

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

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| ITA No. 203/Bang/2025 |
| Assessment Year : 2021-22 |

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| Shri Sanjeev Sivasankaran Menon, B3 Jain Saagarika, Sathyadev Avenue, MRC Nagar, RA Puram, Chennai – 600 028. PAN: APAPS9253A | Vs. | The Deputy Commissioner of Income Tax, Circle – 3(3)(1), Bangalore. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri H. Guruswamy, ITP |
| Revenue by | : | Shri Thamba Mahendra, JCIT-DR |

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| Date of Hearing | : | 22-07-2025 |
| Date of Pronouncement | : | 13-10-2025 |

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the Ld.Addl/JCIT(A)-1, Nashik dated 16/12/2024 in respect of the A.Y. 2021-22.

2. The assessee during the A.Y. 2021-22, filed his return of income which was processed by the CPC u/s. 143(1) and an intimation was sent on 05/07/2022 in which the CPC had disallowed the tax paid in the foreign countries. At the time of filing the return, the assessee had not enclosed the Form 67 to claim the tax paid in foreign countries. Thereafter, the Form 67

was filed on 02/08/2022 and a rectification request was made on 25/09/2023 which was rejected on 20.11.2023. The assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) had not accepted the claim of the assessee since Form 67 was filed after the due date prescribed for filing the returns.

3. As against the said order, the assessee is in appeal before this Tribunal.

4. At the time of hearing, the Ld.AR submitted that it is a fact that the assessee had paid the tax in other country and therefore as per the DTAA, the assessee is entitled for relief u/s. 90 r.w.Rule 128 of the Rules. Admittedly, the assessee had claimed the said payment while filing the return of income but not filed the required Form 67 along with the return but later on filed the said form on 02/08/2022. Therefore the Ld.AR submitted that the assessee is entitled for claiming the said tax paid in the foreign country and he also relied on several orders of this Tribunal in which the belated filing of Form 67 was accepted and the benefit has been granted to the assessee. The Ld.AR relied on the order of the Coordinate Bench of this Tribunal in the case of Ms. Brinda RamaKrishna vs. ITO in ITA No. 454/Bang/2021 vide order dated 17.11.2021 and prayed to allow the appeal.

5. The Ld.DR relied on the orders of the Ld.CIT(A) and prayed to dismiss the appeal.

6. We have heard the arguments of both sides and perused the materials available on record.

7. From the facts available on record and the materials, we understand that the only issue to be decided in this appeal is whether the disallowance made by the CPC which was confirmed by the Ld.CIT(A) in respect of the foreign tax credit paid in the other country is correct or not. Admittedly, the assessee had paid tax on the income in foreign countries for which the

assessee had also furnished the Form no. 67 and therefore as per the DTAA, the tax paid on the income earned in the foreign country could not be again subjected to tax under the provisions of the Act. The only requirement to be done by the assessee is that the necessary claims should be made in Form 67. The assessee had filed his return of income in time and also claimed in the tax paid on the income earned in the foreign country but the necessary Form 67 was not filed along with the return of income. Therefore the CPC had disallowed the said claim. The Ld.CIT(A) also relied on the provisions and the CBDT circular and confirmed the said disallowance. From the facts, we found that the assessee had filed the Form 67 on 02/08/2022 and therefore there is no dispute about the fact that the income has suffered tax in another country and therefore the said income should not be again taxed in India as per the DTAA. The non-filing of Form 67 along with the return, at the best can be treated as a technical violation and on that basis, the disallowance could not be made. The Ld.CIT(A)'s finding that the authorities has no express powers vested them to condone the delay in filing Form 67 is also not correct. This view was taken by the Coordinate Bench of this Tribunal in a number of cases and therefore we are also taking a view that assessee is entitled for deduction on the foreign tax remittance based on the Form no. 67 filed. Anyhow, the AO had no opportunity to verify the said Form 67 and therefore in order to render substantial justice, we are remitting this issue to the file of the AO to verify the Form 67 and if found correct, grant the relief of foreign tax credit to the assessee.

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

Order pronounced in the open court on 13th October, 2025.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 13th October, 2025.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore