

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.916/Bang/2025
Assessment year : 2019-20

Shri Senthil Kumar Thangavelu, Flat No.B-1002, NCC Ivory Heights, B Narayanapura, Mahadevapura, Bangalore – 560 016. PAN: ADDPT 5278M	Vs.	The Deputy Commissioner of Income Tax Circle 3(3)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Navneeth N. Kini, CA
Respondent by	:	Shri Subramanian, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	30.06.2025
Date of Pronouncement	:	22.07.2025

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Shri Senthil Kumar Thangavelu (the assessee/appellant) for the assessment year 2019-20 against the appellate order passed by the Addl./JCIT(Appeals)-1, Delhi (NFAC) [ld. CIT(A)] dated 24.02.2025 wherein the appeal filed by the assessee against the intimation issued u/s. 143(1) of the Income-tax Act, 1961

[the Act] by the CPC dated 23.3.2021 disallowing Foreign Tax Credit [FTC] of Rs.79,518 was dismissed.

2. The brief facts of the case show that assessee is an individual, employed with Qualcomm India Pvt. Ltd. deriving income from salary, capital gain, dividend and interest. For AY 2019-20, assessee filed return of income on 23.9.2019 at a total income of Rs.1,29,31,520. In the return, he claimed Foreign Tax Credit [FTC] of Rs.79,518. This return was processed u/s. 143(1) of the Act on 23.3.2021 wherein the FTC claimed u/s. 90/ 90A of Rs.79,518 was considered as Nil at sl.No.33 of the Income Tax computation of the assessee. The due date for filing of original return for this year was 31.8.2019, whereas the assessee filed his return of income on 23.9.2019.
3. Aggrieved by the above intimation, assessee preferred appeal before the Id. CIT(A). Assessee submitted that denial of FTC to the assessee is not proper. He further stated that filing of Form 67 within the due date is also not a mandatory requirement for claiming FTC and further relied upon the Notification dated 18.8.2022 amending Rule 128 permitting the assessee to file Form 67 within the assessment year itself for claiming FTC. The assessee relied upon Rule 128 and several judicial precedents.
4. The Id. CIT(A) noted that the appeal is filed before him with a substantial delay of 302 days. It was held that intimation was passed on 23.3.2021 and due date for filing of appeal expired on 22.4.2021, whereas the assessee filed appeal on 28.3.2023. The Id. CIT(A) also

noted the period of COVID and also the decision of the Hon'ble Supreme Court wherein additional 90 days were provided from 1.3.2022 for filing of appeals. Thus the delay of 302 days was computed from 30.5.2022. In Form 35 assessee stated that the above period was primarily spent in identifying the professionals and deciding the viability of the appeal. Therefore delay of 302 days may be condoned. The Id. CIT(A) after considering several judicial precedents held that assessee was aware about the disallowance of FTC and the favourable decision of the ITAT as well as Notification issued by CBDT and therefore the delay in acting upon this information does not qualify as a valid ground for condonation. Accordingly appeal of the assessee was dismissed without condonation of delay.

5. The Id. AR submitted that identically in the case of assessee for AY 2021-22 wherein FTC was denied, the coordinate Bench vide order dated 30.4.2025 has condoned the delay of 136 days and remitted the issue back to the file of AO for fresh consideration of FTC. The coordinate Bench further relied upon another decision of coordinate Bench in ITA No.239/Bang/2024 dated 17.4.2024. Therefore he stated that when in AY 2021-22 the coordinate Bench considered the delay of 136 days on the same set of facts, the delay may also be condoned in the present appeal and the issue may be restored to the file of Id. AO to grant credit of Foreign Tax in accordance with law.
6. The Id. AR submitted that the decisions stated by the Id. CIT(A) not to condone the delay are not applicable to the facts of the present case.

He submitted that in Form 35 the reasons for delay are mentioned and further it was a COVID period and therefore the issue may be considered sympathetically.

7. The Id. DR vehemently supported the order of the Id. CIT(A) stating that the delay of 302 days could not have been condoned without showing sufficient cause and therefore no fault can be found with the order of the Id. CIT(A).
8. We have carefully considered the rival contentions and perused the orders of the Id. lower authorities. On identical facts and circumstances of the case of the assessee for AY 2021-22, the coordinate Bench of Tribunal has condoned the delay of 136 days and directed the Id. AO to consider the claim of FTC after granting opportunity of being heard to the assessee. In the present assessee, we find that part of the delay was on account of COVID period and part of delay was on account of assessee for identifying the counsel for filing of the appeal. As we have been shown the order of the coordinate Bench in assessee's own case for earlier years condoning the delay, there is no change in the facts and circumstances and therefore respectfully following the decision of the coordinate Bench in the case of assessee itself in earlier year, we hold that the Id. CIT(A) was not correct in not condoning the delay of 302 days.
9. Accordingly we restore the whole matter back to the file of Id. AO with a direction to the assessee to substantiate the claim of assessee with

documents and evidence, which may be considered by the AO and if found in order, grant Foreign Tax Credit to the assessee.

10. In the result, the appeal by the assessee is allowed for statistical purposes

Pronounced in the open court on this 22nd day of July, 2025.

Sd/-

(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 22nd July, 2025.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.