

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND
SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

I.T.A. No.337/Alld/2018
Assessment year:2009-10

Minto Developers Pvt. Ltd. 162, Bai Ka Bagh, Lowther Road, Allahabad. PAN:AAGCM1491C (Appellant)	Vs.	A.C.I.T., Central Circle, Allahabad (Respondent)
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I.T.A. Nos.34 to 40/Alld/2019
Assessment Years:2007-08 to 2013-14

Late Dr. A. K. Bansal Through L/h Dr Vandana Bansal 162, Bai Ka Bagh, Lowther Road, Allahabad. PAN:ABCPB1476H (Appellant)	Vs.	A.C.I.T., Central Circle, Allahabad (Respondent)
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I.T.A. No.13 & 14/Alld/2025
Assessment Year:2012-13 & 13-14

Arpit Hospital Pvt. Ltd. 162, Bai Ka Bagh, Lowther Road, Allahabad. PAN:AABCA 9270G (Appellant)	Vs.	D.C.I.T., Central Circle, Allahabad (Respondent)
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I.T.A. Nos.39, 40 & 41/Alld/2025
Assessment years:2011-12 to 13-14

D.C.I.T., Central Circle, Allahabad	Vs.	Jeevan Jyoti Charitable Trust JJH Premises, 3 rd Floor, 162, Bai Ka Bagh, Allahabad PAN:AAATJ4359H
(Appellant)		(Respondent)

C.O.No.2, 3 & 4/Alld/2025
(in I.T.A. Nos.39, 40 & 41/Alld/2025)
Assessment years:2011-12 to 13-14

Jeevan Jyoti Charitable Trust JJH Premises, 3 rd Floor, 162, Bai Ka Bagh, Allahabad PAN:AAATJ4359H	Vs.	D.C.I.T., Central Circle, Allahabad
(Appellant)		(Respondent)

I.T.A. No.44/Alld/2025
Assessment years:2013-14

D.C.I.T., Central Circle, Allahabad	Vs.	Navjeevan Pediatrics Pvt. Ltd. JJH Premises, 3 rd Floor, 162, Bai Ka Bagh, Allahabad PAN:AAACN7608J
(Appellant)		(Respondent)

C.O.No.5/Alld/2025
(in I.T.A. Nos.44/Alld/2025)
Assessment years:2013-14

Navjeevan Pediatrics Pvt. Ltd. JJH Premises, 3 rd Floor, 162, Bai Ka Bagh, Allahabad PAN:AAACN7608J	Vs.	D.C.I.T., Central Circle, Allahabad
(Appellant)		(Respondent)

I.T.A. No.54 & 55/Alld/2025
Assessment Year:2009-10 & 12-13

Minto Colonizers Pvt. Ltd., 162, Bai Ka Bagh, Lowther Road, Allahabad. PAN:AAGCM1493A	Vs.	D.C.I.T., Central Circle, Allahabad
(Appellant)		(Respondent)

I.T.A. No.56/Alld/2025
Assessment Year:2012-13

Jeevan Jyoti Infrastructure Company Private Limited, House No. C-61, 1 st Floor, Greater Kailash I, New Delhi. PAN:AABCJ9879N	Vs.	D.C.I.T., Central Circle, Allahabad
(Appellant)		(Respondent)

Assessee by	Shri Salil Kapoor, Advocate Shri Gaurav Bansal, C.A. Ms. Soumya Singh, Advocate
Revenue by	Shri Amalendu Nath Mishra, CIT, D.R.

ORDER

PER ANADEE NATH MISSHRA:A.M.

(A) These appeals and Cross Objections pertaining to Jeevan Jyoti Group of cases are being disposed of through this consolidated order. Grounds taken in appeals and Cross Objections are as under:

I.T.A. No.337/Alld/2018 (Assessment year 2009-10)

BECAUSE,

- (1) the appellant not being subjected to either search under section 132(1) or requisitioned under section 132A, as is evident from the Panchnamas drawn by the authorized officers (as per particulars given in the Statement of Fact marked as Annexure - I to the Memo of appeal) the proceedings initiated under section 153A were wholly illegal and assessment order dated 31.07.2017 passed in pursuance thereof is not maintainable at all.
- (2) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)" is wholly erroneous, as being contrary to the
 - (a) Instruction of CBDT as contained in para 65.9 thereof as per extract given in ANNEXURE-I thereto; and
 - (b) Judicial opinion expressed in large number of case laws.

- (3) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as “*notwithstanding anything contained in section 153... ..*” read with section 245HA(2) and the “CIT(A)” has erred in law in holding that
- a) period of one year was available to the Assessing Officer, after abatement order dated 17.08.2016 as per explanation below section 153 of the Act; and
 - b) the assessment order dated 31.07.2017 captioned as order under section 153A r.w.s 143(3) was valid.
- (4) otherwise also, the assessment order dated 31.07.2017 was void ab-initio as, on the facts of the case, the same could not have been held to have been passed with the ‘mandatory approval’ of Jt. CIT, as envisaged in section 153D of the;
- (5) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case, as mandatory notice under sub-section (2) of section 143 had been served on the appellant after the time for service of such notice had expired on 30.09.2014 and observations to the contrary as mentioned in the impugned order are erroneous;

WITHOUT PREJUDICE TO THE AFORESAID

- (6) the authorities below have erred in law and on facts in making/sustaining various additions as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

Sl. No.	Item of addition /disallowance	Para no.	Amount (Rs.)
(i)	Income declared in application filed for settlement of case under section 245C of the Act.	6.1	4,00,000
(ii)	Addition as per Annexure- A-3/ Page No.26-46 (investment in purchase of land)	6.2	33,93,260
(iii)	Share application money pending allotment	6.3	5,39,550

(5)

(7) while sustaining various additions (as per particulars given in ground no.6 hereinafore), the "CIT(A)" has failed to appreciate and missed to note that

- a) the addition/disallowance in question had originated from Rule 9 report as had been submitted by the Assessing Officer (through Pr. CIT, Central, Lucknow) before the Hon'ble Income Tax Settlement Commission;
- b) the **appellant** had submitted detailed explanation/response, fully supported with well documented information, in the form of its rejoinder under Rule 9A, to the said Report;
- c) during the course of assessment proceedings as initiated by the Assessing Officer vide notice dated 19.12.2016, (after abatement order dated 17.08.2016 had been passed by the Hon'ble Income Tax Settlement Commission), the **appellant** had specifically referred to and relied upon the said submissions (which were available before the Assessing Officer);
- d) the additions in question had been made without considering the said material and information and on abject falsehood saying that **the department has already provided various opportunities of being heard and submitting of details & evidence but no required details submitted by it till date**";
- f) otherwise also the submissions made in response to Rule 9 report (on the basis of which additions as mentioned above had made in the assessment) constituted material for the purposes of assessment; and
- g) other material and information already available on record.

and the addition/disallowance, as sustained by him, are wholly erroneous and illegal too.

(8) on being served with the draft assessment order, the **appellant** had specifically submitted, (with reference to voluminous information and submission available on record, to which repeated references had been made by it), its objections to various additions as had been proposed by the Assessing Officer (in terms of the draft assessment order) and on a due consideration and appreciation of the said objections, read with other material and information available on record, all such additions were liable to be deleted;

- (9) the orders passed by the authorities below whereby addition as referred to in ground no.6 hereinafore, had been made/sustained, are wholly vitiated as the same are based on non-consideration of material and information on record of the Assessing Officer as well as before the "CIT(A)"
- (10) the overall computation of income as stood comprised in the assessment order dated 31.07.2017 was beyond the scope and ambit of assessment under section 153A of the Act, as the same were not referable to any incriminating material found during the course of search.
- (11) the observation to the effect that no details explanation and/or information, in relation to the queries raised by the Assessing Officer, had been furnished by the appellant, is wholly inconsistent with the material and information available on record of the Assessing Officer (as also the material and information that had been submitted before the Id. Appellate Authority) and the additions to the returned income, as have been sustained by the "CIT(A)" are wholly erroneous, as being based on wrongful presumption.
- (12) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

I.T.A. No.34/Alld/2019 (Assessment year 2007-08)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)", as also by the Assessing Officer, is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*", read with section 245HA(2) and the 'Authorities below' have erred in law and on facts in referring to and relying upon the provisions as contained in section 153 of the Act, and holding that
- a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;

- (4)
- (3) looking to the facts of the case, particularly that
- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
 - b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
 - c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer;
 - d) otherwise also, the information/material submitted before the Income Tax Settlement Commission (ITSC) during the course of settlement proceedings, consolidated 'material' for the purpose of assessment made (after abatement); and
 - e) in any case, reply/objection submitted before the Assessing Officer,
- it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence, the assessment order dated 31.07.2017 was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the appellant within the time prescribed in law;
- (5) otherwise also, the assessment order dated 31.07.2017 (and so also the appellate order dated 15.01.2019), which is subject matter of this appeal is void ab-initio as the same had/has been passed, in violation of principles of natural justice, guaranteed by Article 14 of the Constitution of India.
- (6) the orders passed by the authorities below whereby additions/disallowances as made/sustained by the Authorities below (as referred to in ground no.7 infra), are wholly vitiated, as
- (a) the same are based on non-consideration of material and information on the respective records and other submission and 'rejoinder' to Remand report, as made by the appellant, in huge volumes;
 - (b) in any case, the same are based on 'no material'

(c) principles of natural justice have grossly been validated.

WITHOUT PREJUDICE TO THE AFORESAID

(7) the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/disallowance	Para No. of the asst. order Dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01.2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Deemed dividend under section 2(22)(e)	6.2	2,50,000	36 to 39	13 to 15	NIL
(ii)	Long Term Capital Gain	6.3	41,646	40 to 44	15 to 17	NIL
(iii)	Disallowance made under section 43B	6.4	30,159	45 to 48	17 to 18	NIL
(iv)	Non-business expenses	6.5	3,55,875	49 to 52	18 to 19	NIL
(v)	Disallowance of interest	6.6	8,24,455	53 to 56	19 to 21	NIL
(vi)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.7	2,03,772	57 to 60	21 to 22	1,01,886
(vii)	Interest on loans	6.8	10,13,219	61 to 64	22 to 24	NIL
(viii)	Interest disallowed	6.15	5,96,068	89 to 92	40 to 43	85,153
(ix)	Current liabilities (fresh)	6.16	18,17,000	93 to 97	43 to 45	NIL
	Total		51,32,194			1,87,039

B- Addition on the basis of seized material, (as referred to in Rule 9 report as):-

Sl. No.	Item of addition/disallowance	Para No. of the asst. order Dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01.2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Transaction as recorded in Annexure A-5/pages 25, 50, 78 to 210	6.9	92,31,657	65 to 68	24 to 25	NIL
(ii)	Transaction mentioned in Annexure A-4/page 1 to 117	6.10	28,07,861	69 to 72	25 to 26	NIL
(iii)	Expenses in transactions recorded on pages 1 to 91 of Annexure A-5	6.11	30,79,543	73 to 76	26 to 28	NIL
(iv)	Unexplained transaction mentioned in Annexure A-6/pages 1 to 46	6.12	24,19,763	77 to 80	28 to 29	NIL
(v)	Commission paid to Kailash Jaiswal as per loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.13	80,00,000	81 to 84	29 to 34	NIL
(vi)	Commission paid to Kailash Jaiswal as per loose paper said to have been seized from residence of Sri Kailash Jaiswal at Gorakhpur	6.14	59,50,000	85 to 88	34 to 40	NIL
Total			3,14,88,824			

- (8) in relation to the additions/disallowances made by the Assessing Officer as mentioned in table No. 'A' & 'B' above, no incriminating material and/or material which could be said to have remained unexplained could be hold to have been found during the search and have acted contrary to law, in making/sustaining such additions/disallowances, (as per particulars given in Table 'A' & Table 'B', as referred to in ground No.6 hereinfere);
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

I.T.A. No.35/Alld/2019 (Assessment year 2008-09)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)", as also by the Assessing Officer, is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*", read with section 245HA(2) and the 'Authorities below' have erred in law and on facts in referring to and relying upon the provisions as contained in section 153 of the Act, and holding that
 - a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;

- (3) looking to the facts of the case, particularly that
- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
 - b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
 - c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer;
 - d) otherwise also, the information/material submitted before the Income Tax Settlement Commission (ITSC) during the course of settlement proceedings, consolidated 'material' for the purpose of assessment made (after abatement); and
 - e) in any case, reply/objection submitted before the Assessing Officer,
- it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence, the assessment order dated 31.07.2017 was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the appellant within the time prescribed in law;
- (5) otherwise also, the assessment order dated 31.07.2017 (and so also the appellate order dated 15.01.2019), which is subject matter of this appeal is void ab-initio as the same had/has been passed, in violation of principles of natural justice, guaranteed by Article 14 of the Constitution of India.
- (6) the orders passed by the authorities below whereby additions/disallowances as made/sustained by the Authorities below (as referred to in ground no.7 infra), are wholly vitiated, as
- (a) the same are based on non-consideration of material and information on the respective records and other submission and 'rejoinder' to Remand report, as made by the appellant, in huge volumes;
 - (b) in any case, the same are based on 'no material'

(c) principles of natural justice have grossly been validated.

WITHOUT PREJUDICE TO THE AFORESAID

(7) the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Deemed dividend under section 2(22)(e)	6.2	4,36,835	36 to 39	12 to 14	NIL
(ii)	Long Term Capital Gain	6.3	35,736	40 to 44	14 to 16	NIL
(iii)	Disallowance under section 43B	6.4	71,190	45 to 48	16 to 17	NIL
(iv)	Disallowance under section 14A r.w. Rule 8	6.5	80,542	49 to 52	17 to 19	NIL
(v)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.6	5,37,229	53 to 56	19 to 20	2,68,614
(vi)	Addition on the basis of AIR/26AS	6.7	3,70,810	57 to 62	20 to 22	NIL
(vii)	Disallowance of interest on debit balance	6.8	10,85,640	63 to 66	22 to 25	NIL
	Total		26,17,982			2,68,614

B- Addition on the basis of seized material, (as referred to in Rule 9 report as):-

Sl. No.	Item of addition/ disallowance	Para No. of the asst. order Dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Transaction as recorded in Annexure A-3/ pages 25, 50, 78 to 210	6.9	1,30,789	68 to 70	25 to 27	NIL
	Transaction mentioned in Annexure A-4/ page 117	6.10	2,25,508	71 to 74	27 to 28	NIL
	Unexplained transaction mentioned in Annexure A-6/ pages 1 to 46	6.11	16,29,987	75 to 78	28 to 29	NIL
	Transaction mentioned in Annexure A-4/ page 80-81	6.12	41,700	79 to 82	29 to 31	NIL
	Commission paid to Kailash Jaiswal as per loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.13	2,36,50,000	83 to 86	31 to 38	NIL
	Total		2,56,77,984			

- (8) in relation to the additions/ disallowances made by the Assessing Officer as mentioned in table No. 'A' & 'B' above, no incriminating material and/or material which could be said to have remained unexplained could be hold to have been found during the search and have acted contrary to law, in making/sustaining such additions/ disallowances, (as per particulars given in Table 'A' & Table 'B', as referred to in ground No.6 hereinfere);
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

I.T.A. No.36/Alld/2019 (Assessment year 2009-10)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)", as also by the Assessing Officer, is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*", read with section 245HA(2) and the 'Authorities below' have erred in law and on facts in referring to and relying upon the provisions as contained in section 153 of the Act, and holding that
 - a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;

- (3) looking to the facts of the case, particularly that
- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
 - b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
 - c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer;
 - d) otherwise also, the information/material submitted before the Income Tax Settlement Commission (ITSC) during the course of settlement proceedings, consolidated 'material' for the purpose of assessment made (after abatement); and
 - e) in any case, reply/objection submitted before the Assessing Officer,
- it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence, the assessment order dated 31.07.2017 was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the **appellant** within the time prescribed in law;
- (5) otherwise also, the assessment order dated 31.07.2017 (and so also the appellate order dated 15.01.2019), which is subject matter of this appeal is void ab-initio as the same had/has been passed, in violation of principles of natural justice, guaranteed by **Article 14** of the Constitution of India.
- (6) the orders passed by the authorities below whereby additions/disallowances as made/sustained by the Authorities below (as referred to in ground no.7 infra), are wholly vitiated, as
- (a) the same are based on non-consideration of material and information on the respective records and other submission and 'rejoinder' to Remand report, as made by the appellant, in huge volumes;

- (b) in any case, the same are based on 'no material'
- (c) principles of natural justice have grossly been validated.

WITHOUT PREJUDICE TO THE AFORESAID

- (7) the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Disallowance under section 43B	6.2	1,33,522	36 to 39	12 to 13	NIL
(ii)	Disallowance under section 14A r.w. Rule 8	6.3	1,05,682	40 to 43	14 to 15	NIL
(iii)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.4	6,49,978	44 to 47	15 to 17	3,25,087
(iv)	Addition on the basis of AIR/26AS	6.5	1,12,48,919	48 to 53	17 to 19	NIL
(v)	Disallowance of interest on debit balance	6.6	17,73,323	54 to 57	19 to 22	NIL
(vi)	Disallowance of interest as non business expenditure	6.7	1,98,872	58 to 61	22 to 23	NIL
(vii)	Disallowance of interest on commercial borrowings/ personal loan	6.8	18,77,041	62 to 65	23 to 25	NIL
(viii)	Alleged investment in property	6.9	3,83,37,989	66 to 70	25 to 27	NIL
(ix)	Alleged investment in property	6.10	2,25,00,000	71 to 75	27 to 29	NIL

		Total		7,68,25,326			3,25,087
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- (8) in relation to the additions/disallowances made by the Assessing Officer as mentioned in table No. 'A' above, no incriminating material and/or material which could be said to have remained unexplained could be held to have been found during the search and have acted contrary to law, in making/sustaining such additions/disallowances, (as per particulars given in Table 'A', as referred to in ground No.6 hereinafter);
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

REVISED GROUNDS IN I.T.A. No.36/Allahabad/2019

REVISED GROUNDS OF APPEAL

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act and the additions/disallowances made therein are illegal, bad in law, without jurisdiction, and barred by time limitation.
3. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
4. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
5. That in the absence of any incriminating material seized, the additions made are illegal, bad in law, without jurisdiction, and beyond the scope of the provision of Section 153A of the Act. Hence, the additions are liable to be deleted.
6. That the directions/order passed under Section 144A of the Act is illegal, bad in law, and without giving reasonable opportunity to the Appellant, and as such the assessment order passed and the additions made are illegal, and bad in law and liable to be quashed.

7. That the additions/disallowances made by the Assessing Officer are illegal and bad in law and the Commissioner of Income Tax (Appeals) – III, Lucknow ['CIT(A)'] has erred in law and on facts in confirming the additions/disallowance vide order dated 15.01.2019 passed under Section 250 of the Act.
8. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 10,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
9. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,33,522/- made by the Assessing Officer by disallowing the expenditure claimed by the Appellant on account of payment made toward municipal taxes.
10. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,05,682/- made by the Assessing Officer under Section 14A of the Act.
11. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 6,49,978/- made by the Assessing Officer by disallowing the 20% of the total expenditure of Rs. 32,48,918/- claimed by the Appellant as bogus and ungenueine.
12. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,12,48,919/- made by the Assessing Officer on account of the difference between the income as per Form 26AS and the profit and loss account.
13. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 17,73,323/- made by the Assessing Officer on account of interest expenditure claimed by the Appellant to the extent of allegedly not charging the interest on loan given to the family members.
14. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,98,872/-

made by the Assessing Officer by disallowing the interest paid on the housing loan and treated them as a non-business expense.

15. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 18,77,041/- [Rs. 5,71,251/- + 13,05,790/-] made by the Assessing Officer by disallowing the interest paid on the commercial borrowings and personal loans and treating them as a non-business expense.
16. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 3,83,37,989/- made by the Assessing Officer under Section 69A of the Act on account of the alleged unexplained source of funds invested in the property.
17. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 2,25,00,000/- made by the Assessing Officer under Section 69 of the Act by treating half of the investment of the Appellant as unexplained investment and unexplained expenses in the property.
18. That in view of the facts and circumstances of the case, the additions/disallowances made by the Assessing Officer and upheld by the CIT(A) are incorrect, illegal, and bad in law & based on surmise and conjectures and are highly excessive.
19. That in view of the facts and circumstances of the case, the additions/disallowances made are overlapping and amount to double addition which is against the mandate of law and accounting principles.
20. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
21. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
22. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the Appellant under Section 271(1)(b) and 271(1)(c) of the Act.
23. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

I.T.A. No.37/Alld/2019 (Assessment year 2010-11)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)", as also by the Assessing Officer, is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*", read with section 245HA(2) and the 'Authorities below' have erred in law and on facts in referring to and relying upon the provisions as contained in section 153 of the Act, and holding that
 - a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;

- (3) looking to the facts of the case, particularly that
- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
 - b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
 - c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer;
 - d) otherwise also, the information/material submitted before the Income Tax Settlement Commission (ITSC) during the course of settlement proceedings, consolidated 'material' for the purpose of assessment made (after abatement); and
 - e) in any case, reply/objection submitted before the Assessing Officer,
- it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence, the assessment order dated 31.07.2017 was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the appellant within the time prescribed in law;
- (5) otherwise also, the assessment order dated 31.07.2017 (and so also the appellate order dated 15.01.2019), which is subject matter of this appeal is void ab-initio as the same had/has been passed, in violation of principles of natural justice, guaranteed by **Article 14** of the Constitution of India.
- (6) the orders passed by the authorities below whereby additions/disallowances as made/sustained by the Authorities below (as referred to in ground no.7 infra), are wholly vitiated, as
- (a) the same are based on non-consideration of material and information on the respective records and other submission and 'rejoinder' to Remand report, as made by the appellant, in huge volumes;
 - (b) in any case, the same are based on 'no material'

(c) principles of natural justice have grossly been validated.

WITHOUT PREJUDICE TO THE AFORESAID

(7) the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/ disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Disallowance under section 43B	6.2	1,26,979	36 to 39	13 to 14	NIL
(ii)	Disallowance under section 14A r.w. Rule 8	6.3	1,24,685	40 to 43	14 to 16	NIL
(iii)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.4	6,34,268	44 to 47	16 to 17	3,17,134
(iv)	Addition on the basis of AIR/26AS	6.5	1,91,85,382	48 to 53	17 to 19	NIL
(v)	Disallowance of interest on debit balance	6.6	13,68,479	54 to 57	19 to 22	NIL
(vi)	Disallowance of interest as non business expenditure	6.7	7,56,405	58 to 61	22 to 23	NIL
(vii)	Fresh current liabilities as appearing in balance sheet	6.8	1,05,56,314	62 to 66	23 to 25	NIL
(x)	Alleged amount to receivable from OMAX Ltd.	6.11	5,00,00,000	76 to 79	35 to 36	NIL
	Total		8,27,52,512			3,17,134

B- Addition on the basis of seized material, (as referred to in Rule 9 report as):-

Sl. No.	Item of addition/disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(viii)	Commission paid to Kailash Jaiswal as per loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.9	2,99,00,000	67 to 70	25 to 27	NIL
(ix)	Commission paid to Kailash Jaiswal as per loose paper said to have been seized from residence of Sri Kailash Jaiswal at Gorakhpur	6.10	9,78,00,000	71 to 75	27 to 35	NIL
	Total		12,77,00,000			NIL

- (8) in relation to the additions/disallowances made by the Assessing Officer as mentioned in table No. 'A' & 'B' above, no incriminating material and/or material which could be said to have remained unexplained could be hold to have been found during the search and have acted contrary to law, in making/sustaining such additions/disallowances, (as per particulars given in Table 'A' & Table 'B', as referred to in ground No.6 hereinfere);
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

REVISED GROUNDS IN I.T.A. No.37/Alld/2019**REVISED GROUNDS OF APPEAL**

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act and the additions/disallowances made therein are illegal, bad in law, without jurisdiction, and barred by time limitation.
3. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
4. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
5. That in the absence of any incriminating material seized, the additions made are illegal, bad in law, without jurisdiction, and beyond the scope of the provision of Section 153A of the Act. Hence, the additions are liable to be deleted.
6. That the directions/order passed under Section 144A of the Act is illegal, bad in law, and without giving reasonable opportunity to the Appellant, and as such the assessment order passed and the additions made are illegal, and bad in law and liable to be quashed.

7. That the additions/disallowances made by the Assessing Officer are illegal and bad in law and the Commissioner of Income Tax (Appeals) – III, Lucknow [‘CIT(A)’] has erred in law and on facts in confirming the additions/disallowance vide order dated 15.01.2019 passed under Section 250 of the Act.
8. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 10,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
9. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,26,979/- made by the Assessing Officer by disallowing the expenditure claimed by the Appellant on account of payment made toward municipal taxes.
10. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,24,685/- made by the Assessing Officer under Section 14A of the Act.
11. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 6,49,978/- made by the Assessing Officer by disallowing the 20% of the total expenditure of Rs. 32,48,918/- claimed by the Appellant as bogus and ungenune.
12. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,91,85,382/- made by the Assessing Officer on account of the difference between the income as per Form 26AS and the profit and loss account.
13. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 13,68,479/- made by the Assessing Officer on account of interest expenditure claimed by the Appellant to the extent of allegedly not charging the interest on loan given to the family members.
14. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 7,56,405/-

made by the Assessing Officer by disallowing the interest paid on the commercial borrowings treating them as a non-business expense.

15. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,05,56,314/- made by the Assessing Officer by allegedly treating the current fresh liabilities as cash credit under Section 68 of the Act.
16. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 2,99,00,000/- made by the Assessing Officer on account of the alleged commission paid for the purchase of land.
17. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 9,78,00,000/- made by the Assessing Officer on account of alleged unexplained transaction/expenditure/investment.
18. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 5,00,00,000/- made by the Assessing Officer on account of the alleged amount received by the Appellant from M/s Omaxe Ltd. and treated the same as unexplained transaction/expenditure/investment.
19. That in view of the facts and circumstances of the case, the additions/disallowances made by the Assessing Officer and upheld by the CIT(A) are incorrect, illegal, and bad in law & based on surmise and conjectures and are highly excessive.
20. That in view of the facts and circumstances of the case, the additions/disallowances made are overlapping and amount to double addition which is against the mandate of law and accounting principles.
21. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
22. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
23. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the Appellant under Section 271(1)(b) and 271(1)(c) of the Act.
24. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

I.T.A. No.38/Alld/2019 (Assessment year 2011-12)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)", as also by the Assessing Officer, is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*", read with section 245HA(2) and the 'Authorities below' have erred in law and on facts in referring to and relying upon the provisions as contained in section 153 of the Act, and holding that
 - a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;

- (3) looking to the facts of the case, particularly that
- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
 - b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
 - c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer;
 - d) otherwise also, the information/material submitted before the Income Tax Settlement Commission (ITSC) during the course of settlement proceedings, consolidated 'material' for the purpose of assessment made (after abatement); and
 - e) in any case, reply/objection submitted before the Assessing Officer,
- it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence, the assessment order dated **31.07.2017** was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the **appellant** within the time prescribed in law;
- (5) otherwise also, the assessment order dated **31.07.2017** (and so also the appellate order dated **15.01.2019**), which is subject matter of this appeal is void ab-initio as the same had/has been passed, in violation of principles of natural justice, guaranteed by **Article 14** of the Constitution of India.
- (6) the orders passed by the authorities below whereby additions/disallowances as made/sustained by the Authorities below (as referred to in ground no.7 infra), are wholly vitiated, as
- (a) the same are based on non-consideration of material and information on the respective records and other submission and 'rejoinder' to Remand report, as made by the appellant, in huge volumes;
 - (b) in any case, the same are based on 'no material'

(c) principles of natural justice have grossly been validated.

WITHOUT PREJUDICE TO THE AFORESAID

the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01.2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Disallowance under section 43B	6.2	1,02,725	36 to 39	12 to 13	NIL
(ii)	Disallowance under section 14A r.w. Rule 8	6.3	1,40,707	40 to 43	13 to 15	NIL
(iii)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.4	11,73,551	44 to 47	15 to 17	5,86,776
(iv)	Addition on the basis of AIR/26AS	6.5	82,39,321	48 to 53	17 to 18	NIL
(v)	Disallowance of interest on debit balance	6.6	22,10,562	54 to 57	19 to 22	NIL
(vi)	Disallowance of interest as non business expenditure	6.7	30,51,094	58 to 61	22 to 23	NIL
(vii)	Agricultural income not allowed	6.8	2,19,660	62 to 65	23 to 24	NIL
(viii)	Expenses of personal nature	6.10	2,21,740	71 to 74	26 to 27	NIL
(ix)	Current liabilities (fresh)	6.12	49,40,000	80 to 84	36 to 37	NIL
(x)	Unexplained transactions/	6.12	2,89,22,284	85 to	37 to	NIL

	investments/ receipts in and from Medicity unit.			89	39	
	Total		4,92,21,644			5,86,776

B- Addition on the basis of seized material, (as referred to in Rule 9 report as):-

Sl. No.	Item of addition/ disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Unexplained transaction added on the basis of loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.9	50,00,000	66 to 70	24 to 26	NIL
(ii)	Unexplained transaction added on the basis of loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.11	1,10,00,000	75 to 79	27 to 36	NIL
	Total		1,60,00,000			5,86,776

- (8) in relation to the additions/disallowances made by the Assessing Officer as mentioned in table No. 'A' & 'B' above, no incriminating material and/or material which could be said to have remained unexplained could be hold to have been found during the search and have acted contrary to law, in making/sustaining such additions/disallowances, (as per particulars given in Table 'A' & Table 'B', as referred to in ground No.6 hereinfere);
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

I.T.A. No.39/Alld/2019 (Assessment year 2012-13)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)", as also by the Assessing Officer, is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*", read with section 245HA(2) and the 'Authorities below' have erred in law and on facts in referring to and relying upon the provisions as contained in section 153 of the Act, and holding that
 - a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;

- (3) looking to the facts of the case, particularly that
- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
 - b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
 - c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer;
 - d) otherwise also, the information/material submitted before the Income Tax Settlement Commission (ITSC) during the course of settlement proceedings, consolidated 'material' for the purpose of assessment made (after abatement); and
 - e) in any case, reply/objection submitted before the Assessing Officer,
- it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence, the assessment order dated 31.07.2017 was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the appellant within the time prescribed in law;
- (5) otherwise also, the assessment order dated 31.07.2017 (and so also the appellate order dated 15.01.2019), which is subject matter of this appeal is void ab-initio as the same had/has been passed, in violation of principles of natural justice, guaranteed by **Article 14** of the Constitution of India.
- (6) the orders passed by the authorities below whereby additions/disallowances as made/sustained by the Authorities below (as referred to in ground no.7 infra), are wholly vitiated, as
- (a) the same are based on non-consideration of material and information on the respective records and other submission and 'rejoinder' to Remand report, as made by the appellant, in huge volumes;
 - (b) in any case, the same are based on 'no material'

(c) principles of natural justice have grossly been validated.

WITHOUT PREJUDICE TO THE AFORESAID

(7) the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01.2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Disallowance under section 43B	6.2	1,83,702	36 to 39	12 to 13	NIL
(ii)	Disallowance under section 14A r.w. Rule 8	6.3	1,49,038	40 to 43	13 to 15	NIL
(iii)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.4	10,91,888	44 to 47	15 to 16	5,45,944
(iv)	Addition on the basis of AIR/26AS	6.5	50,38,332	48 to 53	16 to 18	NIL
(v)	Disallowance of interest on debit balance	6.6	7,40,885	54 to 57	18 to 21	NIL
(vi)	Expenses of personal nature	6.7	9,04,558	58 to 61	21 to 23	NIL
(vii)	Addition towards alleged perquisites	6.8	4,43,346	62 to 64	23 to 24	NIL
(viii)	Disallowance under section 40(a)(ia)	6.11	9,86,000	73 to 76	29 to 30	NIL
(ix)	Deemed dividend under section 2(22)(e)	6.12	2,58,52,503	77 to 80	30 to 33	NIL
(x)	Conversion of asset into stock in trade (adopted from the	6.13	15,16,06,890	81 to 85	33 to 36	NIL

	audited balance sheet)					
(xii)	Unexplained transactions/ investments/ receipts in and from Medicity unit.	6.14	55,00,000	86 to 90	36 to 38	NIL
(xiii)	Current liabilities (fresh)	6.15	49,40,000	91 to 95	38 to 39	NIL
	Total		19,74,37,142			5,45,944

B- Addition on the basis of seized material, (as referred to in Rule 9 report as):-

Sl. No.	Item of addition/ disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01. 2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Unexplained transaction added on the basis of loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.9	81,00,000	65 to 68	24 to 26	NIL
(ii)	Unexplained transaction added on the basis of loose paper said to have been seized from residence of Sri Kailash Jaiswal	6.10	21,00,000	69 to 72	26 to 29	NIL
	Total		1,02,00,000			5,45,944

- (8) in relation to the additions/disallowances made by the Assessing Officer as mentioned in table No. 'A' & 'B' above, no incriminating material and/or material which could be said to have remained unexplained could be hold to have been found during the search and have acted contrary to law, in making/sustaining such additions/disallowances, (as per particulars given in Table 'A' & Table 'B', as referred to in ground No.6 hereinfere);
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

REVISED GROUNDS IN I.T.A. No.39/Alld/2019**REVISED GROUNDS OF APPEAL**

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
 2. That the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act and the additions/disallowances made therein are illegal, bad in law, without jurisdiction, and barred by time limitation.
 3. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
 4. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
 5. That in the absence of any incriminating material seized, the additions made are illegal, bad in law, without jurisdiction, and beyond the scope of the provision of Section 153A of the Act. Hence, the additions are liable to be deleted.
 6. That the directions/order passed under Section 144A of the Act is illegal, bad in law, and without giving reasonable opportunity to the Appellant, and as such the assessment order passed and the additions made are illegal, and bad in law and liable to be quashed.
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7. That the additions/disallowances made by the Assessing Officer are illegal and bad in law and the Commissioner of Income Tax (Appeals) – III, Lucknow ['CIT(A)'] has erred in law and on facts in confirming the additions/disallowance vide order dated 15.01.2019 passed under Section 250 of the Act.
8. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 10,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
9. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,83,702/- made by the Assessing Officer by disallowing the expenditure claimed by the Appellant on account of payment made toward municipal taxes.
10. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,49,038/- made by the Assessing Officer under Section 14A of the Act.
11. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 10,91,888/- made by the Assessing Officer by disallowing the 20% of the total expenditure of Rs. 54,59,442/- claimed by the Appellant as bogus and ungenune.
12. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 50,38,332/- made by the Assessing Officer on account of the difference between the income as per Form 26AS and the profit and loss account.
13. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 7,40,885/- made by the Assessing Officer on account of interest expenditure claimed by the Appellant to the extent of allegedly not charging the interest on loan given to the family members.
14. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 9,04,558/- made by the Assessing Officer by disallowing the expenses made by the

- Appellant on account of gifts to doctors, books & periodical, and conferences and meetings.
15. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 4,43,346/- made by the Assessing Officer by allegedly the treating the amount incurred by Jyoti Hospital as perks of the Appellant.
 16. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 81,00,000/- made by the Assessing Officer by allegedly treating the same as unexplained transaction/out of the books.
 17. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 21,00,000/- made by the Assessing Officer by allegedly treating the same as unexplained transaction/out of the books.
 18. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 9,86,000/- made by the Assessing Officer on account of the alleged commission paid by the Appellant.
 19. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 2,58,52,503/- made by the Assessing Officer by treating the loans and advances received from M/s. Jyoti Hospital as alleged deemed dividend under Section 2(22)(e) of the Act.
 20. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 15,16,06,890/- made by the Assessing Officer under Section 69B of the Act by allegedly treating the conversion of land as stock in trade by the Appellant as unexplained investment.
 21. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 55,00,000/- made by the Assessing Officer by allegedly treating the amount received by the Appellant as unexplained investment/transaction/expenditure from Jeevan Jyoti Group.
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22. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 49,40,000/- made by the Assessing Officer by allegedly treating the current fresh liabilities as cash credit under Section 68 of the Act.
23. That in view of the facts and circumstances of the case, the additions/disallowances made by the Assessing Officer and upheld by the CIT(A) are incorrect, illegal, and bad in law & based on surmise and conjectures and are highly excessive.
24. That in view of the facts and circumstances of the case, the additions/disallowances made are overlapping and amount to double addition which is against the mandate of law and accounting principles.
25. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
26. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
27. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the Appellant under Section 271AAA and 271(1)(b) of the Act.
28. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

I.T.A. No.40/Alld/2019 (Assessment year 2013-14)

BECAUSE,

- (1) the assessment order dated 31.07.2017 passed under section 153A r.w.s. 143(3), after abatement of proceedings in terms of order dated 17.08.2016 passed by the Hon'ble Income Tax Settlement Commission under section 245HA, was barred by limitation and view to the contrary as has been taken by the "CIT(A)" is wholly erroneous;
- (2) limitation for passing assessment order under section 153A r.w.s. 143(3), was to be governed by section 153B, which starts with non-obstante phrase reading as "*notwithstanding anything contained in section 153... ..*" read with section 245HA(2) and the 'Authorities below' here erred in law and on facts in holding, by referring to section 153 of the Act, that
 - a) period of one year was available to the Assessing Officer after abatement order dated 17.08.2016; and
 - b) accordingly the assessment order passed on 31.07.2017 was well within time limit, as prescribed;
- (3) looking to the facts of the case, particularly that

- a) the queries raised in the notices under section 142(1), had originated from Rule 9 report submitted before the Hon'ble ITSC;
- b) to such Rule 9 report, the appellant had submitted detailed rejoinder as per Rule 9A, fully supported by well documented information;
- c) such information had specifically been referred to and relied upon by way of reply to the queries raised by the Assessing Officer; and
- d) reply/objection submitted before the Assessing Officer, to the 'draft assessment order' proposed to be finally passed with copy given to the Joint CIT Central Varanasi it could not be said or held that 'approval' as envisaged in section 153D had been given by the Jt. CIT and in consequence the assessment order dated 31.07.2017 was liable to be declared as null and void;
- (4) the Assessing Officer had lost jurisdiction to pass assessment order under section 153A in the instant case as mandatory notice under sub-section (2) of section 143 had not been served on the appellant within the time prescribed in law;
- (5) otherwise also, the assessment order dated 31.07.2017 (and so also the appellate order dated 15.01.2019, which is subject matter of this appeal) are void ab-initio as the same had/have been passed in violation of principles of natural justice, guaranteed by Article 14 of the Constitution of India.

WITHOUT PREJUDICE TO THE AFORESAID

- (6) the authorities below have erred in law and on facts in making/sustaining various additions/disallowances as stand comprised in the assessment order dated 31.07.2017, as per particulars given below:-

**A- Addition/disallowance related to Audited statement of account
(as had been referred to in Rule 9 report also)**

Sl. No.	Item of addition/disallowance	Para No. of the asst. order dt. 31.7.2017	Related to Audited statement of Account (Rs.)	Relief allowed by the Id. CIT(Appeals) vide order dated 15.01.2019		
				Para No.	Page No.	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

	Disallowance under section 43B	6.2	68,763	36 to 39	11 to 12	NI
(ii)	Disallowance under section 14A r.w. Rule 8	6.3	1,50,922	40 to 43	13 to 14	NIL
(iii)	Adhoc disallowance @ 20% of expenses debited to Profit and Loss Account	6.4	10,09,731	45 to 47	14 to 16	5,04,865
(iv)	Addition on the basis of AIR/26AS	6.5	36,859	48 to 53	16 to 17	NIL
(v)	Disallowance of interest on debit balance	6.6	26,34,177	54 to 57	17 to 21	NIL
(vi)	Addition on the basis of AIR (Credit Card)	6.7	16,03,741	58 to 62	21 to 22	NIL
(vii)	Investment in Prayag Medicare (Allahabad) P Ltd.	6.8	54,50,000	63 to 66	23 to 27	NIL
(viii)	Current liabilities (fresh)	6.9	4,50,000	67 to 71	27 to 28	NIL
	Total		1,14,04,193			5,04,865

- (7) in relation to the additions/disallowances made by the Assessing Officer as mentioned in table No. 'A' & 'B' above, no incriminating material and/or material which could be said to have remained unexplained was found during the search and nothing has been referred to, even by the Assessing Officer, and the "CIT(A)" has acted contrary to law, in sustaining such additions/disallowances;
- (8) the orders passed by the authorities below whereby additions/disallowances, as referred to in ground no.6 hereinafore, had been made/sustained, are wholly vitiated
- (a) as the same are based on non-consideration of material and information on record of the Assessing Officer as well as before the "CIT(A)" in huge volumes and other

submission and 'rejoinder' to Remand report, as made by the appellant; and

- (b) In any case, the same are based in violation of principles of natural justice
- (9) the order appealed against is contrary to the facts, law applicable thereto and principles of natural justice.

REVISED GROUNDS IN I.T.A. No.40/Alld/2019

REVISED GROUNDS OF APPEAL

1. That the assessment order dated 31.07.2017 passed under Section 143(3) of the Income Tax Act, 1961 ('the Act') by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') is illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That the assessment order dated 31.07.2017 passed under Section 143(3) of the Act and the additions/disallowances made therein are illegal, bad in law, without jurisdiction, and barred by time limitation.
3. That, the assessment order dated 31.07.2017 passed under Section 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
4. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
5. That in the absence of any incriminating material seized, the additions made are illegal, bad in law, without jurisdiction, and beyond the scope of the provision of the Act. Hence, the additions are liable to be deleted.
6. That the directions/order passed under Section 144A of the Act is illegal, bad in law, and without giving reasonable opportunity to the Appellant, and as such the assessment order passed and the additions made are illegal, and bad in law and liable to be quashed.
7. That the additions/disallowances made by the Assessing Officer are illegal and bad in law and the Commissioner of Income Tax (Appeals) – III,

Lucknow [*CIT(A)*] has erred in law and on facts in confirming the additions/disallowance vide order dated 15.01.2019 passed under Section 250 of the Act.

8. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 10,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
 9. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 68,763/- made by the Assessing Officer by disallowing the expenditure claimed by the Appellant on account of payment made toward municipal taxes.
 10. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,50,922/- made by the Assessing Officer under Section 14A of the Act.
 11. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 10,09,731/- made by the Assessing Officer by disallowing the 20% of the total expenditure of Rs. 50,48,657/- claimed by the Appellant as bogus and ungenune.
 12. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 36,859/- made by the Assessing Officer on account of the difference between the income as per Form 26AS and the profit and loss account.
 13. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 26,34,177/- made by the Assessing Officer on account of interest expenditure claimed by the Appellant to the extent of allegedly not charging the interest on loan given to the family members.
 14. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 16,03,741/- made by the Assessing Officer by allegedly treating payment made towards credit cards bills as undisclosed income of the Appellant.
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Lucknow ['CIT(A)'] has erred in law and on facts in confirming the additions/disallowance vide order dated 15.01.2019 passed under Section 250 of the Act.

8. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 10,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
 9. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 68,763/- made by the Assessing Officer by disallowing the expenditure claimed by the Appellant on account of payment made toward municipal taxes.
 10. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 1,50,922/- made by the Assessing Officer under Section 14A of the Act.
 11. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 10,09,731/- made by the Assessing Officer by disallowing the 20% of the total expenditure of Rs. 50,48,657/- claimed by the Appellant as bogus and ungenune.
 12. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 36,859/- made by the Assessing Officer on account of the difference between the income as per Form 26AS and the profit and loss account.
 13. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 26,34,177/- made by the Assessing Officer on account of interest expenditure claimed by the Appellant to the extent of allegedly not charging the interest on loan given to the family members.
 14. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 16,03,741/- made by the Assessing Officer by allegedly treating payment made towards credit cards bills as undisclosed income of the Appellant.
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I.T.A. No.13/Alld/2025 (Assessment year 2011-12)**GROUNDS OF APPEAL**

1. That the notice dated 18.07.2014 issued under Section 143(2) of the Income Tax Act, 1961 (the Act) and the assessment order dated 31.07.2017 passed under Section 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad (Assessing Officer) are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 31.07.2017 passed under Section 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 5,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition u/s 68 of the Act of Rs. 1,03,86,200/- made by the Assessing Officer for current liabilities / unsecured loan from various parties.
5. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
6. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
7. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the Appellant under Section 271AAA and 271(1)(b) of the Act.
8. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

I.T.A. No.14/Alld/2025 (Assessment year 2013-14)**GROUNDS OF APPEAL**

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 5,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
5. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance of Rs. 7,12,915/- made by the Assessing Officer u/s 40(a)(ia) for non-deduction of tax on source.
6. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition u/s 68 of the Act of Rs. 40,04,000/- made by the Assessing Officer for credit balances / unsecured loan from various parties.
7. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
8. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
9. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the Appellant under Section 271AAA and 271(1)(b) of the Act.

I.T.A. No.39/Alld/2025 (Assessment year 2011-12)

1. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact the assessee trust was not involved in charitable or religious purposes but was mainly involved in carrying profit for the benefit of trustees and their family members.
2. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the assessee trust which was registered u/s 12AA of the Income Tax Act, 1961 was found to be violating the conditions of registration.
3. Whether on facts and circumstances of the case, the CIT(A) failed to appreciate the fact that the activities of the assessee trust were not being carried out in accordance with its objectives and that the assessee admitted accepting unaccounted money and could not substantiate its contention that such unaccounted receipt had been applied by it for charitable purpose.
4. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the AO has never accepted the contention of the assessee during the remand report on the basis of fact thereof.
5. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the relevant issue is subjudice and is pending before the Hon'ble High Court, Allahabad through the Department's Appeal ITA No. 84/2022.
6. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the Hon'ble ITAT never given finding on the activities of the assessee trust but has given the finding that the registration cannot be cancelled retrospectively.
7. Any other ground that may be adduced at the time of hearing"

I.T.A. No.40/Lkw/2025 (Assessment year 2012-13)

1. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact the assessee trust was not involved in charitable or religious purposes but was mainly involved in carrying profit for the benefit of trustees and their family members.
2. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the assessee trust which was registered u/s 12AA of the Income Tax Act, 1961 was found to be violating the conditions of registration.
3. Whether on facts and circumstances of the case, the CIT(A) failed to appreciate the fact that the activities of the assessee trust were not being carried out in accordance with its objectives and that the assessee admitted accepting unaccounted money and could not substantiate its contention that such unaccounted receipt had been applied by it for charitable purpose.
4. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the AO has never accepted the contention of the assessee during the remand report on the basis of fact thereof.
5. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the relevant issue is subjudice and is pending before the Hon'ble High Court, Allahabad through the Department's Appeal ITA No. 84/2022.
6. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the Hon'ble ITAT never given finding on the activities of the assessee trust but has given the finding that the registration cannot be cancelled retrospectively.
7. Any other ground that may be adduced at the time of hearing"

I.T.A. No.41/Alld/2025 (Assessment year 2013-14)

1. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact the assessee trust was not involved in charitable or religious purposes but was mainly involved in carrying profit for the benefit of trustees and their family members.
2. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the assessee trust which was registered u/s 12AA of the Income Tax Act, 1961 was found to be violating the conditions of registration.
3. Whether on facts and circumstances of the case, the CIT(A) failed to appreciate the fact that the activities of the assessee trust were not being carried out in accordance with its objectives and that the assessee admitted accepting unaccounted money and could not substantiate its contention that such unaccounted receipt had been applied by it for charitable purpose.
4. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the AO has never accepted the contention of the assessee during the remand report on the basis of fact thereof.
5. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the relevant issue is subjudice and is pending before the Hon'ble High Court, Allahabad through the Department's Appeal-ITA No. 84/2022.
6. Whether on facts and circumstances of the case and in law, the CIT(A) has failed to appreciate the fact that the Hon'ble ITAT never given finding on the activities of the assessee trust but has given the finding that the registration cannot be cancelled retrospectively.
7. Any other ground that may be adduced at the time of hearing"

C.O. NO.02/Alld/2025 (in I.T.A. No.39/Alld/2025)

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 08.08.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 08.08.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the assessee within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 10,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
5. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions of Rs. 1,42,127/- made by the Assessing Officer based on seized documents A-30/Page 1-67 (Rs. 1,23,584/-) and A-33/1-6 (Rs. 18,543/-).
6. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
7. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the assessee under section 271(1)(c) of the Act.
8. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

C.O.No.03/Alld/2025 (in I.T.A. No.40/Allahabad/2025)

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 08.08.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 08.08.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the assessee within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 5,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
5. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions of Rs. 7,71,653/- made by the Assessing Officer based on seized documents A-10/Page 1-95.
6. That in view of the facts and circumstances of the case and in law, the CIT (A) has erred in upholding the addition of Rs. 19,95,060/- u/s 68 of the Income tax Act in respect of amount received from M/s Elina Mediservices.
7. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
8. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the assessee under section 271AAA and 271(1)(b) of the Act.

C.O.No.04/Alld/2025 (in I.T.A. No.41/Alld/2025)

1. That the notice dated 26.09.2014 issued under Section 143(2) of the Income Tax Act, 1961 ('the Act') and the assessment order dated 08.08.2017 passed under Section 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 08.08.2017 passed under Section 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 5,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
4. That in view of the facts and circumstances of the case and in law, the CIT (A) has erred in upholding the addition of Rs. 24,00,000/- u/s 68 of the Income tax Act in respect of amount received from M/s Jeevan Raksha Hospital.
5. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
6. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the assessee under section 271AAA and 271(1)(b) of the Act.

I.T.A. No.44/Alld/2025 (Assessment year 2013-14)

"(i) Whether on facts and circumstances of the case and in law, the Ld. CIT(A) has failed to consider the fact that the assessee during the remand, in their submission has stated that the expenses incurred are voluminous in nature and for verification purposes, if required, the copies of sample documents/bills/vouchers supporting the expenses can be produced. Various letters have been sent during remand proceedings but not a single bill/voucher has been produced as sample.

(ii) Whether on facts and circumstances of the case, and in law, the Ld. CIT(A) has failed to appreciate the fact that the addition was made on account of disallowance of interest, applying an Interest rate of 14%. This disallowance was justified as the assessee had diverted interest-bearing funds to provide interest-free loans and advances to its sister concerns and other related parties. Furthermore, the assessee has failed to demonstrate the business necessity or expediency for such transactions.

(iii) Whether on facts and circumstances of the case and in law, the Ld. CIT(A) has failed to consider the fact that, during the assessment proceeding, notice u/s 133(6) of the Act has been issued to sundry creditor in the case of M/s Raman Equipment which received undelivered. Hence, explanation of the assessee is unverifiable and not acceptable.

(iv) Whether on facts and circumstances of the case and in law, the Ld. CIT(A) has failed to consider the fact that, during the remand proceeding, it is seen that the assessee furnished only ledger copies of the said parties for F.Y. 2012-13 & 2013-14 but no supporting bank statement or document are filed, hence not verified.

C.O.No.05/Alld/2025 (in I.T.A. No.44/Alld/2025)

1. That the assessment order dated 31.07.2017 passed under Section 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 31.07.2017 passed under Section 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 6,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
4. That in view of the facts and circumstances of the case and in law, the CIT (A) has erred in upholding the addition of Rs. 6,50,000/- u/s 68 of the Income tax Act in respect of amount received from M/s Auwal Builders Private Limited and M/s Maehir Build Home Private Limited.
5. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
6. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the assessee under section 271AAA and 271(1)(b) of the Act.

I.T.A. No.54/Alld/2025 (Assessment year 2009-10)

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 5,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
5. That in view of the facts and circumstance of the case and in law, the CIT (A) erred in confirming the addition of Rs. 21,39,790/- as unexplained investment in land.
6. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition u/s 68 of the Act of Rs. 1,00,000/- made by the Assessing Officer for share capital received by it at the time of incorporation of company.
7. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
8. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.

9. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty proceedings against the Appellant under Section 271(1)(c) and 271(1)(b) of the Act.
10. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

I.T.A. No.55/Alld/2025 (Assessment year 2012-13)

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 4,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
5. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition u/s 68 of the Act of Rs. 18,12,000/- made by the Assessing Officer for credit balances / unsecured loan from M/s Elina Mediservices.
6. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
7. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
8. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty

proceedings against the Appellant under Section 271AAA and 271(1)(b) of the Act.

9. The Appellant craves leave to add to, alter, amend, and/or withdraw any ground or grounds of appeal either before or during the course of hearing the appeal.

I.T.A. No.56/Allahabad/2025 (Assessment year 2012-13)

1. That the notice dated 03.04.2013 issued under Section 153A of the Income Tax Act, 1961 ('the Act') and the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assistant Commissioner of Income Tax, Central Circle, Allahabad ('Assessing Officer') are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
2. That, the assessment order dated 31.07.2017 passed under Section 153A r.w.s. 143(3) of the Act by the Assessing Officer is illegal & bad in law as the same is passed without valid statutory approval in terms of Section 153D of the Act as the same was granted mechanically and without any application of mind.
3. That the additions made while passing the assessment order are illegal, bad in law, and without jurisdiction as no notice under Section 143(2) of the Act was served upon the Appellant within the statutory time period prescribed under the Act. Hence, the additions made are liable to be deleted and the assessment order passed is liable to be quashed.
4. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the additions/disallowance Rs. 2,00,000/- made by the Assessing Officer on account of the disclosure made in the application filed before the settlement commission.
5. That in view of the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition u/s 68 of the Act of Rs. 3,17,62,690/- made by the Assessing Officer for credit balances / unsecured loan from M/s Elina Mediservices.
6. That the documents, explanations filed by the Appellant, and the material available on record have not been properly considered and judicially interpreted and have been wrongly ignored.
7. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in charging the interest under Sections 234A, 234B, & 234C of the Act.
8. That in view of the facts and circumstances of the case, the Assessing Officer has erred in law and on facts in initiating the penalty

(B) In the case of aforesaid appeals/Cross Objections, pertaining to Arpit Hospital Pvt. Ltd., Jeevan Jyoti Charitable Trust, Navjeevan Pediatrics Pvt. Ltd., Minto Developers Pvt. Ltd. and Jeevan Jyoti Infrastructure Company Private Limited, this is the second round of appeal in Income Tax Appellate Tribunal. In first round of appeal, a consolidated order dated 21/12/2018 was passed by Coordinate Bench of the Income Tax Appellate Tribunal, Allahabad Bench, Allahabad for the aforesaid along with other cases of Jeevan Jyoti Group. In the aforesaid order dated 21/12/2018 of the Tribunal, all the appeals of all the assesseees were remitted back to the learned CIT(A), to be decided afresh in accordance with law, on affording due and adequate opportunity of hearing to the assesseees and on taking into consideration all the materials filed or to be filed by the assesseees. It was further held in the aforesaid order dated 21/12/2018 that all pleas available under the law shall remain so available to the assesseees. The appeals of the assesseees in Income Tax Appellate Tribunal were remitted back to the learned CIT(A) vide the aforesaid order dated 21/12/2018 on the ground that a few issues were not decided by the learned CIT(A). For the ease of reference, the relevant part of the aforesaid order dated 21/12/2018 of the Income Tax Appellate Tribunal, is reproduced as under:

"4. Apropos grounds No.1 and 2, the assessee contended before the Id. CIT(A) that for the purpose of time limit for framing of assessment order in its case, section 153B of the Income Tax Act, 1961 is the governing provision. The assessee filed written submissions before the Id. CIT(A). These written submissions have been reproduced by the Id. CIT(A) in para 13, at pages 7 to 9 of the impugned order, as follows:-

"4. Coming to the ground relating to assessment being barred by limitation, the appellant begs to state that the assessment orders doted 31.07.2017 which are subject matter of appeals before your honour, are barred by limitation. The said objection had been raised before the Assessing Officer and to take

the same to a logical conclusion the appellant had filed a petition under section 144A also before the Jt. CIT, Central, Varanasi. The Id. Assessing Officer has discussed the issue in paras 4, 4.2 and 4.3 of the assessment order.

5. Crux of the said discussion of the Assessing Officer is that after the case was abated under section 245HA(1)(iiia) of the Act vide order dated 17.08.2016 (it is wrong at the part of the Assessing Officer to say that the application of the assessee was rejected by the Hon'ble Settlement Commission, in opening line of para 4), copy appearing in the paper book nomenclatured as 'papers filed before Hon'ble Settlement Commission', that is being submitted before your honour; the time limit for completion of assessment will have to be reckoned as per section 153 of the Act.

6. As against this the appellant's contention is that time limit for completion of assessment would be governed by the provisions contained in sub-section (2) of section 274HA with section 153B which starts with non-obstante phrase "(i) Notwithstanding anything contained in section 153...." To elaborate this issue, it is submitted that by virtue of abatement under clause (iiia) of sub-section (1) of 'section 245HA the appellant got relegated to the stage at which it was at the time of filing the application for settlement of case on 11.02.2015 as per specific provision contained in sub-section (2). On the date of filing the application 48 days were available to the Assessing Officer for completion of assessment (31st March 2015 being the date of time barring). Therefore, as per sub-section (2) only 48 days were available to the Assessing Officer to complete the assessment under section 153A, after abatement. Such period of 48 days had expired on 04.10.2016. It means that latest by 04.10.2016, the assessment should have been completed (after abatement). It is a matter of record that even proceedings for assessment (after abatement) had not been initiated by that date and first notice under section 142(1) was served on the appellant was 19.12.2016. Therefore, the assessment orders dated 31.07.2017 are barred by limitation.

7. The authorities below differed on this issue by relying on the following proviso below section 153:-

Provided further that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period or limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149.1530, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or section 244 or, as the case may be, section 244A, this-proviso shall also apply accordingly.

8. It is submitted with great respect that the non-obstante clause as appearing in section 153B as referred to above shall prevail over section 153 and "time limit of one year would not become available to the Assessing Officer for completion of assessment after abatement under clause (iia) of section 245HA. Further, in support of appellant's contention the appellant begs to refer and rely upon legal opinion (as has been submitted before the authorities below also) copy Of which appears in the paper book which are being filed separately alongwith this written submission, description of which is appearing at the end of this submission.

9. In short, the appellant's submission is that fallacy in rejection is evident by the fact that the same was based on the provision contained in section 153 of the Act and it bus been very conveniently ignored (by the Assessing Officer as well as by your Ld. joint CIT, Central Varanasi)that sections 153A. 153B, 153C and 153D represented 'complete code' to deal with search related assessments and, therefore, limitation for completion of assessment as has been specifically provided in section 153B read with section 245HA(2), was liable to be strictly adhered to. it is evident from a plain reading of section 153B itself, which starts with non-obstante phrase reading as "(i) notwithstanding anything contained in section 153". Thus, there was no ambiguity in the Act for computing time limit for completion of assessment and the only provision contained in section 153B was required to be looked into and nothing beyond this."

5. The Id. CIT(A) has held as follows:-

"16. In this ground die appellant has contended that once the case got abated in terms of order under section 245HA dated 17/08/2016, passed by Hon'ble ITSC, New Delhi, assessment under section 153A

was liable to be completed within the period of 48 days which has expired on 04/10/2016, hence the assessment order dated 31/07/2017 u/s 153A was barred by limitation.

17. On examination, I find that the appellant alongwith 12 Group cases of "jeevan Jyoti Group" has filed an application before the ITSC, New Delhi in Feb. 2015. After considering the submission of the appellant and the reports of the department, Hon'ble ITSC, New Delhi has passed order u/s 245D(4) of the Act, dated 17/08/2016. In the said order, Hon'ble ITSC has given finding in Para 30, as under-

"It is clear in this background that the mandate cast upon the commission u/s 245HA (1)(iii.) for providing terms of settlement, cannot be discharged. We accordingly allow proceedings pending before us to abate. The matters stand restored to the file of the AO."

18. On bare reading the provisions of section 153 of the Act, relating to limitation of assessment in cases abated before Settlement Commission, it is clearly evident that The period available to me AO for making assessment, reassessment or re-computation shall be one year from the date of receipt of order passed by the Settlement Commission. The proviso to Explanation 1 of section 153 of the Act is reproduced as under:-

"Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, shall, after the exclusion of the period under sub-section-(4) of section-245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and or the purpose of determining the period of limitation under section-149, 153B, 154, 155 and 158BE and for the purposes of payment of interest under section-144A, this proviso shall also apply accordingly."

"19. In view of proviso to Explanation 1 of section 153 of the Act, the period of limitation for assessment, reassessment or re-computation

in cases abated before the Commission shall not be less than one year after excluding period under sub-section (4) of section 245HA of the Act, i.e. the period, commencing on and from the date of the application to the Settlement Commission u/s 245C and ending on the specified date referred in sub-section (1). The instant case falls within the ambit of section 245HA(1)(iiiia) of the Act. Hence, specified date shall be the date on which the order under sub-section (4) of section 245D was passed for not providing for the terms of the settlement.

20. Therefore on examining the provisions as hereinabove, relating to the limitation of assessment in cases abated before Settlement Commission, it is clearly evident that the period available to the AO for making assessment, reassessment or re-computation shall be one year from the date of receipt of order of passed by the Settlement Commission. Since the order u/s 245D(4) was passed by the Settlement Commission on 17/08/2016 therefore the case shall not be barred by limitation before 16/08/2017, i.e. one year from the date of order of the Settlement Commission not providing for the settlement.

21. In view of the above, Appellant's contention that the assessment made by the AO u/s 153A of the Act on 31/07/2017 was barred by limitation is found to be totally unjustified, Hence Ground no. 3 raised by the appellant are hereby rejected."

6. The assessee's grievance is that its contention of applicability of section 153B of the Act as the only provision governing limitation for framing of assessment order, has not been considered, much less decided by the Id. CIT(A).

7. The Department, on the other hand, contends as follows:-

(i) As per second proviso of section 153(4) the Assessing Officer has passed the order as per the time and this proviso was inserted from 01.06.2007. The order has been passed by the commission u/s 245D(4) after considering the application of the applicant and it is very speaking order. The applicant has submitted that the settlement application was filed much earlier therefore settlement commission cannot apply the section 245H(A)(iiiia) and the time limit for the exclusion clause will not be applicable in this case. The issue has been argued in length

wherein it has been shown to the Bench that the exclusion clause is available from 01.06.2007 although section 245(h)(iiia) came in the statute from 01.06.2015.

(ii) The argument of the appellant is that the notwithstanding clause of section 153(B) debar the assessing officer to take the shelter of the second proviso of 153(4) and the order has been time barred. Section 153 is explaining of the exclusion clause and if the notwithstanding as argued by the appellant may be accepted then whole section 153 may become redundant.

(iii) The appellant has tried to submit before the Bench to persuade that section 148 and 153 are perimaterial'. But the fact of the matter is that the language of the 148 and 153A are not the same and even the purposes of both the sections are different to assess the income of assessee. The appellant has read the case law of Rajiv Sharma of Allahabad High Court 336 ITR 678 and relied on para 19 of the order where it has been held that While computing escaped assessment, return filed in response to notice under section 148, shall be deemed to be furnished under section 139 of the Act. Meaning thereby, procedure of section 139 of the Act shall be followed while dealing with the case of escaped assessment under section 148 of the Act. This para itself speaking about escaped income and written filed in response to notice u/s 148 shall be deemed to furnish u/s 139 of the Act and section 139 of the act shall be followed while dealing with the case u/s 148. 153A has nothing to do with escaped income described in section 147. The purpose of both the sections are altogether are different and this case pertains to A.Yrs. 1994, 1995 and 1996 when the concept of 153A was not in the statute. The section 153A starts with "Notwithstanding anything contained in section 139, 147, 148..... it means 153A has a separate jurisdiction and separate concept to assessment in the case of search action."

8. Section 153 concerns time limit for completion of assessment and re-assessment under sections 143 and 144 of the Act. Section 153A of the Act deals with the assessment in case of search or requisition. Section 153B of the Act relates to time limit for completion of assessment under section 153A of the Act. The assessment order in the present case is dated 31/7/2017. It has been passed under section 153A read with 143(3) of the Act. The Assessing Officer has applied the provisions of section 153 to compute the limitation for passing of the assessment order. The assessee's

plea that it is the provisions of section 153B of the Act and not those of 153 thereof, has, evidently, not been taken into consideration, or decided. Therefore, indeed, the grievance of the assessee that its such contention has not been dealt with by the Id. CIT(A), is correct. The impugned order in this regard is, therefore, non-speaking and has caused prejudice to the assessee. Accordingly, this matter is remitted to the file of the Id. CIT(A), to be decided afresh in accordance with law, on affording due and adequate opportunity of hearing to the assessee and on considering the material filed/to be filed by the assessee before the Id. CIT(A). The assessee, no doubt, shall co-operate in the fresh proceedings before the Id. CIT(A).

9. As per ground No.3, the assessment order is void ab-initio, since no mandatory approval of the JCIT, within the meaning of section 153B of the Act, was obtained. In this regard, the Department contends that "The appellant without any material having in its possession submitted before the Bench that the Joint CIT/Addl.CIT has not applied its mind while according approval u/s 153(B). This issue was raised first time before the tribunal therefore at outset it is being submitted here that it need not to be entertained and Hon'ble Bench may consider to reject it. The assessment order is very speaking and approval of the Joint CIT is with full application of mind."

10. The Assessing Officer, in the last para of the assessment order, states as follows:-

"This order is passed with the prior approval of the Joint Commissioner of Income Tax, Central Range, Varanasi. (Vide F.No.JtCIT/CR/VNS/Approval u/s 153D/JJGroup/2017-18/304 dated 31.07.2017."

11. Since the issue concerning ground Nos.1 and 2 has been remitted to the file of the Id. CIT(A) as above, this matter is also remitted to the file of the Id. CIT(A), to be decided in accordance with law, on ascertaining the facts with regard to the approval under section 153D of the Act."

On perusal of the aforesaid order dated 21/12/2018 of the ITAT, it is obvious that therein, the assessee had raised the issue in appeals that the assessment orders were barred by limitation. Further, the assessee had also taken the ground that the assessments were void ab initio as the assessments had been passed without valid approval of Jt. Commissioner of Income Tax ("JCIT" for short) within the meaning of section 153D of the Act.

(B.1) The learned CIT(A) passed consequential orders in pursuance of the aforesaid order dated 21/12/2018 of the ITAT in the case of Arpit Hospital Pvt. Ltd., Jeevan Jyoti Charitable Trust, Navjeevan Pediatrics Pvt. Ltd., Minto Developers Pvt. Ltd. and Jeevan Jyoti Infrastructure Company Private Limited. In the consequential appellate order, the learned CIT(A) took the view that the assessments were not barred by limitation. She further took a view, agreeing with her predecessor, that the JCIT had given prior approval to the assessment order after due application of mind and examining facts of the case and records. The predecessor CIT(A) had observed, holding that the assessee's contention to the effect that approval was done in mechanical manner, was totally unjustified: *"I find that the JCIT has given prior approval to the order passed u/s 153A read with section 143(3) of the Act by the Assessing Officer after due application of mind and examining the facts of the case and records. Therefore, appellant's contention that the approval was done in a mechanical manner is found to be totally unjustified and is hereby rejected"* (Quoted). Aggrieved, Arpit Hospital Pvt. Ltd. (for assessment year 2012-13 and 2013-14), Minto Developers Pvt. Ltd. (for assessment year 2009-10 and 2012-13) and Jeevan Jyoti Infrastructure Company Private Limited (for assessment year 2012-13) are in appeal against the consequential appellate order of learned CIT(A). Revenue is in appeal in the case of Jeevan Jyoti Charitable Trust (for assessment year

2011-12 to 2013-14) and Navjeevan Pediatrics Pvt. Ltd. (for assessment year 2013-14) against the consequential appellate orders of the learned CIT(A) in respect of relief granted by the learned CIT(A).

(C) There was search & seizure operation u/s 132 of the Act conducted in Jeevan Jyoti Group of cases on 29/05/2012. During the subsequent assessment proceedings, the assessee filed applications u/s 245C of the Act in Income Tax Settlement Commission ("ITSC" for short). The applications of the assessee were admitted vide orders dated 01/05/2015 passed u/s 245D of the Act. Reports of the Pr.CIT, Kanpur under Rule 9 of Income Tax Settlement Commission (Procedure) Rules, 1997 ["ITSC(P) Rules" for short] were obtained by ITSC. The response of the assessee under Rule 9A of ITSC(P) Rules were also obtained by ITSC. Later, ITSC passed orders dated 17/08/2016 u/s 245HA(iii) of the Act, allowing proceedings before the ITSC to abate. The ITSC restored the matters to the file of the Assessing Officer. Therefore, the Assessing Officer passed assessment orders, the validity of which are under challenge in the appeals/Cross Objections filed by the respective assessee in the present set of appeals.

(D) During appellate proceedings in Income Tax Appellate Tribunal, the learned D.R. for Revenue adduced additional evidence in the paper books filed by them, such as an affidavit of the Assessing Officer and also personal testimony of Mr. Agrahari, Inspector working in Income Tax Department, who was produced in person before us. The learned Counsel for the assessee expressed no objection to admission of the same. In view of the foregoing, the additional evidences adduced by Revenue are admitted.

(D.1) In the common paper book (Volume-I); the learned Departmental Representatives objected to the admission of additional grounds filed by the assessee. Although, no serious objection was expressed by them against

admission of additional grounds, at the time of oral hearing before us; we deem it fit to decide the admissibility of additional grounds. The assesseees relied on the Supreme Court order in the case of National Thermal Power Company Limited vs. CIT [1998] 229 ITR 383 (SC) and Jute Corporation of India Ltd. Vs. CIT [1991] 187 ITR 688. Further as discussed earlier, while passing the aforesaid order dated 21/12/2018, Coordinate Bench of the ITAT, Allahabad had already decided grounds pertaining to whether the assessment was barred by limitation and whether the approvals given by the JCIT u/s 153D of the Act were valid. These issues permeate through all the cases in the appeals before us. On identical facts, the learned CIT(A) has already passed two rounds of orders in impugned group cases [as discussed in foregoing paragraphs (B) and (B.1) of this order] wherein the issue regarding validity of approval u/s 153D of the I.T. Act has been decided. No fresh investigation of facts is required as the issues have been examined by learned CIT(A) in the appellate proceedings in the group cases in earlier rounds of appellate orders passed by the learned CIT(A). Further, perusal of grounds of Cross Objections filed by the assessee, show that specific ground has been taken with regard to approval of the JCIT u/s 153D of the Act. Furthermore, in the aforesaid consolidated order dated 21/12/2018 of Coordinate Bench of the Tribunal, it is seen that the assesseees had raised the issue regarding the approval u/s 153D of the Act, which were also adjudicated in the aforesaid order dated 21/12/2018 and the matter was set aside to the file of the If CIT(A). Moreover, on perusal of the original and the consequential orders passed by the learned CIT(A), as referred to in foregoing paragraphs No. (B) and (B.1) of this order, it is found that the issue regarding approval of JCIT u/s 153D of the Act was specifically adjudicated in both the orders by the learned CIT(A). In view of the foregoing, the grounds taken in the present appeals/ Cross Objections of the assesseees are not strictly in the nature of "additional grounds", as

alleged by the learned D.R. The issue regarding the approval given by learned JCIT u/s 153D of the Act, thus specifically arises from the orders passed by the learned CIT(A). Moreover, Rule 11 of Income Tax (Appellate Tribunal) Rules, 1963 ("ITAT Rules" for short) authorizes the ITAT to admit additional grounds of appeal.

(D.2) Moreover, it is well settled in numerous precedents that the Tribunal can admit additional grounds of appeal. Some such decision are as under:

1-	National Thermal Power Co. Limited, Vs. Commissioner	Held, that the Tribunal had jurisdiction to examine a question of law which arose
2-	of Income Tax Reported in 229 ITR 383 (In the Supreme Court of India) Orissa Cement Limited Vs. Commissioner of Income Tax reported in 250 I.T.R. 856 (In the Delhi High Court).	from the facts and found by the Income Tax Authorities and having a bearing on the tax liability of the Assessee. Held, that the Tribunal had the discretion to allow or not to allow a new ground to be raised but where the Tribunal is only required to consider a question of law arising from the facts which are on record in the assessment proceedings, there was no reason as to why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the Tax Liability of an assessee. The Tribunal had jurisdiction to consider the new grounds raised by the Assessee on the merits. Tribunal to consider new grounds on the merits. National Thermal Power Co. Ltd. Vs. Commissioner of Income Tax (1998) 229 ITR 383 (SC) followed- C.I.T. (Additional) Vs. Gurjargravures Pvt. Limited (1978) 111 I.T.R. 1 (SC) and Jute Corporation of India Limited Vs. Commissioner of Income Tax (1991), 187 I.T.R. 688 (SC) referred to.
3-	Wilson Industries Vs. Commissioner of Income Tax reported in 259 I.T.R. 318 (In the Madras High Court)	Held (1) That it is open to the appellate Forum to consider a fresh ground if sought to be raised by the Parties, if no new facts are required to be ascertained. It was, therefore, open to the Tribunal to permit the Revenue to raise the Ground before the Tribunal. National Thermal Power Co. Ltd. Vs. Commissioner of Income Tax (1998) 229 I.T.R. 383 (S.C.).
4-	Shri Vimal Kishore Kapoor, Kanpur Vs. The I.T.O., Salary Ward -3(1) Kanpur in the Income Tax Appellate Tribunal Lucknow Bench Lucknow vide I.T.A. No.	We have considered the rival submissions and perused the Appeal record carefully. The Ground involved is purely a legal ground and in view of the decision of the Apex Court in the case of N.T.P.C. Vs. Commissioner of Income Tax.

	658/Allahabad/1996 and I.T.A. No. 730/Allahabad/1996.	The Ground which is purely a legal one in nature to be allowed to be raised. Accordingly, we allow the ground to be raised and argue. Fix 13.10.2003 for argument of the Appeal on Merit.
5-	V. K. Brahmanekar Vs. Joint Commissioner of Income Tax, I.T.A.T. Indore Bench reported in 90 TTJ 821.	Income Tax (Appellate Tribunal Rules 1963, r.11; in favour of : Assessee Appeal (Tribunal) - Additional Grounds admissibility - additional grounds bearing on the matter under consideration for which no fresh material outside the record is required or which are purely legal in nature, are allowable- Ahmedabad Electricity Co. Limited Vs. Commissioner of Income Tax (1992) 106 C.T.R. (Bom)(FB) 78; (1993) 199 I.T.R. 351 (Bom) (FB), N.T.P.C. Limited Vs. Commissioner of Income Tax (1999) 157 C.T.R. (SC) 249 : (1998) 229 I.T.R. 383 (SC), C.I.T. Vs. Rayala Corporation (P) Limited (1995) 215 I.T.R. 883(Madras) and C.I.T. Vs. Bhopal Sugar Industries (1997), 143 C.T.R. (M.P.) 240; (1998) 233 I.T.R. 429 (M.P.) relied on.

(D.2.1) In view of the foregoing, the grounds of the assessee, taken in appeals/Cross Objections regarding validity of approval granted u/s 153D of the I.T. Act, are being admitted.

(E) In the course of appellate proceedings in Income Tax Appellate Tribunal, written submissions/paper books were filed by Revenue and by the assessee as per following details:

COMMON PAPER BOOK – PART-I

	<u>CASE LAWS</u> relied on
I	for the proposition that only such additional ground can be entertained by the Tribunal which arises from the facts already found by the authorities below and which have a bearing on the tax liability of the assessee
1.	[1998] 229 ITR 383 (SC), <i>National Thermal Power Co. Ltd. v. CIT</i> Wherein the additional ground raised by the assessee related to its claim of exemption of interests amounting to Rs. 22,84,994/- earned on its short term deposits with banks prior to setting up of business, which was claimed to be non

	taxable income in view of certain judicial rulings. In the facts of the case, the said claim was raised by way of additional ground for the first time before the ITAT but the relevant facts were already found by the authorities below and the said issue had a material bearing on the computation of tax liability of the assessee.
2.	[1991] 1991 taxmann.com 30 (SC), <i>Jute of Corporation of India Ltd. v. CIT</i> Wherein the additional ground raised by the assessee related to its claim of deduction for purchase tax liability which was assessed under the relevant act after completion of assessment under the Income Tax Act, which claim was raised by way of additional ground for the first time before the Appellate Assistant Commissioner, which was allowed by him on the basis of the facts available before him, which had a material bearing on the computation of tax liability of the assessee.
II.	for the proposition that the jurisdiction of the tribunal is limited to the “subject matter of appeal” before it
3.	[1969] 74 ITR 254 (GUJ.) <i>CIT v. Karamchand Premchand (P.) Ltd.</i> Held: “...Whatever grounds of appeal could be taken by the appellant in the memorandum of appeal, he can urge them with leave of the Tribunal if he has omitted to take them in the memorandum of appeal. But if he was not entitled to take a ground of appeal even in the original memorandum of appeal, he cannot avail of this rule (Rule 11 of the ITAT Rules, 1963) and improve his position by obtaining leave of the Tribunal....we must hold that the Tribunal was not entitled to allow the assessee to agitate this question under the guise of granting leave under this rule.”
4.	[1977] 107 ITR 683 (GUJ.), <i>CIT v. Steel Cast Corpn.</i> Held: “...In our opinion, the legal position has to be considered ultimately in the light of the decisions in <i>Hukumchand Mills Ltd.'s case</i> [1967] 63 ITR 232 (SC) and <i>Mahalakshmi Textile Mills Ltd.'s case</i> [1967] 66 ITR 710 (SC). First, it must be found out what is the subject-matter of the appeal and that can be determined only by finding out what the Appellate Assistant Commissioner expressly or impliedly decided....The subject-matter of the appeal before the Tribunal can only be the decision express or implied of the Appellate Assistant Commissioner and the jurisdiction of the Tribunal is restricted to the subject-matter of the appeal. Once the subject-matter of the appeal is determined, the Tribunal has very wide powers to deal with all questions of fact and law pertaining to that subject-matter of appeal and it can allow a new question of law to be raised in support of the same claim for relief. On the facts found, if a new aspect of law can be applied, it can allow it to be urged even though that aspect of the law was not urged either before the Income-tax Officer or the Appellate Assistant Commissioner....These are the restrictions and limitations within which the Appellate Tribunal can function and can exercise its jurisdiction but it must be emphasised that the jurisdiction of the Tribunal which is restricted to the subject-matter of the appeal must not be confused with the powers of the Tribunal to deal with an appeal within the four corners of its

	jurisdiction. The Tribunal cannot transgress the limits of that jurisdiction even though, in the exercise of that jurisdiction, its powers are plenary and very wide."
5.	[1980] 126 ITR 251 (MP), Hukumchand & Mannalal Co. v. CIT Wherein the above decision in the case of Steel Cast Corpn. has been quoted and follows.
6.	[1983] 141 ITR 326 (Bombay), Ugar Sugar Works Ltd. v. CIT Held: " (para-42)... the jurisdiction of the Tribunal in the matter of appeal is expressly restricted, by reason of section 254, to the subject-matter of the appeal. In this case, the assessee not having appealed to the AAC against the finding of the ITO disallowing development rebate to the assessee on the price of electric motors, had accepted the same and the AAC had, therefore, no occasion to deal with the same. The assessee, therefore, cannot be considered to be aggrieved by any decision, of the AAC on the said finding of the ITO so as to entitle it to file an appeal to the Tribunal under section 253. with the result that the said finding of the ITO could never be the subject-matter of appeal before the Tribunal, whether it was taken in the grounds of appeal initially or allowed to be raised subsequently with the leave of the Tribunal in that case the Tribunal had no jurisdiction to deal with or pass orders in respect of the said finding of the ITO."
7.	[2008] 298 ITR 22 (MP), CIT v. Tollaram Hassomal Held: " (para-7) In our considered view...the Tribunal having permitted the assessee to raise four additional grounds treating them to be legal grounds in appeal for the first time, should have set aside the order of CIT (Appeals) and remanded the case to the CIT (Appeals) for deciding the appeal by CIT (Appeals) afresh on all the issues including on those four grounds raised by the assessee in the appeal before the Tribunal rather than to decide the same merits for the first time by themselves and set aside the order of CIT (Appeals) as also the assessment order... We thus cannot subscribe to the approach and the manner in which the Tribunal allowed the assessee to raise additional grounds in appeal for the first time and then deciding the appeal on those grounds by not only setting aside of the order of CIT (Appeals) but even proceeding to annul the order of Assessing Officer also. Such approach is neither legal, nor proper. It only exhibits the anxiety of the Tribunal to decide the appeal on merits even on those points which did not arise for decision out of the order of CIT (Appeals).... There would have been no prejudice caused to either party if the case had been remanded to CIT (Appeals) and once the prayer to raise additional grounds was allowed by the Tribunal in favour of assessee...(para-8) CIT (Appeals) is now directed to decide the appeal filed by the respondent (assessee) afresh on merits including on the four additional grounds raised by the assessee. We, however, make it very clear that CIT (Appeals) would not take into consideration any of the findings and observations made by the Tribunal on any of the issues raised by the assessee, nor CIT (Appeals) will be influenced by any of them....the CIT (Appeals) will decide the appeal strictly in accordance with law on merits as if there is no finding on any of the issues ever recorded by the Tribunal"

III.	for the proposition that additional ground, which was not taken before the CIT(A), can not be taken for the first time in the ITAT
8.	[1978] 111 ITR 1 (SC), Addl. CIT v. Gurjargravures (P.) Ltd.
9.	<p>[2013] 143 ITD 282 (Agra - Trib.), Farrukhabad Investment India Ltd. v. ACIT</p> <p>Held: "(para-4)In the additional ground of appeal so raised, the assessee has not shown any grievance against the order of the Id. CIT(A). No reasons have been explained why the above additional ground showing grievance against the order of the AO was not raised before the Id. CIT(A). It is, therefore, clear that the above additional ground is not arising out of the impugned order passed by the Id. CIT(A).... It is well settled law that <u>all interim applications shall have to be decided before passing of the final order.</u>"</p>
IV	for the proposition that the additional documents/additional evidences can not be adduced as a matter of right, which was not before the CIT(A)
10.	<p>[2007] 288 ITR 278 (Alld.), Bimal Kumar Anant Kumar v. CIT/para-18</p> <p>Where admission of stock register tried to be produced before the ITAT for the 1st time was declined by the ITAT</p>
11.	<p>[2009] 30 SOT 534 (Cochin), Arun Sunny v. DCIT/para-31</p> <p>Where admission of valuer's report tried to be produced before the ITAT for the 1st time was declined by the ITAT</p>
V	for the proposition that reasons for admission of additional ground are required to be recorded
12.	<p>[2012] 347 ITR 331 (Allahabad), CIT v. Sahara India</p> <p>Held: "(para-19)the Tribunal having permitted the assessee to raise additional grounds treating it to be a legal ground in appeal for the first time, should have set aside the order of the Commissioner of Income-tax (Appeals) and remanded the case to him for deciding the appeal afresh, rather than to decide the same on the merits for the first time by itself. Had the case been remanded by the Tribunal, the Commissioner of Income-tax (Appeals) would have been in a position to examine the issue for the first time in relation to the additional ground, which he did not decide for want of any attack initially in the first round. It cannot be disputed that the Commissioner of Income-tax (Appeals) had jurisdiction to examine the said additional ground, had it been raised before him in appeal even in the first round. Thus, we cannot subscribe to the approach and the manner in which the Tribunal allowed the assessee to raise the additional ground in appeal for the first time and then deciding the appeal on this ground by not only setting aside the order of the Commissioner of Income-tax (Appeals) but even proceeding to set aside the order of the Assessing Officer. Such approach is neither legal nor proper. It</p>

	<p><u>only exhibits the anxiety of the Tribunal to decide the appeal on the merits even on the point which did not arise for decision out of the order of the Commissioner of Income-tax (Appeals).</u> In other words, instead of concentrating on the issues already decided by the Commissioner of Income-tax (Appeals), the Tribunal only concentrated on the additional ground, which had not been taken before the Commissioner of Income-tax (Appeals) and then answered it in favour of the assessee by completely setting aside the whole assessment. It is also relevant to point out that the Income-tax Appellate Tribunal while entertaining the additional ground has not given the reason for admitting the same and overlooked this vital fact that the said ground was not arising out of the order of the Commissioner of Income-tax (Appeals)...(para-21)... we set aside the impugned order passed by the Tribunal and remand the matter back to the Commissioner of Income-tax (Appeals) for fresh adjudication as per law and, as such, the answer to the substantial question of law is not required.</p>
VI	<p>for the proposition that the <u>prior approval</u> required u/s 158BG applicable upto 31.05.2003 (analogous to section 153D, applicable w.e.f. 01.06.2003) is “an administrative act”</p>
13.	<p>[2003] 263 ITR 550 (SC), ACIT v. Velliappa Textiles Ltd.</p> <p>Wherein, in the context of <u>sanction</u> required for prosecution u/s 276C, it is held that “(para-8) The grant of <u>sanction</u> is purely an administrative act and affording of opportunity of hearing to the accused is not contemplated at that stage....”</p>
14.	<p>[2002] 255 ITR 144 (Madras), Sakthivel Bankers v. ACIT</p> <p>wherein (para-6) held that- section 158BG (corresponding to section 153D w.e.f. 01.06.2003) only required the AO to secure the approval of the CIT/JCIT before making the order of the assessment and where such approval was obtained, there was no defect of such gravity as to render the assessment order void ab initio</p>
15.	<p>[2004] 267 ITR 577 (Karnataka), Rishabchand Bhansali v. DCIT</p> <p>Held:- (para 4.2) the order passed by the Joint Commissioner granting previous approval under the proviso to section 158BG is in exercise of <u>administrative power</u> on being satisfied that the order of assessment has been made in accordance with the provisions of Chapter XIV-B. The previous approval is purely an internal matter and it does not decide upon any rights of the assessee. The Joint Commissioner, while examining the matter under the proviso to section 158BG does not examine or adjudicate upon the rights or obligations of the assessee, but only considers whether the Assessing Officer has fulfilled the requirements of Chapter XIV-B.</p>
16.	<p>[2000] 243 ITR 425 (AP), Sree Rama Medical & Surgical Agencies v. CIT</p> <p>Held that: approval under section 158BG is essentially in nature of administrative function....it may be in the nature of additional safeguard as far as the assessee is concerned.</p>

17.	<p>[2001] 252 ITR 712 (Madras), Lakshmi Jewellery v. DCIT</p> <p>Held: (para-4) The Act of submitting the draft assessment order to the Commissioner is a purely internal matterThe proviso to section 158BG only requires that the assessment order be passed after securing the previous approval of the Commissioner. The Tribunal was quite right in the view it took with regard to section 158BG.</p>
VI	<p>for the proposition that an identical provision u/s 274(2) requiring prior approval of the Joint/Addl.CIT for levy of penalty by the AO is held to be only a procedural requirement, which does not go to the root of jurisdiction of the AO to levy penalty</p>
18.	<p>[1996] 219 ITR 257 (Allahabad), Sardar Harinder Singh v. Income-tax Appellate Tribunal</p> <p>Held that: Assessing Officer imposed penalty under section 271(1)(a) without prior approval of Deputy Commissioner as required under section 274(2) - Tribunal, holding said defect as procedural and curable, remanded matter to Assessing Officer for de novo proceedings Whether requirement of section 274(2) is only procedural and does not go to root of jurisdiction to levy penalty, and there being no inherent lack of jurisdiction in Assessing Officer to levy penalty, though after obtaining prior approval of Dy. Commissioner, such procedural lapse could be rectified and hence, Tribunal's order was legally justified.</p>
VII	<p>for the proposition that no infirmity could be found in the statutory approval/sanction when it is not recorded in so many words</p>
19.	<p>[2016] 383 ITR 597 (Calcutta), Prem Chand Shaw (Jaiswal) Vs. ACIT</p> <p>Held: "(para-22) The mere fact that the Additional Commissioner did not record his satisfaction in so many words would not render invalid the sanction granted under Section 151(2) when the reasons on the basis of which sanction was sought for could not be assailed."</p>
VIII	<p>for the proposition that the small time gap between the proposal received for approval/sanction and approval/ sanction accorded would not mean that there was non-application of mind in granting approval/sanction</p>
20.	<p>[2022] 136 taxmann.com 24 (Bombay), Chhagan Chandrakant Bhujbal v. ITO</p> <p>Held: "(para-11) ...In the case at hand, there is nothing to indicate that there was non-application of mind. Merely because information was received at 5.47 p.m. and the notice (u/s 148) was issued by 10:49 p.m. would not mean that</p>

	there has been non-application of mind (in the sanction accorded by the CIT u/s 151). If we hold that it would be merely speculative and based on conjecture.”
IX	for the proposition that even absolute absence of the JCIT’s approval [u/s 274(2)] does not mean inherent lack of jurisdiction on the AO so as to render his order <i>ab initio</i> void but to decide the matter afresh after obtaining the JCIT’s approval
21.	(2000) 243 ITR 674 (Karn), Gayathri Textiles v. CIT, Held that -“failure to obtain prior approval of IAC under section 274(2) for imposition of penalty under section 271(1)(c) is a procedural error and is not fatal to order of penalty passed under section 271(1)(c)”
22.	(2004) 1 SOT 281 (Jodh), Ratan Lal Dalmia v. ITO, Held that -“penalty imposed by Assessing Officer without prior approval of competent authority as stipulated under section 274(2) was a procedural irregularity which could be cured by passing fresh penalty order after complying with legal requirements”
23.	(1998) 230 ITR 301 (MP), CIT v. Vijay Dall Mills, Held that - “penalty ... levied without prior approval of IAC could be said to be illegal, however, in such a situation, matter, could be sent back to assessing authority for curing defect by obtaining prior approval of IAC”
24.	(2007) 292 ITR 281 (Ker), G. Manoharan v. ACIT, Held that - “Commissioner (Appeals) cancelled penalty order under section 271(1)(c) for reason that Assessing Officer had not taken prior approval of Range, Deputy Commissioner before passing penalty order as enjoined by section 274(2)(b), Tribunal was justified in remanding matter to Assessing Officer with direction to rectify defect of non-compliance of section 274(2)(b)”
25.	(2014) 44 taxmann.com 311 (Cal), Sagar Dutta Vs. CIT, Held that - Where Income tax Officer imposed penalty under section 271B exceeding Rs. 10,000 but did not take prior approval of Joint Commissioner, matter needed fresh adjudication.
X	for the proposition that the irregularity supervened not at the initial stage, but at a later stage, of the proceedings would not lead to nullity
26.	[1960] 40 ITR 298 (SC), Guduthur Bros v. ITO Held that : the Income-tax Officer.... issued a notice ... to show cause why penalty should not be imposed. In answer to this notice, the appellants filed a

	<p>written reply and the Income-tax Officer proceeded to levy a penalty of Rs. 16,000, without affording a hearing to them as required by the third sub-section of section 28 of the Income-tax Act....Sub-section (3) of section 28, however, requires that the penalty shall not be imposed without affording to the assessee a reasonable opportunity of being heard. This opportunity was denied to the appellants and, therefore, the order of the Income-tax Officer was vitiated by an illegality which supervened, not at the initial stage of the proceedings, but during the course of it....In our opinion, the Income-tax Officer is well within his jurisdiction to continue the proceedings from the stage at which the illegality has occurred and to assess the appellants to a penalty, if any, which the <i>circumstances of the case may require.</i></p>
27.	<p>(1989) 180 ITR 84 (MP) Prabhudayal Amichand v. CIT,</p> <p>Held that-"imposition of penalty under section 271(1)(c) on assessee-company without obtaining approval of IAC as required under section 271(1)(iii)....was a procedural irregularity not involving question of jurisdiction and, thus, could be cured by passing a fresh order in accordance with law"</p>
28.	<p>(1996) 222 ITR 401 (MP), CIT v. Damodardas Murari Lal</p> <p>Held that: "(para-3)... the Tribunal agreed with the proposition of law advanced on behalf of the department that in proceedings lawfully initiated if there is any procedural illegality, it can be permitted to be corrected at the point at which the illegality was discovered"</p>
XI	<p>for the proposition that a decision is a precedent on its own facts. Each case presents its own features. The income-tax authorities and Tribunals are supposed to apply the ratio of a decision to the facts of particular cases with due care and discernment bearing in mind the restricted scope of their jurisdiction under section 35 and the object for which it is conferred</p>
29.	<p>[1975] 99 ITR 135 (SC), Mahendra Mills Ltd. v. P.B. Desai, Appellate Assistant Commissioner</p>
XII	<p>for the proposition that the tribunal has liberty of applying its mind afresh</p>
30.	<p>[1985] 155 ITR 120 (SC) Distributors (Baroda) (P.) Ltd. v. Union of India</p>
31.	<p>[2003] 130 TAXMAN 218 (CUTTACK) (MAG.), Orissa State Civil Supplies Corpn. Ltd. V. DCIT</p> <p>Held: ".....To our mind, in the name of adhering to the principles of consistency, we cannot leave any scope for perpetuation of errors. We are, therefore, emboldened to take a view that in deserving cases and for the cogent reasons to be placed on record, this Tribunal has the liberty of applying its mind afresh to the matter, irrespective of the decision taken in earlier years in the assessee's own case and even on the same set of facts, for the</p>

	cause of substantial justice....”
XIII	for the proposition that ITAT has power to remand/remitt the matter back to the authorities below in appropriate cases
32.	[1993] 199 ITR 1 (SC), CIT v. Assam Travels Shipping Service Wherein the penalty matter was remitted back to the AO.
33.	[1967] 63 ITR 232 (SC), Hukumchand Mills Ltd. v. CIT Wherein on consideration of the additional ground raised by the revenue, the matter was remanded back to the AO
34.	[1964] 53 ITR 225 (SC), CIT v. Kanpur Coal Syndicate Wherein on consideration of the assessee’s claim (that it should not be assessed to tax as an AOP, but the proportion of income in the hands of each member of the AOP might be assessed instead), the matter was remanded back to the AO
XIV	Dismissing the additional ground raised by the assessee relating to approval u/s 153D
35.	[2025] 173 taxmann.com 147 (Mumbai - Trib.), Pratibha Pipes & Structural Ltd. v. DCIT Wherein on consideration of the affidavit of the Addl.CIT (who had accorded approval u/s 153D), the tribunal dismissed the additional ground taken by the assessee challenging validity of the assessment order passed u/s 143(3) r.w.s. 153A
36.	ITA Nos. 4239, 4237 & 4238/Mum/2023, order dated 23.01.2025 Smt. Usha Satish Salvi vs. ACIT/ (para-6 to 8.2), Wherein following Pratibha Pipes & Structural’s Limited vs. DCIT (ITA No. 3874 to 3826/Mum/2015 dated 10.04.2019), and after considering the various decisions of the Hon’ble High Courts and Tribunal Benches, the Hon’ble ITAT, Mumbai Bench has held that “(para 8.2) We are of the opinion that the approval was granted by the Addl.CIT after due application of mind....the additional ground is accordingly dismissed.”
37.	ITA No. 76 to 81/CTK/2022 order dated 01.02.2023 Bibhudutta Panda vs. ACIT (para 7 & 12), following- [1990] 186 ITR 734 (Orissa) CIT vs. Shivkumar Agrawal [para 4 & 6/ in the context of penalty u/s 271(1)(c)]
XV	For the proposition that <u>where a word used in the statute is unambiguous/unequivocal</u> and capable of only one meaning, the legislation has to be given effect of the word in its own terms and

	there is no scope for importing any rule of interpretation
38.	[2022] 448 ITR 594 (SC), New Noble Educational Society v. CCIT Wherein, <u>explaining</u> the meaning of the term ' <u>solely</u> ' occurring in section <u>10(23C)</u> , it has been observed that "(para-52)...if the language is unambiguous and capable of one meaning, that alone should be applied and not any other , based under surmise that the Parliament or the legislature intended it to be so. In other words, it is only in cases of ambiguity that the court can use other aids to discern the true meaning. Where the statute is clear and the words plain, the legislation has to be given effect in its own terms. "
39.	[2003] 262 ITR 278 (SC), Pandian Chemicals Ltd. v. CIT Wherein, <u>explaining</u> the terms ' <u>derived from</u> ' occurring in section <u>80HH</u> , it has been observed that "(para-8)... The rules of interpretation would come into play only if there is any doubt with regard to the express language used. Where the words are unequivocal, there is no scope for importing any rule of interpretation... "
40.	[1975] 100 ITR 698 (SC), Raja Jagdambika Pratap Narain Singh v. CBDT Wherein, it has been observed that "(bottom most two lines on page 5 & top four lines of page-6 of the judgment) "Any legal system, especially one evolving in a developing country, may permit judges to play a creative role and innovate to ensure justice without doing violence to the norms set by legislation. But to invoke judicial activism to set at nought legislative judgment is subversive of the constitutional harmony and comity of instrumentalities. So viewed.... If the statute speaks on the subject the judge has to be silent and stop. In a contest between morality and legality, the court, in clear cases, has no option..."
XVI	For the proposition that a provision of the act is to be read as it is and nothing is to be added or taken away from it
41.	[2021] 438 ITR 288 (SC), CIT v. Mohammed Meeran Shahul Hameed Wherein, <u>explaining</u> the term ' <u>made</u> ' occurring in section <u>263(2)</u> , it has been observed that "(para-4.3)... As per the cardinal principle of law the provision of the statue/Act is to be read as it is and nothing is to be added or taken away from the provision of the statue.... "
42.	[2014] 362 ITR 673 (SC), CIT v. Calcutta Knitweaves Wherein, it has been observed that "(para-32) In Prakash Nath Khanna v. CIT [2004] 266 ITR 1... , this Court has explained that the language employed in a statute is the determinative factor of the legislative intent. The legislature is presumed to have made no mistake. The presumption is that it intended to say what it has said. Assuming there is a defect or an omission

	<p><u>in the words used by the legislature, the Court cannot correct or make up the deficiency.</u> Where the legislative intent is clear from the language, the Court should give effect to it....(para-33)... we should read the statute as it is, without distorting or twisting its language."... (para-33.1)...<u>the literal rule of interpretation simply means that we mean what we say and we say what we mean.</u> (para-34)... Thus, ... A taxing statute should be strictly construed; ... <u>logic, ... have no role to play.</u> Nothing is to be read in, nothing is to be implied..."</p>
XVII	For the proposition that a casus omissus should not be readily inferred
43.	<p>[2004] 266 ITR 1 (SC), Prakash Nath Khanna v. CIT</p> <p>Wherein, while holding that returns filed after the due date specified u/s 139(1) i.e. within the extended time limit u/s 139(4) also falls under the mischief of prosecution u/s 276CC,</p> <p>it has been observed that "(para-12)...<u>the Court cannot read anything into a statutory provision which is plain and unambiguous.</u> A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of legislative intent...<u>the intention of the legislation must be found in the words used</u> by the legislature. <u>The question is not what may be supposed and has been intended but what has been said.</u> "Statutes should be construed, not as theorems of Euclid", (para-13)...<u>courts must avoid the danger of a priori determination of the meaning of a provision based on their own preconceived notions.... They are not entitled to usurp legislative function under the disguise or interpretation.</u> (para-14)...<u>the court only interprets the law and cannot legislate it.</u> If a provision of law is misused and subjected to the abuse of process of law, it is for the Legislature to amend, modify or repeal it, if deemed necessary... (para-15)... a casus omissus cannot be supplied by the court except in the case of clear necessity but at the same time a casus omissus should not be readily inferred....</p>
44.	<p>[1980] 121 ITR 535 (SC), CIT v. National Taj Traders</p> <p>Wherein, <u>explaining</u> the provisions of section 33B of the 1922 Act (corresponding to section 263 of the IT Act, 1961), with a quote from Maxwell on Interpretation of Statutes (12th Edn./at page 33) that "(para-10)..."Omissions not to be inferred. - It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the Legislature intended something which it omitted to express... 'We are not entitled',... 'to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself.'...."</p> <p>It has been observed that "a casus omissus cannot be supplied by the Court except in the case of clear necessity but at the same time a casus omissus should not be readily inferred...."</p>

XVIII	<p>For the proposition that <u>rule of construction applies only to a taxing provision (which creates a charge for the tax) but, not to the machinery provision for making the assessment</u></p>
45.	<p>[1963] 48 ITR 1 (SC), Gursahai Saigal v. CIT</p> <p>Held that:- “(page-4 of the judgment) Now it is well recognized that the rule of construction applies only to a taxing provision and has no application to all provisions in a taxing statute. It does not....apply to a provision not creating a charge for the tax but laying down the machinery for its calculation.... The provisions in a taxing statute dealing with machinery for assessment have to be construed by the ordinary rules of construction, that is to say, in accordance with the clear intention of the legislature ...”</p>
46.	<p>[1955] 27 ITR 20 (SC), India United Mills Ltd. v. Commissioner of Excess Profits Tax</p> <p>Wherein, <u>explaining</u> the meaning of the words ‘<i>discovers</i>’ occurring in section 15 of the Excess Profits Tax Act, 1940, it has been observed that “(page-5)... section 15 of the said Act not a charging section, but a machinery section. And a machinery section should be so construed as to effectuate the charging sections. Section 15 is intended to vest in the Excess Profits Tax Officer a power...”</p>
XIX	<p>For the proposition that <u>rule of construction is to be applied only when there is an ambiguity</u></p>
47.	<p>[2004] 271 ITR 401 (SC), Tata Consultancy Services v. State of Andhra Pradesh</p> <p>Wherein, while <u>explaining</u> the meaning of the words ‘<i>goods</i>’ as occurring in section 2(h) of the Andhra Pradesh General Sales Tax Act, 1957, it has been observed that “(para-52)when an expression is capable of more than one meaning, the Court would attempt to resolve that ambiguity in a manner consistent with the purpose of the provisions and with regard to the consequences of the alternative constructions....”</p>

COMMON PAPER BOOK – PART-2

S.No. Description of Documents enclosed

1. Appraisal report (of the search) dated 31/12/2012 forwarded to the Pr.CIT/JCIT/AO

	<ul style="list-style-type: none"> • AO's letter (submitted to the JCIT, Central Range, Varanasi soliciting one month's more time for submission of report under Rule-9 to the Settlement Commission) dated 19.05.2015
	<ul style="list-style-type: none"> • AO's letters (furnishing report under Rule-9 of the Settlement Commission Procedure Rules to the JCIT), dated 30.06.2015 <ul style="list-style-type: none"> ➤ Report (Annexure D-3/1) ➤ Report (Annexure D-3/2) <p>This includes the following:-</p> <ul style="list-style-type: none"> ➤ Commission's order u/s 245D(3) dated 18.03.2016/page 517-524 directing the AO to enquire into issues specified therein and submit enquiry report ➤ AO's enquiry report dated 22.04.2016/page 538-539
	<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016
	<ul style="list-style-type: none"> • Pr.CIT's report [on rectification applications u/s 245D(6B) dated 06.01.2017] <ul style="list-style-type: none"> ➤ Addl.CIT's comments dated 12.01.2017
	<ul style="list-style-type: none"> • Petitions u/s 144A filed in the assessee wise separate paper books
	<ul style="list-style-type: none"> • Addl.CIT's orders' directions u/s 144A dated 09.06.2017 (specimen copy, as in M/s Minto Developers Pvt. Ltd., A.Y. 2009-10) <p>Similarly, copies of relevant directions u/s 144A have been placed in the assessee wise separate paper books</p>
	<ul style="list-style-type: none"> • AO's letter (alongwith "<u>proposed</u> assessment orders" soliciting approval u/s 153D in the various cases), dated 18.07.2017 <ul style="list-style-type: none"> ➤ as per acknowledgement on office copy of the AO's letter ➤ as marked on its original copy submitted in the JCIT's office ➤ draft assessment orders: <ol style="list-style-type: none"> 1. Minto Developers Pvt. Ltd., A.Y. 2009-10 2. Late Dr. A.K. Bansal, A.Y. 2007-08 2008-09 2009-10 2010-11 2011-12 2012-13 2013-14 3. Arpit Hospital Pvt. Ltd., A.Y. 2012-13 2013-14

5. Navjeevan Pediatrics Pvt. Ltd., A.Y. 2013-14
6. Minto Colonizers Pvt. Ltd. A.Y.-2009-10
7. Jeevan Joti Infrastructure Co. Pvt. Ltd. A.Y.2012-13

- Further relevant documents/evidences are placed in another part (i.e. Part-3)

COMMON PAPER BOOK – PART-3

- S.No. Description of documents enclosed
 1. - Assessing Officer's letter (alongwith "corrected/revised draft assessment orders" soliciting Approval u/s 153D in the various cases), dated 28/07/2017

	<ul style="list-style-type: none"> ➤ draft assessment orders: <ol style="list-style-type: none"> 1. Minto Developers Pvt. Ltd., A.Y. 2009-10 2. Late Dr. A.K. Bansal, A.Y. 2007-08 2008-09 2009-10 2010-11 2011-12 2012-13 2013-14 3. Arpit Hospital Pvt. Ltd., A.Y. 2012-13 2013-14 5. Navjeevan Pediatrics Pvt. Ltd., A.Y. 2013-14 6. Minto Colonizers Pvt. Ltd., A.Y. 2009-10 2012-13 7. Jeevan Jyoti Infrastructure Co. Pvt. Ltd., A.Y. 2012-13
	<ul style="list-style-type: none"> • JCIT's letter (granting approval u/s 153D in the group cases except the case of Jeevan Jyoti Charitable Trust dealt with separately), dated 31.07.2017
	<ul style="list-style-type: none"> • AO's letter (alongwith "<i>draft assessment orders</i>" soliciting approval u/s 153D in the of Jeevan Jyoti Charitable Trust), dated 04.08.2017 <ul style="list-style-type: none"> ➤ draft assessment orders for 2011-12: 2012-13 2013-14
	<ul style="list-style-type: none"> • JCIT's letter (granting approval u/s 153D in the case of Jeevan Jyoti Charitable Trust in reference to the AO's letter F.No. Jt.CIT/CR/VNS/Approval u/s 153D/JJ Group/2017-18/340 dated 08.08.2017), dated 08.08.2017
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets <ul style="list-style-type: none"> ➤ attested by the present incumbent ➤ Simple Xerox copies
	<ul style="list-style-type: none"> • Two Affidavits of Shri Murari Lal Meena, then AO (now JCIT at Mathura), both dated 13.08.2025 <ul style="list-style-type: none"> ➤ One combined in the group cases involved in the present appeals (except Jeevan Jyoti Charitable Trust) ➤ The other in the case of Jeevan Jyoti Charitable Trust

<p>In the matter of approval u/s 153D obtained by him from Shri Giriraj Pareek, the then JCIT, Central Range, Varanasi</p>
<ul style="list-style-type: none"> • Details of incumbents posted as AC/DCIT, Central Circle, Allahabad from time to time during the relevant period- <ul style="list-style-type: none"> ➤ Shri Sudhanshu Dhar Mishra, DCIT (24.08.2012 to 21.06.2013) ➤ Shri Shambhu Yadav, ACIT (21.06.2013 to 08.10.2013) ➤ Shri Nagendra Dixit, ACIT (08.10.2013 to 25.07.2016) ➤ Shri Murari Lal Meena, ACIT (21.07.2016 to 22.06.2018)
<ul style="list-style-type: none"> • Details of incumbents posted as Addl./Joint CIT, Central Range, Varanasi from time to time during the relevant period- <ul style="list-style-type: none"> ➤ Shri Abhay Kumar Thakur (15.09.2016 to 20.07.2017) ➤ Shri Giriraj Pareek (21.07.2017 to 16.08.2018)
<ul style="list-style-type: none"> • Guest Register of Aayakar Bhawan, Allahabad evidencing official visits and stay of Shri Abhay Kumar Thakur, then Addl.CIT to Allahabad on two official tours- <ul style="list-style-type: none"> ➤ 11.01.2017 to 12.01.2017 ➤ 25.03.2017 to 26.03.2017
<ul style="list-style-type: none"> • ITAT's order (in the 1st round of appeals by the assesseees) dated 21.12.2018

COMMON PAPER BOOK – PART4

S. No.	Description of Documents enclosed
	<u>CASE LAWS</u> relied on
48.	<p>ITA No. 1127/Del/2021, order dated 10.10.2022 Ecstasy Buildcon Pvt. Ltd. v. DCIT</p> <p>Co-authored by Division Bench in which Hon'ble Shri Kul Bharat (presently VP, Lucknow Zone) was the JM, in which (para-15 to 18), ground relating to approval u/s 153D (on the premise that the said approval was granted mechanically without application of mind) was dismissed holding that the same was merely based upon suspicion without being backed by any material evidence.</p>
	<p>for the proposition that section 153D does not require any opportunity of hearing to the assessee</p>
49.	<p>[2018] 257 Taxman 300 (Karnataka), Gopal S. Pandit v. CIT</p> <p>Held: “(para-8)...Merely because, Section 153D of the Act requires a prior approval of the Draft Assessment Order by the higher Authority, namely, the Joint Commissionerthe provisions of the Act do not mandate that a fresh round of opportunity of hearing should be given to the Assessee by such Authority, namely, Joint Commissioner also even for approving Draft Assessment Order....The Assessing Authority as well as the two Appellate Authorities who have concurrent powers of assessment as are available with the Assessing Authority, have admittedly heard the Assessee on the merits of the case....The Assessee has also not been able to point out any prejudice caused to him on account of approving Authority not giving him an opportunity of hearing.”</p>
	<p>for the proposition that there is no requirement for the sanctioning/approving authority to record his own reasons (while according sanction u/s 151-a provision analogues to section 153D)</p>
50.	<p>[2025] 173 taxmann.com 658 (SC), Venky Steels (P.) Ltd. v. CIT dismissing SLP against [2024] 475 ITR 111 (Patna),</p> <p>Wherein held: “(para-11)...The Assessing Officer had recorded reasonsThe Commissioner had obviously read the reasons.... Section 151 requires the Principal Commissioner to be satisfied of the reasons recorded by the Assessing Officer.... There is no requirement for the Commissioner to record his own reasons...”</p>

51.	<p>[2014] 363 ITR 343 (Gujarat) Lalita Ashwin Jain v. ITO</p> <p>Wherein held: “(para-17.4)...non-application of mind....only because he has nodded in favour of Assessing Officer by writing 'yes' to the reasons recorded and accorded permission for reopening of the assessment, the notice of reopening on that count alone cannot fail holding....if application of mind is demonstrable from the material on record....It was only after perusing such details that the Assistant Commissioner agreed that it was a fit case for issuing notice under Section 148 of the Act. Thus, this is not a case where such permission can be stated to have been granted without application of mind....”</p>
	<p>for the proposition that the court does not enact and general observations contained in any judgment of the court should be confined to the facts of that case and they should not be applied in interpreting the provisions of an Act. It is the abstract ratio decidendi (i.e. the Rule deducible from the application of law to the facts) alone which is binding</p>
52.	<p>State Of Kerala vs Parameswaran Pillai Vasudevan Nair, judgement dated 18.07.1974</p> <p>Held: “(para-10)...Statements on matters other than law have no binding force... it should not be forgotten that that court does not enact. In <u>Raval and Co. v. K. G. Ramachandran</u> the Supreme Court held that general observations contained in any judgment of that court should be confined to the facts of that case and cautioned that they should not be applied in interpreting the provisions of an Act unless it had applied its mind and analysed the provisions of that particular Act.”</p>
53.	<p>Union Of India & Ors vs Dhanwanti Devi & Ors, judgement dated on 21.08.1996</p> <p>Held: “(page-3)...The enunciation of the reason or principle on which a question before a court has been decided is alone binding between the parties to it, but it, is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution.... It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its ratio decidendi.</p>
	<p>for the proposition that the application of mind and grant of sanction (u/s 151) was one integrated process</p>

54.	<p>[2025] 302 Taxman 370 (SC), Baldevbhai Bhikhabhai Patel v. DCIT dismissing SLP against [2018] 94 taxmann.com 428 (Gujarat)</p> <p>Held: “(para-10)...validity of the sanction...the Addl. Commissioner of Income-tax, in his own hands, put the following remarks; “I am satisfied that it is a fit case to issue Notice u/s.148 of the Income-tax Act, 1961 ?”...(para-11)... The Addl. Commissioner of Income-tax forwarded such approval to the Dy. Commissioner of Income-tax under his letter dated 21.03.2014, in which he stated as under.... (para-12)...entire proposal along with necessary details and the reasons recorded by the Assessing Officer were placed before the Addl. Commissioner of Income- tax, who, upon perusal of the same, in his own hands, recorded his satisfaction that it was a fit case for issuance of notice u/s.148 of the Act. In the forwarding letter, he reiterated that he had perused the reasons recorded by the Assessing Officer He further stated that “therefore, your proposal for reopening the assessment u/s.147 is hereby approved u/s.151(1) of the Act...”. (para-13)...The application of mind and grant of sanction was, thus, one integrated exercise. Even independently, we have no reason to believe or hold that this was a case of non-application of mind....(para-15)...the petition is dismissed.”</p>	1:
	<p>for the proposition that where an act of a statutory authority is considered to be without application of mind, the matter must be remitted back to the Authority concern for deciding afresh</p>	
55.	<p>[2025] 170 taxmann.com 53 (TELANGANA), Vessela Greens v. Union of India</p> <p>Held: “(para-11)...There is no application of mind on....(para-12)... assessment order is set aside. The competent authority shall re-hear the petitioner and decide the matter afresh...”</p>	1:
56.	<p>[2024] 167 taxmann.com 64 (Allid), Yogendra Singh v. Union of India</p> <p>Held: “ (para-5)...approval under Section 151....The Principal Commissioner of Income Tax gave an approval without application of mind...(para-10)...the order under Section 148 A(d) and notice issued under Section 148 of the Income Tax Act both are quashed and the matter is remitted back to opposite parties no.2 and 3 to pass appropriate orders after considering the reply of the assessee...”</p>	1:
57.	<p>[2023] 146 taxmann.com 167 (Karnataka), Sri Srigandha Souhardha Credit Co-operative Ltd. v. UOI</p> <p>Held: “(para-5)... order without any application of mind...(para-6)...The matter is remitted back to respondent....for reconsideration afresh in...”</p>	1:

58.	<p>[2022] 441 ITR 470 (Bombay), Milestone Brandcom (P.) Ltd. v. NFAC</p> <p>Held: “(para-3)...non-application of mind...(para-4)...Assessment Order dated 23-9-2021 is hereby quashed and set aside. The matter is remanded for <i>de novo</i> consideration...”</p>
59.	<p>[1979] 119 ITR 959 (Allahabad), Addl.CIT v. Brij Nandan Prasad Deen Dayal</p> <p>Held: “(page-2)... The Tribunal has not applied its mind to the facts at all. It felt itself bound by the decision of this court in <i>Harnam Singh's</i> case [1977] 106 ITR 532 (All). In the absence of relevant findings on various factual aspects....it would be appropriate for the Tribunal to rehear the appeal and give a finding in accordance with law.”</p>
60.	<p>[2023] 150 taxmann.com 55 (Calcutta), CIT v. Indian Aluminium Co. Ltd.</p> <p>Held: “(para-7)...order passed by the Tribunal is without any application of mind....(para-8)...order of the Tribunal has to be set aside in its entirety.... order passed by the Tribunal is set aside and remanded to the Tribunal for fresh consideration.”</p>
	<p>for the proposition that since the belief (u/s 148/147) is that of the AO, <u>the sufficiency of reasons for formation of belief is not for the Courts to judge</u></p>
61.	<p>[1993] 203 ITR 456 (SC), Phool Chand Bajrang Lal v. ITO</p> <p>Held: “(para-20)... Since, the belief is that of the ITO, the sufficiency of reasons for forming the belief, is not for the Court to judge...”</p>

Revenue’s Appeal I.T.A. No.39 to 41/All/2025 & assessee’s C.O. No. 2 to 4/All/2025 (paper book filed by Revenue)

I.	<p>As per AO’s records for A.Y. 2011-12:-</p> <ul style="list-style-type: none"> • ITR u/s 139 filed in Sept 2011, Computation of Income, Audit Report alongwith B/S and P/L a/c etc. • Notice u/s 153A dated 03.04.2013 • Assessee’s reply dated 29.04.2013 • Notice dated 09.07.2013 • Acknowledgement of ITR filed u/s 153A dated 29.08.2013 • Assessee’s reply dated 25.08.2014 • Notice u/s 143(2) dated 26.09.2014 • Notice u/s 142(1)-cum-questionnaire dated 26.09.2014 • Assessee’s reply dated 17.10.2014
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<ul style="list-style-type: none"> • Notice dated 21.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 27.10.2014
<ul style="list-style-type: none"> • Another reply dated 27.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 29.10.2014
<ul style="list-style-type: none"> • Penalty order u/s 271(1)(b) dated 16.12.2014
<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 19.12.2014
<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 07.02.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 13.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's order sheet/note sheets
<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
<ul style="list-style-type: none"> • Remand Report dated 07.05.2018
<ul style="list-style-type: none"> • CIT(A)'s order dated 10.07.2018
<ul style="list-style-type: none"> • ITAT's order (in ITA No. 322 to 328/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 13.01.2025 (impugned in the present appeal)

	<ul style="list-style-type: none"> • AO's order [giving effect of CIT(A)'s order],dated 06.01.2025 • Form-36, GoA of departmental appeal
2.	<p><u>As per AO's records for A.Y. 2012-13:-</u></p> <ul style="list-style-type: none"> • ITR filed on 30.09.2012, Computation of Income • Notice u/s 153A dated 03.04.2013 • Assessee's reply dated 29.04.2013 • Notice dated 09.07.2013 • Notice dated 05.08.2013 • Assessee's reply dated 14.08.2014 • Notice dated 21.08.2013 • ITR filed u/s 139(4A) on 13.09.2013 and Computation of Income • ITR filed u/s 153A on 16.09.2013 • Assessee's reply dated 25.08.2014 • Notice u/s 143(2) dated 26.09.2014 • Notice u/s 142(1)-cum-questionnaire dated 26.09.2014 • Assessee's reply dated 17.10.2014 • Assessee's reply dated 27.10.2014 • Another reply dated 27.10.2014 • Assessee's reply dated 29.10.2014 • Another reply dated 29.10.2014 • Assessee's reply dated 03.11.2014 • Assessee's reply dated 14.11.2014 • Assessee's reply dated 20.11.2014 • Notice u/s 142(1) dated 10.12.2014 • Penalty order u/s 271(1)(b) dated 16.12.2014 • Assessee's reply dated 17.12.2014 • Notice u/s 142(1) dated 15.01.2015 • Assessee's reply dated 23.01.2015 [to the notice u/s 271(1)(b)] • Form 34BA (intimation to the AO of having made an application to the Settlement Commission) filed on 11.02.2015

	<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases) 	
	<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016 	
	<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 07.02.2017 	
	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 13.07.2017 alongwith a letter and "<i>proposed</i> assessment order" 	
	<ul style="list-style-type: none"> • AO's letter alongwith "<i>proposed</i> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases) 	
	<ul style="list-style-type: none"> • AO's letter (alongwith "<i>revised draft assessment order</i>") soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases) 	
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases) 	
	<ul style="list-style-type: none"> • AO's order sheet/note sheets 	
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases) 	
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 08.08.2017 	
	<ul style="list-style-type: none"> • Remand Report dated 07.05.2018 	
	<ul style="list-style-type: none"> • CIT(A)'s order dated 10.07.2018 	
	<ul style="list-style-type: none"> • ITAT's order (in ITA No. 322 to 328/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases) 	
	VOLUME-2	
	<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 24.12.2024 (for A.Y. 2012-13) (impugned in the present appeal) 	5
3.	<u>As per AO's records for A.Y. 2013-14:-</u>	
	<ul style="list-style-type: none"> • Assessee's reply dated 29.04.2013 	7

• Acknowledgment of ITR dated 31.03.2014
• Notice u/s 143(2) dated 23.07.2014
• Assessee's reply dated 31.07.2014
• Assessee's reply dated 18.08.2014
• Assessee's reply dated 25.08.2014
• Notice u/s 142(1)-cum-questionnaire dated 26.09.2014
• Assessee's reply dated 17.10.2014
• Assessee's reply dated 27.10.2014
• Another reply dated 27.10.2014
• Notice dated 31.10.2014
• Penalty order u/s 271(1)(b) dated 16.12.2014
• Assessee's reply dated 19.12.2014
• Notice u/s 142(1) dated 15.01.2015
• Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
• Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
• Assessee's reply dated 27.12.2016
• Notice dated 28.12.2016
• Assessee's reply dated 13.01.2017
• Notice u/s 142(1) alongwith questionnaire dated 07.02.2017
• Assessee's reply dated 16.02.2017
• Assessee's reply dated 28.02.2017
• Notice dated 09.06.2017
• Assessee's reply dated 04.07.2017
• Notice dated 12.07.2017
• Next notice u/s 142(1) dated 13.07.2017 alongwith a letter and " <u>proposed</u> assessment order"
• Assessee's reply dated 15.07.2017
• Assessee's reply dated 17.07.2017

	<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (alongwith "<u>revised draft assessment order</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's order sheet/note sheets
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
	<ul style="list-style-type: none"> • Application for stay of demand, dated 12.09.2017 (filed on 14.09.2017)
	<ul style="list-style-type: none"> • Petition for rectification u/s 154 dated 13.09.2017
	<ul style="list-style-type: none"> • Assessee's reply for stay of demand dated 18.09.2017
	<ul style="list-style-type: none"> • JCIT's order on stay petition, dated 03.10.2017
	<ul style="list-style-type: none"> • Remand Report dated 07.05.2018
	<ul style="list-style-type: none"> • CIT(A)'s order dated 29.06.2018
	<ul style="list-style-type: none"> • ITAT's order (in ITA No. 322 to 328/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Order u/s 12AA(3), cancelling registration, dated 29.03.2019
	<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 24.12.2024 (impugned in the present appeal)
	<ul style="list-style-type: none"> • AO's order [giving effect of CIT(A)'s order],dated 06.01.2025
	<ul style="list-style-type: none"> • Form-36, GoA of departmental appeal

Revenue's paper book in I.T.A. No.337/All/2018

S. No.	Description of Documents enclosed
1.	<p><u>As per AO's records:-</u></p> <ul style="list-style-type: none"> • Acknowledgement of ITRs filed u/s 139(1) on 24.09.2009 • Notice u/s 153A dated 03.04.2013 • Assessee's reply dated 29.04.2013 (by post) • Notice dated 09.07.2013 • The same ITR again filed u/s 153A on 29.08.2013 • Assessee's reply dated 18.08.2014 <ul style="list-style-type: none"> ➤ Audit report, B/S & P/L a/c ➤ Axis Bank a/c statement • Notice u/s 143(2) dated 26.09.2014 • Notice u/s 142(1) dated 26.09.2014 • Assessee's reply dated 17.10.2014 • Assessee's reply dated 27.10.2014 • Another reply dated 27.10.2014

- | |
|---|
| <ul style="list-style-type: none"> • Assessee's reply dated 29.10.2014 [to the notice u/s 271(1)(b)] |
| <ul style="list-style-type: none"> • Assessee's next reply dated 12.11.2014 |
| <ul style="list-style-type: none"> • Penalty order u/s 271(1)(b) dated 15.12.2014 |
| <ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 |
| <ul style="list-style-type: none"> • Notice u/s 142(1) and questionnaire dated 19.12.2016 |
| <ul style="list-style-type: none"> • Assessee's reply dated 27.12.2016 (filed on 28.12.2016) |
| <ul style="list-style-type: none"> • Notice u/s 142(1) and questionnaire dated 30.01.2017 <ul style="list-style-type: none"> ➤ Alongwith Rule-9 report |
| <ul style="list-style-type: none"> • Assessee's reply dated 06.02.2017 (filed on 07.02.2017) |
| <ul style="list-style-type: none"> • Notice u/s 142(1) and questionnaire dated 10.02.2017 |
| <ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017) |
| <ul style="list-style-type: none"> • Assessee's reply dated 16.03.2017 (filed on 17.03.2017) |
| <ul style="list-style-type: none"> • JCIT's order/directions u/s 144A dated 09.06.2017 |
| <ul style="list-style-type: none"> • Notice u/s 142(1) dated 27.06.2017 |
| <ul style="list-style-type: none"> • Assessee's reply [to the notice u/s 142(1) accompanied with "proposed" draft assessment order] filed on 03.07.2017 requesting for adjournment (which was allowed for 10.07.2017) |
| <ul style="list-style-type: none"> • Assessee's reply dated 10.07.2017 |
| <ul style="list-style-type: none"> • AO's letter dated 18.07.2017 soliciting approval u/s 153D for the proposed draft assessment order <ul style="list-style-type: none"> ➤ as per acknowledgement on office copy of the AO's letter ➤ as marked on its original copy submitted in the JCIT's office ➤ draft assessment order |
| <ul style="list-style-type: none"> • AO's letter dated 28.07.2017 soliciting approval u/s 153D for <ul style="list-style-type: none"> ➤ the final draft of the assessment order |
| <ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D |
| <ul style="list-style-type: none"> • AO's order sheet/note sheets |
| <ul style="list-style-type: none"> • JCIT's order sheet/note sheets |
| <ul style="list-style-type: none"> • Impugned assessment order u/s 153A r/w 143(3) dated 31.07.2017 |
| <ul style="list-style-type: none"> • CIT(A)'s order dated 09.07.2018 |

S.No.	Particulars
1	Written Submission
2	<p>Copy of AO's letter dated 18.07.2017 in the F.No. ACIT/CC/ Approval/Alld/2017-18/332 to the Addl./Joint CIT thereby submitting the draft assessment order.</p> <p>Copy of order sheet noting of the Joint CIT from 19.07.2017 (when the draft assessment order was received in his office) to 31.07.2017 (when the prior approval u/s 153D was accorded).</p> <p>Copy of AO's letter F.No. ACIT/CC/Approval/ Alld/2017-18/352 dated 28.07.2017 thereby submitting the corrected draft assessment order.</p> <p>Copy of JCIT's letter dated 31.07.2017 conveying his approval u/s 153D to the AO.</p>
3.	<p style="text-align: center;">CASE LAWS relied on</p> <p style="text-align: center;">in support of Revenue against ground of appeal no. 4 : assessee/appellant in respect of approval u/s 153D</p>
i.	Hon'ble ITAT, Allahabad's order dated 21.12.2018 in the assessee's case for other A.Ys. [included in a bunch of 67 appeal filed by the different assesseees of Jeevan Jyoti group]

ii.	Hon'ble Apex Court's order dated 22.07.1960 in the case of Guduthur Brothers Vs. ITO 40 ITR 298
iii.	Hon'ble Calcutta High Court's order dated 17.01.2014 in the case of Sagar Dutta Vs. CIT, Kolkata, 44 Taxman.com 311
iv.	Hon'ble Kerala High Court's order dated 19.06.2006 in the case of G. Manoharan Vs. ACIT, 292 ITR 281
v.	Hon'ble ITAT, Jodhpur Bench's order dated 28.03.2003 in the case of Ratan Lal Dalmia Vs. ITO 1 SOT 281
vi.	Hon'ble Karnataka High Court's order dated 09.12.1999 in the case of Gayathri Textiles Vs. CIT 243 ITR 674
vii.	Hon'ble MP High Court's order in the case of CIT Vs. Damodar Das Murari Lal, 222 ITR 401
viii.	Hon'ble MP High Court's order in the case of CIT Vs. Prabhudayal Amichand, 180 ITR 84
ix.	Hon'ble MP High Court order in the case of CIT Vs. Vijay Dal Mills, 230 ITR 301
x.	Hon'ble Calcutta High Court's order dated 04.03.2016 in the case of Prem Chand Shaw (Jaiswal) Vs. ACIT [2016] 383 ITR 597 (Calcutta),
xi.	Hon'ble ITAT, Allahabad Bench's order dated 15.09.1999 in the case of Verma Roadways Vs. ACIT, 75 ITD 183 (Alld.)
xii.	Hon'ble Allahabad High Court's order dated 11.01.2018 in the case of CIT, Kanpur Vs. Verma Roadways in the ITA No. 4 of 2000

Revenue's paper book in respect of I.T.A. No.56/AII/2025

S. No.	Description of Documents enclosed
1.	As per AO's records:-
	• Notice u/s 153A dated 03.04.2013
	• Assessee's reply dated 28.04.2013 (by post)
	• Notice dated 05.08.2013
	• Assessee's reply dated 14.08.2013
	• Notice dated 21.08.2013
	• Acknowledgment of ITR (revised) filed on 13.09.2013
	➤ Computation of Income (revised)
	➤ B/S and P/L a/c
	• The same ITR again filed u/s 153A on 16.09.2013
	• Assessee's reply dated 18.08.2014
	• Notice u/s 143(2) dated 26.09.2014
	• Notice u/s 142(1)-cum-questionnaire dated 26.09.2014
	• Assessee's reply dated 17.10.2014
	➤ a/w reply dated 26.04.2013

<ul style="list-style-type: none"> • Assessee's reply dated 27.10.2014
<ul style="list-style-type: none"> • Another reply dated 27.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 29.10.2014 [to the notice u/s 271(1)(b)]
<ul style="list-style-type: none"> • Another reply dated 29.10.2014
<ul style="list-style-type: none"> • Notice dated 31.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 03.11.2014
<ul style="list-style-type: none"> • Next reply dated 20.11.2014
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 10.12.2014
<ul style="list-style-type: none"> • Next reply dated 18.12.2014
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 15.01.2015
<ul style="list-style-type: none"> • Assessee's reply dated 28.01.2015 [to the notice u/s 271(1)(b)]
<ul style="list-style-type: none"> • Form 34BA (intimation to the AO of having made an application to the Settlement Commission) filed on 18.02.2015
<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 abating the settlement applications and reviving the assessment proceedings. (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
<ul style="list-style-type: none"> • Next notice u/s 142(1) alongwith questionnaire dated 30.01.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 10.02.2017
<ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017)
<ul style="list-style-type: none"> • Addl. CIT's order/directions u/s 144A dated 09.06.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 28.06.2017 alongwith "proposed assessment order"
<ul style="list-style-type: none"> • Assessee's reply [to the notice u/s 142(1) accompanied with "proposed" draft assessment order] filed on 03.07.2017 requesting for adjournment (which was allowed for 10.07.2017)
<ul style="list-style-type: none"> • Assessee's reply dated 10.07.2017
<p>AO's letter alongwith "proposed assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)</p>


<ul style="list-style-type: none"> • AO's letter (<i>alongwith "revised draft assessment order"</i>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases) 	
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases) 	
<ul style="list-style-type: none"> • AO's order sheet/note sheets 	
<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases) 	
<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017 	
<ul style="list-style-type: none"> • CIT(A)'s order dated 11.07.2018 	
<ul style="list-style-type: none"> • ITAT's order (in ITA No. 283 to 287 & 336/A/2018, A.Y. 2008-09 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases) 	
<ul style="list-style-type: none"> • Assessee's Written Submission before CIT(A) (in the 2nd ground), filed on 10.10.2019 	1
<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 28.01.2025 (impugned in the present appeal) 	1
<ul style="list-style-type: none"> • AO's order [giving effect of CIT(A)'s order], dated 19.02.2025 	2

Revenue's paper book in I.T.A. No.39 to 41/All/2025 & Assessee's C.O. No. 2 to 4/All/2025

S. No.	Description of Documents enclosed
VOLUME-1	
1.	<p><u>As per AO's records for A.Y. 2011-12:-</u></p> <ul style="list-style-type: none"> • ITR u/s 139 filed in Sept 2011, Computation of Income, Audit Report alongwith B/S and P/L a/c etc. • Notice u/s 153A dated 03.04.2013 • Assessee's reply dated 29.04.2013 • Notice dated 09.07.2013 • Acknowledgement of ITR filed u/s 153A dated 29.08.2013 • Assessee's reply dated 25.08.2014 • Notice u/s 143(2) dated 26.09.2014 • Notice u/s 142(1)-cum-questionnaire dated 26.09.2014 • Assessee's reply dated 17.10.2014

- Notice dated 21.10.2014
- Assessee's reply dated 27.10.2014
- Another reply dated 27.10.2014
- Assessee's reply dated 29.10.2014
- Penalty order u/s 271(1)(b) dated 16.12.2014
- Notice u/s 142(1) alongwith questionnaire dated 19.12.2014
- **Settlement Commission's order u/s 245D(4) dated 17.08.2016**
(being filed separately in another "common" paper book for the entire group cases)
- **Fresh notice u/s 142(1) alongwith questionnaire dated 07.02.2017**
- Next notice u/s 142(1) dated 13.07.2017
alongwith a letter and "proposed assessment order"
- **AO's letter** alongwith "proposed assessment order" soliciting approval u/s 153D,
(being filed separately in another "common" paper book for the entire group cases)
- **AO's letter** (alongwith "revised draft assessment order") soliciting approval u/s 153D dated 28.07.2017
(being filed separately in another "common" paper book for the entire group cases)
- **JCIT's letter dated 31.07.2017 granting approval u/s 153D**
(being filed separately in another "common" paper book for the entire group cases)
- **AO's order sheet/note sheets**
- **JCIT's order sheet/note sheets**
(being filed separately in another "common" paper book for the entire group cases)
- **Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017**
- Remand Report dated 07.05.2018
- CIT(A)'s order dated 10.07.2018
- ITAT's order (in ITA No. 322 to 328/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019
(being filed separately in another "common" paper book for the entire group cases)
- **CIT(A)'s fresh order dated 13.01.2025**
(impugned in the present appeal)

	<ul style="list-style-type: none"> • AO's order [giving effect of CIT(A)'s order],dated 06.01.2025 • Form-36, GoA of departmental appeal
2.	<p><u>As per AO's records for A.Y. 2012-13:-</u></p> <ul style="list-style-type: none"> • ITR filed on 30.09.2012, Computation of Income • Notice u/s 153A dated 03.04.2013 • Assessee's reply dated 29.04.2013 • Notice dated 09.07.2013 • Notice dated 05.08.2013 • Assessee's reply dated 14.08.2014 • Notice dated 21.08.2013 • ITR filed u/s 139(4A) on 13.09.2013 and Computation of Income • ITR filed u/s 153A on 16.09.2013 • Assessee's reply dated 25.08.2014 • Notice u/s 143(2) dated 26.09.2014 • Notice u/s 142(1)-cum-questionnaire dated 26.09.2014 • Assessee's reply dated 17.10.2014 • Assessee's reply dated 27.10.2014 • Another reply dated 27.10.2014 • Assessee's reply dated 29.10.2014 • Another reply dated 29.10.2014 • Assessee's reply dated 03.11.2014 • Assessee's reply dated 14.11.2014 • Assessee's reply dated 20.11.2014 • Notice u/s 142(1) dated 10.12.2014 • Penalty order u/s 271(1)(b) dated 16.12.2014 • Assessee's reply dated 17.12.2014 • Notice u/s 142(1) dated 15.01.2015 • Assessee's reply dated 23.01.2015 [to the notice u/s 271(1)(b)] • Form 34BA (intimation to the AO of having made an application to the Settlement Commission) filed on 11.02.2015

	<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
	<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 07.02.2017
	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 13.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
	<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (alongwith "<u>revised draft assessment order</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's order sheet/note sheets
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 08.08.2017
	<ul style="list-style-type: none"> • Remand Report dated 07.05.2018
	<ul style="list-style-type: none"> • CIT(A)'s order dated 10.07.2018
	<ul style="list-style-type: none"> • ITAT's order (in ITA No. 322 to 328/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
	 VOLUME-2
	<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 24.12.2024 (for A.Y. 2012-13) (impugned in the present appeal)
3.	<u>As per AO's records for A.Y. 2013-14:-</u> <ul style="list-style-type: none"> • Assessee's reply dated 29.04.2013

	<ul style="list-style-type: none"> • Acknowledgment of ITR dated 31.03.2014
	<ul style="list-style-type: none"> • Notice u/s 143(2) dated 23.07.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 31.07.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 18.08.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 25.08.2014
	<ul style="list-style-type: none"> • Notice u/s 142(1)-cum-questionnaire dated 26.09.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 17.10.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 27.10.2014
	<ul style="list-style-type: none"> • Another reply dated 27.10.2014
	<ul style="list-style-type: none"> • Notice dated 31.10.2014
	<ul style="list-style-type: none"> • Penalty order u/s 271(1)(b) dated 16.12.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 19.12.2014
	<ul style="list-style-type: none"> • Notice u/s 142(1) dated 15.01.2015
	<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
	<ul style="list-style-type: none"> • Assessee's reply dated 27.12.2016
	<ul style="list-style-type: none"> • Notice dated 28.12.2016
	<ul style="list-style-type: none"> • Assessee's reply dated 13.01.2017
	<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 07.02.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 16.02.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 28.02.2017
	<ul style="list-style-type: none"> • Notice dated 09.06.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 04.07.2017
	<ul style="list-style-type: none"> • Notice dated 12.07.2017
	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 13.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
	<ul style="list-style-type: none"> • Assessee's reply dated 15.07.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 17.07.2017

	<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's order sheet/note sheets
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
	<ul style="list-style-type: none"> • Application for stay of demand, dated 12.09.2017 (filed on 14.09.2017)
	<ul style="list-style-type: none"> • Petition for rectification u/s 154 dated 13.09.2017
	<ul style="list-style-type: none"> • Assessee's reply for stay of demand dated 18.09.2017
	<ul style="list-style-type: none"> • JCIT's order on stay petition, dated 03.10.2017
	<ul style="list-style-type: none"> • Remand Report dated 07.05.2018
	<ul style="list-style-type: none"> • CIT(A)'s order dated 29.06.2018
	<ul style="list-style-type: none"> • ITAT's order (in ITA No. 322 to 328/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Order u/s 12AA(3), cancelling registration, dated 29.03.2019
	<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 24.12.2024 (impugned in the present appeal)
	<ul style="list-style-type: none"> • AO's order [giving effect of CIT(A)'s order],dated 06.01.2025
	<ul style="list-style-type: none"> • Form-36, GoA of departmental appeal

Revenue's paper book in I.T.A. No.13 & 14/All/2025

Index

S. No.	Description of Documents enclosed
1.	<u>As per AO's records for A.Y. 2012-13:-</u>
	• Notice u/s 153A dated 03.04.2013
	• Assessee's reply dated 26.04.2013
	• Another reply dated 26.04.2013
	• Notice dated 09.07.2013
	• Notice dated 05.08.2013
	• Assessee's reply dated 14.08.2013
	• Notice dated 21.08.2013
	• Acknowledgment of ITR filed on 13.09.2013, B/S and P/L a/c
	• Assessee's reply dated 18.08.2014
	• Notice u/s 142(1) dated 26.09.2014
	• Assessee's reply dated 17.10.2014
	• Notice u/s 143(2) dated 26.10.2014
	• Assessee's reply dated 27.10.2014

<ul style="list-style-type: none"> • Another reply dated 27.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 29.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 29.10.2014 [to the notice u/s 271(1)(b)]
<ul style="list-style-type: none"> • Notice dated 31.10.2014
<ul style="list-style-type: none"> • Assessee's reply dated 03.11.2014
<ul style="list-style-type: none"> • Assessee's reply dated 20.11.2014
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 10.12.2014
<ul style="list-style-type: none"> • Penalty order u/s 271(1)(b) dated 15.12.2014
<ul style="list-style-type: none"> • Assessee's reply dated 17.12.2014
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 15.01.2015
<ul style="list-style-type: none"> • Assessee's reply dated 27.01.2015 [to the notice u/s 271(1)(b)]
<ul style="list-style-type: none"> • Form 34BA (intimation to the AO of having made an application to the Settlement Commission) filed on 11.02.2015
<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 31.01.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 03.07.2017 alongwith a letter and "proposed assessment order"
<p>AO's letter alongwith "proposed assessment order"soliciting approval u/s 153D, proposed draft dated 18.07.2017 (being filed separately in another "common" paper book for the entire group cases)</p>
<p>AO's letter alongwith "proposed assessment order"soliciting approval u/s 153D, proposed draft dated 18.07.2017 (being filed separately in another "common" paper book for the entire group cases)</p>
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's order sheet/note sheets

	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
	<ul style="list-style-type: none"> • CIT(A)'s order dated 09.07.2018
	<ul style="list-style-type: none"> • ITAT's order (in ITA No. 305 to 311/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Remand Report dated 22.05.2023
	<ul style="list-style-type: none"> • CIT(A)'s fresh order dated 13.01.2025 (impugned in the present appeal)
	<ul style="list-style-type: none"> • AO's order [giving effect of CIT(A)'s order],dated 24.01.2025
	<ul style="list-style-type: none"> • GoA of departmental appeal
2.	<u>As per AO's records for A.Y. 2013-14:-</u>
	<ul style="list-style-type: none"> • Assessee's reply dated 26.04.2013
	<ul style="list-style-type: none"> • Acknowledgment of ITR filed on 31.10.2013, B/S and P/L a/c
	<ul style="list-style-type: none"> • Notice u/s 143(2) dated 18.07.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 28.07.2014
	<ul style="list-style-type: none"> • Another reply dated 04.08.2014
	<ul style="list-style-type: none"> • Another reply dated 08.08.2014
	<ul style="list-style-type: none"> • Notice u/s 142(1) dated 26.09.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 17.10.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 27.10.2014
	<ul style="list-style-type: none"> • Another reply dated 27.10.2014
	<ul style="list-style-type: none"> • Assessee's reply dated 31.10.2014
	<ul style="list-style-type: none"> • Penalty order u/s 271(1)(b) dated 15.12.2014
	<ul style="list-style-type: none"> • Notice u/s 142(1) dated 15.01.2015
	<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016

	<ul style="list-style-type: none"> • Assessee's reply dated 27.12.2016
	<ul style="list-style-type: none"> • Notice dated 28.12.2016
	<ul style="list-style-type: none"> • Assessee's reply dated 06.01.2017
	<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 31.01.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 13.02.2017
	<ul style="list-style-type: none"> • Another reply dated 13.02.2017
	<ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017)
	<ul style="list-style-type: none"> • Addl. CIT's letter (calling for AO's report on petition u/s 144A) dated 23.02.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 28.02.2017
	<ul style="list-style-type: none"> • Addl. CIT's order/directions u/s 144A dated 09.06.2017
	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 03.07.2017 alongwith a letter and "proposed assessment order"
	<ul style="list-style-type: none"> • Assessee's reply dated 10.07.2017
	<ul style="list-style-type: none"> • Notice dated 12.07.2017
	<ul style="list-style-type: none"> • Assessee's reply dated 13.07.2017 (filed on 14.07.2017)
	<ul style="list-style-type: none"> • Another reply dated 15.07.2017 (filed on 17.07.2017)
	<ul style="list-style-type: none"> • AO's letter alongwith "proposed assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (alongwith "revised draft assessment order) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's order sheet/note sheets
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
	<ul style="list-style-type: none"> • Application for stay of demand, dated 12.09.2017

• Assessee's reply for stay of demand dated 18.09.2017	5
• JCIT's order on stay petition, dated 03.10.2017	5
• CIT(A)'s order dated 29.06.2018	5
• Reply to penalty show cause notice u/s 271AAA, dated 29.10.2018 (received on 06.11.2018)	5
• ITAT's order (in ITA No. 305 to 311/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)	8
• Remand Report dated 22.05.2023	5
• CIT(A)'s fresh order dated 28.11.2024 (impugned in the present appeal)	5

**Revenue's paper book in I.T.A. No.44/All/2025 & in assessee's
C.O. No.5/All/2025**

Index

S. No.	Description of Documents enclosed
1.	As per AO's records:-
	• Assessee's reply dated 26.04.2013 (by post)
	• Acknowledgment of ITR filed on 31.10.2013
	• Notice u/s 143(2) dated 18.07.2014
	• Assessee's reply dated 28.07.2014
	• Assessee's reply dated 04.08.2014
	➤ B/S and P/L a/c
	• Assessee's reply dated 08.08.2014
	• Notice u/s 142(1)-cum-questionnaire dated 26.09.2014
	• Penalty order u/s 271(1)(b) dated 15.12.2014
	• Assessee's reply dated 17.10.2014
	• Assessee's reply dated 27.10.2014
	• Another reply dated 27.10.2014
	• Assessee's reply dated 31.10.2014

<ul style="list-style-type: none"> • Notice u/s 142(1) dated 15.01.2015
<ul style="list-style-type: none"> • CIT(A)'s order dated 03.07.2015 canceling penalty u/s 271(1)(b)
<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 abating the settlement applications and reviving the assessment proceedings (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
<ul style="list-style-type: none"> • Next notice dated 28.12.2016
<ul style="list-style-type: none"> • Assessee's reply dated 27.12.2016 (received on 28.12.2016)
<ul style="list-style-type: none"> • Assessee's reply dated 18.01.2017
<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 30.01.2017
<ul style="list-style-type: none"> • Assessee's reply dated 09.02.2017
<ul style="list-style-type: none"> • Another reply dated 09.02.2017
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 10.02.2017
<ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017)
<ul style="list-style-type: none"> • Addl. CIT's order/directions u/s 144A dated 09.06.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
<ul style="list-style-type: none"> • Assessee's reply dated 15.07.2017 (received by post on 17.07.2017)
<ul style="list-style-type: none"> • AO's letter (alongwith "<u>proposed</u> assessment order") soliciting approval u/s 153D, dated 18.07.2017 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D, dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's order sheet/note sheets
<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)

• Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
• Application for stay of demand, dated 18.09.2017
• JCIT's order on stay petition, dated 03.10.2017
• CIT(A)'s order dated 29.06.2018
• Reply to penalty show cause notice u/s 271AAA, dated 29.10.2018 (received on 06.11.2018)
• ITAT's order (in ITA No. 329 to 335/A/2018, A.Y. 2007-08 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
• CIT(A)'s fresh order dated 13.01.2025 (impugned in the present appeal)
• AO's order [giving effect of CIT(A)'s order], dated 24.01.2025
• Form-36 & GoA (departmental appeal e-filed on 07.03.2025)

Revenue's paper book in I.T.A. No.54 & 55/All/2025

Index

S. No.	Description of Documents enclosed
I.	<u>As per AO's records for A.Y. 2009-10:-</u>
	• Acknowledgment of ITR filed on 24.09.2009
	• Notice u/s 153A dated 03.04.2013
	• Assessee's reply dated 29.04.2013
	• Notice dated 09.07.2013
	• Assessee's reply dated 18.08.2014
	• Acknowledgment of ITR filed u/s 153A on 29.08.2013
	• Notice u/s 143(2) dated 26.09.2014
	• Notice u/s 142(1)-cum-questionnaire dated 26.09.2014
	• Assessee's reply dated 17.10.2014
	• Assessee's reply dated 27.10.2014
	• Another reply dated 27.10.2014
	• Assessee's reply dated 29.10.2014 [to the notice u/s 271(1)(b)]

<ul style="list-style-type: none"> • Assessee's reply dated 12.11.2014
<ul style="list-style-type: none"> • Another reply dated 12.11.2014
<ul style="list-style-type: none"> • Assessee's reply dated 19.01.2015 <ul style="list-style-type: none"> ➤ a/w Certificate of Incorporation, dated 13.06.2008
<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 30.01.2017
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 10.02.2017
<ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017)
<ul style="list-style-type: none"> • Addl. CIT's order/directions u/s 144A dated 09.06.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 27.06.2017 alongwith "<i>proposed</i> assessment order"
<ul style="list-style-type: none"> • AO's letter dated 18.07.2017 soliciting approval u/s 153D for the proposed draft assessment order (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's letter dated 28.07.2017 soliciting approval u/s 153D for the final draft of the assessment order (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's order sheet/note sheets
<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
<ul style="list-style-type: none"> • Application for stay of demand, dated 18.09.2017
<ul style="list-style-type: none"> • JCIT's order on stay petition, dated 03.10.2017
<ul style="list-style-type: none"> • CIT(A)'s order dated 12.07.2018

	<ul style="list-style-type: none"> ITAT's order (in ITA No. 290 to 294/A/2018, A.Y. 2009-10 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> CIT(A)'s fresh order dated 23.01.2025 (<i>impugned</i> in the present appeal)
	<ul style="list-style-type: none"> AO's appeal effect order dated 24.02.2025
2.	<p><u>As per AO's records for A.Y. 2012-13:-</u></p> <ul style="list-style-type: none"> Acknowledgment of ITR filed on 13.09.2013 Notice u/s 153A dated 03.04.2013 Assessee's reply dated 29.04.2013 Notice dated 09.07.2013 Notice dated 05.08.2013 Assessee's reply dated 14.08.2013 Notice dated 21.08.2013 Acknowledgment of ITR filed u/s 153A on 13.09.2013 Assessee's reply dated 18.08.2014 Notice u/s 143(2) dated 26.09.2014 Notice u/s 142(1)-cum-questionnaire dated 26.09.2014 Assessee's reply dated 17.10.2014 Assessee's reply dated 27.10.2014 Another reply dated 27.10.2014 Assessee's reply dated 29.10.2014 [to the notice u/s 271(1)(b)] Notice dated 31.10.2014 Assessee's reply dated 03.11.2014 Assessee's reply dated 12.11.2014 Another reply dated 12.11.2014 Assessee's reply dated 14.11.2014 Assessee's reply dated 20.11.2014 Notice u/s 142(1) dated 10.12.2014 Assessee's reply dated 17.12.2014

<ul style="list-style-type: none"> • Notice u/s 142(1) dated 15.01.2015
<ul style="list-style-type: none"> • Assessee's reply dated 19.01.2015
<ul style="list-style-type: none"> • Assessee's reply dated 28.01.2015
<ul style="list-style-type: none"> • Form 34BA (intimation to the AO of having made an application to the Settlement Commission) filed on 18.02.2015
<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 abating the settlement applications and reviving the assessment proceedings (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 30.01.2017
<ul style="list-style-type: none"> • Notice u/s 142(1) dated 10.02.2017
<ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017)
<ul style="list-style-type: none"> • Addl. CIT's order/directions u/s 144A dated 09.06.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 27.06.2017 alongwith "proposed assessment order"
<ul style="list-style-type: none"> • AO's letter (alongwith "proposed assessment order") soliciting approval u/s 153D, dated 18.07.2017 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's letter (alongwith "revised draft assessment order") soliciting approval u/s 153D, dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's order sheet/note sheets
<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
<ul style="list-style-type: none"> • Application for stay of demand, dated 18.09.2017


• JCIT's order on stay petition, dated 03.10.2017
• CIT(A)'s order dated 12.07.2018
• ITAT's order (in ITA No. 290 to 294/A/2018, A.Y. 2009-10 to 2013-14) dated 18.01.2019 (being filed separately in another "common" paper book for the entire group cases)
• Assessee's reply before CIT(A) (in 2 nd round), dated 10.10.2019
• CIT(A)'s fresh order dated 23.01.2025 (impugned in the present appeal)
• AO's appeal effect order dated 14.02.2025

Revenue's paper book in I.T.A. No.34 to 40/All/2019

1.	<u>As per AO's records for A.Y. 2007-08:-</u>
	• Acknowledgement of ITR filed on 29.10.2007
	• Notice u/s 153A dated 03.04.2013
	• Assessee's reply dated 26.04.2013
	• Notice dated 09.07.2013
	• ITR filed u/s 153A dated 29.08.2013, computation of income, Audit report alongwith B/S & P/L a/c etc.
	• Assessee's reply dated 18.08.2014
	• Notice u/s 143(2) dated 26.09.2014
	• Notice u/s 142(1)-cum-questionnaire dated 26.09.2014
	• Assessee's reply dated 17.10.2014
	• Assessee's reply dated 29.10.2014
	• Another reply dated 29.10.2014

• Assessee's reply dated 18.12.2014	8
• Assessee's reply dated 23.01.2015 [to the notice u/s 271(1)(b)]	9
• Assessee's reply dated 02.02.2015	1
• Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)	3
• Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016	1
• Notice u/s 142(1) alongwith questionnaire dated 01.02.2017	1
• Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and " <u>proposed</u> assessment order"	1
• AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)	2
• AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)	2
• JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)	2
• AO's order sheet/note sheets	
• JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)	
• Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017	
• CIT(A)'s order dated 15.01.2019	
2. <u>As per AO's records for A.Y. 2008-09:-</u>	
• Notice u/s 153A dated 03.04.2013	
• Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)	
• Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016	
• Notice u/s 142(1) alongwith questionnaire dated 01.02.2017	

	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
	<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's order sheet/note sheets
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
	<ul style="list-style-type: none"> • CIT(A)'s order dated 15.01.2019
3.	<p><u>As per AO's records for A.Y. 2009-10:-</u></p> <ul style="list-style-type: none"> • Notice u/s 153A dated 03.04.2013
	<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
	<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 01.02.2017
	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
	<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)

	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases) 	3
	<ul style="list-style-type: none"> • AO's order sheet/note sheets 	4
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases) 	2
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017 	4
	<ul style="list-style-type: none"> • CIT(A)'s order dated 15.01.2019 	4
	 <p>VOLUME-2</p>	
4.	<p><u>As per AO's records for A.Y. 2010-11:-</u></p> <ul style="list-style-type: none"> • Notice u/s 153A dated 03.04.2013 • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases) • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016 • Notice u/s 142(1) alongwith questionnaire dated 01.02.2017 • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<i>proposed</i> assessment order" • AO's letter alongwith "<i>proposed</i> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases) • AO's letter (<i>alongwith "revised draft assessment order"</i>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases) • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases) • AO's order sheet/note sheets • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases) 	

	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017 • CIT(A)'s order dated 15.01.2019
5.	<p><u>As per AO's records for A.Y. 2011-12:-</u></p> <ul style="list-style-type: none"> • Notice u/s 153A dated 03.04.2013 • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases) • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2014 • Notice u/s 142(1) alongwith questionnaire dated 01.02.2017 • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<u>proposed</u> assessment order" • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases) • AO's letter (<u>alongwith "revised draft assessment order</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases) • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases) • AO's order sheet/note sheets • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases) • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017 • CIT(A)'s order dated 15.01.2019
6.	<p><u>As per AO's records for A.Y. 2012-13:-</u></p> <ul style="list-style-type: none"> • Notice u/s 153A dated 03.04.2013 • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases) • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2014

	<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 01.02.2017
	<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<u>proposed</u> assessment order"
	<ul style="list-style-type: none"> • AO's letter alongwith "<u>proposed</u> assessment order" soliciting approval u/s 153D. (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's letter (<u>alongwith "revised draft assessment order"</u>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • AO's order sheet/note sheets
	<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
	<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
	<ul style="list-style-type: none"> • CIT(A)'s order dated 15.01.2019
7.	<p><u>As per AO's records for A.Y. 2013-14:-</u></p> <ul style="list-style-type: none"> • Assessee's reply dated 26.04.2013 • ITR filed on 31.03.2014, Audit report alongwith B/S, P/L a/c etc. • Notice u/s 143(2) dated 18.07.2014 • Assessee's reply dated 28.07.2014 • Assessee's reply dated 04.08.2014 • Assessee's reply dated 08.08.2014 • Notice u/s 142(1)-cum-questionnaire dated 26.09.2014 • Assessee's reply dated 17.10.2014 • Assessee's reply dated 29.10.2014 • Another reply dated 29.10.2014 • Notice dated 05.11.2014 • Assessee's reply dated 02.02.2015

<ul style="list-style-type: none"> • Settlement Commission's order u/s 245D(4) dated 17.08.2016 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Fresh notice u/s 142(1) alongwith questionnaire dated 19.12.2016
<ul style="list-style-type: none"> • Assessee's reply dated 27.12.2016
<ul style="list-style-type: none"> • Notice dated 28.12.2016
<ul style="list-style-type: none"> • Assessee's reply dated 16.01.2017
<ul style="list-style-type: none"> • Notice u/s 142(1) alongwith questionnaire dated 01.02.2017
<ul style="list-style-type: none"> • Petition u/s 144A dated 16.02.2017 (filed on 17.02.2017)
<ul style="list-style-type: none"> • Assessee's reply dated 27.02.2017
<ul style="list-style-type: none"> • Adjournment allowed on 24.03.2017 (for 06.04.2017)
<ul style="list-style-type: none"> • Notice dated 09.06.2017
<ul style="list-style-type: none"> • Next notice u/s 142(1) dated 12.07.2017 alongwith a letter and "<i>proposed</i> assessment order"
<ul style="list-style-type: none"> • Assessee's reply dated 17.07.2017
<ul style="list-style-type: none"> • AO's letter alongwith "<i>proposed</i> assessment order" soliciting approval u/s 153D, (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's letter (<i>alongwith "revised draft assessment order"</i>) soliciting approval u/s 153D dated 28.07.2017 (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • JCIT's letter dated 31.07.2017 granting approval u/s 153D (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • AO's order sheet/note sheets
<ul style="list-style-type: none"> • JCIT's order sheet/note sheets (being filed separately in another "common" paper book for the entire group cases)
<ul style="list-style-type: none"> • Relevant assessment order u/s 153A r/w 143(3) dated 31.07.2017
<ul style="list-style-type: none"> • JCIT's order on stay petition, dated 03.10.2017
<ul style="list-style-type: none"> • Pr.CIT's letter (disposing off review petition for stay of demand), dated 04.12.2017
<ul style="list-style-type: none"> • AO's letter (asking for payment of 1st Installment), dated 13.12.2017

Assessee's paper book in I.T.A. No.337/AlI/2018

Sr. No.	Particulars
1	Written Submissions before the Hon'ble ITAT
2	Copy of Approval u/s 153D dated 31.07.2017 issued by JCIT, Central Range, Varanasi
3	RTI Order dated 29.10.2024 relating to common approval u/s 153D in Jeevan Jyoti Group
4	Letter dated 18.07.2017 by ACIT forwarding draft order in Jeevan Jyoti Group for 153D approval
5	RTI Application filed by Dr. Vandana Bansal for information on 153D approval
6	Rejoinder filed by DR in ITA for AY 2009-10 in Minto Developers - common 153D approval issue
7	Order Sheet noting by JCIT under Section 153D in Jeevan Jyoti Group
8	Letter dated 16/17.03.2017 submitted by the assessee during assessment proceedings
9	Affidavit of CA Gaurav Bansal dated 23.07.2024 after verification of assessment records
10	Certificate from IT professional regarding storage capacity of pen drive used for scanned data
11	Rebuttal to case laws relied upon by the Ld. DR on 23.07.2025
12@	<i>Sejal Jewellery v. Union of India</i> [2025] 171 taxmann.com 846 (Bombay)

Sr. No.	Particulars
12(ii)	<i>Shyam Sunder Khandelwal v. ACIT</i> [2024] 161 taxmann.com 255 (Rajasthan)
12(iii)	<i>Anantnadh Constructions and Farms (P.) Ltd. v. DCIT</i> [2017] 83 taxmann.com 164 (Mum - Trib.)
12(iv)	<i>Mahendra Tulsidas Thakker v. ITO</i> , ITA No. 3885/Mum/2024 [29.11.2024]
12(v)	<i>Dolat Investments Ltd. v. DCIT</i> [2010] 38 SOT 123 (Mumbai)
12(vi)	<i>CIT v. Maruti Fabrics</i> [2014] 47 taxmann.com 298 (Gujarat)
12(vii)	<i>Late Shri Sawarmal Hisaria (through L/H Shri Sandeep Hisaria) v. DCIT</i> , ITA No. 274/Mum/2021
12(viii)	<i>Pullangode Rubber Produce Co. Ltd. v. State of Kerala</i> (1973) 91 ITR 18 (SC)
12(ix)	<i>CIT v. Harjeev Aggarwal</i> [2016] 290 CTR 263 (Delhi)
12(x)	<i>CIT v. S. Khader Khan Son</i> (2013) 352 ITR 480 (SC)
13	CBDT Circular No. F. No. 286/2/2003-IT (Inv.) dated 10.03.2003
14	Case where additional ground taken accepted by ITAT and not challenged by Revenue before Hon'ble High Court

Continuation

Sr. No.	Particulars
1.	Index
2.	Written submission - Rebuttal to the submissions by Ld. DR paper book filed on 04.08.2025
3.	Copy of index of submissions made by the appellant before the Hon'ble ITSC on 22.02.2016
4.	Copy of sale deed dated 19.07.2008 in favour of M/s Minto Colonizers Private Limited (wrongly mentioned in the seized material in favour M/s Minto Developers Private Limited)
5.	Copy of details of land bank held by Jeevan Jyoti group conglomerate medi-city project

PAPER BOOK - INDEX

Sr. No.	Particulars
1	A copy of acknowledgment for filing of return of income u/s 139(1) of the Act alongwith statement of computation of income, audited financial statement of accounts with the annexures therein for the financial year ending on 31 st March, 2009 i.e. relevant to the Asst. Year 2009-10
2.	A copy of notice issued u/s 153A of the Act dated 03.04.2013 for the Asst. Year 2009-10 alongwith copy of consolidated notice dated 05.08.2013 issued u/s 153A for the Asst. Years 2007-08 to 2012-13
3.	A copy of acknowledgment of filing of return of income filed in compliance to notice issued u/s 153A of the Act for the Asst. Year 2009-10
4.	A copy of notice dated 26.09.2014 (served on 01.10.2014) issued u/s 143(2) of the Act for the Asst. Year 2009-10
5.	A copy of notice dated 26.09.214 issued u/s 142(1) for the Asst. Year 2009-10
6.	A copy of 'Speed Post Tracking' (as downloaded on 26.10.2014 from the website of Indian Postal Department) reflecting the date of booking and date of delivery of notices u/s 143(2) through registered
7.	A copy of Annexure - I to Settlement petition filed in Settlement Application No. UP/KP-51/14-15/34-IT (without enclosures)
8.	A copy of Annexure - II to Settlement petition filed in Settlement Application No. UP/KP-51/14-15/34-IT (without enclosures)

9.	A copy of report furnished by Pr. CIT, Central, Kanpur under Rule – 9 of ITSC Rules (without enclosures)
10.	A copy of rejoinder dated 02.02.2016 (filed on 22.02.2016) under Rule 9A (in response to report furnished under Rule 9) with copy of index of the same and copies of relevant enclosures marked therein as.
11.	Copy of details of land bank held by Jeevan Jyoti Group conglomerate MEDI-City Project.
12.	A copy of statement of affairs of Medicity Project for the years ending on 31.03.2007, 31.03.2008, 31.03.2009, 31.03.2010, 31.03.2011, 31.03.2012 and 31.03.2013
13.	Copy of bank statement of M/s Minto Developers Private Limited showing the receipt of amount from Mr. Ashwani Bansal, the director of the company
14.	A copy of consolidated order dated 17.08.2016 passed by Hon'ble ITSC u/s 245D (4) in Jeevan Jyoti Group of cases
15.	A copy of the decision of the Hon'ble ITAT in the case of the assessee for the Asst. Year 2008-09, 2010-11 to 2013-14 dated 21.12.2018
16.	A copy of opinion given by Mr. T N Pandey, Ex CBDT Chairman regarding the time barred assessment u/s 153B of the Act

S. NO.	PARTICULARS	CITATION
1.	Index	
2.	ACIT Vs. Serajuddin	SLP (C) Diary No. 44989 of 2023
3.	ACIT, Circle-1(2), Bhubaneswar Vs. M/s. Serajuddin & Co. Kolkata	ITA Nos. 39 to 45 of 2022 (Orissa High Court)
4.	The Pr. Commissioner Income Tax (Central) & Anr. Vs. Siddarth Gupta	SLP (C) Diary No(s). 43280/2023
5.	The Pr. Commissioner Income Tax (Central) & Anr. Vs. Siddarth Gupta	ITA No. 90 of 2020 (Allahabad High Court)
6.	Pr. Commissioner of Income Tax and Anr. Vs. Sapna Gupta	ITA No. 88/2022 (Allahabad High Court)
7.	Pr. Commissioner of Income Tax -15 Vs. Shiv Kumar Nayyar	ITA No. 285/2024 (Delhi High Court)
8.	Shiv Kumar Nayyar Vs. ACIT, Central Circle-20, New Delhi	ITA No.1282/D/2020 (ITAT Delhi)
9.	Pr. Commissioner of Income Tax (Central)-2 Vs. Anuj Bansal	ITA 368/2023 (Delhi High Court)
10.	Anuj Bansal Vs. ACIT	ITA No. 1016/D/2021 (ITAT Delhi)
11.	Mysore Finlease Pvt Ltd.	ITA No. 8821/D/2019 (ITAT Delhi)
12.	Navin Jain & Ors. Vs. DCIT	ITA No 639-641/LKW/19 (ITAT Lucknow)

13.	ACIT Vs. Janak Raj	ITA No. 621/D/2012 (ITAT Delhi)
14.	Uttarakhand Uthan Samitee Vs. ITO	ITA No. 48-52/DDN/19 (ITAT Delhi)
15.	SMW Ispat (P.) Ltd. Vs. ACIT	[2024] 112 ITR(T) 224 (ITAT Pune)
16.	Yogender Kumar Garg Vs. DCIT Central Circle Noida	ITA No.2908-2911/D/18 (ITAT Delhi)
17.	Arch Pharmalabs Ltd. Vs. ACIT CC- 32, Mumbai	ITA No.6656/Mum/2017 (ITAT Mumbai)
18.	Geetarani Panda Vs. ACIT	IT(SS) No. 1-2/CTK/17 (ITAT Cuttack)
19.	Rishabh Buildwell P. Ltd. Vs. DCIT	ITA No. 2122/Del/18 (ITAT Delhi)
20.	CIT Vs Shri Akil Gulamali Somji	ITA(L) No. 1416-19/2012 (Bombay High Court)
21.	Akil Gulamali Somji Vs. ITO	ITA No. 455-58/PN/2010 (ITAT Pune)
22.	M3M India Holdings Vs. DCIT	ITA No. 2691/Del/2018 (ITAT Delhi)
23.	PCIT Smt. Shreelekha Damani	ITA No. 668/2016 (Bombay High Court)
24.	Smt. Shreelekha Damani Vs DCIT	ITA No. 4061/MUM/12 (ITAT Mumbai)
25.	Shri Saurabh Agarwal C/o D.S.(India) Jewelmart P. Ltd. Vs. DCIT	ITA No. 263-267/AGR/17 (ITAT Agra)
26.	PCIT Vs. Sunrise Finlease (P) Ltd.	[2018] 252 Taxman 407 (Gujarat)
27.	Inder International Vs. ACIT	ITA No. 1573/CHD/18 (ITAT Chandigarh)
28.	Madan Lal v. DCIT Central Circle – I Jalandhar	ITA No. 112-118/ASR/18 (ITAT Amritsar)
29.	Sanjay Duggal & Ors. Vs. ACIT, CC- 4, New Delhi	ITA No. 1797-1827/D/19 (ITAT Delhi)

S. No.	Particulars	Citation / Details
1	Index	-
30	Pr. CIT Vs. Subodh Agarwal	[2023] 149 taxmann.com 373 (Allahabad)
31	Umesh Sadashiv Thakre v. Assistant Commissioner of Income-tax	[2025] 175 taxmann.com 951 (Nagpur - Trib.)
32	Sharda Steel Traders Vs. Asst. Commissioner of Income tax	[2025] 175 taxmann.com 952 (Raipur - Trib.)
33	Utility Supply (P.) Ltd. v. Deputy Commissioner of Income -tax, Central	[2025] 174 taxmann.com 250 (Mumbai - Trib.)
34	Maheshwari Coal Benefication & Infrastructure (P.) Ltd. v. Dy. Commissioner of Income-tax [Central] Circle-1(1)	[2025] 171 taxmann.com 842 (Nagpur - Trib.)
35	Principal Commissioner of Income-tax v. MDLR Hotels (P.) Ltd.	166 taxmann.com 327 (Delhi)
36	Akshata Realtors (P.) Ltd. v. ACIT, Central Circle-2 [2024]	167 taxmann.com 700 (Raipur - Trib.)

Assessee's paper book in I.T.A. No.34 to 40/All/2018

Sr. No.	Particulars
1	Submission before the Hon'ble ITAT
2	Rejoinder to Rule 9 report as per Rule 9A filed before ITSC on 14.03.2016
3.	Extract of the order of CIT (A), Lucknow 3, in case of Dr. Vandana Bansal for Asst. Year 2009-10 dated 06.02.2025
4.	Extract of the order of CIT (A), Lucknow 3, in case of Dr. Vandana Bansal for Asst. Year 2013-14 dated 05.02.2025
5.	Copy of letter dated 16.03.2017 submitted by the assessee during the assessment proceedings to consider rejoinder to Rule 9 Report

Assessee's paper book in I.T.A. No.13/All/2025

Sr. No.	Particulars
1	Synopsis
2	Ledger account of professional fees and statement with TDS details
Case laws relied on:	
3	Hindustan Coca Cola Beverages Pvt. Ltd. [[2007] 293 ITR 226 / 163 Taxman 355 (SC)]
4	ACIT Vs. Raja Chkravarty [[2015] 57 taxmann.com 88 (Lucknow - Trib.)]
5	Rajeev Kumar Agarwal Vs. Addl. CIT [2014] 45 taxmann.com 555 (Agra - Trib.)
6	CIT Vs. Bhanot Construction & Housing Ltd [2019] 102 taxmann.com 234 (Delhi)
7	CIT vs Ayachi Chandrashekhar Narsangji 2014 [42 taxmann.com 251 (Gujarat)]
8	CIT Delhi - II Vs. Kinetic Capital Finance Ltd. 150 (Delhi) 2011 202 Taxman 548 (Delhi) 2013 354 ITR 296 (Delhi)
9	CIT vs. Priyanka Ship Breaking Co. P Ltd. 2012 26 taxmann.com 321 (Delhi)
10	Pr. CIT Vs. M/s Skyland Build 2018 TIOL-2323-HC-Mum-IT (24.10.2018)
11	Pr. CIT Vs. Ojas Tarmake (P) Ltd. (2023) 156 taxmann.com 75 (Guj.)
12	Pr. CIT Vs. Amber Tradecorp (P) Ltd (2022) 145 taxmann.com 27 (Guj.)

Assessee's appeal in I.T.A. No.14/Allahabad/2025

Sr. No.	Particulars
1	Synopsis
Case laws relied on:	
2	CIT vs Ayachi Chandrashekhar Narsangji 2014 [42 taxmann.com 251 (Gujarat)]
	CIT Delhi - II Vs. Kinetic Capital Finance Ltd. 150 (Delhi) 2011 202 Taxman 548 (Delhi) 2013 354 ITR 296 (Delhi)
	CIT vs. Priyanka Ship Breaking Co. P Ltd. 2012 26 taxmann.com 321 (Delhi)
	Pr. CIT Vs. M/s Skyland Build 2018 TIOL-2323-HC-Mum-IT (24.10.2018)
	Pr. CIT Vs. Ojas Tarmake (P) Ltd. (2023) 156 taxmann.com 75 (Guj.)
	Pr. CIT Vs. Amber Tradecorp (P) Ltd (2022) 145 taxmann.com 27 (Guj.)

Assessee's paper book in I.T.A. No.39 to 41/AII/2025

Sr. No.	Particulars
1	Submissions
2	Copy of statement showing the transactions with M/s Elina Mediservices
3	Copy of relevant extracts of CIT (A) for AY 2011-12 in case of M/s Jyoti Hospital Private Limited

Sr No	Particulars
1	Copy of Trust Deed dated 01.04.1990
2	Copy of Synopsis / arguments before the Hon'ble ITAT in appeal against the order of Pr. CIT cancelling registration u/s 12AA of the Act.
3	Copy of Order of the Hon'ble ITAT (with Third Member Order) against the order of Pr. CIT cancelling registration u/s 12AA of the Act.
4	Copy of remand report for the Asst. Year 2011-12 dated 07.11.2023
5	Copy of order of CIT (A) u/s 250 of the Act for the Asst. Year 2007-08 dated 24.12.2024
6	Copy of order of CIT (A) u/s 250 of the Act for the Asst. Year 2008-09 dated 24.12.2024
7	Copy of order of CIT (A) u/s 250 of the Act for the Asst. Year 2009-10 dated 24.12.2024
8	Copy of order of CIT (A) u/s 250 of the Act for the Asst. Year 2010-11 dated 24.12.2024
9	Copy of order of ITAT dated 21.12.2018 setting aside the appeal to CIT (A)
10	Copy of approval u/s 153D of the Income tax Act by Joint Commissioner of income tax, Central Range, Varanasi dated 08.08.2017
11	Copy of remand report for the Asst. Year 2012-13 dated 07.11.2023
12	Copy of remand report for the Asst. Year 2013-14 dated 07.11.2023

We hereby certify that the above documents are already on

(F) At the time of hearing, representatives of both sides agreed that appeals of Minto Developers Pvt. Ltd. (I.T.A. No.337/Lkw/2018 for A.Y. 2009-10) may be taken as the lead case as regards the legal issue whether the assessments were passed by the Assessing Officer after obtaining valid approval of JCIT. They submitted that the facts and circumstances for all the other appeals on this issue were in para materia and the decision in the case of Minto Developers Pvt. Ltd. would apply mutatis mutandis to remaining cases also. Accordingly, we first take up the appeal of Minto Developers Pvt. Ltd. (I.T.A. No.337/Alld/2018 for A.Y.2009-10).

(F.1) As regards validity of approval given by JCIT u/s 153D of the Act, the learned Counsel for the assessee drew our attention to approval letter No.Jt.CIT/CR/VNS/Approval u/s 153D/JJGroup/2017-18/304 dated 31/07/2017 whereby approvals were given for 11 different assessees for a total of 63 assessments pertaining to numerous assessment years. The aforesaid letter is reproduced below for the ease of reference:



OFFICE OF THE
JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, INCOME TAX BUILDING
MAQBOOL ALAM ROAD, VARANASI-221002

F.No.Jt.CIT/CR/VNS/Approval u/s 153D/JJGroup/2017-18/ 306 Dated: 31/07/2017

To. The Asstt. Commissioner of Income Tax
Central Circle, Allahabad.

Sub.: Approval of draft assessment orders for approval in Jeevan
Jyoti Group of cases - Regarding -

Please refer to draft assessment orders submitted vide letter
F.No.ACIT/CC/Approval/Alld/2017-18/352 dated 28/07/2017 on the above subject.

3. In this connection, the approval u/s 153D of the I.T.Act, 1961, is hereby
granted in the following cases for the assessment year as mentioned in table below:

S.No.	Name of the assessee	PAN	A.Y.
1	Vandana Women Hospital	AAIFV1419L	2010-11 to 2013-14
2	Smt. Vandana Bansal	AHCPB6234G	2007-08 to 2013-14
3	Jyoti Hospital (P) Ltd.	AAACJ631CM	2007-08 to 2013-14
4	Ashwani Kumar Bansal	ABVPB1476H	2007-08 to 2013-14
5	Arpit Hospital Ltd.	AABCA927OG	2007-08 to 2013-14
6	Navjeevan Pediatrics (P) Ltd.	AAACN7608J	2007-08 to 2013-14
7	Jyoti Mediservices Ltd.	AADCS2366P	2007-08 to 2013-14
8	Minto Colonisers Pvt. Ltd.	AAGCM1493A	2009-10 to 2013-14
9	Minto Developers Pvt. Ltd.	AAGCM1491C	2008-09 to 2013-14
10	Minto Infrabuild (P) Ltd.	AAGCM1492B	2009-10 to 2013-14
11	Jeevan Jyoti Infrastructure Pvt. Ltd.	AAABCJ9879N	2008-09 to 2013-14

(Girraj Pareek)
Joint Commissioner of Income Tax
Central Range, Varanasi

7/1

(F.1.1) The learned Counsel for the assessee challenged the validity of approval granted u/s 153D of the Act on many grounds. To begin with, he contended that the approvals were given without due application of mind. In this regard he drew our attention to the fact that the draft assessment orders were sent to the JCIT by the Assessing Officer vide letter F.No.ACIT/CC/Approval/Alld/2017-18/352 dated 28/07/2017. He further drew our attention to the fact that the next two days, i.e. 29th & 30th July, 2017 were closed holidays on account of Saturday and Sunday. Thereafter,

the JCIT gave approval u/s 153D of the Act vide aforesaid letter dated 31/07/2017 in the case of aforesaid 11 assessees for a total of 63 assessments pertaining to different assessment years in the cases of the aforesaid 11 different assessees. It was the contention of the learned Counsel for the assessee that considering the enormity of seized materials, digital data, submissions of the assessees, appraisal report provided by the Investigation Wing of Income Tax Department, reports under Rules 9 and 9A of ITSC(P) Rules, and other materials including assessment records, it was humanly impossible for the JCIT to exercise due application of mind before granting approval to the Assessing Officer for 63 assessments pertaining to 11 different assessees for various assessment year; vide aforesaid common approval letter dated 31/07/2017, sufficiently in time on 31/07/2017 for the letter of approval to reach the Assessing Officer along with seized materials, digital data, submissions of the assessees, appraisal report provided by the Investigation Wing of Income Tax Department, reports under Rules 9 & 9A of ITSC(P) Rules and other materials including assessment records to reach the Assessing Officer on 31st July 2017 itself from Varanasi (where JCIT was stationed) to Allahabad (where the Assessing Officer was stationed) in order to also enable the Assessing Officer to pass the assessment order on 31/07/2017 itself, which was the last date for passing assessment order (after which the assessments would have been barred by limitation).

(F.1.2) The learned Counsel for the assessee then challenged the aforesaid approval given u/s 153D of the Act on the basis that the JCIT did not grant approvals u/s 153D of the Act through separate approval letters for separate assessment years for each assessment orders pertaining to each of the aforesaid assessees. He contended that the JCIT was required to issue separate letters of approval for each assessment year for each assessee.

The approvals granted u/s 153D for the aforesaid assessments pertaining to different assessment years for the aforesaid 11 assesseees through a common letter do not meet this requirement, the learned Counsel for the assessee submitted.

(F.1.3) Next, the learned Counsel for the assessee challenged the validity of the approval granted u/s 153D of the Act, contending that the approvals were granted by JCIT vide aforesaid common letter dated 31/07/2017 in a non speaking manner. The letter did not contain any writeup of JCIT himself indicating that the approvals were granted for the aforesaid 63 assessments after proper application of mind. He contended that contents of the approval letter should include discussion to show that the JCIT had considered all the issues in the proposed draft assessment order, and had applied his mind independently before granting approval instead of giving approval in a summary and non speaking way, in the manner of rubber stamping whatever draft assessment order was sent by the Assessing Officer. He further submitted that this showed that the approvals were granted in a summary, routine, perfunctory and mechanical manner, as an idle formality; and that approvals were not based on independent application of mind by the JCIT.

(F.1.4) The learned Counsel for the assessee also submitted that the JCIT was required, u/s u/s 153D of the Act, to approve not only the additions proposed by the Assessing Officer; but was also required to approve the assessment order in entirety, contending that the assessment order proposed by the Assessing Officer was required to be approved word by word. In the present case, the learned Counsel for the assessee submitted, the JCIT, vide order sheet dated 25/07/2017, had observed that certain corrections were needed in the draft orders and had directed the Assessing

Officer to resubmit the draft orders after making necessary corrections, as discussed with him, latest by 28/07/2017. The JCIT had further directed the Assessing Officer to resubmit the draft orders after corrections, through official e-mail address. Therefore, learned Counsel for the assessee submitted even till 25/07/2017, there was no finality to the assessment order. The state of affairs was conditioned and tentative.

(F.1.4.1) Moreover, the learned Counsel for the assessee submitted, there was common order sheet for all the cases of Jeevan Jyoti Group which consisted of several assessees and the assessments pertained to seven assessment years in the case of each assessee. However, the learned Counsel for the assessee submitted, there was no record, either in the order sheet or elsewhere, as to what corrections were directed to be made by JCIT in the draft assessment orders sent by the Assessing Officer vide aforesaid letter dated 18/07/2017 which was received in the office of the JCIT on 19/07/2017. He contended that considering large number of assessees and multiple assessments for different assessment years; it was impossible for the JCIT to remember what corrections were directed by him in the absence of any record and therefore, it was impossible for him to satisfy himself whether the second draft assessment orders were prepared after carrying out the corrections as per the directions given on 25/07/2017. In the absence of such satisfaction, the approval given u/s 153D of the Act were in the nature of rubber stamping and suffered from infirmity on the ground of having been given without due application of mind.

(F.1.5) The learned Counsel for the assessee further submitted in this connection that the direction of the JCIT to send the second draft of the proposed assessment order by e-mail by 28/07/2017, was not complied with by the Assessing Officer and instead only physical copies were submitted by

the Assessing Officer. In the absence of compliance of the directions of the JCIT, the learned Counsel for the assessee submitted, the approvals granted by the JCIT vide aforesaid common approval letter dated 31/07/2017 were vitiated. The learned Counsel for the assessee also contended that the omission to send the second draft of the proposed assessment order by e-mail, pointed to the likelihood that the proposed second drafts of the assessment orders were not even ready by 28/07/2017 and hard copies of the second drafts of the assessment order may have been sent to the JCIT later, possibly on 31/07/2017, which was the next working day; leaving the JCIT with no time to exercise due application of mind before giving approvals u/s 153D of the Act, on 31/07/2017 itself.

(F.6) The learned Counsel for the assessee further submitted that CBDT has directed the Assessing Officers, in Search Manual, to seek the approval from the approving authority at least one month before the time barring date. In this connection, he drew our attention to order of Lucknow Bench of ITAT in the case of Navin Jain and Others vs. DCIT (order dated 03/08/2021 in IT(SS)A Nos. 639 – 641/Lkw/2019) in which, at paragraph 7 of the order, this direction of CBDT is noted. For the ease of reference; para 7 of the aforesaid order dated 03/08/2021 of ITAT is reproduced below:

"7.....Learned counsel for the assessee submitted that granting of approval u/s 153D is a huge task which involves the verification by the approving authority to examine as to which year is unabated and which year is abated and the relevance vis-à-vis seized material. Learned counsel for the assessee further invited our attention to CBDT manual of Office Procedure Volume-II (Technical) placed at pages 995 and 996 of paper book wherein the CBDT has directed that Assessing Officer should submit the draft assessment order for approval from the approving authority well in time. Such manual says that the Assessing Officer should seek approval from the approving authority at least one month before the time barring date. While going through CBDT manual placed at paper book pages 995 & 996, it

was observed that this manual was printed in February 2003 and therefore, Learned counsel for the assessee was asked as to how it is applicable to the provisions of section 153D of the Act which came into existence w.e.f. 01/06/2007. Learned counsel for the assessee in this respect submitted that this manual is applicable to the provisions of section 158BG of the Act and which are para materia to the provisions of section 153D of the Act. It was further submitted that Mumbai Tribunal in the case of Shreelekha Damani, vide order dated 19/08/2015, while deciding similar issue u/s 153D, has relied on the case laws relied for deciding the issue of approval u/s 158BG of the Act and therefore this manual is applicable to provisions of Section 153D also.....”

The learned Counsel for the assessee further submitted that the aforesaid order dated 03/08/2021 of ITAT has been referred to and approval by Hon'ble Allahabad High Court in the case of Pr.CIT vs. Sapna Gupta (order dated 12/12/2022 in Income Tax Appeal No. 88 of 2022) reported at Pr.CIT vs. Sapna Gupta 147 taxmann.com 288 (Allahabad) and also in the case of Pr.CIT vs. Siddharth Gupta (order dated 12/12/2022 in Income Tax Appeal No. 90 of 2022) reported at Pr.CIT vs. Siddharth Gupta [2023] 147 taxmann.com 305 (Allahabad). The learned Counsel for the assessee submitted that the Hon'ble Orissa High Court also, in the case of ACIT vs. M/s Serajuddin & Co. (in order dated 15/03/2023 in I.T.A. Nos. 39 – 45 of 2022) reported at ACIT vs. Serajuddin & Co. [2023] taxmann.com (Orissa) has in paragraphs 13 and 24 of the order; took the aforesaid direction of CBDT into consideration and held that since CBDT, has powers for issuing such guidelines u/s 119 of I.T. Act; the same was certainly binding on the Department. The learned Counsel for the assessee further submitted that the aforesaid orders of Hon'ble Allahabad High Court in the case of Pr.CIT vs. Siddharth Gupta (supra) and Hon'ble Orissa High Court in the case of ACIT vs. Serajuddin & Co. (supra) were challenged by Revenue in Hon'ble Supreme Court through separate SLPs; but both SLPs were dismissed by Hon'ble Supreme Court vide order dated 09/08/2024 (in the case of Pr.CIT

vs. Siddharth Gupta) in SLP(C) Diary No. 43280/2023 and order dated 28/11/2023 in SLP(C) Diary No.44989 of 2023 respectively. He drew our particular attention to paragraphs 13 and 24 of the aforesaid order of Hon'ble Orissa High Court in the case of ACIT vs. Serajuddin & Co. (supra) which are reproduced below for the ease of reference:

13. The CBDT issued the Manual of Office Procedure in February 2003 in exercise of the powers under Section 109 of the Act. Para 9 of Chapter 3 of Volume-II (Technical) of the Manual reads as under:

“9. Approval for assessment: An assessment order under Chapter XIV-B can be passed only with the previous approval of the range JCIT/ADDL.CIT (For the period from 30-6-1995 to 31-12-1996 the approving authority was the CIT.). The Assessing Officer should submit the draft assessment order for such approval well in time. The submission of the draft order must be docketed in the order-sheet and a copy of the draft order and covering letter filed in the relevant miscellaneous records folder. Due opportunity of being heard should be given to the assessee by the supervisory officer giving approval to the proposed block assessment, at least one month before the time barring date. Finally once such approval is granted, it must be in writing and filed in the relevant folder indicated above after making a due entry in the order-sheet. The assessment order can be passed only after the receipt of such approval.

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The fact that such approval has been obtained should Also be mentioned in the body of the assessment order itself.

24. The above manual is meant as a guideline to the AOs. Since it was issued by the CBDT, the powers for issuing such guidelines can be traced to Section 119 of the Act. It has been held in a series of judgments that the instructions under Section 119 of the Act are certainly binding on the Department. In *Commissioner of Customs v. Indian Oil Corporation Ltd. 2004 (165) E.L.T. 257 (S.C.)* the Supreme Court observed as under:

“Despite the categorical language of the clarification by the Constitution Bench, the issue was again sought to be raised before a Bench of three Judges in *Central Board of Excise, Vadodara v. Dhiren Chemicals*

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Industries: 2002 (143) ELT 19 where the view of the Constitution Bench regarding the binding nature of circulars issued under Section 37B of the Central Excise Act, 1944 was reiterated after it was drawn to the attention of the Court by the Revenue that there were in fact circulars issued by the Central Board of Excise and Customs which gave a different interpretation to the phrase as interpreted by the Constitution Bench. The same view has also been taken in *Simplex Castings Ltd. v. Commissioner of Customs, Vishakhapatnam 2003 (5) SCC 528*. The principles laid down by all these decisions are: (1) Although a circular is not binding on a Court or an assessee, it is not open to the Revenue to raise the contention that is contrary to a binding circular by the Board. When a circular remains in operation, the Revenue is bound by it and cannot be allowed to plead that it is not valid nor that it is contrary to the terms of the statute.

(2) Despite the decision of this Court, the Department cannot be permitted to take a stand contrary to the instructions issued by the Board.

(3) A show cause notice and demand contrary to existing circulars of the Board are ab initio bad (4) It is not open to the Revenue to advance an argument or file an appeal contrary to the circulars.”

In the present case, the learned Counsel for the assessee submitted, the first draft of proposed assessment order was sent by the Assessing Officer to the JCIT vide letter dated 18/07/2017 which was received in the office of

JCIT on 19/07/2017. The limitation date, after which assessment would become time barred was 31/07/2017; therefore, the Assessing Officer was required to seek the approval of JCIT by 30/06/2017. The second draft of the proposed assessment order was sent by the Assessing Officer to the JCIT vide letter dated 28/07/2017. Both the draft orders were sent by the Assessing Officer to JCIT after 30/06/2017; in violation of the aforesaid direction of CBDT, the learned Counsel for the assessee submitted.

(F.6.1) The learned Counsel for the assessee submitted that Hon'ble Delhi High Court , in the case of Pr.CIT vs. Shiv Kumar Nayyar (order dated 15/05/2024 in I.T.A. No.285/2024 and CM Appeal 28994/2024) reported at [2024] 163 taxmann.com 9 (Delhi) considered the aforesaid order of Hon'ble Allahabad High Court in the case of Pr.CIT vs. Sapna Gupta (supra) and order of Hon'ble Orissa High Court in the case of ACIT vs. Serajuddin & Co. (supra); and expressing agreement with the Hon'ble Allahabad High Court and Hon'ble Orissa High Court; upheld the order of Delhi Bench of ITAT quashing the assessment order.

(F.7) In view of the foregoing, the learned Counsel for the assessee submitted that the assessment should be quashed in the present appeal also.

(G) Learned Departmental Representatives contended that it was not required on the part of the JCIT to issue separate letters for giving approval to different assessment years. They submitted that the assessee also, from time to time, provided their written submissions through common letter. They further submitted that it was permitted under law to issue common notice and to pass common assessment orders for several assessment years in the case of a particular assessee. They further

submitted that logically therefore, it should also be permissible to give approval u/s 153D of the Act for several assessments pertaining to an assessee. In this regard they drew our attention to the provisions under section 158BG of the Act (which were applicable upto 31/05/2007) and relied on the following case laws:

- (i) [2003] 263 ITR 550 (SC), ACIT vs. Velliappa Textiles Ltd.
- (ii) [2002] 255 ITR 144 (Madras), Sakthivel Bankers vs. ACIT
- (iii) [2004] 267 ITR 577 (Karnataka) Rishabchand Bhansali vs. DCIT
- (iv) [2000] 243 ITR 425 (AP)
- (v) [2001] 252 ITR 712 (Madras), Lakshmi Jewellery vs. DCIT

(H) Learned Departmental Representatives further contended that the approval u/s 153D of the Act was akin to approval u/s 274(2) of the Act and further that the approval u/s 274(2) of the Act was held to be a procedural requirement which did not go to the root of the jurisdiction of the Assessing Officer to levy penalty. In this regard they placed reliance on the case of Sardar Harinder Singh vs. ITAT [1996] 219 ITR 257 (All). They also contended that no infirmity can be attributed in the statutory approvals even when it was not recorded in so many words. They placed reliance on the case of Prem Chand Shaw (Jaiswal) vs. ACIT [2016] 383 ITR 597 (Calcutta) and contended that mere fact that the additional Commissioner did not record his satisfaction in so many words, would not render invalid the sanction granted under section 151(2) when the reasons on the basis of which sanction was sought for could not be assailed. They relied on the order in the case of Chhagan Chandrakant Bhujbal vs. Income Tax Officer 136 taxmann.com 24 (Bombay) for the proposition that the small time gap between the proposal received for approval/sanction and approval/sanction

accorded would not mean that there was non-application of mind in granting approval/sanction. Learned Departmental Representatives also relied on the case laws reported at 243 ITR 674 (Karnn) *Gayathri Textiles vs. CIT*, 1 SOT 281 (Jodh) *Ratan Lal Dalmia vs Income Tax Officer*; 230 ITR 301 (MP) *CIT vs. Vijay Dall Mills*; 292 ITR 281 (Ker) *G. Manoharan vs. ACIT* and 44 taxmann.com 311 (Cal) *Sagar Dutta vs. CIT* for the proposition that even absolute absence of the JCIT's approval u/s 274(2) did not mean inherent lack of jurisdiction on the Assessing Officer so as to render his order ab initio void but to decide the matter afresh after obtaining the JCIT's approval. Learned Departmental Representatives also placed reliance on the case laws in 40 ITR 298 (SC) *Guduthur Bros vs. Income Tax Officer*, 180 ITR 84 (MP) *Prabhudayal Amichand vs. CIT* and 222 ITR 401 (MP) *CIT vs. Damodaras Murari Lal* for the proposition that the irregularity supervened not at the initial stage, but at a later stage of the proceedings would not lead to nullity. Learned Departmental Representatives further placed reliance on the case law in *Mahendra Mills Ltd. vs. Appellate Assistant Commissioner* 99 ITR 135 (SC) for the proposition that a decision is a precedent on its own facts; that each case presents its own features; and that Income Tax authorities and Tribunals are supposed to apply the ratio of a decision to the facts of particular cases with due care and discernment. They also placed reliance on the case laws in the cases of 155 ITR 120 (SC) *Distributors (Baroda) (P.) Ltd. vs UOI* and 130 Taxman 218 (Cuttack)(Mag.) *Orissa State Civil Supplies Corpn. Ltd. vs DCIT* for the proposition that the Tribunal has liberty of applying its mind afresh. Learned Departmental Representatives also placed reliance on the cases of 199 ITR 1 (SC) *CIT vs. Assam Travels Shipping Service*, 63 ITR 232 (SC) *Hukumchand Mills Ltd. vs CIT* and 53 ITR 225 (SC) *CIT vs. Kanpur Coal Syndicate*; for the proposition that ITAT has power to remand/remite the matter back to the authorities below in appropriate cases. They further

placed reliance on the case laws in the cases of 448 ITR 594 (SC) New Noble Educational Society vs. CCIT; 262 ITR 278 (SC) Pandian Chemicals Ltd. vs. CIT and 100 ITR 698 (SC) Raja Jagdambika Pratap Narain Singh vs. CBDT for the proposition that where a word used in the statute is unambiguous/unequivocal and capable of only one meaning, the legislation has to be given effect of the word in its own terms and there is no scope for importing any rule of interpretation. Learned Departmental Representatives also placed reliance on the precedents in the cases of 438 ITR 288 (SC) CIT vs. Mohammed Meeran Shahul Hameed and 362 ITR 673 (SC) CIT vs. Calcutta Knitwears for the proposition that a provision of the Act is to be read as it is and nothing is to be added or taken away from it. Learned Departmental Representatives placed further reliance on 266 ITR 1 (SC) Prakash Nath Khanna vs CIT and 121 ITR 535 (SC) CIT vs. National Taj Traders for the proposition that casus omissus should not be readily inferred. Learned Departmental Representatives also relied on the case laws in [1963] 48 ITR 1 (SC) Gursahai Saigal vs. CIT and [1955] 27 ITR 20 (SC) India United Mills Ltd. vs. Commissioner of Excess Profits Tax for the proposition that rule of construction applies only to a taxing provision (which creates a charge for the tax) but, not to the machinery provision for making the assessment. They also relied on the [2004] 271 ITR 401 (SC) for the proposition that rule of construction is to be applied only when there is an ambiguity. Learned Departmental Representatives also relied on orders of Mumbai Bench of ITAT in the cases of Pratibha Pipes & Structural Ltd. vs. DCIT 173 taxmann.com 147 (Mumbai-Trib) and Usha Satish Salvi vs. ACIT (order dated 23/10/2025 in I.T.A. Nos.4237 – 4239/Mum/2023) and also on order of Cuttack Bench of ITAT in the case of Bibhudutta Panda vs. ACIT (order dated 01/02/2023 in I.T.A. Nos. 76 – 81/CTK/2022) in which grounds raised by the assessee against validity of approval granted u/s 153D of the I.T. Act were dismissed.

(H.1) Learned Departmental Representatives also submitted that procedural irregularity was not fatal if jurisdictional issue was established. Further, learned Departmental Representatives submitted that fiscal acts should be interpreted in a way which enables functioning of the Act and does not frustrate the Act. Learned Departmental Representatives submitted furthermore, that there was no statutory form prescribed for granting approval u/s 153D of the Act and therefore, the approval given u/s 153D of the Act in the present case did not suffer from any infirmity. Learned Departmental Representatives moreover submitted that the draft assessment order sent by the Assessing Officer to the JCIT vide aforesaid letter dated 28/07/2017 was the second draft order; that the first draft order was sent by the Assessing Officer along with the letter dated 18/07/2017, which was received by the then JCIT (Shri Abhay Kumar Thakur) on 19/07/2017; that the earlier JCIT, who held charge from 15/09/2016 to 20/07/2017 (who received the original draft assessment orders) did not give approval u/s 153D of the Act; but the approval u/s 153D of the I.T. Act was given by the new incumbent (Shri Giriraj Parikh) who took charge on 21/07/2017. They submitted that the new incumbent called the Assessing Officer for discussion, that the discussion between the JCIT and the Assessing Officer took place on 25/07/2017; that after the discussion, the JCIT gave certain directions to the Assessing Officer and the Assessing Officer forwarded the second draft assessment order along with the aforesaid letter dated 28/07/2017, which was approved by the JCIT u/s 153D of the I.T. Act, on 31/07/2017. They also submitted that the Assessing Officer had sent, along with the aforesaid letter dated 18/07/2017, the assessment records and a pen drive (of 8GB capacity) containing seized materials, digital data, submissions of the assessee, appraisal report provided by the Investigation Wing of Income Tax

Department and other materials of assessment records; which remained in the office of the JCIT till 31/07/2017 when the JCIT gave approvals u/s 153D of the Act vide aforesaid common letter dated 31/07/2017. They submitted that although the new incumbent, in the office of JCIT (Shri Giriraj Parikh) took charge on 20/07/2017, he immediately came into action regarding the matter of giving approvals u/s 153D of the Act immediately and the approval was given vide aforesaid letter dated 31/07/2017 after due application of mind. Learned Departmental Representatives also submitted that the earlier incumbent in the office of the JCIT (Shri Abhay Kumar Thakur) had visited Allahabad for discussion with the Assessing Officer on multiple occasions and had also stayed in the guest house of the Income Tax department a couple of times. Learned Departmental Representatives also submitted that although the second draft of the proposed assessment orders were not sent to the JCIT by e-mail, the physical copies were indeed sent to the JCIT on 28/07/2017 itself along with the aforesaid letter dated 28/07/2017 with an Inspector of the income tax department, named Mr. Agrahari. Learned Departmental Representatives produced the concerned Inspector, Mr. Agrahari, in person before us, who stated in his oral testimony that the second drafts of the proposed assessment orders were physically carried by him from Allahabad to Varanasi and were handed over to the JCIT on 28/07/2017 itself.

(H.1.1) Learned Departmental Representatives contended emphatically that whether the JCIT had given approval u/s 153D of the Act after due application of mind, was a question of fact and the answer would depend on facts and circumstances of each case. They contended that a conclusion arrived at in a particular case that the approvals were given u/s 153D of the Act without application of mind, did not act as a precedent (being a question of fact) in another case; and conclusion as to whether there was due

application of mind in a particular case was to be decided for each case, based on the specific facts of the particular case; and the conclusion was to be arrived at independent of conclusion arrived at in any other case. Learned Departmental Representatives also submitted that the earlier incumbent in the office of JCIT (Mr. Abhay Kumar Thakur) had issued directions u/s 144A of the Act in June 2017, which also enabled him to develop familiarity with the case. Moreover, they contended that the limited time available with the Assessing Officer and the JCIT for the process of approval u/s 153D of the Act was partly attributable to the assessee, as the assessee had sought adjournment of hearing till 12/07/2017. Moreover, they contended that the direction of CBDT to Assessing Officer to seek approval of the approving authority at least one month before the time barring date was directory and not mandatory. They also submitted that although the JCIT, who gave approval, took charge of office on 20/07/2017 which may have been just a few days before limitation date for passing assessment order, the association of the predecessor JCIT (Shri Abhay Kumar Thakur) with the Assessing Officer was part of institutional memory which was reflected in the final approval given vide aforesaid common approval letter dated 31/07/2017 by the next incumbent in the office of JCIT who succeeded him. In view of the submissions made, Learned Departmental Representatives pleaded that the validity of approval given u/s 153D of the Act by the JCIT should be upheld. In their alternate submissions, Learned Departmental Representatives pleaded that the matter regarding approval u/s 153D of the I.T. Act should be restored back to the file of the approving authority (i.e. Addl. CIT/JCIT) for fresh view to be taken; in case it was found that the approval granted u/s 153D of the I.T. Act suffered from infirmities or were invalid. In order to support their submissions, Learned Departmental Representatives drew our attention to the affidavit of Shri M. L. Meena, ACIT, the Assessing Officer. The affidavit

of Shri M. L. Meena dated 13/08/2025 is reproduced below for the ease of reference:



INDIA NON JUDICIAL

Government of Uttar Pradesh

e-Stamp



IN-UP86748940149195X
 All Name - MURARI LAL MEENA
 Licence No. 17/2023-24
 Radhika Vihar Phase - II
 Distt. Mathura

1438

Certificate No.	: IN-UP86748940149195X
Certificate Issued Date	: 12-Aug-2025 04:15 PM
Account Reference	: NEWIMPACC (SV)/ up14898404/ MATHURA SADAR/ UP-MTH
Unique Doc. Reference	: SUBIN-UPUP1489840471134304803147X
Purchased by	: MURARI LAL MEENA
Description of Document	: Article 4 Affidavit
Property Description	: Not Applicable
Consideration Price (Rs.)	:
First Party	: MURARI LAL MEENA
Second Party	: Not Applicable
Stamp Duty Paid By	: MURARI LAL MEENA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)




Before the Hon'ble ITAT, Allahabad Bench

In the 2nd appeals/Cross objections in the cases of-

1. Minto Developers Pvt. Ltd., A.Y. 2009-10 (ITA No. 337/A/2018)
2. Late Dr. A.K. Bansal, A.Y. 2007-08 to 2013-14 (ITA No. 34 to 40/A/2019)
3. Arpit Hospital Pvt. Ltd., A.Y. 2012-13 & 2013-14 (ITA No. 13 & 14/A/2025)
4. Navjeevan Pediatrics Pvt. Ltd., A.Y. 2013-14 (Deptl ITA No. 44 & assessee's CO 5/A/2025)
5. Minto Colonizers Pvt. Ltd., A.Y. 2009-10 & 2012-13 (ITA No. 54 & 55/A/2025)
6. Jeevan Jyoti Infrastructure Co. Pvt. Ltd., A.Y. 2012-13 (ITA No. 56/A/2025)
7. Jyoti Hospital (P.) Ltd., A.Y. 2007-08 to 2013-14

X-----X

AFFIDAVIT

I, Murari Lal Meena, S/o. (Late) Shri Shiv Prasad Meena, aged about 56 years R/o (Present address) Flat No.10, Anandam, Pushapanjali Baikunth, (Near Tahra Gaon) Vrindavan, District- Mathura, U.P.-281003 solemnly state on oath and affirm as follows:



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DR. ITAT
Allahabad

Statutory Alert:
 1. The authenticity of the Stamp on Affidavit should be verified at some conveniently accessible e-stamp e-Stamp Machine, before the Notary.
 2. The user should always check the validity of the certificate and its availability on the website of Ministry of Revenue, Government of India.
 3. The user should always check the validity of the certificate.

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1. That, I am currently posted as Joint Commissioner of Income Tax, AU-1(1), Muzaffarnagar, Station at-Mathura (UP).

2. That during the period from 21.07.2016 to 22.06.2018, I was posted as Asstt. Commissioner of Income Tax, Central Circle, Allahabad. Shri Nagendra Dixit was my immediate predecessor (from 08.10.2013 to 21.07.2016) and his two immediate predecessors were Shri Shambhu Yadav (from 21.06.2013 to 08.10.2013) and prior to him Shri Shudhanshu Dhar Mishra (24.08.2012 to 21.06.2013). The search assessment proceedings u/s 153A were initiated/ commenced by Shri Shudhanshu Dhar Mishra, the then DCIT, Central Circle, Allahabad by means of notices u/s 153A issued by him on 03.04.2013, which continued subsequently despite change of incumbents (on account of transfers / postings of the officers) time to time in accordance with the provisions of section 129 of the Income Tax Act, 1961.

3. That the next immediate superior Officer was the Joint/Addl. Commissioner of Income Tax, Central Range, Varanasi, to whom the Asstt./Dy. Commissioner of Income Tax, Central Circle, Allahabad used to report.

4. During my tenure of posting as Asstt. Commissioner of Income Tax, Central Circle, Allahabad (21.07.2016 to 22.07.2018), Shri Abhay Kumar Thakur was my boss/Addl. Commissioner of Income Tax, Central Range, Varanasi (from 15.09.2016 to 20.07.2017) and the latter was a result of annual transfers/postings, he was replaced by his successor Shri Giriraj Pareek JCTI (who held that post from 21.07.2017 to 16.08.2018).

5. During my tenure as Asstt. Commissioner of Income Tax, Central Circle, Allahabad, the settlement applications of the above named assessee (belonging to Jeevan Jyoti Hospital/Dr. A.K. Bansal Group of search cases) came to be dismissed by the Income Tax Settlement Commission vide order u/s 245D(4) dated 17.08.2016 passed by the Commission and consequently, the pending search assessment proceedings u/s 153A stood revived in my regime for completion of the said assessment proceedings in accordance with the provisions of law.

6. That accordingly, after careful and close scrutiny of the seized materials, the relevant appraisal report of the ADIT/DDIT(Inv.), the relevant assessment records and after due discussions with my Addl. Commissioner of Income Tax(Central), namely Shri Abhay Kumar Thakur, the fresh notices alongwith questionnaires were prepared and issued by me in December 2016. Thereafter also Shri Abhay Kumar Thakur, Addl.CIT kept on regularly discussing with me and monitoring /supervising the progress of the said assessment proceedings time to time and for that purpose he used to officially visit my office at Allahabad. As I remember, he visited my office some 4/5 times during his tenure, for instance, on 11 & 12.01.2017 (when he stayed in the Departmental Guest House at Allahabad) and on 25 & 26.03.2017 (when he again stayed in the Departmental Guest House at Allahabad). I remember that every time of his visit, he used to peruse the relevant assessment records containing the replies/submissions of the said assessee *vis-a-vis* queries raised in the light of the appraisal report and the seized materials received from the Investigation Wing and he also kept on guiding me and supervising the progress of the assessment proceedings in these cases time to time. Shri Abhay Kumar Thakur, Addl.CIT, however, got transferred out in the

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Annual General Transfers held in July, 2017 and he was replaced by the new incumbent Shri Giriraj Pareek, who took over the charge of JCIT, Central Range, Varanasi w.e.f. 21.07.2017.

7. That, Shri Giriraj Pareek, JCIT, Central Range, Varanasi, immediately came into action right since his joining on 21.07.2017, as the assessment proceedings in these cases were required to be completed by 31.07.2017 (being the limitation date for passing the relevant assessment orders). He perused all the relevant records/materials already available in his office, which *inter alia* included the search appraisal report received from the Investigation Wing, my predecessor's report under Rule-9 of the Income Tax Settlement Commission (Procedure) Rules, 1997 dated 19.05.2015 [which was forwarded by one of his predecessor Addl./Joint CIT to the Pr.CIT (Central), Lucknow, and that was further forwarded to the Settlement Commission vide Pr. CIT's letter No. Pr.CIT(C)/LKO/ITSC/Jeevan Jyoti Group/16-17/959 dated 06.01.2016], the Addl.CIT's report dated 12.01.2016 on the rectification applications u/s 245D(6B) subsequently filed by the said assessee and; the orders/directions u/s 144A dated 09.06.2017 issued by the Addl.CIT in pursuance of the petitions filed by these assessee u/s 144A.

8. That, after considering the entire relevant materials available on my records, I prepared "proposed assessment orders", which were provided to the said assessee along with final notices u/s 142(1) dated 28.06.2017 thereby inviting their representations/submissions, if any but they only bought time without any material/submissions worth consideration. Therefore, "drafts of the assessment orders" were prepared by me and submitted to the Addl./Joint CIT, Central Range, Varanasi (along with all relevant records/materials as also the editable soft copies of the said drafts in a pen drive) vide my letter F.No. ACIT/CC/Approval/Alld/2017-18/332 dated 18.07.2017 which were received by O/o the Addl./Joint CIT, Central Range, Varanasi on 19.07.2017 and were immediately put up before the Addl./Joint CIT. After detailed examination of the entire materials (pre-existing in the JCIT's office and also considering those submitted by me along with my letter dated 18.07.2017), Shri Giriraj Pareek, JCIT telephonically conveyed me on 21.07.2017 to personally appear before him at Varanasi for further discussions. Accordingly, I assisted by my then Inspector (Shri Agrahari) personally appeared before Shri Giriraj Pareek, JCIT at Varanasi on 25.07.2017 along with all relevant records including seized materials etc., which were again considered and examined by him (JCIT) *vis-a-vis* the "draft assessment orders" submitted by me for approval. After detailed consideration and examination of the entire materials/records, the Id. JCIT suggested me to make certain corrections in the "drafts" submitted by me and asked me to "resubmit" the corrected/revised draft orders as per his discussions with me latest by 28.07.2017.

9. That, accordingly, after making appropriate corrections, the revised "draft orders" were again submitted by me (vide my letter No. ACIT/CC/Approval/Alld./2017-18/352 dated 28.07.2017), which were personally carried by my Inspector (Shri Agrahari) and handed over to Shri Giriraj Pareek, JCIT personally same day i.e. on 28.07.2017.

10. That, subsequently, after further perusal and close examination of all relevant materials, the JCIT granted his approval u/s 153D on 31.07.2017 and conveyed me the same vide his letter F.No. Jt.CIT/CR/VNS/Approval u/s 153D/JJ Group/2017-18/304 dated 31.07.2017 by email as well as by whatsapp on the same day i.e. on 31.07.2017.

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Allahabad

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11. That, with the said statutory approval u/s 153D granted by the JCIT, Central Range, Varanasi, I passed the relevant assessment orders u/s 153A in the aforesaid cases on 31.07.2017 itself (which was the last date of limitation for passing the said assessment orders).

12. That, the aforesaid facts are stated by me on oath on my own to prove that the approval u/s 153D accorded by the JCIT in these cases on 31.07.2017 was an outcome of the long drawn thorough and continuous process of regular deliberations, discussions, considerations of the materials on record and the same came to be granted by the JCIT after his due diligence and prudent application of mind.

13. So, help me God and save my own as well as my Addl./Joint CIT's actions in these cases which were carried out in good faith in the public interest in regular discharge of our official duties without any grudges, biases, malice or any kind of ill will towards anyone.

VERIFICATION/DECLARATION

I, Murari Lal Meena, S/o. (Late) Shri Shiv Prasad Meena, aged about 56 years R/o. (Present address: Plot No. 10, Anandam, Pushapanjali Baikunth, (Near Tahra Gaon) Vrindavan, District-Mathura, U.P. 201003, presently posted as JCIT, AU-1(1), Muzaffarnagar, Station at-Mathura (UP), solemnly affirm on oath that the depositions made hereinabove as at para no. 1 to 13 are true to the best of my information/knowledge as per records and as per my memory and belief.

Place: Mathura
Dated: 13/8/2025

Mf
(Murari Lal Meena)
Address:

(मुरारी लाल मीना)
संयुक्त आयकर अधिकारी
(Murari Lal Meena)
Jt. Commissioner of Income Tax
AU-1(1), Muzaffarnagar at Mathura

I solemnly affirm on oath that the depositions made hereinabove as at para no. 1 to 13 are true to the best of my information/knowledge as per records and as per my memory and belief.
I have read over and explained to मुरारी लाल मीना who is identified by Shri. मुरारी लाल मीना on oath attested to day on 13/08/25 at my office & noted down in the notary register at No. 183 and Charged fee P 183

Know Signatures
He Has Sing./Put Thumb
Impression before me
Not Identified

Muhammed Ali Advocate
Notary Public Mathura


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DR. ITAT
Allahabad

(I) The learned Counsel for the assessee, in his rejoinder, countered the submissions made by learned Departmental Representatives emphatically. He submitted that affidavit of the Assessing Officer and the Departmental Inspector are de void of any credibility. He submitted that it was an important and material fact to be noted that the JCIT who gave approval u/s 153D of the IT Act, and who had since superannuated, did not file any affidavit/statement in support of Revenue's contentions. Since it was the JCIT who gave approval, and he did not support Revenue's stand; the version of Assessing Officer and Inspector, who still working in the Department and were under the control and discipline of Department; must be rejected. In this regard he contended that the affidavit and personal testimony of Departmental Inspector were self-serving documents and it was aimed at covering omissions and mistakes of Departmental authorities. He also contended that the affidavit and personal testimony of the Departmental Inspector are not supported by any documentary evidence. Further he submitted that the Assessing Officer was not competent to state on oath about the conduct of some other officer specially his senior officer. In particular he referred to paragraph-7 of the affidavit of the Assessing Officer wherein he has stated that Shri Giriraj Parikh, JCIT, came into action right since his joining on 21/07/2017. The deponent Assessing Officer has further stated that the JCIT perused all the relevant records/materials already available in his office, which included appraisal report, the report under Rule 9 of Income Tax Settlement Commission (Procedure) Rules, 1997 ["ITSC(P) Rules" for short], the report of the Addl. CIT dated 12/01/2016, the orders and directions u/s 144A of the I.T. Act etc. The learned Counsel for the assessee also drew our attention to paragraph 8 of the affidavit wherein the deponent Assessing Officer has stated that the JCIT, examined the entire materials (pre existing in the JCIT's office and

also considering those submitted along with letter dated 18/07/2017). The learned Counsel for the assessee further drew our attention to para 10 of the affidavit of the deponent Assessing Officer wherein he has stated that the JCIT granted approval u/s 153D of the Act after further perusal and close examination of all the relevant materials. The learned Counsel for the assessee contended that the deponent Assessing Officer has made statements in the affidavit regarding these materials about which only the JCIT had personal knowledge and the deponent Assessing Officer could not have personal knowledge, information and belief. Further he submitted that in paragraph-9 of the affidavit of the deponent Assessing Officer and in the personal testimony of the Departmental Inspector, it has been stated that the Inspector handed over draft orders to Shri Giriraj Parikh, JCIT on 28/07/2017 along with letter No.ACIT/CC/Approval/All./2017/18/352 dated 28/07/2017. However, no documentary evidence, such as acknowledgement from the office of the JCIT is available on record and no such documentary evidence has been produced by Revenue. The learned Counsel for the assessee also contended that the affidavit of the deponent Assessing Officer has been made on 13/08/2025 after more than 8 years since 31/07/2017 on which approval was given by the JCIT u/s 153D of the Act. He contended that it was impossible for the deponent Assessing Officer to remember the facts of the case including specific dates and specific letter numbers; which are found in the affidavit; after such substantial lapse of time; and similarly, it was impossible for the Inspector to remember things in such specific details after such a long time. In view of these facts and circumstances, the learned Counsel for the assessee submitted that the affidavit of the deponent Assessing Officer and the personal testimony of the Departmental Inspector should be rejected being completely de void of any credibility.

(I.1) Learned Counsel for the assessee also submitted that the contention of Revenue that the Assessing Officer was in regular supervision of the earlier incumbent in the office of the JCIT (Shri Abhay Kumar Thakur) and that Shri Abhay Kumar Thakur regularly discussed with the Assessing Officer, monitored/supervised the progress of the assessment proceedings and extended guidance to the Assessing Officer was entirely irrelevant because it was not Shri Abhay Kumar Thakur who gave approval u/s 153D of the Act. He submitted that it was Shri Giriraj Parikh, JCIT, who took charge on 21/07/2017 who, on 31/07/2017 gave approval u/s 153D of the Act and the validity of the approval u/s 153D of the Act is to be examined regardless of whatever was done and whatever happened when Shri Abhay Kumar Thakur, the earlier incumbent before Shri Giriraj Parikh, held office. He also submitted that 21/07/2017 was Friday and before 31st July 2017 (on which approval was given u/s 153D of the Act) there were only five working days (excluding Saturdays and Sundays which were closed holidays). The learned Counsel for the assessee also submitted that although it is contended by Revenue that the letter dated 18/07/2017 containing initial draft of the assessment order was accompanied with a pen drive (8GB capacity), the note and order sheet of the office of the JCIT dated 19/07/2017, does not make a mention of any pen drive accompanying the aforesaid letter. The notes and order sheet merely mentioned the receipt of letter of the Assessing Officer, and makes no mention of pen drive. Further he submitted that the letter dated 18/07/2017 of the Assessing Officer also does not contain any description of the contents of the pen drive and merely mentions at the bottom of the letter, in hand writing "*Pen Drib 1 pees. 8GB*". He also drew our attention to the report of an expert (included in the paper book, filed by the assessee) in which it has been mentioned that there were approximately 40,434 seized documents, 7 CPUs, 26 HDDs and one laptop seized during the search u/s 132 of the Act. The expert has


opined that the storage of this data would require a memory of 200GB and that it was impossible to store it on a pen drive of 8GB capacity. The learned Counsel for the assessee also submitted that in any case there was no evidence from record that the JCIT did even examine the contents of the pen drive and also that the letter dated 18/07/2017 did not in any case provide any description of the contents of the pen drive. In the absence of any description of the contents of the pen drive in letter dated 18/07/2017 of the Assessing Officer and in the absence of any reference to pen drive in the notes and order sheet of the office of the JCIT, the claim of Revenue that a pen drive was sent along with letter dated 18/07/2017 carried no value or relevance for the issue at hand, the learned Counsel for the assessee contended. For the ease of reference, the aforesaid letter dated 18/07/2017 of the Assessing Officer is reproduced below:


OFFICE OF THE
Asstt. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE, ALLAHABAD

F.No. ACIT/CC/Approval/AIld./2017-18/ 332 Date: 18-07-2017

To
The Addl./Jt. Commissioner of Income Tax(Central Range)
Varanasi

Sir,



Sub:- Submission of draft Assessment Orders for approval in Jeevan Jyoti Group of cases-request regarding.

Kindly refer to the mentioned above.

2. It is submitted that in Jeevan Jyoti Group of Allahabad Search and seizure operation was conducted u/s 132 by the Investigation Wing Allahabad, consequent upon the same, proceeding u/s 153A & 153C were initiated.

3. After consideration of submissions by the assessee vis a vis the contents of the Approval Report, the draft assessment orders alongwith case records for assessment year mentioned against their names in the following cases are being submitted before your goodness for necessary approval:-

S.No.	Name of the assessee	PAN	A.Y.
1.	Vandana Women Hospital	AAIFV1419L	2010-11 to 2013-14
2.	Smt. Vandana Bansal	AHCPB6234G	2007-08 to 2013-14
3.	Jyoti Hospital (P) Ltd.,	AAACJ6310M	2007-08 to 2013-14
4.	Ashwani Kumar Bansal	ABVPB1476H	2007-08 to 2013-14
5.	Arpit Hospital Ltd.,	AABCA9270G	2007-08 to 2013-14
6.	Navjeevan Pediatrics (P) Ltd.,	AAACN7608J	2007-08 to 2013-14
7.	Jyoti Mediservices Ltd.,	AADCS2366P	2007-08 to 2013-14
8.	Minto Colonisers Pvt. Ltd.,	AAGCM1493A	2009-10 to 2013-14
9.	Minto Developers Pvt. Ltd.,	AAGCM1491C	2008-09 to 2013-14
10.	Minto infrabuild (P) Ltd.,	AAGCM1492B	2009-10 to 2013-14
11.	Jeevan Jyoti Infrastructure Pvt. Ltd.,	AABCJ9879N	2008-09 to 2013-14

Pen Drive :- 1 Piece 8 GB

Insp.

True Copy

Yours faithfully

(Murali Lal Meena)
Asstt. Commissioner of Income Tax
Central Circle, Allahabad

(I.2) The learned Counsel for the assessee submitted further that the reliance of the learned Departmental Representatives on precedents of Hon'ble Courts, pertaining to section 158BG of the Act to draw equivalence with section 153D of the Act deserved to be rejected outrightly because section 158BG pertained to block assessment order in which, under the mandate of law the Assessing Officer was required to pass one assessment order for the block period consisting of multiple years; whereas under section 153D of the Act, separate approvals are to be given by the approving authority for separate assessment orders pertaining to different assessment years for each assessee. The learned Counsel for the assessee stated that the contention of the learned Departmental Representatives that there was no statutory form prescribed for granting approval u/s 153D of the Act also deserved to be rejected because in any case the approval is to be granted u/s 153D of the Act after due application of mind of the approval authority and the approval given by the approving authority should be done in a speaking manner and not in a summary manner. The learned Counsel for the assessee submitted that the contention of the learned Departmental Representatives that the assessee had sought adjournment of hearing till 20/07/2017 is misleading. He pointed out that the reports under Rule 9 and 9A of ITSC(P) Rules were already on the record of the Assessing Officer, which contained all the information sought for by the Assessing Officer. Moreover, in any case, whether the assessee delayed the assessment proceedings or not is wholly irrelevant for the purpose of examining the validity of approval of the proposed draft assessment order, under section 153D of the Act. He contended that the Assessing Officer was at liberty to proceed with ex-parte order if he considered that there was default on the part of the assessee in providing information or in making compliance with the notices. The learned Counsel for the assessee also submitted that direction of CBDT to Assessing Officer to seek approval of the approving

authority at least one month before the time barring date was mandatory on the Assessing Officer. He also contended that the association of the JCIT/Addl CIT with the Assessing Officer till the time of preparation of the draft assessment order has no significance for considering the validity of the approval given u/s 153D of the Act because the statutory requirement of approval u/s 153D of the Act cast a separate duty upon the approving authority which was de hors any other role and responsibility of the approving authority. He also submitted that the contention of the learned Departmental Representatives that the association of the predecessor JCIT (Shri Abhay Kumar Thakur) with the Assessing Officer was part of institutional memory, deserved to be rejected for the aforesaid reason. In view of the submissions and contentions presented before us by learned Counsel for the assessee, he submitted that the approval granted by the JCIT was invalid and suffered from the infirmity, because it was humanly impossible for the JCIT to apply his independent mind to total of 63 assessments pertaining to 11 different assessees for different assessment years having regard to enormity of the seized materials, digital data, submissions of the assessees, appraisal report provided by the Investigation Wing of Income Tax Department, reports under Rules 9 & 9A of ITSC(P) Rules, and other materials including assessment records. The learned Counsel for the assessee submitted that although it has been contended in the affidavit of the Assessing Officer and in the submissions of the learned Departmental Representatives that the JCIT sent approvals u/s 153D of the Act to the Assessing Officer on 31/07/2017 through e-mail and Whatsapp, there was no evidence on record that any such e-mail or Whatsapp was sent by the JCIT; and also no print out of such e-mail/Whatsapp communication has been adduced from the side of the Revenue at any stage. In this regard, he also relied on the various paper books, referred to in foregoing

paragraph (E) of this order, and on the compilation of the case laws/decisions referred to in foregoing paragraph (E) of this order.

(J) We have heard both sides, patiently; we have also diligently perused the materials on record. We have been presented many precedents/case laws; and many propositions; which are either of general nature, or which pertain to specific issues other than the specific matter of validity of approval u/s 153D of the IT Act. It is settled position of law that specific principles and provisions of law prevail over general principles/provisions of law. It is also settled position of law that principles and provisions of a particular matter or issue, prevail over principles and provisions of another matter or issue; for taking a decision on the former matter or issue. Therefore, the specific propositions, precedents and case laws in the context of validity of approval u/s 153D of the Act have stronger force than those propositions and precedents pertaining to general propositions or pertaining to specific issues other than validity of approval u/s 153D of the IT Act. Moreover, although the learned Departmental Representatives have placed reliance on some orders of ITAT (Bombay Bench and Cuttack Bench), orders of Hon'ble Supreme Court, Hon'ble Allahabad High Court which is the jurisdictional High Court, and orders of other Hon'ble High Courts, such as Hon'ble Orissa High Court and Hon'ble Delhi High Court; prevail over orders of Bombay Bench and Cuttack Bench of the Tribunal.

(J.1) In the case of ACIT, Circle-1(2), Bhubaneswar vs. Serajuddin & Co. (supra), it was held as under:

⇒ 11. Among the changes brought about by the Finance Act 2007 was the insertion of Section 153D of the Act. The CBDT circular dated 12th March 2008 refers to the various changes and *inter alia* also to the change brought about by the insertion of a new Section 153D of the Act. Paragraph 50 of the said circular is relevant and reads as under:

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

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

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

section 132 or requisitioned is made under section 132A.

50.3 Applicability- These amendments will take effect from the 1st day of June, 2007.”

12. It must be noted at this stage that even prior to the introduction of Section 153D in the Act, there was a requirement under Section 158BG of the Act, which was substituted by a Finance Act 14 of 1997 with retrospective effect from 1st January 1997, of the AO having to obtain a previous approval of the JCIT/Additional CIT by submitting a draft assessment order following a search and seizure operation.

13. The CBDT issued the Manual of Office Procedure in February 2003 in exercise of the powers under Section 109 of the Act. Para 9 of Chapter 3 of Volume-II (Technical) of the Manual reads as under:

“9. Approval for assessment: An assessment order under Chapter XIV-B can be passed only with the previous approval of the range JCIT/ADDL.CIT (For the period from 30-6-1995 to 31-12-1996 the approving authority was the CIT.). The Assessing Officer should submit the draft assessment order for such approval well in time. The submission of the draft order must be docketed in the order-sheet and a copy of the draft order and covering letter filed in the relevant miscellaneous records folder. Due opportunity of being heard should be given to the assessee by the supervisory officer giving approval to the proposed block assessment, at least one month before the time barring date. Finally once such approval is granted, it must be in writing and filed in the relevant folder indicated above after making a due entry in the order-sheet. The assessment order can be passed only after the receipt of such approval.

The fact that such approval has been obtained should also be mentioned in the body of the assessment order itself.”

14. The requirement of prior approval under Section 153D of the Act is comparable with a similar requirement under Section 158BG of the Act. The only difference being that the latter provision occurs in Chapter-XIV-B relating to “special procedure for assessment of search cases” whereas Section 153D is part of Chapter-XIV.

15. A plain reading of Section 153D itself makes it abundantly clear that the legislative intent was to be obtaining of “prior approval” by the AO when he is below the rank of a Joint Commissioner, before he passes an assessment order or reassessment order under Section 153A(1)(b) or 153B(2)(b) of the Act.

16. That such an approval of a superior officer cannot be a mechanical exercise has been emphasized in several decisions. Illustratively, in the context of Section 142 (2-A) which empowers an AO to direct a special audit. The obtaining of the prior approval was held to be mandatory. The Supreme Court in *Rajesh Kumar v. Dy. CIT (2007) 2 SCC 181* observed as under:

“58. An order of approval is also not to be mechanically granted. The same should be done having regard to the materials on record. The explanation given by the assessee, if any, would be a relevant factor. The approving authority was required to go through it. He could have arrived at a different opinion. He in a situation of this nature could have corrected the assessing officer if he was found to have adopted a wrong approach or posed a wrong question unto himself. He could have been asked to complete the process of the assessment within the specified time so as to save the Revenue

from suffering any loss. The same purpose might have been achieved upon production of some materials for understanding the books of accounts and/ or the entries made therein. While exercising its power, the assessing officer has to form an opinion. It is final so far he is concerned albeit subject to approval of the Chief Commissioner or the Commissioner, as the case may be. It is only at that stage he is required to consider the matter and not at a subsequent stage, viz., after the approval is given.”

17. It is therefore not correct on the part of the Revenue to contend that the approval itself is not justiciable. Where the approval is granted mechanically, it would vitiate the assessment order itself. In *Sahara India (Firm) Lucknow v. Commissioner of Income Tax (supra)*, the Supreme Court explained as under:

“8. There is no gainsaying that recourse to the said provision cannot be had by the Assessing Officer merely to shift his responsibility of scrutinizing the accounts of an assessee and pass on the buck to the special auditor. Similarly, the requirement of previous approval of the Chief Commissioner or the Commissioner in terms of the said provision being an inbuilt protection against any arbitrary or unjust exercise of power by the Assessing Officer, 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 Section is not turned into an empty ritual. Needless to emphasise that before granting approval, the Chief Commissioner or the Commissioner, as the case may be, must have before him the material on the basis whereof an opinion in this behalf has been formed by the Assessing Officer. The approval must reflect the application of mind to the facts of the case.”

18. The contention of the Revenue in those cases that the non-compliance of the said requirement does not entail civil

consequences was negated. Reiterating the view expressed in *Rajesh Kumar (supra)*, the Supreme Court in *Sahara India (Firm) Lucknow v. Commissioner of Income Tax (supra)* held as under:

“29. In *Rajesh Kumar (2007) 2 SCC 181* it has been held that in view of Section 136 of the Act, proceedings before an Assessing Officer are deemed to be judicial proceedings. Section 136 of the Act, stipulates that any proceeding before an Income Tax Authority shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of Indian Penal Code, 1860 and also for the purpose of Section 196 of I.P.C. and every Income Tax Authority is a court for the purpose of Section 195 of Code of Criminal Procedure, 1973. Though having regard to the language of the provision, we have some reservations on the said view expressed in *Rajesh Kumar's case (supra)*, but having held that when civil consequences ensue, no distinction between quasi judicial and administrative order survives, we deem it unnecessary to dilate on the scope of Section 136 of the Act. It is the civil consequence which obliterates the distinction between quasi judicial and administrative function. Moreover, with the growth of the administrative law, the old distinction between a judicial act and an administrative act has withered away. Therefore, it hardly needs reiteration that even a purely administrative order which entails civil consequences, must be consistent with the rules of natural justice. (Also see: *Maneka Gandhi v. Union of India (1978) 1 SCC 248* and *S.L. Kapoor v. Jagmohan (1980) 4 SCC 379*).

30. As already noted above, the expression "civil consequences" encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. Anything which affects a citizen in his civil life comes under its wide umbrella. Accordingly, we reject the argument and hold that since an order under Section 142 (2A) does entail civil

consequences, the rule audi alteram partem is required to be observed.”

19. To the same effect, are the decisions of the Delhi High Court in *Yum! Restaurants Asia Pte. Ltd. v. Deputy Director of Income Tax (supra)* which dealt with the requirement under Section 151 (2) of the Act for initiating proceedings under Section 147 read with 148 of the Act. It was observed as under:

“11. The purpose of Section 151 of the Act is to introduce a supervisory check over the work of the AO, particularly, in the context of reopening of assessment. The law expects the AO to exercise the power under Section 147 of the Act to reopen an assessment only after due application of mind. If for some reason, there is an error that creeps into this exercise by the AO, then the law expects the superior officer to be able to correct that error. This explains why Section 151 (1) requires an officer of the rank of the Joint Commissioner to oversee the decision of the AO where the return originally filed was assessed under Section 143 (3) of the Act. Further, where the reopening of an assessment is sought to be made after the expiry of four years from the end of the relevant AY, a further check by the further superior officer is contemplated.”

20. The non-compliance of the requirement was held to have vitiated the notice for reopening of the assessment. Likewise, in *Syfonia Tradelinks Private Limited v. Income Tax Officer (supra)* the Delhi High Court disapproved of the rubber stamping by the superior officer of the reasons furnished by the AO for issuance of the sanction.

21. It is seen that in the present case, the AO wrote the following letter seeking approval of the Additional CIT:

GOVERNMENT OF INDIA
OFFICE OF THE ASST. COMMISSIONER OF INCOME TAX,
CIRCLE-1(2), BHUBANESWAR

No. ACIT/C-1(2)//Approval/2010-11/5293
Dated, Bhubaneswar, the 27/29th December, 2010

To

The Addl. Commissioner of Income-tax, Range-1, Bhubaneswar.

Sub: Approval of draft orders u/s 153D of the I.T. Act 1961 in the case of M/s. Serajuddin & Co. 19A, British India Street, Kolkata (in Serajuddin Group of Cases)- matter regarding.

Sir,

Enclosed herewith kindly find the draft orders u/s 153A of the I.T. Act, 1961 along with assessment records in the case of M/s Serajuddin & Co., 19A, British India Street, Kolkata for kind perusal and necessary approval u/s.153D.

No.	Name of the Assessee	Section under which order passed	Asst. year
1.	M/s. Serajuddin & Co., 19A, u/s 153A/143(3)/144/145(3) British India Street, Kolkata.		2003-04
2.	-do-	-do-	2004-05
3.	-do-	-do-	2005-06
4.	-DO-	-DO-	2006-07
5.	-DO-	-DO-	2007-08
6.	-DO-	-DO-	2008-09
7.	-DO-	U/s.143(3)/144/153B(B)/145(3)	2009-10

The above cases will be barred by limitation on 31.12.2010.

Encl: As above

Yours faithfully,
Sd/-
Asst. Commissioner of Income-tax,
Circle-1(2), Bhubaneswar

of the Tribunal itself Government of India
OFFICE OF THE ADDL. COMMISSIONER OF INCOME TAX,
3 Floor, Range-1, Bhubaneswar

No. Addl. CIT/R-1/BBSR/SD/2010-11/5350
Dated, Bhubaneswar, the 30th December, 2010

To

The Assistant Commissioner of Income Tax,
Circle-1(2), Bhubaneswar.

Sub: Approval u/s 153D-in the case of M/s Serajuddin & Co., 19A, British India Street, Kolkata-Matter regarding.

Ref: Draft Orders u/s 153A/143(3)/144 for the A.Y. 2003-04 to 2008-09 u/s.143(3)/153B (b)/144 of the A.Y.2009-10 in the case of above mentioned assessee.

Please refer to the above

The draft orders u/s 153A/143(3)/144 for the A.Y. 2003-04 to 2008-09 and u/s. 143(3)/153B(b)/144 for the A.Y. 2009-10 submitted by you in the above case for the following assessment years are hereby approved:

Assessment Year	Income Determined (Rs)
2003-04	11,66,22,771
2004-05	36,46,80,016
2005-06	65,70,12,805
2006-07	60,02,65,791
2007-08	130,03,13,307
2008-09	274,68,87,069
2009-10	301,17,05,952

You are requested to serve these orders expeditiously on the assessee, submit a copy of final order to this office for record.

Sd/-

Addl. Commissioner of Income Tax,
Range-1, Bhubaneswar

22. As rightly pointed out by learned counsel for the Assessee there is not even a token mention of the draft orders having been perused by the Additional CIT. The letter simply grants an approval. In other words, even the bare minimum requirement of the approving authority having to indicate what the thought process involved was is missing in the aforementioned approval order. While elaborate reasons need not be given, there has to be some indication that the approving authority has examined the draft orders and finds that it meets the requirement of the law. As explained in the above cases, the mere repeating of the words of the statute, or mere "rubber stamping" of the letter seeking sanction by using similar words like 'see' or 'approved' will not satisfy the requirement of the law. This

is where the Technical Manual of Office Procedure becomes important. Although, it was in the context of Section 158BG of the Act, it would equally apply to Section 153D of the Act. There are three or four requirements that are mandated therein, (i) the AO should submit the draft assessment order “well in time”. Here it was submitted just two days prior to the deadline thereby putting the approving authority under great pressure and not giving him sufficient time to apply his mind; (ii) the final approval must be in writing; (iii) The fact that approval has been obtained, should be mentioned in the body of the assessment order.

23. In the present case, it is an admitted position that the assessment orders are totally silent about the AO having written to the Additional CIT seeking his approval or of the Additional CIT having granted such approval. Interestingly, the assessment orders were passed on 30th December 2010 without mentioning the above fact. These two orders were therefore not in compliance with the requirement spelt out in para 9 of the Manual of Official Procedure.

24. The above manual is meant as a guideline to the AOs. Since it was issued by the CBDT, the powers for issuing such guidelines can be traced to Section 119 of the Act. It has been held in a series of judgments that the instructions under Section 119 of the Act are certainly binding on the Department. In *Commissioner of Customs v. Indian Oil Corporation Ltd.* 2004 (165) E.L.T. 257 (S.C.) the Supreme Court observed as under:

“Despite the categorical language of the clarification by the Constitution Bench, the issue was again sought to be raised before a Bench of three Judges in *Central Board of Central Excise, Vadodara v. Dhiren Chemicals*

Industries: 2002 (143) ELT 19 where the view of the Constitution Bench regarding the binding nature of circulars issued under Section 37B of the Central Excise Act, 1944 was reiterated after it was drawn to the attention of the Court by the Revenue that there were in fact circulars issued by the Central Board of Excise and Customs which gave a different interpretation to the phrase as interpreted by the Constitution Bench. The same view has also been taken in *Simplex Castings Ltd. v. Commissioner of Customs, Vishakhapatnam 2003 (5) SCC 528*. The principles laid down by all these decisions are: (1) Although a circular is not binding on a Court or an assessee, it is not open to the Revenue to raise the contention that is contrary to a binding circular by the Board. When a circular remains in operation, the Revenue is bound by it and cannot be allowed to plead that it is not valid nor that it is contrary to the terms of the statute.

(2) Despite the decision of this Court, the Department cannot be permitted to take a stand contrary to the instructions issued by the Board.

(3) A show cause notice and demand contrary to existing circulars of the Board are ab initio bad (4) It is not open to the Revenue to advance an argument or file an appeal contrary to the circulars.”

25. For all of the aforementioned reasons, the Court finds that the ITAT has correctly set out the legal position while holding that the requirement of prior approval of the superior officer before an order of assessment or reassessment is passed pursuant to a search operation is a mandatory requirement of Section 153D of the Act and that such approval is not meant to be given mechanically. The Court also concurs with the finding of the ITAT that in the present cases such approval was granted mechanically without application of mind by the Additional CIT resulting in vitiating the assessment orders themselves. //

(J.1.1) Further, in the case of Pr.CIT (Central) & Anr. Vs. Siddarth Gupta (supra), Hon'ble Allahabad High Court held as under:

In the instant case, the Assessing Officer prepared the draft assessment orders on 31.12.2017 for assessment year 2015-16 and 2016-17 and on 30.12.2017 for assessment year 2013-14. The approval of the draft assessment order under Section 153D was, however, given only on 31.12.2017 itself and the final assessment order was passed on the same day i.e. 31.12.2017 by the Assessing Officer. The attention of the Court is invited to the copy of the approval letter dated 30.12.2017 extracted in the order of the Tribunal wherein the name of the assessee for the assessment year 2013-14 appears at Sr. No. 25. For assessment year 2015-16 and 2016-17, the Court was taken to the approval letter dated 31.12.2017 extracted in the order of the Tribunal wherein the name of the assessee appear at Sr. Nos. 29 and 30. It is demonstrated by the learned counsel for the assessee that as per these two approval letters, the Additional C.I.T. granted approval of draft assessment orders under Section 153D in 123 cases which included three cases of the present assessee. The Tribunal having taken note of the said undisputed facts, came to the conclusion that it was humanly impossible for the Approving Authority to peruse the material based on which, the draft assessment orders were passed. It was, thus, concluded that the Approving Authority granted approval under Section 153D of the Act in a mechanical manner which vitiated the entire proceedings. Reliance is placed on an earlier decision of the Tribunal in *Navin Jain & Others Vs. Deputy C.I.T., Central Circle-II, Kanpur in I.T.A. No. 639 to 641/Lkw/2019* passed on 03.08.2021.

Assailing the orders passed by the Tribunal, it is argued by Sri Gaurav Mahajan, learned Advocate for the appellant-Revenue that the prior approval as per the requirement of Section 153D of the Income Tax Act is necessary for assessment in cases of search or requisition. The pre-requisite condition of passing assessment orders as per the provisions laid down under Section 153D had been fulfilled in the present case. The prior approval under Section 153D was very much in operation when the assessments in question have been framed on 31.12.2017. The requirement of law, thus, has been fulfilled and the validity of the assessment orders in question cannot be questioned on the ground of alleged defect in obtaining prior approval under Section 153D of the Act as alleged by the assessee.

Placing the judgement of High Court of Karnataka in (2012) 17 Taxmann.com

120 (Kar.), Commissioner of Income Tax, Bangalore vs. Smt. Annapoornamma Chandrashekar, it is argued that the meaning of word "approval" as defined in the Black's Law Dictionary, 6th Edition has been noted therein and with reference to the decision of the Apex Court in **Ashok Kumar Sahu Vs. Union of India AIR 2006 SC 2879**, it was observed therein that when the power of approval is rested in a higher authority and such higher authority approves an order of the lower authority, it means that he has gone through the order of the lower authority. The previous approval means, an act of confirming, ratifying, assenting, sanctioning or consenting to the Act or thing done by another/lower authority. The word "approval", in the context of an administrative act, does not mean anything more than the aforesaid acts. The submission, thus, is that considering the meaning of "approval" in the context of an administrative act, the consent/confirmation of the draft assessment orders by the Approving Authority is good and sufficient exercise of power, for the purpose intended under the Act and was not subject to scrutiny by the Tribunal. The arguments, thus, is that the Tribunal had committed an illegality in quashing the assessment orders on the premise that the act of approval was a mechanical exercise of power under Section 153D of the Act which vitiated the entire proceeding.

The submission is that the substantial question of law which arises for consideration before this Court is about the justification of the act of the Tribunal in ignoring the findings recorded by the Assessing Officer and setting-aside the assessment orders on the sole ground of defect in the approval to the draft assessment orders granted by the competent Approving Authority. Learned counsel for the Assessee, however, defended the order of the tribunal for the reasoning given therein.

Considering the submissions of the learned counsels for the parties and having perused the order of the Tribunal, in view of the undisputed facts before us about the manner in which the approval to the draft assessment orders was granted under Section 153D for the assessment proceedings, by two letters dated 30.12.2017 and 31.12.2017, in 123 cases placed before the approving authority in two days, we are required to examine as to whether a substantial question of law arises for consideration before us so as to admit the present appeals.

To answer the same, we are required to go through the relevant provisions of the Income Tax Act. Section 132 provides the procedure for search and seizure operations in consequence of the information in possession of the Income Tax Authorities. Section 153A prescribes assessment in case of search or requisition. Section 153A provides that in the case of a person where a search is initiated under Section 132, the Assessing Officer shall issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years (and for the relevant assessment year or years) referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may apply accordingly as if such return were a return

required to be furnished under Section 139.

Section 153D relevant for our purposes is to be noted hereinunder:

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

153D.—No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of [sub-section (1) of] section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner."

Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the [Principal Commissioner or] Commissioner under sub-section (12) of section 144BA.

The Tribunal while quashing the assessment orders had relied upon its earlier decision in *Navin Jain and Others (Supra)* wherein a detailed discussion has been made with regard to the requirement of prior approval of superior authority on the draft assessment order under Section 153D, before passing the assessment order by the Assessing Officer. It was noted that the word 'approval' though has not been defined in the Income Tax Act but the general meaning of the word 'approval' in Black's Law Dictionary, 6th Edition was to be seen. The decision of the Apex Court in *Vijayadevi Naval Kishore Bharatia vs. Land Acquisition Officer (2003) 5 SCC 83* wherein the distinction between Approving Authority and Appellate Authority was drawn, had been noted. The decision of the High Court of Gauhati in *Dharampal Satyapal Ltd. vs. Union of India (2019) 366 ELT 253 (Gau.)* has been noted to record that grant of approval means due application of mind on the subject matter approved which satisfies all the legal and procedural requirements. There is an exhaustive discussion on the requirement of prior approval under Section 153D of the Act and it was noted that the requirement of approval cannot be treated as mere formality and the mandate of the Act that the Approving Authority has to act in a judicious manner by due application of mind in a manner of a quasi judicial authority, has been considered.

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.

It was noted that the obligations of the approval of the Approving Authority serves two purposes:

(i) On the one hand, he has to apply his mind to ensure the interest of the revenue against any omission or negligence by the Assessing Officer in taxing right income in the hands of right person and in right assessment year.

(ii) On the other hand, superior authority is also responsible and duty-bound to do justice with the tax-payer by granting protection against arbitrary or creating baseless tax liability on the assessee.

The Tribunal has further noted that the provisions contained in Sections 153A to Section 153D provide for separate notice to be given to assessee for assessment for each year as specified in Section 153A of the Act; the assessee has to file separate ITR for each year as specified in Section 153A of the Act; separate assessment orders are to be passed for each year as specified in Section 153A of the Act.

It was observed that this is an important concept mentioned in Section 153A of the Act, which is peculiar to the scheme of the said Section. Keeping in view of this basic fundamental features of Section 153A, if Section 153D is scrutinized, then, it would become manifest that an important phrase is employed in the text of Section 153D, which is "each assessment year". The reading of the provisions in Section 153A and 153D conjointly makes it clear that separate approval of draft assessment order for each year is to be obtained under Section 153D of the Income Tax Act. In its erudite judgement with the discussion on the legislative intent of Section 153A to 153D and the meaning of the "approval" as defined in Black's Law Dictionary as also the decisions of the Apex Court in the case of *Sahara India vs. CIT and Others (2008) 300 JTR 403 (SC)* where the discussion on the requirement of prior approval of Chief Commissioner or Commissioner in terms of provision of Section 142(2A) of the Act had been made, it was noted that the Apex Court has held therein that the requirement of previous approval of the Chief Commissioner or Commissioner in terms of the said provision being an in-built protection against arbitrary or unjust exercise of power by the Assessing Officer casts a very heavy duty on the said high ranking authority to see that the approval envisaged in the section is not turned into an empty ritual. The Apex Court has held therein that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case.

The above discussion made in the judgement of Tribunal dated 3.08.2021 in the case of *Navin Jain Vs. Dy. C.I.T. (Supra)* has been relied by the Tribunal, in the instant case, to arrive at the conclusion that the mechanical approval under Section 153D of the Act would vitiate the entire proceedings in the instant case.

For the reasoning given in the case of *Navin Jain (Supra)*, as extracted in the impugned order passed by the Tribunal, as noted above, there cannot be any two opinion to the requirement of prior approval of the Joint Commissioner to the draft assessment order prepared by the Assessing Officer, as per the mandate of Section 153D of the Income Tax Act.

The approval of draft assessment order being an in-built protection against any arbitrary or unjust exercise of power by the Assessing Officer, cannot be said to be a mechanical exercise, without application of independent mind by the Approving Authority on the material placed before it and the reasoning given in the assessment order. It is admitted by Sri Gaurav Mahajan, learned counsel for the appellant-revenue that the approval order is an administrative exercise of power on the part of the Approving Authority but it is sought to be submitted that mere fact that the approval was in existence on the date of the passing of the assessment order, it could not have been vitiated. This submission is found to be a fallacy, in as much as, the prior approval of superior authority means that it should appraise the material before it so as to appreciate on factual and legal aspects to ascertain that the entire material has been examined by the Assessing Authority before preparing the draft assessment order. It is trite in law that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case. The requirement of approval under Section 153D is pre-requisite to pass an order of assessment or re-assessment.

Section 153D requires that the Assessing Officer shall obtain prior approval of the Joint Commissioner in respect of "each assessment year" referred to in Clause (b) of sub-section (1) of Section 153A which provides for assessment in case of search under Section 132. Section 153A(1)(a) requires that the assessee on a notice issued to him by the Assessing Officer would be required to furnish the return of income in respect of "each assessment year" falling within six assessment years (and for the relevant assessment year or years), referred to in Clause (b) of sub-section (1) of Section 153A. The proviso to Section 153A further provides for assessment of the total income in respect of each assessment year falling within such six assessment years (and for the relevant assessment year or years).

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 orders under Section 153A.

In the instant case, the draft assessment orders in 123 cases, i.e. for 123 assessment years placed before the Approving Authority on 30.12.2017 and 31.12.2017 were approved on 31.12.2017, which not only included the cases of respondent-assessee but the cases of other groups as well. It is humanly impossible to go through the records of 123 cases in one day to apply independent mind to appraise the material before the Approving Authority. The conclusion drawn by the Tribunal that it was a mechanical exercise of power, therefore, cannot be said to be perverse or contrary to the material on record.

As the facts are admitted before us, the questions of law framed on the factual issues related to the findings recorded by the Assessing Officer are not open to agitate within the scope of the present appeals being in the nature of second appeal. No substantial question of law arises for consideration before us. //

The Appeals are dismissed being devoid of merit.

(J.1.1.1) SLPs filed by Revenue against aforesaid order of Hon'ble Orissa High Court in the case of ACIT vs. Serajuddin & Co. 150 taxmann.com 146 (Orissa)/454 ITR 312 (Orissa) and aforesaid order of Hon'ble Allahabad High Court in the case of PCIT vs. Siddharth Gupta 147 taxmann.com 305 (Allahabad)/ 450 ITR 534 (Allahabad); have been dismissed by Hon'ble Supreme Court in decisions at ACIT vs. Serajuddin and Co. 163 taxmann.com 118 (SC) and vide order dated 09/08/2024 in SLP(C) Diary No.43280/2023 in the case of Pr.CIT vs. Siddharth Gupta, respectively.

(J.1.2) Similarly, in the case of Pr.CIT & Anr. Vs. Sapna Gupta (supra), Hon'ble Allahabad High Court held as under:

Section 153D of the Act relevant for our purposes is to be noted hereinunder:

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

153D.—No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of [sub-section (1) of] section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner."

Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the [Principal Commissioner or] Commissioner under sub-section (12) of section 144BA.

The Tribunal while quashing the assessment order had relied upon its earlier decision in ***Navin Jain and Others (Supra)*** wherein a detailed discussion has been made with regard to the requirement of prior approval of superior authority on the draft assessment order under Section 153D, before passing the assessment order by the Assessing Officer. It was noted that the word 'approval' though has not been defined in the Income Tax Act but the general meaning of the word

'approval' in Black's Law Dictionary, 6th Edition was to be seen. The decision of the Apex Court in *Vijayadevi Naval Kishore Bharatia vs. Land Acquisition Officer (2003) 5 SCC 83* wherein the distinction between Approving Authority and Appellate Authority was drawn, had been noted. The decision of the High Court of Gauhati in *Dharampal Satyapal Ltd. vs. Union of India (2019) 366 ELT 253 (Gau.)* has been noted to record that grant of approval means due application of mind on the subject matter approved which satisfies all the legal and procedural requirements. There is an exhaustive discussion on the requirement of prior approval under Section 153D of the Act and it was noted that the requirement of approval cannot be treated as mere formality and the mandate of the Act that the Approving Authority has to act in a judicious manner by due application of mind in a manner of a quasi judicial authority, has been considered.

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.

It was noted that the obligations of the approval of the Approving Authority serves two purposes:

(i) On the one hand, he has to apply his mind to ensure the interest of the revenue against any omission or negligence by the Assessing Officer in taxing right income in the hands of right person and in right assessment year.

(ii) On the other hand, superior authority is also responsible and duty-bound to do justice with the tax-payer by granting protection against arbitrary or creating baseless tax liability on the assessee.

The Tribunal has further noted that the provisions contained in Sections 153A to Section 153D provide for separate notice to be given to assessee for assessment for each year as specified in Section 153A of the Act; the assessee has to file separate ITR for each year as specified in Section 153A of the Act; separate assessment orders are to be passed for each year as specified in Section 153A of the Act.

It was observed that this is an important concept mentioned in Section 153A of the Act, which is peculiar to the scheme of the said Section. Keeping in view of this basic fundamental features of Section 153A, if Section 153D is scrutinized, then, it would become manifest that an important phrase is employed in the text of Section 153D, which is "each assessment year". The reading of the provisions in Section 153A and 153D conjointly makes it clear that separate approval of draft assessment order for each year is to be obtained under Section 153D of the Income Tax Act. In its erudite judgement with the discussion on the legislative intent of Section 153A to 153D and the meaning of the "approval" as defined in Black's Law Dictionary as also the decisions of the Apex Court in the case of **Sahara India vs. CIT and Others (2008) 300 JTR 403 (SC)** where the discussion on the requirement of prior approval of Chief Commissioner or Commissioner in terms of provision of Section 142(2A) of the Act had been made, it was noted that the Apex Court has held therein that the requirement of previous approval of the Chief Commissioner or Commissioner in terms of the said provision being an in-built protection against arbitrary or unjust exercise of power by the Assessing Officer casts a very heavy duty on the said high ranking authority to see that the approval envisaged in the section is not turned into an empty ritual. The Apex Court has held therein that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case.

The above discussion made in the judgement of Tribunal dated 3.08.2021 in the case of **Navin Jain Vs. Dy. C.I.T. (Supra)** has been relied by the Tribunal, in the instant case, to arrive at the conclusion that the mechanical approval under Section 153D of the Act would vitiate the entire proceedings in the instant case.

For the reasoning given in the case of **Navin Jain (Supra)**, as extracted in the impugned order passed by the Tribunal, as noted above, there cannot be any two opinion to the requirement of prior approval of the Joint Commissioner to the draft assessment order prepared by the Assessing Officer, as per the mandate of Section 153D of the Income Tax Act.

The approval of draft assessment order being an in-built protection against an arbitrary or unjust exercise of power by the Assessing Officer, cannot be said to be a mechanical exercise, without application of independent mind by the Approving Authority on the material placed before it and the reasoning given in the assessment order. It is admitted by Sri Gaurav Mahajan, learned counsel for the appellant-revenue that the approval order is an administrative exercise of power on the part of the Approving Authority but it is sought to be submitted that mere fact that the approval was in existence on the date of the passing of the assessment order, it could not have been vitiated. This submission is found to be a fallacy, in as much as, the prior approval of superior authority means that it should appraise the material before it so as to appreciate on factual and legal aspects to ascertain that the entire material has been examined by the Assessing Authority before preparing the draft assessment order. It is trite in law that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case. The requirement of approval under Section 153D is pre-requisite to pass an order

Section 153D requires that the Assessing Officer shall obtain prior approval of the Joint Commissioner in respect of "each assessment year" referred to in Clause (b) of sub-section (1) of Section 153A which provides for assessment in case of search under Section 132. Section 153A(1)(a) requires that the assessee on a notice issued to him by the Assessing Officer would be required to furnish the return of income in respect of "each assessment year" falling within six assessment years (and for the relevant assessment year or years), referred to in Clause (b) of sub-section (1) of Section 153A. The proviso to Section 153A further provides for assessment of the total income in respect of each assessment year falling within such six assessment years (and for the relevant assessment year or years).

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.

In the instant case, the draft assessment order in 85 cases, i.e. for 85 assessment years placed before the Approving Authority on 30.12.2017 was approved on same day i.e. 30.12.2017, which not only included the cases of respondent-assessee but the cases of other groups as well. It is humanly impossible to go through the records of 85 cases in one day to apply independent mind to appraise the material before the Approving Authority. The conclusion drawn by the Tribunal that it was a mechanical exercise of power, therefore, cannot be said to be perverse or contrary to the material on record.

As the facts are admitted before us, the questions of law framed on the factual issues related to the findings recorded by the Assessing Officer are not open to agitate within the scope of the present appeal being in the nature of second appeal. No substantial question of law arises for consideration before us.

The Appeal is dismissed being devoid of merit. //

(J.1.3) Moreover, in the case of Pr.CIT vs. Shiv Kumar Nayyar (supra), Hon'ble Delhi High Court held as under:

10. Before embarking upon the analysis of the factual scenario of the instant appeal, we deem it apposite to examine the underlying

intent of the relevant provision of the Act i.e., Section 153D, which is culled out as under:-

“153-D. Prior approval necessary for assessment in cases or requisition.—No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of [sub-section (1) of Section 153-A] or the assessment year referred to in clause (b) of sub-section (1) of Section 153-B, except with the prior approval of the Joint Commissioner :

Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the [Principal Commissioner or Commissioner] under sub-section (12) of Section 144-BA.”

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 **PCIT v. Sapna Gupta** [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."

[Emphasis supplied]

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 and Co.* [2023 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:-

"22. As rightly pointed out by learned counsel for the assessee there is not even a token mention of the draft orders having been perused by the Additional Commissioner of Income-tax. 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 "seen" or "approved" will not satisfy the requirement of the law. This is where the Technical Manual of Office Procedure becomes important. Although, it was in the context of section 158BG of the Act, it would equally apply to section 153D of the Act. There are three or four requirements that are mandated therein, (j) the Assessing Officer should submit the draft assessment order "well in time". Here it was submitted just two days prior to the deadline thereby putting the approving authority under great pressure and not giving him sufficient time to apply his mind ; (ii) the final approval must be in writing ; (iii) the fact that approval has been obtained, should be mentioned in the body of the assessment order."

[Emphasis supplied]

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 (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 Id. 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 Id. AO before the Id. Addl. CIT seeking approval of draft assessment order u/s 153D of the Act. The Id. 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 Id. Addl. Commissioner of Income-tax, Central Range-S, New Delhi, under Right to Information Act, wherein, it reveals that the Id. 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 assesseees, which information is not available before us. In any event, whether it is humanly possible for an approving authority like Id. 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 Id. 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.

(J.1.3.1) In the case reported at Pr.CIT vs. Anuj Bansal 165 taxmann.com 2 (Delhi)/466 ITR 251 (Delhi) also, Hon'ble Delhi High Court upheld the order of ITAT quashing assessment order on the ground that there was absence of application of mind by the approving authority in granting approval u/s

153D of IT Act. The SLP filed by Revenue against this order of Hon'ble Delhi High Court has been dismissed by Hon'ble Supreme Court in Pr.CIT vs. Anuj Bansal 165 taxmann.com 3 (SC). Similar view has also been taken by Hon'ble Delhi High Court in the cases reported at Pr.CIT vs. Pioneer Tour Planner (P.) Ltd. 160 taxmann.com 652/ 465 ITR 356 (Delhi) and in Pr.CIT vs. MDLR Hotels (P.) Ltd. 166 taxmann.com 327 (Delhi).

J.1.4) In the case of Pr.CIT vs. Subodh Agarwal [2023] 149 taxmann.com 373 (Allahabad High Court); Hon'ble Allahabad High Court held as under:

approval is rested in a higher authority and such higher authority approves an order of the lower authority⁷⁷⁰ means that he has gone through the order of the lower authority. The previous approval means, an act of confirming, ratifying, assenting, sanctioning or consenting to the Act or thing done by another/lower authority. The word "approval", in the context of an administrative act, does not mean anything more than the aforesaid acts. The submission, thus, is that considering the meaning of "approval" in the context of an administrative act, the consent/confirmation of the draft assessment order by the Approving Authority is good and sufficient exercise of power, for the purpose intended under the Act and was not subject to scrutiny by the Tribunal. The arguments, thus, is that the Tribunal had committed an illegality in quashing the assessment order on the premise that the act of approval was a mechanical exercise of power under section 153D of the Act which vitiated the entire proceeding.

8. The submission is that the substantial question of law which arises for consideration before this Court is about the justification of the act of the Tribunal in ignoring the findings recorded by the Assessing Officer and setting aside the assessment order on the sole ground of defect in the approval to the draft assessment order granted by the competent Approving Authority. Learned counsel for the Assessee, however, defended the order of the tribunal for the reasoning given therein.

9. Considering the submissions of the learned counsel for the parties and having perused the order of the Tribunal, in view of the undisputed facts before us about the manner in which the approval to the draft assessment order was granted under section 153D for the assessment proceedings, by a letter dated 31-12-2017 in 38 cases placed before the approving authority in a single day, we are required to examine as to whether a substantial question of law arises for consideration before us so as to admit the present appeal.

To answer the same, we are required to go through the relevant provisions of the Income-tax Act. Section 132 provides the procedure for search and seizure operations in consequence of the information in possession of the Income-tax Authorities. Section 153A prescribes assessment in case of search or requisition. Section 153A provides that in the case of a person where a search is initiated under section 132, the Assessing Officer shall issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years (and for the relevant assessment year or years) referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may apply accordingly as if such return were a return required to be furnished under section 139.

10. Section 153D of the Act relevant for our purposes is to be noted hereinunder:

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

153D.—No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of [sub-section (1) of] section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner.

Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the [Principal Commissioner or] Commissioner under sub-section (12) of section 144BA."

11. The Tribunal while quashing the assessment order had relied upon its earlier decision in *Navin Jain and Others (supra)* wherein a detailed discussion has been made with regard to the requirement of prior approval of superior authority on the draft assessment order under section 153D, before passing the assessment order by the Assessing Officer. It was noted that the word 'approval' though has not been defined in the Income-tax Act but the general meaning of the word 'approval' in Black's Law Dictionary, 6th Edition was to be seen. The decision of the Apex Court in *Vijayadevi Naval Kishore Bharatia v. Land Acquisition Officer* (2003) 5 SCC 83 wherein the distinction between Approving Authority and Appellate Authority was drawn, had been noted. The decision of the High Court of Gauhati in *Dharampal Satyapal Ltd. v. Union of India* [2019] 366 ELT 253 has been noted to record that grant of approval means due application of mind on the subject matter approved which satisfies all the legal and procedural requirements. There is an exhaustive discussion on the requirement of prior approval under section 153D of the Act and it was noted that the requirement of approval cannot be treated as mere formality and

the mandate of the Act that the Approving Authority has to act in a judicious manner by due application of mind⁷⁷¹ in a manner of a quasi judicial authority, has been considered.

12. 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 sections 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 sections 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.

13. It was noted that the obligations of the approval of the Approving Authority serves two purposes:

- (i) On the one hand, he has to apply his mind to ensure the interest of the revenue against any omission or negligence by the Assessing Officer in taxing right income in the hands of right person and in right assessment year.
- (ii) On the other hand, superior authority is also responsible and duty-bound to do justice with the taxpayer by granting protection against arbitrary or creating baseless tax liability on the assessee.

14. The Tribunal has further noted that the provisions contained in section 153A to section 153D provide for separate notice to be given to assessee for assessment for each year as specified in section 153A of the Act; the assessee has to file separate ITR for each year as specified in section 153A of the Act; separate assessment orders are to be passed for each year as specified in section 153A of the Act.

15. It was observed that this is an important concept mentioned in section 153A of the Act, which is peculiar to the scheme of the said section. Keeping in view of this basic fundamental features of section 153A, if section 153D is scrutinized, then, it would become manifest that an important phrase is employed in the text of section 153D, which is "each assessment year". The reading of the provisions in section 153A and 153D conjointly makes it clear that separate approval of draft assessment order for each year is to be obtained under section 153D of the Income-tax Act. In its erudite judgement with the discussion on the legislative intent of sections 153A to 153D and the meaning of the "approval" as defined in Black's Law Dictionary as also the decisions of the Apex Court in the case of *Sahara India(Firm) v. CIT* [2008] 169 Taxman 328/300 ITR 403 where the discussion on the requirement of prior approval of Chief Commissioner or Commissioner in terms of provision of section 142(2A) of the Act had been made, it was noted that the Apex Court has held therein that the requirement of previous approval of the Chief Commissioner or Commissioner in terms of the said provision being an in-built protection against arbitrary or unjust exercise of power by the Assessing Officer casts a very heavy duty on the said high ranking authority to see that the approval envisaged in the section is not turned into an empty ritual. The Apex Court has held therein that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case.

The above discussion made in the judgement of Tribunal dated 3-8-2021 in the case of *Navin Jain (supra)* has been relied by the Tribunal, in the instant case, to arrive at the conclusion that the mechanical approval under section 153D of the Act would vitiate the entire proceedings in the instant case.

17. For the reasoning given in the case of *Navin Jain (supra)*, as extracted in the impugned order passed by the Tribunal, as noted above, there cannot be any two opinion to the requirement of prior approval of the Joint Commissioner to the draft assessment order prepared by the Assessing Officer, as per the mandate of section 153D of the Income-tax Act.

18. The approval of draft assessment order being an in-built protection against any arbitrary or unjust exercise of power by the Assessing Officer, cannot be said to be a mechanical exercise, without application of independent

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 mind by the Approving Authority on the material placed before it and the reasoning given in the assessment order. It is admitted by Sri Gaurav Mahajan, learned counsel for the appellant-revenue that the approval order is an administrative exercise of power on the part of the Approving Authority but it is sought to be submitted that the approval was in existence on the date of the passing of the assessment order, it could not have been vitiated. This submission is found to be a fallacy, in as much as, the prior approval of superior authority means that it should appraise the material before it so as to appreciate on factual and legal aspects to ascertain that the entire material has been examined by the Assessing Authority before preparing the draft assessment order. It is true in law that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case. The requirement of approval under section 153D is pre-requisite to pass an order of assessment or re-assessment. Section 153D requires that the Assessing Officer shall obtain prior approval of the Joint Commissioner in respect of "each assessment year" referred to in clause (b) of sub-section (1) of section 153A which provides for assessment in case of search under section 132. Section 153A(1)(a) requires that the assessee on a notice issued to him by the Assessing Officer would be required to furnish the return of income in respect of "each assessment year" falling within six assessment years (and for the relevant assessment year or years), referred to in clause (b) of sub-section (1) of section 153A. The proviso to section 153A further provides for assessment of the total income in respect of each assessment year falling within such six assessment years (and for the relevant assessment year or years).

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.

20. In the instant case, the draft assessment order in 38 cases, i.e. for 38 assessment years placed before the Approving Authority on 31-12-2017 was approved on same day i.e. 31-12-2017, which not only included the cases of respondent-assessee but the cases of other groups as well. It is humanly impossible to go through the records of 38 cases in one day to apply independent mind to appraise the material before the Approving Authority. The conclusion drawn by the Tribunal that it was a mechanical exercise of power, therefore, cannot be said to be perverse or contrary to the material on record.

21. As the facts are admitted before us, the questions of law framed on the factual issues related to the findings recorded by the Assessing Officer are not open to agitate within the scope of the present appeal being in the nature of second appeal. No substantial question of law arises for consideration before us.

(J.1.5) We are also cognizant of the order of Lucknow Bench of ITAT in the case of Standard Frozen Foods Exports Pvt. Ltd. vs. DCIT in IT(SS)A No.41 & 41/Lkw/2022, which has been authored by us and order of Lucknow Bench of the ITAT in Quality Structures Pvt. Ltd. vs DCIT in IT(SS)A No.679 & 680/Lkw/2019, which is co-authored by one of us (the Judicial Member). In these orders, we have already taken view regarding validity of approval u/s 153A of the Act and relevant portions are reproduced as under:

Standard Frozen Foods Exports Pvt. Ltd. vs. DCIT (supra)

"(D) We have heard representatives of both sides. We have also perused the materials on record carefully.

(D.1) The first limb of the contention raised by the learned Counsel for the assessee is on the legal ground that statutory approval given to the Assessing Officer for the assessment orders was not based on application of mind. It was the case of the learned Counsel for the assessee that approval was given by Addl. CIT in a mechanical manner within a short period of time during which it was humanly

impossible for the Addl. CIT to go through exhaustive assessment records, search & seizure materials and to thereafter give approval after due application of mind. The learned Counsel for the assessee submitted that the Addl. CIT gave approval to 110 cases in two days which included; 48 cases on 27/12/2019 and 62 cases on 28/12/2019. These cases included approvals given for assessment orders which are subject matters of the present batch of appeals before us. The learned Counsel for the assessee further drew our attention to the fact that approval No. 1490 was requested by the Assessing Officer for 16 cases on 28/12/2019 and approval was given by the Addl. CIT on the same day i.e. on 28/12/2019. He further drew our attention to the fact that approval No. 1488 was requested by the Assessing Officer for 15 cases on 26/12/2019 and approval was given by the Addl. CIT on the very next day i.e. on 27/12/2019. He also drew our attention to the fact that draft assessment orders were sent by the Assessing Officer for approval to the Addl. CIT at the fag end of the assessment proceedings on 26/12/2019 and 28/12/2019 though the assessments were going to be barred by limitation barely a few days later, on 31/12/2019. Placing reliance on the order of Hon'ble Allahabad High Court in the case of Pr. CIT vs. Subodh Agarwal, I.T.A. No.86 of 2022, dated 12/12/2022 and order of Hon'ble Orissa High Court in the case of ACIT vs. Serajuddin & Co. (supra) and further on the order of Hon'ble Delhi High Court in the case of Pr. Commissioner of Income Tax vs. Shiv Kumar Nayyar (supra), learned Counsel for the assessee submitted that the assessment orders passed by the Assessing Officer, based on mechanical approval given by the Addl. CIT, without due application of mind, lacked legal validity and deserved to be quashed. He also placed reliance on the orders of Income Tax Appellate Tribunal in the case of Khoday Ehshwarsa and Sons vs. DCIT, I.T.A. No.1079 & 1080/Bang/2024 dated 20/09/2024 and in the case of Sanjay Duggal and Others, I.T.A. No.1813/Del/2019 and in the case of Quality Structure Pvt. Ltd. vs. DCIT, IT(SS)A No. 679 & 680/Lkw/2019. The learned CIT, D.R. for Revenue submitted that it was the normal practice that the Assessing Officer and the Addl. CIT/Jt. CIT engage in periodical discussion over a long period of time. Therefore, it was possible for the Addl. CIT to grant approval to draft assessment order after application of mind even though time available was short. In his rejoinder, learned Counsel for the assessee submitted that there is nothing on record to show that there was discussion between the Assessing Officer and Addl. CIT. In response to specific query from Bench whether the assesseees were responsible for the delay on the part of the Assessing Officer in submission of draft assessment orders to the Addl. CIT at

the fag end of the limitation period; and if so, whether the submissions made by the assessee would still be good on merits, learned Counsel for the assessee submitted that the delay on the part of the Assessing Officer in submission of the draft assessment orders to the Addl. CIT was due to the fact that assessment proceedings were taken up in haste by the Assessing Officer after lapse of substantial duration of time available during the limitation period. He further submitted that the assessee made compliance with the notices of the Assessing Officer even though sufficient time was not given by the Assessing Officer. Therefore, he contended that the delay on the part of the Assessing Officer in submission of the draft assessment order to the Addl. CIT was entirely attributable to Revenue and to the Assessing Officer in particular; and further, that the assessee was in no way responsible for the delay. After hearing both sides, we are of the view that the issue in dispute is squarely covered by the order of the Hon'ble Allahabad High Court in the case of Pr. CIT vs. Subodh Agarwal, I.T.A. No.86 of 2022, dated 12/12/2022, order of Hon'ble Orissa High Court in the case of ACIT vs. Serajuddin & Co. (supra) and order of Hon'ble Delhi High Court in the case of Pr. Commissioner of Income Tax vs. Shiv Kumar Nayyar (supra), in favour of the assessee. Further the issue in dispute is also squarely covered in favour of the assessee by the orders of the Income Tax Appellate Tribunal in the case of Khoday Eshwarsa and Sons vs. DCIT, I.T.A. No.1079 & 1080/Bang/2024 dated 20/09/2024 and in the case of Sanjay Duggal and Others, I.T.A. No.1813/Del/2019 and in the case of Quality Structure Pvt. Ltd. vs. DCIT, IT(SS)A No. 679 & 680/Lkw/2019 (supra). In view of the foregoing, we set aside the impugned appellate orders of learned CIT(A) deserve to be set aside; and the assessment orders passed by the Assessing Officer deserve to be annulled.

(D.2) The second limb of the contentions made by the learned Counsel for the assessee on behalf of the appellant assessee was that in the following cases, no incriminating material was found in the course of search conducted u/s 132 of the IT Act:

<i>Appeal Number</i>	<i>Assessment year</i>	<i>Appellant</i>
<i>IT(SS)A No.41/Lkw/2022</i>	<i>2012-13</i>	<i>Standard Frozen Foods Exports Pvt. Ltd.</i>
<i>IT(SS)A No.42/Lkw/2022</i>	<i>2013-14</i>	<i>Standard Frozen Foods Exports Pvt. Ltd.</i>
<i>IT(SS)A No.43/Lkw/2022</i>	<i>2016-17</i>	<i>Standard Frozen Foods Exports Pvt. Ltd.</i>
<i>IT(SS)A No.44/Lkw/2022</i>	<i>2017-18</i>	<i>Standard Frozen Foods Exports Pvt. Ltd.</i>
<i>IT(SS)A No.46/Lkw/2022</i>	<i>2012-13</i>	<i>Standard Agro Vet Pvt. Ltd.</i>

IT(SS)A No.47/Lkw/2022	2013-14	Standard Agro Vet Pvt. Ltd.
IT(SS)A No.48/Lkw/2022	2014-15	Standard Agro Vet Pvt. Ltd.
IT(SS)A No.49/Lkw/2022	2015-16	Standard Agro Vet Pvt. Ltd.
IT(SS)A No.55/Lkw/2022	2014-15	Sachin Verma
IT(SS)A No.57/Lkw/2022	2016-17	Sachin Verma
IT(SS)A No.54/Lkw/2022	2012-13	Sachin Verma
IT(SS)A No.56/Lkw/2022	2015-16	Sachin Verma
IT(SS)A No.58/Lkw/2022	2017-18	Sachin Verma
IT(SS)A No.50/Lkw/2022	2015-16	Kamal Kant Verma
IT(SS)A No.51/Lkw/2022	2016-17	Kamal Kant Verma
IT(SS)A No.52/Lkw/2022	2017-18	Kamal Kant Verma

Further, he submitted that in the aforesaid cases, the assessments were unabated. Therefore, he contended, following the order of Hon'ble Supreme Court in the case of Pr. CIT vs. Abhisar Buildwell (P) Ltd. (supra), no additions could be made in the assessment orders passed by the Assessing Officer in the aforesaid assessment orders. The learned CIT D.R. for Revenue placed reliance on the orders of the Assessing Officer and the impugned appellate orders of the learned CIT(A) on this issue. After hearing both sides, we are of the view that the issue is squarely covered in favour of the assessees as far as aforesaid assessments are concerned, by order of Hon'ble Supreme Court in the case of Pr. CIT vs. Abhisar Buildwell (P) Ltd. (supra). Accordingly, the additions made in the aforesaid assessment orders deserve to be deleted.

(D.2.1) In view of the foregoing, we are of the view that the additions made in the assessment orders pertaining to the present bunch of 19 appeals cannot be upheld. In the light of the discussion in foregoing paragraph (D.1) and (D.2) of this order, we are also of the view that the assessment orders passed by the Assessing Officer in the present batch of 19 appeals lack validity in law; and that the additions made cannot be upheld. In view of the foregoing, we set aside the impugned appellate orders passed by the learned CIT(A) and we annul corresponding assessment orders for various assessment years pertaining to various assessees in present batch of 19 appeals being disposed of through this consolidated order."

Quality Structures Pvt. Ltd. vs. DCIT (supra)

“10. We have heard the rival parties and have gone through the material on record. We find that in this case, in view of a search carried out on the Sigma Group, the assessments of various assesseees were reopened and various assesseees were required to file income tax returns as required under the provisions of section 153A of the Act. The search was started on 23.8.2016 and it continued upto 25.8.2016, and therefore, the assessment year 2017-18 became the search year and the years preceding the search year became the subject matter of reopening under section 153A of the Act. Since the controversy involved herein is with regard to the approval under section 153D of the Act, it would be appropriate to first visit the provisions of section 153D of the Act, which, for the sake of completeness are reproduced below:

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

153D. No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of sub-section (1) of section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner.

Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner under sub-section (12) of section 144BA.

11. The above provisions of section 153D of the Act were inserted by the Finance Act, 2007 with effect from 1.6.2007. In our meek understanding of the said provisions, we are of the considered opinion that the Legislature wanted that the assessment/re-assessment of the search cases should be made and the order should be passed with the prior approval of the superior authority.

12. In the group of cases of Shri Navin Jain and others in I.T.(SS)A. Nos.639 to 641/Lkw/2019, etc., vide order dated 3.8.2021, for Assessment Years 2015-16 to 2017-18, on which reliance has been placed by the ld. counsel for the assessee, a similar issue has been considered by the Lucknow Bench of the Tribunal, wherein also, the approval under section 153D of the Act was given through the same letter dated 30.12.2018 by the ACIT, Central, Kanpur and the Ground raised in this regard by the assessee was allowed, and the assessment orders were annulled by us. While allowing the Ground raised by the assessee, the Tribunal had also considered various cases laws, including that of the Hon'ble Supreme Court. For the sake of ready reference, the findings of the Tribunal in that case are reproduced as under:

“9. We have heard the rival parties and have gone through the material placed on record. We find that in these cases, in view of a search carried out on the Sigma Group, the assessments of various assessees were reopened and various assessees were required to file income tax returns as required under the provisions of [section 153A](#) of the Act. The search was conducted on 23/08/2016 which continued upto 25/08/2016 and therefore, assessment year 2017-18 became the search year and the years preceding the search year became the subject matter of reopening u/s [153A of the Act](#). The issue raised by Learned counsel for the assessee is that the approval granted by the Addl. CIT is bad in law as it is humanly impossible to go through documents exceeding 17,800 in a single day and then grant approval on the same day. Since the controversy involved here is with respect to approval [u/s 153D](#) of the Act, it would be appropriate to first visit the provisions of [section 153D](#) of the Act, which for the sake of completeness are reproduced below:

"SECTION 153D.

Prior approval necessary for assessment in cases of search or requisition [No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of [sub-section (1) of [section 153A](#)] or the assessment year referred to in clause (b) of sub-section (1) of [section 153B](#), except with the prior approval of the Joint Commissioner.] [Provided that nothing contained in this section shall apply where the assessment

or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the [Principal Commissioner or Commissioner] under sub-section (12) of [section 144BA.](#)]"

9.1 The above provisions of [section 153D](#) of the Act were inserted by [Finance Act, 2007](#) with effect from 01/06/2007. In our humble understanding of the said provisions, we are of the opinion that the Legislature wanted the assessment/reassessment of the search cases should be made and order should be passed with the prior approval of superior authority. The word approval has not been defined in the Income Tax Act but the general meaning of word approval can be understood from Black Law of Dictionary which defines approval as:

"[The Act](#) of confirming, rectifying, sanctioning or consenting to some act or thing done by another. To approve means to be satisfied with, to confirm, rectify, sanction or 'consent to some act or thing done by another, to consent officially, to rectify, to confirm, to pronounce good, thing or Judgment of, admitting propriety or excels or to pleas with."

9.2 The Hon'ble Supreme Court of South Carolina in *State vs. Duckett* 133 SC 85 [SC 1925], 130 SE 340 decided on 05.11.1925 held that approval implies knowledge and, the exercise or discretion after knowledge.

9.3 Further Hon'ble Supreme Court in the case of [Vijayadevi Naval Kishore Bharatia vs. Land Acquisition Officer](#) [2003] 5 SCC 83 has held as under:

"Whenever there is an administrative approval given by higher authority, higher authority applies its mind to see whether the proposed Award is acceptable to the Government or not ? Such Authority may satisfy itself as to the material relied upon by the Adjudicator, but, the Approving Authority cannot reverse the finding, as he is an Appellate Authority for the purpose of remanding the matter to the Adjudicating Authority as can be done by the Appellate Authority. Further, the Approving Authority also cannot exercise its power of prior approval to give directions to the Adjudicating Authority in what beneficial to accept/ appreciate tine material on record in regard to the compensation payable. Otherwise, it would tantamount

to blurring the distinction between Approving Authority and Appellate Authority".

9.4 Further Hon'ble Gauhati High Court in the case of [Dharampal Satyapal Ltd., vs., Union of India](#) [2019] 366 ELT 253 (Gau.) Manu/GH/07070/2018 in para-28 has held as under :

"When an Authority is required to give his approval, it is also to be understood that such Authority makes an application of mind as to whether the matter that is required to be approved satisfies all the requirements of Law or procedure to which it may be subjected. In other words, grant of approval and application of mind as to whether such approval is to be granted must co- exist and, therefore, where an Authority grants an approval it is also to be construed that there was due application of mind that the subject matter approved and satisfies all the legal and procedural requirements."

Therefore, from the definition of approval as per above authorities, its meaning with respect to approval [u/s 153D](#) means that the superior authority should apply his mind on the material on the basis of which the Assessing Officer is making or passing assessment order and after due application of mind to material in the hands of the Department and after going through the explanation by the assessee and documentary evidence and other relevant material, the superior authority has to grant approval [u/s 153D](#) for passing assessment/reassessment order in search cases. The approval [u/s 153D](#) of the Act cannot be treated mere formality only and the purpose of inserting this provision is two fold i.e. one before approving the senior authority will ensure that the assessee should be protected against the undue and irrelevant addition and disallowances and the approving authority will also ensure that proper enquiry or investigations are carried out by the Assessing Officer on the relevant materials including material in the hands of the Department. Secondly, the Assessing Officer also keeps in mind the interest of Revenue. Therefore, the said provision provides application of mind by the approving authority of the Department.

Therefore, the provision of [section 153D](#) of the Act cannot be treated as mere formality and mandate therein is required to be followed by the approving authority in a

judicious manner by due application of mind in a manner of a quasi judicial authority. We are cautious about the fact that reasons for granting approval may not be a subject matter of challenge or not required to be mentioned in the order of approval but the manner and material on the basis of which approval has been granted can be challenged by the assessee. The scope and issue agitated by the assessee by way of legal ground in the present cases is not that of granting of approval but the main grievance of the assessee is that the approving authority has granted approval without application of mind and without looking into the seized material. We are inclined to hold 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 [u/s 153D](#) of the Act and mandate of enactment by the Legislature will be defeated. It is a trite law that for granting approval [u/s 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 rationale of word "Each" as specifically referred to in [Section 153D](#) and [Section 153A](#) deserves to be given effective/proper meaning so that underlying legislative intent as per scheme of assessment of [Section 153A](#) to [153D](#) is fulfilled. The meaning of 'approval', as contemplated [u/s 153D](#) of the Act, is that the Jt. CIT is required to verify the issues raised by the Assessing Officer in the draft assessment order and apply his mind and to ascertain as to whether the entire facts have been properly appreciated by the Assessing Officer. The Jt. CIT is also required to verify whether the required procedure has been followed by the Assessing Officer or not in framing the assessment. Thus, the approval cannot be a mere discretion or formality but quasi judicial function based on reasoning. In our view, when the Legislature has enacted the provision to be exercised by the higher authority to pass assessment order in the search cases then it is the duty of the Jt. CIT to exercise such power by applying his judicious mind. The obligation of the approval of the approving authority is of two fold i.e. on one hand, he has to apply his mind to ensure the interest of the Revenue against any omission or negligence by the Assessing Officer in taxing right income in the hands of right person and in right assessment year

and on the other hand, superior authority is also responsible and duty bound to do justice with the tax payer by granting protection against arbitrary or creating baseless tax liability on the assessee. The provisions contained from [section 153A](#) to [section 153D](#) contain features by which the assessee is to be given separate notice for assessment for each year as specified [u/s 153A](#) of the Act. Secondly, the assessee has to file separate ITR for each year as specified in [section 153A](#) of the Act. Thirdly, separate assessment orders are to be passed for each year as specified in [section 153A](#) of the Act. There is an important concept mentioned in [section 153A](#) of the Act, abated and non abated which is peculiar to the scheme of [section 153A](#) of the Act. Keeping in view the above basic fundamental features of [Section 153A](#), if [Section 153D](#) is scrutinized, then, it would become manifest that very important phrase as deployed in text of [Section 153D](#), is "Each" assessment year. The word "Each" has been used extensively and this word needs to be given due weightage and adequate meaning and as such for each year separate approval is to be given under [section 153D](#) of the I.T. Act which is lacking in the present cases. There are many other provisions where statutory approval is required from higher authorities. Few of them are noted like in [Section 151](#) and [Section 274](#) etc., respectively dealing with the approvals on reopening cases and penalty cases. When [Section 153D](#) is juxtaposed with [Section 151](#) and [Section 274](#), most important differences which is peculiar to [Section 153D](#) is the word "Each". Word each is not used in [Section 151](#) and [Section 274](#) and the word "Each" is specially and consciously referred to in [Section 153D](#) so that assessee-wise and year-wise application of mind on the part of the approving authority is there which is in accordance with the overall scheme of [Section 153A](#) to [Section 153D](#) of the I.T. Act. Hon'ble Allahabad High Court in the case of [Shri Mohd. Ayub vs. ITO](#) [2012] 346 ITR 30 (Alld) dealt with non issue of separate notice under [section 148](#) of the I.T. Act and held it to be invalid because each assessment year was to be taken as an independent unit of assessment and therefore, if the above settled position is tested with the provisions of [Section 153D](#), it would emerge that when in a case where requirement of separate notice under [section 148](#) of the I.T. Act was given absolute primacy therefore, in

the context of [Section 153D](#) of the I.T. Act (where each word is expressly used and which is a year centric special scheme of assessment with concept of abated/non-abated assessments) there is absolute necessity of separate approval for each year and for each assessee. In the present cases Jt. CIT has given approval [u/s 153D](#) of the Act for all the years altogether involved in search and the approving authority in a mechanical manner and as an idle formality has granted approval. In one line the approving authority has given blank go ahead to pass order under [section 153A](#) without even taking minimum possible pains to take appropriate note of year-wise income as computed. The legislative intent behind [Section 153D](#) can be discerned/gathered from the CBDT Circular No.3/2008 dated 12.03.2008 in which it is highlighted that approval of the approving authority is mandatory. For the sake of completeness, the contents of Circular No. 3/2008 are reproduced below:

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

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

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

50.3 Applicability-These amendments will take effect from the 1st day of June, 2007."

9.5 It is evident from the CBDT Circular that the legislature in its highest wisdom made it compulsory that the assessments of search cases should be made with the prior approval of superior authority, so that the superior authority could apply his mind on the materials and other circumstances on the basis of which the officer is making the assessment and after due application of mind and on the basis of seized materials, the superior authority have to approve the assessment order. The object of entrusting the duty of approval of assessment in search cases is that the Jt. CIT, with his experience and understanding could scrutinize the seized documents and any other material forming the foundation of assessment. It is an elementary law that whenever any statutory obligation is casted upon any statutory authority, such authority is required to discharge its obligation not mechanically, not even formally but after due application of mind. The approval granted under [section 153D](#) of the Act should necessary reflect due application of mind and if the same is subjected to judicial scrutiny, it should stand for itself and should be self defending. In the above background of law and in the light of order dated 30.12.2018 passed under [section 153D](#) of the Act, which gives legality to the impugned assessment orders, question which arises for our consideration is whether the approval granted by the Additional CIT, Central, Kanpur vide his order dated 30.12.2018 can be held to be granted after due application of mind and can be held to be valid in the eyes of law. Learned counsel for the assessee, during the proceedings before us had filed a chart showing number of documents seized during search belonging to the group totaling 15,800 pages. Besides the above documents, replies filed by assesseees belonging to the group consisted of about 200 pages and in fact there were documents belonging to other group also, the approval of which has also been granted along with assesseees on the same day through the same approval letter. Therefore, keeping in view huge number of documents involved, it is humanely impossible for a person to apply his mind on all cases individually and that too in a single day. For the sake of completeness, the said

approval dated 30/12/2018 has been made part of this order and is reproduced below:

The contents of the approval speaks for itself loud and clear. The following inferences are inevitable from the bare reading of the said order. The draft assessment orders were placed before the Additional CIT, Central, Range-Kanpur on 30/12/2018 for the first time and on the same day approval was granted. As clearly mentioned in the approval under challenge, prior to this date the case was never discussed with the authority granting the approval. The Additional CIT without any consideration on merits in respect of the issues on which addition was made, granted the approval and such approval is an eyewash and idle formality and such a mechanically granted approval is no approval in the eyes of law. The entire gamete of law, as contemplated [u/s 153D](#) of the Act, has been considered by Delhi Bench of the Tribunal in a bunch of 52 appeals in I.T.A. No.1813/Del/2019 in the case of Sanjay Duggal and Others wherein the Hon'ble Bench vide order dated 19/01/2021 has quashed the assessment orders by holding that the approval granted [u/s 153D](#) of the Act was in a mechanical manner and thus cannot be held to be an approval as required [u/s 153D](#) of the Act. The relevant findings of the Tribunal are contained in para 11 onwards, which for the sake of completeness are reproduced below:

"11. We have considered the rival submissions and perused the written submissions filed by the parties and considered the material on record. It is an admitted fact that search and seizure action were carried-out in the cases of the assesseees on 29.12.2015. [Section 153A](#) have been inserted into the [Income Tax Act](#) w.e.f. 01.06.2003. Prior to that there were provisions contained under [section 158BC](#) being the special procedure for assessment of search cases. Thus, the provisions of [Section 153A](#) to [153D](#) are applicable in the case of assesseees. According to [Section 153A](#) of the I.T. Act, there should be a search initiated under [section 132](#) of the I.T. Act and panchanama drawn, the A.O. shall have to issue notice to the assessee requiring him to furnish the return of income within the specified time in respect of each assessment year falling within six assessment years. The A.O. shall assess or re-assess the total income of six assessment years immediately preceding the assessment year relevant

to the previous year in which such search is conducted or requisition is made. Provided that the A.O. shall assess or re-assess the total income in respect of each assessment year falling within such six assessment years. It is further provided that assessment or re-assessment, if any, relevant to any assessment year falling within the period of six assessment years referred to in this Section pending on the date of initiation of the search under [section 132](#) or making of requisition under [section 132A](#) as the case may be, shall abated. Thus, when provisions of [Section 153A](#) are applicable in a case of assessee, A.O. shall have to give separate notice of each assessment year and assessee shall have to be directed to file return of income for each year and separate orders shall have to be passed for each assessment year. In [Section 153A](#) of the I.T. Act, the A.O. shall have to see whether there are abated or non-abated assessments which was not provided in earlier provisions for block assessments. The Hon'ble Delhi High Court in the case of [CIT vs., Kabul Chawla](#) [2016] 380 ITR 573 (Del.) considered the issue of abated and non-abated assessments and with regard to completed assessments held that the same can be interfered with by the A.O. while making the assessment under [section 153A](#) only on the basis of some incriminating material unearthed during the course of search which was not produced or not already disclosed or made known in the course of original assessment. It is also held in the same Judgment that in so far as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under [section 153A](#) merges into one. Only one assessment shall have to be made separately for each assessment year on the basis of the findings of the search and any other material existing or brought on record by the A.O. Therefore, these were the mandatory provisions contained in [Section 153A](#) which shall have to be satisfied by the A.O. before proceeding to frame assessment in the cases of persons searched under [section 132](#) of the I.T. Act, 1961. Further safeguard have been provided for framing the assessments under [section 153A](#) that prior approval shall be necessary for assessments in the cases of the search or requisitioned, under [section 153D](#) of the IT. Act. [Section 153D](#) of the I.T. Act is reproduced as under :

"153D - No Order of assessment or re-assessment shall be passed by an Assessing Officer below the rank of Joint

Commissioner in respect of each assessment year referred to in Clause (b) of Sub-Section (1) of [Section 153A](#) or the assessment year referred to in Clause (b) of sub-section (ii) of [Section 153B](#) except with the prior approval of the Joint Commissioner.

"Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Commissioner under sub-section (12) of [section 144BA](#)."

11.1. It is an admitted fact that in all the above appeals assessments under [section 153A](#) have been framed by ACIT, Central Circle, New Delhi, therefore, prior approval of the JCIT in respect of each assessment year referred to under [section 153A](#) or 153B shall have to be obtained. Thus, no order of assessment or re-assessment shall be passed by the A.O. in the present cases in respect of each assessment years under [section 153A/153B](#) of the I.T. Act, 1961, except with the prior approval of the Joint Commissioner. Learned Counsel for the Assessee has argued that the approval under [section 153D](#) have been granted by the JCIT without going through the seized material, appraisal report and other material on record. Thus, the approval is granted in a most mechanical manner and without application of mind. Therefore, same is invalid, bad in Law and void ab initio and as such all assessments under [section 153A](#) got vitiated and as such A.O. was not having jurisdiction to pass the assessment orders under [section 153A](#) of the I.T. Act, 1961.

11.2. The meaning of the word "Approval" as defined in Black Law Dictionary is -

"The Act of confirming, rectifying, sanctioning or consenting to some act or thing done by another. To approve means to be satisfied with, to confirm, rectify, sanction or 'consent to some act or thing done by another, to consent officially, to rectify, to confirm, to pronounce good, thing or Judgment of, admitting propriety or excels or to pleas with."

11.3. The Hon'ble Supreme Court of South Carolina in *State vs., Duckett* 133 SC 85 [SC 1925], 130 SE 340 decided on 05.11.1925 held that "Approval implies

knowledge and, the exercise or discretion after knowledge."

11.4. The Hon'ble Supreme Court in the case of [Vijayadevi Naval Kishore Bharatia vs., Land Acquisition Officer](#) [2003] 5 SCC 83 wherein it has been held that :

"Whenever there is an administrative approval given by higher authority, higher authority applies its mind to see whether the proposed Award is acceptable to the Government or not ? Such Authority may satisfy itself as to the material relied upon by the Adjudicator, but, the Approving Authority cannot reverse the finding, as he is an Appellate Authority for the purpose of remanding the matter to the Adjudicating Authority as can be done by the Appellate Authority. Further, the Approving Authority also cannot exercise its power of prior approval to give directions to the Adjudicating Authority in what beneficial to accept/ appreciate the material on record in regard to the compensation payable. Otherwise, it would tantamount to blurring the distinction between Approving Authority and Appellate Authority".

11.5. The Hon'ble Gauhati High Court in the case of [Dharampal Satyapal Ltd., vs., Union of India](#) [2019] 366 ELT 253 (Gau.) Manu/GH/07070/2018 in para-28 has held as under :

"When an Authority is required to give his approval, it is also to be understood that such Authority makes an application of mind as to whether the matter that is required to be approved satisfies all the requirements of Law or procedure to which it may be subjected. In other words, grant of approval and application of mind as to whether such approval is to be granted must co-exist and, therefore, where an Authority grants an approval it is also to be construed that there was due application of mind that the subject matter approved and satisfies all the legal and procedural requirements."

11.6. Therefore, in the cases of search, assessment orders whether framed under [section 153A](#) or 153C, the Joint Commissioner [Approving Authority] is required to see that whether the additions have been made in the hands of assessee are based properly on incriminating material found during the course of search, observations/comments in the appraisal report, the seized documents and further

enquiries made by the A.O. during the course of assessment proceedings. Therefore, necessarily at the time of grant of approval of the assessment made by the A.O, the Joint Commissioner is required to verify the above issues, apply his mind that whether they have been properly appreciated by the A.O. while framing the assessment orders or not. The JCIT is also required to verify whether the required procedure have been followed by the A.O. or not at the time of framing of the assessments. Thus, the approval cannot be a mere discretion or formality, but, is mandatory being Quasi Judicial function and it should be based on reasoning. In our view, when the legislature has enacted some provision to be exercised by the higher Revenue Authority enabling the A.O. to pass assessment order or reassessment order in search cases, then, it is the duty of the JCIT to exercise such powers by applying his judicious mind. We are of the view that the obligation of the approval of the Approving Authority is of two folds ; on one hand, he has to apply his mind to secure in build for the Department against any omission or negligence by the A.O. in taxing right income in the hands of right person and in right assessment year and on the other hand, JCIT is also responsible and duty bound to do justice with the tax payer [Assessee] by granting protection against arbitrary or unjust or unsustainable exercise and decision by the A.O. creating baseless tax liability on the assessee and thus, the JCIT has to discharge his duty as per Law. Thus, granting approval under [section 153D](#) of the I.T. Act is not a mere formality, but, it is a supervisory act which requires proper application of administrative and judicial skill by the JCIT on the application of mind and this exercise should be discernable from the Orders of the approval under [section 153D](#) of the I.T. Act."

9.7 Further we find that I.T.A.T. Cuttack Bench in the case of [Geetarani Panda vs. ACIT](#) in I.T.A. No.01/CTK/2019 vide order dated 05/07/2018 has held as under:

"24. In our considered view, the provisions contained in [Section 153D](#) as enacted by the Parliament cannot be treated as an empty formality. The provision has certain purpose. It is apparent that the purpose behind the enactment of the above provision in the Statute by the Parliament are two folds. Firstly, the approval of the Senior

Authority will ensure that the assessee is not prejudiced by the undue or irrelevant addition or assessment. Secondly, the approval by Senior Authority will also ensure that proper enquiry or investigation are carried out by the Assessing Authority. Thus, the above provision provides for mental application of a Senior Officer of the Department, which in turn, provides safeguard to both i.e. Revenue as well as the assessee. Therefore, this important provision laid down by the legislature cannot be treated as a mere empty formality. The same view was expressed by the Pune Benches of the Tribunal in the case of Akil Gulamali Somji vs ITO, in IT Appeal Nos.455 to 458 (Pune) of 2010 order dated 30.3.2012, wherein, it was held that when the approval was granted without proper application of mind, the order of assessment will be bad in law. The Hon'ble Bombay High Court in the case of CIT-II Vs Shri Akil Gulamali Somji, in Income Tax Appeal (L) No.1416 of 2012 order dated 15.1.2013 concurred with the view of the Tribunal that not following of the provisions of section 153D of the Act will render the related order of assessment void."

9.8 Further we find that I.T.A.T. Mumbai Bench in the case of Shreelekha Dammani vs. DCIT in I.T.A. No.4061/Mum/2012 vide order dated 19/08/2015 has decided the issue in favour of the assessee by holding as under:

"12. Coming to the facts of the case in hand in the light of the analytical discussion hereinabove and as mentioned elsewhere, the Addl. Commissioner has showed his inability to analyze the issues of draft order on merit clearly stating that no much time is left, inasmuch as the draft order was placed before him on 31.12.2010 and the approval was granted on the very same day. Considering the factual matrix of the approval letter, we have no hesitation to hold that the approval granted by the Addl. Commissioner is devoid of any application of mind, is mechanical and without considering the materials on record. In our considered opinion, the power vested in the Joint Commissioner/Addl Commissioner to grant or not to grant approval is coupled with a duty. The Addl Commissioner/Joint Commissioner is required to apply his mind to the proposals put up to him for approval in the light of the material relied upon by the AO. The said power

cannot be exercised casually and in a routine manner. We are constrained to observe that in the present case, there has been no application of mind by the Addl. Commissioner before granting the approval. Therefore, we have no hesitation to hold that the assessment order made [u/s. 143\(3\)](#) of the Act r.w. [Sec. 153 A](#) of the Act is bad in law and deserves to be annulled. The additional ground of appeal is allowed.

13. The ld. Departmental Representative has strongly relied upon the decision of the Tribunal Mumbai Bench in the case of *Rafique Abdul Hamid Kokani Vs DCIT 113 Taxman 37*, Hon'ble High Court of Karnataka in the case of *Rishabchand Bhansali Vs DCIT 136 Taxman 579* and Hon'ble High Court of Madras in the case of [Sakthivel Bankers Vs Asstt. Commissioner](#) 124 Taxman 227.

13.1. We have carefully perused the decisions placed on record by the Ld. DR. We find that all the decisions relied upon by the Ld. DR are misplaced inasmuch as all these decisions relate to the issue whether the Joint CIT/CIT has to give an opportunity of being heard to the assessee before granting the approval. This is not the issue before us as the Ld. Counsel has never argued that the assessee was not given any opportunity of being heard. These decisions therefore would not do any good to the Revenue.

14. Since we have annulled the assessment order, we do not find it necessary to decide the issues raised on merits of the case."

9.9 In this case, the Addl. Commissioner has showed his inability to analyze the issues of draft order clearly stating that no much time was left as the draft order was placed before him on 31/12/2010 and approval was granted on the same day. In the case before us the Addl. CIT has though not expressly expressed his inability to analyze the issues of draft order but it is abundantly clear that he had not analyzed the issues in the draft order as in the present cases the approval has been given in 67 cases on the same date which is humanly impossible. If an ACIT cannot express his opinion on a single case in one day how another ACIT can express his opinion in 67 cases in a single day.

9.10 The Hon'ble Bombay High Court has dismissed the appeal of the Department filed against the above order of the Mumbai Tribunal in the case of *Shreelekha Damani*

vide judgment dated 27/11/2018. The findings of Hon'ble Bombay High Court are reproduced below:

"7. In plain terms, the Additional CIT recorded that the draft order for approval under [Section 153D](#) of the Act was submitted only on 31st 3 of 4 Uday S. Jagtap 668-16-ITXA- 15=.doc December, 2010. Hence, there was not enough time left to analyze the issues of draft order on merit. Therefore, the order was approved as it was submitted. Clearly, therefore, the Additional CIT for want of time could not examine the issues arising out of the draft order. His action of granting the approval was thus, a mere mechanical exercise accepting the draft order as it is without any independent application of mind on his part. The Tribunal is, therefore, perfectly justified in coming to the conclusion that the approval was invalid in eye of law. We are conscious that the statute does not provide for any format in which the approval must be granted or the approval granted must be recorded. Nevertheless, when the Additional CIT while granting the approval recorded that he did not have enough time to analyze the issues arising out of the draft order, clearly this was a case in which the higher Authority had granted the approval without consideration of relevant issues. Question of validity of the approval goes to the root of the matter and could have been raised at any time. In the result, no question of law arises."

9.11 Similar are the findings of I.T.A.T. Jodhpur Bench in the case of [Indra Bansal & Ors. vs. ACIT](#) in I.T.A. Nos. 321 to 324 in which the Tribunal held as under:

"6. We have heard the rival contentions and have perused the material on record. The main contention of learned Authorised Representative is that reasonable time was not available with the Joint Commissioner for the grant of necessary approval as envisaged under [section 153D](#) of the Act. We have perused the forwarding letter dt. 30-3-2013 seeking approval of the draft assessment order. The date of receipt of this letter in the office of Joint Commissioner is indisputably on 31-3-2013 which is apparent from the date stamped on it by the office of the Joint Commissioner. Thus, this leaves no doubt that the letter requesting grant of approval and the granting of approval, both, are within one day of each other. This

lends credence to the contention of the learned Authorized Representative that the draft assessment order was approved without much deliberation by the Joint Commissioner. Further, the time of the fax granting approval is 6.56 a.m. on 31-3-2013 which is prior to the office hours and, thus, it brings out a reasonable doubt that the approval was granted even before the letter requesting the approval was received in the office of the Joint Commissioner. Further, the response received by the assessee in response to his application under [Right to Information Act, 2005](#) also establishes the correctness of the claim of the assessee that the assessment records were not before the Joint Commissioner when the approval was granted as the records were with the Range Office in Jodhpur whereas the approval was sent by fax on the morning of 31-3-2013 from Udaipur. Thus, it is our considered opinion that the Joint Commissioner had granted approval in a mechanical manner without examining the case records because the approval has been granted at 6.56 a.m. on 31-3-2013 from Udaipur wherein it has already been mentioned that the assessment records were being returned whereas the draft assessment order along with the assessment records were handed over to the office of the Joint Commissioner on 31-3-2013 and as such it was physically impossible that all the case records along with the draft assessment order were received by the Joint Commissioner at Udaipur.

Tribunal, Mumbai Bench in the case of Smt. Shreelekha Damani v. Dy. CIT (2015) 125 DTR (Mumbai)(Trib) 263 : (2015) 173 TTJ (Mumbai) 332 has held that the legislative intent behind the insertion of [section 153D](#) of the Act was that the assessments in search and seizure cases should be made with the prior approval of superior authority which means that the superior authorities should apply their mind to the material on the basis of which the assessing officer is making the assessment. In this case, the Addl. CIT had expressed his inability to analyze the issues of the draft order on merits clearly stating that not much time was left and granted the approval under [section 153D](#) of the Act on the same day and Tribunal, Mumbai Bench held that the approval granted by Addl. CIT was mechanical and had been passed without considering the material on record and was, therefore, devoid of any

application of mind. The impugned assessment order was annulled.

Similarly, Tribunal, Allahabad Bench in [Verma Roadways v. Asstt. CIT](#) (2001) 70 TTJ (All) 728; (2000) 75ITD 183 (All) held that while granting approval, Commissioner is required to examine the material before approving the assessment order. In this case, Tribunal, Allahabad Bench was examining the issue of approval under [section 158BG](#) of the Act and it opined that the object for entrusting the job of approval to a superior and a very reasonable (sic-responsible) officer of the rank of Commissioner is that he with his ability, experience and maturity of understanding can scrutinize the documents, can appreciate its factual and legal aspects and can properly supervise the entire progress of assessment. Tribunal, Allahabad Bench held that the concerned authority while granting the approval is expected to examine the entire material before approving the assessment order and further that whenever any statutory obligation is cast on any authority, such authority is legally required to discharge the obligation not mechanically, nor formally but by application of mind.

Similarly, the Hon'ble Apex Court in the case of [Sahara India \(Firm\) v. CIT & Anr.](#) (2008) 216 CTR (SC) 303 : (2008) 7 DTR (SC) 27; (2008) 300 ITR 403 (SC), while discussing the requirement of prior approval of Chief Commissioner or Commissioner in terms of provision of [section 142\(2A\)](#) of the Act, opined that the requirement of previous approval of the Chief Commissioner or Commissioner in terms of said provision being an inbuilt protection against arbitrary or unjust exercise of power by the assessing officer, casts a very heavy duty on the said high-ranking authority to see it that the approval envisaged in the section is not turned into an empty ritual. The Hon'ble Apex Court held that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case.

Coming to the facts of the case, it is apparent from the documents on record that the approval was given by the Joint Commissioner in hasty manner without even going through the records as the records were in Jodhpur while the Joint Commissioner was camping at Udaipur. The

entire exercise of seeking and granting of approval in all the 2 cases was completed in one single day itself i.e., 31-3-2013. Thus, it is apparent that the Joint Commissioner did not have adequate time to apply his mind to the material on the basis of which the assessing officer had made the draft assessment orders. Tribunal, Mumbai Bench and Tribunal, Allahabad Bench in their orders, as discussed in the preceding paragraphs, have laid down that the power to grant approval is not to be exercised casually and in routine manner and further the concerned authority, while granting approval, is expected to examine the entire material before approving the assessment order. It has also been laid down that whenever any statutory obligation is cast upon any authority, such authority is legally required to discharge the obligation by application of mind. In all the cases before us, the Department could not demonstrate, by cogent evidence, that the Joint Commissioner had adequate time with him so as to grant approval after duly examining the material prior to approving the assessment order. The circumstances indicate that this exercise was carried out by the Joint Commissioner in a mechanical manner without proper application of mind. Accordingly, respectfully following the ratio of the Co-ordinate Benches of Mumbai and Allahabad as afore-mentioned and also applying the ratio of the judgment of the Hon'ble Apex Court in the case of [Sahara India \(Firm\) v. CIT](#) (supra), we hold that the Joint Commissioner has failed to grant approval in terms of [section 153D](#) of the Act i.e., after application of mind but has rather carried out exercise in utmost haste and in a mechanical manner and, therefore, the approval so granted by him is not an approval which can be sustained. Accordingly, assessments in three COs and nineteen appeals of the assessee(s), on identical facts, are liable to be annulled as suffering from the incurable defect of the approval not being proper. Accordingly, we annul the assessment orders in CO Nos. 8 to 10/Jodh/2016 and ITA Nos. 325 to 331/Jodh/2016. Thus, all the three COs and the nineteen appeals of the assessee, as aforesaid, are allowed."

10. Similarly we find that Hon'ble Supreme Court in the case of [Sahara India vs. CIT & Others](#) [2008] 216 CTR 303 (S.C.) : [2008] 7 DTR (SC) 27:

[2008] 300 ITR 403 (SC) while discussing the requirement of prior approval of Chief Commissioner or Commissioner in terms of provision of [section 142\(2A\)](#) of the Act, opined that the requirement of previous approval of the Chief Commissioner or Commissioner in terms of said provision being an inbuilt protection against arbitrary or unjust exercise of power by the assessing officer, casts a very heavy duty on the said high- ranking authority to see it that the approval envisaged in the section is not turned into an empty ritual. The Hon'ble Apex Court held that the approval must be granted only on the basis of material available on record and the approval must reflect the application of mind to the facts of the case.

11. In view of these facts and circumstances and in view of judicial precedents relied on by Learned A. R. Ground No.5 in appeals is allowed and the assessments orders are annulled. Rest of the grounds were not argued by Learned A. R. therefore, rest of the grounds are dismissed as not pressed.”

13. In view of these facts and circumstances and respectfully following the order of the Tribunal in the case of Shri Navin Jain and others (supra), the grievance of the assessee by way of Ground no.6 is allowed and the assessment order is annulled.”

(J.1.6) Moreover, in a Third Member case, order has been passed by Tribunal in the case of Dheeraj Chaudhary vs. ACIT [2025] 178 taxmann.com 360 (Delhi-Trib._ (TM), on the issue of validity of approval u/s 153D of the Act. Also, we are conscious of order in the case of P. C. Puri vs. CIT [1985] 151 ITR 584 (Delhi), in which Hon'ble Delhi High Court held: There is no difference, really speaking, between a full bench of three judges sitting together and this method of referring to the third judge in the case of a difference of opinion between the A two judges. Whether the first method is adopted or the second, ""opinion of the majority"" will be decisive. In this case there is a formal reference to a third judge to ascertain his opinion. His is the deciding voice. He turns the scales. The third judge is the full bench. Not alone. But along with two others who first heard the case. Whether the

three judges sit at the same time or at different times-two at one time, and the third hearing the matter later on a difference of opinion-does not make much difference. As has happened in this case, the two judges have differed. So the case bag come to me, the third judge. The two judges have expressed their opinion. I, am now called upon to give my opinion. The opinion of the majority will prevail. All that happens is that the third is segregated from the two and does not sit with them. He comes in later on when there is a difference of opinion between them. In all cases it is the theory of numbers which is the foundation of the doctrine of stare decisis. Majority is a term signifying the greater number. Counting of heads underlies the theory" of judicial precedents as in any majority decision. The constitutional requirement of a constitution court of five judges is based on this theory. Similarly the CPC of 1908 enacts that in case of difference of opinion the matter has to be referred to a third judge. Therefore, the reference was correctly made to the third judge. Relevant portion of the order in the case of Dheeraj Chaudhary is reproduced as under:

12. I have gone through the case law of Hon'ble Orissa High Court in the case of *Serajuddin & Co. (supra)*, wherein Hon'ble High Court has considered the meaning of approval and what must contain while granting of approval as discussed by Hon'ble Supreme Court in the case of *Rajesh Kumar v. Dy. CIT* [2006] 157 Taxman 168/287 ITR 91, wherein Hon'ble Supreme Court, in the context of Section 142(2A) of the Act which empowers the Assessing Officer to direct a special audit and obtaining a prior approval, has explained the approval as under:-

"58. An order of approval is also not to be mechanically granted. The same should be done having regard to the materials on record. The explanation given by the assessee, if any, would be a relevant factor. The approving authority was required to go through it. He could have arrived at a different opinion. He in a situation of this nature could have corrected the assessing officer if he was found to have adopted a wrong approach or posed a wrong question unto himself. He could have been asked to complete the process of the assessment within the specified time so as to save the Revenue from suffering any loss. The same purpose might have been achieved upon production of some materials for understanding the books of accounts and/or the entries made therein. While exercising its power, the assessing officer has to form an opinion. It is final so far he is concerned albeit subject to approval of the Chief Commissioner or the Commissioner, as the case may be. It is only at that stage he is required to consider the matter and not at a subsequent stage, viz., after the approval is given."

13. Further, Hon'ble Orissa High Court in the case of *Serajuddin & Co. (supra)* has also considered the CBDT Manual of Office Procedure issued in February, 2003 in exercise of powers under Section 119 of the Act and reproduced Para 9 of Chapter 3 of Volume-II(Technical) of the Manual, which reads as under:-

"9. Approval for assessment - An assessment order under Chapter XIV-B can be passed only with the previous approval of the range JCIT/Addl. CIT (for the period from 30-6-1995 to 31-12-1996 the approving authority was the CIT.). The Assessing Officer should submit the draft assessment order for such approval well in time. The submission of the draft order must be docketed in the ordersheet and a copy of the draft order and covering letter filed in the relevant miscellaneous records folder. Due opportunity of being heard should be given to the assessee by the supervisory officer giving approval to the proposed block assessment, at least one month before the time barring date. Finally once such approval is granted, it must be in writing and filed in the relevant folder indicated above after making a due entry in the order-sheet. The assessment order can be passed only after the receipt of such approval. The fact that such approval has been obtained should also be mentioned in the body of the assessment order itself."

14. Further, in the case of *Sirajuddin & Co. (supra)*, Hon'ble Orissa High Court has also considered the issue of approval, according to the Revenue, it is itself not justiciable. Hon'ble Supreme Court has considered where approval granted is mechanical and it would vitiate the assessment order itself. Hon'ble Supreme Court, in the case of *Sahara India (Firm) v. CIT* [2008] 169 Taxman 328/300 ITR 403, has considered this issue as under:-

"8. There is no gainsaying that recourse to the said provision cannot be had by the Assessing Officer merely to shift his responsibility of scrutinizing the accounts of an assessee and pass on the buck to the special auditor. Similarly, the requirement of previous approval of the Chief Commissioner or the Commissioner in terms of the said provision being an inbuilt protection against any arbitrary or unjust exercise of power by the Assessing Officer, 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 Section is not turned into an empty ritual. Needless to emphasize that before granting approval, the Chief Commissioner or the Commissioner, as the case may be, must have before him the material on the basis whereof an opinion in this behalf has been formed by the Assessing Officer. The approval must reflect the application of mind to the facts of the case."

15. Further, Hon'ble Supreme Court has reiterated the view expressed in *Rajesh Kumar (supra)* as under:-

"29. In *Rajesh Kumar (2007) 2 SCC 181* it has been held that in view of section 136 of the Act, proceedings before an Assessing Officer are deemed to be judicial proceedings. Section 136 of the Act, stipulates that any proceeding before an Income-tax Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of Indian Penal Code, 1860 and also for the purpose of section 196 of I.P.C. and every Income-tax Authority is a court for the purpose of section 195 of Code of Criminal Procedure, 1973. Though having regard to the language of the provision, we have some reservations on the said view expressed in *Rajesh Kumar's case (supra)*, but having held that when civil consequences ensue, no distinction between quasi judicial and administrative order survives, we deem it unnecessary to dilate on the scope of section 136 of the Act. It is the civil consequence which obliterates the distinction between quasi judicial and administrative function. Moreover, with the growth of the administrative law, the old distinction between a judicial act and an administrative act has withered away. Therefore, it hardly needs reiteration that even a purely administrative order which entails civil consequences, must be consistent with the rules of natural justice. (Also see :*Maneka Gandhi v. Union of India [1978] 1 SCC 248* and *S.L. Kapoor v. Jagmohan [1980] 4 SCC 379*).

30. As already noted above, the expression "civil consequences" encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. Anything which affects a citizen in his civil life comes under its wide umbrella. Accordingly, we reject the argument and hold that since an order under section 142(2A) does entail civil consequences, the rule *audialterampartem* is required to be observed."

16. Further, Hon'ble Orissa High Court in the case of *Serajuddin & Co. (supra)*, has considered the case of Hon'ble Delhi High Court in the case of *Yum! Restaurants Asia Pte. Ltd. v. Dy. CIT [2018] 99 taxmann.com 457/397 ITR 665*, which has dealt with the requirement of approval/sanction under Section 151(2) of the Act for initiating proceedings under Section 147 read with Section 148 of the Act. Hon'ble Delhi High Court observed as under:-

"11. The purpose of section 151 of the Act is to introduce a supervisory check over the work of the AO, particularly, in the context of reopening of assessment. The law expects the AO to exercise the power under section 147 of the Act to reopen an assessment only after due application of mind. If for some reason, there is an error that creeps into this exercise by the AO, then the law expects the superior officer to be able to correct that error. This explains why section 151(1) requires an officer of the rank of the Joint Commissioner to oversee the decision of the AO where the return originally filed was assessed under Section 143(3) of the Act. Further, where the reopening of an assessment is sought to be made after the expiry of four years from the end of the relevant AY, a further check by the further superior officer is contemplated."

17. Further, Hon'ble Delhi High Court in the case of *Pr. CIT v. Shiv Kumar Nayyar [2024] 163 taxmann.com 9/299 Taxman 385/467 ITR 186* and *Anuj Bansal (supra)*, has considered the identical issue wherein it was emphasized that approval was granted without examining the assessment records or the searched material and, Hon'ble High Court in Paragraph 13, extracted the findings of the Tribunal as under:-

"13. In another words, it was emphasized that the approval was granted without examining the assessment record or the search material. The relevant observations made in this behalf by the Tribunal in the impugned order are extracted hereafter:

"17.1 However, in the present case, we have no hesitation in stating that there is complete non-application of mind by the Learned Addl. CIT before granting the approval. Had there been application of mind, he would not have approved the draft assessment order, where the returned income of Rs.87,20,580/-. Similarly, when the total assessed income as per the AO comes to Rs.16,69,42,560/-, the Addl. CIT could not have approved the assessed income at Rs.1,65,07,560/- had he applied his mind. The addition of Rs.15,04,35,000/- made by the AO in the instant case is completely out of the scene in the final assessed income shows volumes.

17.2 Even the factual situation is much worse than the facts decided by the Tribunal in the case of Sanjay Duggal (*supra*). In that case, at least the assessment folders were sent whereas in the instant case, as appears from the letter of the Assessing Officer seeking approval, he has sent only the draft assessment order without any assessment records what to say about the search material. As mentioned earlier, there are infirmities in the figures of original return of income as well as total assessed income and the Addl. CIT while giving his approval has not applied his mind to the figures mentioned by the AO. Therefore, approval given in the instant case by the Addl. CIT, in our opinion, is not valid in the eyes of law. We, therefore, hold that approval given u/s 153D has been granted in a mechanical manner and without application of mind and thus it is invalid and bad in law and consequently vitiated the assessment order for want of valid approval u/s 153D of the Act.

In view of the above discussion, we hold that the order passed u/s 153A r.w.s. 43(3) has to be quashed, thus ordered accordingly. The ground raised by the Assessee is accordingly allowed."

18. On the other hand, learned CIT-DR relied upon the decision of Hon'ble Supreme Court in the case of *DGIT (Investigation) v. Spacewood Furnishers (P) Ltd.* [2015] 57 taxmann.com 292/232 Taxman 131/374 ITR 595 (SC) and Mumbai ITAT decision in the case of *Pratibha Pipes and Structural Ltd. (supra)*. She also relied on the decision of Hon'ble Delhi High Court in the case of *Kelvinator of India Ltd. (supra)*. She also relied on the decision of Hon'ble Supreme Court in the case of *Kunhayammed (supra)* and *Khoday Distilleries Ltd. (supra)*.

19. I noted that the case law cited by the learned CIT-DR of *Spacewood Furnishers (P) Ltd. (supra)* relates to warrant of authorization issued under Section 132 of the Act for carrying of search by the Income-tax Department and whether the assessee has right to inspection of documents or communication of reasons for belief at the stage of issuing of authorization. Hon'ble Supreme Court has categorically said No but also said that the requisite material may have to be disclosed at the stage of commencement of assessment proceedings. Hence, this case cannot be equated with the present controversy regarding approval under Section 153D of the Act. Regarding the case law of this Tribunal in the case of *Pratibha Pipes & Structural Ltd. (supra)*, the only issue before the Tribunal was whether the approval under Section 153D is granted or not. In the given facts and circumstances of that case, the Tribunal reached to a conclusion that there is approval granted under Section 153D of the Act and nothing else. Hence, on facts, this is clearly distinguishable. As regards the decision of *Kelvinator of India Ltd. (supra)*, that was the case of reopening and whether the reason to belief of Assessing Officer is founded on an information which has been received by the Assessing Officer after completion of assessment and that can be a sound foundation for exercising power under Section 147 read with Section 148 of the Act. Hence, this decision also cannot be equated with the approval as amended under Section 153D of the Act. As regards the other decisions cited by the learned CIT-DR of *Kunhayammed (supra)* and *Khoday Distilleries Ltd. (supra)*, these relate to the concept of merger of High Court order in question with Supreme Court's order while dismissing the SLP. Here, that is not the question, rather, the question is whether approval is mechanical or not. Whether approval granted under Section 153D of the Act is on application of mind or not in the given facts and circumstances of the case. Hence, these decisions are clearly distinguishable on facts and principle of law.

20. I have gone through the order of learned Accountant Member and noted that in Paragraph 7, it is noted that the approval accorded by the Additional CIT under Section 153D of the Act is nothing but the culmination of day to day involvement of the Assessing Officer and the Additional CIT in search assessments. The relevant procedure noted by the learned Accountant Member reads as "The fact is that the AO and the Addl. CIT works as team members and the AO works under the supervision of the Addl. CIT. The team work gets culmination by the approval under section 153D of the Act. Such involvement of the Addl. CIT in the search assessment is in routine in the Central Charges of the Income Tax Department where the search assessments are completed. It is not a case where the assessment records, other files, investigation folders, etc. of a search case change hands for the first time between the AO and the Addl. CIT at the time of approval of the search assessment. The detail mentioned above is based on my personal experience while working in each hierarchy (AO onwards) of the Central Charges of the Income Tax Department." The second aspect considered by the learned Accountant Member is that approval under Section 153D of the Act by the Additional CIT is merely administrative in nature to safeguard internal checks and balances without affecting the quasi-judicial powers of the Assessing Officer and creating any prejudice to the assessee. It was further noted by the learned AM that while granting approval under Section 153D of the Act, the Additional CIT does not act as a reviewing/appellate authority to allow or disallow the additions proposed by the Assessing Officer.

21. I note the above observations of learned Accountant Member and is of the view that assessment proceedings or any proceedings under the Act before the Assessing Officer which affect the levy of tax on the subject are judicial in nature. It is well-settled that the Assessing Officer upon whom jurisdiction has been conferred to make all orders judicially, has to act independently. The Assessing Officer, while framing assessment, cannot act on the advice given by an outsider even though he may be an authority higher in rank to him in official hierarchy. Higher authorities that include Additional CIT/JCIT under whom the Assessing Officer is administratively under control, are not entitled to give opinion or advice in regard to assessment proceedings being quasi-judicial in nature. This is, however, subject to the provisions of Section 144A of the Act, where the assessee or the Assessing Officer *suo moto* can refer the matter but, for that, he has to invoke this provision. This view is supported by Hon'ble Bombay High Court in the case of *Dinshaw Darabshaw Shroff v. CIT* [1943] 11 ITR 172, wherein it is held that although the Assessing Officer making an assessment is not acting as a court of law, it is clear that while framing assessment is acting in quasi-judicial capacity, and he ought to conform to the more elementary rules of judicial procedure, and in particular to conduct the case himself, and not allow somebody else, even his superior officer, to interfere in the conduct of the case. What to talk of superior authority, Hon'ble Supreme Court in the case of *Union of India v. Tata Engineering & Locomotive Co. Ltd.* 1997 taxmann.com 100 /AIR 1998 SC 287, 288, held that the Assessing Officer is entitled to complete the assessment as per the provisions of Section 143(3) of the Act and, for this purpose, he can call for and examine whatever document he considers relevant. Hon'ble Supreme Court held that, if the Assessing Officer fails to follow any judgment of the High Court or of the Supreme Court, the assessee has adequate statutory remedies by way of an appeal and revision against the assessment order but, the Court should not try to control the mode and manner in which an assessment should be made. Hence, the higher authority including the Additional CIT/JCIT or CIT or CCIT, being administrative controlling authorities of the Assessing Officer, are not entitled to interfere in the judicial process of the Assessing Officer while framing assessment. In view of the above, I am of the view that, while making an assessment, the Assessing Officer is solely to be guided by the provisions of law and he cannot avail of any instructions or directions given by his higher authority including CBDT in making a particular assessment in a particular way. While passing assessment orders, he is only bound by what, if any, has been directed under Section 144A of the Act by his Additional CIT/JCIT or the instructions issued by the CBDT under Section 119 of the Act or what has been decided by the appellate authorities as mentioned in the Act. He has also to follow the precedence established by Hon'ble High Courts or the Supreme Court. The proceeding under Section 153D for granting approval is entirely different from the process of making assessment. Once draft assessment is prepared, the process of approval starts under Section 153D of the Act. Then the authority prescribed under Section 153D *i.e.*, the Additional CIT/JCIT has to apply his mind for grant of approval after verifying the assessment records, seized records, etc.

22. I noted that the common thread discussed by Hon'ble Orissa High Court in the case of *Serajuddin & Co. (supra)*, by Hon'ble Delhi High Court in the case of *Anuj Bansal (supra)* and by Hon'ble Allahabad High Court in the case of *Sapna Gupta (supra)* is that the requirement of previous approval of assessment by the Additional CIT/Joint CIT in terms of provisions of Section 153D of the Act being an inbuilt protection against any arbitrary or unjust exercise of power by the Assessing Officer, 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 Section is not turned into an empty formality. Needless to say that before granting approval, the Additional CIT/Joint CIT, as the case may be, must have before him the material on the basis whereof an opinion in this behalf has been formed by the Assessing Officer and the approval must reflect the application of mind to the facts of the case. The CBDT itself recognized the importance of this provision and the above laid down principle and hence issued Manual of Office Procedure in February, 2023 in exercise of powers under Section 119 of the Act. *Vide* Para 9 of Chapter 3 of Volume-II (Technical), a clear procedure is devised *i.e.*, how an approval is to be granted for draft assessment for passing of assessment order in search cases. According to the Manual, the Assessing Officer should submit the draft assessment order for such approval well in time along with docketed in the order sheet, a copy of the draft assessment order, covering letter filed in the relevant miscellaneous records folder. Even, it is noted that due opportunity of being heard should be given to the assessee by the supervisory officer giving approval to the proposed block assessment, at least one month before the time barring date. It is further noted that once such approval is granted, it must be in writing and filed in the relevant folder indicating above after making due entry in the order sheet. This is the mandate provided in the office manual of the Department. In view of above, I am of the view that the 'approval', as mandated u/s 153D of the Act, signifies a product of human thoughts based on the given set of facts and interpretation of the applicable law. It provides equality in treatment and thus prevents bias, prejudice and arbitrariness. It also prevents and avoids inconsistent and divergent views. The power of approval to the

specified authority *i.e.*, Superior authority has been envisaged with the objectives that no illegality or biasness, to either of the sides *i.e.*, the assessee or the Revenue, remains.

23. In the present case before me, the above procedure is not at all followed as is evident from the proposal sent by the Assessing Officer as reproduced in Paragraph 10. It means that the approval granted is mechanical in manner and without application of mind by the approving authority *i.e.*, by the Additional CIT.

Now, in view of the above discussion and legal position, I answer the question as under:-

Question framed by the Bench	Answer to the Question
As to whether under the present facts and circumstances of the matters, the approval granted by the ACIT, dated 27.12.2016 under Section 153D of the Income Tax Act, 1961 are sustainable in the eyes of law or not.	In the given facts and circumstances of the case and discussion carried above, the approval granted by Additional CIT dated 27.12.2016 u/s 153D of the Act is not sustainable in the eyes of law.

(K) The principles that emerge, in our understanding; from careful perusal of the aforesaid precedents, referred to in foregoing paragraphs (J.1) to (J.6.1) are as under:

- (i) Approval u/s 153D of IT Act cannot be a mechanical exercise. The approval must be granted by the approving authority after due application of independent mind. When this requirement is not met, the approval suffers from infirmity and is invalid.
- (ii) The contention of Revenue that approval u/s 153D of the IT Act being an administrative act, is not justiciable; is wrong.
- (iii) It is a bare minimum requirement that the approving authority must indicate what thought process was involved in granting the approval. Even if elaborate reasons are not given; there has to be some indication that the approving authority has examined the draft orders with regard to applicable law and all the relevant materials. When this requirement is not met, such approval suffers from infirmity and is invalid.
- (iv) The directions given by CBDT in Search Manual regarding granting of approval, although initially issued in the context of section 158BG of I.T. Act, are also applicable for approval u/s 153D of the IT Act; and are mandatory. When these directions are not met; the approval suffers from infirmity and is invalid.
- (v) The approval of draft assessment order by approving authority being an in-built protection against any arbitrary or unjust exercise of power by the Assessing Officer, cannot be said to be a mechanical exercise without due application of independent mind by the approving authority on the relevant materials and reasoning given in the

assessment order; so as to appreciate factual and legal aspects to ensure that the entire material has been factored in, in the draft assessment order proposed by the Assessing Officer.

- (vi) Section 153D of the IT Act requires that the Assessing Officer shall obtain prior approval of JCIT in respect of each assessment year. Section 153D of the IT Act requires that the Assessing Officer would be required to furnish the return of income in respect of each assessment year. The proviso to section 153D of the IT Act further provides for assessment of the total income in respect of each assessment year. Careful and conjoint reading of section 153A and section 153D of the IT Act leave no room to doubt that approval with respect to each assessment year is mandatory. As separate returns are to be filed for each assessment year, and as separate assessment orders are to be passed for each assessment year; it follows that approvals u/s 153D of the IT Act are to be given by the approving authority separately for each assessment year. If approvals for multiple assessment years are given u/s 153D of the IT Act through a common letter of approval; this violates statutory requirements; and such approvals suffer from infirmity and are invalid.
- (vii) In Manual of Office Procedure, Volume-II (Technical) issued by CBDT is exercise of powers u/s 119 of the IT Act has directed in Chapter -3 that the Assessing Officer should submit draft assessment order in search cases to the approving authority well in time; and the approving authority should give due opportunity of being heard, at least one month before time barring date. These directions are binding on the Assessing Officer.
- (viii) The Assessing Officer, while framing assessment, acts in quasi-judicial capacity and he ought to conform to the more elementary rules of judicial procedure; and in particular, to conduct the case himself, and not allow somebody else, even his superior officer to interfere in the conduct of the case. Higher authorities an Assessing Officer, Addl. CIT/Joint CIT i.e. JCIT or CIT or CCIT are not entitled to interfere in process of framing of assessment order by the Assessing Officer; except by mandate of law. The Addl.CIT/JCIT is entitled to issue directions u/s 144A of IT Act. Other than that, his role starts when he receives draft assessment orders for approval u/s 153D of the IT Act (wherever such approval is required under law). When first draft is returned back; his role ceases; and the role of Add. CIT / JCIT starts again when he receives the final draft of the proposed assessment order, which he eventually approves. The question if the approval u/s

153D of the IT Act suffered from infirmity and was invalid is to be decided having regard to receipt of final draft of the proposed assessment order which the Addl. CIT /JCIT eventually approved. The association of Addl. CIT/JCIT with the Assessing Officer, and involvement of the Addl. CIT/JCIT in the assessment proceedings before that has no relevance for deciding whether approval u/s 153D of the IT Act suffered from infirmity and was invalid. In fact, in view of the foregoing discussion, any such association and involvement may, depending on facts and circumstances of the case, be fatal to the assessment on strict application of rules of judicial procedure as aforesaid; depending on facts and circumstances of the case.

(ix) When approval u/s 153D of the IT Act suffers from infirmity and is invalid for one or more aforesaid reasons, the entire assessment order becomes vitiated; and is to be annulled.

(L) We accept the contention of the learned Departmental Representatives, as referred to in foregoing paragraph (H.1.1) of this order that whether in a particular case, JCIT had given approval u/s 153D of the IT Act after due application of mind, is a question of fact and the answer would depend on facts and circumstances of the particular case, independent of conclusion arrived at in any other case.

(L.1) Coming to the facts and circumstances of the present case; we accept the contention of the learned Counsel for the assessee that the affidavit of Shri M. L. Meena, the Assessing Officer and personal testimony of Shri Agrahari, Departmental Inspector are de void of any credibility; having regard to submissions made by learned Counsel for the assessee as referred to in foregoing paragraph (I) of this order. Further, in view of submissions of learned Counsel for the assessee as referred to in foregoing paragraph (I.1) of this order, we are of the opinion that neither the story presented by Revenue regarding Pen Drive inspires confidence nor, in any case it advances the case of Revenue, in the absence of any description of the contents of the Pen Drive in letter dated 18/07/2017 of the Assessing Officer and in the absence of any reference to Pen Drive in the notes and order

sheet of the JCIT, the approving authority. Moreover, it is claimed by Revenue that all relevant records/materials were sent to the Addl. CIT/JCIT along with editable soft copies of the draft assessment order together with letter dated 18/07/2017, but there is no mention of "all relevant records/materials" in the letter dated 18/07/2017. Also, as mentioned earlier, there is no description of the contents of the Pen Drive in letter dated 18/07/2017. Besides, we are perplexed at hand written mention of the Pen Drive in the letter. Who writes Pen Drive as "Pen Drib"? Who writes 1 Piece as "1 pees"? We are not convinced that a Pen Drive was sent with the letter dated 18/07/2017 by the Assessing Officer to the Addl. CIT/JCIT. Notwithstanding, the claim of Revenue that all relevant records/materials; which should consist of assessment records, seized materials, digital data in CPU, HDD and laptop, reports under Rules 9 and 9A of ITSC(P) Rules, assessee's submissions etc; were available to the JCIT who gave approval u/s 153D of the IT Act in either physical form or digital form, is not borne out from records. Even if it was available, there is nothing on record to show that indeed the JCIT considered all relevant materials before giving approval u/s 153D of the IT Act. Further, having regard to submissions made by learned Counsel for the assessee, as referred to in foregoing paragraphs (F.1.1), (F.1.4, (F.1.4.1), (F.1.5) (I) (I.1) and (I.2) of this order; it is concluded that approval was granted by JCIT in a mechanical way without due application of mind, as an idle formality, and in the manner of rubber stamping; as it was humanly impossible for the JCIT to give approval in a total of 63 assessments; vide aforesaid common approval letter dated 31/07/2017; after due consideration of all relevant materials such as seized materials, appraisal report, digital data, submissions of the assessee, assessment records, reports under Rules 9 and 9A of ITSC(P) Rules, etc; within extremely limited time available to the JCIT. Further, the assessment order is dated 31/07/2017 but there is no

mention of return of the assessment record from Varanasi (where JCIT was stationed) to Allahabad (where Assessing Officer was stationed) in any official communication between the two of them; which shows that the assessment records always remained with the Assessing Officer; and the JCIT did not even refer to the assessment records before granting approval u/s 153D of the IT Act. The doctrine of human probabilities in orders of Hon'ble Supreme Court in Durga Prasad More 82 ITR 540 (SC) and Sumati Dayal 214 ITR 801 (SC) operates against Revenue, in the facts and circumstances of the present case.

(L.2) It is not in dispute that aforesaid common approval letter dated 31/07/2017 was issued by JCIT to give approval u/s 153D of the IT Act for 63 different assessments pertaining to 11 different assessees of Jeevan Jyoti Group, for different assessment years.

(L.3) On perusal of aforesaid common approval letter dated 31/07/2017 issued by JCIT; it is found that there is complete absence of any indication of thought process involved in granting the approvals for the assessment u/s 153D of the IT Act. There is no indication that the JCIT examined the draft order with regard to assessment record, applicable law and all relevant materials. The approval u/s 153D of the IT Act has been given in a non-speaking, summary and formal way, in the manner of rubber stamping.

(L.4) Neither the approving authority gave opportunity of being heard to the assessee before giving approval u/s 153D of the IT Act; nor did the Assessing Officer submit draft assessment order to the approving authority well in time to enable the approving authority to provide opportunity to the assessee (at least) one month before the time barring date of 31/07/2017. Thus, the approving authority and the Assessing Officer, both, failed to comply with mandatory direction of CBDT, issued in exercise of power u/s

119 of the IT Act, in Chapter-3 of Manual of Office Procedure, Volume-II (Technical).

(L.5) The claim of Revenue that Addl. CIT/JCIT were associated with the Assessing Officer and were involved in assessment proceedings (otherwise than in proceedings u/s 144A of IT Act) even before role of Addl. CIT/JCIT as approving authority u/s 153D of the IT Act began upon receipt of the final draft of the proposed assessment order which was eventually approved u/s 153D of the IT Act, is in violation of Rules of judicial procedure prohibiting any interference by higher authorities with assessment proceedings before the Assessing Officer.

(M) When the facts of the case as discovered in foregoing paragraphs (L.1), (L.2), (L.3), (L.4) and (L.5) are considered; they are found to be in contravention of every principle in foregoing paragraph (K) of this order enumerated as (i) to (ix). Respectfully following the precedents referred to in foregoing paragraphs (J.1) to (J.6.1); which are at the core of these principles; it is concluded that approval u/s 153D of the IT Act was given by the JCIT in a mechanical manner without due application of mind. It is further concluded that the approval u/s 153D of the IT Act given by the JCIT suffered from infirmities mentioned at Sl.Nos. (i), (iii), (vi), (viii) and (iv) read with (vii) in foregoing paragraph (K) of this order. Accordingly, it is concluded that the approval given u/s 153D of the IT Act suffers from multiple infirmities; and is invalid; because of which the entire assessment order is vitiated. In accordance with Sl.No. (ix) in foregoing paragraph (K) of this order, therefore, the assessment order is to be annulled. The alternate submission made by learned Departmental Representatives, to restore the matter regarding approval u/s 153D of the IT Act to the file of the approving authority (i.e. Addl. CIT/JCIT) is rejected because it would amount to providing a second innings to Revenue against mandate of law;

and also because it would amount to extending period of limitation available for completing assessment proceedings, which is not permissible in law. The limitation period available to Revenue is inclusive of time taken for granting approval u/s 153D of the IT Act; and there is no provision of law permitting extension of period of limitation for failure of the approving authority to give valid approval u/s 153D of the IT Act. In view of the foregoing; the Assessing Officer is annulled.

(M.1) Since the assessment order is annulled, the impugned appellate order of learned CIT(A) has no legs to stand. Therefore, the impugned appellate order of learned CIT(A) is set aside.

(M.2) As mentioned in foregoing paragraph (F) of this order, representatives of both sides have agreed that appeals of Minto Developers Pvt. Ltd. (I.T.A. No.337/Lkw/2018 for A.Y. 2009-10) may be taken as the lead case as regards the legal issue whether the assessments were passed by the Assessing Officer after obtaining valid approval of JCIT. They submitted that the facts and circumstances for all the other appeals on this issue were in para materia and the decision in the case of Minto Developers Pvt. Ltd. would apply mutatis mutandis to remaining cases also. Therefore, the assessment orders pertaining to all the appeals/Cross Objections are also hereby annulled; and the impugned appellate orders pertaining to all appeals/Cross Objections before us are set aside.

(M.2.1) As the assessment orders pertaining to all appeals and Cross Objections before us have been annulled; and all the impugned appellate orders have been set aside; the grounds pertaining to other issues and matters before us have become merely academic in nature; hence not decided.

(N) In the result, the appeals and Cross Objections filed by the assesseees are allowed and the appeals of the Revenue are dismissed.

(Order pronounced in the open court on 30/09/2025)

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:30/09/2025

*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
5. D.R., I.T.A.T., Allahabad