

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्रीअरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No. 225 & 226/BIL/2016

(निर्धारण वर्ष / Assessment Year: 2011-12 & 2012-13)

Sandeep Meghani, Prop. M/s. Ramchandra Meghani & Sons, D-30, Shiv Shakti Villa, Sector-2, Bajaj Colony, New Rajendra Nagar, Raipur (CG)	V s	Dy. Commissioner of Income Tax, Central Circle, Raipur (C. G)
PAN: AJQPM2005E		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Sunil Kumar Agrawal, CA
राजस्व की ओर से / Revenue by	:	Shri Ram Tiwari, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	26.06.2025
घोषणा की तारीख / Date of Pronouncement	:	04.08.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeals are filed at the instance of assessee against the order of Commissioner of Income Tax (Appeal-1), Raipur (in short "Ld. CIT(A)"), u/s 250 of the Income Tax Act, 1961 (in short "The Act") dated 01.03.2016, for the Assessment Year 2011-12 & 2012-13, which in turn arises from the order passed u/s 153A r.w.s. 143(3) of the Act, dated 07.03.2014 by Dy, Commissioner of Income Tax, Central Circle, Raipur (in short "The Ld. AO").

2. The final revised grounds of appeal raised / pressed by the assessee in present appeals are extracted as under:

ITA 225/RPR/2016 for AY 2011-12

Revised Gr. No. 1:

"1. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 6,25,000 on substantive basis, on the count of on money payment on purchase of house (i.e., D-31, Tikrapara) without bringing any material evidence on record for such 'on money' payment by the assessee; substantive addition of Rs. 6,25,000 is unjustified and is liable to be deleted."

Revised Gr. No. 2:

"2. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 16,320 on the count of undisclosed commission income on hundies found, while the impugned hundies are unexecuted, even without bringing any material evidence on record for such earning of commission income on unexecuted hundies; more so, it is covered by the additional income decaled u/s 132(4)/ offered for taxation of Rs. 3,00,000 in the ROI filed; addition of Rs. 16,320 is unjustified and is liable to be deleted."

Revised Gr. No. 3:

"3. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 11,56,300 u/s 69D on the count of hundies found, wherein name of lenders appeared and name of borrowers are absent; merely on presumption that the assessee was the actual borrower on these hundies found; in absence of any material evidence brought on record for such borrowings by the assessee; addition of Rs. 11,56,300 is unjustified and is liable to be deleted."

Revised Gr. No. 4:

"4. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 29,525 u/s 69 on the count of hundies found, wherein name of borrowers appeared and name of lenders are absent; merely on presumption that the assessee was the actual lender on these hundies found; in absence of any material evidence brought on record for such lending by the assessee; more so, it is covered by the additional income decaled u/s 132(4)/ offered for taxation of Rs. 3,00,000 in the ROI filed; addition of Rs. 29,525 is unjustified and is liable to be deleted."

Revised Gr. No. 5:

"5. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 8,50,000 on the count of hundies found, wherein name of borrowers & lenders are absent; merely on presumption that the assessee was having undisclosed income; in absence of any material evidence brought on record for s earning of undisclosed income by the assessee; addition of Rs. 8,50,000 is unjustified and is liable to be deleted." Submitted, for judicious consideration.

Revised Additional Gr. No. 1

"1. On the facts and circumstances of the case and in law, approval u/s 153D dt. 7-3-14 by Addl. CIT, is invalid as it is granted for assessed income of Rs.31,38,200 (which includes Rs.20,52,145 on account of hundis for AY 11-12), while, it is evident by letter dt. 6-3-14 by Addl. CIT that he was of the view that undisclosed income of Rs. 1,13,75,000 on account of 58 hundis as per 'Appraisal Report' for AY 06-07 to AY 12-13 requires to be made in the hands of assessee or borrower or lender; approval granted u/s153D for Rs.20,52,145 on account of hundis, is baseless, on confused state of mind, without there being any material for such mechanical approval without application of mind merely a formality; consequential assessment made u/s144/143(3) rws.153A would be invalid & is liable to be quashed."

ITA 226/RPR/2016 for AY 2012-13

Revised Gr. No. 1:

"1. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 2,99,500 on the count of on money payment on purchase of shop (i.e., 338, Progressive Point) without bringing any material evidence on record for such 'on money' payment by the assessee; addition of Rs. 2,99,500 is unjustified and is liable to be deleted."

Revised Gr. No. 2:

"2. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 24,420 on the count of undisclosed commission income on hundis found, while the impugned hundis are unexecuted, even without bringing any material evidence on record for such earning of commission income on unexecuted hundis; more so, it is covered by the additional income decaled u/s 132(4)/ offered for taxation of Rs. 16,25,000 in the ROI filed; addition of Rs. 24,420 is unjustified and is liable to be deleted."

Revised Gr. No. 3:

“3. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 2,26,81,300 u/s 69D on the count of hundis found, wherein name of lenders appeared and name of borrowers are absent; merely on presumption that the assessee was the actual borrower on these hundis found; in absence of any material evidence brought on record for such borrowings by the assessee; addition of Rs. 2,26,81,300 is unjustified and is liable to be deleted.”

Revised Gr. No. 4:

“4. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 2,46,310 u/s 69 on the count of hundis found, wherein name of borrowers appeared and name of lenders are absent; merely on presumption that the assessee was the actual lender on these hundis found; in absence of any material evidence brought on record for such lending by the assessee; more so, it is covered by the additional income decaded u/s 132(4)/ offered for taxation of Rs. 16,25,000 in the ROI filed; addition of Rs. 2,46,310 is unjustified and is liable to be deleted.”

Revised Gr. No. 5:

“5. On the facts and circumstances of the case and in law, the Id CIT(A) has erred in sustaining addition of Rs. 63,44,725 on the count of hundis found, wherein name of borrowers & lenders are absent; merely on presumption that the assessee was having undisclosed income; in absence of any material evidence brought on record for such earning of undisclosed income by the assessee; addition of Rs. 63,44,725 is unjustified and is liable to be deleted.”

Revised Additional Ground No. 1

“1. On the facts and circumstances of the case and in law, approval u/s 153D dt. 7-3-14 by Addl. CIT, is invalid as it is granted for assessed income of Rs.3,14,06,830 (which includes Rs.2,92,96,755 on account of hundis for AY 12-13), while, it is evident by letter dt. 6-3-14 by Addl. CIT that he was of the view that undisclosed income of Rs. 1,13,75,000 on account of 58 hundis as per 'Appraisal Report' for AY 06-07 to AY 12-13 requires to be made in the hands of assessee or borrower or lender; approval granted u/s153D for Rs.2,92,96,755 on account of hundis, is baseless, on confused state of mind, without there being any material for such mechanical approval without application of mind merely a formality; consequential

assessment made u/s144/143(3) rws.153A would be invalid & is liable to be quashed.”

3. Since the aforesaid appeals are filed by the same assessee, pertaining to two assessment years i.e., AY 2011-12 and 2012-13 having involved therein common issues on interconnected and identical facts, therefore, for the sake of brevity, these two appeals are taken up for adjudication together under this common order.

4. In order to deliberate on the issues raised in the present appeals, we are taking up ITA No. 225/BIL/2016 for the AY 2011-12, as the lead case, wherein our observations and decisions shall apply *mutatis mutandis* to the other case i.e., ITA No. 226/BIL/2016 for the AY 2012-13.

5. Facts of the lead case are culled out from the order of Ld. CIT(A), for the sake of completeness and reference:

2.1 Facts as per the assessment order as are under -

The assessee is in the business of hundies and derives income from interest and commission. A search was conducted on the business and residential premises of the assessee. During the search operation various books of accounts, documents, loose papers etc. were seized and impounded. Subsequently, photocopies of the seized/impounded material were provided to the assessee.

During the course of assessment proceedings, the assessee's share of undisclosed income on account of payment of on-money for purchase of house-

*cum-plot located at D-31, Tikrapara, Raipur works out to Rs. 250000/- for AY 2010-11 and Rs. 625000/- for AY 2011-12 respectively. Thus, the addition of Rs. 250000/- and **Rs. 625000/-** is made to the total income of the assessee. The assessee deals in hundi and derives commission therefrom. During the search & seizure action, a number of hundies related to the assessee were found.*

During the assessment proceedings, the assessee was required to correlate the commission earned on these hundies with his regular books of accounts. However, the assessee was unable to do so. In absence of the assessee's explanation about as to where commission earned on such hundies has been accounted for in the books of account, the AO is left with no option but to estimate the commission earned on such hundies and make addition to the total income of the assessee considering this commission to be undisclosed.

Thus the year wise commission earned is as under:-

<i>A. Y.</i>	<i>Commission Rs.</i>
<i>2008-09</i>	<i>800/-</i>
<i>2009-10</i>	<i>500/-</i>
<i>2010-11</i>	<i>2560/-</i>
<i>2011-12</i>	<i>16320/-</i>
<i>2012-13</i>	<i>24420/-</i>

Thus, undisclosed commission on hundies is added to the total income of the assessee for the respective assessment year.

During the search & seizure action, a number of hundies were found from the premises of the assessee where there is only name of lender. These hundies were summarized. The year-wise summary of total amount lent hundies is as under: -

<i>A.Y.</i>	<i>Amount (Rs.)</i>
<i>2008-09</i>	<i>75000/-</i>
<i>2009-10</i>	<i>50000/-</i>
<i>2010-11</i>	<i>350000/-</i>
<i>2011-12</i>	<i>156300/-</i>
<i>2012-13</i>	<i>22681300/-</i>

*During the assessment proceeding, vide show cause notice dated 13/01/2014 the assessee was required to show cause as to why in the absence of names of borrowers why it shall not be presumed that he is the borrower in respect of these duly executed hundies. In this respect, the assessee submitted his reply on 17/01/2014. In the reply, the assessee stated that these lenders of hundies are actually potential borrowers. However, no documentary evidence in support of contentions of the assessee has been submitted. Thus, in view of the facts and circumstances of the case and particularly the fact that these hundies were found executed on the date of search the name of the borrower is neither available in the seized records nor has the assessee been able to supply the same during the course of assessment proceedings, it is established and held that the assessee is the borrower in respect of these hundies. The borrowings are covered u/s 69D of the Act. Therefore, **an addition of Rs. 11,56,300/- is made.***

*During the search & action a number of hundies were found from the premises of the assessee where there is only name of borrower. These hundies were summarized. During the assessment proceeding, vide show cause notice dated 13/01/2014 the assessee was required to show cause as to why in the absence of names of lenders why it shall not be presumed that he is the lender in respect of these duly executed hundies. In this respect, the assessee submitted his reply on 17/01/2014. In the reply, the assessee. stated that these hundies are not actually executed. However, no documentary evidence in support of contentions of the assessee has been submitted. Thus in view of the facts and circumstances of the case and particularly the fact that these hundies were found executed on the date of search and the name of the lender is neither available in the seized records nor has the assessee been able to supply the same during the course of assessment proceedings, it is established and held that the assessee is the borrower in respect of these hundies. The transactions are covered u/s 69D of the Act. Further, the undisclosed commission earned on such investment in is also liable to be added in the hands of the assessee. Therefore, **an addition of Rs. 29,525/- is made.***

During the search & seizure action, a number of hundies were found from the premises of the assessee where there is neither name of the borrower nor name of the lender. These hundies were summarized. During the assessment

*proceeding, vide show cause notice dated 13/01/2014 the assessee was required to show cause as to why in the absence of names of borrowers and lenders why the same shall not be added to the total income. In the reply dated 17/01/2014, the assessee stated that these hundies were not actually executed. However, no documentary evidence in support of contention of the assessee has been submitted. The assessee's explanation is not accepted as these hundies contain other details such as date, period amount etc. therefore, the amount represent undisclosed Income of the assessee. Therefore, **an amount of Rs. 8,50,000/- is added to the total income.***

6. Accordingly, the assessment of the assessee was completed u/s 153A r.w.s 143(3) of the Act on 07.03.2014, with the following additions for the AY 2011-12:

Sr. No.	Description	Amount of Addition
01	On account of payment of on-money for purchase of house-cum-plot (para 11 of the Assessment Order)	6,25,000/-
02	Income from Commission on Hundies (Para 13 of the Assessment Order)	16,320/-
03	Addition u/s 69D for Hundies on which only name of the lender was found, the assessee was therefore, treated as borrower (para 14 of the Assessment Order)	11,56,300/-
04	Addition u/s 69D for Hundies on which only name of the borrower was found, the assessee was therefore, treated as lender (para 15 of the Assessment Order)	29,525/-
05	Addition as undisclosed income of the assessee for Hundies on which neither the name of the borrower nor name of the lender was found (para 16 of the Assessment Order)	8,50,000/-

7. Aggrieved with the aforesaid additions by the Ld. AO, the assessee carried the matter before the Ld. CIT(A), wherein the appeal of assessee was dismissed by the Ld. CIT(A) with the following observations:

2.3 *Facts being as above, in this case search and seizure action was conducted on 21/03/2012 during which various assets were found some of which were seized. This included cash, jewellery and hundies. Rs 35 lakhs was declared as unaccounted income. In para no. 13.1 the AO has listed hundies found from premises of the assessee on which commission income was earned by the assessee. Total income as per this list has been Separated assessment year wise from AYs 2008-09 to 2012-13. At para- 14 hundies have been listed on which name of lenders only were mentioned. Since the assessee did not furnish information and since these hundies were available from the assessee's premises the assessee was presumed the borrower. Total amount was bifurcated assessment year wise from 2008-09 to 2012-13. At para no. 15 were listed those hundies on which only the name of borrower was mentioned and name of lender was not mentioned. The appellant claimed that these hundies were not actually executed. He had no evidence to support his contention. Therefore, the amount has been added after bifurcating assessment year-wise. In para-16 those hundies have been listed on which neither the borrower nor the lender were mentioned. Total of these hundies was at Rs. 63,44,725/- and these belong to AYs 2011-12 and 2012-13. Since no explanations were furnished by the assessee these were added to the respective years.*

Appellant has contended that order of the AO is erroneous on facts and in law. He should have accepted contentions of the assessee in light of the supporting documents. He has disclosed his commission income much above what the AO has added. Therefore, the addition at para-13 have led to double

taxation. However, there is no evidence either before the AO or before the undersigned that the income declared by the appellant includes income from hundies listed at para-13. In ground no. 5 it was contented that the addition made in para-14 is erroneous because the hundies were unexecuted and no actual transaction have been made. On these hundies name of the lender have not been mentioned. Issue date and due date as well as amount are reflected. There is no reason to believe that transactions have not been affected. In ground no-6 it has been contented that the addition made at para- 15 are erroneous. The hundies were prepared as per borrower's requirements. However, the transactions were not done. When the name of the borrowers, amount. date of issue and due date were duly reflected on these hundies the assessee' version is not believable that these transactions did not take place. Similarly in ground no. 7 the assessee has denied that addition as per para-16 should be made since these transactions were also not affected. Assessee has no evidence to support his contention. Wherever the name of the borrowers are mentioned or wherever the names of the lenders are mentioned none of these parties have been produced to confirm the contention of the assessee. Therefore, addition made by the AO is hereby sustained and the grounds of the appellant are rejected.

Regarding the cash of Rs. 8,25,000/- found of which the assessee's share was Rs. 5,06,000/-. No explanation was submitted before the AO to show that the amount was recorded in assessee's books. The assessee has contended that the addition would lead to double taxation. Therefore, the addition should not have been made. However, no evidence has been furnished to show that the amount has already been added either in assessee's hand or in the hands of some other persons. Therefore, the addition is hereby sustained.

3.0 *The appeals are dismissed.*

8. The decision of Ld. CIT(A) was not found acceptable by the assessee, therefore, to challenge the same, the matter is being assailed before us by way of the present appeal.

9. At the outset of the hearing, Ld. AR requested to take up the **additional Ground No.1**, submitted on 09.06.2025, which reads as under:

Additional Gr.No.1

“On the facts and circumstances of the case & in law, a **combined/ consolidated approval granted u/s153D dt.7-3-14 for 21 years, without even recording any word of own satisfaction** on the issue/ addition of the assessee’s case i.e., for each year separately for each assessee; impugned approval is merely a ritualistic formality and rubber stamping by the authority; it is omnibus approval which does not reflect an appropriate application of mind and without any thoughtful process being discernible; approval u/s153D is invalid and assessment made u/s153A rws.143(3) dt.7-3-14 would be invalid and is liable to be quashed.”

the ‘additional ground’ raised/ revised which is purely on **legal** nature raised first time before your Honors which goes to the root of the matter; the assessee is entitled to urge **legal** issue on the basis of facts available on record which though not raised before Id AO & Id CIT(A); relied on **NTPC Ltd (1998) (SC)**; it may kindly be permitted & obliged.

9.1 Apropos, the aforesaid additional ground, Ld. AR submitted that the approval granted u/s 153D in the present case is an omnibus approval, merely a ritualistic formality, rubber stamping by the authority, without application of mind and without any thoughtful process being discernible. Copy of the approval dated 07.03.2014, which is the foundation on which the sanctity of the assessment framed depends, is extracted as below:

OFFICE OF THE
ADDL. COMMISSIONER OF INCOME TAX (Central)
'Aayakar Bhawan', Hoshangabad Road, Bhopal (M.P.)-462011

F.No.Addl.CIT/Central/ Sharma Group/BPL/2013-14/1561

Dated: 07.03.2014

To,
The Deputy Commissioner of Income Tax (Central),
Raipur

Sub: - Approval u/s 153D of the Income Tax Act,1961 in assessment proceedings of
Sharma Group of cases covered u/s 153A- reg

Please refer to your letter F.No DCIT(Central)/RPR/2013-14 dated 06.03.2014 seeking approval in draft assessment order of various persons of the group as detailed in the letter.

I have gone through the draft assessment orders within the limited time available. The cases have also been discussed with you from time to time.

The assessment orders submitted by you are hereby approved as under:-

S.No.	Name of the Assessee	A.Y	Assessed Income (In Rs.)
1	Shri Sandeep Meghani (AJQPM2005E)	2006-07	1,08,470/-
		2007-08	1,12,700/-
		2008-09	2,01,660/-
		2009-10	2,40,880/-
		2010-11	8,29,310/-
		2011-12	31,38,200/-
		2012-13	3,14,06,830/-

S.No.	Name of the Assessee	A.Y	Assessed Income (In Rs.)
2	Shri Sachin Meghani (AJRPM0465F)	2006-07	1,06,000/-
		2007-08	1,07,900/-
		2008-09	1,25,480/-
		2009-10	1,64,870/-
		2010-11	4,80,840/-
		2011-12	8,71,160/-
		2012-13	10,71,020/-

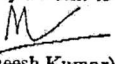
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S.No.	Name of the Assessee	A.Y	Assessed Income (In Rs.)
3	Shri B R Meghani (AGUPM4352P)	2006-07	93,710/-
		2007-08	97,870/-
		2008-09	1,09,990/-
		2009-10	1,93,560/-
		2010-11	7,69,040/-
		2011-12	2,46,410/-
		2012-13	7,64,920/-

You may act accordingly. A copy of the final order passed may be sent to this office for records.


(Muneesh Kumar)
Addl. Commissioner of Income-tax (Central),
Bhopal

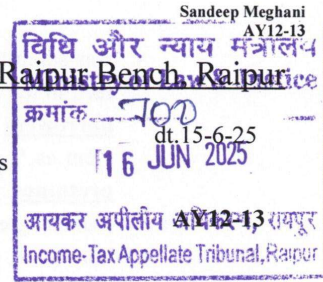
9.2 Referring to the aforesaid copy of approval u/s 153D dated 07.03.2014, Ld. AR submitted that the issue raised herein challenging the validity of approval u/s 153D is no more *res integra* as the same has been decided by various courts in favour of the assessee. Ld. AR to strengthen the aforesaid contention had submitted a written synopsis quoting findings and observations on the issue by various benches of tribunal and the Hon'ble High Courts, the same is extracted as under:

DOH - 24-6-25

Before the Hon'ble Income Tax Appellate Tribunal, Raipur Bench, Raipur

Assessee: **Sandeep Meghani**
Prop. of M/s.Ramchandra Meghani & Sons
Raipur (CG), PAN-AJQPM2005E
ITA No.226/BIL/2016
Written submission-3
(Approval u/s153D)

BC
16/6/25



- 1.1. It is a **combined/ common/ consolidated** approval order u/s153D dt.7-3-14 for **21 years** involved in total, which is for the 3 assessees; The Addl.CIT, Bhopal has accorded approval u/s153D dt.7-3-14 as under:

“Please refer to your **letter F.No.DCIT(Cent)/RPR/2013-14 dt.6-3-14** seeking approval in **draft** assessment order of various persons of the group as detailed in the letter. I have **gone through the draft** assessment orders **within the limited time** available. The cases have **also been discussed with you from time to time**. The assessment orders submitted by you are hereby **approved** as under:

XXXX

You may act accordingly. A copy of **final order passed may be** sent to this office for records.”

- 1.2. Firstly, we have filed RTI application dt.3-7-23 in which we have requested to provide copy of **signed copy of draft** assessment order by dt.6-3-14 which sent by the AO, **Raipur** to Addl.CIT, **Bhopal** for seeking approval u/s153D & **what assessment records** including the seized material along with replies/ submissions of the assessee before him has been sent by him; reply received on 1-8-23 that “**No information/ document is found** available on record.” That, in the said RTI application, we have also requested to provide copy of **signed copy of ‘Approved assessment order’** by the Addl.CIT, Bhopal dt.7-3-14; reply received on 1-8-23 that “**No information/ document** in this regard is found available on record”.
- 1.3. Secondly, from perusal of this approval order u/s153D dt.7-3-21 which is a **single letter** dt.7-3-14 which comprising of **21 years** involved for 3 assessees, it is very clear that **there is not even recording** any word of own satisfaction on the **addition of Rs.3,14,06,830** for AY12-13 in the case of the assessee that he has **perused the assessment records, seized material & replies** of the assessee before the AO; more so, there are various **glaring mistakes** in the assessment order approved by the Addl.CIT which has **not been cared/ corrected** by the Addl.CIT while granting such mechanical approval on a single letter dt.7-3-14, which is as under:
- (i) **Addl.CIT, Bhopal** (i.e., the competent authority for giving approval u/s153D) **has not cared/ considered** that the assessee has surrendered Rs.16,25,000 as undisclosed commission income in the **statement** recorded u/s132(4) and it had duly been **shown as additional income** in the ROI filed for AY12-13 as commission earned in the capacity of finance broker; this is a mistake which ought to had been considered by the Addl.CIT while granting such mechanical approval u/s153D dt.7-3-14 for the arbitrary/ unwanted **addition** of Rs.3,14,06,830 for AY12-13;
- (ii) **Addl.CIT has not cared/considered** while approving the arbitrary/ unwanted **addition** of Rs.2,26,81,300 by the AO u/s69D for AY12-13 on account of hundies, which is evident that the Addl.CIT has not even perused the seized material, documents found wherein, it

Sandeep Meghani
 AY12-13

was submitted before the Id AO/ Id CIT(A) that it was **not executed; not materialized**; in fact, in the impugned **seized papers/ documents** (white/ green slips), name of the **proposed borrowers** are appearing in the **bottom of the slips**, while, the AO has **wrongly presumed** them as **'Lenders'** (assessment order **Pg.6 to 10; Para14**) and thereafter, AO has further **presumed** the **assessee as 'Borrower'** (assessment order **Pg.10**) of the said seized slips (white/ green) and on such **fallacious assumption** of the AO that the **assessee is borrower**, he made addition of Rs.2,26,81,300 **u/s69D** for AY12-13; while, AO has not brought any corroborative material/ evidence on record for justifying the **baseless addition** on that count; when, the impugned seized papers/ documents are a kind of **dumb document** and **not** within the preview of **'Hundis'** u/s69D; It was also submitted that one set of the alleged hundis contains **both names of lenders and borrowers** are available; second set of the alleged hundis contains **only name of lenders** are available; third set of the alleged hundis contains **only name of borrowers** are available; fourth set of the alleged hundis contains **neither the name of the borrower nor the name of the lender** are available; that **none of the seized material** complies with the mandatory requirements of a **legally enforceable hundi (promissory note)**; It was held in **Dexan Pharmaceuticals (P) Ltd (1995) 214 ITR 576 (AP HC)** had considered the meaning of **hundi**; the Hon'ble HC after analyzing the Negotiable Instruments Act as well as Indian Stamp Act formulated the following broad **features of hundi transaction**:-

1. There are **always 3 parties** to such a transaction. They are the **drawer, the drawee and the payee**. The drawer cannot himself also be the drawee. If the transaction is **bilateral** it is very strong indication to show that it is not a hundi transaction.
2. A hundi is payable to satisfy a person or order but negotiable **without endorsement by the payee**.
3. The holder of a hundi is entitled to on its basis without any endorsement in his favour.
4. A hundi once accepted by the done, could be negotiated without endorsement.
5. In the case of loss of a hundi, the owner can claim duplicate or triplicate from the drawer and present the same to the drawee for claiming payment.

It is very clear from perusal of the documents that **none of the ingredients** of hundi are present in the said documents as laid down by the Hon'ble AP HC; since the documents in question are **not hundi** and therefore, **there is no scope** for the AO to invoke **sec69D**; however, though the AO has assumed that the assessee has landed money to the persons whose names were found written but other than this assumption, the AO has not brought any cogent material on record to substantiate his allegation; since **white slips were prepared on the behest of the prospective buyers** and on that basis, the Id AO has made a **fallacious assumption** that amount has been **lended** by the assessee without having any corroborative material evidence brought on record, addition could not be made on such **fallacious assumption**; this fact has not even looked by the Addl.CIT while granting such 'mechanical approval' which is without application of mind;

- (iii) Addl.CIT has not cared/considered while approving the addition of Rs.2,46,310 by the AO **u/s69** for AY12-13, which is evident that the Addl.CIT has not even perused the seized material, documents found wherein, it was submitted before the Id AO that the third set of the alleged hundis contains only name of **borrowers** are available; name of **borrowers** appeared and name of **lenders** are absent; merely on **presumption** that the assessee was

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the **actual lender** on these hundis found; **In fact**, it is **not executed; not materialized**; however, though the **AO has assumed** that the assessee **has landed money to the persons** whose names were found written but other than this assumption, the **AO has not brought** any cogent material on record to substantiate his allegation; however, on the count of undisclosed income in AY12-13, the assessee has made **surrender of additional income** of Rs.16,25,000 for **AY12-13** in the **statement recorded u/s132(4)**; thereafter, Rs.16,25,000 has been shown/offered for taxation in the **AY12-13** which has been **returned** in the **ROI filed** on 4-12-13 declaring income of Rs.18,10,570 (PB-Pg.28, 29); shown in **computation** (PB-Pg.29); which inter alia presumed to be covered/ included the sum of Rs.2,46,310 i.e., the addition made by the Id AO; hence, thereafter, there is **no occasion** for the Id AO to make further addition on that count, when the **additional income** offered for taxation (i.e., Rs.16,25,000) is **more than** the **addition** (i.e., Rs.2,46,310) made by the Id AO; addition is liable to be deleted; this fact has not even looked by the Addl.CIT while granting such 'mechanical approval' which is without application of mind;

(iv) **Addl.CIT has not cared/considered** while **approving the addition** of Rs.63,44,725 by the AO for **AY12-13**, which is evident that the Addl.CIT has not even perused the seized material, documents found wherein, it was submitted before the Id AO that the fourth set of the alleged hundis contains **neither the name of the borrower nor the name of the lender** are available; name of **borrowers & lenders are absent**; merely on **presumption** that the **assessee** was having undisclosed income; this fact has not even looked into by the Addl.CIT while granting such 'mechanical approval' which is without application of mind;

- 1.4. The approval letter u/s153D dt.7-3-14 by the Addl.CIT simply grants approval without any reasoning & satisfaction on the various additions made/ proposed by the AO; impugned approval is merely a **ritualistic formality and rubber stamping** by the authority; it is **omnibus** approval which **does not reflect an appropriate application of mind and without any thoughtful process being discernible in the approval order** u/s153D dt.7-3-14;
- 1.5. It is a **Proforma** Approval; since approval granted in the case of assessee is dt.7-3-14 & in the case of another assessee -M/s.Sharda Steel Traders (2025) (Raipur-Trib) dt.21-5-25, **ITA No.111** to 116/RPR/2025, same **Proforma approval** has been granted by the same Addl.CIT dt.14-3-16 (verbatim same) which is placed on paper book; which evidencing the fact of '**Proforma approval**' is given by the Addl.CIT & there is **no independent** application of mind on the various arbitrary/ unlawful **additions** made/ proposed by the AO in the draft assessment order of the AO;
- 1.6. For granting approval u/s153D, the Approving Authority **shall have to apply independent mind to the material on record for "each AY" in respect of "each assessee" separately**. It was held that the 'approval' as contemplated u/s153D, requires the approving authority, i.e., **Jt.CIT to verify the issues raised by the AO in the draft assessment order and apply his mind to ascertain as to whether the required procedure has been followed by the AO 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. The careful and **conjoint reading of sec153A(1) and sec153D leave no room for doubt** that approval with respect to **"each AY" is to be obtained by the AO on the draft assessment order before** passing the assessment order u/s153A. It was explicitly held that the authority granting approval **has to apply its mind for "each AY" for "each assessee" separately**.

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- 1.7. Addl. CIT, has **not uttered a single word on the subject-matter of additions**. The approval is in the nature of **Per forma approval**; the approval granted is **nothing but mechanical one** and the approving authority **has exercised symbolic powers** vested u/s153D. Apart from the same, a **single approval has been granted for 21 AYs in total**.
- 1.8. **Serajuddin & Co (2023) (Ori HC)** had an occasion to examine substantial que of law on the **propriety of approval granted u/s153D**; the Hon'ble HC made **wide ranging observations** towards the **manner and legality of approval u/s153D** by observing that the **approval u/s153D 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 justifiable. Where the Court finds that the approval is granted mechanically, it would vitiate the assessment order itself. The Hon'ble HC inter alia observed that **there is no even a token mention that draft order has been perused by the Id Addl.CIT**. 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 sec158BG 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 s.119. The Hon'ble HC also held that **non-compliance of requirement of sec153D is not a mere procedural irregularity and lapse committed by Revenue may vitiate** the assessment order. The SLP filed against the aforesaid judgment in **Serajuddin & Co (2024) 163 taxmann.com 118 (SC)** was dismissed.
- 1.9. The ratio of **Serajuddin & Co (Ori HC)**; **Anuj Bansal (Del HC)**; **Shiv Kumar Nayyar (Del HC)**; and **Subhash Dabas (Del HC)** has held in chorus that the approval granted u/s153D, if granted mechanically, will vitiate the assessment order itself.
- 1.10. As noted in the instant case, In the first para of the approval memo, the Addl. CIT referred the letter of the AO dt.6-3-14, and in the second para, it was stated that the on the basis of discussion held from time to time the approval u/s153D is granted in respect of 21 cases. There is not even mentioning of any assessment records or the seized materials in the said approval letter. Such mechanical approval cannot be sustainable in law in the light of judicial dicta available. The approval memo is totally silent on the issues/ additions involved and has granted omnibus approval without any thoughtful process being discernible. A single approval u/s153D has been accorded comprising out of 21 AYs.
- 1.11. That, whatever attempt is now being made by the Revenue to fill in the lacuna by filing letters of then **Addl.CIT** who granted the approval is done **more damage to the case of the Deptt** because when we take into consideration the letter of then Addl.CIT, filed by Id CIT-DR, with the submission, we find that the said **Addl.CIT seems to be still under impression that grant of approval is mere formality** and for that reasons the then Addl.CIT has stated in this letter that, **"...Range Head was actively involved in the assessment process of the cases and there was due application of mind....."** On the contrary law as stands crystallized is that the **approval letter should be speaking one** and **show that approval was granted by application of mind**. There is inherent fallacy in the belief of the then **Addl.CIT** as mentioned in this letter that

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“.....Range Head was actively involved in the assessment process of the cases and there was due application of mind....”. On the contrary that not only as quasi-judicial authority but even in administrative capacity, if an approval is to be granted under a statute for initiating any quasi judicial proceedings then such approval should be self contained piece of evidence that due process of law was followed in grant of approval, which certainly is not the case here;

- 1.12. that the JCIT being Range Head may be supervisory head for search assessments but he cannot direct the AO as to how assessment in a particular manner is to be made and which document is to read and how. He cannot be a party to framing of assessment because assessment is always framed by the AO under the scheme of IT Act. The assessment process is mentioned in the sec 153A, which means that the assessment is to be framed by the AO only being a quasi-judicial authority. From the very sec153A, it is clear that the assessment is a domain of only the AO and not any other authority under the IT Act. Now, on facts, whether in the present case the JCIT can interfere in the regular assessment.
- 1.13. That this issue is dealt in SEH Realtors P Ltd (2024) (Del-Trib) dt.23-7-24, ITA No.2503 & 2693/Del/2017 wherein the entire scheme is discussed in para No.8, as under:-

“8. it is the bounden duty of the Id AO to seek to place the draft assessment order together with copies of the seized documents before the Id JCIT well in time much before the due date of completion of search assessment. The Id JCIT is supposed to examine the seized documents, questionnaires raised by the Id AO on the assessee seeking explanation of contents in the seized documents, replies filed by the assessee in response to the questionnaires issued by the Id AO and the conclusions drawn by the Id AO vis- à-vis the said seized documents after considering the reply of the assessee. All these functions, as stated earlier, are to be performed by the Id JCIT in a judicious way after due application of mind.

Even though as vehemently argued by the Id DR, the Id JCIT is involved with the search assessment proceedings right from the time of receipt of appraisal report from the Inv.Wing, still, the Id JCIT, while granting the approval u/s153D has to independently apply his mind dehors the conclusions drawn either by the Inv.Wing in the appraisal report or by the Id AO in the draft assessment order. The copy of the appraisal report submitted by the Inv.Wing to the Id AO and Id JCIT are merely guidance to the Id AO and are purely internal correspondences on which the assessee does not have any access. Moreover, the Act mandates the Id AO to frame the assessment after getting prior approval from Id. JCIT u/s153D. The Id JCIT getting involved in the search assessment proceedings right from inception does not have any support from the provisions as no where the Act mandates so. The scheme mandates due application of mind by the Id AO to examine the seized documents independently dehors the appraisal report of the Inv.Wing and seek explanation/ clarifications from the assessee on the contents of the seized documents. When the scheme provides for a leeway to both the Id AO as well as the Id JCIT to even ignore the conclusions drawn in the appraisal report by the Inv.Wing and take a different stand in the assessment proceedings, the fact of Id. JCIT getting involved in the search assessment proceedings right from the receipt of copy of appraisal report, as argued by the Id DR, has no substance.

In other words, irrespective of the conclusions drawn in the appraisal report by the Inv.Wing, both the Id AO and the Id JCIT are supposed to independently apply their mind in a judicious way before drawing any conclusions on the contents of the seized documents while framing the search assessments.

In our considered opinion, if the arguments of the Id DR are to be appreciated that the Id JCIT need not apply his mind while granting approval of the draft

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assessment orders u/s153D as it is **not provided in sec 153D**, then it would make the **entire approval proceedings contemplated u/s153D otiose.**

The law provides only the Id AO to frame the assessment, but, certain checks and balances are provided in the Act by conferring powers on the Id JCIT **to grant judicious approval u/s153D to the draft assessment orders placed by the Id AO."**

1.14. Sohan Lal Singla (AOP) (2025) 39 NYPTTJ 993 (Del-Trib) dt.8-5-25, ITA No. 711/Del/2023, held as under:

"8. On a perusal of the above approval dt.22-12-17, it depicts that the the Id 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 u/s153D.** Apart from the same, a **single approval has been granted for 7 AYs pertaining to the Assessee."**

1.15. SP Singla Constructions (P) Ltd (2025) 39 NYPTTJ 142 (Chd-Trib) dt.17-1-25, ITA No.140 to 145/Chd/2024, held as under:

"15.we noted that the JCIT being Range Head may be **supervisory head** for search assessments but he **cannot direct the AO** as to how assessment in a particular manner is to be made and **which document is to read and how.** He cannot be a party to framing of assessment because assessment is always framed by the AO under the scheme of IT Act. The assessment process is mentioned in the sec153A, which means that the **assessment is to be framed by the AO only being a quasi-judicial authority.** From the very sec153A, it is clear that the **assessment is a domain of only the AO and not any other authority** under the IT Act. Now, on facts, whether in the present case the JCIT can interfere in the regular assessment.

16. In view of the above, we are of the view that the **power of approval u/s153D** is statutory in nature granted pursuant to the specific sec153D and is **not a mere administrative** exercise. The power of approval vested with JCIT u/s153D entails an application of mind while perusing the assessment records, seized records, replies of assessee and issues raised by the AO and the procedure followed for framing of assessment order. The act of granting approval u/s153D is **not a mere internal process** relating to administrative functioning but is a **quasi-judicial function** mandated by specific provisions with an underlying requirement of it being based on due application of mind. This being the situation, the approval to be granted u/s153D for passing of the assessment order by the JCIT is **reflective of confirming, rectifying, sanctioning** or convention to an act or thing done by another authority in exercise of the statutory mandate and is **not an internal administrative process** of the Deptt **but the exercise of a quasi-judicial function.** As in the present case, the assessee filed set of assessment orders, demand notice and the computation sheet issued by the same AO and the approval granted by the JCIT u/s153D, which clearly remarks as-

"2. इस सदं भू म॥, आयकर अधूणयम क॥ धारा 153D के तहत उपरोधत करदाता के मामले म॥ AY16-17 के Draft Assessment Order को अनुमोदतकया जाता है।

3. ँनधारण रिकॉड 1 volume (ढबना ढम संधया) म॥ वापसकया जाता है।"

17. From the above noting (which are in Hindi), means that **simplicitor approval of draft assessment order by the JCIT u/s153D** is clearly without application of mind as **no verification of assessment records, seized material or the replies of the assessee were considered by the JCIT while granting approval.** Hence, the approval is mechanical in nature and does not stand to the scrutiny of law. Hence, we quash the assessment order framed in consequence to approval granted u/s153D."

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1.16. **Sushen Mohan Gupta (2025)** (Del-Trib) dt.20-5-25, ITA No.2999 to 3005/Del/2024, held as under:

“47. Per Contra, the Id DR, while supporting the approval granted by the Id Addl.CIT u/s153D contended that there exists a high presumption of law, which is also codified in sec114(e) of the then Indian Evidence Act, 1872 that **all official acts are regularly performed** and therefore, the Trib has to accept with the presumption that approvals are validly granted. He further stated that merely because the approvals were granted by one letter does not mean that it was not granted for each AY. He further contended that the draft assessment orders were sent with respective assessment folders on 27-9-21 and even if some draft orders were shared on 29-9-21, the Id Addl.CIT would have had approved them in lesser time as the authority would have already been familiar with the substance of assessment shared on 29-9-21. According to him, the Id Addl.CIT had 4 days to consider the entire record before granting approval. He further stated that the line in approval i.e. ...records in all above cases are returned herewith...makes it clear that records had been shared with the Addl.CIT while seeking approval.

He argued that the Id Addl.CIT had been **involved in the entire search assessment proceedings**, and therefore, the approving authority **could grant the approval even within a short span of time after the submission of the draft** assessment orders.

To support this, the Id DR drew our attention to a letter dt.31-8-21, written by the Id AO to the Id Addl.CIT, whereby the Id AO submitted specific questionnaires emanating from the appraisal report for the Id Addl.CIT's perusal enclosed at Pages 5 to 25 of the PB Vol.I. Referring to this letter and the questionnaires, the Id DR submitted that this shows the Id **Addl.CIT's involvement** in the assessment proceedings and **her awareness of the issues** at hand, and therefore, the approval was granted after due application of mind. He further submitted that the **approval** granted by the Id Addl.CIT **need not be elaborate** and that the approval, as given, sufficiently complies with the legal requirements.

49. As far as the **issue of presumption u/s114(e) of Indian Evidence Act** is concerned, the Id AR, vide his submissions dt.21-2-25, relied on the judgement of the Hon'ble SC in **Suresh Budharmal Kalani Alias Pappu Kalani v. State of Maharashtra** reported in (1998) 7 SCC 337, wherein it was held that the **presumption can be drawn only from facts and not from other presumptions by a process of probable and logical reasoning**. Referring to the letter dt.31-8-21 of the Id AO relied upon by the Id DR, the Id AR argued that **same does not demonstrate the application of mind by** the Id Addl.CIT.

According to the Id AR, the **letter at most shows that some general questionnaires, as well as some specific questionnaires based on the appraisal report, had been issued by the Id AO, without mentioning the particular assessee** in the assessee's group. He further submitted that the letter does not mention whether the appraisal reports had been seen by the Id Addl.CIT. In fact, the supplementary appraisal report had not even been perused by the Id AO until 31-8-21 as per the said letter, let alone by the Id Addl.CIT. He argued that none of the questionnaires attached to the letter, except for one on Page No.25 of PB Volume I, pertains to the assessee, and **even that questionnaire does not involve any questions relating to the addition** made in the year to which the questionnaire pertains.

50. The Id AR further argued that the co-ordinate benches of this Trib did not agree with the argument of Deptt that since the Id Addl.CITs are being **involved in the search assessment proceedings from the receipt of appraisal report till the end of** the proceedings, **they need not to go through the entire** case records including seized material and appraisal report **again at the time of granting approval to draft orders and can possibly grant such approval within a short span of their submission for approval**. The Trib in these cases held that **involvement of** the Id Addl.CIT/ JCIT during the search assessment proceedings **does not dispense with the requirement of application of mind** while granting approval to the **draft assessment orders**.

53.Further reliance was placed by the Id DR on the **CBDT guidelines dt.22-12-06**. We have gone through the said guidelines placed on record. On perusal of the said **guidelines**, we find there

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is **not even a whisper** regarding the approval proceedings to be granted u/s153D by the competent authority. **It only says that** Id JCIT/ Id Addl CIT is also **part of the assessment proceedings right from the time of receipt of appraisal report**. The said **guidelines** only reiterate the statutory provisions and the manner in which search assessments are to be framed by the Id AO in the manner known to law. It **no where even whispers** that approval u/s153D **could be granted by** the Id JCIT/ Id Addl.CIT **without any application of mind**. In any event, in our considered opinion, the **CBDT guidelines** relied upon by the Id DR does not have any statutory force. Hence, the reliance placed thereon **would not advance** the case of the revenue.

54. The Id Addl CIT is supposed to examine the seized documents, questionnaires raised by the Id AO on the assessee seeking explanation of contents in the seized documents, replies filed by the assessee in response to the questionnaires issued by the Id AO and the **conclusions drawn by the Id AO vis- à-vis** the said seized documents after considering the reply of the assessee. **All these functions, as stated earlier, are to be performed by** the Id Addl CIT in a **judicious way after due application of mind**.

Even though as vehemently argued by the Id DR, the Id Addl CIT is **involved with the search assessment proceedings right from the time of receipt of appraisal report** from the Inv.Wing, still, the Id Addl.CIT, while granting the approval u/s153D **has to independently apply his mind dehors the conclusions drawn** either by the Inv.Wing in the appraisal report or by the Id AO in the **draft assessment order**.

The copy of the **appraisal report** submitted by the Inv.Wing to the Id AO and Id Addl CIT are **merely guidance** to the Id AO and are **purely internal correspondences** on which the assessee does not have any access.

Moreover, **the Act mandates the Id AO to frame the assessment after getting prior approval from Id Addl CIT u/s153D**. The Id Addl.CIT **getting involved in the search assessment proceedings right from inception does not have any support from the provisions as no where the Act mandates so**.

The **scheme mandates** due application of mind by the Id AO to examine the seized documents independently **dehors the appraisal report of the Inv.Wing and seek explanation/ clarifications from the assessee on the contents of the seized documents**. **When the scheme provides for a leeway to both the Id AO as well as the Id Addl CIT to even ignore the conclusions drawn in the appraisal report by the Inv.Wing and take a different stand in the assessment proceedings, the fact of Id Addl.CIT getting involved in the search assessment proceedings right from the receipt of copy of appraisal report, as argued by the Id DR, has no substance**.

In other words, **irrespective of the conclusions drawn in the appraisal report by the Inv.Wing, both the Id AO and the Id Addl.CIT are supposed to independently apply their mind in a judicious way before drawing any conclusions** on the contents of the seized documents while framing the search assessments.

In our considered opinion, **if the arguments of the Id DR are to be appreciated that the Id Addl CIT need not apply his/her mind while granting approval of the draft assessment orders u/s153D as it is not provided in sec 153D, then it would make the entire approval proceedings contemplated u/s153D otiose**.

The law provides only the Id AO to frame the assessment, but, certain **checks and balances** are provided in the Act by conferring powers on the Id Addl CIT to **grant judicious approval u/s153D to the draft assessment orders placed by the Id AO**.

55. Sahara India (Firm), Lucknow 2008 (4) TMI 4 (SC), in para 6 observed as under:-

“Similarly, the requirement of previous approval of the Chief CIT or the CIT in terms of the said provision **being an inbuilt protection against any arbitrary or unjust exercise of power** by the AO, casts a very heavy duty on the said high ranking authority to see to it that the requirement of the previous approval, envisaged in the Sec is not turned into an empty ritual. Needless to emphasise that before granting approval, the Chief CIT or the CIT, as the case may

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be, must have before him the material on the basis whereof an opinion in this behalf has been formed by the AO. The **approval must reflect the application of mind** to the facts of the case.”

58. The above-mentioned judicial pronouncements **have settled the proposition of law that for a valid approval u/s153D, the Id Addl.CIT must apply his mind to the draft assessment orders and appraise the entire record, including the seized material and appraisal reports, so as to assess the factual and legal aspects** and ascertain that the entire material has been examined by the Id AO before preparing the draft assessment order. The **approval proceedings are quasi-judicial in nature and require the Id Addl.CIT to apply his mind in a judicious manner.** To enable the Id Addl.CIT to apply his mind judiciously, **it is the bounden duty of the Id AO to place before him not only the draft assessment orders but also the entire case records, including the seized material and appraisal reports, well in advance, i.e., much before the time-barring date as prescribed in Para 9 of Chapter 3 of the Manual of Office Procedure, Vol. II, issued by the CBDT in Feb, 2003 which is enclosed in Page 277 of the Addl.Gr.PB 1.**

The **placing of records before the approving authority well in time has been emphasized by Serajuddin & Co (Ori HC)** against which the SLP of the Deptt has already been dismissed by the Hon'ble SC reported in 163 taxmann.com 118 (SC). The relevant observations made by the Hon'ble Orissa HC in this regard are reproduced hereunder:-

“22. As rightly pointed out by Id counsel for the assessee **there is not even a token mention of the draft orders having been perused by the Addl.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 sec158BG, it would equally apply to sec153D.

60. We have carefully examined the approval granted by the Id Addl CIT u/s153D in the present case. Upon reviewing the approval letter, we observe that the Id Addl.CIT, in granting approval to the draft assessment orders for the assessee pertaining to the 11 AYs, i.e., AY10-11 to AY20-21, **merely states that the approval was accorded after perusing the draft assessment orders and case records, without providing any further details.** There is **nothing in the approval letter which could demonstrate that the Id Addl CIT had actually applied her mind before according approval to the draft assessment orders u/s153D.** The bare minimum requirement of specifying what case records had been perused by the Id Addl.CIT before granting approval to the draft assessment orders was not complied with by her, let alone specifying the conclusions and reasons derived by her on the basis of such examination. There is no whisper in the approval about the seized material or the appraisal report having been perused by the Id Addl.CIT, despite these documents forming the basis of the search assessment proceedings. Moreover, it is also noticed that the **draft assessment orders in the case of assessee for 11 years were submitted to the Id Addl.CIT only on 27-9-21 & 29-9-21 which were approved by the Id Addl.CIT on 30-9-21 by a common approval.**

62. As noted in the instant case, the **approval is completely silent on the issues involved and grants an omnibus approval without any discernible thoughtful process.** This may be due to the **Proforma approval** used by the Id Addl.CIT to grant approvals, as demonstrated by the Id AR.

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We have carefully perused the approvals dt.29-9-21 and 30-9-21, placed before us by the Id AR, which were given in the cases of 2 other assesseees from the same group by the same Addl.CIT's office, as well as the approvals dt.29-3-23 and 30-3-23, granted by the same Addl.CIT's office in the cases of 2 other assesseees. We find that the language of all these approvals is identical. Therefore, we agree with the contentions of the Id AR that the approval granted in the case of the assessee is nothing but a Proforma approval, especially considering the fact that the language of the approval remains unchanged even after 2 years and despite the change in the person holding office. The omissions (in the form of unfound images in the uploaded order in ITBA portal though it was available in the manual order) and discrepancies in the order sheets of the assessment proceedings in the instant case, as pointed out by the Id AR, **further demonstrates that assessment records were not perused by the Id Addl.CIT before granting approval.**

Similar issue has been addressed by the Hon'ble Jurisdictional HC in **Anuj Bansal** (Del HC), wherein the Hon'ble Court held that where an approval is granted without noticing discrepancy in assessment order or assessment record, such a mechanical approval would be invalid in the eyes of law. The relevant operative part of the said order is reproduced below:- **

63. We also noted that in the instant case, the Addl.CIT has **granted approval to all draft assessment orders pertaining to 11 AYs by a common approval**. It may be noted that **sec153D for the approval of the order of each AY**. Therefore, the **obligation on the approving authority is to verify the draft assessment order of each AY to ascertain whether it complies with the law as well as the procedure laid down.**

The assessee has explained that assessment in the case of the assessee have been framed on the basis of contents of one pen drive handed over to the IT Deptt by ED before search and therefore, all material was within the knowledge of IT Authorities prior to the search in the cases of the assesseees. During the assessment proceedings, the assessee disputed the authenticity of the contents of the pen drive, which was handed over to the ED by a third party. The assessee also contended that there was nothing in the hands of the Id AO, seized from the premises of the assessee, that could be considered incriminating. Therefore, it became incumbent upon the Id Addl.CIT to examine the seized material before granting approval, in order to ascertain the veracity of the assessee's explanation.

For granting approval u/s153D, the approving authority **is required to verify and consider each AY and shall have to apply independent mind to the material on record to see whether in each AY there are un-abated or abated assessments and their effect, if any**. But, in the present case, the approving authority i.e. the Id Addl.CIT has **granted common approval for all the AYs** in respect of the single assessee. Thus, the **non-application of mind on the part of Id Addl.CIT is writ large while granting common and consolidated approval for all the AYs instead of granting approval u/s153D for each AY separately.**

The Hon'ble Alld HC in **Sapna Gupta, Siddarth Gupta and Subodh Agarwal** and the Hon'ble Jurisdictional HC in **Shiv Kumar Nayyar**, clearly **emphasized upon the approval in case of each AY and accordingly, held a common approval as invalid**. The operative part of the order of Hon'ble jurisdictional HC in **Shiv Kumar Nayyar** (2024) (Del HC) is reproduced below:

64. The Id DR by presenting the letter dt.31-8-21 written by the Id AO to the Id Addl.CIT, wherein **specific questionnaires were submitted for her perusal**, attempted to demonstrate that the Id Addl.CIT had been **involved in the search assessment proceedings from the outset**. Accordingly, it was argued that the **approval granted by her to the draft assessment orders in the case of the assessee was made with due application of mind**.

However, **we do not agree with the contentions of the Id DR, either factually or legally.**

We find that **there is nothing in the letter that demonstrates application of mind by the Id Addl.CIT**. Furthermore, none of the questionnaires attached to the letter pertain to the assessee, except for one, which also does not address any of the issues involved in the assessment of that year. Therefore, **merely presenting a letter**

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demonstrating **correspondence between** the Id AO and the Id Addl.CIT during the search assessment proceedings, **without showing actual application of mind** by the Id Addl.CIT **before granting approval u/s153D**, which is a **mandatory requirement** under the law, **does not assist the case** of the revenue.

Hence, when from the facts on record it clearly comes out that **there was no application of mind by the Id Addl.CIT while granting approval in a mechanical manner u/s153D**, the benefit of **presumption u/s114(e)** of the Indian Evidence Act that **all official acts are regularly performed is not available to the revenue** in the instant case.

65. As far as the contention of the Ld DR, that other assesseees may not have raised similar objections to such approval in their cases, and that if the issue is decided in favour of the assessee, it would have a cascading impact on their assessments, is concerned, **we wish to state that** the issue of approvals granted in a mechanical manner without the application of mind u/s153D is **no longer res integra**. Furthermore, merely because other assesseees may not have objected to the manner in which the approval was granted in their cases does not mean the same should be sustained in the case of the assessee. **We also do not agree** with the contention of the Ld DR that since the judgments relied upon by the assessee were delivered in 2023 and 2024, the Trib should exercise caution in applying them to the approval granted in 2021.

The **CBDT manual**, which **prescribes the manner of obtaining approval** in search cases, has been in existence since 2003, and it has been held to be binding upon the Deptt in the case of **Serajuddin**.

Moreover, the **manner in which approval should be granted** by the superior officer under the Act has been expounded by the Hon'ble SC and Hon'ble HCs for decades, **with the requirements of applying one's mind and perusing relevant records before granting approval being indispensable since then**.

66. In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, we have no hesitation in holding that the **approval u/s153D** has been granted by the Id Addl CIT in the instant case before us in a **mechanical manner without due application of mind**, thereby **making the approval proceedings by a high ranking authority, an empty ritual**. Such an approval has neither been mandated by the provisions nor endorsed by the decisions of the Hon'ble **Ori HC**; Hon'ble **Alld HC** and Hon'ble **Jurisdictional HC (Del HC)** referred to supra. Hence, we find lot of force in the arguments advanced by the Id AR in support of the addl.Gr. raised with regard to sec153D. Hence the assessment framed for the AY11-12 by the Id AO is hereby held as void abinitio and is hereby quashed."

1.17. **Inder Chand Bajaj (2025) 39 NYPTTJ 128 (Del-Trib) dt.17-1-25, ITA No. 2873/Del/2022; AY 18-19, held as under:**

"7. On a perusal of the approval dt.17th/ 18-12-19 addressed by the Addl.CIT, Central Range-8, New Delhi to the AO, it emerges that the **Addl. CIT, has not uttered a single word on the subject-matter of additions**. The **approval is in the nature of Per forma approval; the approval granted is nothing but mechanical one and the approving authority has exercised symbolic powers vested u/s153D**. Apart from the same, a **single approval has been granted for 7 AYs in total**.

11. As noted in the instant case, In the first para of the approval memo, the **Addl. CIT referred the letter of the AO dt.17-12-19**, and in the **second para, it was stated that the on the basis of discussion held from time to time the approval u/s153D is granted in respect of 7 cases**. The approval dt. accorded u/s153D is bearing the printed date of 17-12-19 and hand written date of 18-12-19 and the same has been signed on 18-12-19. **There is not even mentioning of any draft assessment order or the assessment records or the seized materials in the said approval letter. Such mechanical approval cannot be sustainable in law** in the light of judicial dicta

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available. The approval memo is **totally silent on the issues involved** and has granted **omnibus approval without any thoughtful process being discernible**. A **single approval** u/s153D has been accorded **comprising out of 7 AYs**. Applying the ratio of judgments delivered as noted above, the assessment order **based on ritualistic approval stands vitiated** and thus, quashed by allowing Gr.No.9 of appeal of the assessee.”

1.18. Parasram Holdings (P) Ltd (2025) 39 NYPTTJ 513 (Del-Trib) dt.17-1-25, ITA No.2824 to 2827/Del/2023; AY17-18 to 20-21, held as under:

“3. the law is no more res integra and the approval if granted in a manner wherein the approval letter **itself does not disclose the reasons** and shows application of mind, the Tribunal **cannot go behind the approval and consider the internal communications of the Deptt** sufficient to conclude that although not reflected in the approval order, the authority granting the approval had applied its mind to all the facts and circumstances. There is no force in the contention that since at **various stages of the proceedings, senior officers are involved**, that would give advantage to the Deptt to get the approval order rescued **when otherwise the approval order is silent of the reasons** so much so that even the incriminating material which was examined is not specifically mentioned.”

1.19. Splendor Landbase Ltd (2025) (Del-Trib) dt.7-3-25, ITA No.2462/Del/2016, held as under:

“16. What ever attempt is now being made by the Deptt **to fill in the lacuna** by **filing letters** of then JCIT who granted the approval is done **more damage** to the case of the Deptt because when we take into consideration the letter of then JCIT, annexure B, filed by Id DR, with the submission, we find that the said **JCIT seems to be still under impression that grant of approval is mere formality** and for that reasons the JCIT has stated in this letter that, “It is further noted that **Approval letter u/s153D is ‘only a formal’ culmination of application of mind, which takes place throughout the assessment period.**” On the contrary law as stands crystallized is that the approval letter should be speaking one and show that approval was granted by application of mind.

There is **inherent fallacy in the belief of JCIT** as mentioned in this letter that “there is **no requirement in law creating any evidence for discussions before granting the approval u/s153D.**” On the contrary this bench is of firm view that **not only as quasi-judicial authority but even in administrative capacity, if an approval is to be granted under a statute for initiating any quasi judicial proceedings then such approval should be self contained piece of evidence that due process of law was followed in grant of approval. Which certainly is not the case here.**”

1.20. Utility Supply (P) Ltd (2025) 174 taxmann.com 250 (Mum-Trib) dt.3-4-25, ITA No.3585/M of 2024, held as under:

“39. And therefore, the contention of Id 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 AO is an **independent quasi judicial 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.**

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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/s153D.**

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 dt.27-12-19, does not reflect any relevant material/ findings/ reasoning, which can substantiate the validity of such approval.** Thus, the contention raised by the Id DR, is untenable.

Thus, on the aforesaid analyzations, we are of the considered view that in the instant case, the approval dt.27-12-19 u/c is **not based on examining of any relevant documents and provisions** 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 unsustainable. Thus the approval, is declared as invalid in the eyes of law, which would entail the assessment order dt.27-12-19 as invalid being void ab-initio.”

1.21. Resonance Eduventures Ltd (2025) 39 NYPTTJ 689 (Jai-Trib) dt.10-3-25, ITA No.669 to 672/ Jai/2024, held as under:

“10.7. A plain reading of the aforesaid provision evinces **an uncontrived position of law** that the **approval u/s153D has to be granted for “each AY” referred to in sec 153A(1)(b).** It is beneficial to refer to **Sapna Gupta (2022) (All HC)** which captures with precision the scope of the concerned provision and more significantly, the **import of the phrase “each AY” used in the language of sec153D.** The relevant paragraphs of the said decision are reproduced as under:

10.9. In the instant case, a bare perusal of the impugned approval u/s153D granted by the Addl. CIT makes it clear that the impugned **letter simply grants an approval, without even a token of mention of any independent application of mind** by the said approving authority. 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. There is **no indication of examination of evidences, documents, statements of various persons etc. by the Addl. CIT** i.e., approving authority. Further, as appears from the **letter of the AO seeking approval, he has sent only the draft assessment order without any assessment records or the search material.**

Resultantly, the impugned approval order u/s153D also shows that the said approval was granted **without examining the assessment records or the search material.”**

1.22. Mysore Finlease P Ltd (2024) (Del-Trib) dt.10-1-24, ITA No.8821/Del/ 2019, held as under:

“9. Even though as vehemently argued by the Id DR, the **Jt.CIT is involved** with the search assessment proceedings right from the time of receipt of appraisal report from the Inv.Wing, still, the Jt.CIT, while granting the approval u/s153D has to independently apply his mind **dehors** the conclusions drawn either by the Inv.Wing in the appraisal report or by the AO in the draft assessment order. The copy of the **appraisal report submitted by the Inv.Wing to the AO and Jt.CIT are merely guidance to the AO** and are purely **internal correspondences** on which the assessee does not have any access. Moreover, **the Act mandates the AO to frame the assessment after getting prior approval from Jt.CIT u/s153D.**

The **Jt.CIT getting involved** in the search assessment proceedings right from inception **does not have any support** from the provisions as no where the Act mandates so. The scheme **mandates due application of mind** by the Id AO to examine the seized documents independently **dehors** the appraisal report of the Inv.Wing and seek explanation/

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clarifications from the assessee on the contents of the seized documents. When the scheme provides for a **leeway** to both the AO as well as the Jt.CIT to even ignore the conclusions drawn in the appraisal report by the Inv.Wing and take a different stand in the assessment proceedings, the fact of **Jt.CIT getting involved in the search assessment** proceedings **right from the receipt of copy of appraisal report**, as argued by the Id DR, **has no substance**.

In other words, irrespective of the conclusions drawn in the appraisal report by the Inv. Wing, both the AO and the Jt.CIT are supposed to independently apply their mind in a judicious way before drawing any conclusions on the contents of the seized documents while framing the search assessments.

In our considered opinion, if the arguments of the Id DR are to be appreciated that the Jt.CIT need not apply his mind while granting approval of the draft assessment orders u/s153D as it is not provided in sec153D, then it **would make the entire approval** proceedings contemplated u/s153D **otiose**. The law provides only the AO to frame the assessment, but, **certain checks and balances** are provided in the Act by **conferring powers on the Jt.CIT to grant judicious approval u/s153D to the draft assessment orders placed** by the Id AO.”

Yours faithfully,

CA Sunil Kumar Agrawal
 (Counsel for the assessee)

9.3 Based on aforesaid exhaustive submissions, Ld. AR contented that the approval granted u/s 153D in the present case dated 07.03.2014 does not hold good in the eyes of law, on account of various infirmities, such as wrong appreciation of facts, under borrowed satisfaction, fallacious assumptions, proforma approval, non-application of mind, no comments on the subject matter of addition, granting of approval has been considered as mere formality, due process of law not followed, involvement of the Addl CIT in process of assessment is only a part of official duty which does permit to obviate the mandate of law *qua* the duties to be performed as an approving authority u/s 153D, the authority is obligated to independently apply his mind *dehors* the conclusion drawn either by Inv, wing or by the AO. With such submission, Ld. AR submitted that the approval u/s 153D granted in the present case lakes

compliance of the mandatory provisions of law, as held by the various courts referred to supra, therefore, the same is liable to be treated as null and void, consequently the impugned assessment proceedings vitiates and thereafter, assessment framed u/s 153A r.w.s. 143(3) dated 07.03.2014 *dehors* the mandatory approval u/s 153D would be bad in law, *void ab intio* and liable to be stuck down, on this count itself.

9.4 Per contra Ld. CIT-DR representing the revenue submitted that the contention raised by Ld. AR is not tenable in terms of a submission received from the office of PCIT-1, Raipur enclosed therewith a letter by the then Addl. CIT, at present the Addl. Director General (Admin), NADT, Nagpur (the then Addl Commissioner of Income Tax (Central), Bhopal and competent authority, who had granted the subject approval u/s 153D dated 07.03.2014), clarifying that the approval granted was with due deliberations between the concerned AO and Addl. CIT. The submission by the department on this issue is reproduced hereunder for appreciation of the facts:

ITA No.225 & 226/BIL/2016
Shri Sandeep Meghani vs Dy. Commissioner of Income Tax, Raipur

भारत सरकार
वित्त मंत्रालय : राजस्व विभाग
कार्यालय प्रधान आयकर आयुक्त-1
केन्द्रीय राजस्व भवन,
सिविल लाईन, रायपुर (छ.ग.)



Government of India
Ministry of Finance : Department of Revenue
O/o Principal Commissioner of Income Tax-1
Central Revenue Building,
Civil Lines, Raipur (C.G.)

F.No. PCIT-1/RPR/158AB/2023-24/ 2660

Dated : 20-12-2023

To

The Commissioner of Income Tax (DR),
ITAT, B & C Wing, 5th floor, Central
Secretarial Building, Atal Nagar,
Nava Raipur (CG).

Sir,

Sub: Issue of mechanical approval u/s 153D of the Income Tax Act by the Range Head for passing of assessment order in Search & seizure in the case of Shri Sandeep Meghani PAN:AJQPM2005E for AY 2011-12 & 2012-13Reg. -

Kindly refer to your office letter F.No.CIT-ITAT/RPR/2023-24 dated 01/11/2023, addressed to the ITO 3(1) Raipur and copy of the same endorsed to this office, on the subject cited above.

In this connection, I am directed to state that, as desired by the Hon'ble ITAT, Raipur Bench on the issue of mechanical approval u/s 153D of the Act has been given by the Range head for passing of assessment order in search & seizure case in the case of above mentioned assessee, a letter was sent to the then Range head, who had given his approval u/s 153D of the Act, to offer his comments on the observation of Hon'ble ITAT, Raipur Bench, Raipur.

Accordingly the then Range head, who has given approval u/s 153D of then Act, has offer his comments in detail vide his letter No. NADT/ADG(Admin)/Per. Corres/2023-24 dated 01-12-2023, the copy of the same alongwith all the enclosures is enclosed herewith for kind perusal. As per the said letter, the approval u/s 153D of the Act for passing of assessment order had been given by the Range head after detail discussion with the AO. Even the notices u/s 142(1) of the IT Act issued by the AO were duly approved by the JCIT.

Yours faithfully,

Chandra Shekhar Manthapurwar
(Chandra Shekhar Manthapurwar)
Income Tax officer(Tech.)

For, Pr. Commissioner of Income Tax-1, Raipur

Encl. As above

Copy submitted to:

1. The Joint Commissioner of Income Tax, Range -1, Raipur for favour of kind information.
2. The Income Tax officer-3(1), Raipur for kind information.

Chandra Shekhar Manthapurwar)
Income Tax officer(Tech.)
For, Pr. Commissioner of Income Tax-1, Raipur

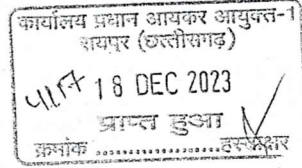


राष्ट्रीय प्रत्यक्ष कर अकादमी
NATIONAL ACADEMY OF DIRECT TAXES
छिंदवाड़ा रोड नागपुर 440030
Chhindwara Road, Nagpur-440030
(दूरभाष/फैक्स : 0712-2322105)

No.NADT/ADG(Admin)/Per.Corres/2023-24

Dated : 01-12-2023

To

The Pr. Commissioner of Income Tax-1,
Raipur.

Sir,

Sub: Issue of mechanical approval on the mechanical approval given u/s.153D of the Income Tax Act, 1961 by the Range Heads for passing assessment orders in Search & Seizure cases in the case of Shri Sandeep Menghani for the AYrs. 2011-12 and 2012-13 – PAN: AJQPM2005E –regarding -

Kindly refer to your D.O. No.Pr.CIT-1/RPR/Tech./2023-24/297 dated 20-11-2023 on the above subject received on 24-11-2023.

My comments about the approval referred to in your letter given u/s. 153D of the Income Tax Act, 1961 in this case are as under:

- (1) This assessment was finalized during March, 2014 by DCIT(Central), Raipur within the jurisdiction of then Addl. CIT(Central), Bhopal. At that time, the Assessing Officer was located at Raipur and the Range Head was located at Bhopal. Due to change of jurisdiction, this case was subsequently transferred to Addl. CIT(Central), Raipur. All the case records maintained with the Range Head were duly transferred to the then Addl. CIT(Central), Raipur vide detailed handing over note dated 20-06-2016, a copy of relevant pages (total 6 pages) is enclosed with this letter.

As can be seen from this handing over note, for each group assessed with Central Charge, guidance note was given by the Range head to the Assessing officer at the beginning of the year. This guidance note was the unique initiative of the Range Head, which ensured that proper guidance to the Assessing Officer is provided in writing. This unique initiative of the undersigned was duly appreciated by all the senior officers of the Department. Kind reference is invited to the comments made by the Reviewing Officer (Shri Arbind Modi, then Member(Legislation), CBDT, New Delhi) while reviewing APAR of the undersigned for F.Yr.2015-16 in capacity of DGIT(Inv.), Bhopal reproduced as under :

श्री आलोक पटनायक, आ.नि.
श्री राजेश, आ.नि.
श्री गोविन्दा, का.अधी.
श्री शाह-ए-आजम, क.स.
श्री साधन कुमार, क.स.
श्री ओम प्रकाश, क.स.
श्री शुभम रागर, क.स.
श्री श्याम वदु, का.अधी.
आवश्यक कार्यवाही हेतु।

"Shri Muneesh Kumar is an extremely bright and a thinking officer. He is extremely decisive and does not shirk responsibility. His assignment is highly Challenging in as much as all the cases involves day to day supervision over investigation in search related voluminous material. He ensured active participation in complex investigation by issuing cogent, transparent guidance notes which most officers at this level do not do. Overall his performance was 'OUTSTANDING' "

शेखर 12/23
आ.अ.(पु.बा.)/आ.अ.(तक.)

- (2) In addition to the above note, I actively monitored the assessment proceedings in this case on a regular basis, which can be duly inferred from the following facts available on record.
- (i) I would conduct weekly meetings with the Assessing Officer over phone enquiring about the progress of the case including centralization of cases, migration of PAN, issue of questionnaire, investigation, reply of the assessee, framing of assessment order, etc. A copy of D.O. dated 01-04-2015 received from then PCIT(Central), Bhopal (Supervisory officer of Range Head) acknowledging untiring and excellent performance of Range Head in supervision etc.) is enclosed with this letter.
- (ii) From time to time I personally visit Raipur to discuss the assessment proceedings with the Assessing Officer in person and issue guidance wherever required. As per my records, some of the dates (this is not complete record), I visited Raipur during the year 2013-14 are as under:

Sr. No.	Dates
1	15-05-2013 to 16-05-2013
2	06-06-2013 to 07-06-2013
3	02-07-2013 to 03-07-2013
4	17-09-2013 to 17-09-2013
5	04-10-2012 to 05-10-2013
6	28-10-2013 to 29-10-2013

- (iii) From time to time, the Assessing Officer located at Raipur also visited me at Bhopal to discuss the assessment proceedings and the progress of investigation in various cases.
- (iv) During my visit to Raipur, I also interacted with learned Authorized Representative of the assessee, who discussed the arguments made by them before the Assessing Officer.
- (3) As per law, the questionnaire u/s.142(1) of the Income Tax Act, 1961 were duly approved by the Range Head before issue, the evidence of which would be available on assessment record.
- (4) It is this deep, active involvement of the Range Head in the assessment, which is summarized simply in the approval letter u/s.153D as "... The cases have been discussed with you from time to time....."

Therefore, in view of the above facts, it is evident that Range Head was actively involved in the assessment process of the cases and there was due application of mind. Thus, it is evident that the argument taken by the Learned Counsel before Hon'ble ITAT is misleading, devoid of merits, contrary of facts & therefore needs to be dismissed.

Yours faithfully,



(Muneesh Kumar)
Addl. Director General(Admn),
NADT, Nagpur

Encls: (i) Handing over note dt.20-06-2016
(ii) DO dated 01-04-2015

9.5 Taking support from the aforesaid submission, Ld. CIT-DR submitted that In the present case, certain clarifications were sought by the Addl. CIT (Central), Bhopal in the course of assessment proceedings, also as per report submitted by Shri Muneesh Kumar, Addl. Director General (Admn), NADT, Nagpur (the then Addl. CIT, Central, Bhopal) through the office of PCIT-1, Raipur, elaborating the proceedings, deliberations and communications within the department between him and the Ld. AO, which is evident from the report dated 01.12.2023 (submitted on 23.07.2024 with the ITAT, Raipur). Considering such facts, the contentions, raised by the Ld. AR that the approval granted was mechanical in nature, under confused state or without application of mind does not inspire any confidence. In the wake of such facts and circumstances, the impugned approval granted u/s 153D cannot be termed as invalid or without application of mind. Ld. CIT-DR further placed his reliance on the observations of Hon'ble Jurisdictional High Court of CG in **TAXC No. 88 of 2024** dated 16.04.2024 in the case of **Hitesh Golchha vs ACIT, Central Circle-1, Raipur**, wherein Hon'ble High Court has held as under:

4. The order of the Assessing officer of approval (Annexure - 4) would reflect that Joint Commissioner was satisfied on the basis of the documents on record that such approval was justified. In a given case, it cannot be presumed on the mere say of the assessee that no application of mind was there while granting the approval. It is the subjective satisfaction and the language of the (Annexure - 4) would show that on the basis of the document produced before the Joint Commissioner, he was convinced of the fact that such approval would be necessary as the statute mandate.

5. From perusal of the language of the letter (Annexure - 4), we cannot presume that there was no application of mind as the approval need not be a detailed assessment

order. The presumption under Section 114 of the Evidence Act would follow when such official Act has been done in accordance with official procedure and will lead to presumption that due diligence was followed. Even otherwise, the order of the ITAT would reflect that the case of appellant was remanded back to the Assessing Officer for fresh adjudication of the issue. Further the liberty was given to the assessee to raise all such issues before the Revenue Authorities and furnish necessary information/evidences in support of his contention. When such right has already been reserved in favour of the assessee, to raise grounds, we do not find that any prejudice has been caused and in fact the ITAT has principally accepted the contention of the appellant and in furtherance to advance the rules of natural justice, opportunity is given to appellant assessee.

9.6 In backdrop of aforesaid submissions, it was the prayer by revenue that the addl. ground raised regarding validity of approval does not hold substance to be allowed, the same therefore, is liable to be rejected.

10. We have considered the rival submissions, perused the material available on record and case laws referred to by both the parties. The approval u/s 153D dated 07.03.2014 in the present case is identical to the similar approval (extracted below) in the case of **Sharda Steel Traders Vs. ACIT/DCIT Central Circle 2, Raipur**, in **ITA Nos. 111 – 116/RPR/2025**, vide order dated 21.05.2025, wherein the issue has been decided after a thoughtful consideration to the facts and circumstances of the case in favour of the assessee, with following observations:

11. *While initiating the arguments, Shri Praveen Jain, C.A. representing the assessee (in short “Ld. AR”), submitted and requested to first deliberate upon the legal / technical ground raised by the assessee i.e., ground no. 6 of the appeal which is common for all the years that the assessment was completed without obtaining proper / valid approval u/s*

153D. To explain the issue, Ld. AR furnished a copy of approval u/s 153D along with synopsis regarding aforesaid technical ground. The submissions of assessee are extracted hereunder for the sake of completeness and to deliberate upon the issue:

OFFICE OF THE
ADDL. COMMISSIONER OF INCOME TAX (Central), RAIPUR
(CAMP AT BHOPAL)

F.No.Addl.CIT/Central/Prakash Industries Group RPR/2015-16 / 78

Dated: 14/03/2016

To,

The Asstt. Commissioner of Income Tax (Central)-II,
Raipur

Sub: - Approval u/s 153D of the Income Tax Act, 1961 in assessment proceedings of Prakash Industries Group of cases covered u/s 153A- reg

Please refer to assessment orders submitted by you vide letter dated 14.03.2016 seeking approval in draft assessment orders of various persons of the group as detailed in the letter.

I have gone through the draft assessment orders within the limited time available. The cases have also been discussed with you from time to time.

The assessment orders submitted by you are hereby approved as under:-

S.No.	Name of the Assessee	A.Y	Assessed Income (In Rs.)
1	M/s Sharda Steel Traders (AAKFS2592K)	2008-09	6,61,200/-
		2009-10	27,50,680/-
		2010-11	29,66,080/-
		2011-12	18,19,440/-
		2012-13	88,11,120/-
		2013-14	1,98,10,940/-
		2014-15	2,26,65,060/-
2	M/s Ashok Steel Rolling Mills (P) Ltd. (AACCA0882D)	2008-09	7,68,140/-
		2009-10	8,65,750/-
		2010-11	10,03,950/-
		2011-12	10,22,450/-
		2012-13	14,54,740/-
		2013-14	25,59,990/-
		2014-15	17,17,750/-

You may act accordingly. A copy of the final orders passed may be sent to this office for records.

(Muneesh Kumar)

Addl. Commissioner of Income-tax (Central),
Raipur

21. *After a careful consideration of aforesaid facts, circumstances and material on record along with the judicial pronouncements referred to supra, we find substance in the contention raised by the Ld. AR that in absence of relevant documents i.e., assessment records and seized material, the approval granted by the approval authority with a rider that the draft assessment orders are gone through within the limited time available, thus, it cannot be said that there was due application of mind by the approving authority, as the relevant documents are not available to him, nor the revenue could establish by way of any material, evidence or submission to dislodge the said fact. The approval granted u/s 153D, therefore, can be construed as mere formality and in mechanical manner.*

22. *In consideration of aforesaid facts and circumstances, respectfully following the ratio of law laid down under various judicial pronouncements by Tribunal, Hon'ble High Courts as well as Hon'ble Apex Court (referred to supra), we, therefore, are of the considered opinion that the approval u/s 153D dated 14.03.2016 (copy extracted supra) in the subject matters before us cannot constitute a valid approval, as per the mandate and settled position of law. Consequently, the assessment completed u/s 153A / 143(3) dated 15.03.2016 on the foundation of an invalid approval are bad in law, invalid and liable to be quashed. Resultantly, the common assessment order dated 15.03.2016 stands quashed, and the impugned orders of Ld. CIT(A) assailed before us are set aside.*

11. In the matter of **Sharda Steel Traders (supra)**, the reliance was placed on the decision of coordinate bench of ITAT, Delhi, in the case of "E" Bench, in **ITA No.1420/DEL/2023 dated 29.04.2024** in the case of **MDLR Airline (P) Ltd. vs DCIT, Central Circle-14, New Delhi**, wherein the

identical issue regarding the validity of approval u/s 153D was decided by the bench with the following observation:

5.5 A careful reading of the approval granted u/s 153D of the Act clearly indicates that the Approving Authority has neither examined the assessment records nor the seized materials. In fact, the letter of the Assessing Officer seeking approval also makes it clear that only draft assessment orders were sent for approval without any assessment record or seized material. It is further clear that on the very same day the letter of the Assessing Officer with draft assessment orders were received, approval u/s 153D of the Act was granted by the Approving Authority. The aforesaid facts clearly reveal that the Approving Authority, while granting approval u/s 153D of the Act has acted as a mere rubber stamp. The approval granted is completely mechanical without application of mind. Thus, in our view, the approval granted u/s 153D of the Act is not in accordance with the provisions contained u/s 153D of the Act, keeping in view the ratio laid down in various judicial precedents discussed herein above. Thus, in our view, the approval granted u/s 153D of the Act is invalid. Consequently, the assessment orders passed in pursuance to such approval are also invalid. Hence, deserves to be quashed. Accordingly, we do so. The impugned orders of learned First Appellate Authority are set aside. (emphasis supplied by us)

12. The aforesaid decision of Tribunal was subsequently, assailed by the revenue before the Hon'ble Delhi High Court, wherein the test of validity of approval accorded by the competent authority in terms of provisions of section 153D has been discussed and the finding of tribunal has been approved. The

relevant observations of Hon'ble Delhi High Court in the case of **MDLR Hotels Pvt. Ltd. (2024) 166 taxmann.com 327 (Del HC) dt. 30.07.2024**, reported in (2024) 166 taxmann.com 327 (Del HC) dated 30.07.2024 are as under:

3. It is the aforesaid facts which appear to have constrained the Tribunal to observe as follows:

.....

.....

20. In our considered opinion, there is no whisper of any seized material sent by the Assessing Officer with his proposal requesting the approval u / s 153D of the Act. All the requests for approval are exhibited at pages 123 to 135 of the Convenience Compilation.

21. Even the approval granted by the Additional Commissioner of Income tax, Central Range - 2, New Delhi does not refer to any seized material/assessment records or any other documents which could suggest that the Additional Commissioner of Income tax, Central Range - 2, New Delhi has duly applied his mind before granting approvals."

Hon'ble High Court further referred to various judgments, from which the relevant portions, therein, are culled out as under:

(i) Pr. CIT v. PioneerTown Planners (P.) Ltd [2024] 160 taxmann.com 652/465 ITR 356 (Delhi) / [2024 SCC OnLine Del 1685:

“

17. Thus, the incidental question which emanates at this juncture is whether simply penning down "Yes" would suffice requisite satisfaction as per Section 151 of the Act. Reference can be drawn from the decision of this Court in *N. C. Cables Ltd.*, wherein, the usage of the expression "approved" was considered to be merely ritualistic and formal rather than meaningful. The relevant paragraph of the said decision reads as under:—

"11. Section 151 of the Act clearly stipulates that the Commissioner of Income-tax (Appeals), who is the competent authority to authorize the reassessment notice, has to apply his mind and form an opinion. The mere appending of the expression "approved" says nothing. It is not as if the Commissioner of Income-tax (Appeals) has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise appears to have been ritualistic and formal rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the court is satisfied that the findings by the Income-tax Appellate Tribunal cannot be disturbed."

(ii) ***Chhugamal Rajpal in the case of Ess Adv. (Mauritius) S. N. C. Et Compagnie v. ACIT [2021 SCC OnLine Del 3613]***

“ The salient aspect which emerges out of the foregoing discussion is that the satisfaction arrived at by the prescribed authority under Section 151 of the Act must be clearly discernible from the expression used at the time of affixing its signature while according to approval for reassessment under Section 148 of the Act. The said approval cannot be granted in a mechanical manner as it acts as a linkage between the facts considered and

conclusion reached. In the instant case, merely appending the phrase "Yes" does not appropriately align with the mandate of Section 151 of the Act as it fails to set out any degree of satisfaction, much less an unassailable satisfaction, for the said purpose."

In view of the aforesaid, we find no justification to interfere with the view expressed by the Tribunal. No substantial question of law arises. The appeals fail and shall stand dismissed.

13. Adverting to the judgment of Hon'ble Chhattisgarh High Court relied upon by the Ld. CIT-DR, in the case of **Hitesh Golchha (supra)**. We are unable to subscribe with the claim of the revenue based on aforesaid judgment that an approval u/s 153D was granted following the provisions of the said section which is further enlightened by the Hon'ble Courts. We observe that, the facts of case considered in the said judgment and the appeal before us are distinguishable. From the judgment in the case of **Hitesh Golchha (supra)**, as per para 4, Hon'ble High Court had observed that "*the Joint Commissioner was satisfied on the basis of the documents on record that such approval was justified*". Such observation clarifies that in the case of **Hitesh Golchha (supra)**, there was no dispute about the submission of documents and records for verification to the approving authority while granting the approval u/s 153D, whereas, the facts in the instant case have a distinguishing feature, wherein there is no evidence to show that such relevant documents are submitted or made available to the

approving authority at the time of approving the draft assessment orders for his perusal, verification and deliberation, therefore, we are unable to persuade or acknowledge the contention of the Ld. CIT-DR, that the judgment of **Hitesh Golchha (supra)** have any bearing or relevance, so as to findings therein merits to be adopted in the present matters. Consequently, the judgment relied upon would not be of any help to the revenue having factual differences as against the facts of the present cases before us. We, thus, cannot approve such claim of the revenue.

14. Having given a thoughtful consideration to the facts and circumstances of the present case, identical to the facts under which the decision in the case of **Sharda Steel (supra)** was granted relying upon the decision in the case of MDLR Hotels (supra) by the ITAT, Delhi, which have been approved by Hon'ble Delhi HC. We are of the considered view that the approval granted u/s 153D in the present matter fails on the scale of law, being granted in mechanical manner, without application of mind, in absence of relevant documents i.e., assessment records and seized material with the approving authority with a rider that the draft assessment orders are gone through within the limited time available, but nothing could be brought on record by the revenue that such documents are submitted by the Ld. AO to the Ld. Addl. CIT and the requisite

examination of such documents and application of mind with conviction before granting the approval was exercised.

15. Considering the aforesaid facts and circumstances, respectfully following the ratio of law laid down under various judicial pronouncements by Tribunal, Hon'ble High Courts as well as Hon'ble Apex Court (referred to supra), we are of the considered opinion that the approval u/s 153D dated 07.03.2014 (copy extracted supra) in the subject matters before us cannot constitute a valid approval, as per the mandate and settled position of law. Consequently, the assessment completed u/s 153A / 143(3) dated 07.03.2014 on the foundation of an invalid approval has been held to be bad in law, invalid and liable to be quashed. Resultantly, the impugned assessment order dated 07.03.2014, stands quashed, and the impugned orders of Ld. CIT(A) assailed before us are set aside.

16. Since, the subject assessment order dated 07.03.2014 has been quashed by us in adjudication of legal additional ground raised by the assessee challenging the validity of approval u/s 153D, the grounds on merits have become academic, therefore, not required to be adjudicated separately.

17. Resultantly, ITA No. 225/BIL/2016 of the assessee is allowed, in terms of our aforesaid observations.

ITA No. 226/BIL/2025

18. As we have allowed the appeal of assessee in **ITA No. 225/BIL/2016** for AY 2011-12 by quashing the assessment order u/s 153A r.w.s. 143(3) dated 07.03.2014, the other appeal in **ITA No. 226/BIL/2016 for AY 2012-13**, emanating from the common assessment order and approval u/s 153D dated 07.03.2014 (extracted supra), under identical facts, circumstances and grounds of appeals, being in parity with the appeal of assessee for AY 2011-12, is also allowed on the same terms.

19. In combined result, **ITA No. 225 & 226/BIL/2016** of the assessee stands **allowed** in terms of our aforesaid observations.

Order pronounced in the open court on 04/08/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 04/08/2025
Vaibhav Shrivastav

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Sandeep Meghani
2. प्रत्यर्थी / The Respondent-DCIT, Central Circle, Raipur (C.G.)
3. आयकर आयुक्त(अपील) / The CIT(A),
4. The Pr. CIT-1, Raipur (C.G.)

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur