

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “B”, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.204/PUN/2024
Assessment Year : 2020-21

Shashank Sadashiv Karkare, House No.115, Devale Sangameshwar, Ratnagiri- 415807 Maharashtra PAN : BRNPK5528A	Vs.	ITO, Ward-1, Ratnagiri
Appellant		Respondent

Assessee by : Shri Saurabh Jadhav
Revenue by : Shri A.K. Mahala

Date of hearing : 25.04.2024
Date of pronouncement : 26.04.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre, Delhi (NFAC) dated 25.01.2024 for the assessment year 2020-21.

2. Briefly, the facts of the case are that the appellant is an individual (Resident) deriving income under the head “salary” from M/s. John Deere India Private Limited. During the year under consideration, the appellant had salary income from USA as well as India. Return of Income for the assessment year 2020-21 was filed on 26.03.2021

disclosing total income of Rs.60,00,500/- after claiming credit for foreign tax paid of Rs.5,63,516/- u/s.90/90A of the Act. However, the Form No.67 was filed by the appellant on 26.03.2021. The CPC, Bangalore, vide Intimation dated 06.08.2021 denied the claim for credit of TDS, as Form No.67 was not filed within prescribed time.

3. Being aggrieved by the above Intimation, an appeal was filed before the NFAC, who vide impugned order had confirmed the action of the CPC, Bangalore denying the claim of credit for foreign tax paid, as the Form No.67 was filed belatedly beyond the due date for filing of the return of income.

4. Being aggrieved, the appellant is in appeal before us in the present appeal.

5. It is submitted that filing of Form No.67 within the due date for filing of the return of income is not mandatory, but it is mere a directory under the provisions of the Income Tax Rules, 1962. He further submitted that as on date of processing the return of income, a Form No.67 was uploaded, which the CPC, Bangalore had failed to take into consideration. Thus, he submitted that Intimation may be amended. He further submitted that a direction be issued to the CPC, Bangalore to give credit for foreign tax paid.

6. On the other hand, Id. Sr. DR submits that CPC, Bangalore was justified in denying the credit for foreign tax paid, as the assessee had not filed Form No.67 as per amended provisions of the I. T. Rules.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal is that whether or not the CPC, Bangalore is justified in denying the credit for foreign tax paid for the reason that the Form No.67 was not filed within the due date for filing of the return of income as specified under the provisions of section 139(1) of the Income Tax Act, 1961 ('the Act'). Admittedly, in the present case, Form No.67 was not filed within the due date for filing of the return of income under the provisions of section 139(1), but Form No.67 was filed on 26.03.2021. The CPC, Bangalore had processed the return of income on 06.08.2021 which means that Form No.67 was very much available with the CPC, Bangalore. Therefore, the CPC, Bangalore cannot deny the claim for credit for foreign tax paid merely because Form No.67 was not filed within the due date specified for filing the return of income under the provisions of section 139(1) of the Act, as it is merely a directory. Therefore, we direct the CPC, Bangalore to amend the Intimation u/s 143(1) of the Act for taking into consideration the Form No.67 filed by the appellant. Accordingly, the ground of appeal filed by the assessee stands partly allowed.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 26th day of April, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 26th April, 2024
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “B” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune