

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “C”, DELHI**

**BEFORE SH. SUDHIR KUMAR, JUDICIAL MEMBER
AND
SH. MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.4914/DEL/2024
Assessment Year: 2019-20

Jaipal Jain H. NO. 1248 sector 11-12 HUDA Haryana PAN No. ABIPJ3891M (APPELLANT)	Vs	Deputy Commissioner Of Income Tax, Central Circle Karnal Respondent
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Appellant by	Dr. Kapil Goel Advcate
Respondent by	Sh. Dayainder Singh Sidhu CIT(DR)

Date of hearing:	27/08/2025
Date of Pronouncement:	17 /09/2025

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of the Commissioner Of Income Tax- Appeals -3 Gurgaon [hereinafter referred to as “Ld. CIT(A)”] vide order dated 29-08-2024 pertaining to A.Y. 2019-20 arising out the assessment order, dated 19-04-2021 u/s.143(3) of the Income-tax Act, 1961, (in short ‘the Act’).

2. As per the grounds of appeal, the assessee has stated that the additions made by the AO under section 143(3) of the Act is invalid being total violation of the statutory mandate of the section 153A of the Act. The assessee simultaneously alleged that the so-called approval granted by the superior authority under section 153D of the Act is no-nest approval being a mechanical and a perfunctory approval and suffers from the non –application of mind.

3. Ld. Counsel for assessee submitted that in this case the approval dated 17-04-2021 was granted by the Ld. Addl. CIT Central Range, Chandigarh. He further submitted that the approval was granted in stereotyped without mentioning any facts and approving the draft sent by the Assessing officer. Ld. Counsel submitted that the approval is mechanical and without application of mind. The ld. counsel for assessee pointed out that in the second line of the approval, the Ld. Addl. CIT has merely stated that the draft assessment order was sent for approval by the AO. Karnal which stands approved and the assessment record are return. No comments on any aspect of the assessment was found in any of captioned assessee. Ld. Counsel for assessee relied upon the decision of the CO-ordinate bench In ITA NO. 3301/De/ 2024 to 3306/ Del / 2024 and others

vs, DCIT Central Circle Karnal and stated that the case of the assessee is squarely covered from the above said judgment. In this case the co-ordinate bench held as under:

7. On facts, the AO in the instant case invoked the provision of section 56(2)(vii)(c) of the Act in respect of shares allotted to the assessee @ INR 40/- per share against the rights entitlement being existing shareholder the Fair Page. Market Value (“FMV”) of the shares were determined by the AO at INR 44/- per share and thus INR 4/- per share were deemed as income from other sources. The assessee made out a case that the provision of section 56(2)(vii)(c) do not apply in view of section 49(4) of the Act and in view of the existing entitlement which partakes the character of ‘consideration’ for the purposes of section 56(2)(vii)(c) of the Act. Besides, the property must pre-exist in order to be ‘revived from any person’. It was the bounden duty of the Ld. Addl. CIT to atleast broadly satisfy himself on the process of reasoning adopted by the AO while dealing with such issue. As claimed, the AO has proposed additions contrary to the uncontrived position of law for which no comment has been visualized by the Ld. Addl. CIT while granting approval. The salutary purpose of obtaining approval under s. 153D of the Act as a visible safeguard against arbitrary action of AO thus stood defeated by the mechanical approval.

8. The Ld. Counsel for the assessee referred to host of judicial precedents governing the field wherein the Courts and various Benches of the Tribunal have struck a discordant note on mechanical and perfunctory approval in the context of provisions of section 153D of the Act. Such routine approval has resulted in invalidation of adjustments made in the assessment order. The Ld. Counsel for the assessee placed reliance on the following judgements:-

(i) ACIT vs Serajuddin & Co. Kolkata [2023] 150 taxmann.com 146 (Orissa)-SLP against this order is dismissed.

((ii) ACIT vs. Shreelekha Damani vs DCIT [ITA No.4061/Mum/2012] (Bom.High Court)

(iii) M3M India Holdings vs DCIT [2019] 71 ITR (Trib.) 451 (Del.)

(iv) Vrushali Sanjay Shinde vs DCIT [2023] 154 taxmann.com 324 (Mum.-Trib.)

(v) Sanjay Duggal vs ACIT [ITA No.1813/Del/2019]

(vi) PCIT vs Anuj Bansal 466 ITR 254 & 251

(vii) PCIT vs Shiv Kumar Nayyar 467 ITR 186

(viii) PCIT vs Subhash Dabas (ITA No.243/2023) order dated 17.05.2024 Page

(ix) Daze Construction Pvt.Ltd. vs ACIT (ITA Nos.594 to 598/Del/2023) order dated 30.09.2024
(x) . Veena Singh vs ACIT (ITA No.294/Del/2022 for AY 2016-17) order dated 24.04.2024
(xi) PCIT vs Tirupati Buildings & Officers Pvt.Ltd. (ITA No.447/2024) order dated 20.08.2024
9 .The Ld.CIT DR, on the other hand, relied upon the approval granted under s. 153D of the Act and submitted that the Ld. Addl. CIT is not expected to give his own reasons for the approval. The approval once granted implies due application of mind to all relevant facts by the superior authority for the purposes of section 153D of the Act.

10. We have carefully considered the rival submissions, material referred and case laws cited. The legal objection of transgression of requirement of approval under s. 153D of the Act is in question which has the effect on the very substratum of the assessment and consequential appellate proceedings. We thus require to address ourselves into such mainstay issue at the outset.

11. We shall straightway advert to the communication exchanged between the AO, Karnal and the Ld. Addl. CIT, Chandigarh being the competent authority for the purposes of approval contemplated under s. 153D of the Act.

11.1. The communication letter by the AO (stationed at Karnal, Haryana) to the Ld. Addl. CIT (stationed at Chandigarh) is extracted below:-

To Date:21.04.2021

The Addl., Commissioner of Income Tax,
Range Central, Chandigarh

Sir,

Sub: Approval u/s 153D of the Income Tax Act, 1961 in the case of Smt. Kavita Jain, H.No. 1247, Sector-11-12, HUDA, Panipat for the assessment years 2013-14 to 2019-20-Reg.-

Kindly refer to the subject cited above.

2. The draft assessment orders in respect of the following assessee of M/s Jai Bharat Group, Samaikha (Panipat) for the respective assessment year are enclosed herewith for your kind consideration and approval u/s 153D of the Income Tax Act, 1961. The relevant assessment record in respect of the same is also enclosed:-

Sr.No.	Name of the assessee	PAN	Assessment Year	Assessment records
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1. Smt.Kavita Jain,

H.No.1247, Sector-11-12, HUDA, ADTPJ1465E 2013-14 to 2019-20 7 Volumes

Panipat

Encl. As above

Yours faithfully,
Sd/-

Deputy Commissioner of Income Tax
Central Circle, Karnal

11.2. The approval under s. 153D granted by the Ld. Addl. CIT (stationed at Chandigarh) to the draft assessment order forwarded earlier by the AO is reproduced hereunder:-

Fr. No. A.A.A./K.R./Chandigarh/JBG-194/179/2021-22/450 Date: 23.04.2021

To, Deputy Commissioner of Income Tax,
Central Circle-Karnal

Subject: Smt under section 153D. Kavita Jain, (PAN:ADTPJ1465E) A.Y. Approval in case of 2017-18

Please refer to your letter No. A.U.A./K.V./Karnal/2021-22/94, dated 21.04.2021, under which Draft Assessment Order made as per section 143 (3) r.w.s. 153A (1) (b) of the Income Tax Act was sent for approval under section 153D.

2. In this regard, the Draft Assessment Order for the assessment year 2017-18 in the case of the above taxpayer under section 153D of the Income-tax Act is approved.

3. The assessment record is returned in volume 1 (without serial number).

Encl. As above

Sd/-

Additional Commissioner of Income Tax
Central Range, Chandigarh

12. On a perusal of the approval dated 23.04.2021 addressed by the Ld. Addl. CIT to the AO, it emerges that the Ld. Addl.CIT has not uttered a word on the subject matter of additions. The approval is in the nature of Performa Page approval; the approval granted smacks of mechanical or perfunctory approval in a symbolic exercise of powers vested under s. 153D of the Act.

13. Significantly, the Hon'ble Orissa High Court in the case of ACIT vs Serajuddin & Co. 454 ITR 312 (Orissa) had an occasion to examine substantial question of law on the propriety of approval granted under s. 153D of the Act. The Orissa High Court made wide ranging observations towards the manner and legality of approval under s. 153D of the Act. The Hon'ble High Court inter-alia observed that the approval under s. 153D of the Act 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 justiciable. Where the Court finds that the approval is granted mechanically, it would vitiate the assessment order itself. The Hon'ble High Court inter-alia observed that there is no even a token mention that draft order has been perused by the Ld. 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 section 158BG of the Act 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 section 119 of the Act. The Hon'ble High Court also held that non-compliance of requirement of section 153D is not a mere procedural irregularity and lapse committed by Revenue may vitiate the assessment order. The SLP filed against the aforesaid judgement in the case of ACIT vs Serajuddin & Co. Kolkata was dismissed as reported in (2024) 163 taxmann.com 118 (SC).

14. The ratio of judgement delivered in the case of ACIT vs Serajuddin & Co. Kolkata; PCIT vs Anuj Bansal; PCIT vs Shiv Kumar Nayyar; and PCIT vs Subhash Dabas (supra) has held in chorus that the approval granted under s. 153D of the Act, if granted mechanically, will vitiate the assessment order itself.

15. As noted in the instant case, the approval memo is totally silent on the issues involved and has granted omnibus approval without any thoughtful process being discernible. The Order Sheet has not docketed any interaction or directions of the Ld. Addl. CIT in the course of assessment either. There is no other material to show involvement of the superior authority in the course of assessment.

16. In the first para of the approval memo, it is mentioned that draft assessment order has been received for approval and in the second para of the approval memo, it was stated that the draft assessment order has been approved. Nothing else is discernible. Such mechanical approval cannot be countenanced in law in the light of judicial dicta available. Applying the ratio of

judgements delivered as noted above, the assessment order based on ritualistic approval stands vitiated and thus quashed.

17. Appeal of the assessee is allowed on the preliminary ground and hence we do not consider it necessary to address ourselves on other legal and factual contentions. 18. In the result, appeal of the assessee is allowed.

4.Ld. DR has filed the written submission and stated the fact of this case is different from the above cited judgment. In the present case, approval u/s 153D of the Act was granted for the single assessment year after applying their mind by the Ld. Addl. CIT Karnal because he was well aware of the progress of the assessments nature of seized material, and issue involved. Ld. Addl. CIT(A) has granted the approval after considering the all above facts. The facts of the relied judgements by the assessee are different and not applicable on this case.

5. We have heard the parties and perused the material Available on record. The translated copy of the approval under section 153 D of the Act, granted by the ld. Addl. CIT Chandigarh to the

assessment order forwarded earlier by the AO is reproduced hereunder:

TRANSLATED ENGLISH COPY OF APPROVALU/S 153D IN CASE OF JAIPAL JAIN

Fr. No. A.A.A./K.R./Chandigarh/JBG-70/179/2021-22/242 Date: 17.04.2021

To,

Deputy Commissioner of Income Tax,

Central Circle-Karnal

Subject: under section 153D, Jaipal Jain, (PAN:ABIPJ3891M) Approval in case of AY 2019-20

Please refer to your letter No. A.U.A./K.V./Karnal/2021-22/66, dated 15.04.2021, under which Draft Assessment Order made as per section 143 (3) r.w.s. 153A (1) (b) of the Income Tax Act was sent for approval under section 153D.

2. In this regard, the Draft Assessment Order for the assessment year 2019-20 in the case of the above taxpayer under section 153D of the Income-tax Act is approved.

3. The assessment record is returned in volume 1 (without serial number).

Encl. As above Sd/-

Saurabh Narayan Modi

Additional Commissioner of Income Tax

Central Range, Chandigarh

(17.04.2021)p



कार्यालय

Office of the

अपर आयकर आयुक्त, सेन्ट्रल रेंज,

ADDL. COMMISSIONER OF INCOME TAX, CENTRAL RANGE,

मुख्य कार्यालय: भूतल, सी. आर. बिल्डिंग, सेक्टर 17, चंडीगढ़

MAIN OFFICE: GROUND FLOOR, C.R. BUILDING, SECTOR 17, CHANDIGARH,

(कैम्प कार्यालय: आयकर भवन, सेक्टर 12, करनाल)

(CAMP OFFICE: AAYAKAR BHAWAN, SEC. 12, KARNAL)

e-mail:- chandigarh.addlcit.cen@incometax.gov.in

Phone : 0172-2544204

फा. सं. अ.आ.अ./के.रे./चण्डीगढ़/JBG-70/179/2021-22/ 242

दिनांक: 17.04.2021

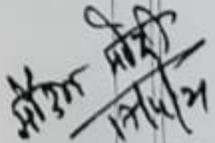
सेवा में,

उप आयकर आयुक्त,
केंद्रीय वृत्त- करनाल

विषय: - धारा 153D के तहत Sh. Jaipal Jain, (PAN:ABIPJ3891M) A.Y. 2019-20 के
मामले में अनुमोदन -

कृपया आप आपने पत्र संख्या: आ.उ.आ /के.रे./करनाल/2021-22/66, दिनांक 15.04.2021 का अवलोकन करे, जिसके तहत आयकर अधिनियम की धारा 143(3) के अनुसार बनाये गए प्रारूप निर्धारण आदेश (Draft Assessment Order), धारा 153D के तहत अनुमोदन हेतु भेजा गया था।

2. इस संदर्भ में, आयकर अधिनियम की धारा 153D के तहत उपरोक्त करदाता के मामले में निर्धारण वर्ष 2019-20 के प्रारूप निर्धारण आदेश(Draft Assessment Order) को अनुमोदित किया जाता है।
3. निर्धारण रिकॉर्ड 1 volume (बिना क्रम संख्या) में वापिस किया जाता है।



(सौरभ नारायण मोदी)

अपर आयकर आयुक्त,
सेन्ट्रल रेंज, चण्डीगढ़

6. On perusal of the approval dated 17-04-2021 addressed by the Ld. Addl. CIT to AO, reveals that the Ld. Addl. CIT has not uttered a word on the subject matter of the additions. The approval is in the nature of Performa approval and mechanical without exercising the power vested under section 153D of the Act. Respectfully following the judgment of the CO-ordinate bench we allowed the preliminary ground of the assessee.

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

Order pronounced in the open court 17.09.2025.

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Neha, Sr. PS

Date: 17.09.2025

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(SUDHIR KUMAR)
(JUDICIAL MEMBER)

ASSISTANT REGISTRAR
ITAT DELHI