आयकर अपीलीय अधिकरण, हैदराबाद पीठें, हैदराबाद
INCOME TAX APPELLATE TRIBUNAL,
HYDERABAD BENCHES, HYDERABAD

BENCH: A

BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

<table>
<tr><td colspan="3">ITA 2280/HYD/2025
(निर्धारण वर्ष/Assessment Year: 2019-20)</td></tr>
<tr><td>RUPESH KUMAR RASIKLAL MEHTA
BLOCK 19, FLAT 1205, MY HOME VIHANGA, MY HOME VIHANGA, HYDERABAD-500032, TELANGANA</td><td rowspan="2">Vs.</td><td>DCIT, CIRCLE- 12(1)
O/O DCIT, CIRCLE- 12(1) , AAYAKAR BHAVAN HYDERABAD-500004, TELANGANA</td></tr>
<tr><td>अपीलार्थी Appellant</td><td>प्रत्यर्थी Respondent</td></tr>
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<tr><td colspan="2">Permanent Account Number of Assessee:</td><td>ALTPM0629B</td></tr>
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<tr><td colspan="2">अपीलार्थी द्वारा/Appellant represented by:</td><td>CA Lakshita Gudniye</td></tr>
<tr><td colspan="2">प्रत्यर्थी द्वारा/Respondent represented by:</td><td>SR-AR Mohan Babu</td></tr>
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सुनवाई की तारीख / Date of conclusion of hearing:	**07-July-2026**
घोषणा की तारीख / Date of pronouncement:	**24-July-2026**

आदेश / ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order of the Additional/Jt. Commissioner of Income Tax (Appeals)-9, Mumbai (for short, "Additional/Jt. CIT(A)"), dated 18/11/2025, which in turn arises from the intimation passed by the Assessing Officer (for short, "AO")/CPC under section 143(1) of the Income Tax Act, 1961 (for short, "the Act"), dated 12/03/2021 for

Assessment Year (AY) 2019-20. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal before us:

> 1) "The learned CIT(A) erred in law and facts of the case while passing the order under section 250 of the Act.
>
> 2) The Learned CIT(A) erred in upholding the denial of credit towards foreign taxes is not warranted in the facts and circumstances of the present case as the breach of directory condition of filing of form 67 cannot disentitle the substantive and legitimate claim
>
> 3) For these and other ground which may be raised during OR before the appeal is heard. It is prayed that the relief be granted."

2. Succinctly stated, the assessee had filed his return of income for AY 2019-20, declaring an income of Rs.1,52,28,130/-. The assessee in his return of income had offered for tax dividend income which was earned by him in the United States of America (USA) on which taxes were withheld and thus, claimed Foreign Tax Credit (FTC) of Rs.85,842/- under section 90 of the Act r.w. the provisions of Indo-USA Double Tax Avoidance Agreement (DTAA).

3. The return of income filed by the assessee was processed by the AO/CPC under section 143(1) of the Act, dated 12/03/2021, wherein his claim for FTC was declined on the ground that Form-67 had not been furnished within the time prescribed under Rule 128 of the Income Tax Rules, 1962. Thereafter, the assessee furnished Form-67 on 18/03/2021 and also sought rectification under section 154 of the Act. However, the assessee's claim was not accepted on the ground that Form-67 had not been filed within the prescribed time period.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(A), who upheld the denial of FTC for the reason that the said claim of the assessee was rejected on an application filed by him under section 154 of the Act, which, thereafter, was upheld in appeal by his predecessor vide his order, dated 09/10/2025.

5. The assessee, aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

6. We have heard the Learned Authorized Representatives of both parties, perused the orders of the authorities below and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home her contentions.

7. Ms Lakshita Gudniya, CA, Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal, submitted that the issue is squarely covered by the decision of the coordinate Bench of the Tribunal in the case of Pornprapha Pholdahan vs. ITO, Ward-4(1)(1), Bangalore, in ITA No.1232/Bang/2026, dated 29/06/2026. Elaborating on her contention, the Ld. AR submitted that there is no dispute regarding the foreign dividend income earned by the assessee, the payment of taxes in the USA or the eligibility of the assessee to claim FTC under section 90 of the Act. The Ld. AR submitted that filing of Form-67 is only a procedural requirement prescribed under Rule 128 of

the IT Rules, 1962 and cannot override the substantive right conferred by section 90 of the Act r.w. applicable DTAA.

8. Carrying her contention further, the Ld. AR submitted that the delayed filing of Form-67 cannot be a ground for denying the FTC otherwise admissible under section 90 of the Act. The Ld. AR, based on her aforesaid contention, submitted that the AO be directed to grant the FTC claimed by the assessee.

9. We have heard the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

10. Controversy involved in the present appeal lies in a narrow compass, i.e., whether the FTC claimed by the assessee can be denied merely because Form-67 was furnished after the due date prescribed under Rule 128 of the IT Rules, 1962?

11. Admittedly, it is a matter of fact borne from the record that the assessee had earned dividend income from the USA, which had suffered tax thereon in the said country and the corresponding income was offered to tax in India. Also, it is not the case of the Revenue that the foreign taxes claimed as credit were not actually paid or that the quantum of FTC claim is otherwise inadmissible. In fact, we find that the denial of FTC is founded solely on the ground that Form-67 was not filed within the prescribed time limit. As observed by us herein above, an identical issue had come up for consideration in the case of Pornprapha Pholdahan vs. ITO, Ward-4(1)(1), Bangalore, in ITA No.1232/Bang/2026, dated 29/06/2026 (supra),

wherein, it was held that where Form No. 67 is not filed within time but is available at the assessment or appellate stage, or within such further time as may be permitted by judicial decisions or circulars, the benefit should not be denied merely on account of delay. Accordingly, the Tribunal had directed the AO to grant the FTC where the substantive conditions stood satisfied.

12. In the case before us, we find that the facts therein involved are identical. Admittedly, the Revenue has not disputed the assessee's entitlement to FTC except on the ground that Form-67 was filed belatedly. We thus, respectfully following the orders of the coordinate Bench of the Tribunal in the case of Pornprapha Pholdahan vs. ITO, Ward-4(1)(1), Bangalore, in ITA No.1232/Bang/2026, dated 29/06/2026 (supra), hold that the assessee cannot be denied FTC merely on account of delayed filing of Form-67. Accordingly, we direct the AO to grant FTC of Rs.85,842/- claimed by the assessee in accordance with law, after verification of the amount of foreign tax paid and the computation thereon, if such verification has already been carried out.

13. Before parting, we may herein observe that Rule 128 of the IT Rules, 1962 is a machinery provision intended to regulate the procedure to claim Foreign Tax Credit and the same cannot override the substantive relief available to an assessee under section 90 of the Act r.w. applicable DTAA, once the conditions prescribed therein are otherwise fulfilled. Therefore, the denial of FTC merely because of delay in furnishing of Form-67 is unsustainable and is accordingly set aside.

14. In the result, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 24th July, 2026.

Sd/-	**Sd/-**
MADHUSUDAN SAWDIA	**RAVISH SOOD**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Hyderabad
Dated: 24th July, 2026.

Copy to:

1	**RUPESH KUMAR RASIKLAL MEHTA, BLOCK 19, FLAT 1205, MY HOME VIHANGA, MY HOME VIHANGA, HYDERABAD-500032, TELANGANA**
2	**DCIT, CIRCLE- 12(1), O/O DCIT, CIRCLE- 12(1), AAYAKAR BHAVAN, HYDERABAD-500004, TELANGANA**
3	THE PCIT, HYDERABAD.
4	THE D.R., ITAT, HYDERABAD BENCH
5	GUARD FILE

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KAMALA KUMAR ORUGANTI

Digitally signed by KAMALA KUMAR ORUGANTI
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