

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

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA Nos. 4153 & 4008/DEL/2025
(ASSESSMENT YEAR: 2012-13 & 2018-19)**

DCIT, Central Circle-20, Room No. 269A, 2 nd Floor, ARA Centre, Jhandewalan Extn., Delhi-110055.	Vs.	Proform Interiors Pvt. Ltd., Ground Floor, JMD Regent Plaza, MG Road, Gurgaon, Haryana-122001. PAN-AAHCS5999J
APPELLANT		RESPONDENT

**ITA Nos. 2708 to 2717/Del/2025
(ASSESSMENT YEAR: 2013-14 to 2022-23)**

Proform Interiors Pvt. Ltd., Ground Floor, JMD Regent Plaza, MG Road, Gurgaon, Haryana-122001. PAN-AAHCS5999J	Vs.	DCIT, Central Circle-20, Room No. 269A, 2 nd Floor, ARA Centre, Jhandewalan Extn., Delhi-110055.
APPELLANT		RESPONDENT
Appellant by		Shri Gaurav Jain, Adv., and Shri Tarun Chanana, Advs.
Respondent by		Ms. Pooja Swaroop, CIT DR
Date of Hearing		20.01.2026
Date of Pronouncement		04.02.2026

ORDER

PER MANISH AGARWAL, AM:

The captioned appeals are filed by Assessee and Revenue against the separate orders, all are dated 28.02.2025 passed by Ld. Commissioner of Income Tax (Appeals)-30, New Delhi ['Ld. CIT(A)' in short] u/s 250 of the Income Tax Act,

1961 [‘the Act’] arising out of Assessment Orders, passed for various Assessment Years from 2012-13 to 2022-23 which are tabulated as under:

Sr. No.	ITA No.	Appeal by	AY	Assessment Order dated	Section in which order is passed
1	4153/Del/2025	Revenue	2012-13	31.03.2023	147 of the Act
2.	2708/Del/2025	Assessee	2013-14	31.03.2023	-do-
3.	2709/Del/2025	-do-	2014-15	31.03.2023	-do-
4.	2710/Del/2025	-do-	2015-16	31.03.2023	-do-
5.	2711/Del/2025	-do-	2016-17	31.03.2023	-do-
6.	2712/Del/2025	-do-	2017-18	31.03.2023	-do-
7.	2713/Del/2025	-do-	2018-19	31.03.2023	-do-
8.	4008/Del/2025	Revenue	-do-	31.03.2023	-do-
9.	2714/Del/2025	Assessee	2019-20	31.03.2023	-do-
10.	2715/Del/2025	-do-	2020-21	31.03.2023	-do-
11.	2716/Del/2025	-do-	2021-22	29.03.2023	143(3) of the Act
12.	2717/Del/2025	-do-	2022-23	31.03.2023	-do-

2. As all the captioned appeals filed by the assessee and revenue are having common issues which are inter-linked, inter-connected and this fact has been admitted by both the parties during the course of hearing before us, therefore, all the appeals filed by the assessee and revenue are taken together and decided by a common order.

3. First, we take Revenue’s appeal in **ITA No.4153/Del/2025** for **AY 2012-13**.

ITA No. 4153/Del/2025 (Assessment Year : 2012-13)

4. Brief fact are that assessee company is engaged in the business of furniture manufacturing, interior designing as well as trading of decorative and furniture item. It has filed its return of income u/s 139(1) of the Act on 11.10.2013 declaring total income of Rs.94,07,988/-. The case of the assessee was selected for scrutiny and assessment was completed u/s 143(3) vide order dt. 21.03.2016 assessing total income at INR 1,65,53,200/-. The said order was challenge in appeal where the assessee got the full relief. Thereafter, a search and seizure actiona u/s 132 of the

Act was carried out on 09.02.2022 at the business premises of assessee, residences of its directors and business associates. Based upon the physical and digital data found/seized during the search, cases for various assessment years in the case of assessee where from AY 2012-13 to AY 2020-21 were re-opened u/s 147 of the Act and from AY 2021-22 to AY 2022-23 cases were taken up u/s 143(3) of the Act. Accordingly, notice u/s 148 was issued on 20.01.2023, in response which assessee filed its return of income on 21.02.2023 declaring the total income of INR 1,24,91,433/- as against the income assessed at Rs. 88,63,835/- after appeal effect and thus offered additional income of INR 36,27,600/ on account of service charges earned from various clients for facilitating, supervising and overseeing the work outsourced by them to outside vendors/contractors which was inadvertently missed while filing original return of income and due taxes alongwith interest as per law were paid thereon. Thereafter, notice u/s 143(2) of the Act was issued on 22.02.2023 followed by various notices issued u/s 142(1) seeking multiple information/documents from time to time which were duly complied with. Ld. AO after considering the submissions made, passed the reassessment order u/s 147 of the Act dated 31.03.2023 at a total income of Rs. 3,20,56,960/- by making addition of Rs. 1,95,65,527/- to the income declared in the return filed in response to notice u/s 148 by estimating the profits on undisclosed sales.

5. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 28.02.2025, quashed reassessment order on the ground of limitations.

6. Aggrieved by the order of Ld. CIT(A), revenue is in appeal before the Tribunal by taking following grounds of appeal:-

- “1. *Whether, the Ld. CTA) her erred on facts and in law is quashing the order passed as 147 r.w.s. 143(3) of the Act for AY 2012-13 by wrongly interpreting the provisions of Section 149(1)(b) and Section 153C of the Act?*

2. *Whether on the facts and circumstances of the case and in law the Ld. CIT(A) was justified in holding that calculation of block period for assessment u/s 148 of the Act have to be calculated from FY, relevant to the date, of initiation of proceedings u/s 148, by taking reference to Sec. 153C of the Act and not from the date of actual search by relying on the judgement in the case of Ojjus Medicare and Sh. Dinesh Jindal in which it was held that time period for reassessment would be as per First Proviso to Section 153C even when this Proviso cannot override the main proviso of Section 153C(1), which clearly mentions net calculation of block period has to be done from the year of search?*
3. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in holding that block periods for assessment u/s 153C of the Income Tax Act 1961, have to be calculated from the date of receipt of the books of accounts, documents OR assets seized, by the jurisdictional AO of the non-searched person and not from the date of initiation of search by relying on First Proviso to Section 153C, even when this Proviso specifically deals only with the abatement of proceedings (as referred to second proviso of Section 153A) and does not deal with the calculation of block periods?*
4. *Whether on the facts and under the circumstances of the case and in law, the Ld. CIT(A) was justified in holding that the ten-year period would have to be reckoned from the 31st day of March of the AY relevant to the year of issue of notice u/s 148 and not from the AY immediately preceding the year of search by taking reference to Sec 153C of the Act, even when Para 50 of CBDT's Circular No. 2/2018 dated 15 February 2018 clarifies the intent of the Legislature while introducing the amendment in Finance Act 2017 by stating that the expression "relevant assessment year" as appearing in Section 153C r.w.s. 153A is envisaged to mean the four assessment years in addition to the preceding six AYs which are calculated from AY before the year of search ?*
5. *Section 149(1)(b) of the Act states no notice u/s 148 of the Act can be issued if more than ten years have elapsed from the end of relevant assessment year. The end of relevant assessment year in this case is 31.03.2013, so the first year when the case can be reopened is FY 2013-14, second year would be 2014-15 and so on. Accordingly, the 10th year would be FY 2022-23 i.e. the proceedings could have been validly reopened till 31.03.2023. Therefore, whether the Ld. CIT(A) has erred in computing that the AY 2012-13 was beyond limitation period of reopening of assessment when notice u/s 148 of the Act was issued on 20.01.2023.*
6. (a) *The order of the Ld. CIT(A) is erroneous and not tenable in law and on facts.*

(b) *The appellant craves to add, alter OR amend any/all of the grounds of appeal before OR during the course of the hearing of the appeal."*

7. Before us, the Ld. CIT-DR submits that the grounds of appeal taken by the revenue are itself very elaborate wherein the Revenue has stated that the action u/s 148 should be taken in the case of search and the time limit for the reopening of the assessment years should be taken as provided under the amended section 149 of the Act, which provides as under:

- “149(1) No notice under [section 148](#) shall be issued for the relevant assessment year,—
- (a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
 - (b) **if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:”**

8. According to Ld. CIT DR, the AO issued the notice u/s 148 for the impugned assessment year i.e. AY 2012-13 which is falling with the period of ten years from the end of the assessment year in which search is conducted. Ld. CIT DR further submits that the Ld. CIT(A) has wrongly applied the judgments of the *PCIT Vs. Ojjus Medicare Pvt. Ltd.* reported in 161 taxmann.com 160 (Delhi HC) and further in the case of *Sh. Dinesh Jindal v. ACIT* reported in (2024) 469 ITR 32 (Delhi HC). The Ld. CIT-DR thus submits that the order passed by the Ld. CIT(A) deserves to be quashed and the order of the AO be restored.

9. On the other hand, the Ld. AR of the assessee vehemently supported the orders of the Ld. CIT(A) and submits that in case of search carried out after 01.04.2021 and where any assessment is reopened u/s 148 for any assessment year prior to assessment year 2021-22, first proviso to amended section 149(1) of the Act impose restriction and provides that the law as stood prior to the amendment should be followed. The Ld. AR submits that the Hon’ble Supreme Court in the case of *Union of India vs. Rajiv Bansal* reported in [2024] 301 Taxman 238 (SC) has settled this

issue and thus the same is no longer *res-integra* after the said judgment. He requested for the confirmation of the order of the Ld. CIT(A).

10. Heard both the parties and perused the materials available on record. In this case, the assessment for Assessment year 2012-13 was reopened as a result a search was carried out in the case of the assessee on 09.02.2022. The AO has reopened the cases for Assessment Years 2012-13 to 2020-21 u/s 147 and for the remaining two years i.e., Assessment Years 2021-22 and 2022-23 assessment orders were passed u/s 143(3) of the Act. By Finance Act 2021, section 148 has been amended and as per the new section limitation were provided in section 149 where section 149(1) (b) first proviso provided as under:

“Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if [a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or section 153A or section 153C, as the case may be], as they stood immediately before the commencement of the Finance Act, 2021”

11. We further observed that the Hon’ble Supreme Court in the case of Rajiv Bansal (supra) has made the following observations in para 46 to 49 which are as under:

45. *The first proviso to Section 149(1)(b) provides thus:*
“149. (1) No notice under section 148 shall be issued for the relevant assessment year, -
(a) If three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
(b) If three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in possession of books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April 2021, if such notice could not have been issued at that time on account of being

immediately beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

(emphasis supplied)

46. *The ingredients of the proviso could be broken down for analysis as follows:*
 (i) *no notice under Section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the “time limits specified under the provisions of” 149(1)(b) of the old regime. Thus, a notice could be issued under Section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under Section 149(1)(b) of the old regime.*
47. *In CTO v. Biswanath Jhunjhunwalla, 107 the Bengal Sales Tax Rules 1941 empowered the Commissioner to revise any assessment within four years from the date of assessment. Subsequently, the State Government issued a notification following the law to extend the time limit from four years to six years from the date of assessment. The extension of the time limit was challenged by the respondents on the ground that the assessments which had attained finality because of the expiry of the period of four years could not be reassessed. This Court observed that it was the clear intention of the notification to permit the Commissioner to revise any assessment made or order passed, provided the assessment had not been made before six years. It was held that if the legislative intention is clear and the language is unambiguous, full effect must be given to the legislative intention by reading the notification as applying not only to the incomplete assessments but also to assessments that had reached finality because of lapse of the earlier prescribed period. The principle that emanates from Biswanath Jhunjhunwalla (supra) is that the courts should give full effect to the legislative intention of granting reassessment powers to assessing officers unless the legislature, by express provision, states otherwise.*
48. *Notices have to be judged according to the law existing on the date the notice is issued. Section 149 of the old regime primarily provided two time limits: (i) four years for all situations and (ii) beyond four years and within six years if the income chargeable to tax which escaped assessment amounted to Rupees one lakh or more. After 1 April 2021, the time limits prescribed under the new regime came into force. The ordinary time limit of four years was reduced to three years. Therefore, in all situations, reassessment notices could be issued under the new regime if not more than three years have elapsed from the end of the relevant assessment year. For example, for assessment year 2018-2019, the four year period would have expired on 31 March 2023 under the old regime. However, if the notice is issued after 1 April 2021, the three year time limit prescribed under the new regime will be applicable. The three year time limit will expire on 31 March 2022.*

49. *The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under Section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under Section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.*

12. The Hon'ble Supreme Court in the aforesaid cases of Rajiv Bansal (supra) has protected the interest of the assessee and held that while reopening the assessee for the years prior to Assessment Year 2021-22, the process should be governed by the old provisions.

13. The Ld. CIT(A) after considering these facts and the judgment of Hon'ble Supreme Court in the case of Rajiv Bansal (supra) and further in the case of Ojjus Medicare (supra) has held that the order under appeal i.e., 2012-13 is barred by limitation. The relevant observations of the Ld. CIT(A) are as contained in para 4 to 4.14 are as under:

“4 Ground Nos. 1. 1.1 and 1.2. I have carefully considered the appellant submissions and Assessment Order. In this Ground, the assessee has challenged the validity of the impugned assessment order on the ground of being barred by limitation on the ground that notice under section 148 could not have issued for the year under consideration.

4.1 I have considered the facts and circumstances of the case in the present case, search under section 132 was conducted upon the appellant on 09.02.2022 i.e, after 01.04.2021. Accordingly, the case of the appellant fell under the new scheme of assessment under section 147 read with section 148 of the Act, which was applicable to searches conducted after 01.04.2021. In view of the same, a notice under section 148 for the year under consideration was issued on 20.01.2023 for assessment year 2012-13. The AO computed limitation for issuing notices under section 148 for the aforesaid assessment year as per the new provision of section 149(1)(b) i.e. within 10 years from the end of the relevant assessment years.

Accordingly, the present notice under section 148 were issued within the aforesaid time limits.

- 4.2 The assessee, however, contended that the aforesaid notices were barred by limitations as per First Proviso to aforesaid new section 149(1)(b) which grandfather's limitations under the old regime for Assessment year 2021-22 and preceding assessment years. In support of the aforesaid plea, the assessee relied upon the language of First Proviso as also relied upon decision of Hon'ble Supreme Court in the case of *UOI v. Rajeev Bansal*: 301 Taxmann 238 (2024) and argued that the said legal position is settled and is no longer *res integra* after the aforesaid decision.
- 4.3 In view of the aforesaid legal position, the assessee thereafter computed time limit for initiating proceedings after search as per the old provisions of Explanation-1 to section 153A of the Act.
- 4.4 The assessee argued that as per the aforesaid Explanation-1 to section 153A, the assessment could have been reopened only for assessment year relevant to the year of search and 9 preceding assessment years, which in facts of the present case would have ended at assessment year 2013-14.
- 4.5 For the aforesaid proposition, the assessee also relied upon the decision of Delhi High Court in the case of *M/s. Ojjus Medicare Pvt. Ltd. & Others* in 161 taxmann.com 160 (Delhi) confirming the aforesaid computation under the old law of Explanation-1 to section 153A of the Act. The assessee also relied upon subsequent decision of Delhi High Court in the case of *Dinesh Jindal v. AGIT*: in 469 ITR 32 and Delhi High Court *KAD Housing P. Ltd. v. DCIT* in 168 taxmann.com 470, where the aforesaid computation of limitation to reopen assessment under old provisions of section 153A or 1530 were applied to notices issued under section 148 under the new regime by applying the provisions of grandfathering contained in First Proviso to new section 149(1)(b) of the Act.
- 4.6 I have examined the issue of limitation raised by the assessee and find considerable force in it. The language of the First Proviso to new section 149(1)(b) is unambiguous and have been categorically affirmed by the Hon'ble Supreme Court in the case of *Rajeev Bansal* *supra*. The relevant extract of the judgment of Hon'ble Supreme Court in the aforesaid case, settling the aforesaid legal position in unequivocal terms, is as under:
- “.....
46. The ingredients of the proviso could be broken down for analysis as follows: (i) no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021 (W) if it "time limits specified under the provisions of 149(1)(b) of the old regime. Thus a notice could be issued under section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under section 149(1)(b) of the old regime.

.....
49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses

- 4.7 To the same effect is the decision of Hon'ble Delhi High Court in the case of Manju Somani v. ITO in 466 ITR 758.
- 4.8 In terms of the aforesaid settled legal position, it needs to be tested whether the impugned assessment year i.e. 2012-13 could have been reopened, had the erstwhile provision of section 153A continue to remain applicable to search conducted even after 01.04.2021
- 4.9 In the present case, search under section 132 was conducted on 09.02.2022. In terms of the erstwhile provisions of Explanation 1 to section 153A, reproduced hereinafter, the assessment year relevant to the previous year in which search is conducted (09.02.2022) becomes the first assessment year, which in facts of the present case was AY 2022-23:

Explanation 1. For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made

- 4.10 The total of 10 assessment years in terms of the aforesaid Explanation-1 needs to be computed including assessment year relevant to the year of search and therefore, the 9 preceding assessment years could have been reopened under the old provisions of section 153A of the Act.
- 4.11 For the aforesaid interpretation, reference can be made to the following observations from the successive decisions of High Courts, including jurisdictional Delhi High Court:

- *The Hon'ble High Court of Delhi in the case of Ojjus Medicate Pvt. Ltd. [2024] 161 taxmann.com 160 (Delhi)[03-04-2024] wherein the court in the case concerning section 153C (Assessment of income of any other person), has examined this issue, after considering the history of amendments made under Section 153A and 153C by various Finance Acts, including the Finance Act, 2017. In this context, the court discussed the meaning of the term "relevant assessment year as provided in explanation 1 to section 153A of the Act and held that the block period of ten AYs under section 153A shall be computed from the end of the assessment year relevant to the previous year in which the search is initiated. The relevant concluding paragraph of this decision is reproduced as below*

“

B.....By virtue of the 2017 Amending Act, significant amendments came to be introduced in section 153A. These included, inter alia, the search assessment block being enlarged to ten AYs consequent to the addition of the stipulation of relevant assessment year and which was defined to mean those years which would fall beyond the six year block period but not later than ten AYs. The block period for search assessment thus came to be enlarged to stretch up to ten AYY The 2017 Amending Act also put in place certain prerequisite conditions which would have to inevitably be shown to be satisfied before the search assessment could stretch to the "relevant assessment year" The preconditions include the prescription of income raving escaped assessment and represented in the form of "relevant assessment year or in aggregate in the "relevant assessment years".

.....

F. While the identification and computation of the six AYs hinges upon the phrase "Immediately preceding the assessment year relevant to the previous year of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly. Explanation .1 of Section 153A requires us to reckon it "from the end of the assessment year. This distinction would have to necessarily be acknowledged in light of the statute having consciously adopted the phraseology. immediately preceding when it be in relation to the six year period and employing the expression "from the end of the assessment year white speaking of the ten year block"

- *Reliance is also placed on the judgment of Hon'ble Madras High Court in the case of Safiullah vs. ACIT (WP (MD) No. 4327 of 2021) wherein the Hon'ble Court also laid down the same law for the computation of ten years for the purpose of assessment under section 153A. The relevant extract of the decision is also reproduced as under*

"9. Explanation-1 is clear as to the manner of computation of the ten assessment years, it clearly and firmly fixes the starting point it is the end of the assessment year relevant to the previous year in which search is conducted or requisition is made. There cannot be any doubt that since search was made in this case on 10.04.2018, the assessment year is 2019-20. The end of the assessment year 2019-20 is 31.03.2020. The computation of ten years has to run backwards from the said

date ie. 31.03.2020. The first year will of course be the search assessment year itself. In that event, the ten assessment years will be as follows:

1 st Year	2019-20
2 nd Year	2018-19
3 rd Year	2017-18
4 th Year	2016-17
5 th Year	2015-16
6 th Year	2014-15
7 th Year	2013-14
8 th Year	2012-13
9 th Year	2011-12
10 th Year	2010-11

The case on hand pertains to AY 2009-10, It is obviously beyond the ten year outer ceiling limit prescribed by the statute. The terminal point is the tenth year calculated from the end of the assessment year relevant to the previous year in which search is conducted. The long arm of the law can go up to this terminal point and not one day beyond. When the statute is clear and admits of no ambiguity, it has to be strictly construed and there is no scope for looking to the explanatory notes appended to statute or circular issued by the department.

10. In the case on hand, the statute has prescribed one mode of computing the six years and another mode for computing the ten years. Section 153A(1)(b) states that the assessing officer shall assess or reassess the total income of six years immediately preceding the assessment year relevant to the previous year in which search is conducted. Applying this yardstick, the six years would go up to 2013-14. The search assessment year, namely, 2019-20 has to be excluded. This is because, the statute talks of the six years preceding the search assessment year. But, while computing the ten assessment years, the starting point has to be the end of the search assessment year. In other words, search assessment year has to be including in the latter case. It is not for me to fathom the wisdom of the parliament. I cannot assume that the amendment introduced by the Finance Act, 2017 intended to bring in four more years over and above the six years already provided within the scope of the provision. When the law has prescribed a particular length, it is not for the court to stretch it. Plasticity is the new mantra in neuroscience, thanks to the teachings of Norman Doidge. It implies that contrary to settled wisdom, even brain structure can be changed. But not so when it comes to a provision in a taxing statute that is free of ambiguity. Such a provision cannot be elastically construed."

- 4.12 The Hon'ble Jurisdictional High Court in the case of the Dinesh Jindal vs. Assistant Commissioner of Income-tax [2024] 469 ITR 32 (Delhi), while noting that by virtue of a legal fiction enshrined therein (first proviso to section 153C(1) requires one to treat the date of initiation of search, which otherwise constitutes the commencement point for a search assessment in the case of a non-searched party, to be construed as the date when books of accounts or documents and assets seized or requisitioned are

transmitted to the AD of such "other person", he held that for the purposes of determining limitation u/s 149(1) of the Act, the First Proviso would have to be construed and tested with reference to the date when the AO decides to initiate action against the non-searched entity, i.e. the date of issue of notice u/s 148 of the Act. The relevant extract of the judgement is reproduced as under:

“

Viewed in that light, it is manifest that AY 2013-14 would fall beyond the block period of ten years. It becomes pertinent to note that the First Proviso to Section 149(1) compels us to test the validity of initiation of action for reassessment commenced pursuant to a search, based upon it being found that the proceedings would have sustained bearing in mind the timelines prescribed in Sections 149, 153A and 153B, as they existed prior to the commencement of Finance Act, 2021. This necessarily requires us to advert to the timeframes comprised in both Section 149(1)(b) as well as Section 153C as it existed on the statute book prior to 01 April 2021, which undisputedly was the date from when Finance Act, 2021 came into effect.

13. While it is true that Section 153C and the procedure prescribed therein had ceased to be applicable post 31 March 2021, the First Proviso to Section 149(1) does not appear to suggest that the First Proviso to Section 153C(1) would either become inapplicable or be liable to be ignored. Undisputedly, the First Proviso to Section 153C(1), by virtue of a legal fiction enshrined therein requires one to treat the date of initiation of search, and which otherwise constitutes the commencement point for a search assessment in the case of a non-searched party, to be construed as the date when books of accounts or documents and assets seized or requisitioned are transmitted to the AO of such "other person". Resultantly, the computation of the six preceding AYs' or the "relevant assessment year" in the case of the non-searched entity has to be reckoned from the time when the material unearthed in the search is handed over to the jurisdictional AO. The import of this legal fiction is no longer res integra bearing in mind the judgment of the Supreme Court in CIT v. Jasjit Singh (2023) 155 taxmann.com 155/295 Taxman 612/458 ITR 437/2023 SCC Online SC 1265 and the whole line of precedents rendered by our High Court which were noticed in Ojus Medicare Private Limited. Those decisions have consistently held that in the case of a non-searched entity, it is the date of hand over of material, as opposed to that of the actual search which would constitute the starting point for reckoning the block of six or ten AYs'.

14. However, Section 149(1), as it came to be placed and introduced in the statute book by virtue of Finance Act, 2021, neither effaces nor removes from contemplation the First Proviso to Section 153C(1).

Consequently, in cases where a search is conducted after 31 March 2021, the said Proviso would have to be construed and tested with reference to the date when the AO decides to initiate action against the non-searched entity. While in the case of a search initiated after 31 March 2021 there would be no actual hand over of material to the jurisdictional AO, that does not convince us to revert to Section 153A and hold that the block period is liable to be computed from the date of

search. That, in our considered opinion, would amount to rewriting Section 153C which would clearly be impermissible

4.13 Reliance in this regard is also placed on the judgement of *KAD Housing (P.) Ltd. vs. Deputy Commissioner of Income-tax [2024] 168 taxmann.com 470 (Delhi)*, wherein the Hon'ble Jurisdictional High Court has upheld the position of law laid down in *Dinesh Jindal (supra)*. The relevant extract of the judgement is reproduced as under:

“
 5. In the present case, the petitioner's assessment is sought to be reopened on the basis of the information available pursuant to a search conducted on 11 102023 in respect of Sterling Agro Industries Ltd. Apparently, certain formation pertaining to the petitioner was found during the course of the said proceedings and on 16.08.2024, the same was forwarded to the Assessing Officer (hereafter AD) exercising jurisdiction in the case of the assessee. On receipt of the said information, the AO issued a notice dated 17.08.2024 under Section 148A(b) of the Act setting out the information, which according to the AD suggested that the petitioner's income for the relevant AY 2015-16, has escaped assessment

8. Concededly, in case any incriminating material was found in respect of a non-search party during the search proceedings, procedure under Section 148A of the Act is not required to be followed. It is on this basis that the notice under Section 148 was issued.

9. As noted above, the short question to be considered by this Court is whether the impugned notice has been issued beyond the period of limitation as stipulated under Section 149(1)(b) of the Act. The said issue is squarely covered by the earlier decisions of the Co-ordinate Bench of this Court in *Dinesh Jindal v. Assistant Commissioner of Income Tax, Central Circle 20, Delhi & Others [2024] 164 taxmann.com 746 (Delhi)* as well as in *The Pr. Commissioner of Income Tax-Central- 1 v. Offus Medicare Pvt. Limited [2024] 161 taxmann.com 160/465 ITR 101 (Delhi)*

11. In *Ojjus Medicare Pvt. Limited (supra)*, the Court also explained the manner in which the period of six or ten years is required to be reckoned in respect of reopening of the assessment for a period prior to six years and/or before the expiry of ten years from the relevant assessment years as contemplated under Section 1530 of the Act. The court held that the period of ten years is required to be reckoned from the end of the assessment year relevant to the year in which the notice under Section 148 of the Act is issued:

.....

Analysis of time-period to issue reassessment notice Date of impugned notice under Section 148-31.08.2024 This chart is prepared in light of the first proviso of Section 149 of the Act as amended by Finance Act 2021	
Relevant Assessment year for initiating proceedings under Section 148 of the Act	Without prejudice computation of 10

	<i>years in light of first proviso to Section 149</i>
2025-26	1
2024-25	2
2023-24	3
2022-23	4
2021-22	5
2020-21	6
2019-20	7
2018-19	8
2017-18	9
2016-17	10
2015-16	11 (<i>beyond terminal point of 10 years</i>)

14. *Mr. Chawla, the learned counsel appearing for the Revenue, fairly states that there is no cavil with the said tabular statement and that the issue is covered by the decisions of this Court in Dinesh Jindal (supra) as well as Ojjus Medicare Pvt. Limited (supra). He, however, submits that the Revenue may challenge the same in appropriate proceedings*

4.14 *Applying the aforesaid legal position to facts of the present case, the first assessment year relevant to the year of search, being AY 2022-23, 9 preceding years would stop at AY 2013-14. Thus, assessment year 2012-13 fell beyond the period of limitation as per the old provisions and therefore was barred by limitation.”*

14. From the above, it is amply clear that the for reopening any assessment year after 01.4.2021, which is AY 2021-22 or any preceding assessment year, the period of limitation should be reckoned from the limitations provided under the old section as has been held by Hon’ble Supreme court in the case of Rajeev Bansal(supra). Since, the Ld. CIT(A) has followed the said judgement of Hon’ble supreme court and further given a reasonable finding by placing reliance on the later judgement of Hon’ble Delhi high court in the case of Ojjus Medicare, which observations have not controverted by revenue before us by bringing any contrary judgment, therefore, we find no error in the order of the Ld. CIT(A) and, accordingly, the same is hereby upheld. All the grounds of appeal of the Revenue are dismissed.

15. The Appeal of the revenue in ITA No.4153/Del/2025 for Assessment Year 2012-13 is dismissed.

16. Now coming to the remaining appeals of the assessee and Revenue for Assessment Years 2013-14 to 2022-23 in ITA Nos. 2708/Del/2025 to 2713/Del/2025, ITA 4008/Del/2025 and ITA No.2714 to 2717/Del/2025. In all the aforesaid assessment years, the assessee has challenged the validity of the approval granted u/s 144B of the Act in the ground of appeal taken for respective assessment year as tabulated below:

Sr. No.	ITA No.	Appeal by	Asstt. Year	Ground of Appeal Nos.
1.	2708/Del/2025	Assessee	2013-14	4
2.	2709/Del/2025	Assessee	2014-15	4
3.	2710/Del/2025	Assessee	2015-16	4
4.	2711/Del/2025	Assessee	2016-17	4
5.	2712/Del/2025	Assessee	2017-18	6
6.	2713/Del/2025	Assessee	2018-19	4
8.	2714/Del/2025	Assessee	2019-20	3
9.	2715/Del/2025	Assessee	2020-21	1
10.	2716/Del/2025	Assessee	2021-22	1
11.	2717/Del/2025	Assessee	2022-23	1

17. Before us, Ld. AR for the assessee submits that the approval granted u/s 148B of the Act before passing the assessment order was granted in mechanical manner and without application of mind and, therefore, the same is invalid approval. It is further submitted that the common approval was granted for various assessment years. The Ld. AR submits that section 148B of the Act was inserted w.e.f. 01.04.2022 in Finance Act, 2022.

18. Ld. AR submits that prior approval of section 148B is mandatory requirement and, therefore, it has to be given after due consideration of the material available

including seized material, queries made and replies filed etc. and after due application of mind on the same. The Ld. AR further submits that section 148B is *pari materia* section 153D which was applicable up to 31.03.2021, in the case of assessments completed u/s 153A or 153C of the Act as a result of search where the approval was to be given by the Additional/Joint CIT(A) before passing the assessment order as provided in new section 144B of the Act. He thus, submits that the judicial precedent given with respect to approval granted u/s 153D of the Act are applicable to the approval granted u/s 148B of the Act also. Ld. AR placed reliance on the judgment of the SMC Bench of Delhi Tribunal in case of *Manish Sharga vs. ACIT reported [2025] 176 taxmann.com 250 (Delhi Trib.)* wherein the Co-ordinate Bench has held the approval u/s 144B as a mechanical and quashed the order.

19. The Ld. AR further filed detailed written submissions which read as under:

- “1. *The assessee challenges the assessment orders passed by the Assessing Officer (“AO”) for the captioned assessment years as illegal, void ab initio, and bad in law, on the ground that the approval granted by the Additional Commissioner of Income Tax, Central Range-5, Delhi under Section 148B of the Income-tax Act, 1961 (“the Act”) for passing the said assessment orders was accorded in mechanical manner and without any independent application of mind.*
2. *Section 148B of the Act mandates that no order of assessment, reassessment, or recomputation shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year falling under clauses (i) to (vi) of Explanation 2 to Section 148, except with the prior approval of the specified higher authority. The relevant statutory provisions reads as under:*

“Prior approval for assessment, reassessment or recomputation in certain cases.

148B. No order of assessment or reassessment or recomputation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clauses (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner of Joint Director.”

3. *It is respectfully submitted that the requirement of prior approval under Section 1488 is not an empty formality, but a substantive statutory safeguard, intended to ensure that assessment orders particularly in search and reassessment cases carrying serious civil consequences are framed only after due, conscious, and independent application of mind by the approving authority.*

Facts Demonstrating Mechanical Approval

4. *In the present case, the approval under Section 148B of the Act was granted in a routine, perfunctory, and mechanical manner, as is evident from the following undisputed chronology:*

For AYs 2012-13 to 2020-21 and AY 2023-24

<i>Date</i>	<i>Particulars</i>
28.03.2023	<i>The AO made a single consolidated proposal seeking approval under Section 148B of the Act for AYs 2012-13 to 2020-21 and AY 2023-24. [The said proposal is placed at page 8 of the Paper Book.]</i>
	<i>Along with the proposals, the AO forwarded only the draft assessment orders and the assessment folders. Seized material and the appraisal report were not forwarded to the approving authority, as confirmed by the RTI reply dated 16.09.2025, placed at page 6 of the Paper Book (Sr. No. 3).</i>
29.03.2023	<i>On the same day, i.e., 29.03.2023, the AO passed the assessment order for AY 2021-22</i>
30.03.2023	<i>The consolidated proposal for AYs 2012-13 to 2020-21 and AY 2023-24 was received by the Additional Commissioner of Income Tax, Central Range-5, New Delhi.</i>
30.03.2023	<i>On the very same day, a consolidated approval under Section 1488 of the Act was granted for AYs 2012-13 to 2020-21 and AY 2023-24, again without examination of seized material and appraisal report. [Copy of the approval is enclosed at Page 10 of the Paper book].</i>
	<i>It is further pertinent to note that the approval so granted is demonstrably mechanical, as the approving authority failed to even notice that the AO had not granted credit for the additional income declared by the assessee in response to 148 return while framing the assessment for AYs 2019-20 to 2022-23. The approving authority did not examine this</i>

	<i>aspect at all while granting approval. In contrast, for certain other assessment years i.e., AYs 2012-13 to 2018-19, the AO had granted the benefit of additional income declared in the return filed pursuant to Section 148 proceedings, thereby highlighting inconsistency and lack of scrutiny at the approval stage.</i>
31.03.2023	<i>The AO passed the assessment orders for AYs 2012-13 to 2020-21 and AY 2023-24.</i>

For AY 2021-22

<i>Date</i>	<i>Particulars</i>
28.03.2023	<i>The AO made a separate proposal seeking approval under Section 148B of the Act for AY 2021-22. [Copy of the proposal was handed over to the Hon'ble Bench during the course of hearing.]</i>
	<i>Along with the proposals, the AO forwarded only the draft assessment orders and the assessment folders. Seized material and the appraisal report were not forwarded to the approving authority, as confirmed by the RTI reply dated 16.09.2025 placed at page 6 of the Paper Book (Sr. No.3).</i>
29.03.2023	<i>The proposal for AY 2021-22 was received by the Additional Commissioner of Income Tax, Central Range-5, New Delhi.</i>
29.03.2023	<i>On the very same day, approval under Section 148B of the Act for AY 2021-22 was granted without examination of seized materials and appraisal report. [Copy of the approval dated 29.03.2023 was handed over during the course of hearing.]</i>
	<i>It is further pertinent to note that the approval so granted is demonstrably mechanical, as the approving authority failed to even notice that the AO had not granted credit for the additional income declared by the assessee in response to 148 return while framing the assessment for AYS 2019-20 to 2022-23. The approving authority did not examine this aspect at all while granting approval. In contrast, for certain other assessment years i.e., AYs 2012-13 to 2018-19, the AO had granted the benefit of additional income declared in the return filed pursuant to Section 148 proceedings, thereby highlighting inconsistency and lack of scrutiny at the approval stage.</i>

Section 148B is Pari Materia with Section 153D

5. *It is respectfully submitted that Section 148B and Section 153D of the Act are pari materia, both embodying a statutory safeguard requiring prior approval by a higher authority before framing assessment orders. While Section 153D uses the expression "each assessment year" and Section 148B employs the phrase "an assessment year", the legislative intent in both provisions is identical-namely, that the approving authority must undertake a separate, independent, and year-specific application of mind. The difference in phraseology does not dilute the statutory mandate of individual examination for every assessment year. Consequently, the judicial principles governing mechanical or omnibus approvals under Section 153D squarely apply to approvals under Section 148B. Relevant extract of Section 153D of the Act is reproduced below for your reference.*

"153D. No order of assessment or reassessment shall be passed by an 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 the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner: Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner under sub-section (12) of section 144BA."

6. *It is also submitted that even on a plain grammatical and dictionary interpretation, the expressions "an assessment year" and "each assessment year" convey the same legal consequence in the present context. The word "an", being an indefinite article, denotes one out of many and is used distributively, signifying a singular and separate unit taken individually. As per standard dictionary usage, "an" refers to one, any one, or one by one, depending upon the context. Similarly, the word "each" is defined to mean every one of two or more persons or things, regarded and considered separately. Thus, both expressions emphasize individuality and separateness, rather than collectivity or aggregation.*
7. *Therefore, the use of the phrase "an assessment year" in Section 148B cannot be construed to permit a composite or omnibus approval for multiple years. On the contrary, it mandates that every assessment year must be independently examined and approved, just as is statutorily required under Section 153D. Any interpretation otherwise would render the safeguard illusory and defeat the very object of legislative control over reassessment proceedings.*
8. *In light of the above, it is respectfully submitted that the consolidated approval granted by the Additional Commissioner of Income Tax for AYs 2012-13 to 2020-21 and AY 2023-24 is illegal, invalid, and bad in law.*

Judicial Precedents against Consolidated/Mechanical Approval under Section 153D of the Act.

9 *In this regard, reliance is placed on the judgment of the Hon'ble Allahabad High Court in Principal Commissioner of Income Tax v. Siddharth Gupta [2023] 450 ITR 534 (All), wherein it was categorically held that the Assessing Officer is required to obtain separate and specific prior approval in respect of each assessment year, and that a common or consolidated approval does not satisfy the statutory mandate.*

10. *The Hon'ble Supreme Court has dismissed the Special Leave Petition filed by the Revenue against the said judgment in Principal Commissioner of Income Tax v. Siddharth Gupta, SLP (C) Diary No. 43280 of 2023, thereby lending finality to the legal position. The relevant extract of the judgment of the Hon'ble Allahabad High Court is reproduced below for ready reference:*

“.....

17. Section 153D requires that the Assessing Officer shall obtain prior approval of the Joint Commissioner in respect of "each assessment year" referred to in clause (b) of sub-section (1) of section 153A which provides for assessment in case of search under section 132. Section 153A(1)(a) requires that the assessee on a notice issued to him by the Assessing Officer would be required to furnish the return of income in respect of "each assessment year" falling within six assessment years (and for the relevant assessment year or years), referred to in clause (b) of sub-section (1) of section 153A. The proviso to section 153A further provides for assessment of the total income in respect of each assessment year falling within such six assessment years (and for the relevant assessment year or years).

18. 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 orders under section 153A.

.....”

11. *Reliance in this regard is also placed on the following case laws:*

- *ACIT vs. Serajuddin and Co. -SLP (C) Diary No. 44989 of 2023 (Supreme Court)*
- *ACIT, Circle-1(2), Bhubaneswar vs. M/s. Serajuddin & Co. Kolkata -[2023] 454 ITR 312 (Orissa High Court)*
- *Principal Commissioner of Income-tax v. Shiv Kumar Nayyar - [2024] 467 ITR 186 (Delhi High Court)*
- *Pr. Commissioner of Income Tax (Central)-2 v. Anuj Bansal -ITA 368/2023 (Delhi High Court)*
- *Shri Dheeraj Chaudhary v. Assistant Commissioner of Income Tax, CC 8 New Delhi (Third Member) - ITA Nos. 6158 to 6160/Del/2018 [ITAT Delhi]*

Judicial Precedents against Consolidated / Mechanical Approval under Section 148B of the Act

- 12 *Reliance is also placed on the decision of the Hon'ble Delhi Bench of the Tribunal in Manish Sharda v. ACIT, Central Circle [2025] 176 taxmann.com 250 (Delhi - Trib.), wherein the Tribunal examined the very validity of the impugned assessments and held that the combined approval granted by the prescribed authority under Section 148B of the Act for multiple assessment years was unsustainable in law. Relevant extract of the same is reproduced below for your reference:*

"3. It emerges during the course of hearing that there arises the first and foremost issue of validity of the impugned assessments itself as the learned prescribed authority herein had accorded its combined approval u/s 148B dated 09.06.2023 for six assessment years involving these three assessees, which has already been held as not sustainable going by Pr. CIT v. Shiv Kumar Nayyar [2024] 163 taxman.com 9 (Del), Pr. CIT v. MDLF Hotels (P.) Ltd. [2024] 166 taxmann.com 327 (Delhi) and ACIT v. Serajuddin and Co. [2024] 163 taxmann.com 118/299 Taxman 448 (SC).

4. That being the case, I adopt the judicial consistency to quash all these assessments framed on 24.05.2023 and 09.06.2023 in all these assessee's appeals pertaining to assessment years 2019-20, 2020-21 and 2021-22, respectively.

Failure to. Examine Seized Material and Appraisal Report

13. *It is further the case of the Appellant that while granting, approval under Section 1488 of the Act, the Additional Commissioner failed to examine the seized material and the appraisal report. It is respectfully submitted that the grant of approval under Section 148B is not a mere procedural formality, rather, the approving authority is statutorily obliged to examine all relevant records, including the seized material, appraisal report, and the draft assessment order, and to apply independent and conscious consideration to each material aspect before according approval. The failure to do so renders the approval mechanical and vitiates the assessment proceedings.*

14. *Reliance in this regard is placed on the following case laws,*

SEH Realtors Pvt. Ltd vs. ACIT, Central Circle-8, New Delhi - ITA No. 2503/D/2017 [ITAT Delhi

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

the Ld. AO to seek to place the draft assessment order together with copies of the seized documents before the Id. JCIT well in time much before the due date of completion of search assessment. The Id. ICIT is supposed to examine the seized documents, questionnaires raised by the Ld. AO on the assessee seeking explanation of contents in the seized documents, replies filed by the assessee in response to the questionnaires issued by the Ld. AO and the conclusions drawn by the Ld. AO vis-à-vis the said seized documents after considering the reply of the assessee. All these functions, as stated earlier, are to be performed by the Id. ICIT in a judicious way after due application of mind. In our considered opinion, if the arguments of the Ld. CIT DR are to be appreciated that the Id. (CIT need not apply his mind while granting approval of the draft assessment orders u/s 153D of the Act as it is not provided in section 153D of the Act, then it would make the entire approval proceedings contemplated u/s 153D of the Act ofiose. The law provides only the Ld. AO to frame the assessment, but, certain checks and balances are provided in the Act by conferring powers on the Id. JCIT to grant judicious approval u/s 153D of the Act to the draft assessment orders placed by the Ld. AO.

- **Shiv Kumar Nayyar vs. ACIT Central Circle-20 - ITA No. 1078/D/2021 (ITAT Delhi).**

8..... In order to ensure smooth implementation of the aforesaid provisions, in consonance with the true spirit of the scheme of the Act, it is the bounden duty of the Id. AO to seek to place the draft assessment order together with copies of the seized documents before the Id. Addl. CIT well in time much before the due date of completion of search assessment. The Id. Addl. CIT is supposed to examine the seized documents, questionnaires raised by the ld. AO on the assessee seeking explanation of contents in the seized documents, replies filed by the assessee in response to the questionnaires issued by the ld. AO and the conclusions drawn by the ld. AO vis à-vis the said seized documents after considering the reply of the assessee. All these functions, as stated earlier, are to be performed by the Id. Addl. CIT in a judicious way after due application of mind. Even though as vehemently argued by the ld. CIT-DR, the Addl.

- The decision of Shiv Kumar Nayyar vs. ACIT Central Circle-20 - ITA No. 1078/D/2021 was upheld by the Hon'ble Delhi High Court in the case of Principal Commissioner of Income-tax v. Shiv Kumar Nayyar - [2024] 467 ITR 186 (Delhi High Court).

15. In view of the above facts, statutory mandate, and settled judicial position, it is respectfully submitted that the approvals granted **under Section 148B of the Act for AYS 2013-14 to 2023-24** were accorded in a **mechanical, consolidated, and non-application-of-mind manner, without examination of seized material and appraisal report.** Consequently, the impugned assessment orders, having been passed pursuant to such invalid approvals, are void ab initio and liable to be quashed in limine.”

20. On the other hand, the Ld. CIT-DR submits that section 148 has been amended w.e.f. 01.04.2021 and is totally different from the erstwhile provisions of search assessment as contained in section 153A of the Act and therefore, it cannot be said that the approval in section 153D is *pari materia* with that provided in amended section 148B of the Act. Ld. CIT DR further submits that the AO has referred all the material and evidences relating to the assessment year under appeal and the Additional CIT has time and again discussed the progress of the assessments pending with the Assessing Officer and direct him time to time after going through the seized records and replies filed by the assessee. Ld. CIT DR submits that the Adl. CIT has closely monitored the assessment progress, and the Assessing Officer after due consultation with the Additional CIT passed the order and, therefore, it cannot be said that the approval granted is mechanical approval. She Prayed accordingly.

21. Heard both the parties and perused the materials available on record. In the instant case, the claim of the AR of the assessee is that the approval granted by the Addl. CIT u/s 144B of the Act is mechanical where the Addl. CIT(A) has not applied his mind before granting the approval and common approval was given for all the Assessment Years except Assessment Year 2021-22 where the AO sought approval in terms of letter dated 28.03.2023 received by the Office of Additional CIT on 30.03.2023 and the Addl. CIT on the very same day has approved the draft assessment orders. The relevant letters seeking approval by the AO and granting approvals by the Addl. CIT are reproduced as under:



Office of the Deputy Commissioner of Income Tax, Central Circle-20, Delhi
Room No.269A, ARA Centre, 2nd Floor, Jhandewalan Extn., New Delhi 110055

F.No. DCIT/CC-20/Assessment/2022-23/ 833

Date: 28-03-2023

To,

The Addl. Commissioner of Income-Tax,
Central Range-5, Delhi

Madam,

Sub: Request for approvals u/s 148B/119 of the Income Tax Act, 1961 for completion of Assessments u/s 148 for AYs 2012-13 to 2020-21 & 143(3) for AY 2022-23 of the Income Tax Act, 1961 in the case of M/s Proform Interiors Private Limited (PAN: AAHCS5999J) – Reg.

Kindly refer to the above cited subject.

2. In this connection, Draft Assessment Order in the following case, along with its assessment folder(s), is being put up for your kind perusal and necessary approval u/s 148B and 119 of the IT Act, 1961:

Sr. No.	Name of the Assessee	PAN	A.Y.	U/s	Returned Income	Assessed Income / Loss
1.	M/s Proform Interiors Private Limited	AAHCS5999J	2012-13	148	1,24,91,433	3,20,56,960
			2013-14	148	62,80,028	2,90,93,276
			2014-15	148	61,14,312	2,08,83,284
			2015-16	148	70,71,699	2,50,37,137
			2016-17	148	81,44,534	2,58,16,417
			2017-18	148	75,97,188	2,60,85,878
			2018-19	148	89,93,774	4,21,11,366
			2019-20	148	9,28,80,870	11,03,04,910
			2020-21	148	5,97,16,980	7,77,34,406
			2022-23	143(3)	18,96,60,770	20,40,04,369

Encl. Draft Order & Case File.

Yours faithfully,

Addl. Commissioner of Income Tax,
Central Range-5, New Delhi
30 MAR 2023

(ANSHUL)
Deputy Commissioner of Income-Tax,
Central Circle-20, Delhi.



सत्यमेव जयते
Office of the

Additional Commissioner of Income Tax,
Central Range-5, Room No-242, 2nd Floor
A.R.A. Centre, E-2, Jhandewalan Extn. New Delhi-110055

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F. No. Addl. CIT/C.R-5/2022-23/1370

Dated:-30.03.2023

To,

The DCIT
CC-20
New Delhi

Sub: Approval u/s 148B/119 of the Income Tax act, 1961 for completion of Assessment u/s 147/143(3) of the Income tax Act, 1961 in the case of M/s Proform Interiors Pvt. Ltd (PAN: AAHCS5999J) for A.Y.2012-13 to 2020-21 & 143(3) for the A.Y. 2022-23-reg.

Please refer to your letter F. No. DCIT/CC-20/Assessment/2022-23/833 dated 28.03.2023 whereby you have submitted draft assessment order, seeking approval for passing order u/s 147/143(3) of the Act, in the case of M/s Proform Interiors Pvt. Ltd (PAN: AAHCS5999J) for A.Y.2012-13 to 2020-21 & 143(3) for the A.Y. 2022-23.

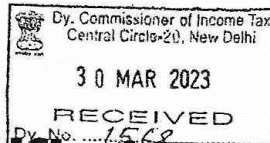
2. After perusing the draft assessment orders and case records submitted by you, approval is accorded as under:-

S.No	Name of Assessee	PAN	A.Y	U/S	Returned Income (U/s 139)	Assessed Income
1.	M/s Proform Interiors Pvt. Ltd	AAHCS5999J	2012-13	148	1,24,91,433/-	3,20,56,960/-
			2013-14	148	62,80,028/-	2,90,93,276/-
			2014-15	148	61,14,312/-	2,08,83,284/-
			2015-16	148	70,71,699/-	2,50,37,137/-
			2016-17	148	81,44,534/-	2,58,16,417/-
			2017-18	148	75,97,188/-	2,60,85,878/-
			2018-19	148	89,93,774/-	4,21,11,366/-
			2019-20	148	9,28,80,870/-	11,03,04,910/-
			2020-21	148	5,97,16,980/-	7,77,34,406/-
			2022-23	143(3)	18,96,60,770/-	20,40,04,369/-

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 be sent to this office for record. The assessment record in the above cases 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.




(Shivani Bansal)
Addl. Commissioner of Income Tax,
Central Range-5, New Delhi

22. It is further observed that the assessee under RTI Act, 2005 has requested the AO to supply the material which was sent by the Assessing Officer to the Addl. CIT alongwith the letter seeking approval u/s 148B of the Act. The AO in reply, vide

order u/s 7(1) of RTI Act, 2005 dated 16.09.2025 in column 2 stated, that “proposal letter was submitted along with assessment folders of the case. The assessment folders consist of the notices issued to the assessee and submissions received from the assessee in respect of the said notices. All these information is supposed to be already available with the assessee.

23. The copy of the relevant order as available in paper book page 6 is reproduced as under:


Office of the
Deputy Commissioner of Income Tax,
Central Circle-20, New Delhi.
Room No. 269A , ARA Centre, 3rd Floor, Jhandewalan Exten., New Delhi-110055
F.No. DCIT/CC-20/RTI/2025-26/522 Dated :- 16.09.2025

Name of Applicant	Tarun Chanana (Authorised Representative- M/s Proform Interiors Pvt. Ltd.)
Address of the Applicant	201, IInd Floor, Mercantile House, KG Marg, New Delhi-110001
Date of Receipt of Application	19.08.2005

Order under section 7(1) of the RTI Act, 2005

Sh. Tarun Chanana has sought below mentioned information under the Right to Information Act, 2005 vide RTI application dated 01.08.2025 which has been received in this office on 19.08.2025. The said application has been transferred to this office by ITO & Nodal Officer (RTI Cell) for Pr. CCIT(CCA), Delhi vide letter dated 06.08.2025

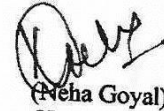
2. In this connection, the information sought by the applicant and point wise replies in respect to this office are being provided as under –:

S. No.	Information sought by the applicant	Reply
1.	Copy of the proposal sent by the Id. DCIT, Central Circle-20, Delhi to the Id. Addl. CIT, Central Range-05, New Delhi, seeking approval u/s 148B of the Act for AY 2012-13 to 2022-23	Copy of proposal is attached herewith
2.	Copy of all documents submitted along with the above-mentioned proposal letter.	Proposal letter was submitted along with the assessment folders of the case. The assessment folders consists of the notices issued to the assessee and the submissions received from the assessee in respect of the said notices. All these information is supposed to be already available with the assessee.
3.	Copy of dispatch register showing the dispatch date and time of the afore mentioned documents from the office of the Id. DCIT, Central Circle-20, Delhi	Copy of relevant page of dispatch register is attached herewith (Information related to third party is masked to protect their interest)
4.	Copy of receipt register showing the dispatch date and time of the afore mentioned documents from the office of the Id. DCIT, Central Circle-20, Delhi	Copy of relevant page of receipt register is attached herewith (Information related to third party is masked to protect their interest)
5.	Copy of approval letter received from the office of the Id. Addl. CIT, Central Range-5, New Delhi, granting approval for the assessment order passed in case of the captioned appellant for the AY 2012-13 to 2022-23.	Copy of approval granted by Addl. CIT, Central Range-5, Delhi is attached herewith.

6.	Kindly also inform how many cases were granted approval under Section 148B/153D by the Id. Addl. CIT, Central Range-05, New Delhi, on 29.03.2023 and 30.03.2023 or on the date of the aforementioned approval letter.	No such information is available with this office.
7.	Copy of the Assessment proceedings Order Sheet maintained by the Id. DCIT, Central Circle-20, Delhi for AY 2012-13 to 2022-23	Copies of order sheet for A.Y.s 2012-13 to 2022-23 is attached herewith.

3. In view of the above, the said application stands disposed off.

4. If the applicant is not satisfied with this order, he can file an appeal against this order before the 1st Appellate Authority i.e. the Addl. Commissioner of Income Tax, Central Range-5, New Delhi, Room No. 242, 2nd Floor, E-2, Jhandewalan Extn., A.R.A Centre, New Delhi-110055 as per the provisions of section 19 of the Right to Information Act, 2005, within 30 days from receipt of this order.



(Neha Goyal)
Deputy Commissioner of Income Tax
Central Circle-20, Delhi.
NEHA GOYAL

24. From the above, it could be seen that while seeking the approval from the approving authority i.e. Additional CIT, the Assessing Officer has sent only the assessment folders containing the notices and replies filed, however, not a single paper of the seized materials including the statements etc. recorded during the search/ post search inquires, were supplied to the Addl. CIT before seeking approval u/s 148B of the Act based on which additions were proposed in the draft assessment orders for various assessment years.

25. As observed above, the Addl. CIT while granting approval for various assessment years has not gone through the seized materials referred by the Assessing Officer for making the additions as established from the report submits under RTI Act by Assessing Officer reproduced hereinabove. Before going further, the amended provision of section 148 and 148B are reproduced as under:

[Issue of notice where income has escaped assessment.]

148. *Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:*

Provided *that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.*

Explanation 1.—*For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—*

- (i) *any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;*
- (ii) *any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.*

Explanation 2.—*For the purposes of this section, where,—*

- (i) *a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or*
- (ii) *a survey is conducted under section 133A, other than under sub-section (2A) or sub-section (5) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or*
- (iii) *the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under [section 132](#) or [section 132A](#) in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or*

- (iv) *the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under [section 132](#) or [section 132A](#) in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,*

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3.—*For the purposes of this section, specified authority means the specified authority referred to in [section 151](#).]*

“Prior approval for assessment, reassessment or recomputation in certain cases.

148B. No order of assessment or reassessment or recomputation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clauses (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner of Joint Director.”

26. As is evident, as per Explanation -2 of section 148, in case where a search or survey action is carried out u/s 132 of the Act, it is deemed that the AO has information that the income chargeable to tax has escaped assessment in the case of assessee for three assessment years immediately preceding the assessment year relevant to the previous year in which search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee. Accordingly, proceedings for various assessment years were initiated to reassess the income of the assessee by issue of notice u/s 148 after obtaining approval from the competent authorities. As per section 148B, a rider is imposed that before passing any order where the reassessment proceedings are initiated under clause (i) to (iv) of Explanation 2 of section 148, prior approval of Additional Commissioner of Income Tax should be obtained.

27. Under the old provisions related to the assessment in the case of search as provided in section 153A, where approval of draft assessment order was statutorily required u/s 153D of the Act. The erstwhile section 153D regarding approval of draft assessment order before completing the assessment reads as under:

Prior approval necessary for assessment in cases of search or requisition.

153D. No order of assessment or reassessment shall be passed by an 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 the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner:

28. From the perusal of the provisions as contained in Section 153D and 148B, we find that both sections 148B and 153D are *pari-materia*. The intent of both the provisions is to protect the interest of assessee so that the concluded assessments are not reopened and concludes on mere possession of “information” found in search. Thus due application of mind while giving approval be it in erstwhile section 153D of the Act or under new section 148B of the Act only concludes the assessment. It is the penultimate step of assessment which cannot be mere formality. The Coordinate Bench of Tribunal Chandigarh in the case of ***Homelife Buildcon (P.) Ltd. v. DCIT*** reported in **[2025] 176 taxmann.com 614 (Chandigarh - Trib.)** had an occasion to compare the provisions of both section and after comparison, the Coordinate Bench has observed as under:

29. *Furthermore, there exists a mandatory statutory requirement that in all cases involving search-related assessments falling within the assessment year, immediately preceding the year of the search, the prior approval of the Joint Commissioner is required under section 148B of the Income-tax Act, 1961. In the present case, the Assessing Officer (AO) has proceeded without obtaining such approval, which is a clear violation of the procedural safeguards envisaged under the law and, as such, vitiates the assessment proceedings. In the present case, approval has been granted for assessment framed u/s 143(3) only.*

The relevant provision of section 148B reads as under:

Prior approval for assessment, reassessment or recompilation in certain cases.

148B. No order of assessment or reassessment or recompilation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.

30. *A comparison of the requirement of approval under section 153D and section 148B is drawn, from which it is evident that approval under section 153D was earlier required only in cases where assessments were completed under section 153A/153C and also for search year. However, under the amended provisions, approval under section 148B is now required in all cases where proceedings are initiated pursuant to a search, requisition, or survey, or where asset/material/documents found during such search pertain to or relate to another person. In such cases, the Assessing Officer must take the approval under section 148B from the specified higher authority.*

Aspect	Section 153D	Section 148B (with Explanation 2 to Section 148)
<i>Applicable Period</i>	<i>Search initiated between 01.06.2003 to 31.03.2021</i>	<i>Search/survey initiated on or after 01.04.2021 but before 01.09.24</i>
<i>Context</i>	<i>Search assessment under Section 153A/153C</i>	<i>All cases where assessment / reassessment is based in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148</i>
<i>Triggering Event</i>	<i>Search or requisition on the assessee under Sections 132/132A or material is used against assessee from third party search</i>	<i>1. Search/requisition on assessee 2. Survey (except under 133A(2A) on assessee 3. Search/requisition on another person, but assets / documents relate to assessee</i>
<i>Purpose of Approval</i>	<i>Supervisory check in search assessments to ensure fairness and oversight</i>	<i>Prevent misuse of powers in reassessment based on search/survey-related information under new regime</i>
<i>Who Gives Approval</i>	<i>Joint Commissioner (mandatory)</i>	<i>Any of: Joint Commissioner / Addl. Commissioner / Joint Director / Addl. Director</i>
<i>Aspect</i>	<i>Section 153D</i>	<i>Section 148B (with Explanation 2 to Section 148)</i>
<i>Deeming Presumption</i>	<i>Not expressly stated</i>	<i>Explanation 2 creates a legal presumption: AO is deemed to have information suggesting income has escaped assessment in specified cases</i>

31. *This requirement has also been explicitly discussed in the Explanatory Memorandum to the Finance Bill, 2022, which emphasizes the need to protect taxpayer rights by ensuring that no reassessment is carried out without proper sanction and due process. It is further seen that the Joint Commissioner has not even been supplied seized material relied upon as seized from third-party in the present assessment. There exists a prescribed procedure under which such seized material (including material found from third-party premises) is to be forwarded to the approving authority at least 30 days in advance of granting approval. This procedural safeguard is crucial to prevent arbitrary and unregulated use of third-party material.*
32. *In the present case, there is no evidence to demonstrate that the prescribed procedure was followed, or that the Joint Commissioner was apprised of the seized material by forwarding copies of the documents found from the third party prior to framing the assessment. The complete failure to comply with the mandatory provisions of section 148B renders the reassessment not only procedurally defective but also without jurisdiction.*
33. *Even we find while framing the assessment under section 143(3), the Assessing Officer (AO) has, on the last page of the assessment order, referred to an approval obtained from the supervisory authority. However, a bare perusal of this approval shows that it was obtained in reference to F. No.299/36/2020/IDAR/INV3(3)/577 dated 15.07.2022, i.e., in accordance with the CBDT Circular dated 15th July 2022, and not under the mandatory provisions of section 148B of the Income tax Act, 1961. **At the outset, it is important to note that the approval so obtained does not mention or consider any of the seized materials sourced from the third-party.** searches conducted on Sh. Ajay Kumar Prabhakar and Sh. Ravi Kapoor, despite the AO having heavily. relied on those materials in framing the additions. **The approval merely states that the appraisal report was considered, without any reference to the original documents seized or to the statutory procedure outlined under section 148B. It is pertinent to refer to the Manual of Office Procedure in February 2003, which lays down a mandatory protocol: that in all search cases, especially where material pertains to persons other than the one searched, such material is to be forwarded in original to the approving authority, and a draft order is required to be submitted for approval at least 30 days in advance.** In the present case, the approval letter was issued by the DCIT only on 22nd August 2023, which clearly contravenes this procedural requirement. This procedural lapse is further compounded by the judgment of the Hon'ble Supreme Court in ACIT v. Serajuddin and Co. [2024] 163 taxmann.com 118/299 Taxman 448 (SC), wherein it was held that in search cases, strict adherence to the approval protocol as laid down in the departmental Manual of Office Procedure in February 2003 and law is essential to uphold the validity of the assessment.*
34. *Thus, from the above, it is quite evident from the approval granted by the Addl. CIT(Central), there is no mention or consideration of the seized material sourced from the third party, namely Sh. Ajay Prabhakar and Sh. Ravi Kapoor, though, we*

find that in the assessment order and in the order of CIT(A), both the authorities have heavily relied upon on such seized material and it only states that the appraisal report have been considered without any reference to any original documents seized for statutory procedure outlined u/s 148. Thus, in view of above, the assessment as framed by Assessing Officer vide order dated 24.08.2023 is quashed.

29. In case of Homelife Buildcon (P.) Ltd. (supra), the co-ordinate bench of Chandigarh Tribunal made a detailed comparison of both the sections i.e. newly inserted section 148B and erstwhile section 153D and drawn the conclusion that section 153D is *pari- materia* to section 148B of the Act after comparing the provisions as well as explanatory notice explaining the insertion of section 148B in the statute. Thus, by respectfully following the aforesaid judgement in the case of *Homelife Buidcon (supra)* we are of the view that sections 153D and 148B of the Act are *pari materia*.

30. Once it is established that both the sections 153D and 148B are *pari materia* to each other, the issue comes for consideration of the validity of approval granted by Addl. CIT whether it is mechanical or granted after independent application of mind. In the present case, as could be seen from the letters issued by the Assessing Officer to the Addl. CIT dated 28.03.2023, reached to the office of the Additional CIT on 30.03.2023 and the approval granted on draft assessment order on the very same date, it is observed that Addl. CIT has granted the approval on the same day when he received draft assessment orders and assessment records containing notices issued and submissions filed by the assessee. Here it is relevant to state that no copy of the seized material based on which additions proposed by the Assessing Officer in the draft assessment order were sent to the Addl. CIT along with records which is a fact on record. Further since that the additional CIT has granted approval for more than 10 assessment years on the same day it appears that before granting the approval, he has not even gone through each individual case file containing notices

and replies filed by assessee. This clearly shows that Additional Commissioner has granted the approval u/s 148B of the Act without having independent application of mind and granted the approval in mechanical manner.

31. The coordinate bench of ITAT, Chandigarh in the case of ***M/s Malbros International Pvt. Ltd. Versus DCIT Central Circle-2 Ludhiana reported in 2026 (1) TMI 983 - ITAT Chd.*** has dealt the issue of validity of approval granted u/s 148B of the Act wherein the bench by following its earlier decision in the case of Homelife Buildcon (supra) has held the approval u/s 148B as invalid. The relevant observations of the bench are reproduced as under:

“9.

The coordinate bench, on identical facts, held that Ld. AO proceeded to frame the assessment u/s 143(3) despite relying heavily on material found during searches conducted on third-parties. The AO, instead of complying with the jurisdictional preconditions laid down under the reassessment provisions, proceeded without recording the mandatory satisfaction and without obtaining prior sanction from the competent authority. The said conduct not only violates the express mandate of law but also renders the assessment jurisdictionally erroneous. A plain reading of the Finance Act, 2021 coupled with Explanatory Memorandum to the Finance Bill clearly indicate that the legislative intent was to bring all searches conducted on or after 01-04-2021 within the ambit of the new reassessment regime u/s 147 of the Income-tax Act, 1961. This new regime was introduced through significant amendments to Sec.147 and Sec.148, along with the insertion of Explanations-1 and 2 and the concept of "information suggesting escapement of income" was explicitly defined. From the reading of Explanation-2 to Section 147, it would be evident that in cases where a search is initiated on or after 01-04-2021, AO shall be deemed to have information, which suggests that income chargeable to tax has escaped assessment for three assessment years immediately preceding the assessment year relevant to the previous year, in which, the search is initiated, provided that books of account, documents, assets, bullion, jewellery, or other valuable articles are seized or requisitioned in the course of the search. This deeming provision is not limited only to the person searched, but also extends to "other persons", provided that due procedure under the law specifically, the recording of satisfaction that such seized material belongs to the assessee and obtaining prior approval from the PCIT is followed otherwise the assessment would be bad-in-law. It was further observed by the bench that AO relied upon material seized during searches conducted on other persons and therefore, it was mandatory for Ld. AO to invoke the provisions of Sec.147 and not to bypass the statutory framework by proceeding u/s 143(3). Granting such unfettered powers to

the AO to rely on third-party material without adhering to the safeguards u/s 147 would defeat the very purpose of the amendment and open the floodgates to arbitrary assessments. It was further observed by the bench that assessment u/s 143(3) was initiated solely for the purpose of verifying the return of income as filed by the assessee. In such circumstances, the importing and reliance upon material seized from third-party searches would go beyond the jurisdiction conferred u/s 143(3) particularly, where the applicable law i.e., Explanation-2 to section 148 (as amended by the Finance Act, 2021) mandates prior approval from the Principal Commissioner of Income Tax (PCIT) before initiating reassessment proceedings on the basis of such material. The failure to comply with such requirement would render the assessment legally untenable. The Ld. AO did not issue a notice u/s 148 nor did he followed the due process of law under the new reassessment framework, including recording of satisfaction and obtaining prior sanction from the PCIT. Therefore, the assessment framed u/s 143(3), because of being based on third-party material without adhering to statutory safeguards, would be bad-in-law. The AO was only empowered to verify the return of income and restrict his scope of inquiry accordingly and he was not permitted to expand the assessment by importing and relying upon third-party seized material without following the mandatory procedure laid down under the law. It was mandatory statutory requirement that in all cases involving search-related assessments falling within three assessment year, immediately preceding the year of the search, the prior approval of the Joint Commissioner u/s 148B would be required. However, Ld. AO proceeded without obtaining such approval which is a clear violation of the procedural safeguards envisaged under the law which would vitiate entire assessment proceedings. In the present case, approval was taken to frame assessment u/s 143(3) only. As against this, the provisions of Sec.148B mandate prior approval of specified authority. These provisions provide that no order of assessment or reassessment or recomputation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation-2 to Sec.148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director. The bench further observed that under the amended provisions, approval u/s 148B would be required in all cases where proceedings were initiated pursuant to a search, requisition, or survey, or where asset / material / documents found during such search pertain to or relate to another person. In such cases, the Assessing Officer must take the approval u/s 148B from the specified higher authority. This requirement was explicitly discussed in the Explanatory Memorandum to the Finance Bill, 2022, which emphasizes the need to protect taxpayer rights by ensuring that no reassessment is carried out without proper sanction and due process. The Joint Commissioner was not even supplied with seized material as relied upon by Ld. AO. There exists a prescribed procedure under which such seized material (including material found from third-party premises) is to be forwarded to the approving authority at least 30 days in advance of granting approval. This procedural safeguard is crucial to prevent arbitrary and unregulated use of third-party material. There was no evidence to demonstrate that

the prescribed procedure was followed, or that the Joint Commissioner was apprised of the seized material by forwarding copies of the documents found from the third party prior to framing the assessment. The complete failure to comply with the mandatory provisions of section 148B renders the reassessment not only procedurally defective but also without jurisdiction. The bench further observed that while framing the assessment u/s 143(3), the AO has, on the last page of the assessment order, referred to an approval obtained from the supervisory authority. However, this approval was obtained in reference to F.No. 299/36/2020/1DAR/INV3(3)/577 dated 15-07-2022, i.e., in accordance with the CBDT Circular dated 15-07-2022 and not under the mandatory provisions of section 148B of the Income-tax Act, 1961. It was to be noted that the said approval did not mention or consider any of the seized materials sourced from the third party despite the fact that AO heavily relied upon that material while making the additions. The approval merely states that the appraisal report was considered, without any reference to the original documents seized or to the statutory procedure outlined under section 148B. Pertinently, the manual of office procedure issued in February 2003 lays down a mandatory protocol that in all search cases especially where material pertains to persons other than the one searched, such material is to be forwarded in original to the approving authority and a draft order is required to be submitted for approval at least 30 days in advance. In the present case, the approval letter was issued by the DCIT only on 22-08-2023 which clearly contravenes this procedural requirement. This procedural lapse is further compounded by the judgment of the Hon'ble Supreme Court in Serajuddin and Co. case (163 Taxmann.com 118) wherein it was held that in search cases, strict adherence to the approval protocol as laid down in the departmental Manual of Office Procedure in February 2003 and law is essential to uphold the validity of the assessment. It was quite evident from the approval as granted by Ld. Addl. CIT that there was no mention or consideration of the seized material sourced from the third party though both the lower authorities heavily relied upon such seized material. The approval merely states that the appraisal report has been considered but without any reference to any documents seized from third parties. Finally, on the given facts, the bench quashed the assessment order. We find that similar facts exist in the present appeal before us. No change in facts could be demonstrated by revenue.

10. *We further find that the above decision has subsequently been followed and a similar view has been taken by another co-ordinate bench in Jamna Dass Nilkamal Jain Saraf Private Ltd. (ITA No.403/Chd/2025 & ors.). Faced with similar facts / situation, the bench observed that the impugned AY being one of the three preceding years would fall under Explanation 2(iv) to Sec.148. The Explanation provide that if a search is initiated then the AO shall be deemed to have information suggesting escapement of income for the three AYs immediately preceding the AY relevant to the previous year in which the search is initiated. Therefore, the only permissible statutory course was to issue notice u/s 148 and obtain prior approval u/s 148B before passing assessment order. Since the AO completed the assessment u/s 143(3) without issuing the notice u/s 148 the assessment*

proceedings so initiated could not be validly continued and completed after a search u/s 132 has been conducted in the case of an assessee without following the required procedure of Sec.148, Explanation-2. Though the provisions of Sec. 143 provide the general framework for regular assessment, the provisions of Sec. 147 & 148 (post-2021 regime) deal with reassessment based on information suggesting escapement of income including that unearthed during a search. A plain reading of Sec.143(2) would show that such a notice could be issued only when a return of income was furnished u/s 139 or in response to notice u/s 142(1). It empowers the AO to scrutinize that return if he considers that income has been understated or tax was underpaid. However, when a search u/s 132 takes place and materials are found indicating possible escapement of income, the statute envisages a different route for carrying out assessment or reassessment u/s 147 r.w.s. 148 which is special mechanism for bringing to tax the income discovered in consequence of a search. Although Sec.148 (inserted w.e.f. 01.04.2021) does not begin with a non-obstante clause similar to the erstwhile section 153A, its context and Explanation-2 makes it clear that where a search is initiated, the jurisdiction thereafter must flow through this special channel, subject to prior satisfaction and approval of the Principal Commissioner or Commissioner. The legislative intent is to ensure that when a search is carried out, the assessment is framed under the specific provisions meant for such cases and not under the general provision of Sec.143(3). This position finds substantial support from the ratio of various decisions of Hon'ble High Court and Hon'ble Supreme Court unanimously holding that once a search was conducted and proceedings were triggered u/s 153A, the AO could not continue parallel proceedings u/s 143(3) or u/s 147 for the same AY since the entire assessment for that year stands merged in the search assessment. The Courts emphasized that the existence of a special procedure for assessment consequent to a search is a complete code in itself and therefore, ordinary assessments abate and could not co-exist with the search-based assessment. Therefore, AO must act u/s 148 (which now performs the role formerly assigned to Sec. 153A) rather than continuing with a pending Sec.143(3) proceeding. The legislative intent was to prevent multiplicity of proceedings and ensure that only one comprehensive order is passed, factoring in both the pre-search and post search materials. This rationale is further reinforced by the well-settled principle of generalia specialibus non derogant i.e., the special provision overrides the general provisions of the Act. Therefore, the special provisions of Sec.148 must prevail over general provisions of Sec.143. Allowing the AO to continue and conclude proceedings u/s 143(3) after a search would defeat this legislative scheme and render the safeguards, such as prior approval of the specified authority, redundant. The bench also observed that the statutory approval was sought by Ld. AO on 31- 03-2024 and the same was granted by Addl. CIT on the same date on which the draft assessment order was forwarded by AO. The revenue could not demonstrate that the voluminous seized material was actually forwarded to the approving authority, nor was it shown that the Ld. Addl. CIT made any independent examination thereof. It was difficult to comprehend that a meaningful consideration of such voluminous material in a single day had taken place. The grant of approval was not an empty formality as it would have the trapping of a quasi-judicial function by the competent authority.

The approval authority is bound to apply its mind, which reflects the application of its mind and the documents submitted to it. The record shows that there was a tiring hurry for granting the approval without looking into the contents of the underlying documents and placing on record the replies, if any, received in the office and the queries raised by the Addl. CIT. The bench then referred to the decision of Tribunal in the case of AB Alcobev Pvt. Ltd. (ITA Nos. 356/Chd/2024 & ors.) and the decision in Pushpanjali Construction Pvt. Ltd. (ITA No.1001/Del/2025) wherein it was held that approval granted in a mechanical manner without application of mind renders the assessment order invalid. Once the statutory approval suffers from non-application of mind, the consequential assessment cannot survive in the eyes of law. On these facts, the assessment order was held to be without jurisdiction and the assessment order was held to be passed without taking the approval from the competent authority as envisaged under the Act. The approval was mechanical one and was not in accordance with law. Finally, the assessment order was quashed on legal grounds. We find that the above said legal propositions squarely apply to the facts of the present case before us.

32. Similar view is expressed by the coordinate bench of Lucknow Tribunal in the case ***Rakesh Kumar Pandey Vs.rsus A.C.I.T., Central Circle-2, Lucknow*** reported in ***2025 (12) TMI 1645 - ITAT Lucknow***. The Chandigarh bench of Tribunal in the case of ***Rosha Alloys P Limited Vs. DCIT Central Circle I, Ludhiana*** reported in ***127 ITR (Trib.) 76*** also expressed the same view and quashed the assessment order passed u/s 147 based on invalid approval u/s 148B of the Act. The SMC Bench of the Delhi Tribunal in the case of ***Manish Sharda*** (supra) has held that the approval granted u/s 148B of the Act as invalid as the same was granted in mechanical manner.

33. The Hon'ble Orissa High Court in the case of ***Asst. CIT v. Serajuddin and Co. [2023 SCC OnLine Ori 992]*** in Paragraph 22 observed 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]

34. It is relevant to mention that Special Leave Petition preferred by the Revenue against the aforesaid decision of Serajuddin and Co. (supra), stood dismissed by the Hon'ble Supreme Court vide order dated 28.11.2023 in SLP (C) Diary no. 44989/2023.

35. A similar view was taken by the hon'ble Delhi High 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.

36. Recently the hon'ble **Third member** in the case of ***Dheeraj Chaudhary Vs. ACIT in ITA Nos. 6158 to 6160/Del/2018*** after considering all the judgements relied upon by the Id. 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 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.

37. Further with respect to argument of the Revenue that Addl. CIT and AO had worked together in consultation with each other on regular basis and after seeking directions from the Addl. CIT from time to time, AO passed the assessment order. We find that working of AO under close supervision and directions of Adl. CIT

tantamount to interference in the independence of the AO and assessment proceeding. The Hon'ble Punjab and Haryana High Court in the case of ***FinDoc Finvest Private Ltd Vs. DCIT*** reported in ***172 Taxmann.com 773 (P&H HC)*** made certain observations which are very relevant on the issue of independence of the AO, the same are reproduced herein below:-

"20. As regards Section 119 of the Act as noticed above, we find that while Section 119(1) of the Act, restrains the Board from issuing any instructions to subordinate authorities, which may lay down instructions of such a nature requiring the Income Tax Authorities to make particular assessment in a particular manner or to interfere with the discretion of the Joint Commissioner and Commissioner (Appeals) while exercising their appellate function. However, the Board would be within its powers to instruct and lay down guidelines for efficient management of assessment work and collection of revenue or issue guidelines/principles/procedure which are to be followed by Income Tax Authorities for work relating to assessment. The Circular dated 15.07.2022, issued by the CBDT relied upon by the respondents directs the Assessing Officer to seek approval of the assessment made by him under Section 143 or 144 of the Act from the Joint Commissioner. The Circular dated 15.07.2022, cannot be objected to and comes within the ambit of powers available to the CBDT as above.

21. Although, the approval can be taken from the Joint Commissioner of the assessment order, the question arises that while examining the return and conducting assessment, can the Assessing Officer seek guidance or discuss the case with the Joint Commissioner and whether his consultation with the Joint Commissioner would amount to abdication of his powers. In *Anirudhsinhji Karansinhji Jadeja case (supra)*, the Hon'ble Supreme Court was examining the issue relating to the powers vested with DSP by Section 20-A of the Terrorist and Disruptive Activities (Prevention) Act, 1987 and has observed as under:-

"11. The case against the appellants originally was registered on 19th March, 1995 under the Arms Act. The DSP did not give any prior approval on his own to record any information about the commission of an offence under TADA. On the contrary, he made a report to the Additional Chief Secretary and asked for permission to proceed under TADA. Why? was it because he was reluctant to exercise jurisdiction vested in him by the provision of Section 20A (1)? This is a case of power conferred upon one authority being really exercised by another. If a statutory authority has been vested with jurisdiction, he has to exercise it according to its own discretion. If the discretion is exercised under the direction or in compliance with some higher authority's instruction, then it will be a case of failure to exercise discretion altogether. In other words, the discretion vested in the DSP in this case by Section 20A (1) was not exercised by the DSP at all.

12. *Reference may be made in this connection to Commissioner of Police v. Gordhandas Bhanji, 1952 SCR 135, in which the action of Commissioner of Police in cancelling the permission granted to the respondent for construction of cinema in Greater Bombay at the behest of the State Government was not upheld, as the concerned rules had conferred this power on the Commissioner, because of which it was stated that the Commissioner was bound to bear his own independent and unfettered judgment and decide the matter for himself, instead of forwarding an order which another authority had purported to pass.*
13. *It has been stated by Wade and Forsyth in 'Administrative Law', 7th Edition at pages 358 and 359 under the heading 'SURRENDER, ABDICATION, DICTATION' and sub- heading "Power in the wrong hands" as below:-*

"Closely akin to delegation, and scarcely distinguishable from it in some cases, is any arrangement by which a power conferred upon one authority is in substance exercised by another. The proper authority may share its power with someone else, or may allow some one else to dictate to it by declining to act without their consent or by submitting to their wishes or instructions. The effect then is that the discretion conferred by parliament is exercised, at least in part, by the wrong authority, and the resulting decision is ultra vires and void. So strict are the courts in applying this principle that they condemn some administrative arrangements which must seem quite natural and proper to those who make them.....".

"Ministers and their departments have several times fallen foul of the same rule, no doubt equally to their surprise....".

14. *The present was thus a clear case of exercise of power on the basis of external dictation. That the dictation came on the prayer of the DSP will not make any difference to the principle. The DSP did not exercise the jurisdiction vested in him by the statute and did not grant approval to the recording of information under TADA in exercise of his discretion."*
22. *In SPL Siddhartha Ltd. case (supra), it was held that the procedure laid down under the Income Tax Act, has to be strictly followed. Thus, principally the law is settled as held in Nazir Ahmed v. King Emproer 1936 (BC) 253 (2), applying the principle of 'taylor v. taylor' Ch.D (431), that 'where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden, applied to Judicial Officers making a record under Section 164.'. Thus, as held in CIT v. Anjum M.H.Ghaswala 119 Taxman 352/252 ITR 1 (SC), by the Constitutional Bench that 'it is a normal rule of construction that when a statue vests certain powers in a*

authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. If that be so, since the Commission cannot exercise the power of relaxation found in Section 119(2) (a) in the manner provided therein it cannot invoke that power under Section 119(2)(a) to exercise the same in its judicial proceedings by following a procedure contrary to that provided in sub-section (2) of Section 119."

23. **Section 116 of the Act, defines the Income Tax Authorities as different and distinct authorities. Such different and distinct authorities have to exercise its powers in accordance with law in specified circumstances. Thus, the Assessing Officer would have to exercise its own discretion to reach a conclusion and would not be influenced by any other officer. In view thereto, we find force in the contention raised by the learned senior counsel for the petitioner that the concerned Assessing Officer was influenced by the consultation and discussion with his superior officers. In fact the order passed by the Assessing Officer appears to have been already prepared even before the reply was received as the consultations have been conducted on 26.10.2023, 11.01.2024 and 14.03.2024 by the Assessing Officer as mentioned by him in the order itself. Again after the reply was received and the order was passed by the Assessing Officer, the same has been approved by the Joint Commissioner. As such, we find that the Joint Commissioner has in fact comprehensively and actively participated in the making of the assessment order while his role was only limited to the approval of the assessment order in terms of the CBDT Circular. Thus, we find the order to be vitiated in law.**
24. *In view of the above, the assessment order cannot be result of an independent application of mind and exercise of discretionary power by the Assessing Officer in terms of Section 143(3) of the Act and but is an order passed under the influence and directions of the superior officers. **It is to be noticed that the consultation with a superior officer would be akin to directions of the superior. There is no room available for discretion where consultation is sought from a superior officer while if a superior officer consults his subordinates, the discretion continues to stay with him. He may choose not to follow the advice of his subordinate but the opposite would be untrue. We are, thus, of firm view that the order has been passed whereby the Assessing Officer has abdicated his authority and, therefore, the order has become vitiated in law.***

38. We find that the Hon'ble Punjab and Haryana High Court in the aforesaid case had held that where AO was influenced by consultation and discussion with his superior officer, the said order was to be set aside as it was passed under influence and direction from superior officers. Similar view is taken by the coordinate bench of Delhi Tribunal in the case of Shiv Kumar Nayyar Vs. ACIT, wherein the observations with regard to independence of the AO for framing of search

assessment and the ld. Addl. CIT, Central Range thereon is discussed, which is reproduced below: -

"7. *Per contra, the ld. DR vehemently argued that the role of Addl. CIT, Central Range is totally different from the role of an Addl. CIT in the normal range. She argued that in a Central Range, the ld. Addl. CIT is involved in the search assessment proceedings right from the time of receipt of appraisal report from the Investigation Wing and is involved with the ld. AO from time to time while issuing various questionnaires to the assessee. The ld. Addl. CIT in Central Range also examine the seized documents in detail immediately after receipt of the appraisal report and provides able assistance to the ld. AO about the interpretation of the said seized documents while issuing questionnaires to assessee, examining the replies filed by the assessee and drawing conclusions thereon. Hence, it is very easy for the ld. Addl. CIT to grant approval of the draft assessment order on the same day since he is involved with the assessment proceedings right from the inception. Accordingly, she argued that the objection raised by the ld. AR has no force.*

8. *We find, as per the scheme of the Act, for framing search assessments, the ld. AO can pass the search assessment order u/s 153A or u/s 153C of the Act only after obtaining prior approval of the draft assessment order and the conclusions reached thereon from the ld. Addl. CIT in terms of section 153D of the Act. This is a mandatory requirement of law. The said approval granting proceedings by the ld. Addl. CIT is a quasi judicial proceeding requiring application of mind by the ld. Addl. CIT judiciously. In order to ensure smooth implementation of the aforesaid provisions, in consonance with the true spirit of the scheme of the Act, it is the bounden duty of the ld. AO to seek to place the draft assessment order together with copies of the seized documents before the ld. Addl. CIT well in time much before the due date of completion of search assessment. The ld. Addl. CIT is supposed to examine the seized documents, questionnaires raised by the ld. AO on the assessee seeking explanation of contents in the seized documents, replies filed by the assessee in response to the questionnaires issued by the ld. AO and the conclusions drawn by the ld. AO visà-vis the said seized documents after considering the reply of the assessee. All these functions, as stated earlier, are to be performed by the ld. Addl. CIT in a judicious way after due application of mind. Even though as vehemently argued by the ld. CIT-DR, the Addl. CIT is involved with the search assessment proceedings right from the time of receipt of appraisal report from the Investigation Wing, still, the ld. Addl. CIT, while granting the approval u/s 153D has to independently apply his mind dehors the conclusions drawn either by the Investigation Wing in the appraisal report or by the ld. AO in the draft assessment order. The copy of the appraisal report submitted by the Investigation Wing to the ld. AO and ld. Addl. CIT are merely guidance to the ld. AO and are purely internal correspondences on which the assessee does not have any access. The scheme of the Act mandates due application of mind by the ld. AO to examine the seized documents independently dehors the appraisal report of the Investigation Wing and seek explanation/clarifications from the assessee on the contents of the seized documents. When the scheme of the Act provides for a leeway to both the ld.*

AO as well as the ld. Addl. CIT to even ignore the conclusions drawn in the appraisal report by the Investigation Wing and take a different stand in the assessment proceedings, the fact of ld. Addl. CIT getting involved in the search assessment proceedings right from the receipt of copy of appraisal report, as argued by the ld. DR, has no substance. In other words, irrespective of the conclusions drawn in the appraisal report by the Investigation Wing, both the ld. AO and the ld. Addl. CIT are supposed to independently apply their mind in a judicious way before drawing any conclusions on the contents of the seized documents while framing the search assessments. The law provides only the ld. AO to frame the assessment, but, certain checks and balances are provided in the Act by conferring powers on the ld. Addl. CIT to grant judicious approval u/s 153D of the Act to the draft assessment orders placed by the ld. AO."

39. Besides confirming the aforesaid finding of the Tribunal, the Hon'ble Jurisdictional High Court in the case of **Shiv Kumar Nayyar** (supra) further held that 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.

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."*

40. It is observed that the hon'ble jurisdictional high 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 07 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.

41. In view of the above facts and by respectfully following the judgments of Hon'ble Supreme Court, Hon'ble Delhi High Court and other Hon'ble high court as referred herein above, and further in the case of Co-ordinate Benches of Tribunal, we are of the considered opinion that the approval u/s 153D and 148B of the Act are *pari materia* and in the present case, the approval is granted by Adl. CIT without independent application of mind and without even referring to the seized material based on which additions were proposed in the draft assessment order and thus is invalid approval and consequent final assessment orders passed based on such invalid approval are hereby quashed. Accordingly, we allowed the respective grounds of appeal in all the assessment years and quashed the assessment orders passed based on invalid approval u/s 148B of the Act.

42. In the result, all the appeals for Assessment Years 2013-14 to 2022-23 in ITA Nos. 2708/Del/2025 to 2713/Del/2025, ITA 4008/Del/2025 and ITA No.2714 to 2717/Del/2025 are allowed.

43. Since, we have allowed the legal ground taken by the assessee in its appeal for Assessment Year 2018-19 in ITA No.2713/Del/2025 by (Assessee), ITA No.4008/Del/2025 by (Department) become infructuous and dismissed.

44. In the final result, all the appeals filed by the assessee are allowed and all the appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on 04.02.2026.

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Date: - 04.02.2026

PK, Sr. P.S

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Copy forwarded to:

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2. Respondent
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4. CIT(Appeals)
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