

आयकरअ पीलीय अधिकरण, जयपुर न्याय पीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH 'B', JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री गगन गोयल, लेखा सदस्य, के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI GAGAN GOYAL, AM

आयकर अपील सं./ITA No. 669 to 672/JPR/2024
निर्धारणवर्ष / Assessment Year :2015-16 to 2018-19

Resonance Eduventures Ltd., J-2, Main Road, Jawahar Nagar, Kota.	बनाम Vs.	ACIT/DCIT, Central Circle, Kota.
स्थायीलेखा सं./जीआईआरसं./ PAN/GIR No. AADCR 5581 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby :Shri Mahendra Gargieya, Adv. (Thr. V.C)&
Shri Hemang Gargieya, Adv.

राजस्व की ओर से / Revenue by :Smt. Alka Gautam, CIT-DR

सुनवाई की तारीख / Date of Hearing: 21/01/2025
घोषणा की तारीख / Date of Pronouncement: 10/03/2025

आदेश / ORDER

PER DR. S. SEETHALAKSHMI, J.M.

These four appeals have been filed by the assessee against four separate orders of Id. CIT (Appeals), Udaipur-2 dated all 28.03.2024 passed under section 250 of the I.T. Act, 1961, for the assessment years 2015-16 to 2018-19 respectively. The grounds raised by the assessee in all these appeals are common except with variance in figures, therefore, for the sake of convenience.

2. In ITA No. 672/JPR/2024, the assessee has raised the following grounds of appeal :-

ITA NO. 672/JP/2024 AY 2018-19 :

1. The impugned additions and disallowances made in the order u/s 143(3) r.w.s. 153A of the Act dated 27.12.2019 are bad in law and on facts of the case, for want of jurisdiction and various other reasons and hence the same kindly be deleted.
2. The Id. CIT (A) further seriously erred in law as well as on facts of the case by not following the law laid down by the Apex Court holding that no addition is legally permissible in absence of any incriminating material found during the course of search in the case of an unabated/completed assessment and hence, in this case, in absence of any incriminating material found, the impugned addition deserves to be deleted in full.
3. **Rs. 25,07,454/-:** The Id. CIT (A) erred in law as well as on the facts of the case in confirming the addition/deduction made by the Id. AO of Rs. 25,07,454/- on account of alleged expenditure. The addition so made and confirmed by the Id. CIT (A) being contrary to the provisions of law and facts of the case, the same may kindly be deleted in full. The following is the chart of these expenditures :

S.No.	Heads of Expenses/Deductions	Expense/Deduction sustained by CIT (A)
3.1	Travelling Expenses	Rs. 3,00,000/-
3.2	Staff Welfare	Rs. 3,00,000/-
3.3	Office Expenses	Rs.11,02,093/-
3.4	Students Welfare Expenses	Rs. 50,000/-
3.5	BD Expenses	Rs. 5,00,000/-
3.6	Function Expenses	Rs. 50,000/-
3.7.	Disallowance u/s 14A	Rs. 2,05,361/-
	Total Benefit	Rs. 25,07,454/-

4. The Id. CIT (A) further erred in law as well as on the facts of the case in confirming the interest charged u/s 234D of the Act. The appellant totally denies its liability of charging of any such interest. The interest so charged, being contrary to the provisions of law and facts, kindly be deleted in full.
5. The appellant prays your honor indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.

2.1 The assessee has also raised three additional grounds vide letter dated 22.07.2024, which are common in ITA Nos. 669, 670, 671 & 672/JP/2024 and prayed for admission of the same. The additional grounds read as under :-

- “ 6. The impugned order dated 27.12.2019 is a nullity being non-est and must be considered as never passed in as much as no DIN number has been generated as per the prescribed procedure, which is in violation of the binding instructions of CBDT and hence, the impugned assessment order may kindly be held as non-est and may kindly be quashed.
7. The impugned order passed u/s 143(3) r.w.s. 153B(1)(b) dated 27.12.2019 is nullity and being without jurisdiction in as much as the said order has not been signed digitally as per the prescribed procedure, which is in violation of the binding instructions of CBDT and hence, the impugned assessment order may kindly be held as non-est and may kindly be quashed. Hence, the impugned order is completely devoid of jurisdiction not having being signed digitally as statutorily required.
8. The impugned assessment order passed u/s 143(3) r.w.s. 153A dated 27.12.2019 is nullity being without jurisdiction in as much as no prior approval as mandate by S. 153D was obtained or the approval obtained u/s 153D was not obtained from the specified authority, as prescribed in law or else the approval obtained u/s 153D was accorded mechanically without any application of mind. Hence, there is no approval as such, as contemplated by law hence, the impugned assessment order may kindly be quashed.

3. We have heard the ld. A/R as well as the ld. D/R on the admission of additional grounds. The additional grounds raised by the assessee are nothing but new legal plea arose out of reassessment proceedings initiated by ld. AO which was under challenge before this Tribunal. The new legal plea does not require investigation into factual aspects before either accepting or rejecting the contentions. The appellant submits that the new plea go to the very basis of assuming jurisdiction for passing the assessment order u/s 143(3) read with section

153A/153B(1)(b) of the Income Tax Act, 1961. Consequently, as per the ratio laid down by the Hon'ble Apex Court in the case of NTPC vs. CIT (1998) 229 ITR 383 (SC) the new plea is admissible. Therefore, the additional grounds raised by the assessee can be adjudicated on the basis of the facts and material available on the assessment record. Thus when the additional grounds are not raising a new issue or plea, then in the facts and circumstances of the case, we admit the additional grounds raised by the assessee for adjudication on merit. Since the additional grounds raised by the assessee are purely legal in nature and goes to the root of the matter, therefore, first we take up for adjudication of the additional grounds. Since the additional grounds raised by the assessee are common for all the assessment years, we take up ITA No. 672/JP/2024 as lead case and the decision rendered thereon shall apply with equal force for other appeals also except with variance in figures.

4. The brief facts of the case are that the appellant M/s. Resonance Eduventure Limited is a company derives income from business of imparting coaching to students aspiring for admission through competitive examinations during the year under consideration. A search & seizure operation under section 132(1) of the Income Tax Act, 1961 was carried out on 07.09.2017 at the various premises of "Resonance Group, Kota" to which the appellant belongs. Cash, Jewellery and other documents were found and seized from some persons' residence and business

premises. The case of the appellant was also covered under search proceeding. Consequent to search action, the case of the appellant was centralized to Central Circle-Kota. The appellant company filed its return of income under section 139 of the IT Act, 1961 on 29.10.2018 declaring total income of Rs. 70,35,90,940/-. Notice under section 143(2) of the IT Act was issued by the AO on 06.02.2019 which was duly served. Further, notice under sub section (1) of Section 142 of the IT Act was issued by the AO on 27.05.2019 along with questionnaire/Annexure-A requiring certain details/information, which was served upon the appellant. The case of the appellant was earlier selected by CASS for scrutiny assessment. The reasons of selection in CASS have also been verified by the AO during the assessment proceedings. The CASS scrutiny proceeding was abated vide order issued by the AO on 20.11.2019. Assessment order under section 143(3) read with section 153B(1)(b) of the I.T. Act, 1961 was passed by the AO assessing the total income at Rs. 71,10,17,370/- vide order dated 27.12.2019, making additions on various grounds of Rs.74,26,393/-. Aggrieved by the order of the AO, the assessee preferred appeal before the Id. CIT (A). In first appeal, the Id. CIT (A) partly allowed the appeal of the assessee by reducing the addition upto Rs. 49,18,939/- (on account of Office Expenses, Student Welfare Expenses and Function Expenses) stating that the same are on a higher side and restricted the addition to Rs. 25,07,454/-.

Now, the assessee has filed the present appeal before us.

5. We first take up **Additional Ground No. 6** as mentioned herein above for adjudication. In regard to this Additional Ground, the relevant facts are that the impugned assessment order has been passed on dated 27.12.2019 without mentioning the DIN, ignoring the specific requirement made by binding Circular No. 19/2019 dated 14.08.2019.

5.1 In this regard the Id. AR for the assessee submitted his written submission as under :

“1.1. It is submitted that in order to prevent instances where certain notices, orders, summons, letters and other correspondences which have been issued manually do not have proper audit trail of their communication despite various e-governance initiatives and computerization and to maintain proper audit trail of all the communications, the Central Board of Direct Taxes (**“CBDT” in short**) **vide its Binding Circular No.19/2019 dated 14.08.2019 (DC-1-2) has made it obligatory** on the part of the authorities below to essentially **mention of Document Identification Number (“DIN” for short)** and has directed that no communication shall be issued by any Income-Tax Authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval, etc. to the Assessee or any other person, **on or after the 01.10.2019** unless a computer generated DIN has been allotted and is duly quoted in the body of such communication. Para 3 of the said Circular provides for certain exceptional circumstances when the communication can be issued manually but must mention such fact and the date of obtaining of the written approval of the Chief Commissioner/Director General of Income-tax for issue of said manual communication in the prescribed format, **failing which, para 4 of the said circular states that such communication shall be treated as ‘non-est’ / ‘invalid’ and shall be deemed to have never been issued.**

1.2 Moreover, the Directorate of Income-tax (System) vide Instructions dated 25.10.2019 lays down the procedure for generation of DIN for documents prepared outside ITBA system and uploaded manually, wherein it is stated that when a document is prepared outside ITBA system and uploaded manually, a DIN is required to be

generated prior to uploading the document in ITBA. The instructions make it imperative that the DIN so generated has to be quoted in the physical copy. The reasoning behind the said instruction is that the generation of DIN is a condition precedent for making an assessment manually or otherwise on the ITBA and therefore the order should have DIN bearing on its face. The assessment can be said to be 'made' only when the DIN is quoted on the order before it is signed. If without first generating the DIN and before it is quoted on the order, the order is signed, the order is non-est.

2. Supporting case laws - Order invalid where no DIN is mentioned:

2.1 Recently the Hon'ble Bombay High Court in the case of **PCIT (EXEMPTION) vs. Tata Medical Centre Trust (2023) 334 CTR (Cal) 942 (DC 3-4)**, wherein the issue under consideration was whether the Tribunal was justified in quashing the order passed under s. 263 of the said Act on the ground of not mentioning any DIN. The Hon'ble court held as under:

*“6. The Revenue filed miscellaneous application seeking for rectification of the said order. Once again the Tribunal has undertaken a factual exercise and in fact, raised a specific query to the Revenue to point out how a DIN intimation letter along with the manual order as explained by the CIT(Exemption) in his reply fulfils the categorical requirement mandated by the CBDT circular, more particularly, in para 2 of the said circular, that the body of the communication, the order under s. 263 of the Act, must contain the fact and that the communication issued referred to the DIN without justifying as to how the non-compliance of the CBDT Circular dt. 14th Aug., 2019, which was noted by the Tribunal when it passed the main order. The Tribunal notes that this specific query was unable to be answered by the Revenue and therefore **the learned Tribunal came to the conclusion that the order passed under s. 263 does not satisfy the requirement mandated by the CBDT circular.***

“7. Thus, we find no substantial question of law arises for consideration in this appeal. Accordingly, the appeal is dismissed.”

2.2 Kindly refer **Hexaware Technologies Limited vs ACIT & Ors. (WP no.1778/2023) (DC 5-47)**, wherein the notice u/s 148 was issued without DIN. The Hon'ble Court vide its order dated 04.05.2024 held as under:

“31 As regards issue no.3, in the notice dated 27th August 2022 impugned in the petition, admittedly there is no DIN mentioned. It is petitioner's case that the notice is invalid and bad in law in view of the Circular No.19 of 2019 dated 14th August 2019 issued by CBDT. A separate intimation letter also dated 27th August 2022 was issued and the said letter reads as under:

xxx----xxx-----xxx-----xxx-----xxx

We agree with petitioner that this letter cannot validate the notice issued under Section 148 of the Act on 27th August 2022. The reason is firstly; the intimation letter refers to a DIN with respect to some notice under Section 148 of the Act dated 26th August 2022. The impugned notice issued to petitioner is dated 27th August 2022 and not 26th August 2022 for which the DIN is generated. Secondly, the procedure prescribed in Circular No.19 of 2019 dated 14th August 2019 for non-mention of DIN in case letter/notice/order has not been complied with by respondent no.1. It is settled that if DIN is not mentioned in the letter/notice/order, the reason for not mentioning the DIN and the approval from specified authority for issuing such letter/notice/ order without DIN has to be obtained and mentioned in such letter/notice/order. In the present case, in the impugned notice dated 27th August 2022, no such reference is there. Therefore, as held in Ashok Commercial Enterprises (Supra) and Tata Medical Center Trust (Supra), the impugned notice is clearly invalid and bad in law. It will be useful to reproduce paragraph 18 of Ashok Commercial Enterprises (Supra):

xxx----xxx-----xxx-----xxx-----xxx

Therefore, the impugned notice dated 27th August 2022 issued under Section 148 of the Act is invalid and bad in law as the same has been issued without a DIN.”

2.3 In the case of **Ashok Commercial Enterprises v. ACIT [2023] 154 taxmann.com 144 (Bombay)**, a satisfaction note also has been held as a **communication** requiring DIN to be mentioned thereon. It was held that:

“(d) The said Circular also applies to the satisfaction note dated 13th July 2021 issued by respondent no. 1. The satisfaction note will fall within the scope of paragraph 2 of the Circular as a communication of the specified type issued to any person. In the case of the satisfaction note no regularization dated 13th October 2021 has been issued”.

2.4 Recently in the case of **Practo Technologies Pvt. Ltd. Vs DCIT [in IT (TP)A No.154/Bang/2022]**, the Hon’ble Tribunal - Bangalore Bench, in the context of the directions issued u/s 144C (5), when noticed that no DIN was mentioned therein, held as under:

“21. Respectfully following the above order of the Tribunal, since the DIN was not mentioned in DRP order dated 30.12.2021 which was mandatory as per

CBDT Circular No.19 (supra) & in view of the facts noted above in regard to communications done with the assessee, we hold that the DRP directions dated 30.12.2021 is invalid in the eyes of law and shall be deemed to have never been issued as per Para 4 of the CBDT circular as the order is not conformity with Para 2 and Para 3. Accordingly, the DRP order dated 30.12.2021 is held to be null and void ab initio and quashed. Thus, the additional grounds No. 24 & 25 raised by the assessee on the legal issue are allowed.”

While holding so, the Hon’ble ITAT has firstly **admitted the additional ground of Appeal in Para 5 and thereafter, followed the decision in the case of **Intrado EC India Private Ltd. v. DCIT IT(TP)A No.239/Bang/2021.****

2.5 Various other decisions are in the case of Bangalore Narayan Das vs. ITO (International Taxation) (2023) 226 TTJ (Bang) 66, Ankit Jain v. DCIT (2023) 155 taxmann.com 321 (Delhi - Trib.) and Deepak Kumar vs DCIT (2024) 159 taxmann.com 358 (Delhi - Trib.)

3. Supporting Case Laws - CBDT Instructions are binding:

3.1 The CBDT circular and instructions have been held to be binding on the Income-Tax Authorities for which a useful reference can be made to the cases of *CIT v. Hero Cycles (P.) Ltd. (1997) 94 Taxman 271/228 ITR 463 (SC)*, wherein, it was held that circulars bind the ITO but will not bind the Court or even the Assessee. In the case of *UCO Bank v. CIT (1999) 104 Taxman 547/237 ITR 889 (SC)*, Hon'ble Supreme Court while dealing with the legal status of such circulars, observed thus (page 896):

*"Such instructions may be by way of relaxation of any of the provisions of the sections specified there or otherwise. **The Board thus has power, inter alia, to tone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under section 119 of the Income-tax Act, which are binding on the authorities in the administration of the Act.** Under section 119(2)(a), however, the circulars as contemplated therein cannot be adverse to the assessee. Thus, the authority which wields the power for its own advantage under the Act is given the right to forgo the advantage when required to wield it in a manner it considers just by relaxing the rigour of the law or in other permissible manners as laid down in section 119. The power is given for the purpose of just, proper and efficient management of the work of assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases which can*

be properly categorized as belonging to a class, can thus be given the benefit of relaxation of law by issuing circulars binding on the taxing authorities."

3.2 Strong reliance is also placed in the decision of **His Late Highness Maharana Shri Bhagwat Singhji of Mewar vs. ITAT & Ors. (1996) 133 CTR (Raj) 97: (1997) 223 ITR 192 (Raj)**.

3.3 Also, the Hon'ble Rajasthan High Court in **Sudesh Teneja vs. ITO (2022) 324 CTR (Raj) 577 : (2022) 210 DTR (Raj) 105 : (2022) 442 ITR 289 (Raj)** held that (a) taxing statute must be interpreted strictly. Equity has no place in taxation. Nor while interpreting taxing statute intentment would have any place. (b) There is nothing unjust in the tax payer escaping if the letter of the law fails to catch him on account of the legislature's failure to express itself clearly. (c) It is axiomatic that taxation statute has to be interpreted strictly because the State cannot at their whims and fancies burden the citizens without authority of law. (d) In the matter of interpretation of charging section of a taxation statute, strict Rule of interpretation is mandatory and if there are two views possible in the matter of interpretation of a charging section, the one favorable to the assessee need to be applied.

4. In the instant case, since the impugned assessment order has been passed in the absence of DIN as aforesaid, **hence the impugned assessment order may kindly be held as non-est / invalid and quashed."**

6. On the other hand, Ld. DR for the Revenue has submitted that the matter as regards impact of non-mentioning of DIN number, as per instructions issued by CBDT is pending adjudication before the Hon'ble Supreme Court, and as such, there is no merit in the contention on behalf of the assessee-appellant.

7. We have heard rival contentions, perused the material on record and gone through the orders of the lower authorities. The **first additional ground** raised on behalf of the assessee-appellant is that the impugned assessment order is a nullity as no DIN Number was generated as regards the assessment order, as prescribed by

CBDT in its instructions issued to the Income Tax Authorities, which they are required to follow, but were not followed, and as such, impugned assessment order deserves to be set aside. In support of this contention, the ld. AR has referred to in the writ submissions to the following circular and decisions:-

1. CBDT Circular No.19/2019 dated 14.08.2019
2. PCIT (Exemption) Vs. Tata Medical Centre Trust (2023) 334 CTR (CAL) 942
3. Abhimanyu Chaturvedi vs. DCIT [2024] 159 taxmann.com 445 (Delhi - Trib.)
4. Ashok Commercial Enterprises vs. ACIT [2023] 154 taxmann.com 144 (Bombay).

Admittedly, the point in issue is sub-judice before Hon'ble Supreme Court of India in CIT vs Brandix Mauritious Holding limited [SLP (Civil) 688/2024], after the Dept. assailed the judgment of Hon'ble Delhi High Court in the case of CIT vs. Brandix Mauritious Holding limited [ITA No. 163/2023, decided on 20.03:2023]. Hence, in view of the above discussion, this additional ground is not being decided herein.

Now we take up additional ground no. 8 relates to prior approval under section 153D granted mechanically.

8. Aggrieved from the order of the ld. CIT(A) the assessee has preferred this appeal before us on the grounds as reiterated here in above. In support of the

grounds of appeal the Id. AR of the assessee has relied upon the following written submission:-

“1. As per the **mandatory provisions of S.153D** of the Act, the AO, who is below the rank of the Jt. Commissioner of Income Tax, has to mandatorily obtain prior approval by sending him the Draft Assessment Order from the Jt. Commissioner of Income Tax before finally passing any assessment order u/s 153A r.w.s.143(3) in a search case. Accordingly, **the Respondent AO in this case also sought approval of the Addl. Commissioner of Income Tax, Central Range, Udaipur u/s 153D** of the Act.

2.1 In this regard, a bare perusal of the approval clearly shows that **there is absolutely no application of mind** much less independent application of mind as contemplated under law. Rather, the same appears to have been **granted mechanically**, in absence of a single word even to show that the competent authority has really considered the proposal, put forth before him, for getting his approval. The Id. Addl. CIT has simply stated that approval is granted, followed by a table which is nothing but simply showing basic details of the case. He is completely silent as to what made him grant such approval. In other words, **even the bare minimum requirement of the approving authority having to indicate what the thought process involved was 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 requirements of the law. 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.

2.2 Moreover, it is contented that **the provisions contained in S. 153D as enacted by the parliament cannot be treated as an empty formality. The provision has a certain purpose.** It is apparent that the purpose behind the enactment of the above provision in the statute by the parliament are two folds. **Firstly**, the approval of the senior authority will ensure that **the assessee is not prejudiced** by the undue or irrelevant addition or assessment. **Secondly**, the approval by senior authority will also **ensure that proper enquiry or investigation are carried out** by the assessing authority. Thus, the above provision provides for mental application of a senior officer of the Department, which in turn, **provides safeguard to both i.e., Revenue as well as the assessee.** Therefore, this important provision laid down by the legislature cannot be treated as a mere empty formality. Thus, the **legislative intent behind getting prior approval u/s 153D is that the work done by the junior officer is properly checked & analyzed and**

thereafter, approved by a superior officer before the AO finally passes the assessment order.

3. Supporting Case Law:

3.1 In the case of **ACIT vs. Serajuddin & Co. (2023) 333 CTR (Ori) 228** it was held that:

*“The requirement of prior approval under s. 153D is comparable with a similar requirement under s. 158BG. The only difference being that the latter provision occurs in Chapter XIV-B relating to "special procedure for assessment of search cases" whereas s. 153D is part of Chapter XIV. A plain reading of s. 153D itself makes it abundantly clear that the legislative intent was to be obtaining of "prior approval" by the AO when he is below the rank of a Jt. CIT, before he passes an assessment order or reassessment order under s. 153A(1)(b) or 153B(2)(b). That **such an approval of a superior officer cannot be a mechanical exercise has been emphasized in several decisions.** It is therefore not correct on the part of the Revenue to contend that the approval itself is not justiciable. Where the approval is granted mechanically, it would vitiate the assessment order itself.—Sahara India (Firm) vs. CIT (2008) 216 CTR (SC) 303 : (2008) 7 DTR (SC) 27 : (2008) 14 SCC 151 and Rajesh Kumar vs. Dy. CIT (2006) 206 CTR (SC) 175 : (2007) 2 SCC 181 applied.*

There is not even a token mention of the draft orders having been perused by the Addl. 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. 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 of CBDT becomes important. Although, it was in the context of s. 158BG, it would equally apply to s. 153D. It is an admitted position that the assessment orders are totally silent about the AO having written to the Addl. CIT seeking his approval or of the Addl. CIT having granted such approval. Interestingly, the assessment orders were passed on 30th Dec., 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.

For all of the aforementioned reasons, the Court finds that the Tribunal 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 s. 153D and that such approval is not meant to be given mechanically. The Court also concurs with the finding of the Tribunal that in the present cases such approval was granted mechanically without application of mind by the Addl. CIT resulting in vitiating the assessment orders themselves

The initial assessment order as also the impugned assessment order without jurisdiction is void-ab-initio being a nullity and hence the same deserves to be quashed and set aside.”.

3.2 Other Supporting case laws: On this aspect, a useful reference can be made to the following case laws.

- PCIT V. Shiv Kumar Nayyar (2024) 163 taxman.com 9 (Del.)

3.3Kindly refer the judgment of Hon’ble High Court of Madhya Pradesh in the case of **CIT vs S. Goyanka Lime & Chemicals Ltd.[2015] 56 taxmann.com 390 (MP)**, wherein the Hon’ble Court held as under:

“7. We have considered the rival contentions and we find that while according sanction, the Joint Commissioner, Income Tax has only recorded so "Yes, I am satisfied". In the case of Arjun Singh (supra), the same question has been considered by a Coordinate Bench of this Court and the following principles are laid down :-

'The Commissioner acted, of course, mechanically in order to discharge his statutory obligation properly in the matter of recording sanction as he merely wrote on the format "Yes, I am satisfied" which indicates as if he was to sign only on the dotted line. Even otherwise also, the exercise is shown to have been performed in less than 24 hours of time which also goes to indicate that the Commissioner did not apply his mind at all while granting sanction. The satisfaction has to be with objectivity on objective material.'

8. If the case in hand is analysed on the basis of the aforesaid principle, the mechanical way of recording satisfaction by the Joint Commissioner, which accords sanction for issuing notice under section 148, is clearly unsustainable and we find that on such consideration both the appellate authorities have

interfered into the matter. In doing so, no error has been committed warranting reconsideration.”

Pertinently, the **Dept. assailed** the said judgment of Hon’ble High Court of Madhya Pradesh **before the Hon’ble Supreme Court in CIT vs S. Goyanka Lime & Chemical Ltd. [2015] 64 taxmann.com 313 (SC) [SLP (C) NO.11916 OF 2015]**, wherein the Division Bench of Hon’ble Supreme Court **dismissed the said SLP**, uploading the judgment of Hon’ble High Court.”

9. On the other hand, Ld. DR has referred to the approval dated 26.12.2019 accorded by Additional Commissioner of Income Tax, Central Range, Udaipur and contended that the same having been accorded in accordance with law, there is no merit in the contention raised by ld. AR for the appellant. The Ld. DR vehemently argued that the assessment proceeding is a continuous process and is completed under the active guidance and monitoring / supervision of JCIT/Addl.CIT. It is not a matter of application of mind in few days. The JCIT/Addl. CIT frequently goes through the seized documents and makes discussion from time to time with AO.

10. We have heard both the parties and perused the material available on record. Let us now examine whether in the aforesaid background of the scheme of the Act, whether the approval in terms of section 153D of the Act has been granted by the ld. Addl. CIT in a judicious way after due application of mind or not, in the instant case. Before us, the ld. A/R for the assessee has contended that the impugned assessment order is nullity, being without jurisdiction, in as-much-as no prior approval, as mandated by section 153D of the Act, was obtained. Furthermore, it

has even been contended that if the said approval was obtained, same was accorded mechanically without application of mind. Accordingly, Ld. A/R for the appellant has urged that the impugned assessment order deserves to be set aside. The ld. A/R further contended that the assessments in these cases were completed u/s 153A of the Act by Asst. CIT, Central Circle, Kota vide order dated 27.12.2019. It was submitted that as per the provisions of law, in search cases, the Assessing Officer before passing assessment order framed u/s 153A is required to take the approval from Jt. CIT u/s 153D of the Act if the Assessing Officer is below the rank of Jt. CIT and in this respect our attention was invited to the provisions of section 153D of the Act. It was submitted that Jt. CIT is the approving authority who, before granting approval, is required to see all search material including incriminating material, seized documents, appraisal report, enquiries made by the investigation wing and various enquiries made by the Assessing Officer during the assessment proceedings and the replies submitted by the assessee and after due application of mind and after ascertaining that the Assessing Officer has appreciated the search material and other evidences in proper perspective has to give approval to the draft assessment order and only after that Assessing Officer can pass the assessment order.

10.1 The ld. AR has further vehemently argued that the draft assessment orders for all the seven (7) assessment years were sent for approval by the AO to the ld.

Addl. CIT on 24.12.2019 and the ld. Addl. CIT had granted approval for all the cases on 26.12.2019. The ld. AR pointed out that the ld. Addl. CIT while granting the approval had not given any independent finding or any reasoning showing even the thought process of the approving authority, which is a bare minimum requirement of the approving authority. He argued that while elaborate reasons need not be given, there has to be some indication that the approving authority has examined the draft assessment orders and finds that it meets the requirement of law.

10.2 Moreover, our attention was invited to copy of order passed u/s 7(1) of the Right to Information Act, 2005 dated 07.10.2024 placed at pages 137 to 139 of the Paper Book, as per which the concerned ACIT granted approval u/s 153D in 200 cases in a single day i.e on 26.12.2019. The ld. A/R submitted that it is humanly impossible to go through 200 assessment orders along with their all-search material including incriminating material, seized documents, appraisal report, enquiries made by the investigation wing and various enquiries made by the Assessing Officer in a single day. It was submitted that whenever a superior authority grants 'approval' to an 'order' of subordinate authority then the superior authority must apply his mind to all material on record, basis of order made by subordinate authority and superior authority must ensure that the subordinate authority has followed due process of law and has not taken arbitrary decisions. It was submitted

that the obligation of the approval of the approving authority is of two fold i.e. on one hand, he has to apply his mind to ensure the interest of the Revenue against any omission or negligence by the Assessing Officer in taxing right income in the hands of right person and in right assessment year and on the other hand, superior authority is also responsible and duty bound to do justice with the taxpayer by granting protection against arbitrary or creating baseless tax liability on the assessee.

10.3 The Id. AR argued that in the case of search, assessment orders whether framed under section 153A or 153C of the Act, the Joint Commissioner i.e. approving authority is required to see that whether the additions have been made in the hands of assessee are based properly based on incriminating and/ or other material found during the course of search and further enquiries made by the Assessing Officer during the course of assessment proceedings. The Joint Commissioner is also required to verify whether the required procedure has been followed by the Assessing Officer or not at the time of framing the assessment. The Id. AR also argued that the approval cannot be mere discretion or formality but is mandatory being quasi-judicial function and Act requires that it should be based on application of mind and proper reasoning. It is a trite law that for granting approval u/s 153D of the Act, the approving authority shall have to apply

independent mind to the material on record for each assessment year in respect of each assessee separately.

10.4 It was submitted that the rationale of word '**each**' as specifically referred to in section 153D and section 153A deserves to be given effective/proper meaning so that the underlying legislative intent as per the scheme of assessment of section 153A to 153D is fulfilled. It was submitted that Addl. CIT in these cases has granted approval for all the assessees for all assessment years through a single approval letter which is against the intent of law and therefore, also the approval given by Addl.CIT is non est and consequential assessment made on this basis of such approval is illegal and deserves to be annulled. The ld. A/R of the assessee in support of his contention relied on the following judgments :-

- a) ACIT vs. Serajuddin & Co. (2023) 333 CTR (Ori) 228
- b) ACIT vs. Serajuddin & Co. (SC) SLP (C) NO. 44989/2023
- c) CIT vs S. Goyanka Lime & Chemicals Ltd. (2015) 56 taxmann.com 390 (MP)
- d) CIT vs S. Goyanka Lime & Chemical Ltd. (2015) 64 taxmann.com 313 (SC) (SLP (C) NO.11916 OF 2015)
- e) PCIT vs. Shiv Kumar Nayyar (2024) 163 taxmann.com 9 (Delhi)
- f) CBDT Circular No. 3/2008
- g) PCIT vs. Anuj Bansal (2024) 165 taxman.com 2 (Delhi)
- h) PCIT vs. Anuj Bansal (2024) 165 taxman.com 3 (SC)

10.5 Coming to the contention of non-application of mind by the approving authority, at the outset, we note that the Hon'ble Orissa High Court in its judgment

in the case of ACIT vs. Serajuddin & Co. (2023) 333 CTR (Ori) 228, considered a similar question of 'Approval', wherein the draft assessment orders were placed by the AO before the Id. Addl.CIT on 27/29.12.2010 for seven assessment years. The approval was granted by the Id. Addl. Commissioner for seven assessment years u/s 153D of the Act on 30.12.2010 by merely saying that the draft orders submitted by the officer in the above case for the seven assessment years are hereby approved. The Hon'ble Orissa High Court took note of this fact and quashed the search assessment and decided the issue in favour of the assessee by holding 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.

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.

26. The question of law framed is therefore answered in the affirmative i.e., in favour of the Assessee and against the Department.”

We find that the Department of Revenue assailed the said judgment of Hon’ble High Court of Orissa, before the Hon’ble Supreme Court in ACIT vs. Serajuddin & Co. (SC) SLP (C) NO. 44989/2023, wherein the Division Bench of Hon’ble Supreme Court dismissed the said SLP by affirming the view taken by the Hon’ble High Court. The same is reproduced herein below :

“Delay condoned.

Having regard to facts and circumstances of the case, we are not inclined to interfere in the matter. The Special Leave Petition is dismissed.

Pending application(s) shall stand disposed of.”

10.6 Further, the Hon’ble Delhi High Court vide its judgment in case of PCIT vs. Anuj Bansal [(2024) 466 ITR 251] affirmed the decision of ITAT Delhi Bench, wherein the Coordinate Bench of ITAT Delhi held that the approval was granted without examining the assessment record or the search material and thus, was held

as invalid and bad-in-law. The relevant extract of the said judgment is reproduced herein below :

“13.In another words, it was emphasised that the approval was granted without examining the assessment record or the search material. The relevant observations made in this behalf by the Tribunal in the impugned order are extracted hereafter:

"17.1 However, in the present case, we have no hesitation in stating that there is complete non-application of mind by the Learned Addl. CIT before granting the approval. Had there been application of mind, he would not have approved the draft assessment order, where the returned income of Rs.87,20,580/-. Similarly, when the total assessed income as per the AO comes to Rs. 16,69,42,560/-, the Addl. CIT could not have approved the assessed income at Rs. 1,65,07,560/- had he applied his mind. The addition of Rs. 15,04,35,000/- made by the AO in the instant case is completely out of the scene in the final assessed income shows volumes.

17.2 Even the factual situation is much worse than the facts decided by the Tribunal in the case of Sanjay Duggal (Supra). In that case, at least the assessment folders were sent whereas in the instant case, as appears from the letter of the Assessing Officer seeking approval, he has sent only the draft assessment order without any assessment records what to say about the search material. As mentioned earlier, there are infirmities in the figures of original return of income as well as total assessed income and the Addl.CIT while giving his approval has not applied his mind to the figures mentioned by the AO. Therefore, approval given in the instant case by the Addl. CIT, in our opinion, is not valid in the eyes of law. We, therefore, hold that approval given u/s 153D has been granted in a mechanical manner and without application of mind and thus it is invalid and bad in law and consequently vitiated the assessment order for want of valid approval u/s 153D of the Act.

In view of the above discussion, we hold that the order passed u/s 153A r.w.s. 43(3) has to be quashed, thus ordered accordingly. The ground raised by the Assessee is accordingly allowed".

14.In this appeal, we are required to examine whether any substantial question of law arises for our consideration.

15. Having regard to the findings returned by the Tribunal, which are findings of fact, in our view, no substantial question of law arises for our consideration. The Tribunal was right that there was absence of application of mind by the ACIT in granting approval under Section 153D. It is not an exercise dealing with a immaterial matter which could be corrected by taking recourse to Section 292B of the Act.

16. We are not inclined to interdict the order of the Tribunal.”

The Dept. assailed this judgment of Hon’ble Delhi High Court before the Hon’ble Supreme Court in PCIT vs. Anuj Bansal [2024] 466 ITR 254 (SC), wherein the Division Bench of Hon’ble Supreme Court after considering the facts of these cases dismissed the said SLP.

10.7 A plain reading of the aforesaid provision evinces an uncontrived position of law that the approval under Section 153D of the Act has to be granted **for "each assessment year"** referred to in clause (b) of sub-section(1) of Section 153A of the Act. It is beneficial to refer to the judgment of the Hon’ble Allahabad High Court in the case of Pr. CIT v. Sapna Gupta [2023] 147 taxmann.com 288/[2022 SCC On Line All. 1294] which captures with precision the scope of the concerned provision and more significantly, the import of the phrase- "each assessment year" used in the language of Section 153D of the Act. The relevant paragraphs of the said decision are reproduced as under:-

"13. It was held therein that if an approval has been granted by the Approving Authority in a mechanical manner without application of mind then the very purpose of obtaining approval under Section 153D of the Act and mandate of the enactment by the legislature

will be defeated. For granting approval under Section 153D of the Act, the Approving Authority shall have to apply independent mind to the material on record for "each assessment year" in respect of "each assessee" separately. The words 'each assessment year' used in Section 153D and 153A have been considered to hold that effective and proper meaning has to be given so that underlying legislative intent as per scheme of assessment of Section 153A to 153D is fulfilled. It was held that the "approval" as contemplated under 153D of the Act, requires the approving authority, i.e. Joint Commissioner to verify the issues raised by the Assessing Officer in the draft assessment order and apply his mind to ascertain as to whether the required procedure has been followed by the Assessing Officer or not in framing the assessment. The approval, thus, cannot be a mere formality and, in any case, cannot be a mechanical exercise of power.

