

आयकरअपीलीयअधिकरण,कटकन्यायपीठ,कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

श्रीजार्ज माथन,न्यायिक सदस्यएवंश्रीराजेशकुमार, लेखा सदस्यकेसमक्ष ।

(THROUGH VIRTUAL HEARING)

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

AND

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.364/CTK/2025

(निर्धारणवर्ष / Assessment Year :2017-2018)

Soumendra Kumar Mohanty Plot No.130, SM Tower, Mancheswar Industrial Estate, Rasulgarh, Bhubaneswar	Vs	DCIT, Central Circle-2, Bhubaneswar
PAN No. : ABFPM 9538 D		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

AND

आयकर अपील सं/ITA Nos.365 & 367/CTK/2025

(निर्धारणवर्ष / Assessment Year : 2012-2013 & 2017-2018)

Avinandita Mohanty, M/s S.M. Consultants, Plot No.130, SM Tower, Mancheswar Industrial Estate, Rasulgarh, Bhubaneswar	Vs	DCIT,Central Circle-2, Bhubaneswar
PAN No. : BAZPM 0561 N		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारितकीओरसे /Assessee by	:	Shri K.C.Jena &Mohit Sheth, Ars
राजस्वकीओरसे /Revenue by	:	Shri Ashim Kumar Chakraborty, CIT-DR
सुनवाईकीतारीख/ Date of Hearing	:	24/09/2025
घोषणाकीतारीख/ Date of Pronouncement	:	24/09/2025

आदेश / O R D E R

PerBench:


These are three appeals filed by two assesseees being Soumendra Kumar Mohanty in ITA No.364/CTK/2025 for A.Y.2017-2018 and Smt. Avinandita Mohanty in ITA Nos.365&367/CTK/2025 for the A.Yrs.2012-2013 & 2017-2018, against the separate orders of the Id. CIT(A), Bhubaneswar-2, all dated 28.04.2025.

2. At the time of hearing, it was fairly agreed by both the sides that in the three appeals the issues are covered by the decision of the coordinate

bench of the Tribunal in the case of Soumendra Kumar Mohanty, passed in ITA Nos.284-289/CTK/2025 and in the case of Modern Engineering & Management Foundation in ITA No.290/CTK/2025, vide order dated 16.07.2025, wherein the coordinate bench of the Tribunal in paras 9 to 20 has held as follows :-

9. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the AO has sent the files for approval on 24.12.2018. Admittedly, 25.12.2018 was a holiday. A perusal of the facts in the present case further clearly shows that the Id. JCIT has given approval for multiple assessment years vide the same letter of approval dated 26.12.2018. A perusal of the various approvals granted by the Id. JCIT in the present case shows that he has used the common term "I have gone through the Assessment orders, appraisal report and other related materials of this case." Then he proceeds to say, "Now, approval is hereby accorded as per the provisions of section 153D of the I.T.Act for passing assessment order in respect of the following cases.....

The approval is accorded after due application of mind in these cases." Here, it becomes evident that what he has found in each case have not discussed. In all the cases he has granted approval which is simply a mechanical approval. For this purpose it would be worthwhile to extract the approval given in other cases. In case of Sandhya Mohanty, the approval given by the Id. JCIT reads as follows :-


भारत सरकार / GOVERNMENT OF INDIA

संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विभाग, आनेखरी, आयकर भवन-751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, AAAYAKAR BHAWAN ANNEXE,
RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2509-279
email address: bhubaneswar.addlct.cent@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2587 Dated:- 27/12/2018

सेवा में /To
The Assistant Commissioner of Income Tax,
Central Circle-2, Bhubaneswar

Sub: Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961
- matter reg.

Ref: Your letter F.No.ACIT/CC-2/153D Approval/BBSR/2018-19/904 dtd. 21-12-2018 received on 24.12.2018, seeking approval of draft assessment orders u/s 153D of the I.T.Act.

Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.
I have gone through the Assessment orders, appraisal report and other related materials of this case.
Now, approval is hereby accorded as per the provision of section 153D of the I.T.Act for passing assessment order in respect of the following cases.

Sl. No.	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1.	Sandhya Mohanty	AJVPM4757E	2011-12	32,35,750/-	153A/143(3)
2.	Sandhya Mohanty	AJVPM4757E	2012-13	29,44,370/-	153A/143(3)
3.	Sandhya Mohanty	AJVPM4757E	2013-14	47,12,029/-	153A/143(3)
4.	Sandhya Mohanty	AJVPM4757E	2014-15	28,45,992/-	153A/143(3)
5.	Sandhya Mohanty	AJVPM4757E	2015-16	15,40,430/-	153A/143(3)
6.	Sandhya Mohanty	AJVPM4757E	2016-17	17,35,340/-	153A/143(3)
7.	Sandhya Mohanty	AJVPM4757E	2017-18	5,95,52,570/-	143(3)

The approval is accorded after due application of mind in these cases.
The points mentioned in the appraisal report but not considered in the Assessment should be mentioned in the note "not for the assessee".

(एन.के.बंदोपाध्याय/ S.K.Bandyopadhyay)
संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर Bhubaneswar

Encl: Records as forwarded with the proposal

10. In case of Sri Debasis Mohanty, the approval given by the Id. JCIT reads as follows :-

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भारत सरकार / GOVERNMENT OF INDIA

संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विहार, आनन्दी, आयकर भवन-751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addfclt.cen@incometax.gov.in
No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/9565 Dated:- 26/12/2018

सेवा में/To

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

Sub: *Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961*
- matter reg.

Ref: Your letter F.No.ACIT/CC-2/153D Approval/BBSR/2018-19/912 dtd. 24-12-2018
received on 26.12.2018, seeking approval of draft assessment orders u/s 153D of the
I.T.Act.

Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of this case.

Now, approval is hereby accorded as per the provision of section 153D of the I.T.Act for passing assessment order in respect of the following cases.

Sl. No	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1.	Sri Debasis Mohanty	AJPPM5229D	2011-12	8,19,860/-	153A r.w.s 143(3)
2.	Sri Debasis Mohanty	AJPPM5229D	2012-13	7,47,090/-	153A r.w.s 143(3)
3.	Sri Debasis Mohanty	AJPPM5229D	2013-14	8,34,080/-	153A r.w.s 143(3)
4.	Sri Debasis Mohanty	AJPPM5229D	2014-15	7,69,070/-	153A r.w.s 143(3)
5.	Sri Debasis Mohanty	AJPPM5229D	2015-16	7,94,840/-	153A r.w.s 143(3)
6.	Sri Debasis Mohanty	AJPPM5229D	2016-17	9,15,640/-	153A r.w.s 143(3)
7.	Sri Debasis Mohanty	AJPPM5229D	2017-18	13,68,660/-	143(3)

The approval is accorded after due application of mind in these cases.

The points mentioned in the appraisal report but not considered in the assessment should be mentioned in the note "not for the assessee".

(एस.के.बंदोपाध्याय/ S.K.Bandyopadhyay)

संयुक्त आयकर आयुक्त (केंद्रीय)

Joint Commissioner of Income Tax (Central)

भुवनेश्वर Bhubaneswar


Encl: Records as forwarded with the proposal

एम.एस. सुकुमार/M. S. Sukumar
सहायक आयकर आयुक्त
Asst. Commissioner of Income Tax
केन्द्रीय सर्कल-2/Central Circle-2
भुवनेश्वर/Bhubaneswar

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11. In case of Smt. Avinandita Mohanty, the approval given by the Id. JCIT reads as follows :-

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भारत सरकार / GOVERNMENT OF INDIA
कार्यालय संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विहार, आनेमस्ती, आयकर भवन-751007
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RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addlct.cen@incometax.gov.in
No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2562 Dated:- 26/12/2018

सेवा में /To

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

Sub: *Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961*
- *matter reg.*

Ref: Your letter F.No.ACIT/CC-2/153D Approval/BBSR/2018-19/866 dtd. 20-12-2018
received on 21.12.2018, seeking approval of draft assessment orders u/s 153D of the
I.T.Act.

Please refer to the letter under reference in which approval u/s- 153D has been sought for and
also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of this
case.

Now, approval is hereby accorded as per the provision of section 153D of the I.T.Act for
passing assessment order in respect of the following cases.

Sl. No	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1.	Smt. Avinandita Mohanty	BAZPM0561N	2011-12	5,08,600/-	153A r.w.s 143(3)
2.	Smt. Avinandita Mohanty	BAZPM0561N	2012-13	25,86,900/-	153A r.w.s 143(3)
3.	Smt. Avinandita Mohanty	BAZPM0561N	2013-14	6,60,720/-	153A r.w.s 143(3)
4.	Smt. Avinandita Mohanty	BAZPM0561N	2014-15	8,74,073/-	153A r.w.s 143(3)
5.	Smt. Avinandita Mohanty	BAZPM0561N	2015-16	5,61,400/-	153A r.w.s 143(3)
6.	Smt. Avinandita Mohanty	BAZPM0561N	2016-17	6,48,890/-	153A r.w.s 143(3)
7.	Smt. Avinandita Mohanty	BAZPM0561N	2017-18	44,65,700/-	143(3)

The approval is accorded after due application of mind in these cases.

The points mentioned in the appraisal report but not considered in the assessment should be
mentioned in the note "not for the assessee".


(एस.के.बंदोपाध्याय/ S.K.Bandyopadhyay)

संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर/ Bhubaneswar

Encl: Records as forwarded with the proposal

एम.एस. सुकुमार/ M. S. Sukumar
सहायक आयकर आयुक्त
Asst. Commissioner of Income Tax
केंद्रीय सर्किल-2/Central Circle-2
भुवनेश्वर/ Bhubaneswar

12. In case of Smt. Namita Mohanty, the approval given by the Id. JCIT reads as follows :-


भारत सरकार / GOVERNMENT OF INDIA

कार्यालय संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विभाग, आनेवडी, आयकर भवन -751007
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RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addclit.cen@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/ 2563 Dated:- 26/12/2018

सेवा में /To

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

Sub: *Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961*
— *matter reg.*

Ref: Your letter F.No.ACIT/CC-2/153D Approval/BBSR/2018-19/869 dtd. 20-12-2018
received on 21.12.2018, seeking approval of draft assessment orders u/s 153D of the
I.T.Act.

Please refer to the letter under reference in which approval u/s- 153D has been sought for and
also the several discussions had with you on this matter earlier.

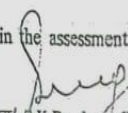
I have gone through the Assessment orders, appraisal report and other related materials of this
case.

Now, approval is hereby accorded as per the provision of section 153D of the I.T.Act for
passing assessment order in respect of the following cases.


Sl. No	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1.	Smt. Namita Mohanty	AFKPM2564C	2011-12	31,42,587/-	153A r.w.s 143(3)
2.	Smt. Namita Mohanty	AFKPM2564C	2012-13	4,44,560/-	153A r.w.s 143(3)
3.	Smt. Namita Mohanty	AFKPM2564C	2013-14	10,34,607/-	153A r.w.s 143(3)
4.	Smt. Namita Mohanty	AFKPM2564C	2014-15	12,49,611/-	153A r.w.s 143(3)
5.	Smt. Namita Mohanty	AFKPM2564C	2015-16	30,22,220/-	153A r.w.s 143(3)
6.	Smt. Namita Mohanty	AFKPM2564C	2016-17	19,07,005/-	153A r.w.s 143(3)
7.	Smt. Namita Mohanty	AFKPM2564C	2017-18	24,65,670/-	143(3)


The approval is accorded after due application of mind in these cases.

The points mentioned in the appraisal report but not considered in the assessment should be
mentioned in the note "not for the assessee".


(ए.के.बंदोपाध्याय/ S.K.Bandyopadhyay)
संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर Bhubaneswar

Encls: Records as forwarded with the proposal


ए.एस. सुकुमार/M. S. Sukumar
संयुक्त आयकर आयुक्त
Asst. Commissioner of Income Tax
केंद्रीय सर्किल-2/Central Circle-2
भुवनेश्वर/Bhubaneswar



13. This clearly shows that the Id. JCIT has found no suggestion to give the AO in regard to the assessment much less any discussion with the AO in regard to the draft assessment orders proposed. When this is considered in line with the decision of the


Hon'ble Delhi High Court in the case of Shiv Kumar Nayyar (supra), which has been extracted above, it clearly shows that the Id. JCIT has given approval for multiple assessment years by a single approval letter. This is not permissible and consequently respectfully following the decision of the Hon'ble Delhi High Court in the case of Shiv Kumar Nayyar (supra), the approval granted by the Id. JCIT in the case of assessee u/s.153D is held to be invalid and the same stands quashed.

14. When the said approval is examined in the line of the decision of the Hon'ble Jurisdictional High Court in the case of Serajuddin & Co. (supra), it clearly shows that under similar circumstances, the Hon'ble Jurisdictional High Court has categorically held that the approval granted is invalid. In these circumstances, on the ground that there has been no application of mind by the Id. JCIT and the approval has been granted in a mechanical manner, respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of M/s Serajuddin & Co. which has been affirmed by the Hon'ble Supreme Court by dismissing the SLP filed by the revenue, the approval granted by the Id. JCIT for the impugned assessment years in the case of the assessee stands quashed.

15. It must also be mentioned here that the coordinate bench of the Tribunal in the case of Choudhury Swapan Kumar, passed in ITA No.493/CTK/2024, order dated 29.01.2025 along with other connected appeals, has under similar circumstances, quashed the approval granted u/s.153D of the Act by holding from para 7 to 15 as under :-

7. Ld. AR further proceeded to submit with regard to the second issue which is being raised against the approval granted u/s.153D of the Act by the Id. JCIT. The Id. AR drew our attention to page 3 of the paper book which is a copy of the approval granted by the Id. JCIT on 21.12.2018, which is as follows :-

ANNEXURE - 2

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भारत सरकार / GOVERNMENT OF INDIA
कार्यालय संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विहार, आवेकनी, आयकर भवन -751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addlciit.cen@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2527 Dated:- 21/12/2018

सेवा में /To

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

Sub: Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961
- matter reg.

Ref: Your letter F.No.ACIT/CC-2/approval/153D/2018-19/868 dtd. 20-12-2018 (received by this office on 20-12-2018) seeking approval of draft assessment orders u/s 153D of the I.T.Act.

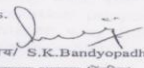
Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of these cases.

Now, approval is hereby accorded as per the provisions of section 153D of the I.T.Act for passing assessment orders in respect of the following cases.

Sl. No.	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1	Shri Choudhury Sapan Kumar Mohapatra	ADBPM54IIB	2016-17	32,89,250/-	153C/143(3)
2	Shri Rohit Gupta	AEVPG6418H	2016-17	25,03,916/-	153C/143(3)
3	Shri Amitabh Giri	ACXPG3163H	2016-17	60,52,640/-	153C/143(3)
4	Shri Badal Chandra Senapati	AOKPS4890J	2016-17	49,85,520/-	153C/143(3)
5	Shri Rajendra Kumar Gupta	ACXPG1473G	2016-17	51,41,260/-	153C/143(3)


This approval is accorded after due application of mind in these cases.


(एस.के. बंद्योपाध्याय) S.K. Bandyopadhyay
संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)

Encl: Records as forwarded with the proposal

8. He also drew our attention to a similar approval granted in the othercases, which is as follows :-

ANNEXURE - 2

 -3-

भारत सरकार / GOVERNMENT OF INDIA

कार्यालय संयुक्त आयकर आयुक्त (केंद्रीय), भुवनेश्वर, राजस्व विहार, आनेवसी, आयकर भवन -751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, AAYAKAR BHAWAN ANNEXE,
RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addcit.cen@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2528 Dated - 21/12/2018

सेवा में /To

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

Sub: Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961
- matter reg.

Ref : Your letter F.No.ACIT/CC-2/approval/153D/2018-19/865 dtd. 20-12-2018 (received by this office on 20-12-2018) seeking approval of draft assessment orders u/s 153D of the I.T.Act.

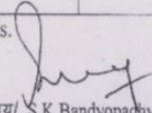
Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of these cases.

Now, approval is hereby accorded as per the provisions of section 153D of the I.T.Act for passing assessment orders in respect of the following cases.

Sl. No	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1	Shri Abhaya Mohapatra	ACEPM7348D	2016-17	37,52,280/-	153C/143(3)
2	Shri Abhaya Kumar Kar	AEBPK3020M	2016-17	35,40,730/-	153C/144
3	Shri Sangram Kumar Das	ABXPD2705M	2016-17	89,87,730/-	153C/143(3)
4	Shri Himansu Kumar Das	ABXPD2706J	2016-17	1,20,05,390/-	153C/143(3)
5	Shri Dipak kumar Rana	ACAPR1293E	2016-17	46,22,650/-	153C/143(3)
6	Shri Kalyan Kumar Chand	ABFPC4650A	2016-17	42,66,420/-	153C/143(3)
7	Shri Promod Kumar Karan	AEBPK3017L	2016-17	51,75,740/-	153C/143(3)
8	Shri Rajkamal Kar	AIQPK4778B	2016-17	12,30,400/-	153C/144
9	Shri Rashmi Kanta Jatania	ABYPJ3575C	2016-17	52,32,860/-	153C/143(3)
10	Shri Sanjeev Kumar Das	AEDPD3025K	2016-17	99,64,125/-	153C/143(3)
11	Shri Binoy Kumar Das Legal representative of Late Pravas Kumar Das	AJEPD9098G	2016-17	38,70,310/-	153C/144

This approval is accorded after due application of mind in these cases.


(एस.के.बंदोपाध्याय/ S.K.Bandyopadhyay)
संयुक्त आयकर आयुक्त (केंद्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर/ Bhubaneswar

Encl: Records as forwarded with the proposal

9. It was submitted that there were total 16 cases in the case

of assessee's group itself and these two approvals are only for the assessment year 2016-2017. The approval in all the cases were sought vide letter dated 20.12.2020 and approval was granted on 21.12.2018. The assessment order clearly showed that the assessments have been done for the assessment years 2011-2012 to 2016-2017, being six years and consequently the total number of approvals granted within 24 hours by the JCIT in assessee's own group itself comes to 84 approvals.

10. It was also submitted by the Id. AR that the ordersheet entry which is placed in the paper book clearly showed that there was no mention of the files being sent for approval to JCIT. The said ordersheet placed in the paper book at page 2 read as under :-

	<p style="text-align: right;">Ch. Seetaram Kr. Mahapatra</p> <p style="text-align: right;">A.Y. 2016-17 -2-</p> <p>06/12/18 Shi Mishra, Submitted reply for NEMF transaction (Shroo-cause letter) & stated me to produce books of office. The books of office is accordingly rejected & Mr points are discussed & Mr case is heard.</p> <p style="text-align: right;">J</p>
21/12/18	<p>Passes order u/s 153C/143(3) of the Act & issued penalty proceedings u/s 271(c)(c) of the Act.</p> <p style="text-align: right;">J</p>
22-01-2020	<p>दिनांक 21-12-2018 को आयकर अधिनियम 1961 के धारा 153ग/143(3) के तहत पारित आदेश में अधिनियम के धारा 234क के अनुसार ज्यादा ब्याज लगाया गया है। यह रिकार्ड से दृश्यमान हो रहे भूल होने के कारण आयकर अधिनियम के धारा 154 के तहत एक त्रुटि संशोधन आदेश पारित किया जा रहा है।</p> <p>There are certain mistakes in the assessment order dated 21-12-2018 passed under section 153C/143(3) of the Act with respect to levy of interest u/s 234A. This being a mistake apparent from records a rectification order under section 154 of the I.T. Act, 1961 is passed.</p> <p style="text-align: right;">J</p> <p style="text-align: right;">आ. स. आ., केन्द्रीय सर्कल-2, भुवनेश्वर ACIT, Central Circle-2, BBSR</p>
NOTE SHEET	<p>XVII-06/2019-2020 Page-92</p>

11. It was the submission that a perusal of the approval granted also clearly shows non-application of mind. He relied upon the decision of the Hon'ble Jurisdictional High Court in the case of Serajuddin and Co.

reported in [2023] 150 taxmann.com 146 (Orissa), wherein the Hon'ble jurisdictional High Court in para 21 to 25 has held as follows :-

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, British India Street, Kolkata	u/s.153A/143(3)/144/145(3)	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

3) 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.

12. It was the submission that the decision of the Hon'ble Jurisdictional High Court has been approved by the Hon'ble Supreme Court as reported in [2024] 163 taxmann.com 118 (SC) by dismissing the SLP filed by the revenue. It was the submission that the approval granted in assessee's case was similar to the approval granted in the case of Serajuddin & Co. and on this ground also the approval being vitiated consequently the assessment order is required to be annulled.

13. In reply, Id. CIT-DR drew our attention to the approval accorded by the Id. JCIT. It was the submission that the approval letter refers to the several discussion that has been done between the AO and the JCIT. It was the submission that it also mentions that the JCIT has gone through the assessment orders and appraisal report and other relevant materials in

the case. It was the submission that the JCIT has applied his mind before making the approval and the same is liable to be upheld.

14. We have considered the rival submissions. As mentioned earlier by the Id. AR that there are 84 cases in this group. It is surprising that JCIT has been able to go through the assessment orders, appraisal reports and other related materials for a minimum of 84 cases within one day. We use the word "minimum of 84 cases" because this group alone contains 84 cases and the JCIT could avail his other files also before him. The assessment orders, in all the cases, are more than 9 pages, appraisal reports were also to be quite a few pages and the submissions of the assessee would be innumerable. These are physically impossible tasks which have been admitted to by the Id. JCIT. Consequently, the approvals granted in these cases are without application of mind. This being so, respectfully following the principle laid down by the Hon'ble Jurisdictional High Court in the case of Serajuddin & Co., reported supra, which has also been approved by the Hon'ble Supreme Court by dismissal of the SLP, the approval u/s.153D of the Act granted in the impugned appeal in the case of Choudhury Swapan Kumar Mohapatra (ITANo.493/CTK/2024) for A.Y.2016-2017, by the JCIT, is held to be invalid and the consequential assessment order is hereby annulled. As the appeal of the assessee is allowed by allowing the legal grounds of appeal, other grounds taken on merits become academic and not adjudicated upon. Thus, the appeal of the assessee is allowed.

15. Since, we have already annulled the assessment framed by the AO in the case of Choudhury Swapan Kumar Mohapatra while dealing with the appeal in ITA No.493/CTK/2024 for A.Y.2016-2017, by holding the approval u/s.153D of the Act granted by the Id. JCIT as invalid, therefore, all the remaining eleven appeals filed by the eleven different assessee as mentioned in the cause title above, which also come under the invalid approval of the JCIT, are hereby allowed and the assessment framed in all the cases are hereby quashed.

16. This order of the Tribunal has not been challenged before the Hon'ble High Court also. In these circumstances, respectfully following the decision of the Hon'ble Delhi High Court, as referred to supra, the approval granted by the Id. JCIT in the case of the assessee for the impugned assessment years under consideration stands quashed on account of multiple approvals for multiple assessment years. Also respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of M/s Serajuddin & Co., referred to supra, on account of non-application of mind and granting the approval in a mechanical manner, the approval granted by the Id. JCIT in the case of the assessee for the impugned assessment years under consideration stands quashed.

17. As we have quashed the approval granted by the Id. JCIT u/s.153D of the Act in the case of the assessee for the impugned assessment years under consideration, the consequential assessment years also stand quashed.

18. With regard to ITA No.290/CTK/2025 for A.Y.2016-2017 in the case of it was submitted that the approval given in this case also is a non-speaking approval and the same is without application of mind. Therefore, the approval given by the Id. JCIT is null and void and the same deserves to be quashed.

19. We have discussed the facts above in the case of assessee Soumendra Kumar Mohanty and search was also conducted in the case of assessee Modern Engineering & Management Foundation. The

approval given by the Id. JCIT in this case also shows that non-application of mind. The said approval of the Id. JCIT in the case of Modern Engineering & Management Foundation reads as under :-

भारत सरकार / GOVERNMENT OF INDIA

कार्यालय संयुक्त आयकर आसुक्त (केन्द्रीय), भुवनेश्वर, राजस्व विहार, आनेकती, आयकर भवन -751007
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX (CENTRAL), BHUBANESWAR, AAYAKAR BHAWAN ANNEXE,
RAJASWA VIHAR, BHUBANESWAR-751007 Ph. & Fax No. 0674-2589-279
email address: bhubaneswar.addicit.cen@incometax.gov.in

No. Joint CIT(Central)/BBSR/Approval/153D/2018-19/2586 Dated:- 27/12/2018

सेवा में /To

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

Sub: Approval of the draft Assessment orders u/s 153D of the I.T. Act, 1961
- matter reg.

Ref: Your letter F.No.ACIT/CC-2/153D Approval/BBSR/2018-19/905 dtd. 21-12-2018 received on 24.12.2018, seeking approval of draft assessment orders u/s 153D of the I.T.Act.

Please refer to the letter under reference in which approval u/s- 153D has been sought for and also the several discussions had with you on this matter earlier.

I have gone through the Assessment orders, appraisal report and other related materials of this case.

Now, approval is hereby accorded as per the provision of section 153D of the I.T.Act for passing assessment order in respect of the following cases.

Sl. No.	Name of the assessee	PAN	A.Y.	Total Income to be assessed (Rs.)	Section under which order proposed to be passed
1.	Modern Engineering and Management Foundation	AACTM1058J	2011-12	Nil	153A /143(3)
2.	Modern Engineering and Management Foundation	AACTM1058J	2012-13	Nil	153A/ 143(3)
3.	Modern Engineering and Management Foundation	AACTM1058J	2013-14	Nil	153A/ 143(3)
4.	Modern Engineering and Management Foundation	AACTM1058J	2014-15	Nil	153A/ 143(3)
5.	Modern Engineering and Management Foundation	AACTM1058J	2015-16	Nil	153A/ 143(3)
6.	Modern Engineering and Management Foundation	AACTM1058J	2016-17	4,22,78,461/-	153A/ 143(3)
7.	Modern Engineering and Management Foundation	AACTM1058J	2017-18	Nil	143(3)

The approval is accorded after due application of mind in these cases.
The points mentioned in the appraisal report but not considered in the assessment should be mentioned in the note "not for the assessee".

Enclo: Records as forwarded with the proposal

एम.एस. सुकुमार/M. S. Sukumar
सहायक आयकर अधिकारी
Asst. Commissioner of Income Tax
केन्द्रीय सर्किल-2/Central Circle-2
भुवनेश्वर/ Bhubaneswar

(एस.के.बंदोपाध्याय/ S.K.Bandyopadhyay)
संयुक्त आयकर आसुक्त (केन्द्रीय)
Joint Commissioner of Income Tax (Central)
भुवनेश्वर/ Bhubaneswar

20. A perusal of the above approval clearly shows that similar approval has been given in the case of Soumendra Kumar Mohanty discussed above, wherein we have held that the such approval given by the Id.JCIT in mechanical manner is invalid and non-application of mind and multiple approvals for multiple assessment years. Therefore, the issue being similar to the issue decided in the case of Soumendra Kumar Mohanty, respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of M/s Serajuddin & Co.(supra) which has been affirmed by the Hon'ble Supreme Court by dismissing the SLP filed by the revenue, the approval granted by the Id. JCIT for the impugned assessment year in the case of the assessee stands quashed.

3. We carefully perused the order the coordinate bench of the Tribunal and gone through the observations made therein. A perusal of the order of the coordinate bench of the Tribunal clearly shows that in the said

cases, the assessee had challenged the approval u/s.153D of the Act and the coordinate bench of the Tribunal found that the approval granted u/s.153D of the Act is invalid by following the decision of the Hon'ble Jurisdictional High Court in the case of M/s Serajuddin & Co., reported in [2023] 150 taxmann.com 146 (Orissa) as also the decision of the Hon'ble Delhi High Court in the case of Shiv Kumar Nayyar, reported in [2024] 487 ITR 186 (Delhi). As the issues involved in all the three appeals are similar to the issue decided by the coordinate bench of the Tribunal in the case of Shri Soumendra Kumar Mohanty and in the case of Modern Engineering and Management Foundation, referred to supra, therefore, respectfully following the decision of the coordinate bench of the Tribunal, as the appeals under consideration are one of the group cases, the approval granted u/s.153D of the Act is held to be bad in law and consequently the assessments made therein stand quashed.

4. In the result, appeals in ITA No.364/CTK/2025 (Soumendra Kumar Mohanty) and ITA No.365/CT/2025 & 367/CTK/2025 (Avinandita Mohanty) are allowed.

Order dictated and pronounced in the open court on 24/09/2025.

Sd/-

(राजेशकुमार)

(RAJESH KUMAR)

लेखा सदस्य/ACCOUNTANT MEMBER

दिनांक Dated 24/09/2025

Prakash Kumar Mishra, Sr.P.S.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिकसदस्य / JUDICIAL MEMBER

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant-
2. प्रत्यर्थी/ The Respondent-
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कटक / DR, ITAT,
Cuttack
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकरअपीलीयअधिकरण, कटक/ITAT, Cuttack