

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 1786/Mum/2023

Assessment Year: 2017-18

I.T.A. No. 1787/Mum/2023

Assessment Year: 2013-14

I.T.A. No. 1788/Mum/2023

Assessment Year: 2015-16

I.T.A. No. 1789/Mum/2023

Assessment Year: 2016-17

I.T.A. No. 1790/Mum/2023

Assessment Year: 2012-13

I.T.A. No. 1791/Mum/2023

Assessment Year: 2014-15

I.T.A. No. 1792/Mum/2023

Assessment Year: 2018-19

Nilesh Shamji Bharani Room No. 5 1 st Floor, Sharda Sadan Plot No. 7 Swami Gyanjivandas marg Dadar East Mumbai - 400014 [PAN: AABPB4581G]	Vs	DCIT, CC-4(1), Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Vinod Kumar Bindal & Shri Satish Kumar, A/Rs
Revenue by :	Shri Kailash C. Kanojiya, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 04/12/2024

घोषणा की तारीख /Date of Pronouncement: 06/12/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

The captioned seven appeals by the assessee are preferred against seven different orders of the Id. CIT(A)-52, Mumbai, dated 31/03/2023, pertaining to AY 2012-13 to 2017-18.

2. All these appeals involve common grounds of appeal and the underlying facts in the issues are identical. Therefore, all these appeals were heard together and are disposed off by this common order for the sake of convenience and brevity.

3. For the sake of our convenience, we are deciding the captioned appeals on the basis of the ground argued before us in ITA No. 1790/Mum/2023 for AY 2012-13.

4. The assessee has raised several grounds of appeal but the ground argued before us reads as under:-

“The CIT(A) erred in not quashing the assessment order as the purported approval u/s 153D validating the lack of compliance to the mandatory prescribed procedures ignored by the AO while passing the impugned order u/s 143(3) r.w.s. 153A of the Act as below:

- (i) as it is physically impossible to deal with approval in more than 80 cases in a day, to make corrections in the draft orders and then for the AO to pass the correct orders, all in a single day,*
- (ii) when no record of the suggested corrections and the pre and post correction assessments was provided,*
- (iii) when no record by way of the dispatch-receipt registers has been provided despite of the applications under RTI Act,*
- (iv) when the impugned approval was without any reference to the incriminating documents / appraisal report/statements ...”*

5. Representatives of both the sides were heard at length on the ground mentioned hereinabove.

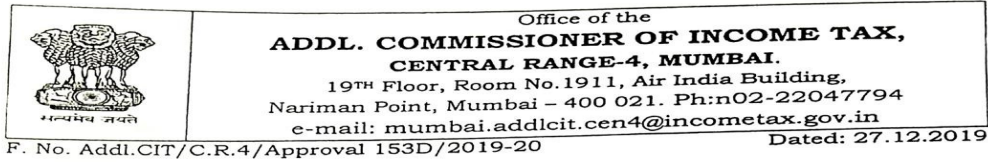
6. The underlying facts in the impugned issue are that a search/survey action u/s 132/133A of the Act was carried out on 06/10/2017 in case of Sunshine Group, M/s. Sabari Developers LLP and M/s. Evergreen Enterprises and other entities at their offices, branches and residences of main persons. The residential premises of the directors of the group companies were also covered under the search action u/s 132 of the Act. During the course of search action at the premises of M/s. Evergreen Enterprises, documentary evidences

were found unearthing an undisclosed activity of money lending in unaccounted cash being operated at the premises of M/s. Evergreen Enterprises by Mr. Nilesh Bharani.

7. Subsequent to the search, notices u/s 153A of the Act has been issued and served on the assessee and in response to the notices, the assessee filed his return of income declaring total income at Rs. 24,16,570/-.

8. A perusal of the ground argued before us mentioned elsewhere shows that the issue is principally concerned with the validity of the approval accorded in terms of Section 153D of the Act. We find from the record that the competent authority, chose to accord approval to as many as 21 proposed assessments, by way of a single letter of approval.

That approval reads as under:-



To,
Dy. Commissioner of Income Tax,
Central Circle - 4(1),
Mumbai.

Sub: Approval u/s 153D of the IT Act for assessment in the case of **Shri Nilesh Shamji Bharani (PAN: AABPB4581G)** for A.Ys. 2012-13 to 2018-19 - Reg.
Ref: No. DCIT.CC-4(1)/Approval-153D/2019-20 dated 27.12.2019.

Please refer to the above.

2. The draft assessment orders in the abovementioned case u/s 143(3) r.w.s. 153A of the IT Act, 1961 for A.Ys. 2012-13 to 2017-18 & u/s 143(3) of the IT Act, 1961 for A.Y. 2018-19, are hereby approved u/s 153D of the IT Act, 1961 subject to the corrections made therein. Once the final order is made, a copy of the same shall be submitted to this office for records.



(B. YADAGIRI)
Addl. Commissioner of Income-tax,
Central Range - 4, Mumbai

9. The letter sent to the Additional Commissioner of Income-tax Central Range-4, Mumbai, reads as under:-



सत्यमेव जयते

GOVERNMENT OF INDIA
Office of the
DEPUTY COMMISSIONER OF INCOME TAX,
Central Circle - 4(1), Central Range - 4,
Room no. 1918, 19th floor, Air India Building, Nariman Point, Mumbai 400 021,
Tel : 022-2204 8352, Email : mumbai.dcit.cen4.1@incometax.gov.in

No. DCIT/CC/10/Approval/10517/Sunshine/Group/4019-20 Date: 27.12.2019

To
The Addl. Commissioner of Income-tax
Central Range-4
Mumbai



Sir,

Sub: Block Assessment orders – Approval u/s 143B Sought
for – reg.

Kindly refer to the above.

2. Kindly find enclosed herewith draft assessment order of below mentioned assessee:


Sr. No.	Name	PAN	A.Y.	Section under which approval is sought
1	Jayesh S Vira	AACPV7439G	2018-19	143(3)
2	Le Shark Export Pvt. Ltd.	AAACL2749Q	2017-18	143(3) r.w.s. 153A
3	Uday Singala	AMSPS0181L	2018-19	143(3)
4	Pratik J Vira	ADBPV8590Q	2018-19	143(3)
5	Meghdoot Export Inport Pvt. Ltd.	AAACM3333K	2018	143(3)
6	Surinder B Sharma	AAGPS8222G	2018-19	143(3)
7	Rashmin G Rughani	AABPR0302D	2017	143(3) r.w.s. 153A
8	Rashmin G Rughani	AABPR0302D	2018-19	143(3)
9	Evergreen Enterprises	AADFE8617J	2012-13 to	143(3) r.w.s. 153A

			2017-18	
10	Evergreen Enterprises	AADFE8617J	2018-19	143(3)
11	Hemendra Vira	AABPV6781A	2013-14 to 2015-16	143(3) r.w.s. 153A
12	Nilesh Bharani	AABPB4581G	2012-13 to 2017-18	143(3) r.w.s. 153A
13	Nilesh Bharani	AABPB4581G	2018-19	143(3)
14	Ramila A Rughani	AABPB4582F	2013-14 & 2015-16	143(3) r.w.s. 153A
15	Ramila A Rughani	AABPB4582F	2018-19	143(3)
16	Sabri Developers LLP	AA YFS9056N	2012-13 to 2017-18	143(3) r.w.s. 153A
17	Sabri Developers LLP	AA YFS9056N	2018-19	143(3)
18	Shantilal H. Savla	AAJPS2561B	2018-19	143(3)
19	Sharad J Shethia	AAHPS6637A	2018-19	143(3)
20	Vijay N Goradia	AABPG2179B	2018-19	143(3)
21	Rohit V Shah	AADPS7506A	2018-19	143(3)

The assessment order is self-explanatory covering all the issues as per seized material, Appraisal Report and the material available on record. It is requested to accord your kind approval as required u/s 153D of the IT Act, 1961. It is pertinent to mention here that the time limitation for passing order in this case expires on 31.12.2019.

3. Assessment records in 39 volumes are submitted herewith for your kind perusal.

Yours faithfully,


(JITENDRA YADAV)
DCIT, Central Circle - 4(1), Mumbai.

10. We have given a thoughtful consideration to the letters sent by the Deputy Commissioner of Income Tax, Central Circle -4(1), Central Range-4, Mumbai to the competent authority, Addl. Commissioner of Income-tax, Central Range-4, Mumbai. We find that the letter was sent by the AO on 27/12/2019 and the approval given by the Addl. Commissioner of Income-tax, Central Range-4, Mumbai, was also on 27/12/2019. It can be seen from the letter signed by the AO that approval was sought in 21 cases of different assesseees, may or may not be belonging to the same group. We have gone through each and every

approval granted by the Addl. Commissioner of Income-tax, Central Range-4, Mumbai *vis-à-vis* each and every proposal made by the Deputy Commissioner of Income Tax, Central Circle -4(1), Central Range-4, Mumbai.

11. The issue which we have to decide is, can these approvals be treated as fulfilling the mandatory provisions of Section 153D of the Act *vis-à-vis* legislative intent of the said section in the statute. Section 153D of the Act reads as under:

"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 153 B, except with the prior approval of the Joint Commissioner. Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Commissioner under sub-section (12) of section 144BA."

12. The Legislative intent can be gathered from the CBDT Circular No. 3 of 2008 dated 12/03/2008 which reads as under:

"50. Assessment of search cases Orders of assessment and reassessment to be approved by the Joint Commissioner.

50.1 The existing provisions of making assessment and reassessment in cases where search has been conducted under section 132 or requisition is made under section 132 A does not provide for any approval for such assessment.

50.2 A new section 153D has been inserted to provide that no order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner except with the previous approval of the Joint Commissioner. Such provision has been made applicable to orders of assessment or reassessment passed under clause (b) of section 153A in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A. The provision has also been made applicable to orders of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/08/2024 at 21:42:30 assessment passed under clause (b) of section 153B

in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisitioned is made under section 132A.

50.3 Applicability- These amendments will take effect from the 1st day of June, 2007."

13. The Legislative intent is clear from the above, in as much as, prior to the insertion of Section 153D of the Act, there was no provision for taking approval in cases of assessment and reassessment in cases where search has been conducted. Thus, the legislature wanted the assessments/reassessments of search and seizure cases should be made with the prior approval of superior authorities which also means that the superior authorities should apply their minds on the material on the basis of which the officer is making the assessment and after due application of mind and on the basis of seized materials, the superior authorities have to approve the assessment order.

14. In light of the aforesaid relevant provisions and legislative intent, approval dated 27/12/2019 is in respect of 21 assesseees. Thus, the worthy Addl. Commissioner of Income-tax, Central Range-4, Mumbai, gave approval to 21 assessment orders by a single approval letter u/s 153D of the Act, as mentioned elsewhere.

15. We find that there is no whisper of any seized material sent by the AO with his proposal requesting the approval u/s 153D of the Act. All the requests for approval are exhibited at pages 25 to 31 of the paper book. Even the approval granted by the Addl. Commissioner of Income-tax, Central Range-4, Mumbai, does not refer to any seized material/assessment records or any other documents which could suggest that the Addl. Commissioner of Income-tax, Central Range-4, Mumbai, has duly applied his mind before granting approvals.

16. Before us, the Id. D/R has elaborately explained the procedure to justify that the approval granted was not mechanical but after giving a thoughtful consideration to the facts of the case. The AO in his report dated 04/12/2023, has also explained the procedure. The relevant comments of the AO read as under:-

“The assessee challenged that the approval of the Addi. CIT for passing an assessment order is mechanical in nature and does not indicate any application of mind.

Though approval is given on one particular date, however, consultation and guidance have been regularly provided by the Range head to the assessing officer (AO) concerned on regular basis right from the issuance of notice u/s 142(1) and replies furnished by the assessee till finalization of assessment order. During the course of assessment proceedings, the assessing officer regularly consults the Range Head. Every meeting is not codified in the form of written communication but it doesn't mean that there was no discussion or consultation between the Range head and the assessing officer. The entire set up in the Income Tax Department itself revolves around the Range Head and the assessing officers cannot conduct enquiry, issue notices, pass orders etc. without the knowledge of the Range Head concerned. In this case also, such regular meetings have taken place between the Range head and the assessing officer. While granting approval for assessment order passed, the Range head concerned would only say whether he is granting approval or he is not granting approval. Such approval would not contain information about number of meetings which took place between the Range head and the assessing officer and the nature of discussion that have taken place between them. Every step of the AO being closely monitored by the Range Head and every action having been watched closely, it was felt that it was not necessary to write the manner in which such meetings have been conducted. Further, the approval granted by the Range Head is administrative in nature and is not a judicial proceeding. Further, if an order has been approved by the Range Head that only means that the approving authority has granted approval only after application of mind. The contents of the assessment order have been in toto approved by the Range Head and therefore there is no need for the Range Head to say that the draft assessment order submitted by the AO requires modification and the approval would only say that such order submitted had been approved.

Though the approval had been granted in respect of 39 Assessment years of 19 assesseees it doesn't mean that application of mind has not been there in respect of the said cases. Either single approval in respect of a single case or single approval in respect of multiple cases are one and the same

because the contents of such approval only would pertain to whether the Range Head has

situations the Range Head would have merely stated 'Approval granted' as he has been monitoring all these cases on regular basis and the approval granted at the end is mere culmination of the previous regular consultations and discussions.

In this regard, it is stated that the case has been selected for search scrutiny u/s 153A/153C of the IT Act, on tangible material evidence on record which was found and seized during the search and survey action. As the case falls under the ambit of search action, accordingly the case is centralized for central circles for assessment. The copy of the appraisal, which is the core findings of the search action, has also been provided to the assessing officer and Addl. CIT of the range concerned for assessment in the central charges.

Thus, the Addl. CIT of the range concerned has also been familiar with the findings of the case and give directions to the assessing officer as per the provisions laid down in the Income Tax Act, 1961. The AO, on the basis of available records and after going through the merits of the case and submissions made by the assessee during assessment proceedings, prepared draft assessment order and put up the same to the Addl. CIT of the concerned range for approval. The Addl. CIT, after duly and independently applying mind well within the ambit of law and after through verification of the facts and merits of the case, gives approval u/s 153D for passing the assessment order.

In view of the above, the contention of the assessee that the approval was mechanical in nature is baseless and devoid of any merit."

17. The Hon'ble High Court of Orissa had the occasion to consider a similar argument in the case of *ACIT vs. M/s. Serajuddin & Co. Kolkata*, in *ITA Nos. 39 to 45 of 2022*, wherein the Hon'ble Court considered the following submissions made by the Id. Senior Standing Counsel for the revenue:-

"(i) In the present case, prior approval had in fact been taken by the AO from the Additional CIT and there was no illegality in that regard.

(ii) The approval of the superior officer was distinct from the assessment order. It was a mere administrative order and not open to challenge before a court of law. In other words, it was submitted that the approval granted by the Additional CIT was not justiciable and could not form the basis for challenging the assessment order.

(iii) What could only be challenged is want of sanction. Reliance was placed on the decision of the ITAT, Mumbai in ITA No.3874/ Mumbai/2015 ([Pratibha Pipes & Structural Limited v. DCIT](#)).

(iv) There was no requirement for any hearing to be given to the Assessee by the supervisory officer prior to giving approval although Clause-9 of the Manual of Office Procedure stipulates it.

This, therefore, cannot be said to be mandatory. Reliance was placed on the decisions of the Karnataka High Court in [Gopal S. Pandit v. CIT](#) 96 taxmann.com 233 and [Rishab Chand Bhansali v. DCIT](#) 267 ITR 577 and of the Madras High Court in [Sakthivel Bankers v. ACIT](#) 255 ITR 144 which were all in the context of Section 158 BG of the Act.

(v) The mere irregularity in granting approval in the context of [Section 158BG](#) of the Act was held not to be fatal to the assessment order. Reliance was placed on the orders of the Kolkata ITAT in [Shaw Wallace & Co. Ltd. v. ACIT](#), 68 ITD 148 and of the Delhi ITAT in [Kailash Moudgil v. DCIT](#), 72 ITD 97. Reliance was also placed on the decision of the Karnataka High Court in [Gayathri Textiles v. CIT](#), 111 taxman 123 where it was held that for the purpose of [Section 271 \(1\) \(c\)](#) of the Act, the failure to obtain prior permission from the IAC for imposing penalty was only a procedural error and not fatal to the order of penalty.

(vi) Since the entire documents were already available to the Additional CIT in the file sent for approval, there was no need for exchange of the said documents prior to the grant of formal approval under [Section 153D](#) of the Act.

(vii) Lastly, it was submitted that even if there had been a violation of the principles of natural justice, unless prejudice were shown by the Assessee, no interference with the assessment orders was warranted. Reliance was placed on the decisions in [Dharampal Satyapal Limited v. Deputy Commissioner of Central Excise Gauhati](#) (2015) 8 SCC 519; [Managing Director, ECIL v. B. Karunakar](#) (1993) 4 SCC 727; [Haryana Financial Corporation v. Kailash Chandra Ahuja](#) (2008) 9 SCC 31; [State Bank of Patiala v. S.K. Sharma](#) (1996) 3 SCC 364; [P.D. Agrawal v. State of Bank of India](#) (2006) 8 SCC 776 and [State of U.P. v. Sudhir Kumar Singh](#). It was then submitted that where initiation was valid but completion was not correct, the order may not be invalid but only irregular because the intervening irregularity is a curable one. Reliance was placed on the decision of the Kerala High Court in [Panicker \(CGG\) v. CIT](#), (1999) 237 ITR 443 and [CIT v. M. Krishnan \(N\)](#) (1999) 235 ITR 386. It was submitted that mere technicality should not defeat justice."

18. The Hon'ble Court *inter alia* held as under:-

"22. As rightly pointed out by learned counsel for the Assessee there is not even a token mention of the draft orders having been perused by the Additional CIT. The letter simply grants an approval. In other words, even the bare minimum requirement of the approving authority having to indicate what the thought process involved was is missing in the aforementioned approval order. While elaborate reasons need not be given, there has to be some indication that the approving authority has examined the draft orders and finds that it meets the requirement of the law. As explained in the above cases, the mere repeating of the words of the statute, or mere "rubber stamping" of the letter seeking sanction by using similar

words like 'see' or 'approved' will not satisfy the requirement of the law. This is where the Technical Manual of Office Procedure becomes important. Although, it was in the context of [Section 158BG](#) of the Act, it would equally apply to [Section 153D](#) of the Act. There are three or four requirements that are mandated therein, (i) the AO should submit the draft assessment order "well in time". Here it was submitted just two days prior to the deadline thereby putting the approving authority under great pressure and not giving him sufficient time to apply his mind; (ii) the final approval must be in writing; (iii) The fact that approval has been obtained, should be mentioned in the body of the assessment order.

19. We find that the SLP preferred by the revenue against the aforementioned decision in the case of *M/s. Serajuddin & Co. Kolkata (supra)*, came to be dismissed by the Hon'ble Supreme Court vide order dated 28/11/2023 in *SLP(Civil) Diary No(s). 46964/2023*.

20. In light of the aforementioned decisions, we are of the considered view that an approval of superior officer cannot be a mechanical exercise and this has been emphasised in several decision. A reference can be made in the context of Section 142(2A) of the Act which empowers the AO to direct a special audit. The obtaining of the prior approval was held to be mandatory when the Hon'ble Supreme Court in the case of *Rajesh Kumar vs. Dy. CIT (2007) 2 SCC 181*, observed as under:-

"58. An order of approval is also not to be mechanically granted. The same should be done having regard to the materials on record. The explanation given by the assessee, if any, would be a relevant factor. The approving authority was required to go through it. He could have arrived at a different opinion. He in a situation of this nature could have corrected the assessing officer if he was found to have adopted a wrong approach or posed a wrong question unto himself. He could have been asked to complete the process of the assessment within the specified time so as to save the Revenue from suffering any loss. The same purpose might have been achieved upon production of some materials for understanding the books of accounts and/ or the entries made therein. While exercising its power, the assessing officer has to form an opinion. It is final so far he is concerned albeit subject to approval of the Chief Commissioner or the Commissioner, as the case may be. It is only at that stage he is required to consider the matter and not at a subsequent stage, viz., after the approval is given."

21. Thus, where the approval is granted mechanically, it would vitiate the assessment order itself.

22. Similar quarrel arose in a bunch of cases considered by the Hon'ble High Court of Delhi belonging to M/s. MDLR Hotels Pvt. Ltd. group in ITA No. 593/2023 & Ors., wherein the Hon'ble High Court *interalia* was seized with the following substantial question of law:-

"1. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT is correct in allowing the appeal of the assessee and quashing the assessment order by holding that the approval has been given mechanically without application of mind despite the fact that Range Head was fully involved in each and every aspect of this case and had duly applied his mind in the process of completion of assessment proceedings."

22.1. The Hon'ble High Court held as under:-

"4. We note that dealing with an identical challenge of approval having been accorded mechanically and without due application of mind had arisen for our consideration in Pr. Commissioner of Income Tax -7 vs Pioneer Town Planners Pvt. Ltd [2024 SCC OnLine Del 1685] and where we had held as follows:

"13. The primary grievance raised in the instant appeal relates to the manner of recording the approval granted by the prescribed authority under [Section 151](#) of the Act for reopening of assessment proceedings as per [Section 148](#) of the Act.

14. It is pertinent to first examine the mandate of [Section 151](#) of the Act, as it stood prior to the substitution by Act No. 13 of 2021. For the sake of clarity, the same is reproduced as under:-

"151. Sanction for issue of notice.--(1) No notice shall be issued under [Section 148](#) by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice. (2) In a case other than a case falling under sub-section (1), no notice shall be issued under [Section 148](#) by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice. (3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a

case for the issue of notice under [Section 148](#), need not issue such notice himself."

15. A plain reading of the aforesaid provision would indicate that [Section 151](#) of the Act stipulates that the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner This is a digitally signed order. The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/08/2024 at 21:42:32 or Commissioner must be "satisfied", on the reasons recorded by the AO, that it is a fit case for the issuance of such notice. Thus, the satisfaction of the prescribed authority is a sine qua non for a valid approval as per the said Section.

xxxxx xxxxxx xxxxxx

17. Thus, the incidental question which emanates at this juncture is whether simply penning down "Yes" would suffice requisite satisfaction as per [Section 151](#) of the Act. Reference can be drawn from the decision of this Court in N. C. Cables Ltd., wherein, the usage of the expression "approved" was considered to be merely ritualistic and formal rather than meaningful. The relevant paragraph of the said decision reads as under:--

"11. [Section 151](#) of the Act clearly stipulates that the Commissioner of Income-tax (Appeals), who is the competent authority to authorize the reassessment notice, has to apply his mind and form an opinion. The mere appending of the expression "approved" says nothing. It is not as if the Commissioner of Income-tax (Appeals) has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise appears to have been ritualistic and formal rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the court is satisfied that the findings by the Income-tax Appellate Tribunal cannot be disturbed."

18. Further, this Court in the case of Central India Electric Supply \ [Co. Ltd. v. ITO](#) [2011 SCC OnLine Del 472] has taken a view that merely rubber stamping of "Yes" would suggest that the decision was taken in a mechanical manner. Paragraph 19 of [the said decision](#) is reproduced as under:--

"19. In respect of the first plea, if the judgments in Chhugamal Rajpal, (1971) 79 ITR 603 (SC), Chanchal Kumar Chatterjee, (1974) 93 ITR 130 (Cal) and Govinda Choudhury and Sons case, (1977) 109 ITR 370(Orissa) are examined, the absence of reasons by the Assessing Officer does not exist. This is so as along with the proforma, reasons set out by the Assessing Officer were, in fact, given. However, in the instant case, the manner in which the proforma was stamped amounting to approval by the Board leaves much to

be desired. It is a case where literally a mere stamp is affixed. It is signed This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/08/2024 at 21:42:33 by an Under Secretary underneath a stamped Yes against the column which queried as to whether the approval of the Board had been taken. Rubber stamping of underlying material is hardly a process which can get the imprimatur of this court as it suggests that the decision has been taken in a mechanical manner. Even if the reasoning set out by the Income-tax Officer was to be agreed upon, the least which is expected is that an appropriate endorsement is made in this behalf setting out brief reasons. Reasons are the link between the material placed on record and the conclusion reached by an authority in respect of an issue, since they help in discerning the manner in which conclusion is reached by the concerned authority. Our opinion is fortified by the decision of the apex court in [Union of India v. M.L. Capoor](#), (1973) 2 SCC 836 : AIR 1974 SC 87, 97 wherein it was observed as under:

"27.. .. We find considerable force in the submission made on behalf of the respondents that the 'rubber stamp' reason given mechanically for the supersession of each officer does not amount to 'reasons for the proposed supersession'. The most that could be said for the stock reason is that it is a general description of the process adopted in arriving at a conclusion.

28.. .. If that had been done, facts on service records of officers considered by the Selection Committee would have been correlated to the conclusions reached. Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable."

(emphasis supplied)"

19. In the case of Chhugamal Rajpal, the Hon'ble Supreme Court refused to consider the affixing of signature alongwith the noting "Yes" as valid approval and had held as under:--

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/08/2024 at 21:42:34 Further the report submitted by him under [Section 151\(2\)](#) does not mention any reason for coming to the conclusion that it is a fit case for the issue of a notice under [Section 148](#). We are also of the opinion that the Commissioner has mechanically accorded permission. He did not himself record that he was satisfied that this was a fit case for the issue of a notice under [Section 148](#). To Question 8 in the report which reads "whether the Commissioner is satisfied that it is a fit case for the issue of notice under [Section 148](#)", he just noted the word "yes"

and affixed his signatures thereunder. We are of the opinion that if only he had read the report carefully, he could never have come to the conclusion on the material before him that this is a fit case to issue notice under [Section 148](#). The important safeguards provided in [Sections 147](#) and [151](#) were lightly treated by the Income Tax Officer as well as by the Commissioner. Both of them appear to have taken the duty imposed on them under those provisions as of little importance. They have substituted the form for the substance.

20. This Court, while following *Chhugamal Rajpal* in the case of *Ess Adv. (Mauritius) S. N. C. Et Compagnie v. ACIT* [2021 SCC OnLine Del 3613], wherein, while granting the approval, the ACIT has written-"This is fit case for issue of notice under [section 148](#) of the Income- tax Act, 1961. Approved", had held that the said approval would only amount to endorsement of language used in [Section 151](#) of the Act and would not reflect any independent application of mind. Thus, the same was considered to be flawed in law.

21. The salient aspect which emerges out of the foregoing discussion is that the satisfaction arrived at by the prescribed authority under [Section 151](#) of the Act must be clearly discernible from the expression used at the time of affixing its signature while according approval for reassessment under [Section 148](#) of the Act. The said approval cannot be granted in a mechanical manner as it acts as a linkage between the facts considered and conclusion reached. In the instant case, merely appending the phrase "Yes" does not appropriately align with the mandate of [Section 151](#) of the Act as it fails to set out any degree of satisfaction, much less an unassailable satisfaction, for the said purpose.

22. So far as the decision relied upon the Revenue in the case of *Meenakshi Overseas Pot. Ltd.* is concerned, the same was a case where the satisfaction was specifically appended in the proforma in terms of the phrase-"Yes, I am satisfied". Moreover, paragraph 16 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/08/2024 at 21:42:36 of [the said decision](#) distinguishes the approval granted using the expression "Yes" by citing *Central India Electric Supply*, which has already been discussed above. The decision in the case of *Experion Developers P. Ltd.* would also not come to the rescue of the Revenue as the same does not deal with the expression used in the instant appeal at the time of granting of approval.

23. Therefore, it is seen that the PCIT has failed to satisfactorily record its concurrence. By no prudent stretch of imagination, the expression "Yes" could be considered to be a valid approval. In fact, the approval in the instant case is apparently akin to the rubber stamping of "Yes" in the case of *Central India Electric Supply*."

5. In view of the aforesaid, we find no justification to interfere with the view expressed by the Tribunal. No substantial question of law arises. The appeals fail and shall stand dismissed. "

23. Considering the approval granted by the competent authority mentioned elsewhere in light of the judicial decisions discussed hereinabove, we have no hesitation in holding that the approval granted by the Addl. Commissioner of Income-tax, Central Range-4, Mumbai, is not only mechanical but against the ratio laid down by the Hon'ble High Court (*supra*). Therefore, the resultant assessment orders deserve to be quashed.

24. Since we have quashed the impugned assessment orders, all the issues raised by the assessee have been left open as they become academic.

25. In the result, the captioned appeals by the assessee are allowed.

Order pronounced in the Court on 6th December, 2024 at Mumbai.

Sd/-

(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 06/12/2024

Sd/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai