

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH**

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

AND

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No. 2560/DEL/2017

Asstt. Yr: 2011-12

Gulzar Ahmed, Village Bhuddi, P.O. Kabari Grant, Distt. Dehradun.	<u>Vs</u>	DCIT, Central Circle, Dehradun.
PAN- AFGPA 7405 Q		
APPELLANT		RESPONDENT
Assessee represented by		Dr. Rakesh Gupta, Adv.; & Shri Somil Aggarwal, Adv.
Department represented by		Sh. S.K. Chatterjee, CIT(DR)
Date of hearing		14.02.2025
Date of pronouncement		19.02.2025

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has come in appeal against the order dated 28.02.2017 passed by the Commissioner of Income Tax (Appeals)-IV, Kanpur (hereinafter referred as Ld. First Appellate Authority or in short 'FAA') in Appeal No. CIT(A)-IV/60/DCIT-CC/DDN/2015-16/284, for the assessment year 2011-12 against the assessment order dated 30.03.2015 passed u/s 153C read with section 143(3) of the

Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Central Circle, Dehradun (hereinafter referred as the AO).

2. Learned AR has pointed out about application for admission of additional grounds of appeal which includes a ground wherein the impugned assessment order has been challenged on the basis of invalid approval u/s 153D of the Act. As the ground goes to the root of assumption of jurisdiction, the same is admitted.

3. We find that in ITA nos. 48 to 52/DDN/2019 and ITA no. 130/DDN/2019 in the case of Uttarkhand Uthan Samiti v. ITO, coordinate Bench has taken into consideration the approval which was granted by the Competent Authority on 30.03.2015 and has held that this approval which is granted in the case of 16 assesseees for assessment u/s 153A and 5 assesseees in case of assessment u/s 153C, was not a valid assessment and there was violation of the mandatory provisions of section 153D of the Act which require the approval to be issued after application of mind to the assessment record and incriminating materials. We find that the case of the assessee is squarely covered on facts with the case relied by the learned DR in the case of Uttarkhand Uthan Samiti v. ITO (supra). Further, it is now a settled provision of law that exercise of powers u/s 153D have to pass the scrutiny that the same were not exercised mechanically. Reliance in this regard can be placed on the judgment of Hon'ble Delhi High Court in the case of PCIT v. Shiv Kumar Nayyar [ITA 285/2024 & CM APPL 28994/2024 – order dated 15.05.2024]. The copy of

approval as reproduced in case of Uttarkhand Uthan Samiti (supra) shows for multiple years and multiple assessees the approval is granted. There is no reference of any material considered or even if assessment records were examined.

4. In the light of aforesaid additional ground is sustained. The appeal of the assessee is allowed and the impugned assessment order is quashed.

Order pronounced in open court on 19.02.2025.

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI