

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: C : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.2544/Del/2023
Assessment Year: 2018-19

Shri Jagbir Singh Dhull,
Sita Shyam Colony,
Jind, Haryana – 126 112
PAN: AARPD0818Q

Vs DCIT,
Central Circle,
Karnal.

(Appellant)

(Respondent)

Assessee by	: Shri Ved Jain, Advocate & Ms Uma Upadhyay, CA
Revenue by	: Shri Kailash Dan Ratnoo, CIT-DR
Date of Hearing	: 28.04.2025
Date of Pronouncement	: 09.05.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 05.07.2023 of the Commissioner of Income-tax (Appeals)-3, Gurgaon (hereinafter referred to as the Ld. First Appellate Authority or 'the Ld. FAA', for short) in Appeal No.10479/2019-20 arising out of the appeal before it against the order dated 28.12.2019 passed u/s 143(3) r.w.s. 153B(1)(b) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Central Circle, Karnal (hereinafter referred to as the Ld. AO).

2. On hearing both the sides, we find that amongst other grounds on merits, the assessee has raised an additional ground of appeal questioning the impugned

assessment order passed u/s 143(3) r.w.s. 153B(1)(b) of the Act to be bad for want of approval u/s 153D of the Act in accordance with law.

3. We find that although the Id. DR has supported the order of the Id. tax authorities below and the approval as granted but what is apparent is that in the present case approval for 23 cases had been granted by the Joint Commissioner, Central Range, Sector17, Chandigarh in regard to four set of assessee. The letter forwarded by the Assessing Officer, DCIT, Karnal, seeking approval in respect of Skylark Foods Pvt. Ltd. was received by the approving authority, i.e., JCIT, Chandigarh, on 24.12.2019 and the approval was granted on the same date. The Id. Counsel for the assessee has relied the order of the coordinate Bench in ITA No.2545/Del/2023, M/s Skylark Hatcheries Pvt. Ltd. vs. DCIT, order dated 27.02.2025, to contend that the coordinate Bench has annulled the assessment order on the ground that approval u/s 153D of the Act was granted in a mechanical manner without application of mind.

4. The case of the assessee is the outcome of a search and seizure operation u/s 132 of the Act conducted at the business premises of M/s Skylark Group, Safidon, Jind and residential premises of its members and the assessee had allegedly derived income from salary from Skylark Hatcheries Pvt. Ltd. and was also a partner/director or shareholder in other group companies of Skylark group.

5. The copies of letter issued on 24.12.2019 by the AO show that on 25.12.2019, the letter was received by the approving authority as there is a seal of 25.12.2019 on the letter showing receipt in the office of Addl. Commissioner of Income-tax, Range Central, Chandigarh. Then, we find that on 25/26.12.2019, by way of letters No.

JCIT/RC/Chd/CC-KNL/OSD/184/2019-20/187/529 to 534; and JCIT/RC/Chd/CC-KNL/OSD/190/2019-20/187/649; approval was granted. Although, the approval letters are separately issued for each assessment year. However, on going through the approval, we find that the approval letter does not bear any reference to what all material were considered in regard to the issues and incriminating materials relied by the AO for completing the search assessment. As for convenience, we consider it appropriate to scan the content of one of such letters below, which will make apparent that no other conclusion can be drawn other than the fact of non application of mind by competent authority while giving approval:-



Office of the

Joint Commissioner of Income Tax, Central Range,
 कार्यालय संयुक्त आयकर आयुक्त, सेंट्रल रेंज,
 Ground Floor, C.R. Building, Sector 17, Chandigarh
 भूतल, सी.आर. बिल्डिंग, सेक्टर-17, चण्डीगढ़

E-mail - addlctrangecentralchd@gmail.com

PHONE NO. 0172-2544204

No JCIT/RC/Chd/CC-KNL/OSD/184/2019-20/187/ 534
 To

Dated:- 25.12.2019

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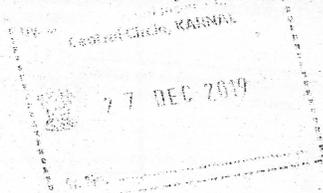
Dy. Commissioner of Income Tax(OSD),
 Central Circle,
 Karnal.

Sub: - Approval u/s 153D of the I.T. Act, 1961 in the case of
 Sh. Jagbir Singh Dhull R/o Sita Shyam Colony, Safidon,
 (PAN:AARPD0818Q) for the A.Y. 2012-13 -Reg -

Please refer to the Draft Assessment Order u/s 153A(1)(b) r.w.s. 143(3) of the I.T. Act, 1961, referred for approval u/s 153D of the I.T. Act, 1961, vide letter F.No. DCIT/CC/Karnal/2019-20/ 691, dated 24.12.2019.

The approval u/s 153D of the I.T. Act, 1961, is accorded for the Assessment Year 2012-13.

The assessment record in 1 volume (without serially numbered) is returned herewith.



मनीष गुप्ता
 (मन्त्रीय मुस्ता)

संयुक्त आयकर आयुक्त
 सेंट्रल रेंज, चण्डीगढ़

6. In the light of the aforesaid discussions and the settled law that the approval letter should be indicative of application of mind by the approving authority for the purpose of section 153D of the Act and placing reliance on the judgement of the Hon'ble Supreme Court in the case of *Serajuddin & Co. in SLP(C) Diary No.44989/2023, order dated 28.11.2023* and on the judgement of the Hon'ble Delhi High Court in the case of *PCIT vs. Shiv Kumar Nayyar, 2024 (6) TMI 29*, we are inclined to allow the additional ground.

7. Consequently, **the appeal is allowed** and the impugned assessment is quashed.

Order pronounced in the open court on 09.05.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 09th May, 2025.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi