

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

**ITA No. 5498/Del./2016 : Asstt. Year : 2012-13
ITA No. 5499/Del./2016 : Asstt. Year : 2013-14**

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|-------------------------------------------------------------------------------|----|--------------------------------------------------|
| M/s Drishti Builders & Promoters, 32/4, E.C. Road, Dehradun, Uttrakhand | Vs | DCIT, Central Circle, Dehradun, Uttrakhand |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AAIFA4643E | | |

**Assessee by: Sh. Salil Kapoor, Sh. S. Lalchandani,
Sh. T. Chanana, Ms. Ananya Kapoor, Advs.
Revenue by: Sh. S. K. Chaterjee, CIT-DR**

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| Date of Hearing: 18.03.2025 | Date of Pronouncement: 28.03.2025 |
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ORDER

Per Satbeer Singh Godara, Judicial Member:

These twin assessee's as many appeals i.e. ITA Nos. 5498 & 5499/Del/2016, for A.Ys. 2012-13 & 2013-14 arise against the CIT(A)-IV, Kanpur's case Nos. CIT(A)-IV/75/DCIT-CC-DDN/14015/105 & 106 dated 14.09.2016, in proceedings u/s 153A(1)(b)/144 of the Income Tax Act, 1961 (in short "the Act"), respectively.

2. Heard both the parties at length. Case files perused.
3. This assessee raises a common additional ground in these twin appeals i.e. ITA Nos. 5498 & 5499/Del./2016 which are as under:

"7. That the assessment order dated 30.03.2015 passed u/s 153A(1)(b) r.w.s. 144 of the Income Tax Act, 1961 ("the Act") by the Assessing Officer ("AO) and the additions made therein are illegal bad in law and without jurisdiction and the same are liable to be deleted.

8. That in view of the facts and circumstances of the case, and in law, the approval under section 153D of the Income Tax Act, 1961 is mechanical and without any application of mind and is not a valid approval. Thus, the impugned assessment order is illegal, bad in law, and liable to be quashed."

4. We next note that there arises the first and foremost issue of validity of all the impugned assessments framed u/s 143(3) r.w.s. 153A of the Act; dated 30.03.2015, in consequence to the search action herein dated 26.04.2012, on the ground that the learned prescribed authority had not accorded a valid approval thereto u/s 153D of the Act. The Revenue could hardly dispute that the instant legal ground sought to be raised at the assessee's behest goes to the root of the matter and therefore, we quote National Thermal Power Co. Ltd. vs. CIT (1998) 229 ITR 383 (SC); as considered in Allcargo Global Logistics Ltd. vs. DCIT (2012) 137 ITD 287 (SB) (Mum), that such an additional ground could very well be allowed to be raised in section 254(1) proceedings, in order to determine the correct tax liability of an assessee provided all the relevant facts form part of the records.

5. It is in this factual backdrop that we admit the assessee's instant legal ground and note with the able assistance coming from both the parties that the learned Assessing Officer had

sought the prescribed authority's approval dated 30.03.2015. The clinching fact emanating from the learned Assessing Officer's order herein had infact sought a common approval for assessment years 2012-13 and 2013-14 which stood granted, and therefore, we quote PCIT Vs. Shiv Kumar Nayyar (2024) 163 taxmann.com 9 (Del.), PCIT Vs. MDLR Hotels (P) Ltd. (2024) 166 taxmann.com 327 (Del.) and ACIT vs. Serajuddin and Co. (2024) 163 taxmann.com 118 (SC), to conclude that such a combined section 153D approval indeed vitiates the entire assessment itself. We draw strong therefrom to quash all the impugned assessments framed herein in assessee's case in assessment years 2012-13 and 2013-14 in very terms.

6. All other pleadings on merits herein stand rendered academic.

7. To sum up, these assessee's twin appeals ITA Nos. 5498 & 5499/Del/2016 are allowed. A copy of this common order be placed in the respective case files.

Order Pronounced in the Open Court on 28/03/2025.

Sd/-

(M. Balaganesh)
Accountant Member
Dated: 28/03/2025

Sd/-

(Satbeer Singh Godara)
Judicial Member

Subodh Kumar, Sr. PS
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR