

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

**BEFORE SH. R.K. PANDA, ACCOUNTANT MEMBER
AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.178 to 181/Del/2017
Assessment Year: 2006-07 to 2009-10

Surya Merchants Ltd. 1010, Faiz Road, Karol Bagh New Delhi -110005 PAN AAFCS9517A (APPELLANT)	Vs	DCIT Central Circle CGO Complex-1, Hapur Road, Ghaziabad (RESPONDENT)
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Appellant by	Sh. Rohit Tiwari, Advocate
Respondent by	Sh. Anoop Singh, Sr. DR

Date of hearing:	11/09/2018
Date of Pronouncement:	30/11/2018

ORDER

PER R.K. PANDA, AM:

The above batch of four appeals filed by the assessee are directed against the common order dated 28.10.2016 of the CIT (A)-IV, Kanpur relating to A. Y. 2006-07, 2007-08, 2008-09 and 2009-10 respectively. Since common grounds have been taken by the assessee in all these appeals, therefore, these were heard together and are being disposed of by this common order.

2. First we take up ITA No. 178/Del/2017 for A.Y. 2006-07 as the lead case. Facts of the case, in brief, are that the assessee is a limited company engaged in the business of real estate developers. A search u/s 132 of the IT Act was conducted in the case of the assessee on 06.02.2009. In response to notice u/s 153 A, the assessee filed return of income declaring total income of Rs.1,11,96,568/-. The assessee filed return in response to notice u/s. 153A. The assessment was completed u/s 143 (3) / 153 A vide order dated 22.07.2011 determining the total income at Rs.3,15,20,512/-. The assessment order was set aside by the CIT (Central), Kanpur u/s 263 of the IT Act vide order of 28.3.2014. Accordingly fresh notice u/s 143 (2) was issued. On the basis of various details filed by the assessee the Assessing Officer in the order dated 31.03.2015 passed u/s 143 (3)/263/254/153A of the IT Act determined the total income at Rs.3,51,82,390/- wherein the Assessing Officer apart from other additions made addition of Rs.54,52,697/- u/s 40A(3) of the I. T. Act, 1961 which is subject matter of appeal before the Tribunal.

3. In appeal Ld. CIT(A) upheld the action of the Assessing Officer by observing as under :-

*“I have carefully considered the written submission filed and finding of the Assessing Officer in the assessment order. The appellant has argued that cash payments made by him should be allowed because his case falls under rule 6J of I. T. rules for all the years and 6J and 6K both for A. Y. 2005-06. During this appeal proceeding, the appellant could not fulfill the necessary ingredients of rule 6J in which use of word ‘**required**’ suggest that the appellant has no choice but to make payment on holidays. Moreover, for the applicability of rule 6K, there is also condition precedent that appellant was ‘requisite to have made payment’ on the given date. The appellant could not prove as to how he was required to make payment on given dates. Moreover, the appellant also could prove as to whether he has made TDS on payments to agents.*

In view of the above, I do not find merit in the submission and verbal arguments of Ld. A. r. the addition made by A.O. by invoking section 40A(3) is hereby confirmed for all the assessment years.”

4. Aggrieved with such order of CIT (A), the assessee is in appeal before the Tribunal by raising following grounds of appeal :-

1 *“That on the facts and in the circumstances of the case, the learned CIT(A)-IV, Kanpur has erred in upholding the addition made by the DCIT, Central Circle, Ghaziabad (hereinafter called "AO" for short) in respect of payment made in excess of Rs. 20,000/- specifically exempt under Rule 6DD(k) of the Income Tax Rules, 1962 in spite of the direction of Hon'ble ITAT, Bench-G, Delhi in paragraph 19 of its order dated 18-02-2015*

2 *That on the facts and in the circumstances of the case, the learned CIT(A)-IV, Kanpur has erred in upholding the addition of Rs.13,92,094/- equivalent to 20% of Rs. 69,60,469/- which were paid in excess of Rs. 20,000/- exempt under Rule 6DD(k) of Income Tax Rules, 1962 alleging that appellant could not prove as to how it was required to make payment as the word required to make payment is an important ingredients used in Rule 6DD(k).*

3 *That on the facts and in the circumstances of the case, the learned CIT(A)-IV, Kanpur has erred in upholding the addition of Rs. 13,92,094/- equivalent to 20% of Rs. 69,60,469/- which were paid in excess of Rs. 20,000/- exempt under Rule 6DD(k) of Income Tax Rules, 1962 alleging that the appellant could not prove as to whether TDS has been deducted on payment to agents ignoring the fact that the payment were made to suppliers by agent on behalf of appellant.*

4. *That the appellant craves liberty to add, alter or varies any ground of Appeal either before or at the time of hearing.”*

5. The assessee has also raised the following additional grounds :-

5. *That without prejudice to ground No.1, 2 and 3 on the facts and in the circumstances of the case, Ld. CIT(A)-IV, Kanpur erred in confirming the addition u/s 40 A (3) of the Income Tax Act 1961 ('the act') without appreciating that disallowance cannot be made under section 40A (3) of the expenses recorded in the material seized during the course of search and seizure as section 40 A 93) is not applicable on the search cases.*

6. *That without prejudice to ground No.1, 2 & 3 on the facts and in the circumstances of the case, Ld. CIT(A)-IV, Kanpur erred in confirming the addition u/s 40A(3) of the Income Tax Act 1961 ('the Act') of Rs.19,67,536/- without appreciating that all the cash expenses were incurred as a decision of business expediency thus disallowance cannot be made under section 40A(3). Rule 6DD is not exhaustive but illustrative.*

6. The Ld. Counsel for the assessee referring to the decision of Hon'ble Supreme Court in the case of Jute Corporation of India Limited Vs. CIT reported in 187 ITR 688 and NTPC Vs. CIT reported in 229 ITR 383 submitted that the above additional grounds being purely legal in nature should be admitted. He submitted that assessee did not take these grounds earlier due to improper legal advice by the counsel of the assessee.

7. After hearing both the sides and considering the fact that the above grounds by the assessee are purely legal in nature and no fresh facts are required to be investigated, therefore, these are admitted for adjudication.

8. The Ld. Counsel for the assessee at the outset filed the following chart and drew the attention of the bench to the chronology of events vis-a-vis addition made u/s 40A(3) of the IT Act which are as under :-

	2006-07	2007-08	2008-09	2009-10
<i>Unaccounted Sales Credited to P&L (A)</i>	4,06,07,447	6,64,28,623	8,97,71,527	7,44,08,448
<i>Unaccounted Expenses debited to P&L (B)</i>	2,00,92,032	2,70,09,786	6,29,95,467	4,77,57,751
<i>Net profit and loss as per seized records (A-B)</i>	2,05,15,415	3,94,18,837	2,67,76,060	2,66,50,697
<i>Add: Taxable income as per original order u/s 143(3)/original ITR</i>	55,06,710	91,21,372	1,67,24,561	71,76,143
<i>Gross Total income</i>	2,60,22,125	4,85,40,209	4,35,00,621	3,38,26,840
<i>Less: Deduction under U/s 801 B(10)</i>	1,48,25,557	2,08,68,168	1,56,90,832	1,26,50,697
<i>Return filed u/s 153A</i>	1,11,96,568	2,76,72,041	2,78,09,789	2,11,76,143
<i>Addition made by AO:</i>				
<i>J(S) Addition U/s 40A(3)</i>	54,52,697	50,20,997	4,67,76,756	2,02,09,000
<i>(b) Addition of Deduction u/s 801 B(10)</i>	1,48,25,557	2,08,68,168	1,56,90,832	1,26,50,697
<i>(c) Addition U/s 40A(3) as per special audit report</i>	-	21,414	-	
<i>(d) Income Tax</i>		4,01,284	-	

Total Disallowance	2,03,24,004	2,63,11,863	6,24,67,588	3,28,59,697
Taxable Income as per Assessing Officer order	3,15,20,572	5,39,83,904	9,02,77,377	5,40,35,840
Relief given by CIT (A)				
Deduction of section 80IB(10)	1,48,25,557	2,08,68,168	1,56,90,832	1,26,50,697
Rule 6DD (b)		26,66,832	1,79,66,600	
Relief given by Assessing Officer after order u/s 263				
Deduction u/s 80IB (10)	20,93,067	12,40,143	1,07,26,664	37,64,991
Total Relief	1,69,64,374	2,47,75,143	4,43,84,096	1,64,15,688
Revised Taxable Income	1,45,56,198	2,92,08,761	4,58,93,281	3,76,20,152

9. The Ld. Counsel for the assessee submitted that all the expense computed on the basis of seized records were duly accepted by the AO. However disallowance was made of expenses incurred in cash in excess of INR 20,000/- under the provision of section 40A(3) of the act. The details of expenses and disallowances are as under:

	2006-07	2007-08	2008-09	2009-10	Total
Cash Expenditure in excess of Rs. 20,000	2,72,63,485	2,51,04,985	2,88,10,156	2,02,09,000	10,13,87,626
Initial Addition u/s 40A(3) by the Ld. AO (20% for AY 2006-07 & 2007-08 and 100% for AY 2008-09 2009-10)	54,52,697	50,20,997	2,88,10,156	2,02,09,000	5,94,92,850
Relief by AO u/s 154 of Rule 6DD(b)		1,33,34,160			
Ojher Relief by the LD. AO	20,93,067	12,40,143	1,07,26,664	37,64,991	1,78,24,865
/Balance Disputed Cash expenditure in excess of Rs. 20,000	2,51,70,418	1,05,30,682	1,80,83,492	1,64,44,009	7,02,28,601
Final Addition u/s 40A(3) (20% for A Y 2006-07 & 2007-08 and 100% for AY 2008-09 2009-10)	50,34,084	21,06,136	1,80,83,492	1,64,44,009	4,16,67,721
Expenses covered under Rule 6DD(j) (Payment on National /Bank Holidays) (Payments made on public holiday was duly verified by the Ld. AO vide Remand Report dated 24.01.2013 available at page 26 & 27 of PB)		39,12,033	1,26,24,000	84,60,000	2,49,96,033
Expenses covered under Rule 6DD(k) (Payment to Surya Marbles i.e. agent of the appellant for purchase of marbles) %/	69,60,469	65,69,053	52,27,498	74,50,000	2,62,07,020
(Payments made to the agent was duly verified by the Ld. AO vide Remand Report dated 24.01.2013 available at page 26 & 27 of PB)					
Balance Expenses (Not covered directly under Rule 6DD)	1,82,09,949	49,596	2,31,994	5,34,009	1,90,25,548
Total disputed Cash expense in excess of Rs. 20,000	2,51,70,418	1,05,30,682	1,80,83,492	1,64,44,009	7,02,28,601

10. Referring to the above table the Ld. Counsel for the assessee submitted that the addition made u/s 40A(3) can be divided under three categories i.e. (a) when the payments were made on bank holidays (b) when the payments were made to agent of the assessee namely M/s. Surya Marbles and (c) other payments.

11. So far as payments made on national holidays and bank holidays are concerned, the Ld. Counsel for the assessee drew the attention of the bench to the submissions made before the CIT(A) on various dates, copies of which are placed at page 13 to 24 of the paper book and submitted that when the same was brought to the notice of the CIT(A), the Ld. CIT(A) called for a remand report from the Assessing Officer. Although the Assessing Officer has not disputed the payment of Rs.39,12,033/- for A. Y. 2007-08, Rs.1,26,24,000/- for A. Y. 2008-09 and Rs.84,60,000/- for A. Y. 2009-10, on bank holidays, however, his objection was that assessee during the course of assessment proceedings / remand proceedings failed to prove the compulsion of such payments on bank holidays. Referring to the provisions of Rule 6DD(J) he submitted that the said provision provides that provisions of section 40A(3) will not be applicable where the payment was required to be made on a day on which the banks were closed on account of holidays or strikes. He submitted that the assessee company is a developer of commercial and residential real estate projects, therefore, it is bound to complete the construction to offer the possession in agreed time to avoid penalties. The assessee, therefore, carries the construction activities round the clock even on Sundays and holidays. The assessee had procured the materials on Sundays and public holidays to avoid any break in the process of construction. He submitted that the customers generally visit the sites of the builders on holidays. Since the assessee received cash on holidays from the customers, therefore, payments were made to the suppliers on holidays for procurement of the materials. Therefore, in view of the availability of cash majorly on holidays, the assessee was bound to make cash payments of pending dues of the suppliers on the holidays itself.

12. He further submitted that the assessee did not make any payment whether on holidays or working days through account payee cheques / demand drafts as the assessee made the payments out of unaccounted "on money". Therefore, the question of making the payment by crossed account payee cheques/ bank drafts does not arise. He accordingly submitted that the payments made on national/ bank holidays are covered by rule 6DD(J)

of the IT Act and therefore the provision of section 40A(3) is not applicable to such payments.

13. So far as the second category of payments are concerned he submitted that these relate to payment to one party namely M/s. Surya Marbles i.e. agent of the assessee. He submitted that provisions of section 40A(3) are not applicable in view of Rule 6DD(K) which provides that where the payment is made by any person to his agent who is required to make the payment in cash for goods and services on behalf of such person. Referring to the submissions filed before the CIT(A) on various dates, copies of which are available at page 13 to 24 of the paper book he submitted that it was submitted before CIT(A) that M/s. Surya Marbles having its office at Ghaziabad was appointed as agent for the procurement of various types of marbles on behalf of the assessee from Makrana and Rajgarh vide MOU dated 01.04.2004. Copy of the said MOU was filed before the CIT(A). He submitted that the reasons for making the payment in cash to Surya (agent) was that most of the suppliers were new.

- a) One supplier did not have the required quantity.
- b) the required quality not necessarily available with the old ones
- c) the rate variations among the suppliers
- d) Apart from it the material had to be loaded by the agent in his presence on the date of purchase itself avoiding any chance for changing the selected material. Therefore, the agent always used to carry cash with him for further payment to suppliers situated at Markrnana and Rajgarh.

14. He submitted that the Assessing Officer in his remand report dated 24.01.2013, copy of which is placed at page No.26 and 27 of the paper book has verified that such payments were made to M/s. Surya Marbles. However, he has rejected the same on the ground that such agent is the suppliers of the assessee instead of being an agent. Referring to page 31 and 32 of the paper book Ld. Counsel for the assessee drew the attention of the bench to the agreement dated 01.04.2004 between M/s. Surya

Merchants Limited and M/s. Surya Marbles wherein it was clearly mentioned that M/s. Surya Marbles is the agent of the assessee.

15. Referring to page 38 of the paper book the Ld. Counsel for the assessee drew the attention of the bench to the certificate issued by M/s Surya Marbles dated 19.02.2013 wherein they have confirmed that M/s Surya Marbles was appointed as agent by M/s. Surya Merchants Limited for supplying Marbles vide agreement dated 11.04.2004. Referring to various decisions he submitted that the provisions of section 40A(3) are not applicable when the payment is made in cash to the agent for goods or services on behalf of such persons.

16. So far as the third category of payments are concerned he submitted that the provisions of section 40A(3) is not applicable on the expenses recorded in unaccounted books or materials found during the course of search and seizure operation. He submitted that these payments could not be made otherwise than in cash as the income and expenses both were not recorded in regular books of accounts but these were recorded in materials seized during the course of search proceedings. Referring to the decision of Hon'ble Supreme Court in the case of Revenue Presidential Poll AIR 1975 1682, he submitted that the Hon'ble Supreme Court in the said decision has held that there is no obligation to do impossible things. The law does not compel one to do that which one cannot possibly perform. Further, the payments of cash expenses of Rs.20,000 were made from "on money". Relying on various decisions he submitted that provision of section 40A(3) are not applicable if the payments are unaccounted and not recorded in the regular books of accounts. The Ld. Counsel for the assessee also relied upon the following decisions :-

1. Western India Bakers (P) Ltd. Vs. Dy. CIT (2004) 84 TTJ (Mumbai) 223 (2003) 87 ITD 607 (Mumbai)
2. Asstt. CIT Vs. Dr. Mohan Lal Swarnkar 92005) 95 TTJ (Jp) 969
3. Janta Tiles Vs. Asstt. CIT (2000) 66 TTJ (Pune) 695

4. Smt. Bommana Swarna Rekha Vs. Asstt. CIT (2005) 94 TTJ (Visakh) 885.
5. Kirti Foods limited 60 DTR 96

17. He accordingly submitted that the provision of section 40A(3) are not applicable to the facts of the present case.

18. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and the CIT(A). He submitted that the assessee has violated the provisions of section 40A(3) by making cash payments in excess of Rs.20,000/- otherwise than by account payee cheques or account payee demand drafts. He submitted that the payments made on bank holidays and made to agents are after thought and there was no compulsion on the part of the assessee to make such payments in cash. He submitted that the Assessing Officer in the remand report has clearly brought out the facts that there was no compulsion on part of the assessee for making such payments in violation of provisions of section 40A(3). He accordingly submitted that the order of the Ld. CIT(A) being in accordance with law should be upheld.

19. We have considered the rival arguments made by both the sides and perused the material available on record. There is no dispute to the fact that additions have been made u/s 40A(3) of the IT Act on account of cash payments made by the assessee in excess of Rs.20,000/- to various parties, otherwise than by account payee cheques/ bank drafts the details of which have been given in the preceding paragraph. It is the submission of Ld. Counsel for the assessee that provision of section 40A(3) are not applicable to payments made in cash in excess of Rs.20,000/- on bank holidays/ national holidays and where the payments were made to agents. So far as other payments are concerned, it is the submission of the Ld. Counsel for the assessee that since these payments are made out of "on money" and not recorded in the regular books of accounts and are found from the seized documents, therefore, the provision of section 40A(3) are not applicable.

20. So far as the payments made in cash in excess of Rs.20,000/- on bank holidays/ national holidays are concerned, we find there is no such payment in A. Y. 2006-07. However, the assessee has incurred such expenses in A. Y.2007-08 Rs.39,12,033/-, in A. Y. 2008-09 of Rs.1,26,24,000/- and Rs. 84,60,000/- in A. Y. 2009-10. The above payments are not in dispute. The Assessing Officer in the remand report also accepted that such payments have been made on bank holidays/national holidays. However, it is the case of the revenue that there was no compulsion on the part of the assessee to make such payments on bank holidays. It is the submission of the Ld. Counsel for the assessee that assessee being a developer of commercial/ residential projects is bound to complete the work in a time bound manner and construction activities are carried out continuously even during holidays. Therefore, when the assessee receives cash from the customers during holidays and purchases materials on the same day or makes the payments to the suppliers the same should not be disallowed under section 40A(3) of the IT Act. We find some force in the above arguments advanced by the Ld. Counsel for the assessee. There is no dispute to the fact that the above amounts were paid in cash in excess of Rs.20,000/- on bank holidays/ national holidays. Although there is no compulsion on the part of the assessee, however, it is an admitted fact that the construction activities of the assessee were carried on during holidays also. Therefore, we find merit in the arguments advanced by the Ld. Counsel for the assessee that the assessee had to procure materials on Sundays/ public holidays to avoid any break in the process of construction. It is also an admitted fact that the payments, were made in cash during holidays as well as working days. Therefore, it cannot be said that the assessee has made cash payments only on bank holidays to avoid the provision of section 40A(3) of the I. T. Act. We find, the Tribunal vide order dated 18.02.2015 had restored the matter to the file of the Assessing Officer to find out whether the payments were made on bank holidays or not. The relevant observations of the Tribunal in ITA No.4309to 4313/Del/2013 read as under:-

“19. As regard to the first issue raised vide Ground No.1, the ld. AR for the assessee submitted that the payments in excess of Rs.20,000/- amounting to Rs.69,60,469/0 in total were made on the dates when banks were closed due to holiday. Therefore, the payment were covered under Rule 6DD (K) of the Income Tax Rules, 1962 (herein after ‘the Rules) and CBDT Circular No. In his rival submission the Ld. CIT DR strongly supported the orders of the authorities below and further submitted that the payment were made in excess of Rs.20,000/- therefore, the disallowance was rightly made by the Assessing Officer u/s 40A(3) of the Act.”

20. We have considered the rival submissions of both the parties and perused the material available on record. In the instant case, we find that the facts are not clear as to whether the payments were made on the holidays when the banks were closed. We, therefore, set aside the impugned order on this issues and remand the same back to the file of the Assessing Officer for fresh adjudication, in accordance with law after providing due and reasonable opportunity of being heard to the assessee.”

21. The Assessing Officer in the remand report has admitted that such payments have been made on bank holidays. The provision of rule 6DD(J) provides that provisions of section 40A(3) shall not be applicable where the payment was required to be made on a day on which the banks were not open on account of holidays or strike. Since the assessee in the instant case has admittedly made the payments on a day on which the banks were not open on account of holidays and the Assessing Officer has also admitted that such payments were made on bank holidays therefore under the facts and circumstances of the case we are of the considered opinion that provision of section 40A(3) are not applicable to the payments made in excess of Rs.20,000/- on bank holidays which are as under :-

1. 2007-08 Rs.39,12,033/-
2. 2008-09 Rs.1,26,24000/-
3. 2009-10 Rs.84,60,000/-

We, therefore, set aside the order of the CIT(A) and direct the Assessing Officer to remove the above expenses from the purview of provision of section 40A(3) as these expenses are covered under Rule 6DD(J) of the IT Rules.

22. Now, coming to the second category of payments i.e. the payments made to the agent of the assessee M/s. Surya Marbles is concerned, we find from the copy of the agreement dated 01.04.2004 that there is an agreement between the assessee and Surya Marbles wherein Surya Marbles was appointed as agent for the assessee company. Further Surya Marbles vide confirmations dated 19.02.2013 have certified that they were appointed as agent by M/s. Surya Merchants Limited for supplying marbles vide agreement dated 01.04.2004. They have further certified that they have taken the cash from M/s. Surya Merchants Limited for further payments to the suppliers of Markrnana and Rajgarh. The agreement copy and the certificate were filed before the CIT(A). We find the CIT(A) rejected the same on the basis of remand report of the Assessing Officer who had stated that rule 6DD(K) is applicable in exceptional or unavoidable circumstances. Further he had reported that M/s. Surya Marbles was supplier of the assessee company and not an agent. However at no point of time either the agreement dated 01.04.2004 or the certificate dated 19.02.2013 are found to be false or untrue. The assessee in the instant case has demonstrated by documentary evidence that M/s. Surya Marbles was the agent of the assessee company. Under these circumstances when the payment was made to the agent of the assessee for the purchases of materials on behalf of the assessee, therefore, we are of the considered opinion that the provisions of section 40A(3) are not applicable, in view of Rule 6DD(K) which provides that where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person, We, therefore, are of the opinion that the following payments are covered under rule 6DD (K) and the provisions of section 40A(3) will not be applicable.

1. A. Y. 2006-07 Rs.69,60,469/-
2. A. Y. 2007-08 Rs.65,69,053/-
3. A. Y. 2008-09 Rs.52,25,498/-
4. A. Y. 2009-10 Rs.74,50,000/-

23. The Assessing Officer is directed to exclude the above payments from the purview of provisions of section 40A(3) of the I. T. Act, 1961.

24. So far as the balance expenses are concerned we do not find any merit in the arguments of Ld. Counsel for the assessee are that the provision of section 40A(3) are not applicable to such payments made in cash in excess of Rs.20,000/-. The Ld. Counsel for the assessee could not satisfactorily substantiate as to why provision of section 40A(3) are not applicable to the above payments. We, therefore, are of the opinion that provision of section 40A(3) are applicable for the remaining payments. The Assessing Officer is accordingly directed to modify the order and re-compute the disallowance to be made u/s 40A(3) on account of the remaining payments.

25. In the result, the above appeals filed by the assessee are partly allowed.

The order pronounced in the open court on 30.11.2018

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

NEHA

Date:- .11.2018

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	25.11.2018
Date on which the typed draft is placed before the dictating Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	