

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**श्री वीरवल्ली दुर्गा राव, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VEERAVALLI DURGA RAO, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.Nos.287, 288 & 289/VIZ/2025
(निर्धारणवर्ष/ Assessment Years: 2017-18, 2018-19 & 2019-20)**

Bathina Kumara Swamy Reddy Plot No. 7, Santhi Nagar Nellore - 524003 [PAN: ABXPB1094K]	v.	DCIT – Central Circle -1 C.R. Building, Kannavari Thota Guntur – 522001, Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shir M.V. Prasad, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	12.06.2025
घोषणा की तारीख/Date of Pronouncement	:	18.06.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. These appeals are filed by the assessee against different orders of Learned Commissioner of Income Tax (Appeals), Visakhapatnam – 3 [hereinafter in short "Ld.CIT(A)"] vide respective DIN & Order No. as stated below: -

ITA No. & A.Y.	DIN & Order No.	Dated
ITA No. 287/VIZ/2025 (A.Y. 2017-18)	ITBA/APL/S/250/2024-25/1074820070(1)	21.03.2025
ITA No. 288/VIZ/2025 (A.Y. 2018-19)	ITBA/APL/S/250/2024-25/1074820887(1)	21.03.2025
ITA No. 289/VIZ/2025 (A.Y. 2019-20)	ITBA/APL/S/250/2024-25/1074819826(1)	21.03.2025

2. Since the grounds raised by the assessee are common and identical, we take up the appeal in ITA No. 287/VIZ/2025 for the A.Y. 2017-18 as a lead appeal and the facts are extracted there from.

ITA No. 287/VIZ/2025 (A.Y. 2017-18)

3. Brief facts of the case are that, assessee being an individual carrying on the Civil Contract Works and engaged in real estate activities and share trading, filed his return of income for the A.Y. 2017-18 on 29.10.2017 admitting a total income of Rs.1,95,71,890/-. The case was selected for scrutiny under CASS and accordingly notices under section 143(2) of Income Tax Act, 1961 (in short 'Act') dated 13.08.2018 was issued to the assessee. Subsequently, a search operation under section 132 of the Act was conducted in the case of M/s. P.L.Raju Constructions Private Limited where the assessee was doing sub-contract works with the said person. A notice under section 153A of the Act was issued on 25.09.2020 calling for the return of income for the A.Y.2017-18, since the assessment for the relevant assessment year is abated. In response, assessee filed the return of income on 23.01.2024 admitting the

same income filed under section 139(1) of the Act. Thereafter notice under section 142(1) of the Act was issued on various dates. In response, the assessee's representative appeared from time to time and furnished the information called for by the Ld. AO. On verification of the submissions made by the assessee, the Ld. AO made various additions as detailed in the assessment order.

4. On being aggrieved by the various additions made by the Ld. AO, assessee filed an appeal before Ld. CIT(A). Considering various submissions made by the Ld.AR, Ld. CIT(A) partly allowed the appeal of the assessee.

5. On being aggrieved by the order of the Ld. CIT(A) assessee is in appeal before us by raising following grounds of appeal: -

1. *On the facts and circumstance of the case, Learned CIT(Appeals) is erred in both law and facts in passing the order.*
2. *On the facts and circumstance of the case, Learned CIT(Appeals) is not justified in not considering the fact that the Assessment order passed U/s 143(3) read with Section 153A is vitiated and has become unsustainable in law since the approval U/s 153D has been accorded by Addl. CIT / JCIT(Range Head) in a mechanical manner.*
3. *On the facts and circumstance of the case, Learned CIT(Appeals) is not justified in confirming the addition of Rs.3,98,669/- towards Disallowance of Interest on late payment of TDS.*
4. *On the facts and circumstance of the case, Learned CIT(Appeals) is not justified in confirming the addition of Rs.18,52,026/- towards disallowance of expenditure as per provisions of Section 40(a)(ia) of the Act.*
5. *On the facts and circumstance of the case, the Learned CIT(Appeals) is not justified in confirming the disallowance of the*

short term capital loss incurred of Rs. 2,15,58,733/- on sale of listed equity shares.

6. *On the facts and circumstance of the case, the Learned CIT(Appeals) is not justified in upholding that the appellant is not eligible to carry forward the unabsorbed long term capital loss on sale of listed equity shares on which STT is paid on the fact and circumstance of the case.*
7. *Any other ground or grounds that may be urged at the time of hearing of the appeal.”*

6. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee has raised Ground No. 2 identical in all the appeals challenging the validity of the assessment order wherein the approval under section 153D of the Act by the Addl. CIT / JCIT has been granted in a mechanical manner. On this issue, Ld.AR referred to paper book page no. 28 wherein the Ld.AO has sent a draft assessment order for the A.Y. 2013-14 to A.Y. 2019-20 to the JCIT, Central Range, Guntur for approval under section 153D of the Act on 29.09.2021. He further submitted that the JCIT on the same date i.e on 29.09.2021 granted approval in the mechanical manner which is available in the paper book page no. 29. He further submitted that if the bench decides the validity of the assessment order passed under section 143(3) r.w.s. 153A of the Act in accordance with the approval granted under section 153D of the Act holding the assessment order as void ab-initio, the other grounds become academic. He further submitted that on perusal of the letter dated 29.09.2021 the JCIT has granted approval under section 153D of the Act for all the assessment years and also gave a direction to the Ld. AO which is not in

accordance with law. Further, he also submitted that the JCIT has also granted various approval under section 153D of the Act for other cases, he alleged. On this issue, Ld.AR placed reliance on the following cases: -

- i. *Pr. CIT v. Anuj Bansal – (2024) 165 taxmann.com 3 (SC).*
- ii. *Commissioner of Income tax -, New Delhi, v. Odeon Builders (P.) Ltd., - (2019) 110 taxmann.com 64 (SC) - Supreme Court of India Judgment.*
- iii. *Principal Commissioner of Income Tax Vs. Subodh Agarwal - (2023) 450ITR 526(All) - High Court of Allahabad Judgment.*
- iv. *Principal Commissioner of Income Tax Vs. Sapna Gupta - (2023) 21 ITR - OL 665(All) - High Court of Allahabad Judgment.*
- v. *Principal Commissioner of Income Tax Vs. Siddarth Gupta - (2023) 147taxmann.com 305 (Allahabad) - High Court of Allahabad Judgment.*
- vi. *Principal Commissioner of Income Tax Vs. Smt. Shreelekha Damani -Income Tax Appeal No. 668 of 2016 - High Court of Bombay Judgment.*
- vii. *Principal Commissioner of Income Tax Vs. Anuj Bansal - (2024) 165taxmann.com 2 (Delhi) - High Court of Delhi Judgment.*
- viii. *Principal Commissioner of Income Tax Vs. MDRL Hotels (P.) Ltd. - (2024)166 taxmann.com 327 (Delhi) - High Court of Delhi Judgment.*
- ix. *Principal Commissioner of Income Tax Vs. Shiv Kumar Nayyar - (2024) 163taxmann.com 9 (Delhi) - High Court of Delhi Judgment.*
- x. *Assistant Commissioner of Income Tax Vs. Serajuddin & Co. - (2023) 150taxmann.com 146 (Orissa) - High Court of Orissa Judgment.*
- xi. *M/s. Confident Distributors Pvt. Ltd., Vs. Deputy Commissioner of income Tax, Central Circle - 2025 SCC Online ITAT 2436 - ITAT. No: 3297/Del/2024- ITAT Order Delhi Bench.*
- xii. *Kehar Singh Vs. Deputy Commissioner of Income Tax, Circle-27 - 2025 SCC Online ITAT 3541 - ITAT. No's: 2835 to 2841/Del/2024 - ITAT Order Delhi Bench.*
- xiii. *Surinder Kumar Jain Vs. Deputy Commissioner of Income Tax, Central Circle - ITAT. No: ITA 3332/Del/2024 - ITAT Order Delhi Bench.*
- xiv. *Veena Singh Vs. Assistant Commissioner of Income Tax, Central Circle-25- ITAT. No's: ITA 294 & 295/Del/2022 - ITAT Order Delhi Bench.*

- xv. *Smt. Shreelekha Damani Vs. Deputy Commissioner of Income Tax -(2017) 88 taxmann.com 383 (Mumbai -Trib.) - ITAT Order Mumbai Bench.*
- xvi. *Maheswari Coal Benefication& Infrastructure (P.) Ltd. Vs. Deputy Commissioner of Income Tax - (2025) 171 taxmann.com 842 (Nagpur. Trib)- ITAT Order of Nagpur Bench.*
- xvii. *M/s. NR TMT (India) Pvt, Ltd., Vs. Deputy Commissioner of Income Tax - ITAT. No's: ITA 03 & 09/RPR/2021 - ITAT Order of Raipur Bench.*

7. Ld.AR heavily relied on the decision of the Hon'ble Orissa High Court in the case of ACIT v. Serajuddin & Co. (supra), wherein it was held that when the approval is granted mechanically it vitiates the assessment order. Further Ld.AR in his written submissions has also relied on the following decisions: -

- a. *Utility Supply (P) Limited v. DCIT [2025] 174 Taxmann.com 250.*
- b. *Maheswari Coal Beneficiation and Infrastructures Private Limited v. DCIT [2025] 171 taxmann.com 842.*
- c. *Decision of the Hon'ble Delhi High Court in the case of PCIT v. Subash Dabas in ITA No. 243/2023*



8. He therefore pleaded that since the procedure laid down under section 153D was not adhered to by JCIT who has granted mechanical approval on the same day i.e., 29.09.2021, the assessment order is void ab-initio. He therefore pleaded to quash the assessment order.

9. Per contra, Ld. Departmental Representative [hereinafter in short "Ld.DR"] submitted that JCIT has granted approval after application of mind and not in a mechanical manner as alleged by the Ld.AR. He also further submitted that the ratio laid down in the case of ACIT v. Serajuddin & Co.

(supra) as relied on by the Ld.AR is distinguishable on the fact that there was only two days' time when the assessment order was passed without complying with the requirements spelt out in Para 9 of the manual of Office Procedure. He therefore pleaded that in the instant case the approval for the 153D of the Act sought by the Ld. AO was well within the time and the JCIT has sufficient time to grant approval for the draft assessment orders. Further, Ld. DR also submitted that as per the normal procedure periodical discussion was also held between the Range head and Ld.AO, where the relevant seized material is duly discussed. It is the culmination of the discussion process just after submitting the draft assessment order and it is not an initiation of the involvement of the JCIT who was approving authority. He also submitted that Ld.AR has not placed on record that the JCIT has granted approval in other cases and hence could not be relied upon. He therefore pleaded that the assessment order is valid and is not void ab-initio.

10. We have heard both the sides and perused the material available on record including the written submissions made by the Ld.AR and Ld. DR. On the issue of the legal ground raised by the assessee, on perusal of the approval dated 29.09.2021 by the JCIT complying with the provisions of section 153D of the Act, we notice that JCIT has granted approval on the same day for the seven assessment years by a consolidated letter dated 29.09.2021. The JCIT on the

very same day the draft assessment order was placed before him, granted approval under section 153D of the Act, which is reproduced below: -

कार्यालय - जॉइंट आयकरआयुक्त सेंट्रलरेंज, गुंटूर उकीमज़िल, राजकमलभवन-समूह, लक्ष्मीपुरम, गुंटूर		Office of the Joint Commissioner of Income Tax, Central Range, 3 rd Floor, Rajkamal complex, Lakshmi Puram, Guntur Fax: 0863-2219834			
F.No.81/ JCIT/CR-GNT/2021-22		Dated: 29.09.2021.			
To The Deputy Commissioner of Income tax, Central Circle 1, GUNTUR .					
Sir,					
Sub: Approval u/s.153D of the I.T.Act - in the case of Sri Bathina Kumara Swamy Reddy (ABXPN1094K) – Search & Seizure case - Reg.					
Ref: Draft assessment orders received in F.No.CC-1/Gnt/153D/2021-22 dated 29.09.2021.					
* * *					
Please refer to the above.					
2. Approval is hereby accorded u/s.153D of the Income tax Act, 1961 for the below Search & Seizure cases where search was conducted u/s 132 of the Act and draft orders u/s.143(3) r.w.s. 153A of the Income tax Act, 1961 were submitted for the A.Ys. 2013-14 to 2019-20. The details are as under:					
Sl No	Name of the Assessee	A. Y.	Returned income	Assessed Income u/s 143(3)	Assessed income u/s 153A
1	Sri Bathina Kumara Swamy Reddy (ABXPN1094K)	2013-14	Rs. 5,82,21,600/-	Rs. 5,90,76,290/-	Rs. 5,90,76,290/-
		2014-15	Rs. 1,06,76,760/-	Rs. 1,32,29,910/-	Rs. 1,32,29,910/-
		2015-16	Rs (-) 29,17,444	Rs. 9,70,270/-	Rs. 9,70,270/-
		2016-17	Rs. (-) 5,40,28,615/-	Rs. (-)4,43,38,882/-	Rs. (-)4,43,38,882/-
		2017-18	Rs. 1,95,71,890/-	--	Rs. 1,95,71,890/-
		2018-19	Rs. 10,24,08,620 /-	--	Rs. 58,06,16,696/-
		2019-20	Rs. 2,56,87,210/-	--	Rs. 3,09,69,649/-
3. Further it is directed that the issues forming the base for initiation of penalty is to be clearly brought out in the assessment order though the penalty proceedings are initiated separately. Assessment rerecord for the A.Ys. 2013-14 to 2019-20 (total 7 volumes) are returned herewith.					
4. A copy of the assessment order may be sent for record.					
Yours sincerely,					
					
(PRIYADARSHINI BASEGANNI) Joint Commissioner of Income Tax Central Range, Guntur.					
End: As stated Office of The Deputy Commissioner of Income Tax Central Circle-1, 3rd Floor, Raj Kamal Complex, Lakshmi Puram Main Road, GUNTUR-522 007, (Andhra Pradesh)					

11. Admittedly on going through the approval granted by the JCIT, we notice that it is nowhere appearing that all the evidences / documents / statements / material proposed additions etc., were examined by the Approving Authority before granting approval. Whether the approving authority has applied his mind and on what basis or material the approval was accorded was also not clear from the order of the JCIT dated 29.09.2021. The validity of the approval granted under section 153D of the Act could not be relied upon in the absence of application of mind by the JCIT while granting such approval.

12. In the case of ACIT v. Serajuddin & Co. (supra) the Hon'ble High Court has dealt with almost identical situation / issue wherein the approving authority has granted single approval at the fag end of the time period prescribed for completion of the assessment proceedings. The Hon'ble High Court has held that there are three or four requirements which are mandated for seeking approval under section 153D of the Act, which are as follows: -

First the AO should submit the draft order "well in time";

Secondly the final approval must be in writing;

Thirdly the fact that the approval has been obtained should be mentioned in the body of the assessment order.

13. The relevant paragraph in the case of ACIT v. Serajuddin & Co. (supra) is extracted below: -

“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. Para 22 extract (page no. 82

14. In the case of ACIT v. Serajuddin & Co. (supra), the draft assessment order was produced before the approving authority on 29.12.2010 with the indication that the cases will be barred by limitation on 31.12.2010, therefore, the approving authority granted approval on 30.12.2010. In the instant case, approval was sought by the Ld. AO on 29.09.2021 and the assessment order under section 143(3) r.w.s. 153A of the Act was passed on 30.09.2021. Admittedly, the approving authority had no sufficient time except one day i.e., 29.09.2021 and thus it can be inferred that the approving authority in constrained circumstances and immense pressure accorded the approval on the very same day of submitting of the draft assessment order in a hasty manner and without application of mind due to paucity of reasonable time and therefore the approval would entail as invalid and bad in the eyes of law.

15. Further, the Co-ordinate Bench of Mumbai in the case of Utility Supply (P) Limited v. DCIT (supra) held as follows: -

“39. Coming to the instant case, finally we reiterate and order as under:

That in the instant case, the approving authority on the very same date of submitting the draft orders on 27-12-2019, granted the approval in 13 cases simultaneously and it is a fact that 28th & 29th of December 2019 were holidays being Saturday and Sunday and 31st December 2019 was the last date for making the assessment order and therefore the approving authority has left with, only two working days i.e. 27th & 30th December 2019. However, the approving authority accorded the approval on the very same day (27-12-2019) of submitting the draft order and in less than 12 hours, which goes to show that the Approving Authority has not applied his mind due to paucity time and therefore granted the approval in mechanical and haste manner. It is also a fact that the AO on the very same day of getting the approval, completed the assessment proceedings and passed the assessment order dated 27.12.2019, which also creates suspicion. As we have observed above that granting of approval is not a technical or mechanical exercise or ritual formality but must demonstrate the examination of the relevant material and finding/reasoning, as to why the approval has been granted.

And therefore the contention of Ld. DR to the effects “that the procedure normally followed in such cases is that after centralization of the case, periodic discussions are held between the Range Head and the AO, where the appraisal report and the relevant seized material are duly discussed and submitting of the draft assessment order, is the culmination of the discussion process, not the initiation of the involvement of the Range Head, who is the approving authority”, has no essence, because the Assessing Officer is an independent quasijudicial officer and therefore he is required to act or to pass the assessment order independently and without being influenced by any interference/indulgence of/by higher Authority. May be the higher authority was involved in process of investigation or enquiry etc. but could not have interfered in deciding the issue(s) and/or passing the assessment order by the AO, except granting or rejecting the approval u/s 153D of the Act. The Approving Authority after submitting the draft order and relevant material, is required to assess the proposed assessment order independently in the context of material available on record and to give reasons for granting the approval. Admittedly in this case, approval dated 27.12.2019, does not

reflect any relevant material/findings/reasoning, which can substantiate the validity of such approval. Thus, the contention raised by the Ld. DR, is untenable.

*Thus, on the aforesaid analyzations, we are of the considered view that in the instant case, the approval dated 27.12.2019 under consideration is not based on examining of any relevant documents and provisions of the Act in the context of the proposed addition and has been accorded in haste and time constrained pressure and therefore lacks application of mind and hence in cumulative effects, the same suffers from perversity and impropriety and consequently un-sustainable. **Thus the approval, is declared as invalid in the eyes of law, which would entail the assessment order dated 27.12.2019 as invalid being void ab-initio.***

16. Further the Co-ordinate Bench of the Nagpur in the case of Maheswari Coal Benefication and Infrastructures Private Limited v. DCIT (supra) held as follow: -

“We have gone through the approval granted by the Addl. CIT on 31/03/2022, the date mentioned in the table hereinabove under section 153D. The said approval letter clearly states that a letter dated 31/03/2022 was filed by the Assessing Officer before the Addl. CIT seeking approval of draft assessment order under section 153D. The Addl. CIT has accorded approval for the said draft assessment orders on the very same day i.e., on 31/03/2022 for various assessment years in the case of the assessee. 67. There is no recording of satisfaction by the Addl. CIT in the impugned approval order as to whether the assessment records/ assessment folders/ files/ seized materials or any incriminating documents or other connected documents and papers/ various statements recorded under section 132(4) and section 131(1A) of the assessee or any other person/ appraisal report of the Investigation Wing of the Department/ materials on hand with the Department at the time of initiation of search or material evidences gathered were placed for its verification and the same were duly verified and/or examined by him as mandated under section 153D. In the absence of compliance of the above mandate, the approval order dated 31/03/2022, passed under section 153D becomes an empty formality without due process of law and, thus, not sustainable. This is nothing but an approval by way of mere mechanical exercise accepting the draft assessment order without any independent application of mind by the Addl. CIT.”

17. Additionally, the Hon'ble Bombay High Court in the case of PCIT v. Shrilekha Damini in ITA No. 668 of 2016 dated 27.11.2018 also dealt with similar issue wherein the draft assessment order for approval under section 153D of the Act was submitted on 31.12.2010 leaving no time to analyse the issue of draft order on merit. Thus, it was held that granting approval under section 153D of the Act without application of mind, therefore the same was declared as invalid approval in the eye of law by the Tribunal. Further, the Hon'ble High Court has laid down the following dictum: -

“That the approval whenever required under the law must be preceded by application of mind and consideration of relevant factors, before the same can be granted. The approval should not be an empty ritual and must be based on consideration of relevant material on record”.

18. Further, the Co-ordinate Bench of Mumbai in the case of Nilesh Shamji Bharani v. DCIT in ITA No.1786/M/2023 & ors. dated 06.12.2024, has also dealt with the identical issue by relying on the Judgement in the case of ACIT v. Serajuddin & Co. (supra) and ultimately held that the approval granted on the very same day seeking approval is invalid, being not only mechanical but against the ratio laid down by the Hon'ble High Courts.

19. The provisions of section 153D of the Act are having its own history, as the same were made applicable from 01.06.2007 onwards in order to avoid arbitrary, unwanted and whimsical assessments or reassessment under clauses (a) and (b) of section 153A of the Act. For brevity and ready reference, the provisions of section 153D are reproduced herein below: -

*Prior approval necessary for assessment in
cases of search or requisition.*

"Section 153D of the Act:

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 section 153A 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 Commissioner under sub- section (12) of section 144BA."

20. The CBDT vide circular No.3 of 2008 dated 12.03.2008, also illustrated the origin of the provisions of section 153D of the Act, which read as under:

"50. Assessment of search cases: Orders of assessment and reassessment to be approved by the Joint Commissioner.

50.1 The existing provisions of making assessment and reassessment in cases where search has been conducted under section 132 or requisition is made under section 132A, does not provide for any approval for such assessment.

50.2 A new section 153D has been inserted to provide that no order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner except with the previous approval of the Joint Commissioner. Such provision has been made applicable to orders of assessment or reassessment passed under clause (b) of section 153A in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A. The provision has also been made applicable to orders of assessment passed under clause (b) of section 153B in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisitioned is made under section 132A."

21. After analysing the aforesaid section and the CBDT Circular and the various judicial pronouncement, it is clear that for making the assessment under section 153A of the Act the approval under section 153D of the Act by the

approving authority is mandatory and cannot be a mere formality and also should not suffer from lack of application of mind based on examination of the relevant material available on record. Further, there should also be some indication of the material examined to show that order of the approval is not mechanically granted by the approving authority. It is also the duty of the Ld.AO to submit the draft assessment order well in advance so that the approving authority does not face any time constraints before granting of the approval.

22. In the case on hand, the approving authority on the very same date of submitting draft assessment orders on 29.09.2021 granted the approval and the assessment order was passed on 30.09.2021. The argument of the Ld. DR could not be accepted that there were involvement between the Approving Authority and the Ld.AO and the approving authority has therefore applied his mind and has not granted approval in a mechanical manner. Whereas the facts based on the material available before us display a different scenario. We are therefore of the considered opinion that in view of the aforesaid discussion based on the facts and circumstances of the instant case, the approval granted by the JCIT is not based on examination of the relevant documents and provisions of the Act and has been acted in time constrained pressure and therefore lacks application of mind and suffers from perversity and consequently cannot be sustained. Thus, we are of the opinion that the approval cannot be considered as valid in

the eyes of law which would entail the assessment order passed under section 143(3) r.w.s. 153A of the Act dated 30.09.2021 as invalid being void ab-initio. Accordingly, ground raised by the assessee is allowed.

23. Since the legal ground raised by the assessee is adjudicated in favour of the assessee, the other grounds raised on merits which were also not argued by the Ld.AR are considered merely academic in nature and treated as infructuous.

24. In the result, appeal of the assessee is allowed.

ITA No. 288/VIZ/2025 (A.Y. 2018-19)
ITA No. 289/VIZ/2025 (A.Y. 2019-20)

25. The grounds raised by the assessee in both these appeals are identical to grounds raised in ITA No. 287/VIZ/2025 for the A.Y. 2017-18, accordingly the decision in ITA No. 287/VIZ/2025 shall mutatis mutandis applies to ITA Nos.288 & 289/VIZ/2025.

26. In the result, appeals filed by the assessee are allowed.

27. To sum-up, all the appeals filed by the assessee are allowed.

Order pronounced in the open court on 18th June,2025.

Sd/-
(वीरवल्ली दुर्गा राव)
(VEERAVALLI DURGA RAO)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 18.06.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : **Bathina Kumara Swamy Reddy**
Plot No. 7, Santhi Nagar
Nellore – 524003
2. राजस्व/ The Revenue : **DCIT – Central Circle -1**
C.R. Building, Kannavari Thota
Guntur – 522001, Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam