

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI**

**BEFORE SHRI M BALAGANESH, ACCOUNTANT MEMBER
AND SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA Nos. 1102 to 1108/Del/2019
Assessment Years: 2008-09 to 2014-15

M/s. Impress Estates Pvt. Ltd. C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AAACI3114L	Vs.	Assistant Commissioner of Income Tax, Central Circle-19, New Delhi
(Appellant)		(Respondent)

ITA Nos. 2043 & 2047/Del/2019
Assessment Years: 2009-10 & 2014-15

Assistant Commissioner of Income Tax, Central Circle-19, New Delhi	Vs.	M/s. Impress Estates Pvt. Ltd. C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AAACI3114L
(Appellant)		(Respondent)

Assessee by:	Shri Nirbhay Mehta, Ms. Vanshika Mehta, Adv., Shri Anup Mehta, Adv., Shri Ashwani Gupta, Adv. And Saba Nadeem, CA
Department by:	Ms.Monika Singh, CIT-DR
Date of Hearing:	13.08.2025
Date of pronouncement:	28.10.2025

ITA Nos. 1728 to 1734/Del/2019
Assessment Years: 2008-09 to 2014-15

Sh. Mohd Shahnawaz, F-70, 40 Feeta Road, Silver Oak Apartment, 2 nd Floor, Flat No. 40, Shaheen Bagh, Abu Fazal, Okhla, Delhi-1100 25 PAN No. BAPPS4125Q	Vs.	Assistant Commissioner of Income Tax, Central Circle-19, New Delhi
(Appellant)		(Respondent)

ITA Nos. 1877 to 1883/Del/2019
Assessment Years: 2008-09 to 2014-15

Assistant Commissioner of Income Tax, Central Circle-19, New Delhi	Vs.	Sh. Mohd Shahnawaz, F-70, 40 Feeta Road, Silver Oak Apartment, 2 nd Floor, Flat No. 40, Shaheen Bagh, Abu Fazal, Okhla, Delhi-1100 25 PAN No. BAPPS4125Q
(Appellant)		(Respondent)

Assessee by:	Shri Lalit Mohan, CA, Ms. Monika Agarwal, Adv. & Shri Jayant Bothara, CA
Department by:	Shri Punit Rai, Special Counsel & Shri Rishabh, Adv.
Date of Hearing:	13.08.2025
Date of pronouncement:	28.10.2025

ITA Nos. 1836 to 1842/Del/2019
Assessment Years: 2008-09 to 2014-15

Moin Akhtar Qureshi, C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AAAPQ4438L	Vs.	Assistant Commissioner of Income Tax, Central Circle-19, New Delhi
(Appellant)		(Respondent)

ITA Nos. 2144 to 2150/Del/2019
Assessment Years: 2008-09 to 2014-15

Assistant Commissioner of Income Tax, Central Circle-19, New Delhi	Vs.	Moin Akhtar Qureshi, C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AAAPQ4438L
(Appellant)		(Respondent)

Assessee by:	Shri Nirbhay Mehta, Ms. Vanshika Mehta, Adv., Shri Anup Mehta, Adv., Shri Ashwani Gupta, Adv. And Saba Nadeem, CA
Department by:	Shri Punit Rai, Special Counsel & Shri Rishabh, Adv.
Date of Hearing:	13.08.2025
Date of pronouncement:	28.10.2025

ITA Nos. 2412 & 2413/Del/2019
Assessment Years: 2011-12 to 2012-13

Nasreen Moin Qureshi, C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AABPQ0471A	Vs.	Assistant Commissioner of Income Tax, Central Circle-19, New Delhi
(Appellant)		(Respondent)

ITA Nos. 2944 to 2947/Del/2019
Assessment Years: 2008-09 to 2012-13

Assistant Commissioner of Income Tax, Central Circle-19, New Delhi	Vs.	Nasreen Moin Qureshi, C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AABPQ0471A
(Appellant)		(Respondent)

Assessee by:	Shri Nirbhay Mehta, Ms. Vanshika Mehta, Adv., Shri Anup Mehta, Adv., Shri Ashwani Gupta, Adv. And Saba Nadeem, CA
Department by:	Shri Punit Rai, Special Counsel & Shri Rishabh, Adv.
Date of Hearing:	13.08.2025
Date of Pronouncement:	28.10.2025

ITA Nos. 7034 to 7039/Del/2019
Assessment Years: 2008-09 to 2014-15

Moin Akhtar Qureshi, C-134, Ground Floor, Defence Colony, New Delhi-1100 24 PAN No. AAAPQ4438L	Vs.	Assistant Commissioner of Income Tax, Central Circle-19, New Delhi
(Appellant)		(Respondent)

Assessee by:	Shri Nirbhay Mehta, Ms. Vanshika Mehta, Adv., Shri Anup Mehta, Adv., Shri Ashwani Gupta, Adv. And Saba Nadeem, CA
Department by:	Shri Punit Rai, Special Counsel & Shri Rishabh, Adv.
Date of Hearing:	13.08.2025
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ORDER

PER BENCH:

Forty Three above captioned cross-appeals filed by the Assesseees and Revenue are against separate orders of Learned Commissioner of Income-Tax (Appeals)-27 New Delhi (hereinafter referred as "Ld. CIT(A)") under Section 250 of the Income Tax Act, 1961 (hereinafter referred as "the Act") arising out of various assessment orders of Learned Assistant Commissioner of Income Tax, Central Circle-16, New Delhi (hereinafter referred as "Ld. AO") under Section 143(3) of the Act for different assessment years. Six appeals in ITA Nos.7034 to 7039/Del/2019 are against orders of Ld. CIT(A) arising out of penalty orders under Section 271(1)(c) of the Act.

2. All the appeals involve similar facts and issues and were heard together for the sake of convenience. In all 43 appeals against assessment orders, assesseees filed identical additional ground that the search was pursuant to the approval granted under Section 153D of the Act by Ld. Joint CIT in mechanical manner liable to be quashed.

3. It is quite relevant to note that the approval granted under Section 153D of the Act had been accorded by the Ld. JCIT within a short span of time of one day on which draft orders were forwarded to him. The details of various draft orders forwarded by the Ld. AO to the Ld. CIT(A) for various assessment years and the date of approval granted under Section 153D of the Act by the Ld. JCIT for various assessees are tabulated hereunder:

Sr. No.	Name of Assessee	AY	ITA Nos. & Cross Appeals	Date of letter seeking approval by learned Assessing Officer	Letter No. & Date of common Approval u/s. 153D	Assessment order date
1.	M/s. Impress Estates P. Ltd.	2008-09 to 2014-15	1102/Del/2019 to 1108/Del/2019 ITA Nos.2043 & 2047/Del/2019	29.12.2016	Joint CIT/CR-5/153D/2016-17/1105 dated 30.12.2016	30.12.2016
2.	Mohd. Shahnawaz	2008-09 to 2014-15	ITA Nos.1728 to 1734/Del/2019 ITA Nos. 1877 to 1883/Del/2019	17.07.2017	Joint CIT/C.R-5/153D/2017-18/415 dated 18.07.2017	18.07.2017
3.	Moin Akhtar Qureshi	2008-09 to 2010-11 2011-12 to 2014-15	ITA Nos. 1836 to 1842/Del/2019 ITA Nos. 2144 to 2150/Del/2019	16.08.2017	Joint CIT/C.R-5/153D/2017-18/596 & Joint CIT/C.R-5/153D/2017-18/597 both dated 17.08.2017	17.08.2017
4.	Nasreen Moin Qureshi	2011-12 to 2012-13	ITA Nos.2412 & 2413/Del/2019 ITA Nos.2944 & 2947/Del/2019	29.12.2016	Joint CIT/C.R-5/153D/2016-17/1101 dated 29.12.2016	29.12.2016

4. We find that the Ld. JCIT(A) granted approval of the draft assessment orders under Section 153D of the Act for 43 cases for various assessment years of assessments to be completed under Section 153A of the Act.

5. The Learned Authorized Representative for the assessee before us had raised a preliminary objection that the said statutory approval granted by the Id. JCIT u/s 153D of the Act enabling the Id. AO to complete the search assessment, was a mere mechanical approval without due application of mind on the part of the Id. JCIT. Further, the Ld. AR also submitted that the meaning of 'approval' as contemplated u/s 153D of the Act is that the Id. JCIT is required to verify the issues raised by the Ld. AO in the draft assessment order and apply his mind and ascertain whether the entire facts have been properly appreciated by the Ld. AO. The said approval proceedings is a quasi judicial function to be performed by the Id. JCIT based on sound reasoning on due examination of the seized documents, replies filed by the assessee and the draft assessment orders of the Ld. AO. Thus, it is bounden duty of the Id. JCIT to exercise this power by applying his judicious mind. The Ld. AR vehemently argued that the 23 draft orders for four assesseees were sent for approval by the Ld. AO to the Id. JCIT and the Id. JCIT had granted approval for all the cases either on same or next day. The Ld. AR reiterated the fact that 23 draft orders under Section 153A of the Act were approved by the Id. JCIT u/s 153D of the Act either on same or next day on which the draft assessment orders were forwarded to the Id. JCIT by the Id AO. Based on this, the Ld. AR submitted that the Id. JCIT had granted approval by devoting very few minutes for each case in a mechanical manner u/s 153D of the Act without due application of mind. Accordingly, the Ld. AR

argued that the entire search assessments framed in the hands of the various assesseees listed in the cause title u/s 153A r.w.s. 143(3) of the Act dated 29.12.2017 for various Asst Years under consideration required to be quashed as void ab initio. Reliance was placed in case of PCIT vs. Shiv Kumar Nayyar reported in 467 ITR 186 (Delhi) (pages 234-240 of JPB) affirming the decision of Delhi Bench of Tribunal in case of Shiv Kumar Nayyar vs. ACIT in ITA No.1282/Del/2020 dated 26.07.2023.

6. Per contra, the Ld. DR vehemently argued and submitted that Section 153-D of the Act was inserted vide amendment in Finance Act 2007 provides for the prior approval for the assessment in cases of search or requisition. Prior to the amendment vide Finance Act 2007 the existing provisions of making assessment and reassessment in cases where search has been conducted under section 132 or requisition is made under section 132A, does not provide for any approval for such assessment. Accordingly new section 153D has been inserted to provide that no order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner except with the previous approval of the Joint Commissioner. Such provision has been made applicable to orders of assessment or reassessment passed under clause (b) of section 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.

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

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

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

6.3 Without prejudice to above objection, It is submitted that combined reading of letter dated Joint CIT/CR-5/153D/2016-17/1105 dated 30.12.2016 giving approval under section 153 D of the I.T. Act and letter dated 30.12.2026 seeking approval under section 153D of the I.T, make it amply evident that in the instant case, approving authority i.e. Joint Commissioner of Income Tax, Central Range, 05, New Delhi had applied his mind independently in judicious manner while granting his approval in accordance with the provisions of the Act.

6.4 It is not a gainsaying that the Joint CIT hold the concurrent jurisdiction and that the assessment is a continuous process involving administrative as well statutory roles being donned by the Joint CIT. And it is incumbent on the approving authority to examine and monitor the assessments which can't be denied if the same is not reduced in writing at every point of time till the finalization of the assessment. The approval of the approving authority underlines that he has examined the assessment records, relevant copies of seized documents and the relevant issues arising from the material on record judiciously in independent manner by way of due application of mind. It would

not be out of place to mention here that the appellant has not come out with any case that there is case of non-application of mind. The appellant has to positively prove that there is a case of non-application of mind in light of the submission that the approval u/s 153D is an administrative approval. Here, it would not be out of place to highlight that the relevant seized documents in a case are always part of the assessment records as per practice, and requirement of the work. They are not kept separately as relevant seized material is frequently referred to by the assessing officer during the course of assessment proceedings and also made part of assessment order most of the time. In fact, as per the law, seized material is considered as part of records before Assessing Officer and all such seized records, return of income, notices etc. used during an assessment proceeding when considered collectively is known as 'Assessment record'. Therefore, from the letter seeking approval, it is evident that the entire assessment records which included seized material was placed before the approving authority for the purpose of taking decision with regard to approval under section 153D of the Act.

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

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

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

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

6.9 In this regard, it is further submitted that on perusal of case laws on the issue of requirements for proper approval under section 153D, it is found that Hon'ble jurisdictional high court has emphatically held that such an issue is essentially a question of fact and has to be decided based of factual matrix of a particular case, Further, it has been held that approval cannot be reduced to a mechanical exercise and approving authority is required to apply his/her independent mind while granting such an approval. Thus, all the cases have been decided on this point by Hon'ble Tribunal and Hon'ble High court in light of peculiar facts of those cases only. Some of such peculiar facts of such cases are outlined here in under to emphasize upon distinguishing nature of facts of instant cases from those cases.:

Case Name Citation and	Peculiar Facts of cases in mentioned in first col.	Distinguishing facts of the instant case
HIGH COURT OF DELHI in the case of PCIT vs. Anuj Bansal ITA 368/2023 Dated July 13,2023	-No Assessment records were sent along with draft assessment order -There were infirmities in the figures of Original Return of income and Assessed income. -Addl. CIT did not apply his	Appellant has not been able to prove that its case and facts are in alliance with the cited case. Further, there is nothing on the record to suggest

	<p>mind as he did not notice such errors/infirmities.</p>	<p>that in the the order granting approval. instant case of the assessee, there were some factual infirmities in None of the peculiar factual aspects are present in the instant case.</p> <p>Therefore, the case of Anuj Bansal had distinguishable facts than those of instant case.</p>
<p>HIGH COURT OF DELHI in the case of Principal Commissioner of Income-tax v. Shiv Kumar Nayyar [2024] 163 taxmann.com 9 (Delhi)</p>	<p>The approval order failed to make any mention of the fact that the draft assessment orders were perused at all, much less perusal of the same with an independent application of mind.</p> <p>Also, in this case of Shiv Kumar Nayyar, there was no fact brought on the record by the Revenue to prove that identical issues (involving similar facts) were involved in different cases submitted for approval by the AO. It was in absence of such factual information that granting of approval for 43 cases in a single day was viewed by the Hon'ble High Court.</p>	<p>Further, in the instant case, approval is given for the case of assessee only.</p> <p>Therefore, facts of the instant case are distinguishable.</p>
<p>ITAT NEW DELHI in the case of Seh Realtors Pvt. Ltd. v. ACIT Central Circle-8 ITA</p>	<p>The approving authority had granted approval in 232 cases in a single day. Therefore, issue of judicious approval for such large number of cases from the angle of human limitations was an</p>	

no.2503/Del/2017 Dated 23.07.2024	issue before Hon'ble High Court	
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Reliance is placed in the case of Home Finders Housing Ltd. v Income-tax Officer Ward 2(3), Chennai [2018] 93 taxmann.com 371 (Madras) wherein it was held that in case an order is passed without following a prescribed procedure, the entire proceedings would not be vitiated.

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

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

“Further, reliance is also placed on the judgement of Hon'ble Kerala High Court in OP(C) No. 340 of 2019 against the order in IA 3123/2018 in OS 125/2018 of II Additional Sub Court, Ernakulam dated 23.06.2022, wherein it is held that the

"5..... Courts should endeavor to dispose of a case on merits rather than on default."

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

".....After all, justice can be done only when the matter is fought on merits and in accordance with law rather to dispose it of on such technicalities and that too at the threshold. Both sides had tried to argue the matter on merits but we refrain ourselves from touching the merits of

the matter as that can best be done by the Executing Court which had denied an opportunity to the appellant to lead evidence and to prove the issues so formulated.

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

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

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

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

6.15 In the present case, the approval was in fact granted under Section 153D. There is no finding that the assessment was so fundamentally flawed as to render it unfit for any reasonable authority to approve it. This is not a case where Approval has not been granted. Although this Hon'ble Tribunal has decided the said issue of approval u/s 153D against the Revenue in several cases including the cases of Brij Kishore (ITA 8878,8788,8879/DEL/2019) and other connected matters and the case of Metro Tyres Ltd. (ITA 1031/DEL/2013) and other connected matters. It is apprised that Hon'ble Delhi High Court is considering the issue of Approval u/s 153D in ITA 160/2025 and ITA 251/2025 where in Hon'ble Court has issued notice in the Revenue Appeal. Next date of hearing in these matters is 04.09.2025.. 15/12/2025

6.16 It is relevant to point out that approval u/s 153D of the Act needs to be put at a different pedestal in comparison to sanction u/s 151 of the Act. Section 151 deals with prior approval for issuing notices for reopening assessments (such as under section 148). The approval here is for cases where the Assessing Officer believes income has escaped assessment; higher authorities' consent is required before such notices are issued. If the sanction u/s 151 is not proper, the jurisdictional notice issued u/s 148 has been held to be void. However, the approval u/s 153D has to be granted by the Ld. JCIT once the draft assessment order is prepared by the Ld. Jurisdictional Officer making the assessments u/s 153A/153C of the Act. In these cases, there is no challenge

to the validity of search, procedure followed by the Department in search, however the only challenge raised by the assessee in the additional ground before this Hon'ble Tribunal is that the approval granted by Ld. JCIT is mechanical. If the said approval is held to be mechanical, then the submissions of the Revenue is that the matters may be remanded back to the Assessing Officer at the stage of Draft Assessment order which shall not prejudice the assessee and also protect the interest of Revenue.

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

7. We find, as per the scheme of the Act, for framing search assessments, the Ld. AO can pass the search assessment order u/s 153A or u/s 153C of the Act only after obtaining prior approval of the draft assessment order and the conclusions reached thereon from the Id. JCIT in terms of section 153D of the Act. This is a mandatory requirement of law. The said approval granting proceedings by the Id. JCIT is a quasi judicial proceeding requiring application of mind by the Id. JCIT judiciously. In order to ensure smooth implementation of the aforesaid provisions, in consonance with the true spirit of the scheme of the Act, it is the bounden duty of the Ld. AO to seek to place the draft

assessment order together with copies of the seized documents before the Id. JCIT well in time much before the due date of completion of search assessment. The Id. JCIT is supposed to examine the seized documents, questionnaires raised by the Ld. AO on the assessee seeking explanation of contents in the seized documents, replies filed by the assessee in response to the questionnaires issued by the Ld. AO and the conclusions drawn by the Ld. AO vis-à-vis the said seized documents after considering the reply of the assessee. All these functions, as stated earlier, are to be performed by the Id. JCIT in a judicious way after due application of mind. Even though as vehemently argued by the Ld. CIT-DR, the Id. JCIT is involved with the search assessment proceedings right from the time of receipt of appraisal report from the Investigation Wing, still, the Id. JCIT, while granting the approval u/s 153D of the Act has to independently apply his mind de hors the conclusions drawn either by the Investigation Wing in the appraisal report or by the Ld. AO in the draft assessment order. The copy of the appraisal report submitted by the Investigation Wing to the Ld. AO and Id. JCIT are merely guidance to the Ld. AO and are purely internal correspondences on which the assessee does not have any access. Moreover, the Act mandates the Ld. AO to frame the assessment after getting prior approval from Id. JCIT u/s 153D of the Act. The Id. JCIT getting involved in the search assessment proceedings right from inception does not have any support from the provisions of the Act as no where

the Act mandates so. The scheme of the Act mandates due application of mind by the Ld. AO to examine the seized documents independently dehors the appraisal report of the Investigation Wing and seek explanation/clarifications from the assessee on the contents of the seized documents. When the scheme of the Act provides for a leeway to both the Ld. AO as well as the Id. JCIT to even ignore the conclusions drawn in the appraisal report by the Investigation Wing and take a different stand in the assessment proceedings, the fact of Id. JCIT getting involved in the search assessment proceedings right from the receipt of copy of appraisal report, as argued by the Ld. CIT DR, has no substance. In other words, irrespective of the conclusions drawn in the appraisal report by the Investigation Wing, both the Ld. AO and the Id. JCIT are supposed to independently apply their mind in a judicious way before drawing any conclusions on the contents of the seized documents while framing the search assessments. In our considered opinion, if the arguments of the Ld. CIT DR are to be appreciated that the Id. JCIT need not apply his mind while granting approval of the draft assessment orders u/s 153D of the Act as it is not provided in section 153D of the Act, then it would make the entire approval proceedings contemplated u/s 153D of the Act otiose. The law provides only the Ld. AO to frame the assessment, but, certain checks and balances are provided in the Act by conferring powers on the Id. JCIT to grant judicious approval u/s 153D of the Act to the draft assessment orders placed by the Ld. AO.

8. Let us now examine whether in the aforesaid background of the scheme of the Act, whether the approval in terms of section 153D of the Act has been granted by the Id. JCIT in a judicious way after due application of mind or not, in the instant case.

9. Regarding M/s. Impress Estates Pvt. Ltd., the approval granted by the Id. JCIT on 30.12.2016 as mentioned in the table hereinabove u/s 153D of the Act. The said approval letter clearly states that a letter dated 29.12.2016 was filed by the Ld. AO before the Id. JCIT seeking approval of draft assessment order u/s 153D of the Act. The Id. JCIT has accorded approval for the said draft assessment orders on the next very day i.e., on 30.12.2016 for various assessment years. In any event, whether is it humanly possible for an approving authority like the Id. JCIT to grant judicious approval u/s 153D of the Act for 23 cases for various assessment years on a single day is the subject matter of dispute before us.

10. The section 153D of the Act provides that approval has to be granted for each of the assessment year whereas, in the instant case, the Id. JCIT has granted a single approval for all assessment years put together.

11. Similar issue has been addressed by the Hon'ble Jurisdictional High Court in the case of PCIT vs. Anju Bansal in ITA 368/2023 order dated 13.07.2023 wherein, under similar circumstances, the Hon'ble Delhi High Court

categorically held that statutory approval given by a quasi judicial authority without due application of mind as contemplated in section 153D of the Act would be fatal to the entire search assessment proceedings. The relevant operative part of the said order is reproduced below:-

"12. This aspect was brought to the fore by the Tribunal in the impugned order. The Tribunal, thus, concluded there was a complete lack of application of mind, inasmuch as the ACIT, who granted approval, failed to notice the said error.

12.1 More particularly, the Tribunal notes that all that was looked at by the ACIT, was the draft assessment order.

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 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".
[Emphasis is ours]

14. In this appeal, we are required to examine whether any substantial question of law arises for our consideration.

15. Having regard to the findings returned by the Tribunal, which are findings of fact, in our view, no substantial question of law arises for our consideration. The Tribunal was right that there was absence of application of mind by the ACIT in granting approval under Section 153D. It is not an exercise dealing with a immaterial matter which could be corrected by taking recourse to Section 292B of the Act.

16. We are not inclined to interdict the order of the Tribunal."

12. In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, we have no hesitation in holding that the approval u/s 153D of the Act has been granted by the Id. JCIT in the instant case before us in a mechanical manner without due application of mind, thereby making the approval proceedings by a high ranking authority, an empty ritual. Such an approval has not been mandated by the provisions of the Act and Hon'ble Jurisdictional High Court (Delhi High Court) referred to supra. Hence, we find lot of force in the arguments advanced by the Ld. AR in support of the additional grounds raised for all assessment years under consideration before us

for all the assessees. Accordingly, additional grounds of appeal challenging approval under Section 153D as mechanical taken in ITA Nos. 1102 to 1108/Del/2019 titled as “Impress Estates Pvt. Ltd. Vs. ACIT” , ITA Nos. 1728 to 1734/Del/2019 titled as “Sh. Mohd. Shahnawaz Vs. ACIT”, ITA Nos. 1836 to 1842/Del/2019 titled as “Moin Akhtar Qureshi Vs. ACIT” and ITA Nos. 2412 & 2413/Del/2019 titled as “Nasreen Moin Qureshi vs. ACIT” for all the assessment years under consideration are hereby allowed.

13. Since, pursuant to the allowing of the additional grounds, the entire search assessment framed in the hands of all the assessees is to be declared illegal and bad in law, the other legal grounds and grounds on merits raised by the assessees for various assessment years need not be gone into as adjudication of the same would be merely academic in nature and, hence, they are left open.

14. Penalty orders being consequential are set aside. The appeals challenging penalty orders are allowed.

15. In the net result, all the appeals of assessees are allowed and appeals of Revenue are dismissed.

Order pronounced in the open court on 28th October, 2025.

Sd/-

**(M BALAGANESH)
ACCOUNTANT MEMBER**

Sd/-

**(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated:28 /10/2025
Mohan Lal

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi