

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E': NEW DELHI**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER  
and  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.3433/DEL/2025  
(Assessment Year: 2020-21)**

**ITA No.3434/DEL/2025  
(Assessment Year: 2021-22)**

Sudhir Kumar,  
H.No.1479,  
Sonipat – 131 001 (Haryana).  
**(PAN :ACUPK1762B)**  
**(APPELLANT)**

vs.

DCIT, Central Circle 31,  
Delhi.

**(RESPONDENT)**

ASSESSEE BY : Shri Amit Goel, Advocate  
Shri Pranav Yadav, Advocate  
REVENUE BY : Ms. Amish S Gupt, CIT DR

Date of Hearing : 22.12.2025  
Date of Order : 23.01.2026

**ORDER**


**PER S.RIFAUR RAHMAN,AM:**

1. These appeals are filed by the assessee against the orders of Id. Commissioner of Income-tax (Appeals)-30, New Delhi [hereinafter referred to as 'Id. CIT (A)] dated 22.03.2025 for Assessment Years 2020-21 and 2021-22.
2. Since the issues are common and the appeals are connected, hence the same are heard together and being disposed off by this common order. We take ITA No.3433/Del/2025 for AY 2020-21 as lead case.

3. At the time of hearing, Id. AR of the assessee stressed the Ground No.7 raised in the grounds of appeals, which is a legal ground, as under :-

“7. On the facts and circumstances of the case and in law, the assessment order passed by the assessing officer is contrary to the provisions of section 153D of the Income Tax Act, 1961 and CIT (A) erred in holding so.”

4. Before deciding the legal issue in dispute, we may gainfully reproduce the approval u/s. 153D of the Income Tax Act (for short ‘the Act’), which read as under:-

  
 कार्यालय  
 संयुक्त आयकर आयुक्त, केन्द्रीय रेंज-8,  
 कमरा संख्या-328 तृतीय तल, ए.आर.ए. सेंटर, झण्डेवाला एक्सटेंशन, नई दिल्ली  
 दूरभाष-011-23593442

(22)  
Dated: 30.03.2022

F. No.: JCIT/CR-8/153D/2021-22/3173

To,  
 The Dy. Commissioner of Income Tax,  
 Central Circle-31,  
 New Delhi.

**Sub: Approval u/s 153D of the Income Tax Act, 1961 in the case of Sudhir Khatri (PAN: ACUPK1762B) for the A.Y. 2020-21 - Regarding.**

Please refer to your office letter F. No. DCIT/CC-31/153D/2021-22/1131 dated 29.03.2022, seeking approval u/s 153D of the Income Tax Act, 1961 in the case of Sudhir Khatri.

2. Approval is hereby accorded u/s 153D of the Income Tax Act, 1961 to the draft assessment order as amended in the following case, on the basis of the detailed discussion with you time to time, information available on record, facts mentioned in the Appraisal Report and relevant seized documents perused by you & brought to the notice of undersigned.

Name of the assessee	PAN	A.Y.	U/S	Returned Income		Addition made	Assessed Income
				u/s 139	u/s 153A		
Sudhir Khatri	ACUPK1762B	2020-21	153A r.w.s. 143(3)	36,21,010/-	36,21,010/-	1,25,00,000/-	1,61,21,010/-

3. Copies of the final assessment orders should be forwarded to this office immediately after passing the orders. Proposal for retention of seized material should also be forwarded to this office within time as per IT Act, 1961. Before passing the final order, in case, there is requirement of protecting the interest of revenue, permission u/s 281B from Pr. CIT(C)-3, New Delhi should be taken. Office note indicating additions in relevant assessment years should be indicated in all Assessment Years. You have certified about perusal and verification of data seized in electronic format through working copies having certified hash values as that of original hard drives/CDs/ pen drives/mobile data & any other electronic data. You have also certified to the undersigned that all information available in AIR/CIB/from other Law Enforcement Agencies have been properly scrutinized by you before finalizing the draft assessment order.

4. Please ensure that penalty is levied under proper section of the Income Tax Act, 1961, if applicable.

(Sunil Kumar Yadav)  
 Jt. Commissioner of Income Tax,  
 Central Range-8, New Delhi.

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5. At the time of hearing, Ld. AR of the assessee that the assessment order passed by the assessing officer is contrary to the provisions of section 153D of the Act. The provisions of section 153D are as under :-

“no order of assessment or reassessment shall be passed by the assessing officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of sub-section (1) of Section 153A or assessment year referred to in clause (b) of Sub-section (1) of Section 153B except with the prior approval of Joint Commissioner.”

6. He further submitted that whenever any statutory obligation is cast upon any authority, such authority is legally required to discharge the obligation by application of mind. The approval of JCIT should reflect application of mind. The requirement of approval cannot be treated as mere formality and the mandate of the Act is that the approving authority has to act in a judicious manner by due application of mind in a manner of a quasi-judicial authority. If the approval has been granted by the approving authority in a mechanical manner, the very purpose of obtaining approval under section 153D of the Act and the mandate of the enactment by the legislature will be defeated. He submitted that in the present case, the approval by JCIT is not valid in view of the following reasons: -

i. The assessing officer has sent the letter for approval to JCIT on 29.03.2022 and JCIT has granted approval on 30.03.2022. Thus, it was not possible for the JCIT to properly examine the facts of the case, the seized material and the issue involved.

ii. The approval by JCIT, though given separately for each year, is still in the category of the approval given in a consolidated manner as time, tenure and language of the approval is Name and verbatim for all the years, As a matter of facts, the approval is same and verbatim not only for the various years in the case of the assessee but it is the same and verbatim for even for

other assessee. The approval given is thus in a standard format and is not case specific.

iii. In para 2 of the approval, the JCIT has mentioned that quote-"Approval is hereby accorded u/s 153D of the Income Tax Act, 1961 to the draft assessment order as amended....." However, there is nothing in the letter dated 29.03.2022 by the AO to mention that at any stage before 30.03.2022, there was any communication between the two authorities. The letter does not mention that any previous direction on the draft is given effect. There is no reference to any earlier draft assessment order which was sent and amended save alone the records of amendments made by JCIT.

iv. It is evident that there is no reference to any discussion by the AO with the JCIT. Therefore, the remarks of the JCIT in the approval that -quote-"On the basis of detailed discussion with you from time to time"..... unquote-is merely a generic and mechanical mention.

v. The order sheet has not documented any interaction or directions of the Ld JCIT in the course of assessment proceedings.

vi. The approval has been granted by the JCIT on the basis of implied undertaking/certificate from the assessing officer about the perusal and verification of seized data that the contents of the appraisal report, seized material etc have been examined by him. Thus, the JCIT has not made any independent application of mind.

vii. The JCIT has not mentioned that he has gone through the appraisal report, assessment records, seized material and other materials.

viii. The approval granted by the JCIT is without going through the seized material, appraisal report and other material on record.

ix. There is not even a token mention in the approval that the draft assessment orders have been perused by the JCIT.

x. The approval given by JCIT is not final. He has directed the assessing officer to levy of penalty under proper section. He has also given various directions to the assessing officer.

xi. The JCIT in para 4 of the approval has mentioned - quote -"Please ensure that penalty is levied under proper section of Income Tax Act, 1961"

These remarks of the AO clearly establish that either he has not even gone through the draft assessment order or there was no mention of the levy of the penalty.

7. In this regard, ld. AR of the assessee relied on various case laws whereby the legal issue in dispute has been decided in favour of the assessee. However, more particularly, ld. AR drew our attention towards the decision of Hon'ble Delhi High Court in the case of PCIT vs. Anuj Bansal 2023 (7) TMI 1214 & in the case of PCIT vs. Shiv Kumar Nayyar in ITA No. 285/2024 (Del) dated 15.05.2024 and ITAT Delhi Bench decision viz. M/s Millenium Vinimay (P) Ltd. vs. ACIT, ITA No.458/Del/2022 dated 31.5.2024 and submitted that by following the ratio of the aforesaid two case laws, the legal issue involved in the instant appeals may be allowed.
8. He further submitted that the coordinate Bench of the ITAT in the case of Dileep K Gupta vs. DCIT, Central Circle 31 in ITA Nos.148 to 153/Del/2025 dated 19.11.2025 wherein the identical and verbatim has been held to be mechanical and not sustainable in law. Ld. AR also relied upon the decision of coordinate bench in the case of Manoj Kumar Singh vs. DCIT in ITA Nos.2237/Del/2025 order dated 19.09.2025 and Third Member decision passed by the Hon'ble Vice President, Delhi Benches in the case of Dheeraj Chaudhary in ITA Nos.6158 & ors./Del/2018 order dated 12.09.2015.
9. Per contra, ld. DR of the Revenue relied upon the orders of the authorities below and objected to the submissions of the ld. AR. He submitted that the approval u/s 153D of the Act is administrative approval. The procedure to approval process has no relevance to the assessee and his proceedings.
10. Considered the rival submissions and material placed on record. We have

especially perused the approval granted u/s. 153D of the Act and the case laws cited by the ld. AR in the written submissions.

11. We find that ITAT Delhi Bench in the case of M/s MilleniumVinimay (P) Ltd. vs. ACIT, (supra) has dealt the similar legal issue and decided the same in favour of the assessee. The relevant findings of the Coordinate Bench are reproduced as under:-

*“15. There are several decisions, which supports the view that approval granted by the superior authority in mechanical manner defeats the very purpose of obtaining approval u/s 153D of the Act. Such perfunctory approval has no legal sanctity in the eyes of the law. The decision of the coordinate bench in Shreelekha Damani vs. DCIT 173 TTJ 332(Mum.) which has been approved by jurisdictional High Court subsequently, reported in 307 CTR 218 affirms the plea of the Assessee, wherein the Hon'ble Bombay High Court held as under:-*

*"1. This appeal is filed by the Revenue challenging the judgment of Income Tax Appellate Tribunal ("the Tribunal" for short) dated 19th August, 2015.*

*2. Following question was argued before us for our consideration:  
"Whether on the facts and circumstances of the case and in law, the Tribunal was justified in holding that there was no 'application of mind' on the part of the Authority granting approval?"*

*3. Brief facts are that the Tribunal by the impugned judgment set aside the order of the Assessing Officer passed under Section 153A of the Income Tax Act, 1961 ("the Act" for short) for Assessment Year 2007- 08. This was on the ground that the mandatory statutory requirement of obtaining an approval of the concerned authority as flowing from Section 153D of the Act, before passing the order of assessment, was not complied with.*

*4. This was not a case where no approval was granted at all. However, the Tribunal was of the opinion that the approval granted by the Additional Commissioner of Income Tax was without application of mind and, therefore, not a valid approval in the eye of law. Tribunal reproduced the observations made by the Additional CIT while granting approval and came to the conclusion that the*

*same suffered from lack of application of mind. The Tribunal referred to various judgments of the Supreme Court and the High Courts in support of its conclusion that the approval whenever required under the law, must be preceded by application of mind and consideration of relevant factors before the same can be granted. The approval should not be an empty ritual and must be based on consideration of relevant material on record.*

*5. The learned Counsel for the Revenue submitted that the question of legality of the approval was raised by the assessee for the first time before the Tribunal. He further submitted that the Additional CIT had granted the approval. The Tribunal committed an error in holding that the same is invalid.*

*6. Having heard the learned Counsel for the both sides and having perused the documents on record, we have no hesitation in upholding the decision of the Tribunal. The Additional CIT while granting an approval for passing the order of assessment, had made following remarks : "To, The DCIT(OSD)1, Mumbai Subject: Approval u/s 153D of draft order u/s 143(3) r.w.s. 153A in the case of Smt. Shreelekha Nandan Damani for A.Y. 2007-08 reg. Ref: No. DCIT (OSD)1/ CR7/Appr/2010-11 dt. 31.12.2010 As per this office letter dated 20.12.2010, the Assessing Officers were asked to submit the draft orders for approval u/s 153D on or before 24.12.2010. However, this draft order has been submitted on 31.12.2010. Hence there is no much time left to analyze the issue of draft order on merit. Therefore, the draft order is being approved as it is submitted. Approval to the above said draft order is granted u/s 153D of the I. T. Act, 1961."*

*7. In plain terms, the Additional CIT recorded that the draft order for approval under Section 153D of the Act was submitted only on 31st December, 2010. Hence, there was not enough time left to analyze the issues of draft order on merit. Therefore, the order was approved as it was submitted. Clearly, therefore, the Additional CIT for want of time could not examine the issues arising out of the draft order. His action of granting the approval was thus, a mere mechanical exercise accepting the draft order as it is without any independent application of mind on his part. The Tribunal is, therefore, perfectly justified in coming to the conclusion that the approval was invalid in eye of law. We are conscious that the statute does not provide for any format in which the approval must be granted or the approval granted must be recorded. Nevertheless, when the Additional CIT while granting the approval recorded that he did not have enough time to analyze the issues arising out of the*

*draft order, clearly this was a case in which the higher Authority had granted the approval without consideration of relevant issues. Question of validity of the approval goes to the root of the matter and could have been raised at any time. In the result, no question of law arises.*

8. *Accordingly, the Tax Appeal is dismissed."*

16. *In the case of ACIT, Circle-1 (2) Vs. Serajuddin and Co. the Hon'ble Supreme Court in SLP (Civil) Dairy No. 44989/2023 vide order dated 28/11/2023, dismissed the Appeal filed by the Department of Revenue against the order dated 15/03/2023 in ITA No. 43/2022 passed by the Hon'ble High Court of Orissa at Cuttack, wherein the Hon'ble High Court had quashed the Assessment Order on the ground of inadequacy in procedure adopted for issuing approval u/s 153D of the Act by expressing discordant note on such mechanical exercise of responsibility placed on designated authority under section 153D of the Act.*

17. *Hence, vindicated by the factual position as noted in preceding paras, we find considerable force in the arguments advanced by the Ld. the Assessee's Representative on the Additional Ground of Appeal. In our considered opinion the approvals so granted under the shelter of section 153D of the Act does not pass the test of legitimacy. The Assessment orders of various assessment years as a consequence of such inexplicable approval lacks legitimacy. Consequently, the impugned assessments orders in the captioned appeals are non-est and a nullity and hence the same are quashed.*

18. *In view of prima facie merits found in the legal objections raised in the Addl. Grounds of the Assessee, we do not consider it expedient to look into the aspects on merits of additions/disallowance as the legal objections on sanction granted under Section 153D of the Act has been answered in favour of the Assessee. Thus the other Grounds raised in the Appeals of the Assessee in both the Appeals have rendered in- fructuous, which do not need any separate adjudication.*

19. *In the result, the Appeals filed by the Assessee in ITA Nos. 294/Del/2022 and ITA No. 295/Del/2022 are allowed.*

11. *Upon considering the entire aspect of the matter, we find that the approval has been granted not separately for each assessment year for the assessee whereas the provision of Section 153D of the Act stipulates conditions that no order of assessment or reassessment shall be made by an Assessment Officer below the rank of Joint Commissioner in respect of each assessment year referred to in Clause (b) of Sub Section (1) of Section 153A of the Act or the assessment year referred to in Clause (b) of Sub Section 153B of the Act except the prior approval of the Joint*

*Commissioner. It further appears from the approval dated 08.06.2018 that the same was a common and composite order whereas the Addl. Commissioner is required to verify and approve that each of assessment year is complied with as well as procedural laid down under the Act.*

*Such fact clearly reveals non-application of mind on the part of the Learned Addl. Commissioner of Income Tax, Central Range-7, New Delhi. Thus granting approval for all the common years instead of approval under Section 153B for each assessment year separately de horse the rules. The said approval is found to have been given in a mechanical and routine manner. We find that the order issuing authority has not discharged its statutory duties cast upon him even by assigning cogent reasons in respect of the issues involved in the matter. Thus granting approval in the absence of due application of independent mind to the material on record for each assessment year in respect of the assessee's case separately vitiates the entire proceedings; the same is found to be arbitrary and erroneous and therefore, liable to be quashed. We are also inspired by the ratio laid down in the Judgment narrated hereinabove passed by the Hon'ble Jurisdictional High Court and respectfully relying upon the same with the above observation, we quash the entire proceeding initiated under Section 153C r.w.s 153A of the Act in the absence of a valid approval granted by the Learned Additional Commissioner of Income Tax, Central Range-7, New Delhi.*

*12. In the result, appeal of the assessee is allowed.”*

12. We find that the coordinate Bench in the case of Dileep K Gupta vs. DCIT (supra) has also decided the similar issue in favour of the assessee wherein identical and verbatim has been held to be mechanical and not sustainable in law. We also find that in the case of Manoj Kumar Singh vs. DCIT in ITA Nos.2237/Del/2025 order dated 19.09.2025, the coordinate Bench has decided the issue on similar issue in favour of the assessee.
13. We also observed that in the case of Dheeraj Chaudhary (supra), Hon'ble Third Member has upheld that the approval granted by Addl.CIT dated 27.12.2016 u/s 153D of the Act is not sustainable in the eyes of law.-
14. Further we find that Hon'ble Delhi High Court in the case of PCIT vs. Anuj Bansal (supra), the Hon'ble High Court has held as under :-

“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 an immaterial matter which could be corrected by taking recourse to section 292B of the Act.”

13. We noticed that the aforesaid decision was upheld by Hon'ble Apex Court reported in 466 ITR 254 (SC).
14. We further find that Hon'ble jurisdictional High Court in the case of PCIT vs. Shiv Kumar Nayyar (supra) has decided the similar legal issue in favour of the assessee and against the Revenue. The relevant findings of the Hon'ble Delhi High Court are reproduced as under:-

*“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 This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/05/2024 at 21:34:51 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. NeetuNayyar. It is also pertinent in this regard to refer to pages 68 and 69 of the paper book which contains information obtained by Smt.*

*NeetuNayyar 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. NeetuNayyar. 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.*

18. *Therefore, under the facts of the present case, considering the foregoing discussion and the enunciation of law settled through This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/05/2024 at 21:34:51 judicial pronouncements discussed hereinabove, we are unable to find any substantial question of law which would merit our consideration."*

14. Respectfully following the above precedents, we quash the entire proceedings initiated under section 153Ar.w.s. 143 (3) of the Act in the absence of a valid approval granted by the DCIT, Central Circle 31, New Delhi.
15. We are refrained from adjudicating the other grounds of appeal and at this stage, we keep the other grounds of appeal open.
16. In the result, the appeal being ITA No.3433/Del/2025for assessment year 2020-21

stands partly allowed.

17. With regard to appeal for AY 2021-22 is concerned, since the facts are exactly similar to AY 2020-21 our above findings in AY 2020-21 is applicable *mutatis mutandis* in AY 2021-22. Accordingly, the appeal being ITA No.3434/Del/2025 for AY 2021-22 filed by the assessee is also partly allowed.
18. To sum up :both the appeals filed by the assessee are partly allowed.

**Order pronounced in the open court on this 23<sup>RD</sup> day of January, 2025.**

**SD/-  
(VIMAL KUMAR)  
JUDICIAL MEMBER**

**SD/-  
(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Dated: 23.01.2025  
TS**

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**