

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. Nos. 591 to 594/Asr/2018  
Assessment Years: 2008-09 & 2011-12 to 2013-14**

|   |            |  |
|---|------------|--|
| Shri Sadhu Singh, S/o Sh. Buta Ram, Vill. Hazipur Salaich, Shahkot, District Jalandhar.<br>[PAN:ATJPS2153A]<br><br><b>(Appellant)</b> | <b>Vs.</b> | Dy. CIT, Central Circle-1, Jalandhar.<br><br><b>(Respondent)</b> |
|---|------------|--|

|                      |                                       |
|----------------------|---------------------------------------|
| <b>Appellant by</b>  | <b>Sh.Nirmal Mahajan, CA.</b>         |
| <b>Respondent by</b> | <b>Sh.Amlendu Nath Misra, CIT.DR.</b> |

|                              |                   |
|------------------------------|-------------------|
| <b>Date of Hearing</b>       | <b>29.09.2022</b> |
| <b>Date of Pronouncement</b> | <b>11.10.2022</b> |

**ORDER**

**Per Bench.:**

The four instant appeals of the assessee are filed against the order of Id. Commissioner of Income Tax (Appeals)-2, Jalandhar, [in brevity the CIT(A)] are identical fact and having separate orders that were passed u/s 250(6) of the Income Tax Act 1961, ( in brevity the Act) the date of orders for all orders is dated


28.09.2018 by their respective assessment years. The impugned orders were emanated from the order of Id. Dy. Commissioner of Income Tax, Central Circle-1, Jalandhar (in brevity the AO), orders dated 27.07.2016, order passed U/s 153A r.w.s. 143(3) of the Act.

At the outset, assessee stated that under relevant factual backdrop as well as issue involve in all the cases are identical. We, therefore, treat the assessee's appeal in **ITA 591/Asr/2018** for A.Y. 2008-09 as a lead case as per the request of the Id. Counsel.

2. The brief fact of the case is that the search was conducted at the residence of assessee and survey operation u/s 133A was conducted on 03.04.2012 on the premises of assessee in which the total event was carried out in the following manner which is as below:

| <i>Event</i>                                   | <i>Date</i>       | <i>Remarks</i>   |
|--|-------------------|--|
| <i>Date of search</i>                          | <i>03.04.2012</i> |  |
| <i>Due date for completion of</i>              | <i>31.03.2015</i> |  |
| <i>Dale of reference for Special</i>           | <i>20.03.2015</i> |  |
| <i>Date of receipt of special audit report</i> | <i>18.09.2015</i> | <i>When audit report was received there were nil days with the AO to complete the assessment within limitation period.</i> |
| <i>Date of reference to VO</i>                 | <i>07.11.2015</i> | <i>The reference was made alter 51 days of receipt of special audit report</i>   |
| <i>Receipt of report of</i>                    | <i>31.05.2016</i> |  |
| <i>y Date of completion of assessment</i>      | <i>27.07.2016</i> | <i>16 months after lapse of limitation.</i>  |

3. The appellant was asked to file return, in response to notice u/s 153A of the Act. The assessment completed and order was passed u/s 153A/143(3) of the Act. The assessee had challenged the sanctity of prior approval u/s 153D for passing the assessment order u/s 153A. As per the assessee, the same issue is already covered in the case of Sh. **Madan Lal vs. DCIT bearing ITA No. 112 to 118/Asr/2018, dated 16.08.2021** and in the case of Sh. **Sunny Arora ITA No. 477/Asr/2019** both the facts are identical with the assessee's case. The same approval was also issued in batch of these person including the assessee. The copy of the approval u/s 153D issued by the ld. Additional CIT, Central Range, bearing No. DCIT/CC-1/Jal/2016-17/658 dated 27.07.2016 is enclosed here.

|  |   |
|--|---|
| <br>भारत सरकार  |   |
| OFFICE OF THE<br>DEPUTY COMMISSIONER OF INCOME TAX<br>CENTRAL CIRCLE-I, JALANDHAR<br>25-AAYTAN'S TOWER, CIVIL LINES,<br>JALANDHAR-144401 | TELEPHONE NO:- 0181-2221092<br>TELE FAX NO:- 0181-2221092 |
| F.No. DCIT/CC-I/JAL/2016-17/ 658   | दिनांक : 26-07-2016                                       |

To

The Additional Commissioner of Income Tax,  
Central Range,  
Jalandhar.

Sir,

**Subject:- Approval u/s 153D of the Income Tax Act, 1961 in the  
Group cases of Madan Lal Group, Shahkot - regarding-**

Kindly refer to the subject cited above.

In this connection, you are requested to give statutory approval u/s 153D  
of the Income Tax Act, 1961 in the underwritten cases:-

| Sr. No. | Name of the assessee & address  | PAN No.    | Assessment Year    |
|---------|---|------------|--------------------|
| 1       | Sh. Madan Lal, S/o S. Bihari Lal, Model Town, Shahkot.  | ABFPL4650B | 2007-08 to 2013-14 |
| 2       | Smt. Kanta Rani, W/o Sh. Madan Lal, Model Town, Shahkot.                                      | AHHPR0125M | 2007-08 to 2013-14 |
| 3       | Sh. Rohit Arora, S/o Sh. Madan Lal, Model Town, Shahkot.                                      | AGSPA0373Q | 2007-08 to 2013-14 |
| 4       | Sh. Sunny Arora, S/o Sh. Madan Lal, Model Town, Shahkot.                                      | AGSPA0374K | 2007-08 to 2013-14 |
| 5       | Sh. Sadhu Singh, S/o Sh. Buta Ram, Village-Hazipur Salaich, Shahkot.                          | ATJPS2153A | 2007-08 to 2013-14 |
| 6       | Sh. Puran Singh, S/o Sh. Vir Singh, Near Sidh Shakti Peeth, Village-Hazipur Salaich, Shahkot. | BMDPS5757A | 2007-08 to 2013-14 |

Draft assessment orders alongwith assessment folders for the assessment years 2007-08 to 2013-14 in Six (6) cases are enclosed.

Yours faithfully,

Certified to be true Copy

Encl. As above.

( Parikshit Singh )  
Deputy Commissioner of Income Tax,  
Central Circle-I, Jalandhar.

दिनेश कुमार गुप्ता/Dinesh Kr. Gupta  
उप आयकर अधिकारी  
Deputy Commissioner of Income Tax

4. The order of the AO was challenged before the Id. CIT(A), with the sanctity of the prior approval u/s 153D. The Id. CIT(A) upheld the order of the Id. AO & dismissed the legal ground related legality of the order passed U/s 153A/ 143(3) of the Act.

5. Being aggrieved assessee filed an appeal before us.

6. The Id. Counsel of the assessee appeared and mentioned that the issue is already covered before the bench. The Coordinate Bench of the ITAT, Amritsar has already passed the similar order in the case of Sh. Sunny Arora in ITA No. 477/Asr/2019. For paucity of time here we are reproducing the order of ITA No. 477/Asr/2019 and the observation of the Bench. The relevant part of said order is extracted as below: -

*“7. We heard the rival submission and carefully considered the submission made by both the parties. The counsel Mr. Kapoor relied on the judgment of the Coordinate Bench in case of Sh. Madan Lal, supra which in favour of the assessee. The assessment order u/s 153A/143(3) was passed before receiving the approval of the higher authority. Have a quick look on the section 153D which is extracted as follows:*

**‘153D.**

*Prior approval necessary for assessment in cases of search or requisition. —No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner."*

7.1. *In the instant case, the issue involved is identical to the issue involved in ITA No. **ITA No. 112 to 118/Asr/2018**, supra. The assessing authority had passed without receiving the prior approval of the Addl. CIT. Ld. CIT DR was unable to show that the approval was received before or during passing of order on dated 27.07.2016. The appellate authority had also accepted the fact that the approval was duly received by the assessing authority on 28.07.2016. The direction of the statute for ‘prior approval’ was ignored by the revenue authority before passing of the order U/s 153A/143(3) of the Act. The order is erroneous and liable to be quashed.*

9. *In the result, the appeal of the assessee bearing ITA no. 478/Asr/2019 is allowed & all the appeals of the assessee are allowed."*

7. The ld. CIT DR relied on the order of the revenue authorities & was not able to produce any contrary order related to submission of the assessee’s counsel.

8. We heard the rival submission, and the issue is already decided by the same Bench. So, the approval u/s 153D is out of jurisdiction so the assessment was passed u/s 153A/143(3) has no legality in the eye of law & is liable to be quashed.

The other appeals are mutata mutandis similar fact with ITA 591/Asr/2018.

9. In the result, bearing **ITA Nos. 591 to 594/Asr/2018** are allowed.

**Order pronounced in the open court on 11.10.2022**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order