

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 1531/DEL/2024 (A.Y 2016-17)**

**&**

**I.T.A. No. 1532/DEL/2024 (A.Y 2017-18)**

<p>Inderjit Mehta Construction Pvt. Ltd. C/o. S. B. g. &amp; Co. Chartered Accountants, 9 Atta-ur-rehman Lane, Civic Lines, Delhi, New Delhi</p> <p><b>PAN No. AAACI3235L</b> <b>(APPELLANT)</b></p>	Vs.	<p>DCIT Central Circle-30 New Delhi <b>(RESPONDENT)</b></p>
--	-----	---

<b>Assessee by :</b>	<b>Sh. S. B. Gupta, CA</b>
<b>Department by:</b>	<b>Sh. Dayainder Singh Sidhu, CIT(DR)</b>

<b>Date of Hearing</b>	<b>16.10.2024</b>
<b>Date of Pronouncement</b>	<b>23.10.2024</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This above two captioned Appeals are filed for Assessment Year 2016-17 and 2017-18 respectively by challenging the orders dated 12/02/2024 & 08/02/2024 respectively of the Commissioner

of Income Tax Appeals-30, Second Floor, ARA Centre, Jhandewalan Extension, New Delhi-110055 ('Ld. CIT(A)' for short).

2. Since the issue involved in the above appeals are common, both the appeals are heard together and for the sake of convenience the Ground of Appeal in ITA No. 1531/Del/2024 for A.Y 2016-17 is reproduced as under: -

*"1. That the assessment order dated 21.03.2022 made under section 153A read with section 143 of the Income Tax Act, 1961 (Act, in short) is bad both in the eye of law and on facts.*

*2. That the Assessment Order dated 21/03/2023 without mandatory prior approval u/s 153D of JCIT and even subsequent approval being mechanical and without application of mind and, therefore, ought to be quashed.*

*3. That the proceedings initiated under section 153A and the assessment order dated 21.03.2022 made under section 153A read with section 143 of the Act without complying with the mandatory statutory conditions and procedure prescribed in the Act and without complying with the Principles of Natural Justice (Audi Alteram Partem) is illegal and unjustified and. therefore deserves to be quashed.*

*4. That the Assessment Order dated 21.03.2022 made by the AO not containing computer generated Document Identification Number (DIN) in the body of such Order is illegal and void-ab-initio because the Circular No. 19/2019 dated 14.08.2019 issued by Central Board of Direct Taxes (CBDT, in short) declares any Assessment Order as invalid and deemed to have never been issued unless a computer*

*generated DIN is allotted and also quoted in the body of such Order.*

*5. That the Notice of Demand dated 21.03.2022 made by the AO not containing computer generated DIN in the body of such Notice or otherwise is illegal and void- ab-initio because the Circular No. 19/2019 dated 14.08.2019 issued by Central Board of Direct Taxes (CBDT, in short), declares any communication as invalid and deemed to have never been issued unless a computer generated DIN is allotted and also quoted in the body of such communication.*

*6. That the Assessment Order dated 21/03/2022 made u/s 153A r.w.s. 143 without taking cognizance of the reply dated 06/03/2022, 07/03/2022, 14/03/2022, 15/03/2022 and 19/03/2022 submitted during the course of assessment proceedings is illegal and unjustified and, therefore, deserved to be quashed at the threshold itself.*

*7. That the addition of Rs. 1,14,41,370 made by the AO by disallowing the deduction u/s 80-IA, without considering necessary information and explanation along with evidence therefore submitted during the course of assessment proceedings, is illegal and unjustified and thus deserves to be deleted.*

*8. That the disallowance of deduction of Rs. 1,14,41,370 claimed by the assessee u/s 80-IA of the Act in its ITR filed u/s 153A of the Act is illegal and unjustified and, therefore, deserves to be allowed.*

*9. That the disallowance of deduction of Rs. 1,14,41,370 claimed by the assessee under Chapter-VIA of the Act in its ITR filed u/s 153A of the Act, without issuance of any show-cause notice in that respect, is illegal and unjustified and, therefore, deserves to be allowed.*

*10. That the disallowance of deduction of Rs. 1,14,41,370 claimed by the assessee under Chapter-VIA of the Act in*

