

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 4067/CHNY/2025

निर्धारण वर्ष/Assessment Year: 2021-22

**Xerago E-Biz Services Pvt.  
Ltd.,**  
Plot No.80 & 93, Developed Plot,  
Xerago Towers, Industrial  
Estate, Perungudi,  
Chennai – 600 096

**The Income Tax Officer,**  
Vs. Corporate Ward 3(3),  
Chennai

**PAN: AAACX 0387J**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri H. Yeshwanth Kumar,  
Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Aroon Praasad, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 25.02.2026

घोषणा की तारीख/Date of Pronouncement

: 27.02.2026

**आदेश / ORDER**

**PER GEORGE GEORGE K, VP:**

This appeal filed by the assessee is directed against the Addl./JCIT(A), Varanasi order dated 31.10.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2021-22.

2. The grounds raised read as follows:-

*1. For that the order of the Additional / Joint Commissioner of Income Tax (Appeals) is contrary to law, facts and circumstances of the case and at any rate is opposed to the principles of equity, natural justice and fair play.*

*2. For that the Additional / Joint Commissioner of Income Tax (Appeals) failed to appreciate that the intimation passed u/s.143(1) is without jurisdiction.*

*Legal Grounds*

*3. For that the Additional / Joint Commissioner of Income Tax (Appeals) without affording an opportunity of being heard erred in dismissing the appeal as time barred.*

*4. For that the Additional / Joint Commissioner of Income Tax (Appeals) failed to appreciate that the appellant had a reasonable cause for the delay in filing the appeal.*

*5. For that the Additional / Joint Commissioner of Income Tax (Appeals) failed to appreciate that the appellant could have derived no benefit by filing the appeal belatedly and that the same could not have been the intention of the appellant.*

*Denial of Foreign Tax Credit to the tune of Rs. 26,17,160/-u/s.90*

*6. For that the denial of foreign tax relief to the tune of Rs.26,17,160/-u/s.90 is not warranted in facts and circumstance of the case.*

*7. For that the reason for denial of claim u/s.90 was not provided to the appellant.*

*8. For that the appellant is eligible for claiming foreign tax relief u/s 90 of the Act.*

*9. For that the appellant had satisfied all the conditions specified u/s 90 of the Act for claiming the foreign tax relief.*

10. For that the foreign tax credit as claimed by the appellant was not allowed in the computation while the same was considered as allowance in Annexure TR (As computed) in the intimation u/s. 143(1).

11. For that the appellant had filed Form 67 within the due date specified under the Act

12. For that the filing of Form 67 is only directory and not mandatory.

#### PRAYER

For these grounds raised and such other grounds that may be raised, may be altered, amended or modified, with the leave of the Hon'ble Tribunal before or during the hearing of the appeal, it is most humbly prayed that the Hon'ble Tribunal may be pleased to

a) Condone the delay in filing the appeal before the Additional / Joint Commissioner of Income Tax (Appeals) and direct the Additional / Joint Commissioner of Income Tax (Appeals) to hear the appeal on merits and/or

b) Allow the claim of Rs. 26,17,160/-u/s. 90 of the Income Tax Act and/or

c) Pass such other orders as the Hon'ble Tribunal may deem fit.

3. At the very outset, we notice that the First Appellate Authority (FAA) has dismissed the appeal of the assessee *in-limine* by not condoning the delay of 615 days in filing the appeal. The Ld.AR submitted that pursuant to the intimation issued u/s.143(1) of the Act dated 13.01.2022, assessee had filed rectification application on 06.12.2022. It was submitted that assessee company became aware of the demand when order passed u/s.154 of the Act dated 16.05.2024, was communicated to assessee vide letter dated 01.10.2024 and 08.10.2024 notifying the demand. It was stated that

assessee company was perusing an alternative and hence, delay in filing the appeal before the FAA may be condoned and the issue may be restored to the files of the FAA for adjudication on merits. The Ld.AR has placed on record the chronology of events explaining the manner in which the assessee company has been pursuing the alternative remedy and the date of intimation of confirmation of demand with regard to the rectification application u/s.154 of the Act.

4. The Ld.DR strongly supported the order of the FAA.

5. We have heard rival submissions and perused the material on record. In the instant case, assessee had filed the return of income claiming Foreign Tax Credit (FTC). Form 67 was filed belatedly. It is stated that Form 67 was filed prior to the intimation passed u/s.143(1) of the Act. The intimation u/s.143(1) of the Act was issued on 13.11.2022. (Copy of the intimation dated 13.11.2022 is on record). (Though in the impugned order of the FAA, it is wrongly stated that the intimation is dated 10.01.2023). Immediately after the receipt of intimation, assessee filed rectification request claiming the benefit of FTC in the income-tax portal on 06.12.2022. Thereafter the assessee was pursuing the alternative remedy by filing rectification application before the JAO on 09.12.2022 and

26.12.2022. Thereafter the rectification request was given to the Additional Director, CPC on 02.01.2023. Pursuant to the rectification request submitted to the CPC, intimation u/s.143(1) r.w.s 154 of the Act was received from CPC on 10.01.2023. In response to the same, assessee disagreed and filed a response in the income-tax portal on 11.01.2023. Further, rectification request was given on 06.01.2023, 16.03.2023 and 04.09.2023. Finally, the Income Tax Officer confirmed the demand order passed u/s.154 of the Act by uploading the same in the ITBA portal on 16.05.2024. Pursuant to the order passed u/s.154 of the Act and uploading the same in the ITBA portal, assessee company was intimated vide letters dated 01.10.2024 and 08.10.2024 as regards the demand pending. It is only on receipt of the demand letters, assessee company became aware of the disposal of the rectification application filed before the various forums and the final confirmation of demand by the AO. After the receipt of letters issued on 01.10.2024 and 08.10.2024, assessee immediately filed the appeal before the FAA on 16.10.2024. The appeal filed before the FAA belatedly was on account of assessee pursuing an alternative remedy. When assessee was pursuing an alternative remedy, there is sufficient / reasonable cause for the delay in filing the appeal before the FAA and no latches can be attributed to the assessee company. As regards the issue on merits, it is regarding the claim of FTC. The assessee submits that it

had submitted Form 67 much prior to the intimation issued on 13.11.2022. If the facts stated by the assessee are correct, the assessee company has got a good case on merits. For this reason also, the delay in filing the appeal before the FAA is not wanton or deliberate but only on account of pursuing an alternative remedy. Hence, we condone the delay of 615 days in filing the appeal before the FAA and restore the matter to the files of the FAA for adjudication on merits. It is ordered accordingly.

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

Order pronounced in the open court on 27<sup>th</sup> February, 2026 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 27<sup>th</sup> February, 2026

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-

(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT