

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH, RAIPUR  
BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &  
SHRI PAWAN SINGH, JUDICIAL MEMBER

I.T.A. Nos. 240 to 243/RPR/2019  
(AYs: 2011-12, 2012-13, 2014-15, 2015-16)

M/s. Goyal Energy & Steel Pvt. Vs. ACIT, Central Circle-2,  
Ltd., Behind Happy Restaurant, Raipur.  
Ring Road-2, Tatiband Chowk,  
Raipur (CG)

PAN No. AACCG 2758 E (Respondent)  
(Appellant)

I.T.A. No. 246/RPR/2019 for (AY: 2012-13)

M/s. Goyal Infraventures Pvt. Vs. ACIT, Circle-2, Raipur.  
Ltd., Behind Happy Restaurant,  
Ring Road-2, Tatiband Chowk,  
Raipur (CG)

PAN No. AADCG 9807 D (Respondent)  
(Appellant)

Assessee by : Shri Akshay Ringasia &  
Shri Rajesh Kumar Chawda, CAs.

Department by : Shri P.K. Mishra, CIT-DR

Date of hearing : 11/08/2021.

Date of pronouncement : 17/09/2021.

**Order Under Section 254(1) of Income –tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This group of five appeals, out of which four appeals by Goyal Energy & Steel Private Limited are directed against the order of learned Commissioner of Income Tax (Appeals), hereinafter called as “ld.

CIT(A)” Bilaspur, dated 22.11.2019 for the A.Y. 2011-12, 2012-13, 2014-15 & 2015-16 and other appeal by Goyal Infraventure Private Limited is directed against the order of learned CIT(A) dated 22.11.2019 for AY 2012-13. In all appeals the assessee has raised certain common grounds of appeal, the facts in all appeals are common except variation of addition under section 68 of the Act, the assessee has raised certain common grounds of appeals, therefore, with the consent of the parties all appeals were clubbed heard together and is decided by common order. For appreciations of facts appeal for AY 2011-12 are treated as lead case. The Assessee raised the following grounds of appeal:-

- “1. *That the ld. lower authorities have grossly erred in law and facts by invoking provisions of section 68 and making an addition of Rs. 4,25,00,000/- on account of receipt of share capital and premium thereon.*
2. *That the ld. lower authorities have erred in law and fact by making an addition of Rs. 21,250/- by deeming it to be the commission against above share capital received by the appellant.*
3. *That the ld. lower authorities have erred in invoking section 153A in absence of any incriminating evidence, thus making the impugned addition void-ab-initio.*
4. *That the ld. lower authorities have failed to appreciate or appraise the evidences and arguments submitted by the assessee to discharge its burden under section 68.*
5. *That the ld. lower authorities have erred in law and in fact by relying on irrelevant and factually incorrect evidences without providing the appellant an opportunity to cross-examination or rebut the same in complete violation of principle of natural justice.*

6. *That the ld. lower authorities have passed the orders sans of any jurisdiction when the source of credit has already been assessed by the jurisdiction assessing officer.*
  7. *That the orders passed by both the ld. assessing officer and Commissioner of Income Tax (Appeals) is highly mechanical in nature and without application of mind relying on statements/evidences not related to the impugned case.*
  8. *That the assessee craves to add, alter or amend any ground before or at the time of hearing.”*
2. The assessee vide separate application dated 05.08.2021 has raised following additional grounds of appeals;
- (1) *That the entire assessment made in the case of the assessee is null and void as approval granted under 153D is mechanical in nature and without application of mind. The Ld. JCIT has failed to peruse the assessment records and replies submitted by the assessee. The Ld. assessing officer has sought approval for about 95 orders on a single day without considering the replies and objection raised by the assessee. Such illegal approach of the ACIT has been approved by the Ld. JCIT in a mechanical manner on presumptive basis.*
  - (2) *The Ld. assessing officer has clearly erred in complying with requirements of section 153A by passing a consolidated order for all the six assessment years in place of passing separate orders for “each assessment year.*
3. Brief facts of the case are that assessee is a company engaged in the business of production of steel and energy. A search action under section 132 of Income Tax Act was carried out at the assessee group on 17.01.2017. Consequent upon search notice under section 153A dated 18.03.2018 was served on the assessee to file return of income for AY 2011-12 to 2016-17. In response to the notice under section 153A the assessee filed its return of income for all assessments years on 16.09.2018. No additional income was declared (offered) by the assessee

while filing return of income in response to notice under section 153A. During the assessment, the copy of Panchnama dated 17.01.2017, copy of seized material and accounts was provided to the representative of assessee (AR). The assessing officer (AO) proposed to made addition of share capital and commissions in all assessment years vide fresh show cause notice dated 21.08.2018. The AO recorded that the assessee vide its reply dated 31.08.2018 provided details of share capital, share premium, ledger extract and details of unsecured loans and capital accounts. The AO after considering the reply and the evidences, which were furnished by the assessee to substantiate the genuineness of the transactions, held that the investor companies are shell companies. The AO again issued final show case notice dated 07.12.2018 as to why the share premium should not be treated as unaccounted money of the assessee. The assessee again vide different replies dated 06.11.2018, 10.12.2018 and 14.12.2018 filed detailed reply as recorded in 3.7 of the assessment order. The AO has extracted the relevant part of the reply furnished by the assessee in para 3.7(i) at page no. 33 of the assessment order.

4. In the said reply, the assessee besides the other contentions specifically stated that additions can be made in the assessment under section 153A, if any incriminating evidences are found during the course of search. No such incrementing evidences regarding share application and share capital found during the search action and the AO has not highlighted such

incriminating evidence during the assessment. The assessee also relied on various case laws including the decision of Hon'ble Supreme Court in Singhad Technical Education Society ( 2017) 397 ITR 344-(SC), Delhi High Court in Kabul Chawla (2016) 380 ITR 573 (Delhi). The reply of the assessee was not accepted by the AO. The AO held that the additions or disallowances under section 153A is valid and lawful and cannot be restricted or limited to incriminating seized material even though the case has been earlier assessee under section 143(3). The assessing officer thereafter passed consolidated assessment order under section 153A read with section 143(3) on 28.12.2018 for all six assessment years. The assessing officer while passing the assessment order made addition under section 68 on account of share capital and shares premium and payment of commissions on such share premium. The assessing officer made additions of share premium and payment of alleged commission by taking view that appropriate response is not received from the investor companies.

5. On appeal before Id. CIT(A), the assessee filed detailed written submissions. The submissions of the assessee is scanned by Id CIT(A) and pasted in para 3 of the impugned order. In the written submissions the assessee besides the other contentions again retreated that no additions in the abated assessment can be made in absence of incriminating evidences. It was clarified that either the assessment order

has been passed for earlier years or time period for making assessment has been elapsed. In the Panchnama there is no reference of incriminating evidence of share application money and that during the assessment the AO has got any evidence that was found in the possession of department. The ld CIT(A) instead of giving any finding on the legal issues raised by the assessee, concurred with the finding of the AO. The ld CIT(A) held that the AO made inquiries and found that the transaction of share premium or unsecured loans are not genuine and that the AO is justified in making the additions under section 68 as well as payment of commission @ .05%. Further aggrieved, the assessee has filed these appeals before Tribunal.

6. We have heard the submissions of the learned authorised representative (AR) for the assessee and the learned Commissioner of Income-tax-departmental representative (CIT-DR) for the revenue and have gone through the material on record. We have also perused the copy of the Panchnama dated 27.01.2017 and other documentary evidences filed on record.
7. The ld. AR for the assessee submits that he has raised additional grounds of appeal. The additional grounds of appeal are purely legal in nature and no new facts are required to be brought on record for adjudication of these additional grounds of appeals. The additional grounds of appeals relates to validity of approval granted in a mechanical manner in respect

95 assessment orders, though the AO was required to pass separate order for each assessment year. To support his submissions the ld AR for the assessee relied on the decisions of Hon'ble Supreme Court in CIT Vs National Thermal Power Corporation (NTPC) 229 ITR 383-(SC).

8. On the other hand the ld. CIT-DR for the revenue opposed the raising the additional grounds of appeal that no such ground of appeal was raised before. The ld CIT-DR for the revenue further submits that the bench may decide the application in accordance with law.
9. We have considered the submissions of both the parties and find that the assessee has raised pure legal issues, the facts for adjudications of the additional grounds are emanating from the orders of the lower authorities and no new facts are to be brought on record, therefore, the application for additional grounds of appeals are allowed and additional grounds of appeal are taken on record for adjudication.
10. Now adverting to the adjudication of additional grounds of appeal and the Ground No. 3 of main grounds of appeal. The additional grounds of appeal relates to validity of approval under section 153D and Ground No. 3 of main grounds of appeal relates to validity of the additions under section 68 in absence of incriminating evidence found during search. The ld AR for the assessee submits that it is a matter of fact that the AO had passed a single consolidated order for all the years under assessment rather than passing separate orders for "*each year*" under section 153A.

Further, the AO sought a consolidated approval for about 14 different assessee from different groups under her single letter dated 14.12.2018. At the time of assessment, the assessee furnished its reply on 14.12.2018 before the AO, wherein the assessee raised several objections and contentions against the proposed additions in show cause notice. The assessee was directed to file reply by 07.12.2018. The assessee filed its reply on 14.12.2018, which was duly accepted by AO, which is otherwise clearly discernable in para 3.7 of the assessment order. In the said reply the assessee explained the concept of abated and unabated assessment, proof of identity and existence of the investor Company, importance of cross-examination, etc. The ld AR for the assessee further submits that mere perusal of contents of approval granted under section 153D, it can be inferred from the approval sought by AO, from the Ld. JCIT was without considering such reply of the assessee dated 14.12.2018. The copy of the same is placed on record before the Hon'ble bench. The ld.AR for the assessee submits that the Ld. Joint Commissioner of Income-tax (JCIT) granted approval for finalizing the assessment on the request of the assessing officer without indicating any perusal of records, replies and material gathered in the course of search. Rather JCIT categorically mentions that even with respect to orders to be passed by the assessing officer he has '*presumed*' that necessary records have been perused and legal mandate had been complied.

11. The ld AR for the assessee submits that the material available on record would demonstrate that the JCIT has granted approval under section 153D in a casual and mechanical manner and without any application of mind. As evident from the communication made by A.O. to the JCIT dated 14.12.2018. The AO in the said letter neither makes any iota of reference as to what are the seized materials nor furnishes any assurance with respect to approval and appraisal of all evidences and corresponding reply filed by the assessee. The JCIT rather than confirming such lacunae at the part of the assessing officer, goes on to act in oblivion by “*presuming*” that the necessary opportunity has been given to the assessee and all the records, evidences and materials have been thoroughly verified. Thus, in a bulk approval of 95 assessment orders on a presumption basis proves the ritualistic approval to comply with the provisions of law which clearly defeat the intent and purpose behind insertion of section 153D brought in the statute by the Finance Act, 2007. The JCIT has granted a blanket approval for 95 cases without giving any reasoning at all in a consolidated manner for all assessment years for different assessee for which voluminous assessment orders on a presumptive basis.
12. To buttress his submissions the ld AR for the assessee relied on the following decision;

- Mumbai Tribunal in case of Arch Pharmalabs Ltd & Arch Impex P. Ltd. (I.T.A. No. 6656/Mum/2017 & others) (dated 07.04.2021),
- Ranchi Tribunal in Rajat Minerals Pvt. Ltd. Vs DCIT (Central Circle 1) ([2020] 181 ITD 368 (Ranchi-Trib.),
- Cuttack Tribunal in Dilip Constructions Private Limited Vs. ACIT IT(SS)A Nos. 66 to 71/CTK/2018.

13. In other alternative submissions the ld AR for the assessee submits that the AO passed a single order in a hasty manner to make the impugned addition, applying same facts to each of the assessment year without weighing the facts and legality of each assessment year under consideration, which is in complete violation of the statutory provisions of law and guidelines laid down by various courts and Special Bench of Tribunal.

14. The ld AR for the assessee submits that search action was carried out on assessee group on 17.01.2017. There was a marriage function in the Goyal family, which was at concluding stage. The search action continued till 2.00 am of 22.01.2017. The authorised officer obtained a confessional statement of Deepak Aggarwal, Director of the assessee company by putting pressure and coercion for surrender of share capital. The statement of the Deepak Aggarwal was not recorded in the presence of Panchas. Mr. Deepak Aggarwal retracted from his statement by filing affidavit before Sub-Divisional Magistrate, copy of which is filed. The ld.AR for the assessee retreated that no incriminating evidence qua the

share capital was found during the search. The authorised officer has not recorded even single evidence on the Panchnama about such evidence. The assessment order stands void-ab-initio for unabated assessment years in absence of incriminating evidence. The ld AR for the assessee furnished the year wise last date for issuing notice under section 143(2) for all Assessment Years in the following manner;

AY	Last date for issuing notice u/s 143(2)
2011-12	30.09.2012
2012-13	30.09.2013
2014-15	30.09.2015
2015-16	30.09.2016

15. The ld AR for the assessee submits that the statement under section 132(4) ( obtained in absence of Panchas) cannot be treated incriminating evidence as held by Hon'ble Delhi High Court in PCIT Vs Best Infrastructure (2017) 397 ITR 82 (Delhi) . To support his submissions the ld AR for the assessee also relied on the following decisions;

- CIT Vs Kabul Chawla (Delhi High Court) (ITA Nos. 707, 709 and 713 of 2014),
- M/s All Cargo Logistics Ltd. Vs DCIT (ITA 5018 to 5022 & 5059/M/10) (Special Bench),
- R.R. Energy (ITA No. 225/RPR/2015 and
- Sanjay Duggal vs. ACIT, ITA 1813/Del/2019 dated 19.01.2021

16. On the other hand the ld. CIT-DR for the revenue supported the order of the lower authorities. The ld. CIT-DR for the revenue submits that in the search matters the draft assessment order is always prepared under the

guidance of Joint Commissioner of Income- tax (JCIT). The assessee was provided full opportunity during the assessment. The assessment proceedings are also supervised by JCIT to protect the interest of revenue. The JCIT granted approval of the draft assessment after considering the material placed before him. There is no unwarranted thing in the order of assessing officer. There is no mandate in the statute to pass separate order for each and every assessment years as argued by AR of the assessee. The AO has made separate additions in each assessment year and ultimately assessed income for each year separately. The AO before making additions made investigation for each of the investor company, which are Kolkata based entity.

17. In the rejoinder submissions the ld. AR for the assessee submits that no such investigation report was provided to the assessee. The ld. AR retreated that the additions were made in the unabated assessment in absence of the incriminating material found during search; therefore, all such additions are liable to be deleted. The statement of the director of the assessee-company cannot be treated incrementing evidence. Even otherwise there is no evidentiary value of such statement, which was not recorded during the search proceeding.

18. We have considered the rival submissions of the parties and have gone through the order of the lower authorities. We have also perused the copy of the Panchnama dated 23.01.2017. There is no dispute that a search

action was carried out on the assessee group on 17.01.2017. No incriminating evidence qua the share application money was found and recorded by the authorised officer in the Panchnama dated 22.01.2017 and 28.02.2017. A discloser statement of Director namely Deepak Aggarwal was recorded on 24.01.2017. The statement was retracted on 27.01.2017 by making sworn statement before Sub-divisional Magistrate. It is further admitted facts that on the date of search no assessment of AY 2011-12, 2012-13, 2014-15 & 2015-16 was pending and/ or time limit for issuing notice under section 143(2) has already elapsed. Thus, any addition in the unabated assessment can only be made on the basis of incriminating material found during the search. The assessee right from the beginning has raised plea that no incriminating evidence qua the alleged share application or premium was found in the search on 17.01.2017. We find there is no reference in the Panchnama about incriminating evidence qua the share application money or share premium for all the impugned assessment years. We further find that the assessee while filing reply before AO on 14.12.2018, in response to the show cause notice dated 29.08.2018, clearly stated there is no incriminating evidences against the assessee for making the said additions. We find that the AO passed the assessment order on 14.12.2018 and placed the same before JCIT for his approval, thus there is no consideration of material facts by A.O. with regard to the assessee's

reply dated 14.12.2018 filed before the AO in response to the show cause notice dated 29.11.2018. We further find that the assessee raised specific ground of appeal before Id CIT(A), vide ground No.4, that addition in the assessment is outside of search assessment as no incriminating material was seized in search. However, the Id CIT(A) has not discussed the ground of appeal raised by the assessee.

19. The Hon'ble Delhi High Court in PCIT Vs Best Infrastructure (India) Pvt. Ltd (supra) held that statement recorded under section 132(4) does not itself constitute incriminating material. Thus, the statement of Deepak Aggarwal cannot be treated as incriminating evidence for making basis for addition of share premium under section 68 of the Act.

20. Further, Delhi High Court in celebrated case of CIT Vs Kabul Chawla (supra) held that completed assessment can be interfered with by the AO while making assessment under section 153A only on the basis of some incriminating material unearthed during the course of search which was not produced or not already disclosed or made known in course of original assessment. The decision of Delhi High Court has been upheld by Hon'ble Apex Court in Singhad Technical Education Society (397 ITR 344 SC). In view of the aforesaid factual and legal discussions, no addition under section 68 was warranted in absence of incriminating evidence, in the abated assessment. We hold so. In the result the ground No. 3 raised by the assessee is allowed.

21. We further find that the assessee in response to the show cause notice dated 29.08.2018 filed its detail reply on 14.12.2018. In the said reply the assessee raised factual and legal issue. The reply of the assessee is duly acknowledged by AO in para 3.7 of his order. The AO sent the draft assessment order on 14.12.2018 itself to the officer of JCIT, vide reference No. F.No. ACIT (C) -2 RPR/153D/Goyal & Satya/2018-19 dated 14.12.2018, copy of which is placed on record. For proper appreciation of facts the contents of approval dated 22.12.2018 is extracted below:

*Office of the  
Joint Commissioner of Income Tax (Central), Raipur  
Aayakar Bhawan, Civil Lines, Raipur 492001*

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*Email: Raipur.addlcit.cen@incometax.gov.in Tel/Fax 2331044*  
*F.No.JCIT(C)/RPR/153D/2018-19 Dated: 22-12-2018*

To,  
The Asst. Commissioner of Income tax (Central)-2,  
Raipur

*Subject – Approval under u/s 153D of the I.T.Act – Goyal, Satya &  
Gumber Group – Regarding.*

*Please refer to your letter in F.No. ACIT(C)-2/RPR/153D/Goyal & Satya/2018-19 dated 05/12/2018, F.No. ACIT(C)-2/RPR/153D/ Goyal & Sriram Gumber/ 2018-19 dated 07/12/2018 and F.No.ACIT(C)/RPR/153D/Goyal & Satya/2018-19 dated 14/12/2018.*

2. *The draft assessment orders u/s 153D and 143(3) in the following cases submitted vide above mentioned letter are hereby approved u/s 153D of the I.T.Act –*

S.No.	Name of the assessee	PAN	AY
1	Arun Agrawal	ACJPA4642B	2011-12 to 2017-18
2	Deepak Agrawal	ACJPA4646F	2011-12 to 2017-18
3	Goyal Energy and Steel P Ltd	AACCG2758E	2011-12 to 2017-18
4	Goyal Traders	AACFG1974F	2011-12 to 2017-18
5	Ratanlal Agrawal	ACJPA4620R	2011-12 to 2017-18
6	Goyal Enterprises	AAMFG4058J	2011-12 to 2017-18

7	Satya Power and Ispat Ltd	AAHCS4472N	2011-12 to 2017-18
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3. Further in view of this office letter no. F. No. JCIT(C)/RPR/Draft Asst. Order/2016-17/dated 09.09.2016 it is presumed that the AO has –

- Given proper opportunity of hearing has been given to the assessee
- thoroughly verified the seized material and that there are no adverse findings
- satisfied himself that all the issues emanating from the records have been verified and the additions wherever required have been proposed.

4. You may act accordingly. The copy of the final order may be submitted for record purpose in this office

Encl: case records

Sd/-  
(R.M. Mujumdar)  
Joint Commissioner of Income tax,  
Range- Central, Raipur.

22. On careful perusal of the approval order of JCIT, we find that the JCIT while granting approval on 22.12.2018 recorded that “ it is presumed that the AO has – given proper opportunity of hearing to the assessee, thoroughly verified the seized material and that there is no adverse finding, satisfy himself that all issues emanating from the record have been verified and additions wherever required have been proposed.”

23. Before us, the ld AR for the assessee vehemently argued that JCIT has granted approval under section 153D in a casual and mechanical manner and without any application of mind and that from the communication made to the JCIT by AO vide letter dated 14.12.2018, the AO had not made any iota of reference as to what are the seized materials nor furnishes any assurance with respect to approval and appraisal of all evidences and corresponding reply by the assessee. And that ld. JCIT

approved the assessment order by presuming that the necessary opportunity has been given to the assessee and all the records, evidences and materials have been thoroughly verified. The JCIT granted bulk approval of 95 assessment orders which clearly defeats the intent and purpose behind insertion of section 153D brought in the statute by the Finance Act, 2007.

24. We find that the Id. JCIT while granting approval, presumed that Assessing Officer has given proper hearing to the assessee and thoroughly verified seized material and there are no adverse findings, satisfied himself that all the issues emanating from the records have been verified and additions wherever required have been proposed. We further find that there is no independent application of mind on the part of Id. JCIT while granting the approval.

25. We find that coordinate bench of Mumbai Tribunal while considering the similar ground of appeal in granting bulk approval of the assessment under section 153A, in case of Arch Pharmalabs Ltd Vs ACIT (supra) held that the approval accorded under section 153D is without any occasion to refer to the assessment records and seized material, if any, incriminating the assessee and hence such approval is in the realm of an abstract approval of draft assessment orders which was unsubstantiated and unsupported and consequently suffered from total non-application of mind. The relevant part of the order is extracted below;

*“11.5 At the cost of repetition, it may be reiterated that in the instant case, approving authority did not mention anything in the approval memo towards his/ her process of deriving satisfaction so as to exhibit his/her due application of mind. We may observe that Para 2 of the above approval letter merely says that "Approval is hereby accorded u/s. 153D of the Income-tax Act, 1961 to complete assessments u/s. 143(3) r.w.s. 153A of the I.T. Act in the following case on the basis of draft assessment orders..."which clearly proves that the Addl. CIT had routinely given approval to the AO to pass the order only on the basis of contents mentioned in the draft assessment order without any application of mind and seized materials were not looked at and/or other enquiry and examination was never carried out. From the said approval, it can be easily inferred that the said order was approved, solely relying upon the implied undertaking obtained from the Assessing Officer in the form of draft assessment order that AO has taken due care while framing respective draft assessment orders and that all the observations made in the appraisal report relating to examination / investigation of seized material and issues unearthed during search have been statedly considered by the AO seeking approval. Thus, the sanctioning authority has, in effect, abdicated his/ her statutory functions and delightfully relegated his/her statutory duty to the subordinate AO, whose action the Additional CIT, was supposed to supervise. The addl. CIT in short appears to have adopted a short cut in the matter and an undertaking from AO was considered adequate by him/ her to accord approval in all assessments involved. Manifestly, the Additional CIT, without any consideration of merits in proposed adjustments with reference to appraisal report, incriminating material collected in search etc. has proceeded to grant a simplicitor approval. This approach of the Additional CIT, Central has rendered the Approval to be a mere formality and ca not be countenanced in law.*

26. Similar view was taken by Coordinate bench of Delhi Tribunal in Sanjay Duggal & others (supra).
27. So far as the contention of Id CIT-DR that the assessment under section 153A is passed under the supervision of JCIT and that JCIT granted approval of the draft assessment after considering the material placed before him. We do not find any such satisfaction in the approval order that draft assessment after considering the material placed before him, rather the Id JCIT recorded that it is presumed that the AO granted proper opportunity to the assessee etc...
28. In view, of aforesaid discussion and respectfully following the decisions of coordinate benches in Sanjay Duggal & others (supra) and Archpharma Labs & Acrh Impex P Ltd (supra), we find convincing force in the submissions of the assessee that the approval granted by JCIT suffer from non-application of mind and depends on presumption of proper performance of duty by A.O. such per functionary approval under section 153D cannot termed as legitimate. The consequential assessment orders based on non-est approval under section 153D, thus are void-ab-initio on this ground alone. Considering the facts that we have allowed the appeal on the legal issues therefore, consideration of appeal on merit have become academic.
29. In the result, the appeal of the assessee in ITA No.240/RPR/2019 is allowed.

30. As noted earlier that the facts in all remaining appeal in case of Goyal Energy and Steel Pvt. Ltd., in ITA No.241 to 243/RPR/2019, the assessee has raised similar grounds of appeal, therefore, following the principle of consistency, all remaining appeals in ITA No. 241 to 243 & 246 /RPR/2019, are allowed with similar directions.

31. In ITA No.246/RPR/2019 for A.Y.2012-13 in Goyal Infraventures Pvt. Ltd., the assessee has raised following grounds of appeal:

“1. That the ld. lower authorities have grossly erred in law and facts by invoking provisions of section 68 and making an addition of Rs.2,08,00,000/- on account of receipt of unsecured loan.

2. That the ld. lower authorities have erred in law and fact by making an addition of Rs.10,400/- by deeming it to be the commission against above share capital received by the appellant.

3. That the ld. lower authorities have erred in invoking section 153A in absence of any incriminating evidence, thus making the impugned addition void-ab-initio.

4. That the ld. lower authorities have failed to appreciate or appraise the evidences and arguments submitted by the assessee to discharge its burden under section 68.

5. That the ld. lower authorities have erred in law and in fact by relying on irrelevant and factually incorrect evidences without providing the appellant an opportunity to cross-examination or rebut the same in complete violation of principle of natural justice.

6. That the ld. lower authorities have passed the orders sans of any jurisdiction when the source of credit has already been assessed by the jurisdiction assessing officer.

7. That the orders passed by both the ld. assessing officer and Commissioner of Income Tax (Appeals) is highly mechanical in nature and without application of mind relying on statements/evidences not related to the impugned case.

8. That the assessee craves to add, alter or amend any ground before or at the time of hearing.”

32. The assessee vide application dated 05.08.2021 raised identical additional grounds of appeal as recorded in para 2(supra).

33. As recorded above the facts of this appeal is almost identical except the facts that the AO made addition on account of unsecured loan and alleged commission. There are no other variations in facts; the assessee has raised identical grounds and identical additional grounds of appeals. Considering the fact that on identical legal grounds, we have allowed the appeal of assessee's group in ITA No. 241 to 243 & 246 /RPR/2019. Therefore, following the principle of consistency, this appeal is also allowed with similar direction.

34. In the result, all the appeals filed by the assessee vide ITA No.240, 241, 242, 243 & 246/RPR/2019 are allowed.

Order pronounced on 17-09-2021 as per Rule 34(5) of Income tax Appellate Tribunal Rules (1963).

Sd/-  
**(PRADIP KUMAR KEDIA)**  
**Accountant Member**  
**Dated: 17 September, 2021**

Sd/-  
**(PAWAN SINGH)**  
**Judicial Member**

*Copy to:*

1. *The Assessee*
2. *The Revenue*
3. *Ld. CIT(A), Bilaspur.*
4. *Pr.CIT, Bilaspur.*
5. *The D.R., Raipur.*
6. *Guard file.*

By order

/ / TRUE COPY / /

**Assistant Registrar  
ITAT, Raipur**