*its ITR filed u/s 153A of the Act, without taking into cognizance the reply of the assessee containing information and explanation along with evidence therefore submitted during the course of assessment proceedings to substantiate the deduction claimed in ITR, is illegal and unjustified and, therefore, deserves to be allowed.*

*11. The appellant craves leave to amend, delete or add any grounds of appeal before or during the course of hearing of the appeal.”*

3. The Assessee vide Ground No. 2 in both the Appeals contended that the assessment orders dated 21/03/2023 have been passed without their being prior approval u/s 153D of the Act of the JCIT thereof, therefore, the assessment orders passed u/s 153A read with Section 143 of the Act are void and liable to be quashed. The Ld. Counsel for the Assessee has produced the sanction accorded by the Joint Commissioner of Income Tax dated 21-23/03/2022 to substantiate the said claim and sought for setting aside the impugned assessment orders.

4. Per contra, the Ld. Departmental Representative submitted that the Ld. JCIT has passed the approval u/s 153D of the Act on 21/03/2022 itself, however, the same has been communicated to the A.O. on 23/03/2022. Further submitted that, though the approval u/s 153D of the Act has not been made available to the

A.O. before passing the Assessment Order or the A.O. has not waited for the approval, however, as on the date of passing the assessment order there was an existence of order passed u/s 153D of the Act according to the approval u/s 153D of the Act, therefore, the assessment orders cannot become illegal on the said ground. Thus, sought for dismissal of Ground No.2 of the Assessee.

5. We have heard both the parties and perused the material available on record. Admittedly, the impugned assessment orders have been passed u/s 153A r.w.s 143 of the Act on 21/03/2022 running into 130 pages. On perusal of the order of the approval of the JCIT u/s 153D of the Act, the date has been printed on the 21/03/2022 and the date is also mentioned as '23' by hand. It is evident from the said approval the approval has been received by the A.O. only on 23/03/2022, thus it is crystal clear that the approval order went beyond the control of the JCIT only on 23/03/2022. The impugned assessment orders have been passed two days prior to the approval received by the A.O., in other words, as on the date of passing the assessment orders, there was no approval accorded u/s 153D of the Act in the file of the A.O.

6. Bare perusal approval granted u/s 153D of the Act, the A.O. vide letter dated 21/03/2022 sought for approval u/s 153D of the Act from the JCIT and without waiting for the approval from the JCIT, the A.O. on the very same day i.e on 21/03/2022 passes the assessment order without waiting for the comments or suggestions or approval of the JCIT. There was no mentioning of the fact regarding A.O. submitting the draft Assessment Order and perusal of the Draft Assessment Order submitted by the A.O. by the JCIT while according the approval.

7. As per Section 153D of the Act no order of assessment or re-assessment shall be passed by an Assessing Officer below the rank of Joint Commissioner of in respect of each Assessment Year referred in Clause (b) of Sub Section (1) of Section 153A or the Assessment Year referred to in the Clause (b) of Sub-Section (1) of Section 153B, except with the prior approval of the Joint Commissioner. Thus the provision of Section 153D of the Act puts an embargo on the A.O. to pass the Assessment Order u/s 153A r.w. Section 143A of the Act without their being prior approval of Joint Commissioner. Therefore, the impugned assessment orders

have been passed in violation of the provisions of Section 153D of the Act, accordingly, the assessment order will not survive in the eyes of law. Considering the above facts and circumstances, in our opinion, as the impugned Assessment Orders dated 21/03/2023 passed u/s 153A r.w. Section 143 of the Act have been passed in the absence of valid approval u/s 153D of the Act, the assessment orders passed for Assessment Year 2016-17 and 2017-18 are hereby quashed.

8. Since, we have quashed the assessment orders as the same are in violation of Section 153D of the Act, the other grounds of Appeal urged by the Assessee on merits requires no adjudication, accordingly, the Appeals of the Assessee in ITA No. 1531/Del/2024 and 1532/Del/2024 are partly allowed.

Order pronounced in open Court on 23<sup>rd</sup> October, 2024

**Sd/-**

**( S. RIFAUR RAHMAN )**  
**ACCOUNTANT MEMBER**

Dated: 23/10/2024

*R.N, Sr. PS\**

**Sd/-**

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI