

**IN INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER AND
SHRI. SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.1032/Bang/2025
Assessment Year :2017-18

Smt. Madhu Khatri, A23/11, DLF Phase I, DLF Phase I Gurgaon, Gurgaon, Haryana – 122 002. PAN : AAKPK 5484 G	Vs.	DCIT, Circle – 3(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Naman Maloo, CA
Revenue by	:	Shri. Pradeep S, Addl. CIT(DR)(ITAT), Bangalore.

Date of hearing	:	15.07.2025
Date of Pronouncement	:	29.07.2025

ORDER

Per Laxmi Prasad Sahu, Accountant Member:

This is an appeal filed by the assessee against Order passed by the CIT(A) vide DIN and Order No.ITBA/APL/S/250/2024-25/1074287886(1) dated 10.03.2025, on the following grounds of appeal:

- In the facts and circumstances of the case, Id. CIT(A) has erred in, confirming the action of Id. AO(CPC) in disallowing the credit of taxes paid outside India while processing the return of income (Foreign Tax Credit, "FTC") under Section 143(1) of the Income Tax Act, 1961. Such rejection is beyond the purview of Section 143(1). The action of the Id. CIT(A) is illegal and arbitrary, and against the facts of the case. Relief may please be granted by allowing the foreign tax credit, as its rejection being outside the preview of Section 143(1).*

2. *In the facts and circumstances of the case, the assessee had duly submitted all relevant documents in support of the exemption claimed towards House Rent Allowance (HRA) before the Id. CIT(A). However, the same were not considered while adjudicating the appeal. Relief may please be granted by allowing the HRA exemption, as the supporting documents were duly furnished and the disallowance is unjustified.*
3. *In the facts and circumstances of the case and in law, the Id. CIT(A) has erred in confirming the action of the Id. AO(CPC) in rejecting the FTC claim solely on the ground of delay in filing Form 67 by the assessee. The action of the Id. CIT(A) is illegal, arbitrary, and against the facts of the case. Relief may please be granted by submitting that FTC should be allowed, as the delay in filing Form 67 is a procedural lapse and should not result in the denial of substantive relief.*
4. *The assessee craves her right to add, amend or alter any of the grounds on or before the hearing.*

2. Briefly stated the facts of the case are that the assessee is an employee, filed her return of income on 29.07.2017. The total income was shown at Rs.6,10,19,674/- consisting income from salary of Rs.5,75,53,551/-, income from house property of Rs.5,11,944/-, income from capital gains of Rs.5,98,727/- and income from other sources of Rs.23,55,452/-. The return was processed on 30.03.2019 assessing the gross total income at Rs.6,17,80,857/- in which the salary income was assessed at Rs.5,83,14,734/-. Resultantly, there is variation of Rs.7,61,183/- under the salary income. During the impugned Assessment Year, assessee had received dividend outside India from the USA totaling to Rs.21,82,495/-. The assessee claimed Foreign Tax Credit (FTC) of Rs.5,44,252/- under section 90 of the Act which was also not given credit by the CPC while processing the return. Against the intimation order of the CPC, assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

3. Aggrieved from the above Order, assessee filed appeal before the Tribunal. The learned Counsel reiterated the submissions made before the learned CIT(A) and submitted that the entire submissions made before the CIT(A) has been considered by the CIT(A) in his Order in which details of the examination under section 10(13A) of the Act claimed by the assessee has been

provided viz., her bank statement for proof of payment, declaration under Rule 26C. The assessee has claimed exemption under section 10(13A) of the Act of Rs.7,41,983/- and conveyance allowance of Rs.19,200/- under section 10(14) of the Act. Form No.16 and Form 12BB was enclosed at Page Nos.63 to 74 for claiming exemption under section 10(13A) of the Act. The employee was required to furnish name and address of the landlord, PAN and rent receipts, the entire documents were furnished by the employer & the same were produced during the appellate proceedings too. However, the learned CIT(A) has ignored and dismissed the appeal of the assessee.

4. In addition to the arguments, assessee filed return submissions which is as under:

1. *During the year under consideration, assessee had filed an appeal before your honour with 2 major grounds of appeal i.e. allowance of exemption from salary income and allowance of foreign tax credit on income earned from outside India. Out of the above 2 grounds we would like to humbly submit about ground 1 of Form 36 wherein assessee had earned dividend income of Rs.21,82,495 from outside India, on which foreign taxes were paid. In the original return of income, assessee claimed Foreign Tax Credit (FTC) of Rs.5,44,252 under Section 90 of the Act, and filed Form 67 on 10.06.2024.*
2. *However. the Centralized Processing Centre (CPC) disallowed the FTC claim while processing the return under section 143(1) of the Act, against which assessee preferred an appeal before CIT(A) and Id. CIT(A) also disallowed the claim of FTC on the ground that Form 67 was filed after due date*
3. *In this regard we would like to bring to the notice of the hon'ble bench that assessee's own case with similar facts as mentioned in ground no. 1 was discussed by co-ordinate bench of this Hon'ble ITAT for AY 2018-19. In the said judgement Hon'ble Tribunal had accepted that the claim of assessee and passed the judgement that assessee was entitled to the foreign tax credit under the applicable provisions and rules. In light of this decision in the assessee's own case, we respectfully request to kindly consider the judgement in the impugned appeal*

5. On the other hand, learned DR relied on the Order of the lower authorities and he further submitted that the learned CIT(A) has rightly dismissed the appeal of the assessee. Further, with regard to Form No.67 regarding claiming of FTC, assessee did not file the form along with return of income, but was filed very late which was not accepted.

6. Considering the rival submissions and perusing the entire material available on record and Orders of the authorities below, we notice that here the dispute is regarding not allowing exemption under section 10(13A) of the Act of Rs.7,41,983/- and conveyance allowance amounting to Rs.19,200/- under section 10(14) of the Act and not granting FTC as claimed by the assessee of Rs.5,44,252/-. We noted from the Order of the authorities below that during the course of appellate proceedings before the CIT(A), assessee filed Form No.16 in which employer had allowed exemption towards HRA of Rs.7,41,983/- and conveyance allowance of Rs.19,200/-. During the appellate proceedings, the tax calculation sheet, Form 16, Form 12BB was submitted before the employer, the relevant Rule 26C was also furnished. The details of calculation of HRA were also submitted. Further, exemption towards conveyance allowance under section 10(14A) of the Act was also submitted. However, the learned CIT(A) has ignored all these facts without examining the books of accounts and dismissed this ground. Further, we noted from the arguments of the learned AR that there is dispute on the exemption claimed by the assessee and the same amount was appearing in Form 16 issued by the employer. The employer had also allowed exemption under section 10(13A) of the Act as well under section 10(14) of the Act after satisfying itself. Accordingly, the claim of exemption was supported by the requisite documents. These facts available at the time of first appellate proceedings. The Form No. 16 was not disputed by the ld. CIT (A) and by the ld. DR too. Considering the totality of the facts and circumstances of the case, we hold that assessee is eligible for claim of exemption under section 10(13A) of the Act of Rs.7,41,983/- and conveyance allowance of Rs.19,200/-.

7. Further, assessee has raised an issue regarding not granting of FTC on the dividend received in USA of Rs.5,44,252/-. We noted from the written submissions made before the CIT(A) at para 4 that assessee has mentioned that FTC of Rs.5,51,061/- against the dividend income earned outside India from Microsoft shares and it was claimed during the course of filing of return of income. The relevant Form No. 67 was filed on 09.01.2024 after processing of return before the CIT(A). A similar issue was decided by the Co-ordinate Bench of the Tribunal in assessee's own case for Assessment Year 2018-19 in which it was directed to AO to allow FTC after due verification. Respectfully following the decision, we are remitting this issue back to the file of the JAO for allowing credit of foreign tax paid after due verification.

8. In the result, appeal of the assessee is partly allowed for statistical purposes.

Pronounced in the court on the date mentioned on the caption page.

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore,
Dated : 29.07.2025.
/NS/*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT4.CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.