

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
DELHI BENCH 'G' NEW DELHI**

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

**ITA No. 1020/DEL/2020 (A.Y. 2013-14)**

**ITA No. 1021/DEL/2020 (A.Y. 2014-15)**

Style Solutions Pvt. Ltd. C-134, Defence Colony, New Delhi <b>PAN: AAGCS5899C</b>	Vs.	DCIT Central Circle-7 Room No. 330, ARA centre, Jhandewalan, New Delhi
<b>Appellant</b>		<b>Respondent</b>
Assessee by	Sh. Nirbhay Mehta, Adv, Shri Anup Mehta, CA, Sh. Ashwini Gupta, CA & Ms. Vanshika Mehta, Adv	
Revenue by	Ms. Jaya Chaudhary, CIT(DR)	
Date of Hearing	05/03/2025	
Date of Pronouncement	21/03/2025	

**ORDER**

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

The above 2 Appeals are filed by the Assesseees for Assessment Years 2013-14 and 2014-15, challenging the respective orders passed by the Commissioner of Income Tax (Appeals)-27, New Delhi, dated 30/12/2019.

2. Though the Assessee has raised several Grounds of appeal in the above Appeals, an additional Ground of appeal under Rule 11 of the Appellate Tribunal Rules, 1963 has been filed which reads as under: -

*“3. Whether on the facts and circumstances of the case, the approval granted u/s 153D of the Act through a common approval for separate assessment orders passed u/s 153A for Assessment Year 2008-09 to 2014-15 and u/s 153Ar.w.s. 143(3) of the IT act for Assessment Year 2014-15 is considered valid in law in view of Judgment in the case of Principal Commissioner of Income Tax Vs. Shiv Kumar Nayyar 163 taxmann.com 9 (High Court of Delhi) [15 May 2024].*

*3.1 Whether approval granted vide Letter F. No. CIT/C.R.-5/153D/2016-17/1098 dated 29/12/2016 is valid in terms of the provisions of Section 153D of the IT Act.”*

3. Brief facts of the case are that, the assessment proceedings have been initiated against the Assessee pursuant to a search and seizure operation conducted u/s 132/133A of the Income Tax Act, 1961 ('Act' for short) dated 15/02/2014 and subsequent dates in the case of Assessee along with other cases of AMQ Group at various residential and business premises. An approval u/s 153D has been issued by the Joint Commissioner of Income Tax, Central Range- 5, New Delhi vide office letter dated 29/12/2016 pursuant to the office letter of the ACIT, Central Circle-19, New Delhi dated 23/12/2016. Based on the said approval granted u/s 153D of the Act dated 29/12/2016, the assessment proceedings have been initiated u/s 153A r.w. Section

143(3) of the Act and the assessment orders have been passed against the Assessee for Assessment Year 2008-09 to 2013-14. As against the assessment orders for Assessment Year 2013-14 and 2014-15, which are under challenge before us, the Assessee preferred Appeals before the Ld. CIT(A). The Ld. CIT (A) dismissed the Appeals of the Assessee vide order dated 30/12/2019, which are called in question in the captioned Appeals.

4. The Ld. Counsel for the Assessee addressing on the additional grounds of Appeal, vehemently submitted that in all the above cases, the assessment proceedings have been initiated pursuant to an invalid approvals granted u/s 153D of the Act by the Joint Commissioner of Income Tax. The Ld. Counsel further submitted that, as per u/s 153D of the Act, the Ld. JCIT is required to verify the issues raised by the Ld. A.O. in the draft assessment order, apply his mind and ascertain whether the entire facts have been appreciated properly by the Ld. A.O. together with the supporting evidences. The procedure of granting approval by the Ld. JCIT is a quasi-judicial function, which has to be performed based on sound reasoning on due examination of the seized documents, replies filed by the Assessee and the draft assessment order of the Ld. A.O.

5. The Ld. AR further submitted that, the approval granted cannot be treated as a valid approval contemplated u/s 153D of the Act as single approval has been given for seven Assessment Years. Further submitted that the approval u/s 153D of the Act has been granted on 29/12/2016, however, the same has been received by the A.O. on 30/12/2016 and the assessment order came to be passed on 29/12/2016 itself. Thus submitted that as on the date of passing the Assessment Order, the A.O. has not received the approval u/s 153D of the Act. Apart from the same, the Ld. Assessee's Representative submitted that the approval has been granted in a mechanical manner without verifying the draft assessment order, seized documents and other materials of the Assessment proceedings. Therefore, submitted that the assessment orders passed based on erroneous approval granted u/s 153D of the Act requires to be quashed as void ab-initio. The Ld. Counsel for the Assessee has also relied on plethora of judicial pronouncements.

6. Per contra, the Ld. Department's Representative submitted that the role of ld. JCIT, Central Range is totally different from the role of a JCIT in the normal range. Further submitted that in the Central Range, the ld. JCIT is involved in the search assessment proceedings right from the time of receipt of appraisal report from the Investigation Wing and is

involved with the Ld. AO from time to time while issuing various questionnaires. The ld. JCIT in Central Range also examined the seized documents in detail in respect of each Assessment Years immediately after receipt of the appraisal report and provided able assistance to the Ld. AO about the interpretation of the said seized documents while issuing questionnaires to Assesseees, examining the replies filed by the Assesseees and drawing conclusions thereon. Further submitted that the Ld. ACIT has wrote request for approval u/s 153D of the Act to JCIT on 23/12/2016 and approval has been granted on 29/12/2016, the Ld. JCIT had sufficient time to look into the documents of the assessment proceedings including seized documents, statements, draft assessment orders, etc. and after applying the mind, granted approval. Thus, submitted that it is not the case of granting approval in hurried manner. The Ld. Department's Representative has also submitted that the additional Ground challenging the approval issued u/s 153D of the Act has not been raised before the Ld. CIT(A), which cannot be raised before the Tribunal in the belated stage. Further the Ld. Department's Representative relied on the order of the Co-ordinate Bench of the Tribunal, Mumbai Benches dated 23/01/2025 in the case of Smt. Usha Satish Salvi Vs. ACIT in ITA Nos. 4239, 4237 & 4238/MUM/2023 and

sought for dismissal of the Additional Grounds of Appeal challenging the approval granted u/s 153D of the Act.

7. We have heard both the parties and perused the material available on record. In above cases, the assessment proceedings have been initiated pursuant to the approval dated 29/12/2016 issued u/s 153D of the Act by the Joint Commissioner of Income Tax, Central Range-5 New Delhi. For the sake of convenience, the approval dated 29/12/2016 issued by JCIT is extracted as under:-

**ANNEXURE A**

  
कार्यालय संयुक्त आयकर आयुक्त  
Office of the Joint Commissioner of Income Tax,  
केंद्रीय रेंज-05, प्रथम तल, कमरा न. 101  
Central Range-05, 1<sup>st</sup> Floor, Room no. 101  
ए. आर. ए. सेंटर झंडेवालान एक्सटेंशन नई दिल्ली-110055  
A.R.A. Centre, E-2, Jhandewalan Extn. New Delhi-110055

**F. No. Joint CIT/CR-5/153D/2016-17/ 1०१०** **Dated:-29.12.2016**

To,

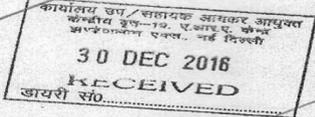
The Assistant commissioner of Income Tax,  
Central Circle-19,  
New Delhi.

**Subject: Approval of draft assessment order u/s 153D of the Income Tax Act'1961.**

This is in reference to your office letter F. No ACIT/CC-19/2016-17/1710 dated- 23.12.2016 whereby you have submitted order in the following cases:

S.No	Name of the Assessee	PAN	A.Y.	Section
1	M/s Style Solutions Pvt. Ltd.	AAGCS5899C	2008-09 to 2013-14	153A rws 143(3) of the IT Act, 1961.
2	-do-	-do-	2014-15	143(3) of the IT Act, 1961

The above draft assessment order u/s 153D as proposed is hereby accorded approval.



  
**(Vijay Kumar Jiwani)**  
Joint Commissioner of Income Tax  
Central Range-05, New Delhi

8. From the above, it is evident that the Ld. JCIT issued a consolidated approval for seven Assessment Years. It is matter of fact that in the present case, a request for approval has been sought by the ACIT on 23/12/2016 and approval has been granted on 29/12/2016. As could be seen from the above approval, the approval so accorded by the JCIT has been received by the ACIT only on 30/12/2016. However, the Assessment Orders have been passed on 29/12/2016 itself. Thus, it is clear from the record that as on date of passing of the Assessment Orders, the approval u/s 153D of the Act was not received by the A.O.

9. The Hon'ble Jurisdictional High Court in the case of Pr. Commissioner of Income Tax Vs. Shiv Kumar Nayyar reported in 163 Taxmann.com 9(Delhi), while upholding the order of the Tribunal, dismissed the Appeal of the Department in following manner:-

*"10. Before embarking upon the analysis of the factual scenario of the instant appeal, we deem it apposite to examine the underlying 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 20/05/2024 at 21:34:51 intent of the relevant provision of the Act i.e., Section 153D, which is culled out as under:-*

*"153-D. Prior approval necessary for assessment in cases or requisition.--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 [sub-section (1) of Section 153-A] 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 [Principal Commissioner or Commissioner] under sub-section (12) of Section 144-BA."*

*11. 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 decision of the High Court of Judicature at Allahabad in the case of PCIT v. Sapna Gupta [2022 SCC OnLine 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, 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 20/05/2024 at 21:34:51 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.*

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*19. 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. [Emphasis supplied]*

*12. It is observed that the Court in the case of Sapna Gupta (supra) refused to interdict the order of the ITAT, which had held that the approval under Section 153D of the Act therein was granted without any independent application of mind. The Court took a view that the approving authority had wielded the power to accord approval mechanically, inasmuch as, it was humanly impossible for the said authority to have perused and appraised the records of 85 cases in a single day. It was explicitly held that the authority granting approval has to apply its mind for "each assessment year" for "each assessee" separately.*

*13. Reliance can also be placed upon the decision of the Orissa High Court in the case of Asst. CIT v. Serajuddin and Co. [2023 SCC OnLineOri 992] to understand the exposition of law on the issue at hand. Paragraph no.22 of the said decision reads 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 Commissioner of Income-tax. 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 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 20/05/2024 at 21:34:51 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 "seen" 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 Assessing Officer 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."*

*[Emphasis supplied]*

*14. During the course of arguments, learned counsel for the assessee apprised this Court that the Special Leave Petition preferred by the Revenue against the decision in the case of Serajuddin (supra), came to be dismissed by the Supreme Court vide order dated 28.11.2023 in SLP (C) Diary no. 44989/2023.*

*15. A similar view was taken by this Court in the case of Anuj Bansal (supra), whereby, it was reiterated that the exercise of powers under Section 153D cannot be done mechanically. Thus, the salient aspect which emerges from the abovementioned decisions is that grant of approval under Section 153D of the Act cannot be merely a ritualistic formality or rubber stamping by the authority, rather it must reflect an appropriate application of mind.*

*16. In the present case, the ITAT, while specifically noting that the approval was granted on the same day when the draft assessment orders were sent, has observed as under:-*

*"10. We have gone through the approval granted by the ld. Addl. CIT on 30.12.2018 u/s 153D of the Act which is enclosed at page 36 of the paper book of the assessee. The said letter clearly states 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 20/05/2024 at 21:34:51 that a letter dated 30.12.2018 was filed by the ld. AO before the ld. Addl. CIT seeking approval of draft assessment order u/s 153D of the Act. The ld. Addl. CIT has accorded approval for the said draft assessment orders on the very same day i.e., on 30.12.2018 for seven assessment years in the case of the assessee and for seven assessment years in the case of*

*Smt. NeetuNayyar. It is also pertinent in this regard to refer to pages 68 and 69 of the paper book which contains information obtained by Smt. NeetuNayyar from Central Public Information Officer who is none other than the ld. Addl. Commissioner of Income-tax, Central Range-S, New Delhi, under Right to Information Act, wherein, it reveals that the ld. Addl. CIT had granted approval for 43 cases on 30.12.2018 itself. This fact is not in dispute before us. Of these 43 cases, as evident from page 36 of the paper book which contains the approval u/s 153D, 14 cases pertained to the assessee herein and Smt. NeetuNayyar. The remaining cases may belong to some other assessees, which information is not available before us. In any event, whether it is humanly possible for an approving authority like ld. Addl. CIT to grant judicious approval u/s 153D of the Act for 43 cases on a single day is the subject matter of dispute before us. Further, section 153D provides that approval has to be granted for each of the assessment year whereas, in the instant case, the ld. Addl. CIT has granted a single approval for all assessment years put together."*

*17. Notably, the order of approval dated 30.12.2020 which was produced before us by the learned counsel for the assessee clearly signifies that a single approval has been granted for AYs 2011-12 to 2017-18 in the case of the assessee. The said order also fails to make any mention of the fact that the draft assessment orders were perused at all, much less perusal of the same with an independent application of mind. Also, we cannot lose sight of the fact that in the instant case, the concerned authority has granted approval for 43 cases in a single day which is evident from the findings of the ITAT, succinctly encapsulated in the order extracted above.*

*18. Therefore, under the facts of the present case, considering the foregoing discussion and the enunciation of law settled through 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 20/05/2024 at 21:34:51 judicial pronouncements discussed hereinabove, we are unable to find any substantial question of law which would merit our consideration.*

*19. Consequently, the appeal stands dismissed. Pending application(s), if any, are also disposed of."*

10. In the present case, the approval dated 29/12/2016 of the JCIT has been received by the ACIT only on 30/12/2016 and the Assessment Orders have been passed on 29/12/2016. Thus, as on date of passing of the Assessment Order, the approval u/s 153D of the Act has not been received by the A.O., therefore, the assessment order has been passed by the A.O. in the absence of receipt of the approval u/s 153D of the Act. Further, while granting the Approval the Ld. JCIT only mentioned that the Draft Assessment Order has been approved, which doesn't prove the applications of mind by the Ld. JCIT. Further the Ld. JCIT accorded the consolidated single approval u/s 153D of the Act for several Assessment Years. Therefore, the ratio laid down by the Hon'ble High Court of Delhi in the case of Shiv Kumar Nayyar (supra) is squarely applicable to the captioned Appeals. Thus, the impugned assessment orders deserves to be set aside.

11. In so far as the order of the Co-ordinate Bench of the Tribunal (Mumbai Bench) relied by the Ld. Department's Representative in the case of Usha Satish Salvi (supra), in the said case, certain modifications were suggested to the A.O. in the draft assessment order, which have been carried out by the A.O. while passing the Assessment Order and the Bench therein observed that the said fact shows that approving authority approved the draft order not in mechanical manner but after

due application of mind, however, in the present case, no such application of mind is forthcoming. Further in the case of Usha Satish Salvi the Ld. Department's Representative has filed affidavit of the then Assessing Officer and the approving authority who have denied the allegations raised by the Assessee. After relying on the said so called unchallenged depositions made in the Affidavit of the then A.O. and the approving authority,(which has been filed much after the granting of the approval and at the stage of second Appeal before the Tribunal), upheld the order of the Ld. CIT(A). Therefore, the present case in hand is factually distinguishable. In view of the Judgment of the Hon'ble Delhi High Court in the case of Shiv Kumar Nayyar (supra), which is having binding precedent, and the order/ratio of the Tribunal in the case of Usha Satish Salvi (supra) has no effect of binding precedent.

12. In view of the above discussions and reasoning, we allow the Additional Ground of Appeal challenging the assessment order which was framed based on an invalid approval accorded u/s 153D of the Act. Accordingly, we set aside the impugned Assessment Orders in the captioned Appeals.

13. In the result, the Appeals of the Assessee in ITA Nos. 1020/Del/2020 and 1021/Del/2020 are allowed.

14. Since we have quashed the respective assessment orders on the ground of invalid sanction accorded u/s 153D of the Act, other Grounds of Appeal raised by the Assessee have not been adjudicated.

**Order pronounced in the open court on 21<sup>st</sup> March, 2025**

Sd/-

Sd/-

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

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

Date:- 21.03.2025

R.N, Sr.P.S\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI