

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH : COCHIN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

Sl.No.	ITA.No.	A.Y.	Name of the Assessee	Name of the Respondent	Order Appealed against CIT(A), Kochi-3 DIN & Order No. ITBA/APL/S/250/2023-24 & Dated	Proceedings involved u/sec. of the Income Tax Act, 1961 (in short the "Act")
1.	404/COCH./2024	2017-18	ABC Sales Corporation,	Income Tax Officer, Circle-1, KANNUR.  ACIT, Central Circle-1, Kozhikode.	1063433840(1) dated 27.03.2024	u/sec.143(3)
2.	441/COCH./2024	2017-18	PMC VI 204		1063093962(1) dated 21.03.2024	u/sec.153C r.w.s.144
3.	440/COCH./2024	2017-18	A1 & 204 A2		1063094888(1) dated 21.03.2024	153A
4.	449/COCH./2024	2018-19	ABC Esquire,		1063176315(1) DATED 22.03.2024	153C r.w.s. 144
5.	450/COCH./2024	2018-19	N H		1063175015(1) dated 22.03.2024	153A
6.	451/COCH./2024	2018-19	Payyannur		106317360(1) dated 22.03.2024	153C r.w.s.144
7.	457/COCH./2024	2019-20	Near Perumba		1063333057(1) dated 25.03.2024	153C r.w.s.144
8.	458/COCH./2024	2019-20	Bridge,		1063333284(1) dated 25.03.2024	153A
9.	459/COCH./2024	2019-20	KANNUR.		1063332532(1) dated 25.03.2024	153C r.w.s.144
10.	534/COCH./2024	2020-21	PIN 670307.		1063443682(1) dated 27.03.2024	143(3)
11.	535/COCH./2024	2020-21	PAN		1063443429(1) dated 27.03.2024	143(3)
12.	536/COCH./2024	2020-21	AASFA5918K KERALA.		1063442703(1) dated 27.03.2024	143(3)
13.	454/COCH./2024	2017-18	ABC Buildwares India (P) Limited, Pariyaram, Kannur District PIN-670502 PAN AALCA5971A KERALA.	The ACIT, Central Circle-1, Kozhikode.	1063089184(1) dated 21.03.2024	153A
14.	455/COCH./2024	2018-19			1063171196(1) dated 22.03.2024	153A
15.	456/COCH./2024	2019-20			1063330118(1) dated 25.03.2024	153A
16.	531/COCH./2024	2015-16			1063388527(1) dated 26.03.2024	153A
17.	532/COCH./2024	2016-17			1063387958(1) dated 26.03.2024	153A
18.	533/COCH./2024	2020-21			1063386718(1) dated 26.03.2024	143(3)
19.	497/COCH./2024	2017-18	Kakkottakath Naduvilapura yil Junaid ABC Sales Corporation, N.H. Road, TALIPARAMBA. PIN 670141 PAN AELPJ4591G KERALA.	The ACIT, Central Circle-1, Kozhikode.	1063095765(1) dated 21.03.2024	153A
20.	498/COCH./2024	2018-19			1063177018(1) dated 22.03.2024	153A
21.	499/COCH./2024	2019-20			1063330918(1) dated 25.03.2024	153A
22.	500/COCH./2024	2020-21			1033391711(1) dated 26.03.2024	143(3)
23.	501/COCH./2024	2017-18	Shri K. Abdul Vaheed, ABC Sales Corportation, N.H. Road, TALIPARAMBA PIN 670141 PAN AEYPA6786P KERALA	The ACIT, Central Circle-1, Kozhikode.	1063099694(1) dated 21.03.2024	153A
24.	502/COCH./2024	2018-19			1063178588(1) dated 22.03.2024	153A
25.	503/COCH./2024	2019-20			1063331801(1) dated 25.03.2024	153A
26.	504/COCH./2024	2020-21			1063393463(1) dated 26.03.2024	143(3)

*ITA.Nos.441/COCH./2023 etc. batch  
ABC Sales Corporation, ABC Buildware  
India (P) Ltd., & Others.*

27.	505/COCH./2024	2018-19	Ruchit Parimal Ashar, 1-Kayaji Plo, Sanala Road, Morbi, Gujarat. PIN - 363641 <b>PAN AITPA2674B</b>	The ACIT, Central Circle-1, CALICUT.	106333655(1) dated 25.03.2024	153C
28.	506/COCH./2024	2019-20	Ruchit Parimal Ashar, 1-Kayaji Plo, Sanala Road, Morbi, Gujarat. PIN - 363641 <b>PAN AITPA2674B</b>	The ACIT, Central Circle-1, Kozhikode.	1063333432(1) dated 25.03.2024	153C
29.	507/COCH./2024	2020-21			1063435786(1) dated 27.03.2024	153C
30.	508/COCH./2024	2017-18	Shri Keeran Muhammed Basheer, ABC Buildware India Private Limited, N.H. Road, <b>TALIPARAMBA PIN 670141 PAN ATJPM7537Q KERALA.</b>	The ACIT, Central Circle-1, CALICUT.	1063098889(1) dated 21.03.2024	153A
31.	509/COCH./2024	2018-19			1063178165910 dated 22.03.2024	153A
32.	510/COCH./2024	2019-20			1063330752(1) dated 25.03.2024	153A
33.	511/COCH./2024	2020-21			1063393145(1) dated 26.03.2024	143(3)
34.	512/COCH./2024	2013-14	Shri Abdul Gafoor Muhammed Pottichi Darul Eeman Syed Nagar, Manna, <b>TALIPARAMBA PIN 670141 PAN AGYPA7147E KERALA.</b>	The ACIT, Central Circle-1, Kozhikode.	1063368476(1) dated 26.03.2024	143(3) r.w.s.147
35.	513/COCH./2024	2015-16			1063370523(1) dated 26.03.2024	144
36.	514/COCH./2024	2016-17			1063370900(1) dated 26.03.2024	153C
37.	515/COCH./2024	2017-18			1063371434(1) dated 26.03.2024	144
38.	516/COCH./2024	2018-19			1063372615(1) dated 26.03.2024	153C
39.	517/COCH./2024	2019-20			1063372960(1) dated 26.03.2024	153C
40.	518/COCH./2024	2020-21			1063373128(1) dated 26.03.2024	143(3)
41.	519/COCH./2024	2017-18	Shri Muhammed Jabir, ABC Sales Corporation, N.H. Road, <b>TALIPARAMBA PIN 670141 PAN AIBPM1521B Kerala.</b>	The ACIT, Central Circle-1, Kozhikode.	1063098030(1) dated 21.03.2024	153A
42.	520/COCH./2024	2018-19			1063178985(1) dated 22.03.2024	153A
43.	521/COCH./2024	2019-20			1063331178(1) dated 25.03.2024	153A
44.	522/COCH./2024	2020-21			1063392537(1) dated 26.03.2024	143(3)
45.	523/COCH./2024	2013-14	Shri Kodyil Muhammed Madani, Partner, ABC Sales Corporation, <b>TALIPARAMBA PIN 670141 PAN AHATPM7666E Kerala.</b>	The ACIT, Central Circle-1, Kozhikode.	1063367822(1) dated 26.03.2024	147 r.w.s.144
46.	524/COCH./2024	2017-18			1063100660(1) dated 21.03.2024	153A
47.	528/COCH./2024	2018-19			1063483672(1) dated 27.03.2024	153A
48.	529/COCH./2024	2019-20			1063483984(1) dated 27.03.2024	153A
49.	530/COCH./2024	2020-21			1064065145(1) dated 12.04.2024	143(3)
<b>STAY APPLICATIONS OF RESPECTIVE ASSESSEES'</b>						
1.	S.A.No.81/COCH./2024	2017-18 To 2020-21	ABC Sales Corporation, PMC VI 204 A1 & 204 A2 ABC Esquire, N H Payyannur Near Perumba Bridge, KANNUR. PIN 670307. PAN AASFA5918K KERALA.	Income Tax Officer, Circle-1, KANNUR.	--	
2 to 12	82 to 91/COCH./2024				ACIT, Central Circle-1, Kozhikode.	--

*ITA.Nos.441/COCH./2023 etc. batch  
ABC Sales Corporation, ABC Buildware  
India (P) Ltd., & Others.*

13 to 18	93 to 98/COCH./2024	2015-16 to 2020-21	ABC Buildwares India (P) Limited, Pariyaram, Kannur District PIN-670502 PAN AALCA5971A KERALA.	The ACIT, Central Circle-1, Kozhikode.	--	
19 to 22	111 to 114/COCH./2024	2017-18 to 2020-21	Kakkottakath Naduvilapura yil Junaid ABC Sales Corporation, N.H. Road, <b>TALIPARAMBA.</b> PIN 670141 PAN AELPJ4591G KERALA.	The ACIT, Central Circle-1, Kozhikode.	--	
23 to 26	99 to 102/COCH./2024	2017-18 to 2020-21	Shri K. Abdul Vaheed, ABC Sales Corporaion, N.H. Road, <b>TALIPARAMBA</b> PIN 670141 <b>PAN AEYPA6786P</b> KERALA	The ACIT, Central Circle-1, Kozhikode.	--	
27.	119/COCH./2024	2018-19	Ruchit Parimal Ashar, 1- Kayaji Plo, Sanala Road, Morbi.	The ACIT, Central Circle-1, CALICUT.	--	
28 & 29	120 & 121/COCH./2024	2019-20 to 2020-21	Gujarat. PIN - 363641 <b>PAN AITPA2674B</b>	The ACIT, Central Circle-1, Kozhikode.	--	
30 to 33	107 to 110/COCH./2024	2017-18 to 2020-21	Shri Keeran Muhammed Basheer, ABC Buildware India Private Limited, N.H. Road, <b>TALIPARAMBA</b> <b>Pin 670141</b> <b>PAN</b> <b>ATJPM7537Q</b> <b>KERALA.</b>	The ACIT, Central Circle-1, CALICUT.	--	
34 to 39	127 to 132/COCH./2024	2013-14, 2015-16 to 2019-20	Shri Abdul Gafoor Muhammed Pottichi Darul Eeman Syed Nagar, Manna, <b>TALIPARAMBA</b> <b>PIN 670141</b> <b>PAN AGYPA7147E</b> <b>KERALA.</b>	The ACIT, Central Circle-1, Kozhikode.	--	
40 to 43	115 to 118/COCH./2024	2017-18 to 2020-21	Shri Muhammed Jabir, ABC Sales Corporation, N.H. Road, <b>TALIPARAMBA</b> <b>PIN 670141</b> <b>PAN</b> <b>AIBPM1521B</b> <b>Kerala.</b>	The ACIT, Central Circle-1, Kozhikode.	--	
44 to 47	103 to 106/COCH./2024	2013-14, 2017-18 to 2019-20	Shri Kodyil Muhammed Madani, Partner, ABC Sales Corporation, <b>TALIPARAMBA</b> <b>PIN 670141</b> <b>PAN</b> <b>AHATPM7666E</b> <b>Kerala.</b>	The ACIT, Central Circle-1, Kozhikode.	--	

For Assessee :	-None-
For Revenue :	Shri Pandiyan, CIT-DR

Date of Hearing :	21.08.2024
Date of Pronouncement :	23.08.2024

## **ORDER**

### **PER BENCH :**

The instant batch of 49 appeals along with as many as corresponding 47 stay applications therein; pertains to nine assessees herein namely ABC Sales Corporation; ABC Buildware India (P) Ld.,; Kakkottakath Naduvilapurayil Junaid-ABC Sales Corporation; Shri K. Abdul Vaheed-ABC Sales Corporation; Ruchit Parimal Ashar, Gujarat, Shri Keeran Muhammed Basheer-ABC Buildware India Private Limited; Shri Abdul Gafoor Muhammed; Shri Muhammed Jabir-ABC Sales Corporation and Shri Kodyal Muhammed Madani, Partner-ABC Sales Corporation. All other relevant details already stand tabulated hereinabove.

Cases called twice. None appears at the assessee's behest. They are therefore, proceeded ex-parte.

2. It *prima facie* emerges during the course of hearing with the able assistance coming from the Revenue represented by the learned CIT-DR that although the CIT(A) herein has indeed passed a very detailed order running into 56 pages in ITA.No.441/COCH./2024 [treated as the “lead” appeal]; the fact remains that some of the fundamental issues raised therein have not been decided as contemplated u/sec.250(6) of the Act requiring him to frame points of determination followed by a detailed adjudication.

3. When we invited learned CIT-DR’s attention to the above “lead” appeal; he vehemently argued that the CIT(A) has duly considered the entire factual matrix whilst rejecting the assessee’s corresponding substantive grounds. Faced with this situation, we note that apart from various other issues; the assessee had argued in the lower appellate proceedings that the impugned assessment had not been framed in due compliance to sec.153D of the Act requiring the Assessing Officer to obtain the statutory approval from the prescribed authority(ies). Various recent landmark judicial precedents i.e., PCIT vs. Sapna Gupta [2023] 147 taxmann.com 288 (Allahabad); ACIT vs. Serazuddin,

& Co. 2023-SCC-Online-Ori-992 and PCIT vs. Anju Bansal 2023-SCC-Online-Del-4159 have rejected the Revenue's identical contentions thereby concluding that such an "approval could not simply be treated as a mechanical one but must contain the due application of mind by the authority concerned."

4. Learned CIT-DR at this stage takes us to page-43 para-56 in the lower appellate discussion wherein the CIT(A) appears to have rejected the assessee's corresponding substantive ground(s). We find there is not even an indication as to how and in what manner, the prescribed authority had applied his mind since it has treated sec.153D as *pari-materia* to sec.148 mechanism without any such indication in the Act. We accordingly deem it appropriate in these facts and circumstances and in larger interest of justice that the instant fundamental issue; along with all other substantive grounds herein, deserves to be adjudicated by the learned CIT(A) as per law. We wish to emphasize here that once we are setting aside the above fundamental issue(s); all other grounds must also follow the suit so as to avoid multiplicity of proceedings. This assessee's "lead"

appeal ITA.No.441/COCH./2024 is accepted for statistical purposes in above terms.

5. The next equally important question which invites our apt adjudication is the course of action to be adopted for all the remaining appeals. It is at this stage that we are informed that all these cases arise from the department's sec.132 search action in M/s. ABC group of concerns carried-out on 17.02.2020 wherein various inter-connected issues are raised at these assessee's behest. We thus deem it appropriate for the sake of brevity that all these other appeals raising inter-connected issues, and more particularly, those involving sec.153A and 153C assessments (supra), need to be re-adjudicated by the learned CIT(A) without getting influenced by his earlier lower findings. It is further clarified that all these assessee's shall indeed be at liberty to raise all their legal and factual arguments in consequential proceedings which would be dealt with in accordance with law. Ordered accordingly.

7. To sum-up, these nine assessee's instant forty nine (49) appeals are allowed for statistical purposes in above terms. Their corresponding forty seven (47) stay applications stand

rendered infructuous. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 23.08.2024.

Sd/-  
 [AMARJIT SINGH]  
 ACCOUNTANT MEMBER

Sd/-  
 [SATBEER SINGH GODARA]  
 JUDICIAL MEMBER

Cochin, Dated 23<sup>rd</sup> August, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Kochi-3, Kochi.
4.	The Pr. CIT, Kochi concerned
5.	The D.R. ITAT, Cochin Bench, Cochin.
6.	Guard File.

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,  
 Cochin