

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “E” BENCH: NEW DELHI**

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA Nos.3037 & 3038/Del/2023**  
**[Assessment Year: 2017-18 & 2018-19]**

Neetal Relan, 60/9, Ramjas Road, Karol Bagh, New Delhi - 110005 <b>PAN- AFJPR3107F</b>	vs	Asstt. Commissioner of Income Tax, CC-14, Room NO. 266, E-2, ARA Centre, Jhandewalan Extn., New Delhi 110055
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee by</b>	Sh. Ankit Kumar, Adv. and Sh. Parth Singhal, Adv.	
<b>Revenue by</b>	Ms. Amisha S. Gupta, CIT DR	
<b>Date of Hearing</b>	04.11.2025	
<b>Date of Pronouncement</b>	07. 01.2026	

**ORDER**

**PER MANISH AGARWAL, AM:**

The captioned appeals are filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals)-28, New Delhi [“Ld. CIT(A)”] both dated 29.08.2023 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of the assessment orders passed u/s 153C r.w.s. 143(3) of the Act dated 28.12.2021 for Assessment Years 2017-18 and 2018-19.

2. At the time of hearing, it was stated that the issues involved in both the appeals filed by the assessee for captioned assessment years are common, interlinked and arising from the search action on the

other persons. Hence, both the appeals have been heard together and accordingly, adjudicated by this common order.

3. Brief facts of the case are that a search and seizure operation was carried out by the Investigation Wing, New Delhi in the case of Nagpal group of cases on 10.01.2018. During the course of search, various incriminating documents were found and seized from the premises of Sh. Gokul Kumar and Rashmi Kumar with the address 18/9, Chinar Drive, DLF Farm House, Chhatarpur, New Delhi and they have stated that certain documents and information pertained to the assessee. Accordingly, the AO of searched person recorded his satisfaction and handed over relevant seized material to the AO of assessee. Subsequently, satisfaction was recorded by the AO of assessee on 19.11.2020 and notice u/s 153C was issued on 24.11.2020. In response, assessee filed return of income on 08.12.2020 declaring total income at Rs.11,30,900/-. Thereafter notice u/s 143(2) of the I.T. Act, 1961 was issued on 25.01.2021 followed by questionnaires along with notices u/s 142(1) issued from time to time which were duly complied with by the assessee and detailed submissions were filed from time to time. The AO after considering the submission made assessed the income at INR 21,30,900/- by making addition of Rs. 10,00,000/- in AY 2017-18 and for AY 2018-19 total income was assessed at Rs. 62,34,050/- by making addition of Rs. 51,00,000/- in the orders passed u/s 153C r.w.s. 143(3) of the Act dt. 28.12.2021.

4. Against the order of AO, the assessee preferred appeal before Ld. CIT(A), who after considering the submissions of the assessee, dismissed both the appeals of the assessee.

5. Aggrieved by the order of Ld. CIT(A), the assessee preferred appeal before Tribunal by taking following grounds of appeals:-

**Grounds of Appeal for AY 2017-18**

- “1. *On the facts and circumstances of the case & provisions of law, the order passed by the CIT(A) is unjust, arbitrary and against the facts and circumstances of the case.*
2. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in holding that there is no option before the under signed but to decide the case on merit as per available record and facts, despite the fact that the reply filed by the assessee is self speaking & also part of appeal order but the CIT(A) did not write anything as to why the same is not acceptable.*
3. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in holding that reply filled by the "appellant" is evasive and cannot be accepted as true, despite the fact that reply fled by the assessee is self explanatory but not considered the same.*
4. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in holding that total payment made by the assessee was mentioned at Rs 3500000/- which is apparent from page no. 15 of seized annexure, ignoring the fact that the amount mentioned in the name of assessee is only Rs. 25,00,000/- and the amount of Rs. 10,00,000/- is mentioned in the name of Sh. Gokul, other partner of the firm*
5. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has held that the transactions noted in the said document cannot be part true and part false but did not follow this principle in appellate order as he is accepting the transaction of Rs. 25,00,000/- in the name is Sh. Neetal through HDFC Bank true but did not accept transactions of Rs. 10,00,000/- written in the name of Gokul, other partner of the firm.*
6. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in holding that this it cannot be acceptable that the balance payments of Rs. 10 lacs which shown*

*against the name of the assessee to be not true ignoring the fact that the amount is Rs. 10,00,000/- is shown in the name of Gokul, other partner of the firm and not in the name of assessee i.e. Neetal*

7. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in not differentiating expenditure and investment as evident from the para 5.3.1 of the appellate order as the findings in both the appellate order i.e. AY 2017-18 & AY 2018-19 being same.*
8. *That on the facts and circumstances of the case and provisions of law, The CIT(A) had erred in not giving his observations./ findings regarding the paper referred in the assessment order and appellant order and addition made on the basis thereof has been prepared and belongs to third party therefore the assessee cannot explain the transaction noted down by the third party. During the assessment proceedings also this was explained to the assessing officer but he failed to consider the same. The evidence lays down the entries in the books of account regularly kept in the course of business are relevant but such statement shall not alone be sufficient evidence to charge any person with liability. He will have to show further by some independent evidence that the statement of entries present are real and honest transactions and that many were there in accordance with those entries.*
9. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in not giving his observations/findings: regarding the documents as in the Instant case from the documents it cannot be proved that the real transactions were held between The assessee and the firm. More actual payment of money in accordance with those entries as alleged in the assessment order is not proved. Further the documents referred in the assessment order are not tantamount to admission to the evidence act. Therefore it is cleared that the documents prepared by the partners are self serving documents as the assessee is not having good relation with the partners therefore the same should not be used as evidence against the assessee.*
10. *That on the facts and circumstances of the case and provisions of law, as the inference drawn by the CIT(A) is against the Evidence Act as The evidence act also lays down if any inference drawn on the basis of third party, documents or entries in the books of third party should be supported by independent evidence. So is to prove that the transactions are real and honest. In this case there is dispute with the partners and the papers prepared / written by the other partners does not prove the transactions of so called unexplained Investment are real or honest.*

11. *That on the facts and circumstances of the case and provisions of law, as the inference drawn by the CIT(A) is against the Evidence Act as there is no evidence to show that the money as mentioned in the alleged papers was paid / incurred therefore the same would not be used as corroborative evidence. In this case the department has not produced any evidence in support of transactions noted in the alleged papers to show that the money Was transferred for contribution as indicated in the entries/ statements.*
12. *The appellant craves the right to add, alter amend, append or delete any or all the ground of appeal.*

### **Grounds of Appeal for AY 2018-19**

1. *On the facts and circumstances of the case & provisions of law, the order passed by the CIT (A) is unjust, arbitrary and against the facts and circumstances of the case.*
2. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in holding that there is no option before the under signed but to decide the case on merit as per available record and facts, despite the fact that the reply filed by the assessee is self speaking & also part of appeal order but the CIT (A) did not write anything as to why the same is not acceptable.*
3. *That on the facts and circumstances of the case and provisions of law, The CIT(A) has erred in holding that reply filled by the "appellant" is evasive and cannot be accepted as true, despite the fact that reply filed by the assessee is self explanatory but not considered the same.*
4. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in passing order in casual manner as evident from the findings at para no. 5.3.1 of page no. 9 of appellate order. The findings pertains to A.Y 17-18 mentioning investment by Partner Sh. Neetal. In the property. "Condilam (719 Mtr) GSGK" ignoring the fact that the addition during the year pertains to expense of property BAGA 875 (CASA Venture).*
5. *That on the facts and circumstances of the case and provisions of law, the CIT(A) erred is not discussing facts of this year's case and deciding appeal on the basis of wrong facts of earlier assessment Year AY 2017-18.*
6. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in holding the amount of Rs. 51,00,000 paid by the assessee out of total expenditure of Rs. 2,58,61,812/ -*

*for which he could not provide any satisfactory reply despite the fact that there was no proof of any payment by the assessee. The Assessee filed explanation with copy of account in the books of the assessee where total Capital invested at Rs. 1,01,98,937/- in the project BAGA 875 (CASAventure*

7. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in ignoring the facts and confirming the addition as the transaction as alleged in Assessment Order are not pertains to the assessee and the AO and CIT (A) himself is of the view that the expenses noted in the sheet of paper relates to the Firm and part thereof at Rs. 1,44,78,376/- stated to be appearing in the audited books of accounts, thus the AO and CIT(A) is adopting different yard stick for the same transaction only on the basis of guess work which is against the established law.*
8. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in ignoring the facts and confirming the addition that the paper in question has neither been written by the assessee nor found from his possession and the papers are deaf and dumb wherein certain noting has been noted down, no supporting documents has been found of incurring expenses in construction expenses without any corroborative material, evidence on record does not bring such documents in the tax net. In view of these facts it is submitted that the impugned sheet of paper as referred by the AO and CIT(A) has no tax impact on the assessee. Therefore it is requested to kindly delete the addition made on the basis of such impugned sheets.*
9. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in ignoring the facts as the paper referred in the assessment order and confirming the addition made on the basis thereof has been prepared and belongs to third party, therefore the assessee cannot explain the transaction noted down by the third party. During the assessment proceedings and Appellate proceedings also this was explained to the assessing officer as well as CIT (A) but they failed to consider the same. The evidence lays down the entries in the books of account regularly kept in the course of business are relevant but such statement shall not alone be sufficient evidence to charge any person with liability. He Will have to show further by some independent evidence that the statement of entries present are real and honest transactions and that many were there in accordance with those entries.*
10. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in accepting nothing of the third party despite the fact that in the instant case from the documents it*

*cannot be proved that the real transactions held by the partner on the behalf of the firm. More over actual payment of money in accordance with those entries as alleged in the assessment order and appellate order is not proved. Further the documents referred in the assessment order and appellate order is not tantamount to admission to the evidence act. Therefore it is clear that the documents prepared by the partners are self serving documents as the assessee is not having good relation with the partners therefore the same should not be used as evidence against the assessee.*

11. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in ignoring the provisions is Evidence Act as the Evidence Act also lays down if any inference drawn on the basis of third party, documents or entries in the books of third party should be supported by independent evidence. So is to prove that the transactions are real and honest. In this case there is dispute with the partners and the papers prepared / written by the other partners does not proved the transactions of so called construction expenses are real or honest.*
12. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in ignoring the provisions of Evidence Act that there is no evidence to show that the money as mentioned in the alleged papers was paid / incurred therefore the same would not be used as corroborative evidence. In this case the department has not produced any evidence in support of transactions noted in the alleged papers to show that the amount was incurred for construction expenses as indicated in the entries/ statements.*
13. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in ignoring the facts in not considering the fact that upon perusal of assessment order at point no. 7.5 reveals that AO has treated the expense of Rs. 4,03,40,188/- pertains to 3 Assessment Years 2016-17 to 2018-19. If the AO and CIT(A) are of the view that the amount pertains to 3 Assessment year how the same can be treated / taxed in the hands of assessee in one year. Thus the CIT(A) has erred in confirming the addition of Rs.51,00,000/-in one Year and the same is requested to be deleted.*
14. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in not considering the fact that the findings of assessing officer are contradictory as the additions has been made on account of unexplained expenditure while in the body of order at para no. 7.14 the same has been held as unexplained money in the hands of the assessee added and confirmed by the CIT(A) Under Section 69A. The CIT(A) is not sure as to whether the amount is unexplained expenditure or*

*unexplained investment. The addition confirmed on the basis of summaries and conjunctions is requested to be deleted.*

15. *That on the facts and circumstances of the case and provisions of law, the CIT(A) has erred in not considering the fact that in the case of partnership firm the partner make investment / incur expenditure in the form of capital only and in the instant case the capital of the assessee in the firm is at Rs. 1,01,98,937. If any investment / contribution noted in the documents of the firm may be part of this capital.*
16. *The appellant craves the right to add, alter amend, append or delete any or all the ground of appeal.”*

6. During the course of hearing, vide letter dt. 03.12.2024 assessee filed an application for the admission of additional grounds of appeal which are common in both the years and thus additional grounds of appeal taken for AY 2017-18 are reproduced herein blow for sake of convenience.

1. *That having regard to the law and facts of the case, the order of assessment dated 28.12.2021 u/s 153C/143(3) of the Act is null and void as the same is in violation of CBDT Circular No.19/2019 requiring mandatory DIN.*
2. *That having regard to the law and facts of the case, the order of assessment dated 28.12.2021 u/s 153C/143(3) of the Act is null and void as there is no valid approval granted in terms of section 153D of the Act and approval so granted is mechanical in nature.*
3. *That the learned Commissioner of Income Tax (Appeals) has erred both in law and of facts in upholding the assumption of jurisdiction u/s 153C of the Act and framing of assessment u/s 153C/143(3) of the Act.*

7. The ld. AR submits that the additional grounds of appeal now raised are purely legal grounds and go to the root of the matter thus the same may be admitted and adjudicated first. Reliance is placed on the following judicial pronouncements:

- NTPC Ltd. Vs. CIT reported in 229 ITR 383 (SC)

- CIT Vs. Pruthvi Brokers & Shareholders Pvt. Ltd. reported in 349 ITR336 (Bom.)
- DIT(E) (Del) Vs Ajay G. Piramal Foundation reported in 228 Taxmann 332(Del.)

8. After considering the submission and looking to the nature of additional ground raised by the assessee, we find that in these grounds of appeal, assessee has taken various legal issues which are purely legal and requires no further verification. Thus, in the interest of justice and in view of the ratio laid down by the hon'ble Supreme court in the case of NTPC Ltd. (supra) and other judgements relied upon by the assessee, additional grounds of appeal are admitted and taken up for adjudication first.

9. Before us, ld. AR for the assessee first make submission on the **additional Ground of appeal No.2** wherein, validity of approval granted u/s 153D of the Act. The Ld.AR for the assessee submits that approval u/s 153D of the Act was granted by Ld. Adl. CIT, Central Range-4, New Delhi vide letter No. Addl. CIT/CR-4/Approval-153D/2020-21/1183 dt. 28.12.2021 in mechanical manner and common for the three assessment years i.e. for AY 2015-16, 2017-18 and 2018-19. Ld. AR submits that no separate approval for each Assessment Year was given rather approval was given by a single order for various assessment years.

10. Ld.AR further submits that from the perusal of the approval, it could be seen that Adl. CIT while granting approval has observed that he has perused the draft assessment order and case records, without referring to any material which was considered by him such as seized


material, including replies filed by the assessee with reference to the additions/ disallowance proposed in the drafts assessment order, etc. It was pointed out that the mandate of law u/s 153D is that the approval should be granted with an independent mind after considering the material on record for each assessment year in respect of each assessee separately. The reliance in this regard was placed on the order of the Hon'ble Delhi High Court in the case **PCIT vs. Sapna Gupta (2023) 147 taxmann.com 288 (All)** and **PCIT vs. Shiv Kumar Nayyar (2024) 163 taxmann.com 9 (Delhi)**. Further, the ld. counsel has relied the judgement of the Third member of ITAT Delhi in the case **Dheeraj Chaudhary Vs. ACIT in ITA No. 6158/Del/2018 dt. 10.11.2025**, to contend that in case of common and mechanical approval u/s 153D of the Act for various assessment years, the assessment is liable to be quashed.

11. On the other hand, Ld. CIT-DR for the Revenue supports the order of AO and submits that approval was not granted on the same day and not a mechanical approval. As per CBDT Circular dated 22.12.2006 the Range head i.e. the JCIT/ Addl. CIT is fully aware of the assessment proceedings and actively discussed with the AO from time to time with reference to the issues relating to different assessment years and the nature of contents of the seized material. She thus submits that by any stretch of imagination, it cannot be inferred that Range Head was not in a position to apply his mind independently in a judicious manner while granting approval under section 153D of the Act. The CBDT guidelines explicitly emphasize the close coordination required in search and seizure assessments. Therefore, it is reasonable to conclude that, in accordance with

prevailing administrative practices and guidelines, the approving authority has a comprehensive understanding of the issues involved in a particular case well in advance, prior to the case being submitted to him for approval under section 153D of the Act. It is thus prayed by ld. CIT DR that the contentions of the assessee on the issue of approval u/s 153D of the Act may please be rejected and the order of the AO may please be upheld.

12. Heard both the parties and perused the material available on record. Before going further, we first consider the approval granted by Ld. Adl. CIT, Range 4, New Delhi in the case of assessee. The letter by AO seeking approval from Adl. CIT and the approval given by Adl. CIT (as available at pages 39-40 of PB of AY 2018-19) are reproduced as under:

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**OFFICE OF THE**  
**ASST. COMMISSIONER OF INCOME TAX,**  
**CENTRAL CIRCLE-14, ROOM NO-266, 2ND FLOOR, E-2,**  
**JHANDRAWALAN EXTENSION, NEW DELHI-110055**  
**Tel: 011-23593447, Email: delhi.deit.cen14@incometax.gov.in**

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No. ACIT/CC-14/Approval u/s 153D/2021-22/ S S 2. Date: 26.12.2021

To,  
The Addl. Commissioner of Income Tax,  
Central Range-4, New Delhi

Madam,

Sub: Approval u/s 153D of the I.T. Act, 1961 in the case of NEETAL RELAN (PAN- AFJPR3107F) (DOS 10.01.2018) for A.Y. 2015-16, 2017-18 & 2018-19- reg.

Kindly refer. to above.

2. In this regard, the draft assessment orders in case of the above named assessee are being sent herewith for approval u/s 153D of the I.T. Act, 1961: -

S. No.	Name of the Assessee & PAN	A.Y.	Section	Returned Income/ Previously Assessed Income	Assessed Income (Rs.)
1.	NEETAL RELAN, PAN- AFJPR3107F	2015-16	153C r.w.s. 143(3)	Rs. 12,89,770/-	Rs. 12,89,770/-
2.	NEETAL RELAN, PAN- AFJPR3107F	2017-18	153C r.w.s. 143(3)	Rs. 11,30,900/-	Rs. 21,30,900/-
3.	NEETAL RELAN, PAN- AFJPR3107F	2018-19	153C r.w.s. 143(3)	Rs. 11,34,050/-	Rs. 62,34,050/-

3. The draft orders are being submitted after examination of the seized materials. The related issues mentioned in the appraisal report (as applicable) have duly been considered. It is therefore requested that online approval u/s 153D may kindly be accorded, so that the case may be processed on ITBA.

Yours faithfully  
(Mohit Garg)  
Asstt. Commissioner of Income Tax  
Central Circle -14, New Delhi

26 DEC 2021



OFFICE OF THE  
ADDL. COMMISSIONER OF INCOME TAX,  
CENTRAL RANGE-4, NEW DELHI

Room No. 249, 2<sup>nd</sup> Floor, ARA Centre, E-2, Jhandewalan Extension, New Delhi – 110055  
Phone No. 011-23593272; E-Mail I.D.: delhi.addlcit.cen4@incometax.gov.in

F.No. Addl. CIT/C.R-4/Approval u/s 153D/2021-22/155/4 Date: 28.12.2021

To,

Assistant Commissioner of Income-tax,  
Central Circle –14,  
New Delhi

Sub: Approval u/s 153D of the I.T. Act, 1961 in the case of NEETAL RELAN (PAN: AFJPR3107F) for the A.Ys. 2015-16, 2017-18 & 2018-19 of the Income Tax Act, 1961– reg.

Please refer to your letter F.No ACIT/CC-14/Approval u/s 153D/2021-22/552 dated 26.12.2021 whereby you have submitted draft assessment order seeking approval u/s 153D of the I.T. Act, 1961 in the case of NEETAL RELAN (PAN: AFJPR3107F) for the A.Ys. 2015-16, 2017-18 & 2018-19 u/s 153C r.w.s. 143(3) of the I.T. Act, 1961.

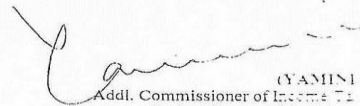
2. After perusing the draft assessment order and case records for A.Ys. 2015-16, 2017-18 & 2018-19 u/s 153C r.w.s. 143(3) of the I.T. Act, 1961 submitted by you, approval u/s 153D for making assessment u/s 153C/143(3) is accorded as under:-

S. No.	Name of the Assessee & PAN	A.Y.	Section	Returned Income/ Previously Assessed Income	Assessed Income
1.	NEETAL RELAN (PAN: AFJPR3107F)	2015-16	153C r.w.s. 143(3)	Rs.12,89,770/-	Rs.12,89,770/-
2.	NEETAL RELAN (PAN: AFJPR3107F)	2017-18	153C r.w.s. 143(3)	Rs.11,30,900/-	Rs.21,30,900/-
3.	NEETAL RELAN (PAN: AFJPR3107F)	2018-19	153C r.w.s. 143(3)	Rs.11,34,050/-	Rs.62,34,050/-

3. The approval accorded by the undersigned should be mentioned in the concluding para of the draft assessment order and AO is directed to ensure that the orders are passed well before the limitation. Further, the copies of the final orders so passed to be sent to this office for records. The assessment records in all the above cases are returned herewith.

4. Further, it is also directed that no order shall be passed without "DIN" in view of the CBDT's Circular No. 19/2019 dated 14.08.2019.

Encl: As above

  
YAMINI  
Addl. Commissioner of Income Tax  
Central Range-4, New Delhi

(Sd/-)

(Sd/-)

13. The Additional CIT, Central Range while granting approval, needs to examine all the material including the assessment records, full appraisal report and seized material pertaining to each Assessment Year with reference to the addition proposed by the AO for which approval is sought and the draft assessment order and after considering all the material should accord the approval. It is further provided that approval has to be granted for each assessment year separately and independently. From the perusal of the approval letter

as reproduced above, it is seen that common approval was given for three assessment years vide single order.

14. The Hon'ble Jurisdictional High Court in the case of **Shiv Kumar Nayyar** (supra) has held that the approval u/s 153D of the Act has to be granted for each Assessment year independently. The relevant observations of the judgement of Hon'ble High Court are as under:-

*"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.*

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

15. Similarly, the **Hon'ble Orissa High Court** in the case of **ACIT vs Serajuddin & Co.** reported in **454 ITR 312 (Orissa)** had an occasion to examine substantial question of law on the propriety of approval granted under s. 153D of the Act. The Hon'ble Orissa High Court made wide-ranging observations towards the manner and legality of approval under s. 153D of the Act. The Hon'ble High Court inter-alia observed that the approval under s. 153D of the Act being mandatory, while elaborate reasons need not be given, there has to be some indication that approving authority has examined draft orders and finds that it meets the requirement of law. The approving authority is expected to indicate his thought process while granting approval, held that it is not correct on the part of the Revenue to contend that the approval itself is not justifiable. Where the Court finds that the approval is granted mechanically, it would vitiate the assessment order itself. The Hon'ble High Court inter-alia observed that there is not even a token to mention that draft order has been perused by the Ld. Addl. CIT. The approval letter simply

grants approval. In other words, even the bare minimum requirement of approving authority having to indicate what thought process involved leading to the aforementioned approval has not been provided. As explained, the mere repeating of words of the Statute or mere rubber stamping of the communication seeking sanction by using similar words like 'approval' will not, by itself, meet the requirement of law. The Hon'ble Court made reference to manual issued by the CBDT in the context of erstwhile section 158BG of the Act and observed that such manual serves as a guideline to the AOs. Since it was issued by CBDT, the powers of issuing such guidelines can be traced to section 119 of the Act. The Hon'ble High Court also held that non-compliance of requirement of section 153D of the Act is not a mere procedural irregularity and lapse committed by Revenue may vitiate the assessment order. The SLP filed against the aforesaid judgement in the case of ACIT vs Serajuddin & Co. was dismissed as reported in (2024) 163 taxmann.com 118 (SC).

16. Recently the hon'ble Third member in the case of ***Dheeraj Chaudhary Vs. ACIT*** (supra) after considering all the judgements relied upon by the ld. CIT DR and further after detailed analyzing the provisions of section 153D, power and independence of assessing authority and the CBDT manual referred by the revenue has held that the common approval granted for various year and for various assessee without making any reference to the material seen is mechanical approval and cannot sustained in the eyes of law. A reference is also made to the CBDT manual issued in respect to the procedure to be followed in this regard. The relevant observations of the Hon'ble Third Member are as under:

*“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.”***

17. Such mechanical approval cannot be sustainable in law in the light of judicial dicta available. The approval memo is totally silent on the issues involved and has granted omnibus approval without any thoughtful process being discernible. A single approval u/s 153D has been accorded in respect of three Assessment Years through single order on the request of the AO made vide letter dt. 26.12.2021 which is filed in the paper book pages 41 & 42 of the assessee. There is no other material to show involvement of the superior authority during the assessment proceedings. Thus, applying the ratio of judgements delivered as noted above, the assessment order based on ritualistic approval stands vitiated and thus quashed by allowing additional ground of appeal No. 2 taken by the Assessee for both the assessment years.

18. Since we have already quashed the assessment orders for both the years by allowing the additional ground of appeal No. 2 taken by

the assessee in both the assessment years, regular grounds of appeal including other additional grounds of appeal taken become academic and thus not adjudicated.

19. In the result, both the appeal of the assessee in **ITA No. 3037/Del/2023** for **AY 2017-18** and **ITA No. 3038/Del/2023** for **AY 2018-19** are allowed.

Orders pronounced in open court on 07.01.2026.

Sd/-

**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

**Dated:- 07.01.2026**

*\*PK, Sr. P.S\**

Sd/-

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI