

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

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

ITAs No.135 & 136/Del/2021
Assessment Years : 2016-17 & 2017-18

Shakuntalam Investment and Leasing
Limited,
770/24, Ground Floor,
DDA Flats, Kalkaji,
New Delhi – 110 019.

Vs. ACIT,
Central Circle-01,
New Delhi.

PAN: AAACS4752J

Assessee by : Shri R.P. Mall, Advocate
Revenue by : Ms Monika Singh, CIT-DR
Date of Hearing : 19.08.2025
Date of Pronouncement : 28.08.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the Assesseees against the orders dated 21.01.2021 of the Ld. Commissioner of Income-tax (Appeals)-23 (hereinafter referred to as the First Appellate Authority or 'the ld. FAA' for short) in appeals No.CIT(A), Delhi-23/10296/2019-20 and No.CIT(A), Delhi-23/10300/2019-20 filed before him against the orders dated 25.12.2019 and 27.12.2019, respectively, passed u/s 153A r.w.s. 143(3) of the Income-tax Act, 1961

(hereafter referred to as ‘the Act’) by the ACIT, Central Circle-01, New Delhi (hereinafter referred to as the Ld. AO, for short).

2. At the time of hearing, the Counsel for the assessee has pointed out about the additional ground which are common to both the appeals in hand and for convenience, the additional ground in ITA No.135/Del/2021 is reproduced below:-

“the assessment orders passed u/s 153A/143(3) of the Act is void-ab-initio as the said assessment order has been passed based on combined/consolidated approval issued u/s 153D of the Act by the Jt. CIT, Central Range-1, Delhi dated 26.12.2019 in the mechanical manner, therefore, the impugned assessment orders and the orders of the Commissioner are liable to be quashed.”

3. At the outset we find that the additional ground as raised can be conveniently decided on the basis of material before us and issue is quite legal in nature. Thus additional ground in respective appeals stand admitted.

3.1 Then ld. counsel has taken the Bench through the assessment orders of the appeals in hand and has submitted that very apparently in the assessment orders it is mentioned that the search assessments are concluded as required under law by prior approval of the competent authority u/s 153D of the Act and in both these cases in hand the prior approval of Jt. CIT, Central Range-1, New Delhi, conveyed to the AO vide his letter F.No.Jt.CIT/CC-1/153D/2019-20/1548, has been received.

3.2 As for convenience, we intent to reproduce the contents of this letter which the ld. Counsel has provided in the case of the assessee for AYs 2012-13 to 2018-19:-



कार्यालय
संयुक्त आयकर आयुक्त,
केन्द्रीय रेंज-1 कमरा नंबर.335
ARA केंद्र इंडेवालापन एक्सटेंशन, नई दिल्ली-110055

फा.सं. सं.आ.आ./के.रें.-1/153D/2019-20//548 दिनांक : 26/12/2019

सेवा मे,
सहायक आयकर आयुक्त
केन्द्रीय वृत- 1,
नई दिल्ली

विषय:- Approval of draft assessment order u/s 153D of the I.T.Act 1961, in the case of M/s. Shakuntalum Investment & Leasing Ltd. PAN:AAACS4752J of M/s. Sachdeva Group for A.Y. 2012-13 to 2018-19-reg.

Please refer to your office letter dated 25.12.2019 vide F.No. ACIT/CC-1/153D/2019-20/1860 enclosing therewith draft assessment orders u/s. 153A r.w.s 143(3) and u/s. 143(3) r.w.s 153A of the I.T. Act 1961 for the A.Y. 2012-13 to 2018-19 for approval.

2. After perusing the draft assessment orders and case records for A.Y. 2012-13 to 2018-19 submitted by you alongwith your above referred letter, approval u/s. 153D of the Act is accorded as under:-

S.No	A.Y.	Section	Returned Income (Rs.)	Assessed Income (Rs.)
1.	2012-13	153A r.w.s 143(3)	1,41,490/-	22,99,490/-
2.	2013-14	153A r.w.s 143(3)	1,66,190/-	64,94,862/-
3.	2014-15	153A r.w.s 143(3)	1,25,120/-	50,41,925/-
4.	2015-16	153A r.w.s 143(3)	71,350/-	27,31,135/-
5.	2016-17	153A r.w.s 143(3)	2,25,140/-	15,88,744/-
6.	2017-18	153A r.w.s 143(3)	1,06,700/-	34,21,823/-
7.	2018-19	143(3) r.w.s 153A	38,150/-	21,49,360/-

3. The Approval accorded by the undersigned u/s. 153D of the Act should be mentioned in the concluding para of the draft assessment order and A.O is directed to ensure that the orders are passed well before the limitation.

4. It is also directed that no order shall be passed without 'DIN' in view of the CBDT's Circular No. 19/2019 dated 14.08.2019.

Encl: Asst. Records



(वी. एस. अनंत) भा.रा.से.
संयुक्त आयकर आयुक्त,
केन्द्रीय रेंज-1, नई दिल्ली

Asset Commissioner of Income Tax
Central Circle-11 New Delhi

26 DEC 2019

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Dy. No.

4. The Id. DR has supported the approval granted by the competent authority by submitting that this approval are merely administrative in nature. As for completeness and to be fair to effort of Id. DR, though at the cost of making the order lengthy, we reproduce below the written submissions filed by Id. DR;

“With regard to the hearing held in case of M/s Shankuntalam Investment and Leasing Limited., the assessee issues raised the issue w.r.t the approval granted u/s 153D of the Income Tax Act being mechanical and without application of mind and thus consequential assessment order are unsustainable in law.

Section 153 D of the Act was inserted vide amendment in Finance Act 2007 provides for the prior approval for the assessment in cases of search or requisition. Prior to the amendment vide Finance Act 2007 the existing provisions of making assessment and reassessment in cases where search has been conducted under section 132 or requisition is made under section 132A, does not provide for any approval for such assessment. Accordingly new section 153D has been inserted to provide that no order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner except with the previous approval of the Joint Commissioner. Such provision has been made applicable to orders of assessment or reassessment passed under clause (b) of section 153 A in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A. The provision has also been made applicable to orders of assessment passed under clause (b) of section 153B in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisitioned is made under section 132A.

Section 153D of the Act is for administrative purposes and does not require that an opportunity of hearing is required to be given to the assessee. The Hon’ble Supreme Court in S. Narayanappa vs. CIT 63 ITR 219 (SC) as to whether such approval is merely an administrative act or whether such approval can be brought under judicial scrutiny. The apex court held that the stage of obtaining approval from higher authority was administrative in character and not a quasi-judicial act. What is to be seen is whether the Approving Authority is competent to grant approval is important and under scheme of things the JCIT is the competent authority to grant approval u/s 153D of the Act. In view of the above, it is submitted that aforementioned ground of appeal on the issue of invalid approval under section 153D of the

IT Act may kindly be dismissed for the reason mentioned above, it is submitted that aforementioned ground of appeal on the issue of invalid approval under section 153D of the IT Act may kindly be dismissed for the reason mentioned above it is submitted that aforementioned ground of appeal on the issue of invalid approval under section 153D of the IT Act may kindly be dismissed for the reason mentioned above.

The Hon'ble High Court of Kamatka in Rishabhchand Bhansali vs. DCIT in 136 taxman 579 held the approval granted by the JCIT is an administrative act and does not create any right to the appellant.

The Hon'ble ITAT Mumbai in the case of Smt. Usha Satish Salvi vs ACIT Central Circle-4(4), Mumbai in ITA Nos. 4239,4237 & 4238/Mum/2023 dated 23.01.2025 has examined all the following judgements of the Tribunal and Hon'ble High Courts [Para 6.2] and rejected the objection raised by the assessee that approval granted u/s 153D of the Act has been accorded on presumption and without application of mind rather opined that approval was granted by the Addl CIT after due application of mind.

2. *Without prejudice to above objection, It is submitted that combined reading of letter dated Joint CIT/CR-5/ 153D/2019-20/1548 dated 26.12.2019 giving approval under section 153 D of the I.T. Act and letter dated 25.12.2019 seeking approval under section 153D of the I.T, make it amply evident that in the instant case, approving authority i.e. Joint Commissioner of Income Tax, Central Range, 05, New Delhi had applied his mind independently in judicious manner while granting his approval in accordance with the provisions of the Act.*

It is not a gainsaying that the Joint CIT hold the concurrent jurisdiction and that the assessment is a continuous process involving administrative as well statutory roles being domed by the Joint CIT. And it is incumbent on the approving authority to examine and monitor the assessments which can't be denied if the same is not reduced in writing at every point of time till the finalization of the assessment. The approval of the approving authority underlines that he has examined the assessment records, relevant copies of seized documents and the relevant issues arising from the material on record judiciously in independent manner by way of due application of mind. It would not be out of place to mention here that the appellant has not come out with any case that there is case of non-application of mind. The appellant has to positively prove that there is a case of non-application of mind in light of the submission that the approval u/s 153D is an administrative approval. Here, it would not be out of place to highlight that the relevant seized documents in a case are always part of the assessment records as per practice, and requirement of the work. They are not kept separately as relevant seized material is frequently referred to

by the assessing officer during the course of assessment proceedings and also made part of assessment order most of the time. In fact, as per the law, seized material is considered as part of records before Assessing Officer and all such seized records, return of income, notices etc. used during an assessment proceeding when considered collectively is known as 'Assessment record'. Therefore, from the letter seeking approval, it is evident that the entire assessment records which included seized material was placed before the approving authority for the purpose of taking decision with regard to approval under section 153D of the Act.

In view of the same, it cannot be inferred in any manner from the letter seeking approval by the AO and the letter granting approval by the Joint CIT that approval under section 153D of the Act was granted in mechanical manner without independent application of mind by the Joint CIT.

3. *It is pertinent to submit here that, single assessee has been granted approval on single day. Thus, it cannot be considered by any stretch of imagination that the approving authority was not in a position to apply his mind to the facts of the case and issues involved while granting approval under section 153D of the Act. The approving authority had sufficient time to go through all the records and relevant material to arrive at decision granting approval Under Section 153D of the I.T Act in judicious manner in the instant case.*

Further, in search cases, a Joint CIT is well aware about progress of the assessment proceedings, relevant issues of different assessee, nature and content of the seized material in light of the fact that as per the CBDT guideline F. No. 286/161/2006-IT (Inv. II) dt. 22.12.2006, copy of appraisal report is shared by Investigation Wing with both the assessing officer and Joint CIT. In fact, CBDT guideline dt. 22.12.2006 (Copy enclosed) on the subject of the search and Seizure Assessments clearly outlines such close coordination. Thus, as per the prevailing Practice and Guidelines, the approving authority has good idea of issues involved in particular case before hand i.e. much before the cases are sent to him for approval Under Section 153D of the Act. This guideline of CBDT is relevant piece of information, which throws light on the way search assessments are taken up by the filed officers.

Therefore, in light of such peculiar fact of instant case, it cannot be inferred that the Joint CIT was not in a position to independently apply his mind in judicial manner to the case of assessee on the same day.

4. *In this regard, it is further submitted that on perusal of case laws on the issue of requirements for proper approval under section 153D, it is found that Hon'ble jurisdictional high court has emphatically held that*

such an issue is essentially a question of fact and has to be decided based of factual matrix of a particular case. Further, it has been held that approval cannot be reduced to a mechanical exercise and approving authority is required to apply his/her independent mind while granting such an approval. Thus, all the cases have been decided on this point by Hon'ble Tribunal and Hon'ble High court in light of peculiar facts of those cases only. Some of such peculiar facts of such cases are outlined here in under to emphasize upon distinguishing nature of facts of instant cases from those cases. :

<i>Case Name and Citation</i>	<i>Peculiar Facts of cases in mentioned in first col.</i>	<i>Distinguishing facts of the instant case</i>
<i>HIGH COURT OF DELHI in the case of PCIT vs. Anuj Bansal ITA 368/2023 Dated July 13,2023</i>	<p><i>-No Assessment records were sent along with draft assessment order</i></p> <p><i>-There were infirmities in the figures of Original Return of income and Assessed income.</i></p> <p><i>-Addl. CIT did not apply his mind as he did not notice such errors/infirmities.</i></p>	<p><i>Appellant has not been able to prove that its case and facts are in alliance with the cited case.</i></p> <p><i>Further, there is nothing on the record to suggest that in the instant case of the assessee, there were some factual infirmities in the order granting approval. None of the peculiar factual aspects are present in the instant case.</i></p> <p><i>Therefore, the case of Anuj Bansal had distinguishable facts than those of instant case.</i></p>
<i>HIGH COURT OF DELHI in the case of Principal Commissioner of Income-tax v. Shiv Kumar Nayyar [2024] 163 taxmann.com 9 (Delhi)</i>	<i>The approval order failed to make any mention of the fact that the draft assessment orders were perused at all, much less perusal of the same with an independent application of mind.</i>	<p><i>Further, in the instant case, approval is given for the case of assessee only.</i></p> <p><i>Therefore, facts of the instant case are distinguishable.</i></p>

	<p><i>Also, in this case of Shiv Kumar Nayyar, there was no fact brought on the record by the Revenue to prove that identical issues (involving similar facts) were involved in different cases submitted for approval by the AO. It was in absence of such factual information that granting of approval for 43 cases in a single day was viewed by the Hon'ble High Court.</i></p>	
<p><i>ITAT NEW DELHI in the case of Seh Realtors Pvt. Ltd. v. ACIT Central Circle-8 ITA no.2503/Del/2017 Dated 23.07.2024</i></p>	<p><i>The approving authority had granted approval in 232 cases in a single day. Therefore, issue of judicious approval for such large number of cases from the angle of human limitations was an issue before Hon'ble Bench.</i></p>	<p><i>In the instant case, approval is given for the case of assessee only and that too in single case. Therefore, facts of the instant case are distinguishable.</i></p>

Reliance is placed in the case of Home Finders Housing Ltd. v Income-tax Officer Ward 2(3), Chennai [2018] 93 taxmann.com 371 (Madras) wherein it was held that in case an order is passed without following a prescribed procedure, the entire proceedings would not be vitiated.

26. We therefore make the position clear that non-compliance of the procedure indicated in the GKN Driveshafts (India) Ltd. 's case (supra) would not make the order void or non-est. Such a violation in the matter of procedure is only an irregularity which could be cured by remitting the matter to the authority.

Later, the Hon'ble Supreme Court also dismissed the SLP raised in the matter.

Further, reliance is also placed on the judgement of Hon'ble Kerala High Court in OP(C) No. 340 of 2019 against the order in IA

3123/2018 in OS 125/2018 of II Additional Sub Court, Ernakulam dated 23.06.2022, wherein it is held that the

“5 Courts should endeavour to dispose of a case on merits rather than on default. ”

The Apex Court in the case of Improvement Trust, Ludhiyana vs Ujagar Singh & Ors on 09.06.2010 in Civil Appeal NO. 2395 of 2008 also held that

“ After all, justice can be done only when the matter is fought on merits and in accordance with law rather to dispose it of on such technicalities and that too at the threshold. Both sides had tried to argue the matter on merits but we refrain ourselves from touching the merits of the matter as that can best be done by the Executing Court which had denied an opportunity to the appellant to lead evidence and to prove the issues so formulated.

In our opinion, ends of justice would be met by setting aside the impugned orders and matter is emitted to the Executing Court to consider and dispose of appellant’s objections filed under Order 21 Rule 90 of CPC on merits and in accordance with law, at an early date. It is pertinent to point out that unless malafides are writ large on the conduct of the party, generally as a normal 1 rule, delay should be condoned. In the legal arena, an attempt should always be made to allow the matter to be contested on merits rather than to throw it on such technicalities.”

5. It is submitted that Central Ranges are specialized ranges designated for assessment of search and seizure cases. The structure ensures deep involvement of the Joint Commissioner with each case. These are not routine assessments; the number of cases is limited, and the JCIT plays a crucial role throughout the lifecycle of the case. The assumption by the assessee that the JCIT was a stranger to the assessment work is factually erroneous and perverse. It is further submitted that there cannot be any presumption drawn against the approving authority with regard to application of mind merely on the ground that number of cases approved in a day were high. There cannot be any threshold limit set for the same. How many cases will be considered unreasonably high and how many cases will be considered reasonable? It is submitted that every approval needs to be examined in light of its peculiar facts such as number of issue involved, nature of issue involved, modus-operandi involved, number

of cases involved and inter-relationship among facts of such cases. If identical issues are involved involving same modus-operandi and cases are of same search group only, it would not be unreasonable to consider that an approving authority will be able to apply its independent mind judiciously to relatively larger number of cases in a single day. Ultimately, it boils down to factual matrix of the cases sent for approval. In the instant case, in light of the factual matrix that additions were made in different cases of the group on the same ground based on same factual position with regard to same accommodation entry provider and involving same modus-operandi, it would be justified to consider that the approving authority would have been in a position to apply his mind to all such cases sent for approval by the AO on the same day, particularly when number of such cases is not too high and facts/issues involved are in the knowledge of approving authority beforehand i.e. before receiving proposal for approval.

6. *It is submitted that Section 153D does not prescribe any specific procedure or method for the grant of approval. As long as Ld. JCIT is satisfied with the draft assessment order and conveys his approval, the mandate of law stands fulfilled.*

7. *In the present case, the approval was in fact granted under Section 153D. There is no finding that the assessment was so fundamentally flawed as to render it unfit for any reasonable authority to approve it. This is not a case where Approval has not been granted.*

Although this Hon'ble Tribunal has decided the said issue of approval u/s 153D against the Revenue in several cases including the cases of Brij Kishore (ITA 8878,8788,8879/DEL/2019) and other connected matters and the case of Metro Tyres Ltd. (ITA 103 I/DEL/2013) and other connected matters. It is apprised that Hon'ble Delhi High Court is considering the issue of Approval u/s 153D in ITA 160/2025 and ITA 251/2025 where in Hon'ble Court has issued notice in the Revenue Appeal. Next date of hearing in these matters is 04.09.2025.

8. *It is relevant to point out that approval u/s 153D of the Act needs to be put at a different pedestal in comparison to sanction u/s 151 of the Act. Section 151 deals with prior approval for issuing notices for reopening assessments (such as under section 148). The approval here is for cases where the Assessing Officer believes income has escaped assessment; higher authorities' consent is*

required before such notices are issued. If the sanction u/s 151 is not proper, the jurisdictional notice issued u/s 148 has been held to be void. However, the approval u/s 153D has to be granted by the Ld. JCIT once the draft assessment order is prepared by the Ld. Jurisdictional Officer making the assessments u/s 153A/153C of the Act. In these cases, there is no challenge to the validity of search, procedure followed by the Department in search, however the only challenge raised by the assessee in the additional ground before this Hon'ble Tribunal is that the approval granted by Ld. JCIT is mechanical. If the said approval is held to be mechanical, then the submissions of the Revenue is that the matters may be remanded back to the Assessing Officer at the stage of Draft Assessment order which shall not prejudice the assessee and also protect the interest of Revenue.

6. Therefore, it is submitted that even if there were any procedural infirmities, the same do not constitute jurisdictional defects. The Hon'ble Tribunal may kindly remand the matter for fresh approval rather than annulling the entire assessment.

In view of the above it is respectfully submitted to kindly take on record the above objections and reject the contention of the assessee on this ground and uphold the order of assessing officer.”

5. After going through the material on record, it is very much apparent that after the search and seizure operation in Sachdeva Group of cases on 31.08.2017 the search assessments were initiated in the case of the present assessee. As from the copy of approval reproduced above it is apparent that approval was sought for AY 2012-13 to 2018-19 by letter dated 25.12.2019 and vide approval letter dated 26.12.2019 the approval was granted for all these year in a consolidated manner. We find that attached to the letter dated 25.12.2019, the AO has annexed a check list and there is no mention that the assessment record was also forwarded to the approving authority. This check list mentions that “seized

material including soft date, panchnama and its annexure, statements recorded have been examined”, by the AO.

6. Now as a matter of fact the assessment orders do not refer to any such materials or facts. The head of additions in AY 2016-17 are unsecured loans, share application money and depreciation. While in AY 2017-18 the additions are under the head share application money and depreciation. These additions have foundation in the financials and there is reference of no seized material, what to talk of soft data, as referred in letter seeking approval. The approval is granted on the basis of this checklist and letter, which in itself exhibit mechanical approach of the AO. Then by one letter approval was given for years in hand along with other AYs.

7. We are of the considered view that all the authorities under the Act are quasi judicial authorities and all the powers under the Act that they exercise arise by way of specific provision and vest them quasi judicial authority only. They may be administrative in the nature that they do not require any opportunity of hearing to the affected parties and on the basis of any lack of opportunity to the affected parties the exercise of quasi judicial powers cannot be questioned, but, in any case, every order of quasi judicial authority should be self speaking, if not reasoned and indicative of the fact or otherwise reflecting from the circumstances that the said quasi judicial authority vested with powers under the Act has diligently gone through the record and based on independent examination of assessment record exercises the powers. The manner in which

the approval has been granted and conveyed to the AO shows that based on the request alone the approval has been granted. Certainly some supervision may be there in assessment proceedings but that does not lead to a situation that while granting approval no further examination of draft assessment order is needed.

8. We find that Hon'ble jurisdictional High Court in the case of PCIT vs. Shiv Kumar Nayyar in ITA No. 285/2024 (Del), vide order dated 15.05.2024, has decided the similar legal issue in favour of the assessee and against the Revenue. The relevant ratio of the Hon'ble Delhi High Court is reproduced below:-

"15. A similar view was taken by this Court in the case of Anuj Bansal (supra), whereby, it was reiterated that the exercise of powers under Section 153D cannot be done mechanically. Thus, the salient aspect which emerges from the abovementioned decisions is that grant of approval under Section 153D of the Act cannot be merely a ritualistic formality or rubber stamping by the authority, rather it must reflect an appropriate application of mind."

9. Then, in the case of ACIT, Circle-1 (2) Vs. Serajuddin and Co. the Hon'ble Supreme Court in SLP (Civil) Dairy No. 44989/2023 vide order dated 28/11/2023, dismissed the Appeal filed by the Department of Revenue against the order dated 15/03/2023 in ITA No. 43/2022 passed by the Hon'ble High Court of Orissa at Cuttack, wherein the Hon'ble High Court had quashed the Assessment Order on the ground of inadequacy in procedure adopted for issuing approval u/s 153D of the Act by expressing discordant note on such mechanical exercise of responsibility placed on designated authority under section 153D of the Act.

10. A coordinate Bench in the case of Sant Lal Aggarwal in ITA No.6196 & 6197/Del/2017, order dated 31.07.2025 for AY 2009-10 and 2010-11 has considered another decision of the coordinate Bench in the case of ACIT vs. Sant Lal Aggarwal, ITA No.6195/Del/2017 wherein all the contentions as raised by assessee have been considered. As for convenience, the findings in the case of Sant Lal Aggarwal in ITA No.6195/Del/2017 are reproduced below:-

“10. On perusal of the last page of the assessment order of the assesseees” before us for the year under consideration, we find that the ld Additional CIT, Central Range-4, Delhi had granted approval in terms of Section 153D of the Act for all the cases for all assessment years vide consolidated approval in Approval No. 153D/CC-09/Jagat Group/2012- 13/996 dated 28.03.2013. This fact is very much evident from the last page of the assessment order for various assesseees” for various assessment years. Hence, it is very clear that a common approval was given by the ld Addl. CIT u/s 153D of the Act vide approval No. 996 dated 28.03.2013 for all the assesseees” before us for various assessment years. This goes to prove that the approval u/s 153D has not been given by the ld Addl. CIT for „each assessment year” and for „each assessee” separately which is mandate of the provisions of Section 153D of the Act. This issue is no longer res integra in view of the decision of the Hon”ble Jurisdictional High Court in the case of PCIT Vs. Shiv Kumar Nayyar reported in 163 taxmann.com 9 (Delhi HC); decision of Hon”ble Allahabad High Court in the case of PCIT Vs. Subodh Agarwal reported in 149 taxmann.com 373 (All. HC); PCIT Vs. Sapna Gupta reported in 147 taxmann.com 288 (All. HC) and PCIT Vs. Sidharath Gupta reported 147 taxmann 305 (All. HC), among others.

11. Per contra, the ld DR vehemently argued that very existence of high presumption of law which is also codified u/s 114(e) of the then Indian Evidence Act, 1872 that all official acts are regularly performed and therefore, the Tribunal had to accept that the presumption of approval are validly granted. The ld DR further stated that merely because the approvals were granted by one letter does not mean that it was not granted for each assessment year.

12. As far as the issue of presumption u/s 114(e) of the then Indian Evidence Act is concerned, the ld AR relied on the judgement of the Hon'ble Supreme Court in the case of Suresh Budharmal Kalani alias Pappu Kalani Vs. State of Maharashtra reported (1998) 7 SCC 337, wherein, it was held that

presumption can be drawn only from facts, not from other presumptions and only through a process of probable and logical reasoning.

13. We find that if a consolidated approval given by the Id. Addl. CIT for various assessees" for various assessment years is to be considered as a approval given for "each assessment year", then it would render the requirement of passing an order for "each assessment year" with prior approval u/s 153D of the Act, nugatory. Therefore, the obligation on the approving authority is to verify the draft assessment order of each assessment year together with the related seized document to ascertain whether it complies with law as well as the procedure laid down. Hence it is established that the action of the Id Additional CIT in granting common approval for all the assessment years for various assessees" in a mechanical manner without application of mind is writ large. The relevant observations of the Hon"ble Jurisdictional High Court in the case of PCIT Vs. Shiv Kumar Nayyar reported in 163 taxmann.com 9 (Del HC) are as under:-

"11. A plain reading of the aforesaid provision evinces an uncontrived position of law that the approval under Section 153D of the Act has to be granted for "each assessment year" referred to in clause (b) of sub-section (1) of Section 153A of the Act. It is beneficial to refer to the decision of the High Court of Judicature at Allahabad in the case of Pr. CIT v. Sapna Gupta [2023] 147 taxmann.com 288/[2022 SCC OnLine All 1294] which captures with precision the scope of the concerned provision and more significantly, the import of the phrase- "each assessment year" used in the language of Section 153D of the Act. The relevant paragraphs of the said decision are reproduced as under:-

"13. It was held therein that if an approval has been granted by the Approving Authority in a mechanical manner without application of mind then the very purpose of obtaining approval under Section 153D of the Act and mandate of the enactment by the legislature will be defeated. For granting approval under Section 153D of the Act, the Approving Authority shall have to apply independent mind to the material on record for "each assessment year" in respect of "each assessee" separately. The words 'each assessment year' used in Section 153D and 153A have been considered to hold that effective and proper meaning has to be given so that underlying legislative intent as per scheme of assessment of Section 153A to 153D is fulfilled. It was held that the "approval" as contemplated under 153D of the Act, requires the approving authority, i.e. Joint Commissioner to verify the issues raised by the Assessing Officer in the draft assessment order and apply his mind to ascertain as to whether the required procedure has been followed by the Assessing Officer or not in framing the assessment. The approval, thus, cannot

be a mere formality and, in any case, cannot be a mechanical exercise of power.

**** 19. The careful and conjoint reading of Section 153A(1) and Section 153D leave no room for doubt that approval with respect to "each assessment year" is to be obtained by the Assessing Officer on the draft assessment order before passing the assessment order under Section 153A."*

12. It is observed that the Court in the case of Sapna Gupta (supra) refused to interdict the order of the ITAT, which had held that the approval under Section 153D of the Act therein was granted without any independent application of mind. The Court took a view that the approving authority had wielded the power to accord approval mechanically, inasmuch as, it was humanly impossible for the said authority to have perused and appraised the records of 85 cases in a single day. It was explicitly held that the authority granting approval has to apply its mind for "each assessment year" for "each assessee" separately.

13. Reliance can also be placed upon the decision of the Orissa High Court in the case of Asst. CIT v. Serajuddin & Co. [2023] 150 taxmann.com 146/292 Taxman 566/454 ITR 312/SCC OnLine Ori 992 to understand the exposition of law on the issue at hand. Paragraph no.22 of the said decision reads as under:-

14. During the course of arguments, learned counsel for the assessee apprised this Court that the Special Leave Petition preferred by the Revenue against the decision in the case of Serajuddin & Co. (supra), came to be dismissed by the Supreme Court vide order dated 28.11.2023 in SLP (C) Diary no. 44989/2023.

15. A similar view was taken by this Court in the case of Anuj Bansal (supra), whereby, it was reiterated that the exercise of powers under Section 153D cannot be done mechanically. Thus, the salient aspect which emerges from the abovementioned decisions is that grant of approval under Section 153D of the Act cannot be merely a ritualistic formality or rubber stamping by the authority, rather it must reflect an appropriate application of mind.

16. In the present case, the ITAT, while specifically noting that the approval was granted on the same day when the draft assessment orders were sent, has observed as under:-

"10. We have gone through the approval granted by the ld. Addl. CIT on 30.12.2018 u/s 153D of the Act which is enclosed at page 36 of the paper book of the assessee. The said letter clearly states that a letter dated 30.12.2018 was filed by the ld. AO before the ld. Addl. CIT seeking approval of draft assessment order u/s 153D of the Act. The ld. Addl. CIT has accorded approval for the said draft assessment orders on the very same day i.e., on 30.12.2018 for seven assessment years in the case of the assessee and for seven assessment years in the case of Smt. Neetu Nayyar. It is also pertinent in this regard to refer to pages 68 and 69 of the paper book which contains information obtained by Smt. Neetu Nayyar from Central Public Information Officer who is none other than the ld. Addl. Commissioner of Income-tax, Central Range-S, New Delhi, under Right to Information Act, wherein, it reveals that the ld. Addl. CIT had granted approval for 43 cases on 30.12.2018 itself. This fact is not in dispute before us. Of these 43 cases, as evident from page 36 of the paper book which contains the approval u/s 153D, 14 cases pertained to the assessee herein and Smt. Neetu Nayyar. The remaining cases may belong to some other assessees, which information is not available before us. In any event, whether it is humanly possible for an approving authority like ld. Addl. CIT to grant judicious approval u/s 153D of the Act for 43 cases on a single day is the subject matter of dispute before us. Further, section 153D provides that approval has to be granted for each of the assessment year whereas, in the instant case, the ld. Addl. CIT has granted a single approval for all assessment years put together."

17. Notably, the order of approval dated 30.12.2020 which was produced before us by the learned counsel for the assessee clearly signifies that a single approval has been granted for AYs 2011-12 to 2017-18 in the case of the assessee. The said order also fails to make any mention of the fact that the draft assessment orders were perused at all, much less perusal of the same with an independent application of mind. Also, we cannot lose sight of the fact that in the instant case, the concerned authority has granted approval for 43 cases in a single day which is evident from the findings of the ITAT, succinctly encapsulated in the order extracted above.

18. Therefore, under the facts of the present case, considering the foregoing discussion and the enunciation of law settled through judicial pronouncements discussed hereinabove, we are unable to find any substantial question of law which would merit our consideration."

14. In view of the aforesaid observations and respectfully following the judicial precedents relied upon herein above, we have no hesitation in holding that the approval u/s 153D of the Act has not been granted for each of the assessment year which is in violation of provisions of Section 153D of the Act itself thereby making the approval being granted in a mechanical manner without due application of mind. Hence, additional ground raised by the various assesseees" before us in this regard is hereby allowed. Consequentially the assessment framed for these assesseees" are hereby allowed for AY 2009-10. Since, the quantum assessments are quashed, the penalty appeals would have no legs to stand. Since, the assessments are quashed based on additional ground, the other grounds raised by the assessee as well as revenue need not be gone into and they are left open."

11. In the light of the aforesaid discussion of facts and now settled principles of law, we hold that the approval granted u/s 153D of the Act, is vitiated and thus are inclined to sustain the additional ground in the appeals in hand. The appeals are allowed. The impugned assessments are quashed.

Order pronounced in the open court on 28.08.2025.

Sd/-

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 28th August, 2025.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi