

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.493/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Choudhury Swapan Kumar Mohapatra, Flat Dr. B.S.pani Lane, PO: Gopalgan, Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :ADBPM 5411 B		

AND

आयकर अपील सं/ITA No.494/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Rajendra Kumar Gupta, At Nilia Bag, PO/PS: Vivekananda Marg, Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :ACXPG 1473 G		

AND

आयकर अपील सं/ITA No.502/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Rohit Gupta, At: Proof Road, PO/PS/Dist: Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :AEVPG 6418 H		

AND

आयकर अपील सं/ITA No.503/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Pramod Kumar Karan, At: Karan Commercial Corp. Near Tebtulia thakurani, Geneswarpur, PO/PS/DIST: Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :AEBPK 3017 L		

AND

आयकर अपील सं/ITA No.504/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Rashmi Kanta Jatania, At: Near Town Hall, PO/PS/DIST: Balasore,	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :ABYPJ 3575 C		

AND

आयकर अपील सं/ITA No.512/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Kalyan Kumar Chand C/o: Prasanta Kumar Chand, At: Chandmaripadia, PO: Sahadevkhunta, Dist: Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :ABFPC 4650 A		

AND

आयकर अपील सं/ITA No.513/CTK/2024
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Abhay Kumar Kar, M/s Kaniska Syndicate, At/PO: O.t.Road, Dist: Balasore-756001	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :AEBPK 3020 M		

AND

आयकर अपील सं/ITA No.514/CTK/2024
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Amitabh Giri, At: Plot No.1 PO/PS: Naya Bazar, District : Balasore-756001	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :ACXPG 3163 H		

AND

आयकर अपील सं/ITA No.529/CTK/2024
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Abhaya Mohapatra, At : Flat Gopalgaon, PO/Ps : Gopalgaon District : Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. : ACEPM 7348 D		

AND

आयकर अपील सं/ITA No.530/CTK/2024
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Badal Chandra Senapati, At: Ranakutha, PO/PS: Tukurihazira, Dist : Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :AOKPS 4890 J		

AND

आयकर अपील सं/ITA No.532/CTK/2024
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Dipak Kumar Rana, At: 1, Noorpur Road, Motiganj, At/PO: Motiganj, Dist : Balasore	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :ACAPR 1293 E		

AND

आयकर अपील सं/ITA No.56/CTK/2025
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Rajkamal Kar, At: M/s Ridhi Transline, PO: Bhaskarganj, B.C.Sen Rd, Dist : Balasore-756001	Vs	ACIT, Central Circle-2, Bhubaneswar
PAN No. :AIQPK 4778 B		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, Himanshu Jena and Narahari Swain, Advocates
राजस्व की ओर से /Revenue by	:	Shri Saroj Kumar Dubey, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	29/01/2025
घोषणा की तारीख/ Date of Pronouncement	:	29/01/2025

आदेश / O R D E R

Per Bench :

These twelve appeals filed by twelve different assessees against the separate orders passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi, all dated 01.11.2024 for the assessment year 2016-2017.

2. Since common issue is involved in all the appeals, therefore, all the appeals are tagged together and disposed off by this consolidated order. First we shall decide appeal in the case of Choudhury Swapan Kumar Mohapatra, filed in ITA No.493/CTK/2024 for A.Y.2016-20017 and outcome of the same shall be applicable to all the other appeals under consideration.

3. ITA No.493/CTK/2024 is filed by the assessee-Choudhury Swapan Kumar Mohapatra, against the order dated 01.11.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2024-25/1070072128(1) for the assessment year 2016-2017.

4. It was submitted by the Id. AR that the assessee is challenging the assessment order on two technical grounds; first being the satisfaction recorded before initiation of proceedings u/s.153C of the Act and the second being in respect of approval granted u/s.153D of the Act by the Id.

JCIT. It was the submission that in respect of the satisfaction recorded, the AO has recorded his satisfaction in the assessee's case which is shown in ordersheet available at page 1 of the paper book as follows :-

Order sheet **ANNEXURE - 1** **1**

Name of the Assessee : SHRI CHOUDHURY SAPAN KUMAR MOHAPATRA
PAN : ADBPM5411B
AY : 2016-17

03.01.2018 : In this case, it is found that the Assessee i.e CHOUDHURY SAPAN KUMAR MOHAPATRA has entered into various transactions with Assessee Group M/s SM Consultancy having large implication of the income etc . The seized documents SMCB-10,11 and 73, bears evidence in this respect. In view of this, the Assessment proceedings U/s 153C of the I.T.Act are initiated.

AM
ACIT

16.04.2018 : The notice u/s 153C of the I. T. Act, 1961, as per rule, is generated in the system and sent to the Assessee.

03/08/2018 Notice u/s 142(1) of the Act is issued for compliance on 17/08/2018. AM
DCIT

13/09/2018 Notice u/s 142(1) of the Act along with requisitions are issued for compliance on 17/09/2018. A.O.

13/09/2018 Notice u/s 143(2) of the Act along with is issued for compliance on 19/09/2018. A.O.

17/09/2018 A/R of the assessee, Sri Ranjan Kr. Mishra appeared and sought adjournment to 2nd week of November. The matter is discussed and the case is adjourned to 26/09/2018. AO

26/09/2018 Sri R.K. Mishra, FCA & AR of the assessee appeared and the case is discussed with him. He is asked to file computation of total income and supporting documents thereof, Bank Statements of all bank accounts with narrations, Ledger copies of expenses claimed with supporting documents, Details of liabilities, unsecured loan and Capital a/c along with documents. He is also asked to file written submission/explanation as why the amount received /receivable from M/s S.M. Consultants (Sri Soumendra Kumar Mohanty) on resignation from the trust M/s Modern Engineering and Management Fund would not be considered for taxation on the hand of the assessee. The case is adjourned to 03/10/2018 at 11.00 A.M. AO


29/11/18
Sri R.K. Mishra FCA & AR of the assessee appeared and stated his inability to produce books of a/c. The reply of show-cause notice of u/s 145(3) is dismissed. Also asked to file written submission for ME&MF. The case adj. to 03/10/18

5. In respect of the said document, it was the submission that the alleged transactions were between the assessee was with M/s Modern Engineering and Management Foundation (MEMF), which is a trust. It was the submission that the evidences were found in the course of search at M/s SM Consultancy. It was the submission that the seized documents have been marked as SMCB-10, 11 & 73. It was the submission that there is no recording of satisfaction in the files of M/s SM Consultancy from whose possession these documents were seized for the purpose of transferring the alleged seized documents to the AO having jurisdiction over the assessee. It was the submission that even though the AO in respect of M/s SM Consultancy was the same as the AO in the case of the assessee still there is an absolute requirement of recording of satisfaction in the file of M/s SM Consultancy before transferring of the seized document to the AO having jurisdiction over the impugned assessee. He placed reliance on the decision of the Hon'ble Supreme Court in the case of Manish Maheswari, reported in (2007) 289 ITR 341 (SC). It was the submission that after this decision of Manish Maheswari (supra), the same has also been reiterated repeatedly.

6. When this issue was put to Id. CIT-DR, it was submitted by the Id. CIT-DR that he is not having access to the files of M/s SM Consultancy and, therefore, he is not in a position to answer in regard to produce the satisfaction immediately. Thus, the Id. CIT-DR submitted that he needs time to produce the satisfaction.

7. Ld. AR further proceeded to submit with regard to the second issue which is being raised against the approval granted u/s.153D of the Act by the Id. JCIT. The Id. AR drew our attention to page 3 of the paper book which is a copy of the approval granted by the Id. JCIT on 21.12.2018, which is as follows :-

ANNEXURE - 2


भारत सरकार / GOVERNMENT OF INDIA

कार्यालय संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विहार, आनेमसी, आयकर भवन -751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, AAYAKAR BHAWAN ANNEXE,
RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addlcit.cen@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2529 Dated:- 21/12/2018

सेवा में /To

The Assistant Commissioner of Income Tax, Central Circle-2, Bhubaneswar

Sub: Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961
- matter reg.

Ref : Your letter F.No.ACIT/CC-2/approval/153D/2018-19/868 dtd. 20-12-2018 (received by this office on 20-12-2018) seeking approval of draft assessment orders u/s 153D of the I.T.Act.

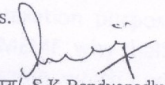
Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of these cases.

Now, approval is hereby accorded as per the provisions of section 153D of the I.T.Act for passing assessment orders in respect of the following cases.

Sl. No	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1	Shri Choudhury Sapan Kumar Mohapatra	ADBPM54IIB	2016-17	32,89,250/-	153C/143(3)
2	Shri Rohit Gupta	AEVPG6418H	2016-17	25,03,916/-	153C/143(3)
3	Shri Amitabh Giri	ACXPG3163H	2016-17	60,52,640/-	153C/143(3)
4	Shri Badal Chandra Senapati	AOKPS4890J	2016-17	49,85,520/-	153C/143(3)
5	Shri Rajendra Kumar Gupta	ACXPG1473G	2016-17	51,41,260/-	153C/143(3)


This approval is accorded after due application of mind in these cases.


(एस.के. बंदोपाध्याय/ S.K. Bandyopadhyay)
संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर/ Bhubaneswar

Encl: Records as forwarded with the proposal

8. He also drew our attention to a similar approval granted in the other cases, which is as follows :-

ANNEXURE - 2

 -3-

भारत सरकार / GOVERNMENT OF INDIA
कार्यालय संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विहार, आनेक्सी, आयकर भवन -751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, AAYAKAR BHAWAN ANNEXE,
RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addicit.cen@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2528 Dated: - 21/12/2018

सेवा में /To

The Assistant Commissioner of Income Tax, Central Circle-2, Bhubaneswar

Sub: Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961
- matter reg.

Ref : Your letter F.No.ACIT/CC-2/approval/153D/2018-19/865 dtd. 20-12-2018 (received by this office on 20-12-2018) seeking approval of draft assessment orders u/s 153D of the I.T.Act.

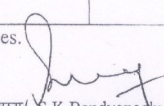
Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of these cases.

Now, approval is hereby accorded as per the provisions of section 153D of the I.T.Act for passing assessment orders in respect of the following cases.

Sl. No	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1	Shri Abhaya Mohapatra	ACEPM7348D	2016-17	37,52,280/-	153C/143(3)
2	Shri Abhaya Kumar Kar	AEBPK3020M	2016-17	35,40,730/-	153C/144
3	Shri Sangram Kumar Das	ABXPD2705M	2016-17	89,87,730/-	153C/143(3)
4	Shri Himansu Kumar Das	ABXPD2706J	2016-17	1,20,05,390/-	153C/143(3)
5	Shri Dipak kumar Rana	ACAPR1293E	2016-17	46,22,650/-	153C/143(3)
6	Shri Kalyan Kumar Chand	ABFPC4650A	2016-17	42,66,420/-	153C/143(3)
7	Shri Promod Kumar Karan	AEBPK3017L	2016-17	51,75,740/-	153C/143(3)
8	Shri Rajkamal Kar	AIQPK4778B	2016-17	12,30,400/-	153C/144
9	Shri Rashmi Kanita Jatania	ABYPI3575C	2016-17	52,32,860/-	153C/143(3)
10	Shri Sanjeev Kumar Das	AEDPD3025K	2016-17	99,64,125/-	153C/143(3)
11	Shri Binoy Kumar Das Legal representative of Late Pravas Kumar Das	AJEPD9098G	2016-17	38,70,310/-	153C/144

This approval is accorded after due application of mind in these cases.


(एस.के.बंदोपाध्याय/ S.K.Bandyopadhyay)
संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर/ Bhubaneswar

Encl: Records as forwarded with the proposal

9. It was submitted that there were total 16 cases in the case of assessee's group itself and these two approvals are only for the assessment year 2016-2017. The approval in all the cases were sought vide letter dated 20.12.2020 and approval was granted on 21.12.2018. The assessment order clearly showed that the assessments have been done for the assessment years 2011-2012 to 2016-2017, being six years and consequently the total number of approvals granted within 24 hours by the JCIT in assessee's own group itself comes to 84 approvals.

10. It was also submitted by the Id. AR that the ordersheet entry which is placed in the paper book clearly showed that there was no mention of the files being sent for approval to JCIT. The said ordersheet placed in the paper book at page 2 read as under :-

<p>06/12/18</p> <p>21/12/18</p> <p>22-01-2020</p> <p>NOTE SHEET</p>	<p style="text-align: right;">Ch. Soopam Kr. Mahapatra</p> <p style="text-align: right;">A.Y. - 2016-17 -2-</p> <p>Shri Michra, submitted reply for NEMP transaction show-cause letter & stated me to produce books of office. The books of office is accordingly reported & no points are discussed & the case is closed.</p> <p>Passent order u/s 153C/143(3) of the Act issued penalty proceeds u/s 271(c) of the Act.</p> <p>दिनांक 21-12-2018 को आयकर अधिनियम 1961 के धारा 153ग/143(3) के तहत पारित आदेश में अधिनियम के धारा 234क के अनुसार ज्यादा ब्याज लगाया गया है। यह रिकार्ड से दृश्यमान हो रहे भूल होने के कारण आयकर अधिनियम के धारा 154 के तहत एक त्रुटि संशोधन आदेश पारित किया जा रहा है।</p> <p>There are certain mistakes in the assessment order dated 21-12-2018 passed under section 153C/143(3) of the Act with respect to levy of interest u/s 234A. This being a mistake apparent from records a rectification order under section 154 of the I.T. Act,1961 is passed.</p> <p style="text-align: right;">आ. स. आ., केन्द्रीय सर्कल-2, भुवनेश्वर ACIT, Central Circle-2, BBSR</p>
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11. It was the submission that a perusal of the approval granted also clearly shows non-application of mind. He relied upon the decision of the Hon'ble Jurisdictional High Court in the case of Serajuddin and Co. reported in [2023] 150 taxmann.com 146 (Orissa), wherein the Hon'ble jurisdictional High Court in para 21 to 25 has held as follows :-

21. It is seen that in the present case, the AO wrote the following letter seeking approval of the Additional CIT:

GOVERNMENT OF INDIA OFFICE OF THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE-1(2), BHUBANESWAR No. ACIT/C-1(2)//Approval/2010-11/5293 Dated, Bhubaneswar, the 27/29th December, 2010 To The Addl. Commissioner of Income-tax, Range-1, Bhubaneswar.

Sub: Approval of draft orders u/s 153D of the I.T. Act 1961 in the case of M/s. Serajuddin & Co. 19A, British India Street, Kolkata (in Serajuddin Group of Cases)- matter regarding.

Sir,

Enclosed herewith kindly find the draft orders u/s 153A of the I.T.Act, 1961 along with assessment records in the case of M/s Serajuddin & Co., 19A, British India Street, Kolkata for kind perusal and necessary approval u/s.153D.

No	Name of the Assessee	Section under which order passed Asst. Year
1	M/s Serajuddin & Co., 19A, u/s.153A/143(3)/144/145(3) British India Street, Kolkata	2003-04
2	-do-	-do- 2004-05
3	-do-	-do-- 2005-06
4	-DO-	-DO- 2006-07
5	-DO-	-DO- 2007-08
6	-DO-	-DO- 2008-09
7	-DO- U/s.143(3)/144/153B(B)/145(3)	2009-10

*3) The above cases will be barred by limitation on 31.12.2010.
Encl: As above Yours faithfully, Sd/-*

Asst. Commissioner of Income-tax, Circle-1(2), Bhubaneswar of the Tribunal itself Government of India OFFICE OF THE ADDL. COMMISSIONER OF INCOME TAX, 3 Floor, Range-1, Bhubaneswar No. Addl. CIT/R-1/BBSR/SD/2010-11/5350 Dated,

Bhubaneswar, the 30th December, 2010 To The Assistant Commissioner of Income Tax, Circle-1(2), Bhubaneswar.

Sub: Approval [u/s 153D](#)-in the case of M/s Serajuddin & Co., 19A, British India Street, Kolkata-Matter regarding.

Ref: Draft Orders [u/s 153A/143\(3\)/144](#) for the A.Y. 2003- 04 to 2008-09 [u/s.143\(3\)/153B \(b\)/144](#) of the A.Y.2009-10 in the case of above mentioned assessee.

Please refer to the above The draft orders [u/s 153A/143\(3\)/144](#) for the A.Y. 2003-04 to 2008-09 and [u/s. 143\(3\)/153B\(b\)/144](#) for the A.Y. 2009-10 submitted by you [in the above case](#) for the following assessment years are hereby approved:

Assessment Year	Income Determined (Rs)
2003-04	11,66,22,771
2004-05	36,46,80,016
2005-06	65,70,12,805
2006-07	60,02,65,791
2007-08	130,03,13,307
2008-09	274,68.87,069
2009-10	301,17,05,952

You are requested to serve these orders expeditiously on the assessee, submit a copy of final order to this office for record.

Sd/-

Addl. Commissioner of Income Tax, Range-1, Bhubaneswar

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.

23. *In the present case, it is an admitted position that the assessment orders are totally silent about the AO having written to the Additional CIT seeking his approval or of the Additional CIT having granted such approval. Interestingly, the assessment orders were passed on 30th December 2010 without mentioning the above fact. These two orders were therefore not in compliance with the requirement spelt out in para 9 of the Manual of Official Procedure.*

24. *The above manual is meant as a guideline to the AOs. Since it was issued by the CBDT, the powers for issuing such guidelines can be traced to [Section 119](#) of the Act. It has been held in a series of judgments that the instructions under [Section 119](#) of the Act are certainly binding on the Department. In [Commissioner of Customs v. Indian Oil Corporation Ltd.](#) 2004 (165) E.L.T. 257 (S.C.) the Supreme Court observed as under:*

"Despite the categorical language of the clarification by the Constitution Bench, the issue was again sought to be raised before a Bench of three Judges in [Central Board of Central Excise, Vadodara v. Dhiren Chemicals Industries](#): 2002 (143) ELT 19 where the view of the Constitution Bench regarding the binding nature of circulars issued under [Section 37B](#) of the Central Excise Act, 1944 was reiterated after it was drawn to the attention of the Court by the Revenue that there were in fact circulars issued by the Central Board of Excise and Customs which gave a different interpretation to the phrase as interpreted by the Constitution Bench. The same view has also been taken in [Simplex Castings Ltd. v. Commissioner of Customs, Vishakhapatnam](#) 2003 (5) SCC 528. The principles laid down by all these decisions are: (1) Although a circular is not binding on a Court or an assessee, it is not open to the Revenue to raise the contention that is contrary to a binding circular by the Board. When a circular remains in operation, the Revenue is bound by it and cannot be allowed to plead that it is not valid nor that it is contrary to the terms of the statute.

(2) Despite the decision of this Court, the Department cannot be permitted to take a stand contrary to the instructions issued by the Board.

(3) A show cause notice and demand contrary to existing circulars of the Board are ab initio bad (4) It is not open to the Revenue to advance an argument or file an appeal contrary to the circulars."

25. *For all of the aforementioned reasons, the Court finds that the ITAT has correctly set out the legal position while holding that the requirement of prior approval of the superior officer before an order*

of assessment or reassessment is passed pursuant to a search operation is a mandatory requirement of Section 153D of the Act and that such approval is not meant to be given mechanically. The Court also concurs with the finding of the ITAT that in the present cases such approval was granted mechanically without application of mind by the Additional CIT resulting in vitiating the assessment orders themselves.

12. It was the submission that the decision of the Hon'ble Jurisdictional High Court has been approved by the Hon'ble Supreme Court as reported in [2024] 163 taxmann.com 118 (SC) by dismissing the SLP filed by the revenue. It was the submission that the approval granted in assessee's case was similar to the approval granted in the case of Serajuddin & Co. and on this ground also the approval being vitiated consequently the assessment order is required to be annulled.

13. In reply, Id. CIT-DR drew our attention to the approval accorded by the Id. JCIT. It was the submission that the approval letter refers to the several discussion that has been done between the AO and the JCIT. It was the submission that it also mentions that the JCIT has gone through the assessment orders and appraisal report and other relevant materials in the case. It was the submission that the JCIT has applied his mind before making the approval and the same is liable to be upheld.

14. We have considered the rival submissions. As mentioned earlier by the Id. AR that there are 84 cases in this group. It is surprising that JCIT has been able to go through the assessment orders, appraisal reports and other related materials for a minimum of 84 cases within one day. We use the word "minimum of 84 cases" because this group alone contains 84 cases and the JCIT could avail his other files also before him. The

assessment orders, in all the cases, are more than 9 pages, appraisal reports was also to be quite a few pages and the submissions of the assessee would be innumerable. These are physically impossible task which has been admitted to by the Id. JCIT. Consequently, the approval granted in these cases are without application of mind. This being so, respectfully following the principle laid down by the Hon'ble Jurisdictional High Court in the case of Serajuddin & Co., reported supra, which has also been approved by the Hon'ble Supreme Court by dismissal of the SLP, the approval u/s.153D of the Act granted in the impugned appeal in the case of Choudhury Swapan Kumar Mohapatra (ITA No.493/CTK/2024) for A.Y.2016-2017, by the JCIT, is held to be invalid and the consequential assessment order is hereby annulled. As the appeal of the assessee is allowed by allowing the legal grounds of appeal, other grounds taken on merits become academic and not adjudicated upon. Thus, the appeal of the assessee is allowed.

15. Since, we have already annulled the assessment framed by the AO in the case of Choudhury Swapan Kumar Mohapatra while dealing with the appeal in ITA No.493/CTK/2024 for A.Y.2016-2017, by holding the approval u/s.153D of the Act granted by the Id. JCIT as invalid, therefore, all the remaining eleven appeals filed by the eleven different assesseees as mentioned in the cause title above, which also come under the invalid approval of the JCIT, are hereby allowed and the assessment framed in all the cases are hereby quashed.

16. In the result, all the appeals of the assesseees are allowed.

Order dictated and pronounced in the open court on 29/01/2025.

Sd/-
(MANISH AGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 29/01/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack