

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER &
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA Nos. 463 to 465/Del/2022
(Assessment Years: 2012-13 to 2014-15)**

AnuNagpal B-64, 1 st Floor Greater Kailash Part-I, New Delhi – 110048	Vs.	ACIT, Central Circle 14, New Delhi- 110055
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACTPN4363Q		
Appellant	..	Respondent

**ITA Nos. 467, 523 & 524/Del/2022
(Assessment Years: 2012-13 to 2014-15)**

AnujNagpal M-134, Greater Kailash Part-I, New Delhi – 110048	Vs.	ACIT, Central Circle 14, New Delhi- 110055
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACKPN0439N		
Appellant	..	Respondent

**ITA No. 457/Del/2022
(Assessment Year: 2016-17)**

AbheekNagpal B-64, Greater Kailash	Vs.	ACIT, Central Circle 14,
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Part-I New Delhi – 110048		New Delhi- 110055
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AMTPN9992M		
Appellant	..	Respondent

Appellant by :	Sh. AkashOjha, Adv.
Respondent by :	Ms. PoojaSwaroop, CIT, DR

Date of Hearing	20.11.2025
Date of Pronouncement	28.01.2026

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the Assessee against the orders of the Ld. Commissioner of Income-tax (Appeals) (hereinafter referred to as the First Appellate Authority or 'the Id. FAA' for short) in appeals filed before him against the orders of the Id. Assessing Officer (hereinafter referred to as the Ld. AO, for short) passed u/s 153A r.w.s u/s 143(3) of the Income-tax Act, 1961 (hereafter referred to as 'the Act'). Further details of the orders of the lower authorities are as under:-

ITA No. & AY	Ld. FAA who passed the appellate order	Appeal No. & Date of order of the Ld. FAA	AO who passed the assessment order & Date of order
467/D/22 2012-13	CIT(A)-31, New Delhi	636/20-21,637/20-21 & 638/20-21 29.12.2021	ACIT, CC-14, New Delhi, dated 31.12.2019
523/D/22 2013-14	CIT(A)-31, New Delhi	636/20-21,637/20-21 & 638/20-21 29.12.2021	ACIT, CC-14, New Delhi, dated 31.12.2019
524/D/22 2014-15	CIT(A)-31, New Delhi	636/20-21,637/20-21 & 638/20-21 29.12.2021	ACIT, CC-14, New Delhi, dated 31.12.2019
463/D/22 2012-13	CIT(A)-31, New Delhi	631/20-21,632/20-21 & 633/20-21 29.12.2021	ACIT, CC-14, New Delhi, dated 31.12.2019
464/D/22 2013-14	CIT(A)-31, New Delhi	631/20-21,632/20-21 & 633/20-21 29.12.2021	ACIT, CC-14, New Delhi, dated 31.12.2019
465/D/22 2014-15	CIT(A)-31, New Delhi	631/20-21,632/20-21 & 633/20-21 29.12.2021	ACIT, CC-14, New Delhi, dated 31.12.2019
456/D/22 2016-17	CIT(A)-31, New Delhi	629/20-21, 03.01.2022	ACIT, CC-14, New Delhi, dated 31.12.2019

2. We have heard both sides and perused the material on record. The contentions of the both the sides were heard with regard to the additional ground raised by the assessee questioning the approval granted under Section 153D of the Act alleging that same was granted in a mechanical manner. The Ld. AR contended that approval has been granted in consequence to a letter No. F. No. Addl.CIT/CR-4/Approval 153D/2019-20/1247 dated 30.12.2019 and approval granted on the same day by a letter No. F.No.ACIT/CC-14/Nagpal Group of cases/2019-20/1026 dated 30.12.2019 is vitiated.

2.1 Considering the ground is legal and can be decided on admitted facts same is admitted for hearing in all the appeals.

3. It was submitted that in case of as many as 28 assessee's forming part of Nagpal Group of cases the approval was sought by the AO and the same was granted for same number of assessee's for multiple years involved. It was submitted that the same approval has been considered in cases of other assessee's Prateek Nagpal, ITA Nos. 466 & others order dated 10.01.2025 and held to be an outcome of mechanical exercises of powers and not sustainable in law.

4. All these contentions have been rebutted by the Ld. DR by placing on record before us certain order sheet entries which as per Ld. DR indicate that during the process of assessment the AO had extensively brought into the knowledge of Addl.CIT, Central Range-4, New Delhi, who was the authority granting approval under Section 153D of the Act, all the seized material and based upon the discussions which were arrived at the AO had concluded the assessment and therefore, at the time of granting of approval nothing was left to be done and these evidences were not before the Coordinate Bench while contesting the case of Prateek Nagpal, ITA Nos. 466 & others order dated

10.01.2025. Apart from that, it was also contested that additional ground has been taken belatedly.

5. We have gone through the contents of the letter seeking approval and one thing what is apparent from the letter is that only draft assessment order were forwarded and it does not appear that the assessment record was even sent along with the letter so as to enable the authority to go through the same and verify the facts, evidences and conclusions.

6. Then when the approval is considered it shows that there is no mention of the issue which were involved and, if the, assessment record were ever perused at earlier stage to the examine the issue involved in regard to as many as 28 assessee's involving multiple years of AY: 2012-13 to 2018-19.

7. Certainly the same approval has been considered in the case of Prateek Nagpal (supra) by a Coordinate Bench, in which both of us were in the quorum and the approval was found to be outcome of mechanical application of mind and the question as to if the approval under Section 153D of the Act is administrative approval only was also considered and decided against the revenue.

8. We have gone through the order sheet entries dated 16.10.2019 onwards till 27.12.2019 produced by the Ld. DR with her exceptional efforts from the internal correspondence of the department wherein we find that there are some noting of AO based on instruction of range Head/Addl.CIT during the assessment proceedings in Nagpal group cases are recorded. However, there is no reference of what are the substantive issues in assessment or the material seized or relied. The noting are very cryptic and not self speaking of content to show that at the time of approval only a formality was to be done.

9. As for completeness we consider it appropriate to reproduce the written submissions given by Ld. DR on the basis of this evidence.

“Sub: Submission w.r.t. approval u/s 153D of the Act to support appeal in the case of ANU NAGPAL, ITA 463 to 465/DEL/2022 for AY 2012-13 to 2014-15, NDOH: 18.08.2025 - reg.

Kindly refer to the above.

2. Before the Hon'ble Tribunal, the assessee has preferred appeal in ITA 463 to 465/del/2022 against the order of the Ld. CIT(A) on 09.03.2022.

3. On perusal of the office records it is further seen that the assessee on 30.09.2024 has filed additional ground of appeal on "mechanical" approval u/s 153D of the Act.

4. In this regard, it is submitted that the Revenue first of all objects to the additional ground w.r.t Section 153D of the Act which was never taken before the Ld.CIT(A). Further, this additional ground of appeal has been raised on 30.09.2024 - 2.5 years after

filing of appeal before the Hon'ble Tribunal. Without prejudice to the objection, the Revenue hereby submits the arguments for Section 153D of the Act.

5. The AO has submitted the following, copy of which is attached with this submission:

- (i) letter of the AO seeking approval u/s 153D of the Act*
- (ii) copy of approval accorded u/s 153D of the Act by the Jt./Addl. CIT*
- (iii) ICF Folder in Nagpal Group containing Internal Correspondence vide order sheet notings of the AO and the Range Head / Addl. CIT during the assessment proceedings in the Nagpal group.*

6. On perusal of the IC Folder it can be seen that:

- (i) The entire assessment proceedings right from the centralization of the Nagpal group with Central Circle - 14, Delhi on 16.10.2019 has been recorded in great detail.*
- (ii) It is starkly apparent that the directions of the Addl. CIT have been clearly stated date wise in the order sheet notings.*
- (iii) Each and every noting has been signed both by the AO as well as the Addl. CIT.*
- (iv) On perusal of the noting it can be seen that the discussions range from subdividing the Nagpal group into various sub groups, identification of major issues covered in the search, drafting of specific questionnaires, drafting of show cause notices and modifications suggested by the Addl. CIT in the draft assessment orders submitted by the AO.*

7. The search and seizure manual of the Income tax Department mandates, as reproduced below:

"1.3 On receipt of the appraisal report and seized material, the Assessing Officer and Range Head should jointly scrutinize the appraisal report and seized material and prepare an Examination Note to decide:

- i. Cases where notices u/s 153A of the Income- tax Act, 1961 (the Act) are required to be issued.*
- ii. Cases where notices u/s 153C of the Act are required to be issued.*
- iii. Cases where notices u/s 148 of the Act are required to be issued. iv. Cases where seized material pertains to persons other than those whose cases have been centralised.*

...

2.2 A detailed questionnaire should be prepared mentioning details of the Annexures relating to the seized material and the assessee's explanation sought on the entries therein. The questionnaire should also contain the queries on the basis of documents attached with the return. If considered necessary, directions under section 144A of the Act should be given by the Range Head.

....

3.2 All the issues and evidence that is going to be relied upon in the assessment order should be made available to the assessee. The final show cause notice should be prepared in consultation with the Addl. CIT and should contain:

- i. The proposed structure of the order;
- ii. The evidence in possession of the department;
- iii. The case laws being relied upon;
- iv. The opportunity of rebuttal being provided to the assessee. ...”

8. An Appraisal Report is a report prepared by the search conducting Assistant/Deputy Director of Income Tax) (Investigation) highlighting the incriminating material along with the outcome of the investigations from the day of commencement of search operations to the culmination of the Appraisal Report. A copy of the Appraisal Report is provided to the AO, Jt. / Addl. CIT and the jurisdictional Principal Commissioner of Income Tax. This report is in the nature of a comprehensive report for the Search Unit (Investigation Directorate) Assessment Unit (Central Charge) of the Income Tax Department. Thereafter, the AO along with the Jt. / Addl. CIT gets involved in issuing statutory notices, preparing the Action Points, drafting Questionnaires, etc. Neither the AO nor the Jt. / Addl. CIT works in isolation as far as search assessments are concerned. Basically, they work as a team during the course of search assessments. The approval accorded by the Jt. / Addl. CIT under section 153D of the Act is nothing but the culmination of day-to-day involvement of the AO and the Jt. / Addl. CIT in search assessments. The fact is that the AO and the Jt. / Addl. CIT work as team members and the AO works under the supervision of the Jt. / Addl. CIT. The teamwork gets culmination by the approval under section 153D of the Act. Such involvement of the Jt. / Addl. CIT in the search assessment is in routine in the Central Charges of the Income Tax Department where the search assessments are completed. It is not a case where the assessment records, other files, investigation folders, etc. of a search case are discussed for the first time between the AO and the Jt. / Addl. CIT at the time of approval of the search assessment.

9. As per the SOP prescribed in the Search & Seizure Manual and other instructions/guidelines issued by the CBDT, there is close monitoring of search assessments by the Jt. / Addl. CIT by way of internal correspondence folders, order sheets, noting, meeting(s), discussions, electronic communications, etc. from time to time throughout the year. Since the Jt. / Addl. CIT and the AO of the present case were in rooms apart in the same building, therefore, movement of records, etc. by hand over phone also could not be ruled out. Since, the Jt. / Addl. CIT, as per the SOP issued by the CBDT for search assessments, could not be ruled out to be not actively involved in the search assessments, therefore, the issues emerged in the search assessments were on his/her tips at the time of granting approval under section 153D of the Act. It is also not the case that the Jt. / Addl. CIT has come to know of the facts/details of assessment proceedings at the time of approval under section 153D of the Act. The entire process of monitoring is a continuous process even before the receipt of draft order seeking the approval under section 153D of the Act. The approval under section 153D of the Act is

culmination of joint exercise carried out as team lead by the It. / Addl. CIT. The AO had worked under the supervision of the Jt. / Addl. CIT.

10. A Range Head is fully involved in guiding and supervising the assessment proceedings. Discussions and consultation between the AO and the Range Heads are sometimes not formally put in the form of letters on record. It is not the It. / Addl. CIT is seeing issues for the first time which are in the draft order as alleged by the assessee. No government officer or even a layman will sign a legal paper/sensitive order without seeing and applying his/her mind where he can be held responsible/ accountable later.

11. As per the Wharton's concise Law Dictionary the word 'satisfied' means being free of anxiety, doubt, perplexity, suspense or uncertainty, whereas 'approval' means "to have or express a favourable opinion or to accept satisfactory". The 'sanction' requires and independent perusal of facts and record and also the recital of the reasons for granting approval. As seen from the meaning of the words 'satisfied', 'approval' and 'sanction' they constitute a hierarchy of endorsement of a proposed action. The word 'approval' under section 153D of the Act is not a sanction. Sanction requires a more independent application of mind with respect to facts and provisions of law, whereas the 'approval' as contemplated under section 153D of the Act, being administrative in nature, the preliminary. satisfaction of the It. / Addl. CIT is required to the extent that the AO has looked into all seized material and has given proper opportunity of being heard to the assessee by confronting the evidences and the proposed additions. The Jt. / Addl. CIT, while granting approval under section 153D of the Act, does not enter into the realm of deciding whether the additions proposed by the AO is legally sustainable.

12. The CBDT Circular No. 3 of 2008, dated 12.03.2008 mentions the legislative intent of section 153D of the Act. Further, the section 153D of the Act does not lay the procedure and manner of granting approval under section 153D of the Act. The approval under section 153D of the Act by the Jt. / Addl. CIT is merely administrative in nature to safeguard internal checks & balances without affecting the quasi-judicial powers of the AO or creating any prejudice to assessee. In fact, while granting approval under section 153D of the Act, the It. / Addl. CIT does not act as a Reviewing/ Appellate Authority to allow or disallow the additions proposed by the AO.

13. The manner of arriving satisfaction for granting administrative approval itself could not have been matter of adjudication in the draft order in view of ratio laid by the Hon'ble Supreme Court in the case of DG-IT(Inv.) Pune vs. Space Wood Furnishers Pvt. Ltd. in Civil Appeal No. 4394 of 2015 [para 12] and Mumbai ITAT decision in the case of Pratibha Pipes & Structural Ltd. In ITA No.3874/Mum/2015.

14. The Hon'ble Supreme Court, in the cases of State of Bihar vs PP Sharma AIR 1991 SC 1260, State of MP vs Harishankar Bhagwan (2010) 8 SCC 655, CS Krishnamurthy vs State of Karnataka AIR 2005 SC 2790 and State of Maharashtra vs. Ishwar Piraji Kalpatri AIR 1996 SC 722 has held that even in cases where the sanction order does not demonstrate the independent perusal of material and does not carry recital of reasons in view of the

statutory presumption under section 114(e) of the Indian Evidence Act, 1872 but if it is established that all the relevant material were duly put up for perusal before the authority, then the sanction cannot be considered as vitiated.

15. The Hon'ble Delhi High Court (Full Bench), in the case of Kelvinator of India Ltd. 123 Taxmann 433 (FB), on the basis of the statutory presumption under section 114(e) of the Indian Evidence Act, 1872, had drawn a presumption in the Income Tax matter that all official actions were performed regularly unless controverted by the corroboratory evidence. Thus, in the present case, the onus is on the corroboratory evidence. Thus, in the present case, the onus is on the assessee to rebut that the Jt./Addl. CIT while approving the case had not applied his mind.

16. The Ld. AR has failed to cite any facts in the assessment order which may shown non-application of mind of the It. / Addl. CIT while granting approval under section 153D of the Act. The Hon'ble High Court of Delhi, in the case of Principal Commissioner of Income-tax (Central)-2 vs. Anuj Bansal [2024] 466 ITR 251 (Delhi)[13-07-2023]) has cited many instances of inaccuracy/mistake/ error/apses, etc. in the approval under section 153D of the Act and the details mentioned in the assessment order to hold that there was non-application of mind of the It. / Addl. CIT while granting approval under section 153D of the Act. However, here in present case, the Ld.AR failed to demonstrate such instances of inaccuracy/mistake/error/lapses, etc. in the approval under section 153D of the Act and the details mentioned in the assessment order. Hence, the facts of this case are distinguishable from the case of Anuj Bansal (supra), Therefore, the decision of the Hon'ble High in the case of Anuj Bansal (supra) is not applicable in the present case. Rather, this case supports the view that in view of the decision of the Hon'ble Delhi High Court (Full Bench) in the case of Kelvinator of India Ltd. (supra) and the fact that the Ld. AR failed to pin point any inaccuracy/mistake/error/lapses, etc. in the approval under section 153D of the Act and the details mentioned in the assessment order. Similarly, the decision of the Hon'ble Orrisa High Court in the case of (ACIT vs. Serajuddin & Co. [2023] 454 ITR 312 (Orissa)[15-03-2023]) is also DISTINGUISHABLE on the facts as the Ld. AR failed to demonstrate that the search assessment orders did not mention the approval of the Jt. / Addl. CIT. In the present case, the Ld. AR failed to establish that the guidelines enunciated by the Search & Seizure Manual, Circular-3 of 2008 and SOP for search assessments have been flouted by the AO and the Jt. / Addl. CIT and there was no application of mind by them.

17. It is equally a well-settled position on the law of precedent that a ruling of a court is to be read, understood and interpreted in the context of not only the issue that was under adjudication but also in the context of the points of arguments canvassed by both the sides. Though there is plethora of judicial precedents on this aspect, it will suffice here to reproduce the relevant part of the judgment of the Hon'ble Supreme Court in the case of Sun Engineering Works (P).Ltd., 198 ITR 297, which is self-explanatory:

“It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this Court, divorced from the context of the question under consideration and treat it to be the complete 'law' declared by this Court....”.

18. *In the case of UOI&Ors. V. Dhanwanti Devi &Ors, 6 SCC 44, the Hon'ble Supreme Court observed as under:*

“9. What is of the essence in decision is its ratio and not every observation found therein not what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found.

10. Therefore, in order to understand and appreciate the binding force of a decision is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law cannot afford to be static and therefore, Judges are to employ an intelligent in the use of precedents.....”

19. The dismissal of SLP has no binding force in terms of Article 141 of the Constitution of India. Consequently, it has no binding precedent value, in contradiction with a reasoned order of the Hon'ble Supreme Court or an order passed in appeal. Reliance is placed on the decisions of the Hon'ble Supreme Court in the cases of Kunhayammed 245 ITR 360 and Khoday Distilleries Ltd. 104 taxmann.com 25 (SC). The Hon'ble Supreme Court, in the case of State of Orrisa and Another v. DharendraSundar Das and Others - [(2019) 6 SCC 270 (SC)] has clarified this position with the following observations at para 9.27:

“9.27 It is a well settled principle of law emerging from a catena of decisions of this Court, including Supreme Court Employees' Welfare Association v. Union of India &Anr. and State of Punjab v. Davinder Pal Singh Bhullar, that the dismissal of a S.L.P. in limine simply implies that the case before this Court was not considered worthy of examination for a reason, which may be other than the merits of the case. Such in limine dismissal at the threshold without giving any detailed reasons, does not constitute any declaration of law or a binding precedent under Article 141 of the Constitution.”

Thus, it is humbly submitted that in the present appeals, only facts of the case should be discussed and examined and they only should determine the fate of these appeal.

20. *On perusal of all the IC Folder submitted before Your Honours it is evident that:*

- (i) The entire assessment proceedings right from the centralization of the Nagpal group with Central Circle - 14, Delhi on 16.10.2019 has been recorded in great detail.*

- (ii) *It is starkly apparent that the directions of the Addl. CIT have been clearly stated date wise in the order sheet notings.*
- (iii) *Each and every noting has been signed both by the AO as well as the Addl.CIT.*
- (iv) *On perusal of the noting it can be seen that the discussions range from subdividing the Nagpal group into various sub groups, identification of major issues covered in the search, drafting of specific questionnaires, drafting of show cause notices and changes suggested by the Addl. CIT in the draft assessment orders submitted by the AO.*

21. Thus, it is established beyond doubt that:

- (i) *The search assessment u/s 153A of the Act had been conducted in conformity with the instructions given in the Search and Seizure Manual and relevant CBDT circulars and instructions of the Income tax department.*
- (ii) *The Jt.CIT/Addl.CIT had guided the AO throughout the search assessment proceedings and the same has been recorded in great detail and precision in the office notings contained in the IC folder, copy of which has been attached with this email.*
- (iv) *As the entire Nagpal family had been involved engaged in bogus LTCG having same modus operandi, the entire group has been discussed jointly and severally throughout the search assessment proceedings. This is apparent from the drafting of specific questionnaires and show cause notices as instructed in the correspondences stated in the ICF folder.*
- (iv) *The AR has not been able to point out any defects in the assessment order or in the assessment proceedings or that there was no interaction between the AO and the Jt./Addl.CIT and that there was mechanical application of mind*
- (v) *Facts of the present case are clearly and beyond doubt distinguishable from facts of the decision of Hon'ble Delhi HC in Anuj Bansal (supra) and of Hon'ble Orissa HC in Serajuddin (supra).*

22. *In view of the above, there is no doubt that approval u/s 153D of the Act was not mechanical. It was given after proper perusal of case records and interaction with the AO and with proper application of mind for the entire Nagpal group.*

23. *This written submission is being made over and above the oral submissions and arguments by Revenue on merits of the case during the course of hearing.*

Submitted for kind consideration of the Bench please.”

10. However, all these submission have been duly consider by this bench in

Rajiv Singh Kushwaha, New Delhi vs Acit, Circle-16, New Delhi decided on 28

November, 2025, ITAs No.1452 to 1455/Del/2023, and the relevant part is reproduced below ;

“12. This assertion of department is doing more harm than any benefit in defending the challenge by the assessee. The approval u/s 153D of the Act cannot be treated mere formality only and the purpose of inserting this provision is two folds i.e., Firstly, before approving the senior authority will ensure that the assessee should be protected against the undue and irrelevant addition and disallowances and the approving authority will also ensure that proper enquiry or investigations are carried out by the Assessing Officer on the relevant materials including material in the hands of the Department. Secondly, the Assessing Officer also keeps in mind the interest of Revenue. If an approval has been granted by the approving authority considering it to be mere formality for the reasons of supervision of assessment proceedings at previous stages then the very purpose of obtaining approval u/s 153D of the Act and mandate of enactment by the Legislature will be defeated. The rationale of word "Each" as specifically referred to in Section 153D and Section 153A deserves to be given effective/proper meaning so that underlying legislative intent as per scheme of assessment of Section 153A to 153D is fulfilled. The meaning of 'approval', as contemplated u/s 153D of the Act, is that the Addl. CIT is required to take cognizance of whole of the assessment record and verify the issues raised by the Assessing Officer in the draft assessment order and apply his independent mind to ascertain as to whether the assessment is initiated, conducted and concluded in accordance with law.

13. *The Ld. DR has relied the decision of Coordinate Bench in Kailash Gahlot Vs. DCIT, ITA No.3431/Del/2023 order dated 24.10.2025 to contend that approval u/s 153D of the Act is an administrative approval only. However, we are of the considered view that the findings of Coordinate Bench in Kailash Gahlot (supra) are on the broad premises that as the AO had made the incriminating material etc. available to the approving authority during the course of assessment so much so that even questionnaire issued by AO is with the knowledge of these authorities, so approval is mere formality. However, such findings seems to be given in ignorance of the decision of Hon'ble Punjab & Haryana High Court in the case of Findoc Finvest Private Limited (supra) wherein Hon'ble High Court of Punjab and Haryana has held that any such consultation with superior officer would be akin to the directions of the superior which vitiates the quasi judicial functions of the assessment. Further, the Coordinate Bench in the case of ITAs No.1452 to 1455/Del/2023 Kailash Gahlot (supra) has also failed to take notice of the third member decision in the case of Dheeraj Chaudhary Vs. DCIT, ITA Nos. 6158 to 6160 order dated 14.09.2025 wherein the Hon'ble third member has held that the approval granted under Section 153D is not an administrative approval and therefore can be tested for want of application of mind and if the same is mechanical cannot be sustained under law. All the contentions relied by revenue now on basis of decision in Kailash Gahlot (supra) have been duly addressed by Hon'ble Third Member in Dheeraj Chaudhary Vs. DCIT(supra), so need not be addressed afresh. Pertinent to mention is that the third member decision has a binding precedent value similar to that of special bench and reliance for this can be placed on the decision in Dy. CIT v. Oman International Bank*

SAOG [2006] 100 ITD 2185 (Mum.). Thus, where there is non consideration of binding decision of Hon'ble Punjab & Haryana High Court in Findoc Finvest Private Limited (supra) and Hon'ble third member decision in Dheeraj Chaudhary Vs. DCIT(supra), the findings of Coordinate Bench in Kailash Gahlot (supra) are to be considered per incuriam and revenue cannot take benefit of the same for asserting that approval under Section 153D is a mere administrative function, being out-come of joint efforts of tax authorities during assessment.”

11. Thus we are inclined to accept the case canvassed by ld. AR and sustain the additional ground. The impugned approvals are held to be vitiated for want of being granted in accordance with law and composite of multiple years. **The appeals are allowed.** Impugned orders are quashed.

Order pronounced in the open court on 28.01.2026

Sd/-
(S Rifaur Rahman)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 28.01.2026

Rohit, Sr. PS

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT NEW DELHI**