

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

**BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND**

SH. YOGESH KUMAR U.S., JUDICIAL MEMBER

ITA No. 711/Del/2023 (A.Y. 2010-11)

ITA No. 712/Del/2023 (A.Y. 2011-12)

ITA No. 713/Del/2024 (A.Y. 2012-13)

ITA No. 714/Del/2024 (A.Y. 2013-14)

SohanLalSingla (AOP) 13/7 G D Industrial Complex, main Mathura Road, Faridabad, Haryana PAN: AADAS1739E	Vs.	DCIT Central Circle-1 ITO, C. R. Building, NIT-IV, Faridabad, Haryana
Appellant		Respondent
Assessee by	Shri Suraj Bhan Nain, Advocate	
Revenue by	Sh. Mahesh Kumar CIT(DR)	
Date of Hearing	05/05/2025	
Date of Pronouncement	08/05/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

All the four captioned appeals are filed by the Assessee against the common order of the Commissioner of Income Tax (Appeals) ('Ld. CIT(A) for short) dated 27/01/2023 pertaining to Assessment Years 2010-11 to 2013-14 respectively.

2. Brief facts of the case are that, a search was conducted on 29/12/2015 at the residence as well as office of Mapsko Group of cases including the case of the Assessee u/s 132 of the Income Tax Act, 1961 ('Act' for short). Seized documents/material in the group were received by the A.O. of the Assessee on 10/03/2017. Subsequently, assessment proceedings have been initiated and

respective assessment orders came to be passed by the A.O. on 22/12/2017 u/s 153A(1)(b) of the Act by making various additions. Aggrieved by the said assessment orders, the Assessee preferred Appeals before the Ld. CIT(A). The Ld. CIT(A) vide combined order dated 27/01/2023, sustained the additions made by the A.O. As against the consolidated order of the Ld. CIT(A) for Assessment Year 2010-11 to 2013-14, the Assessee preferred the captioned Appeals.

3. The Assessee has filed the additional grounds of Appeal and contended that the assessment orders have been passed consequent to the erroneous approval granted u/s 153D of the Act, therefore, the assessment orders passed for Assessment Year 2010-11 to 2013-14 requires to be quashed.

4. The Ld. Counsel for the Assessee further submitted that the approval accorded u/s 153D of the Act is a mechanical and arbitrary approval without their being any application of mind and also without satisfying the statutory pre-conditions of the Act as such the assessment so framed is null and void. The Ld. Counsel further submitted that single approval has been issued u/s 153D of the Act for seven Assessment Years pertaining to the Assessee, apart from the same, on the very same day the Ld. JCIT has accorded approval for 147 Assessment Years pertaining to 21 Assesseees, thus, the Ld. Assessee's Representative submitted that it is humanly impossible to

Apply mind and accord approval in all the cases. The Ld. Counsel relying on the Judgment of the Jurisdictional High court in the case of Pr. Commissioner of Income Tax Vs. Shiv Kumar Nayyar reported in 163 taxmann.com dated 15/05/2024 in ITA No. 285/2024 (CMP No. 28994/2024) and other Judicial pronouncements, sought for allowing the Appeal and prayed for quashing the assessment orders.

5. Per contra, the Ld. Departmental Representative apart from vehemently canvassing the argument in support of the revenue, filed written submission which is reproduced as under:-

“1) That on 29/04/2025, the Ld. Counsel of Assessee has raised additional grounds of appeal before the Hon'ble Bench, vide letter dated 03/03/2025, concerning the issue of approval u/s 153D of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'),.

With regards to the above-said additional grounds of appeal filed by the Assessee, it is most respectfully submitted that these grounds were not raised before the Ld. CIT (A), moreover, these grounds were presented before the Hon'ble Bench only on the last date of hearing dated 05/05/2025. That is to say that the Assessee has raised these additional grounds of appeal concerning the issue approval u/s 153D of the Act approximately after 2 years of inordinate delay that to without any justification or documentary evidence. It is most respectfully submitted that such an unreasonable delay is unacceptable; especially considering the Assessing has consistently attended hearings before both the Hon'ble ITAT and the CIT (A) and has never previously indicated any difficulty in presenting his case.

2) Without prejudice to foregoing objections, it is most respectfully submitted that the assessment orders clearly states that the order of assessment have been passed with the statutory approval of the Jt. Commissioner of Income Tax, Central Range, Gurgaon, accorded u/s 153D of the Act and communicated vide his office letter F. No. JCIT(CR)/GGN/2017-18/959 dated 22.12.2017. Hence, it is most respectfully prayed before the Hon'ble Bench that the above-captioned appeals may please be adjudicated on merits of the case.

3) Further, it is a matter of record that the AO (Dy. CIT, Central Circle-I, Faridabad), in the above-captioned appeal, sought approval from the Range Head, vide his office letter being F.No. DCIT/CC-I/Faridabad/2017-18/1807, dated 21/12/2017, and have also sent the draft assessment order along with relevant assessment records, in respect of M/s SohanLalSingla (AOP) [PAN: AADAS1739E] (MAPSKO Group of Cases), for the kind consideration and approval of the Range Head in terms of S. 153D of the Income Tax Act, 1961. [A copy of AO's letter requesting approval u/s 153D dated 21/12/2017 is annexed herewith as ANNEXURE-A].

4) Furthermore, the Range Head (Jt. CIT, Central Range, Gurgaon) after perusing the draft assessment order along with relevant assessment records, accorded the approval u/s 153D of the Act vide his office letter being F.No. JCIT(CR)/GGN/2017-18/959, dated 22/12/2017.

5) Furthermore, it is pertinent to mention here that the AO requested approval u/s 153D of the Act on 21/12/2017 whereas the Range Head granted the said approval only on 22/12/2017. It may please further be noted that there are only 4 issues and most of these are common to all the assessment years under consideration for which the additions were made by the assessing officer. Therefore, it is most respectfully submitted that the approval u/s 153D of the Act cannot be said to be mechanical in nature or without application of mind. The Range Head has looked into the records, applied his mind and accorded the approval in accordance with the law. [A copy of Range Head's letter granting approval u/s 153D dated 22/12/2017 is annexed herewith as ANNEXURE-B].

6) Furthermore, in view of the CBDT's guidelines being F. No. 286/161/2006-IT (Inv. II) dated 22.12.2006, Para 1.7, mandates that assessment in all cases be it search of a group or an assessee, assessment are framed simultaneously to ensure coordinated decision-making and eliminate the possibility of assessments being made in the wrong hands or for the incorrect assessment year(s). It is respectfully submitted that, in search cases, the Range Head (Addl./Joint CIT) is fully aware of the progress of the assessment proceedings, the relevant issues concerning different assessee, and the nature and content of the seized material.

The said guidelines explicitly emphasize the close coordination required in search and seizure assessments. Therefore, it is reasonable to conclude that, in accordance with prevailing administrative practices and guidelines, the approving authority has a comprehensive understanding of the issues involved in a particular case well in advance, prior to the case being submitted to him for approval under section 153D of the Act. The CBDT guideline is a crucial document that provides insight into the manner in which search assessments are

handled by field officers. Hence, by any stretch of imagination, it cannot be inferred that the Range Head was not in a position to independently apply his mind in a judicious manner while granting approval under section 153D of the Act and that the approval granted by the Range Head u/s 153D was in a routine and casual manner without considering the facts of the case. [CBDT guidelines being F. No. 286/161/2006-IT (Inv. II) dated 22.12.2006 is annexed herewith as ANNEXURE-C].

7) Furthermore, it is respectfully submitted that each approval must be assessed in light of the specific facts of the case, including the number of issues involved, the nature of those issues, the modus operandi, the number of cases, and the interrelationship among the facts of such cases. In instances where identical issues are involved, with the same modus operandi and cases pertaining to the same assessee, it would not be unreasonable to presume that the approving authority can judiciously apply its independent mind to such cases in a single day.

Thus, the Range head approving all or a number of cases of an assessee on a single day ought not to be seen as non-application of mind, particularly when the Range Head has perused the records and engaged in discussions with the Assessing Officer from time to time as per the CBDT guidelines referred above.

8) Furthermore, it is respectfully submitted that the Assessee's contention that Section 153D of the Income Tax Act, 1961 mandates separate approval for each assessment year is not only erroneous but also wholly unsupported by the provisions of the Act. Section 153D expressly requires the prior approval of the Joint Commissioner before the Assessing Officer passes any assessment or reassessment order under sections 153A or 153C, in cases involving search or requisition. However, the approval mandated under this provision is for the entire set of assessments arising from the search or requisition, encompassing all relevant years as a whole. The phrase "each assessment year" in Section 153D merely refers to the years involved in the search, and does not imply the necessity of separate approval for each individual year. The Assessee's argument, therefore, lacks any statutory foundation and fails to recognize the legislative intent behind Section 153D. Therefore, it is most respectfully submitted that the Assessee's contention is entirely without merit and should be categorically rejected.

9) Lastly reliance is being placed upon the decision of Hon'ble ITAT in the case of Smt. UshaSatishSalvi, ITA No. 4239-4239/MUM/2023, A.Y 2012-13 to 2014-15, dated 23.01.2025, wherein on the issue of approval u/s 153D of the Act has been considered at Para.8 to 8.2, Pg. No. 12 to 17 therein. In this decision, Hon'ble ITAT has considered various decisions of Hon'ble Courts as well as the affidavits of the AO and Range head regarding regular discussions between them prior to

approval u/s 153D of the Act and the Hon'ble Tribunal had decided the issue in favour of the Department even in the case wherein common approval had been granted for all search cases of the Assessee. [Copy of decision is annexed herewith as ANNEXURE-D].

In view of the foregoing submissions, it is most respectfully submitted that the contentions of the Assessee on the issue of approval of u/s 153D of the Act may please be rejected and the order of the AO may please be upheld.”

6. We have carefully considered the submissions of the parties and also verified, material available on record and the case laws cited. The legal objection of transgression of requirement of approval under section 153D of the Act is in question which has the effect on the very substratum of the assessment and consequential appellate proceedings.

7. For the purpose of deciding the issue of legality or otherwise of of the approval accorded u/s 153D of the Act and the consequential assessment proceedings, we shall straightway advert to the approval accorded u/s 153D of the Act. The approval under s. 153D of the Act dated 22/12/2017 granted by the JCIT, Central Range-Gurgaon, addressed to Deputy Commissioner of Income Tax, , Central Circle-I, Faridabad is reproduced hereunder:-

“

**OFFICE OF THE
JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, GURGAON, 7th FLOOR,
HSIIDC BUILDING, UDYOG VIHAR, PHASE-V, GURGAON**

F.No. JCIT(CR)/GGN/2017-18/959 Dated: 22.12.2017

To,

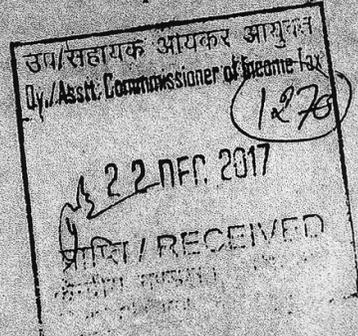
The Dy. Commissioner of Income Tax,
Central Circle-I,
Faridabad ✓

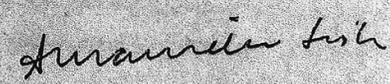
**Sub: Approval u/s 153D of the Income Tax Act, 1961 in the case of M/s
Sohan Lal Singla (AOP), PAN- AADAS1739E for A.Ys. 2010-11 to 2016-17 -
Regarding-**

This is in reference to your letter F. No. 1807 dated 21.12.2017 whereby you have submitted draft orders to be passed seeking approval u/s 153D of the I.T. Act, 1961 in the case of M/s Sohan Lal Singla (AOP), PAN- AADAS1739E, for A.Ys. 2010-11 to 2016-17.

The above draft orders as proposed are hereby accorded approval with the direction to ensure that orders should be passed well before the limitation. Further, the copies of the final orders so passed to sent to this office for records.

Encl: As above




(AMANINDER SINGH DHINDSA)
Jt. Commissioner of Income Tax
Central Range, Gurgaon.

For Sohan Lal Singla

Member

8. On a perusal of the above approval dated 22/12/2017, it depicts that the the Ld. JCIT, has not uttered a word on the subject matter of

additions. The approval is in the nature of Performa approval; the approval granted smacks of mechanical or perfunctory approval in a symbolic exercise of powers vested under s. 153D of the Act. Apart from the same, a single approval has been granted for seven Assessment Years pertaining to the Assessee.

9. The Hon'ble Jurisdictional High Court in the case of Pr. Commissioner of Income Tax Vs. Shiv Kumar Nayyar (supra) held as under:-

"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.

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.”

10. Significantly, the Hon’ble Orissa High Court in the case of *ACIT vs Serajuddin & Co. 454 ITR 312 (Orissa)* had an occasion to examine substantial question of law on the propriety of approval granted under Section 153D of the Act. The Orissa High Court made wide ranging observations towards the manner and legality of approval under S. 153D of the Act. The Hon’ble High Court *inter-alia* observed that the approval under s. 153D of the Act being mandatory, while elaborate reasons need not be given, there has to be some indication that approving authority has examined draft orders and finds that it meets the requirement of law. The approving authority is expected to indicate his thought process while granting approval, held that it is not correct on the part of the Revenue to contend that the approval itself is not justiciable. Where the Court finds that the approval is granted mechanically, it would vitiate the assessment order itself. The

approval letter simply grants approval. In other words, even the bare minimum requirement of approving authority having to indicate what thought process involved leading to the aforementioned approval has not been provided. As explained, the mere repeating of words of the Statue or mere rubber stamping of the communication seeking sanction by using similar words like 'approval' will not, by itself, meet the requirement of law. The Hon'ble Court made reference to manual issued by the CBDT in the context of erstwhile section 158BG of the Act and observed that such manual serves as a guideline to the AOs. Since it was issued by CBDT, the powers of issuing such guidelines can be traced to section 119 of the Act. The Hon'ble High Court also held that non-compliance of requirement of section 153D of the Act is not a mere procedural irregularity and lapse committed by Revenue may vitiate the assessment order.

11. The ratio of judgment delivered in the case of *ACIT vs Serajuddin & Co. Kolkata*; *PCIT vs Anuj Bansal*; *PCIT vs Shiv Kumar Nayyar*; and *PCIT vs Subhash Dabas* (supra) has held in chorus that the approval granted under s. 153D of the Act, if granted mechanically, will vitiate the assessment order itself. The SLP filed against the aforesaid judgment in the case of *ACIT vs Serajuddin & Co. Kolkata* was dismissed as reported in (2024) 163 taxmann.com 118 (SC).

12. As noted above, in the instant case, a single approval u/s 153D has been accorded in respect of seven Assessment Years pertaining to the Assessee, there is no mentioning of seized material in the other material to show involvement of the superior authority in the approval granted by the ACIT. Applying the ratio of judgments delivered as noted above, the assessment orders based on ritualistic approval stands vitiated and thus we quash the respective impugned Assessment Orders and the consequential orders of the Ld. CIT(A) by allowing the additional ground No. 6 of the respective Appeals.

13. In the result, the appeals filed by the Assessee in ITA Nos. 711/Del/2023, 712/Del/2023, 713/Del/2024 & 714/Del/2024 1602/Del/2023 are allowed.

14. Since, we have quashed the Assessment Order on the ground of erroneous approval accorded u/s 153D of the Act, we do not consider it necessary to address on other legal and factual contentions raised in the other grounds of Appeal of the Assessee.

Order pronounced in the open court on 08th May , 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Date:- 08.05.2025
R.N, Sr.P.S*

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI