

IN THE INCOME TAX APPELLATE TRIBUNAL 'PATNA' BENCH, PATNA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA Nos.17 to 22/PAT/2022
(Assessment Years:2011-12 to 2016-17)**

Smt. Anita Devi
A/78, P.C.Colony, Kankarbagh,
Patna-800020, Bihar

(Appellant)

ITO, Circle-2,
Central Revenue Building
Vs. 6th Floor, Annexey, Bir Chand
Patel Marg, patna-800001,

(Respondent)

PAN No. AKFPD2712B

Assessee by : Shri Manish Tiwari, AR
Revenue by : Shri Rajat Datta, DR

Date of hearing: 23.07.2025
Date of pronouncement: 29.07.2025

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee against the orders of the Commissioner of Income-tax (Appeals), Patna-3 (hereinafter referred to as the "Ld. CIT(A)") dated 31.01.2022 for the AYs 2011-12 to 2016-17. As the facts and circumstances are similar in all the appeals and also these relate to same assessee, therefore they are being decided by this common order. Hence, we will take the facts from ITA No.17/PAT/2022 for A.Y. 2011-12 and decide the issue.

02. At the time of hearing, the Id. Counsel for the assessee raised additional ground which are extracted as under: -

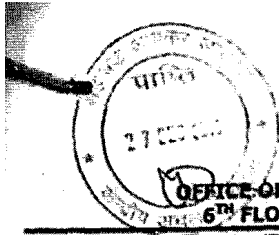
"1. That on the facts and circumstances of the case, the order of the AO is void ab-initio as the same has been passed on the basis of mechanical and consolidated approval of 153D for all years of search.

2. That on the facts and in the circumstances of the case of the case proceedings-initiated u/s 153C of the Income Tax Act, 1961 is bad in law."

03. The Id. Counsel for the assessee submitted that the issues raised in the additional ground are purely legal issue. The Id. AR further submitted that no verification of facts is required to be done from any quarter whatsoever and therefore, the same may kindly be admitted for adjudication. The Id. AR in defense of his arguments relied on the decisions of Hon'ble Apex Court in the case of Jute Corporation of India Ltd. Vs CIT in 187 ITR 688(SC) and National Thermal Power Co. Ltd v. CIT [1998] 229 ITR 383 (SC).
04. The Id. DR on the other hand submitted that the issue was not raised before either of authorities below and therefore, may be restored to any of the authorities below for adjudication.
05. After hearing the rival contentions and perusing the materials available on record, we find that the issue is purely legal issue which goes to the root of the matter. Further, we note that no verification of facts is required to be done from any quarter and accordingly, respectfully following the decisions of Hon'ble Apex Court in the case of Jute Corporation of India Ltd. Vs CIT (*supra*) and National Thermal Power Co. Ltd v. CIT (*supra*), we admit the appeal of the assessee for adjudication.
06. The issue raised in additional ground is against the mechanical approval granted u/s 153D of the Act for all the years by Jt. Commissioner of Income Tax, Central circle-1, on the drat assessments thereby rendering the approval u/s 153D of the Act as invalid and so the consequential proceedings based thereupon.
07. The facts in brief are that a search action was conducted on 26.10.2016 in the residential and business premises of Satyam and Shivam group of trust and allied group at Patna. The assessee, Smt.

Anita Devi, is related to Satyam Shivam group of cases. Notice u/s 153C of the Act was issued on 13.09.2018, which was complied with by the assessee by filing the return of income on 21.12.2018, declaring total income of ₹1,72,640/-. Thereafter, notice u/s 143(2) of the Act was issued on 21.12.2018. The questionnaires were issued on 24.09.2018 along with notices u/s 142(1) of the Act. It was observed by the Id. AO that during the course of search assessee had deposited cash of ₹68,293/- with Punjab National bank, Doctor's Colony, Kankarbagh, patna, which according to the Id. AO could not be explained and accordingly, the same was added to the income of the assessee. The Id. AO noted that the assessee replied that the deposits were made out of the agricultural income of Shri Sushil Kumar, HUF, having no bank account and out of income of her from Sticking, Knitting etc., which was not accepted by the Id. Assessing Officer.

08. In the appellate proceedings, the appeal was dismissed by upholding the order of Id. Assessing Officer. Aggrieved with the order of the Id. CIT (A), the assessee is in appeal before us.
09. After hearing the rival contentions and perusing the materials available on record, including the approval granted u/s 153D of the Act dated 27.12.2018, on the draft assessment order, we find that consolidated approval has been given for A.Y. 2011-12 to 2017-18, in case of two assessee namely Shri Sushil Kumar, HUF and Smt. Anita Devi (the assessee before us). In our opinion the said approval is mechanical and without application of mind by the approving authority and therefore not a valid approval and therefore, all the consequential proceedings including the assessment framed in accordance with the said approval is invalid and nullity. For the sake of ready reference, the said approval is extracted below: -

**GOVERNMENT OF INDIA****OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX, CENTRAL RANGE-1,
6TH FLOOR, C.R. BUILDING (ANNEXE), BIR CHAND PATEL MARG, PATNA****F. No. JCIT/CR-1/Pat/Satyam Shivam Group /Approval u/s153D/2018-19/2360
Dated, Patna, the 27th December, 2018**

To

The Assistant Commissioner of Income Tax,
Central Circle-2, Patna

Sub: -Approval u/s 153D of the Income Tax Act, 1961 – draft assessment order u/s 153A/153C/143(3) of the Income Tax Act, 1961 in the following cases of Satyam Shivam group -reg.

Ref.: - Your office letter F. No. ACIT/CC-2/Satyam Shivam Group/Approval u/s 153D//2018-19/2716 dated 24th December, 2018

Please refer to the above.

2. I have perused the draft assessment orders in the following cases of Satyam Shivam Group, and the same are hereby approved u/s 153D of the Income Tax Act, 1961, with the following directions:-

Sl No.	Name & PAN of the Assessee	Assessment Year
1.	Shri Sushil Kumar [PAN-ASPPK0802P], A/78, P. C. Colony, Kankarbagh, Patna	2011-12 to 2017-18
2.	Smt. Anita Devi [Pan-AKPPD2722B], A/78, P. C. Colony, Kankarbagh, Patna	2011-12 to 2017-18

3. Proper care should be taken in calculation of tax and interest thereupon.
4. Note sheet /order sheet has not been properly maintained and the same should be updated with passing of order, initiation of penalty proceedings etc.
5. The additions on the basis of seized materials have not been discussed elaborately, rather done in brief, which should be avoided.
6. Note: 'Not for the assessee' has to be properly drafted covering all the relevant issues where adverse inference has not been drawn. Copies of the final orders should be sent.
8. Case records in fourteen (14) volumes are returned herewith.

Certified to be True Copy

DINESH BHAGAT
Joint Commissioner of Income Tax (In-charge)
Central Circle-2, Patna

Encl.:- Case records as above.

(Kausik Kumar Das)
Joint Commissioner of Income Tax
Central Range-1, Patna

010. The case of the assessee find support from the decision of Hon'ble Hon'ble Karnataka High Court in the case of Sunil Kumar Sharma, reported in [2024] 469 ITR 197 (Karnataka)/ [2024] 159 taxmann.com 179 (Karnataka) where it had been categorically held that, "the satisfaction note is required to be recorded under section 153C of the Act for each assessment year and hence, a consolidated

satisfaction note recorded for different assessment years, would vitiate entire assessment proceedings". The said decision of the Hon'ble Karnataka High Court has been upheld by the Hon'ble Supreme Court reported in [2024] 168 taxmann.com 77 (SC)/[2024] 469 ITR 271 (SC)]. The relevant observation of the Hon'ble Karnataka High Court in paras 53 t reads as follows: -

53. Further, satisfaction note is required to be recorded under section 153C of the IT Act for each Assessment Year and in the impugned proceedings, a consolidated satisfaction note has been recorded for different Assessment Years, which also vitiates the entire assessment proceedings. In view of all these findings, it is said that the appeals do not have any substance for seeking intervention as sought for by the appellant/Revenue.

54. The question as regards whether in an intra court appeal, a Division Bench could remit a writ petition in the matter of moulding the relief, it is relevant to refer to an Apex Court decision dated 31-7-2018 rendered in the case of Roma Sonkar v. Madhya Pradesh State Public Service Commission [Civil Appeal Nos. 7400-7401 of 2018, dated 31-7-2018]. The relevant paragraph 3 of the said order reads thus:

"3. We have very serious reservations whether the Division Bench in an intra court appeal could have remitted a writ petition in the matter of moulding the relief. It is the exercise of jurisdiction of the High Court under Article 226 of the Constitution of India. The learned Single Judge as well as the Division Bench exercised the same jurisdiction. Only to avoid inconvenience to the litigants, another tier of screening by the Division Bench is provided in terms of the power of the High Court but that does not mean that the Single Judge is subordinate to the Division Bench. Being a writ proceeding, the Division Bench was called upon, in the intra court appeal, primarily and mostly to consider the correctness or otherwise of the view taken by the learned Single Judge. Hence, in our view, the Division Bench needs to consider the appeal(s) on merits by deciding on the correctness of the judgment of the learned Single Judge, instead of remitting the matter to the learned Single Judge."

55. In the totality of circumstances, and also on dwelling in detail with the materials, it reveals that the learned Single Judge has considered all the points and has gone through the reliances facilitated on both sides and has rendered the impugned order, which has been challenged by filing the present appeals. The grounds urged in the appeals preferred by the appellant/Revenue, do not have any substance and the impugned order rendered by the learned Single Judge do not JYOTI suffer from any infirmity and further, no warranting circumstances arise for interference. Consequently, these appeals deserve to be rejected as being devoid of merits."

011. It was further submitted that the Hon'ble Delhi High Court in the case of Shiv Kumar Nayyar, reported in [2024] 163 taxmann.com 9 (Delhi)/[2024] 299 Taxman 385 (Delhi)/[2024] 467 ITR 186 (Delhi) has also held that, "*where approval under section 153D of the Act for relevant assessment year was granted by Addl. Commissioner for 43 cases on a single day without perusing draft assessment orders at all and without an independent application of mind, impugned assessment order was rightly declared to be illegal by Tribunal*".
012. Ld. AR further placed reliance on the decision of Jurisdictional High Court in the case of Serajuddin & Co., reported in [2023] 150 taxmann.com 146 (Orissa)/[2023] 292 Taxman 566 (Orissa)/[2023] 454 ITR 312 (Orissa), wherein on similar finding the Hon'ble Jurisdictional High Court has held that, "approval having been granted mechanically without application of mind by Additional Commissioner resulting in vitiating assessment orders themselves". It was the submission that the said decision of the Hon'ble Jurisdictional High Court has also been upheld by the Hon'ble Supreme Court, reported in [2024] 163 taxmann.com 118 (SC)/[2024] 299 Taxman 448 (SC).
013. In reply, Id. CIT-DR submitted that the Id. JCIT has examined all the assessment records and has given the approval. It was the submission that the order of the Id. AO and that of the Id. CIT(A) are liable to be upheld.
014. We have considered the rival submissions. A perusal of the approval of the draft assessment orders granted shows that multiple approvals have been granted by Id. JCIT Range-1, Patna dated 27.12.2018 in a single order. On this issue, respectfully following the decision of the Hon'ble Karnataka High Court in the case of Sunil Kumar Sharma, referred to supra, which is also approved by the Hon'ble Supreme

Court, as it is noticed that the approvals have been granted by the Id. JCIT Range-1, Patna in a mechanical manner by a single order, therefore, we hold that the approval granted u/s.153D of the Act by the Id. JCIT Range-1, Patna in the case of the assessee is liable to be quashed and we do so.

015. A further perusal of the approval granted by the Id. JCIT shows that the approval has been granted in a mechanical manner and without application of mind. Consequently, respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of Serajuddin & Co, referred to supra, which has also been upheld by the Hon'ble Supreme Court, we hold that the approval granted by the Id. JCIT Range-1, Patna dated 27.12.2018 in the case of the assessee is invalid and is accordingly quashed as unsustainable. Consequently, the assessment order passed in consequence to the approval granted u/s.153D of the Act, also stands quashed. Thus, the appeal of the assessee is allowed.

016. The issue raised in ITA No. 18 to 22/PAT/2022 for A.Y. 2012-13 to 2016-17, is similar to one as decided by us in ITA No. 17/PAT/2022 for A.Y. 2011-12. Accordingly, our decision would, mutatis mutandis, apply to these appeals of assessee in ITA Nos. 18 to 22/PAT/2022 as well. Hence, the appeals of the assessee are allowed.

017. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 29.07.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 29.07.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

True Copy//

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Patna