16. It was observed that this is an important concept mentioned in Section 153A of the Act, which is peculiar to the scheme of the said Section. Keeping in view of this basic fundamental features of Section 153A, if Section 153D is scrutinized, then, it would become manifest that an important phrase is employed in the text of Section 153D, which is "each assessment year". The reading of the provisions in Section 153A and 153D conjointly makes it clear that separate approval of draft assessment order for each year is to be obtained under section 153D of the Income-tax Act. In its erudite judgement with the discussion on the legislative intent of Section 153A to 153D and the meaning of the "approval" as defined in Black's Law Dictionary as also the decisions of the Apex Court in the case of Sahara India(Firm) v. CIT [2008] 169 Taxman 328/300 ITR 403(SC) where the discussion on the requirement of prior approval of Chief Commissioner or Commissioner in terms of provision of Section 142(2A) of the Act had been made, it was noted that the Apex Court has held therein that the requirement of previous approval of the Chief Commissioner or Commissioner in terms of the said provision being an in-built protection against arbitrary or unjust exercise of power by the Assessing Officer casts a very heavy duty on the said high ranking authority to see that the approval envisaged in the section is not turned into an empty ritual. The Apex Court has held therein that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case.

Section 153D requires that the Assessing Officer shall obtain prior approval of the Joint Commissioner in respect of "each assessment year" referred to in clause (b) of sub-section (1) of section 153A which provides for assessment in case of search under section 132. Section 153A(1)(a) requires that the assessee on a notice issued to him by the Assessing Officer would be required to furnish the return of income in respect of "each assessment year" falling within six assessment years (and for the relevant assessment year or years), referred to in clause (b) of sub-section (1) of section 153A.

The proviso to section 153A further provides for assessment of the total income in respect of each assessment year falling within such six assessment years (and for the relevant assessment year or years).

20. The careful and conjoint reading of Section 153A(1) and Section 153D leave no room for doubt that approval with respect to "each assessment year" is to be obtained by the Assessing Officer on the draft assessment order before passing the assessment order under section 153A. "

10.8 Pertinently, this issue is also directly covered by the judgment of Coordinate Bench of the Tribunal, Jodhpur in the case of Indra Bansal & Ors. Vs ACIT in ITA Nos. 321 to 324, 279 to 281, 325 to 331 & 400 to 404/Jodh/2016 vide order dated 23.02.2018. The relevant portion is reproduced below :

"6. We have heard the rival contentions and have perused the material on record. The main contention of learned Authorised Representative is that reasonable time was not available with the Joint Commissioner for the grant of necessary approval as envisaged under section 153D of the Act. We have perused the forwarding letter dt. 30-3-2013 seeking approval of the draft assessment order. The date of receipt of this letter in the office of Joint Commissioner is indisputably on 31-3-2013 which is apparent from the date stamped on it by the office of the Joint Commissioner. Thus, this leaves no doubt that the letter requesting grant of approval and the granting of approval, both, are within one day of each other. This lends credence to the contention of the learned Authorized Representative that the draft assessment order was approved without much deliberation by the Joint Commissioner. Further, the time of the fax granting approval is 6.56 a.m. on 31-3-2013 which is prior to the office hours and, thus, it brings out a reasonable doubt that the approval was granted even before the letter requesting the approval was received in the office of the Joint Commissioner. Further, the response received by the assessee in response to his application under Right to Information Act, 2005 also establishes the correctness of the claim of the assessee that the assessment records were not before the Joint Commissioner when the approval was granted as the records were with the Range Office in Jodhpur whereas the approval was sent by fax on the morning of 31-3-2013 from Udaipur. Thus, it is our considered opinion that the Joint Commissioner had granted approval in a mechanical manner without examining the case records because the approval has been granted at 6.56 a.m. on 31-3-2013 from Udaipur wherein

it has already been mentioned that the assessment records were being returned whereas the draft assessment order along with the assessment records were handed over to the office of the Joint Commissioner on 31-3-2013 and as such it was physically impossible that all the case records along with the draft assessment order were received by the Joint Commissioner at Udaipur.

6.4 Coming to the facts of the case, it is apparent from the documents on record that the approval was given by the Joint Commissioner in hasty manner without even going through the records as the records were in Jodhpur while the Joint Commissioner was camping at Udaipur. The entire exercise of seeking and granting of approval in all the 22 cases was completed in one single day itself i.e., 31-3-2013. Thus, it is apparent that the Joint Commissioner did not have adequate time to apply his mind to the material on the basis of which the assessing officer had made the draft assessment orders. Tribunal, Mumbai Bench and Tribunal, Allahabad Bench in their orders, as discussed in the preceding paragraphs, have laid down that the power to grant approval is not to be exercised casually and in routine manner and further the concerned authority, while granting approval, is expected to examine the entire material before approving the assessment order. It has also been laid down that whenever any statutory obligation is cast upon any authority, such authority is legally required to discharge the obligation by application of mind. In all the cases before us, the Department could not demonstrate, by cogent evidence, that the Joint Commissioner had adequate time with him so as to grant approval after duly examining the material prior to approving the assessment order. The circumstances indicate that this exercise was carried out by the Joint Commissioner in a mechanical manner without proper application of mind. Accordingly, respectfully following the ratio of the Co-ordinate Benches of Mumbai and Allahabad as aforementioned and also applying the ratio of the judgment of the Hon'ble Apex Court in the case of Sahara India (Firm) v. CIT (supra), we hold that the Joint Commissioner has failed to grant approval in terms of section 153D of the Act i.e., after application of mind but has rather carried out exercise in utmost haste and in a mechanical manner and, therefore, the approval so granted by him is not an approval which can be sustained. Accordingly, assessments in three COs and nineteen appeals of the assessee(s), on identical facts, are liable to be annulled as suffering from the incurable defect of the approval not being proper. Accordingly, we annul the assessment orders in CO Nos. 8 to 10/Jodh/2016 and ITA Nos. 325 to 331/Jodh/2016. Thus, all the three COs and the nineteen appeals of the assessee, as aforesaid, are allowed.”

In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, we have no hesitation in holding that the approval u/s 153D of the Act has been granted by the Addl.CIT in the instant case before us in a mechanical manner without due application of mind as contemplated under the law.

10.9 In the instant case, a bare perusal of the impugned approval u/s 153D granted by the Addl. CIT makes it clear that the impugned letter simply grants an approval, without even a token of mention of any independent application of mind by the said approving authority. 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. There is no indication of examination of evidences, documents, statements of various persons etc. by the Addl. CIT i.e. approving authority. Further, as appears from the letter of the Assessing Officer seeking approval, he has sent only the draft assessment order without any assessment records or the search material. Resultantly, the impugned approval order u/s 153D also shows that the said approval was granted without examining the assessment record or the search material.

10.10 On an examination of the above documents, we also find that Assessing Officer, Kota sought approval from the approving authority i.e. Addl. CIT vide letter Udaipur dated 24.12.2019. The office of AO is located in Kota and the office

of Addl. CIT is located in Udaipur, distance of which by road is about 280 Kms (approx.) and hence the same would have practically received by the Addl. CIT in the evening of 24th Dec 2019 only. Thereafter, 25th Dec 2019 was Christmas and thus, an official holiday. The very next date, on 26th Dec 2019, the Addl. CIT granted approval in instant case, along with 193 other cases. Therefore, the period of time available to Addl. CIT is only one day, which is not enough to look into all the facts and details of search proceedings, the detailed and voluminous orders containing number of evidences, documents, statements of various persons etc. Thus, it clearly suggests there was no sufficient time for the Addl. CIT to look into to all the evidences, documents, statements of various persons in one day i.e. 26.12.2019; as 25.12.2019 being Christmas holiday. Hence, the approval granted by the Addl. CIT clearly lacks any application of mind and the approval granted in mechanical manner cannot be said to be valid approval taken in the eye of law.

10.11 Further, the Approving Authority has to apply independent mind to the material on record for "each assessment year" in respect of "each assessee" separately. The words 'each assessment year' used in Section 153D and 153A have been considered to hold that effective and proper meaning has to be given so that underlying legislative intent as per scheme of assessment of Section 153A to 153D is fulfilled. The Hon'ble Allahabad High Court in PCIT vs Sapna Gupta [2023] 147 taxmann.com 288/[2022 SCC OnLine All 1294] took note of this fact and

quashed the search assessment holding that the "approval" as contemplated under 153D of the Act, requires the approving authority, to verify the issues raised by the Assessing Officer in the draft assessment order and apply his mind to ascertain as to whether the required procedure has been followed by the Assessing Officer or not in framing the assessment. The approval, thus, cannot be a mere formality and, in any case, cannot be a mechanical exercise of power. Whereas, in the instant case, the Id. Addl.CIT has granted a single approval for all assessment years put together.

10.12 Additionally, it was argued by the Ld. AR that the draft assessment order in 200 cases, *i.e.* for 200 assessment years were placed and approval by the Approving Authority on 26.12.2019, which not only included the cases of respondent-assessee but the cases of other groups as well. It is humanly impossible to go through the records of 200 cases in one day to apply independent mind to appraise the material before the Approving Authority. In this regard, it is pertinent to refer to Page 137 to 139 of the Paper book which contains information obtained by Appellant-assessee from Central Public Information Officer under Right to Information Act, wherein, it reveals that the Id. Addl.CIT had granted approval for 200 cases on 26.12.2019 itself. This fact is not in dispute before us. It humanly is

not possible for an approving authority like Id. Addl. CIT to grant judicious approval u/s 153D of the Act for 200 cases on a single day.

10.13 Recently, the Hon'ble Apex Court in Union of India v. Rajeev Bansal, (2024) 469 ITR 46 : 2024 SCC On Line SC 2693, elucidated the importance of prior approval. Although the said judgment is with reference to granting of Sanction u/s 151 prior to issuance of notice u/s 148, the ratio decidendi is binding to prior approval u/s 153D also, in as much as in both cases approval is to be taken from a superior authority to ensure that the subordinate authority has followed due process of law and has not taken arbitrary decisions. The relevant extract of the judgment is reproduced herein below :

“76. Grant of sanction by the appropriate authority is a precondition for the Assessing Officer to assume jurisdiction under section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the Assessing Officer with the strict time limits prescribed under section 151 affects their jurisdiction to issue a notice under section 148.”

10.14 Therefore, for various reasons discussed above, the impugned approval given u/s 153D has been granted in a mechanical manner and without application of mind and thus it is invalid and bad in law and consequently vitiated the assessment order for want of valid approval u/s 153D of the Act. Such an approval

has neither been mandated by the provisions of the Act nor endorsed by the decision of the Hon'ble Orissa High Court and Hon'ble Allahabad High Court referred to supra. Hence, we find lot of force in the arguments advanced by the Id. AR in support of the additional ground raised for all the assessment years under consideration before us. Accordingly, the additional ground no. 8 raised by the assessee is hereby allowed.

11. Since, pursuant to the allowing of the additional ground, the entire search assessments framed in the hands of the assessee is to be declared illegal and bad in law, the other legal ground and grounds on merits raised by the assessee need not be gone into as adjudication of the same would be merely academic in nature and, hence, they are left open.

In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 10/03/2025.

Sd/-

(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member

Sd/-

(डॉ.एस.सीतालक्ष्मी)
(DR. S. SEETHALAKSHMI)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 10/03/2025.

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant-Resonance Eduventures Ltd., Kota.
2. प्रत्यर्थी / The Respondent-The ACIT/DCIT, Central Circle, Kota.
3. आयकरआयुक्त / CIT
4. आयकरआयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File {ITA No. 669 to 672/JPR/2024}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar