- during the period April, 2020 to March, 2021 in Thailand as per the applicable law in that country and issued TDS certificate accordingly, and the assessee hence claimed tax credit of paid in Thailand. Due to Covid-19, since assessee came back to India and worked from home for the employer at Thailand and was present in India for more than '182' days, so the assessee offered to tax the salary income being resident of India; after claiming relief u/s.90 of the Act in respect of tax paid of Rs 49,24,755/- in Thailand, and the remaining tax of Rs.17,06,510/- was paid in India. Thus, the credit for tax paid at Thailand of Rs.49,24,755/- was duly claimed u/s.90 of the Act in the ITR filed by the assessee in India. However, the assessee inadvertently omitted to file Form 67, as required under Rule 128 of the Income Tax Rules, 1962, on or before the due date of filing the ITR u/s.139(1) of the Act. Realizing the said omission, the assessee filed Form 67 voluntarily on 13.01.2022



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(belatedly by '12' days). Later on, the ITR of the assessee was processed by the CPC which didn't allow relief/Foreign Tax Credit while computing tax payable u/s.143(1) of the Act only on the reason that Form 67 was not filed within the stipulated date.

**4.** On appeal, the Ld.CIT(A) is noted to have agreed with the assessee that the relief ought to have been granted, but only after the assessee got condonation for belated filing of Form 67 by the competent authority u/s.119(2)(b) of the Act; and accordingly, he was of the view that if the assessee receives condonation of delay in filing Form 67 from the competent authority, then the AO to grant the Foreign Tax remitted in Thailand. Still not satisfied with the action of the Ld.CIT(A), the assessee is before us.

**5.** After hearing both the parties, we note that the assessee has filed ITR for AY 2021-22 on 13.01.2022 declaring income of Rs.1,82,68,230/- and deposited self assessment of Rs.17,06,510/- after claiming relief u/s.90/90A of the Act of Rs.49,247,755/- remitted at Thailand. The assessee while filing ITR inadvertently omitted to file Form 67 as required under Rule 128(9) of the Income Tax Rules, 1962 on or before the due date of ITR u/s.139(1) of the Act. However, it is not disputed that the assessee had filed belatedly Form 67 on 13.01.2022 before the CPC passed intimation u/s.143(1) of the Act on 22.03.2022. However, the CPC



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passed the intimation on 22.03.2022 denying the claim only on the ground that the assessee didn't file Form 67 before the due date of filing of the ITR u/s.139(1) of the Act (i.e. '12' days delay), which action has been confirmed by the Ld.CIT(A). We don't countenance this action of the Ld.CIT(A)/CPC, taking note of the settled position of law on the issue, which held that the condition prescribed for filing Form 67 along with RoI u/s.139(1) is directory in nature, and since, the assessee has filed Form 67 before the intimation was passed u/s.143(1) of the Act, the FTC claim ought to have been allowed as held by the Hon'ble Madras High Court in the case of Duraiswamy Kumaraswamy (WP No.5834 of 2022 & ors. order dated 06.10.2023), wherein it was held by their Lordship that filing of this Form in terms of Rule 128 was only directory in nature. And further observed that 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.

6. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 04<sup>th</sup> day of July, 2025, in Chennai.

**Sd/-**

(जगदीश)

**(JAGADISH)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**



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चेन्नई/Chennai,  
दिनांक/Dated: 04<sup>th</sup> July, 2025.

**TLN**

आदेश की प्रतिलिपि अग्रेषित /Copy to:

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