

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

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER  
AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No. 301/DEL/2020  
Assessment Year: 2017-18**

<b>Mahesh Kumar Verma, G-59, Preet Vihar, Delhi-110092. PAN: ACAPV 8456 B</b>	<u>Vs</u>	DCIT, Central Circle-2, Noida.
<b>APPELLANT</b>		<b>RESPONDENT</b>

**AND**

**ITA No. 807/DEL/2020  
Assessment Year: 2017-18**

DCIT, Central Circle-2, Noida.	<u>Vs</u>	<b>Mahesh Kumar Verma, G-59, Preet Vihar, Delhi-110092. PAN: ACAPV 8456 B</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	Shri Salil Agarwal, Sr. Adv. Shri Shailesh Gupta, Adv. & Shri Madhur Agarwal, Adv.
<b>Department represented by</b>	Shri Shrikant Namdeo, CIT(DR)
<b>Date of hearing</b>	23.12.2025
<b>Date of pronouncement</b>	31.12.2025

**ORDER**

**PER Ms. MADHUMITA ROY, JM:**

The instant cross appeals, preferred by the assessee as well as the Revenue, are directed against the order dated 21.11.2019 [Appeal No. CIT(A)-IV/10791/DCIT-CC-II/Noida], passed by the CIT(A)-IV, Kanpur, arising out of the order dated 29.12.2018

passed by the DCIT, Central circle-II, Noida, for A.Y. 2017-18 against their respective grievances. Both the appeals were heard analogously and are being disposed of by a common order for the sake of convenience.

2. Facts of the case, in brief, are that a search was conducted under Section 132 of the Act on 15.12.2016 in the case of M/s Somya Bullion & Jewellers, a proprietorship concern of Shri Mahesh Kumar Verma of Delhi. The case was centralized to Circle-II, Noida. Subsequently, a notice under Section 142(1) was issued followed by notice under Section 143(2) of the Act on 24.09.2018. The assessment was finalized upon making addition in the hands of the assessee at Rs. 8,31,91,465/- on account of unexplained sales under Section 68 of the Act and R. 80,31,914/- on account of commission at 1% of the aforesaid unexplained sales which was in turn partly allowed by the First Appellate Authority. Hence the instant appeal before us.

3. By and under the application dated 02.09.2024 the assessee has sought to admit the following additional ground, stating to be the legal ground, in view of the Hon'ble Supreme Court decision in the case of National Thermal Power Corporation Ltd. v. CIT 229 ITR 383:

*“That on the facts and circumstances of the case the approval accorded under section 153D of the Act (if any) is a mechanical and arbitrary approval without there being any application of mind and also without satisfying the statutory preconditions of the Act and as such, the assessment so framed is null and void and deserves to be quashed.”*

3.1 The additional ground sought to be raised being a legal ground and going to the root of the matter is admitted for adjudication keeping in mind the judgment passed by the Hon'ble Supreme Court as above.

4. A copy of the approval granted by the Additional Commissioner of Income Tax, Central Range, Meerut has been furnished before us by the Learned Senior Counsel Mr. Salil Agarwal, appearing for the assessee in support of the assessee's case. He has drawn our attention on very many aspects on the approval granted by the concerned authority for A.Y. 2011-12 to 2017-18 by one consolidated order; the search though actually was conducted on 15.12.2017 the same is incorrectly mentioned in the approval in question dated 28.12.2018 as "09.03.2017". It has further been stated in the approval that draft assessment order and materials have been considered while granting approval by the Addl. CIT whereas what were those materials those were considered by the order approving authority is not reflecting from the said order. Neither the returned income nor the assessed income of the assessee has been mentioned in the said approval. Under these facts and circumstances of the matter the Learned Sr. Counsel vehemently argues against the jurisdiction of the approving authority as the approval is nothing but a mechanical one and therefore, liable to be quashed as was the crux of his arguments made before us.

5. On the other hand, the Learned DR relied upon the orders of the authorities below.

6. Heard the parties and perused the materials available on record. It is a fact that the search conducted in this particular case was on 15.12.2017. However, that has wrongly been mentioned as "9.3.2017" in the order of approval. The core fact of the approval

being the search conducted against the assessee the date whereof is wrongly recorded. The approval is, thus, found to be without application of mind.

7. A common approval has been granted for all the years from A.Y. 2011-12 to 2017-18 instead of each assessment year separately under Section 153D of the Act is found to have been missing and the approval granted in a routine manner. In para 3 of the order of approval dated 28.12.2018 though speaks of perusal of relevant assessment records but totally silent on the piece of document which was claimed to have been perused by the said Additional Commissioner of Income Tax, Meerut. In fact the seized materials whether have at all been considered while granting approval on the draft assessment order is not reflecting from the said impugned order dated 28.12.2018. It is also a fact that the returned income or assessed income of the assessee has not been discussed while approving the draft order of assessment by the ACIT, Central Range, Meerut. Under these facts and circumstances of the matter the approval in question is found to have been given in a mechanical manner, arbitrarily, erroneous and not in consonance with the statutory provisions as envisaged under Section 153D of the Act. The order issuing authority is not found to have discharged its statutory duties cast upon him even by assigning cogent reasons in respect of the issues involved in the matter. On identical issues we have also perused very many judgments relied upon by the Senior Counsel Shri Salil Agarwal in PCIT v. Shiv Kumar Nayyar 163 taxmann.com 9(Del.); PCIT v. Anuj Bansal 165 taxmann.com 2 (Del.); PCIT v. Sapna Gupta 147 taxmann.com 288 (All.); ACIT v. Serajuddin & Co. 454 ItR 312 (Orissa); Millenium vinimay Pvt. Ltd.

v. ACIT (ITAT Delhi in ITA No. 458/Del/2022) and so on, wherein it has been duly held that requirement of prior approval of the competent authority before an order of assessment or the reassessment passed on person to a search is mandatory under the provision of Section 153D of the Act and the same is not meant to be given mechanically.

8. Written submissions have also been filed by the Learned CIT(DR) contents whereof have duly been considered by us and found completely contrary to the ratio laid down by the various Hon'ble High Courts including the decision of Hon'ble Jurisdictional Allahabad High Court in PCIT v. Sapna Gupta (supra), and other decisions as relied on having regard to the facts and circumstances of the matter.

9. It is also a trite law that approval for each assessment year are to be dealt separately with the cogent relevant documents particularly the assessment records, searched materials qua the draft assessment order furnished before the Learned order approving authority which is totally absence in the case in hand. Thus, we find that in view of the judgments cited above, the ratio whereof is squarely applicable to the case in hand. Granting approval in the absence of due application of independent mind to the materials on record for each assessment year that too separately, in respect of the assessee's case also vitiates the entire proceedings. The entire proceeding, therefore, is found to be arbitrary, erroneous and therefore liable to be quashed.

10. As the order of approval under Section 153D which is sine qua non in order to finalize the assessment under Section 153A of the Act as found to be mechanical the

same is hereby quashed and consequently as the entire proceedings has vitiated, the same is also quashed.

11. In the result assessee's appeal ITA No. 301/Del/2020 is allowed and the Revenue's appeal ITA No. 807/Del/2020 is dismissed.

Order pronounced in open court on 31.12.2025.

**Sd/-**  
**(AMITABH SHUKLA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Ms. MADHUMITA ROY)**  
**JUDICIAL MEMBER**

**Dated: 31.12.2025.**

\*MP\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI