

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'G': NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No.8428, 8429 and 8442/Del/2025  
[Assessment Years:2018-19, 2019-20 and 2020-21]**

Navin Vishwanath, 15/802, The Close North, Sector-50, Nirvana Country, Near South City II, Gurgaon, Haryana-122018	Vs	DCIT, Cricle-3(1), Vanijya Nikunj, Shankar Chowk Road, Phase V, Udyog Vihar, Sector-19, Gurgaon, Haryana-122016
<b>PAN ADOPV8272A</b>		
Appellant		Respondent

Assessee by	Shri Jay Kumar Arlani, CA
Revenue by	Shri Manish Gupta, Sr. DR

<b>Date of Hearing</b>	<b>30.03.2026</b>
<b>Date of Pronouncement</b>	<b>08.04.2026</b>

**ORDER**

**PER AMITABH SHUKLA, AM,**

All these three appeals have been preferred by the same assessee against separate orders all dated 27.10.2025 of the Addl/JCIT(A)-1, Vadora, [hereinafter referred to as 'Id. CIT(A)'] arising out of assessment orders dated 22.05.2021 and 02.09.2022 passed u/s 154 of the Income Tax Act, 1961 pertaining to Assessment Years 2018-19, 2019-20 and 2020-21, respectively. The word 'Act' herein this order would mean Income Tax Act, 1961.

2. All the three appeals of the assessee are centering around the common issue of denial of Foreign Tax Credit (in short 'FTC') and hence for the purposes of convenience were heard together and are being disposed of by this common order. For the purposes of facts and figures, the assessee's appeal for AY 2018-19 is taken as lead year and the decision taken therein shall apply mutatis mutandis for AY 2019-20 and 2020-21.

3. The assessee has raised following grounds of appeal for AYs 2018-19, 2019-20 and 2020-21:-

**Grounds of appeal for AY 2018-19**

1. *The learned CIT(A) erred in upholding the order of CPC u/s 154 without appreciating that CPC failed to provide any reasoning.*
2. *The learned CIT(A) erred in rejecting contention of the appellant on violation of natural justice.*
3. *The learned CIT(A) failed to appreciate that the appellant had fully satisfied all substantive requirements for claiming FTC.*
4. *The learned CIT(A) conclusion that the amendment to Rule 128(9) is prospective is erroneous.*
5. *The order passed by the CIT(A) is arbitrary, non-speaking, and mechanically upholds the CPC action.*
6. *The appellant craves leave to add, alter, modify OR withdraw any ground.*
7. *The learned Commissioner of Income-tax (Appeals) erred in law and on facts in upholding the denial of Foreign Tax Credit (FTC) of Rs. 2,65,500 claimed under sections 90/90A of the Income-tax Act, 1961.*

8. *The learned CIT(A) erred in holding that filing of Form 67 on OR before the due date u/s 139(1) was a mandatory condition for granting PTC.*

9. *The learned CIT(A) failed to appreciate that Rule 128(9) does not prescribe denial of FTC for delay in filing Form 67, and that the rule is procedural and directory.*

10. *The learned CIT(A) erred in disregarding binding and persuasive judicial precedents.*

4. **Grounds of appeal for AY 2019-20**

1. *The learned Commissioner of Income-tax (Appeals) erred in law and on facts in upholding the denial of Foreign Tax Credit (PTC) of Rs. 2,97,000 claimed under sections 90/90A of the Income-tax Act, 1961.*

2. *The learned CIT(A) erred in holding that filing of Form 67 on OR before the due date u/s 139(1) was a mandatory condition for granting FTC.*

3. *The learned CIT(A) failed to appreciate that Rule 128(9) does not prescribe denial of FTC for delay in filing Form 67, and that the rule is procedural and directory.*

4. *The learned CIT(A) erred in disregarding binding and persuasive judicial precedents.*

5. *The learned CIT(A) erred in upholding the order of CPC u/s 154 without appreciating that CPC failed to provide any reasoning.*

6. *The learned CIT(A) erred in rejecting contention of the appellant on violation of natural justice.*

7. *The learned CIT(A) failed to appreciate that the appellant had fully satisfied all substantive requirements for claiming FTC.*

8. *The learned CIT(A) conclusion that the amendment to Rule 128(9) is prospective is erroneous.*

9. *The order passed by the CIT(A) is arbitrary, non-speaking, and mechanically upholds the CPC action.*

10. *The appellant craves leave to add, alter, modify OR withdraw any ground.*

5. **Grounds of appeal for AY 2020-21**

1. *The learned Commissioner of Income-tax (Appeals) erred in law and on facts in upholding the denial of Foreign Tax Credit (FTC) of Rs. 3,04,483 claimed under sections 90/90A of the Income-tax Act, 1961.*

2. *The learned CTT(A) erred in not considering the calculation mistake by the system.*

3. *The learned CIT(A) erred in holding that filing of Form 67 on OR before the due date u/s 139(I) was a mandatory condition for granting FTC.*

4. *The learned CIT(A) failed to appreciate that Rule 128(9) does not prescribe denial of FTC for delay in filing Form 67, and that the rule is procedural and directory.*

5. *The learned CTT(A) erred in disregarding binding and persuasive judicial precedents.*

6. *The learned CIT(A) erred in upholding the order of CPC u/s 154 without appreciating that CPC failed to provide any reasoning.*

7. *The learned CIT(A) erred in rejecting contention of the appellant on violation of natural justice.*

8. *The learned CT(A) failed to appreciate that the appellant had fully satisfied all substantive requirements for claiming FTC.*

9. *The learned CIT(A) conclusion that the amendment to Rule 128(9) is prospective is erroneous.*

10. *The order passed by the CIT(A) is arbitrary, non-speaking and mechanically upholds the CPC action.*

6. We have heard rival submissions in the light of material placed on record. The assessee is in profession of providing actuarial services. Return of Income for AY 2018-19 was filed declaring income of Rs.53,22,940/-. Original tax liability of Rs.15,96,830/-, assessee had claimed FTC credit of Rs.2,65,500/-. The CPC raised demand under section 143(1) of

Rs.3,42,838/-, wherein, the FTC credit was not granted. The assessee moved 154 which was rejected. The ld. CIT(A) dismissed the appeal of the assessee holding that FTC credit was rightly denied as Form-67 was belatedly filed.

7. The ld. Counsel for the assessee vehemently argued that the denial of FTC claim is erroneous and that the filing of Form-67 is merely directory and not mandatory as held in a plethora of judicial decision.

8. Per Contra, the ld. DR relied upon the orders of the lower authorities.

9. We have noted that the similar issue came for consideration before the Hon'ble Chennai Bench of the Tribunal in the case of Subramanian ShyamSunder as at ITA No.639/Del/2024 dated 29.05.2024. On identical facts, it was concluded as under:-

*".....4.0 We have considered facts of the case in the light of evidence placed on record and rival's submissions. The only issue for consideration is as to whether the delay of 01 day can be condoned or not. In support of its contentions the assessee has invited attention to the decision of the coordinate bench of this tribunal in IT appeal No.265 & 266 (CHNY) of 2023 in the case of Amit Singh Baid Mehta. The issue under consideration was as to whether non-submission of Form-67 before the due date of filing of written was enough to deny the claim of exemption u/s.90. The coordinate bench concluded the filing of Form-67 is merely a procedural / directory requirement and is not mandatory requirement so as to deny claim. The relevant part of the judgement is reproduced hereunder:*

*"...6.3 No doubt, rule 128(0) provides that Form 67 should be filed on or before the due date of filing the return of income as prescribed under section 139(1) of the Act. However, the Rule*

*nowhere provides that if the said Form 67 is not filed within the above stated time frame, the relief as sought for by the assessee under section 90 of the Act would be denied.*

*6.4 If the intention of the Legislature was to deny the FTC, either the Act or the Rules would have specifically provided that the FTC would be disallowed if the assessee does not file Form 67 within the due date prescribed under section 139(1) of the Act. There are many sections in the Act which specifically deny deduction or exemption or relief in case the return is not filed within prescribed time, such as, sections 80AC, 80-IA(7), 10A(5) and 10B(5), etc. of the Income-tax Act. Such language is not used in Rule 128(9). Therefore, such condition cannot be read into rule 128(9). Thus, we are of the considered opinion that filing of Form 67 is a procedural / directory requirement and is not a mandatory requirement. Since violation of procedural norm does not extinguish the substantive right of claiming the credit of FTC, we are of the considered opinion that the claim of the assessee should be allowed. Accordingly, we set aside the order of the ld.CIT(A) for both the assessment years and direct the Assessing Officer to allow the relief as sought for by the assessee under section 90 of the Act for both the assessment years under consideration.....”*

*5.0 Upon careful consideration of the facts and the judgement cited Supra we hold that the assessee cannot be denied benefit of the claim u/s.90 merely because of technical / procedural default of just 01 day. Accordingly, the AO is directed to condone the delay and allow the assessee the benefit of claim u/s 90. The ground of appeal raised by the assessee is therefore allowed....”*

10. As the facts of the present case have been found to be identical to those in the case of Subramanian ShyamSunder(supra), we are of the considered view that that the assessee cannot be denied benefit of the claim u/s.90 merely because of technical / procedural default of belated filing. The filing of Form-67 is a directory practice and not mandatory.

Accordingly, the AO is directed to condone the delay and allow the assessee the benefit of claim u/s 90 on account of Foreign Tax Credit. The appeal of the assessee vide ITA No.8428/Del/2025 for AY 2018-19 is therefore allowed.

11. As the facts of ITA Nos.8429 and 8442/Del/2025 for AYs 2019-20 and 2020-21 are identical and no distinguishment has been pointed out, the impugned appeals are also allowed.

12. Finally, all the appeals of the assessee are allowed.

Order pronounced in the open court on 08<sup>th</sup> April, 2026.

**Sd/-**  
**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

**Dated: 08.04.2026**

*Shekhar*

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

**Sd/-**  
**[AMITABH SHUKLA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi