आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 1043/Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2022-23

The DCIT Central Circle-3, Ludhiana	बनाम	Mani Ram Balwant Rai HUF Civil Lines, Opp- Session Court (Old) Ludhiana
स्थायी लेखा सं./PAN NO: AAGHM1535C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Cross Objection No. 44/Chd/2024
In
(आयकर अपील सं. / ITA No. 1043/Chd/ 2024)
(निर्धारण वर्ष / Assessment Year : 2022-23)

Mani Ram Balwant Rai HUF Civil Lines, Opp- Session Court (Old) Ludhiana	बनाम	The DCIT Central Circle-3, Ludhiana
स्थायी लेखा सं./PAN NO: AAGHM1535C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Pankaj Bhalla, C.A
राजस्व की ओर से/ Revenue by : Smt. Geetinder Mann, CIT DR

सुनवाई की तारीख/Date of Hearing : 14/01/2026
उदघोषणा की तारीख/Date of Pronouncement : 09/02/2026

आदेश/Order

PER LALIET KUMAR, J.M:

The present appeal has been filed by the Revenue against the order of the Ld. CIT (Appeals)-5, dt. 19/07/2024 for the assessment year 2022-23. The assessee has filed a cross-objection arising out of the said appeal. Since the appeal and the Cross Objection arise out of the same order and involve common issues, both were heard together and are being disposed of by this consolidated order.

2. Briefly the facts of the case are that a search and seizure operation under section 132(1) of the Income-tax Act, 1961 was carried out in the case of the assessee/assessee group on 24.11.2022. Consequently, the jurisdiction of the assessee was centralized and transferred to the Central Circle by the competent authority under section 127 of the Act. Thereafter, notice under section 143(2) of the

Act was issued on 22.06.2023 by the Assessing Officer, Central Circle. During the course of assessment proceedings, notices under section 142(1) along with questionnaires were issued and duly complied with by the assessee. The assessment was completed by the Assessing Officer under section 143(3) of the Act vide order dated 29.03.2024, making the impugned additions.

3. Aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A). The Ld. CIT(A) has granted the relief to the assessee and therefore the Revenue, being aggrieved by the relief granted, is in appeal before the Tribunal, and the assessee has filed the present Cross Objection.

4. In the C.O the assessee has raised the following grounds:

1. That the Worthy CIT (A-5), Ludhiana has erred in law and facts of the case in failing to appreciate that the proceedings initiated from the impugned notice under Section 143(2) of the IT Act dated 22.06.2023 are void ab initio, as they contravene the mandatory requirement of faceless proceedings stipulated by the Income Tax Act post its amendment on 29.03.2022 u/s 144B, thereby rendering the notices and proceedings issued by the Department illegal and unsustainable.

2. That the Worthy CIT (A-5), Ludhiana has rightly deleted the addition u/s 28 of the Income Tax Act, 1961 to the tune of Rs. 4,39,57,405/- on account of alleged Gross profit on alleged unaccounted sale. Further that the addition sustained of Rs. 55,06,010/- is bad in law and without any base and thus deserves to be deleted.

2.1 That the addition cannot be sustained since the revenue authorities erred in law & facts in passing assessment order without following the mandatory Digital Evidence Investigation Manual issued by CBDT while conducting search and seizure.

2.2 That the addition cannot be sustained by relying upon material which is Inadmissible at first place.

2.3 That the addition cannot be sustained by relying on the unconfronted and uncorroborated departmental working on the seized material extracted at the back of assessee.

2.4 That Worthy CIT(A-5), Ludhiana erred in law & facts in extrapolating the results of DML report for A.Y 2023-24 to the current assessment year.

2.5 That no addition can be sustained considering the detailed reply of assessee with regard to change or modification of bills due to genuine and bonafide reasons.

2.6 That the rejection of books of accounts u/s 145(3) is againts the facts and circumstances of the case. That the rejection of books without pointing out any defects in the audited books, purchase/sale being fully vouched and duly accounted for in the regular books is uncalled for.

2.7 That the application of enhanced GP rate without any evidence is uncalled for. That the application of enhanced GP rate gives improbable and impossible trading results and deserves to be deleted.

3. That the Worthy CIT(A-5), Ludhiana has rightly deleted addition of Rs. 1,13,62,652/- u/s 69C of the Income Tax Act 1961 on account of unexplained expenditure on account of unaccounted purchase.

3.1 That the addition cannot be sustained by placing reliance on the 'whataspp chat' without complying with the provisions of section 65B of the Evidence Act and considering that there is no evidentiary value of 'Whatsapp chat' as per the judgment of 'Hon'ble Apex Court' is against the facts and circumstances of the case and other judgements of different Benches of the ITAT.

3.2 That the addition cannot be sustained by treating deaf and dumb documents without any corroborative evidence whatsoever to be the basis of so called out of books purchase of the assessee.

3.3 That the addition cannot be sustained by placing reliance on the whatsapp chat whereas in most of the chat there is no positive evidence regarding making of payment.

3.4 That the addition cannot be sustained on account that various estimates of the invoices received were superseded by approved invoices duly entered in the books for which payment is made by account payee cheque.

3.5 That the addition cannot be sustained, as arbitrary words such as "KG" or figures without any currency designation cannot be interpreted as amounts in lakhs.

3.6 That without prejudice to the above the CIT (Appeal-5), Ludhiana has rightly and correctly held that no separate addition with regard to alleged unaccounted sale and unaccounted purchase can be made whereas as per the assessment order itself both are connected and inter-related.

3.7 That without prejudice to the above the CIT(Appeal-5), Ludhiana has correctly and rightly allowed the benefit of telescoping of alleged unaccounted purchase against the alleged unaccounted sale.

4. Notwithstanding the above said facts and circumstances, the approval as given by the Worthy Addl. Commissioner of Income-Tax, Central Range, Ludhiana have been recorded in a mechanical manner without any application of mind and, as such, the assessment proceedings are not valid.

5. Alternatively even there being no provisions in the Income tax for according any approval from the Worthy ACIT, thus, the order as passed with prior approval of ACIT is bad in law.

6. That the Appellant craves, leave to vary, alter or add any grounds of appeal.

5. The Ld. AR for the assessee submitted that the issue involved in the present appeal and the Cross Objection is no longer res integra. It was submitted that the Coordinate Bench of this Tribunal in the case of DCIT vs. Aman Batra in ITA No. 1041/Chd/2025 has decided the issue on merits in favour of the assessee and has deleted the additions made by the Assessing Officer under identical facts and circumstances.

5.1 It was further submitted that Tribunal in the case of Jamnadas Nikkamal Jain in ITA No. 403/Chd/2025 dt. 04/11/2025 has reiterated the settled legal position that additions cannot be made merely on the basis of suspicion, assumptions or extrapolation, without corroborative evidence. It was further submitted that the Assessing Officer cannot make the addition under section 143(3) of the Act, as the search took place in the premises of the assessee on 24/11/2022 and therefore, the proceeding under section 148 under the new regime were required to be carried for the three years prior to the year of search. In the present case, it was submitted the search year is 2023-24 as the search happened on 24/11/2022 and therefore the

assessment for the Assessment Year 2022-23 is required to be made under section 148 of the Act. It was specifically pointed out that in Jamnadas Nikkamal Jain, the Tribunal in paras 13.4 to 13.10 has categorically held that the assessment order cannot be passed under section 143(3) of the Act as it is to be passed under section 148 of the Act.

5.2 The Ld. AR had filed the following written submission in support of the case of the Assessee and opposing the appeal of the Revenue.

Brief Facts of the Case

1.1 The assessee is a Hindu Undivided Family engaged in the business of wholesale and retail trading of Karyana/Grocery goods under the name and style "Mani Ram Balwant Rai", situated at Opp. Old Sessions Court, Civil Lines, Ludhiana. Shri Balwant Rai is the Karta of the assessee HUF.

1.2 For the previous year relevant to Assessment Year 2022-23, the assessee declared a turnover of Rs.281,93,65,572.87 and filed its return of income on 11.10.2022, declaring a total income of Rs.89,54,700/-.

1.3 A search and seizure operation under section 132 of the Income-tax Act, 1961 ("the Act") was conducted at the business premises of the assessee on 24.11.2022, during which statements of the Karta and family members were recorded under sections 132(4) / 131(1A) of the Act.

1.4 Consequent to the search, the case was centralized under section 127 of the Act with the DCIT, Central Circle-3, Ludhiana.

2. Assessment Proceedings

2.1 During assessment proceedings, various queries were raised and duly replied to by the assessee. However, the Ld. Assessing Officer completed the assessment under section 143(3) vide order dated 29.03.2024, assessing the income at Rs.6,97,80,767/-, thereby making additions aggregating to Rs.6,08,26,067/-.

3. First Appellate Proceedings

3.1 Aggrieved, the assessee preferred an appeal before the Ld. CIT(A)-5, Ludhiana, who passed an order under section 250 of the Act dated 19.07.2024, partly allowing the appeal.

3.2 The summary of additions and their outcome before the first appellate authority is as under:

Issue	**Addition made by AO**	**Addition sustained by CIT(A)**	**Remarks**
Sale suppression	4,94,63,415/-	55,06,010/-	The CIT(A) upheld sale suppression but quantified the GP at Rs. 55,06,010/- wherein the GP was computed @15.56%.
Unaccounted purchases	1,13,62,652/-	NIL	The CIT(A) held that source of purchase is unaccounted sale and it is only the net result of sale and purchase which can be brought to tax.

3.3 The Revenue is in appeal against the relief granted by the CIT(A), whereas the assessee has filed the present Cross-Objection against the additions sustained.

4. Preliminary Submission – Issue Covered by Coordinate Bench

4.1 At the outset, it is respectfully submitted that the issues involved in the present appeal are squarely covered by the decision of the Coordinate Bench of this Hon'ble Tribunal in the case of Sh. Aman Batra v. DCIT (ITA No. 1041/Chd/2024, A.Y. 2022-23).

4.2 Shri Aman Batra belongs to the same group, is engaged in a similar line of business, and the additions in his case were also made on identical facts arising out of the same search proceedings. Therefore, the ratio laid down by the Coordinate Bench is directly applicable to the present case.

5. Issue No. 1 – Alleged Sale Suppression

5.1 The Assessing Officer alleged that the assessee suppressed sales to the extent of 44% of total turnover, primarily on the basis of certain cancelled/modified bills found during the search. These isolated instances were extrapolated for the entire year, resulting in an arbitrary addition.

5.2 The Ld. CIT(A), after detailed examination, categorically held that every modification in invoices cannot be treated as sale suppression, as business exigencies also warrant such changes. Accordingly, the Ld. CIT(A) determined alleged unaccounted sales at Rs.3,53,85,667/- instead of Rs.4,94,63,415/- computed by the AO.

5.3 Further, the Ld. CIT(A) applied a reasonable GP rate of 15.56% as against an excessive GP of 22.56% adopted by the AO and restricted the addition to Rs.55,06,010/-.

6. Ratio of Coordinate Bench in the Case of Sh. Aman Batra

6.1 In the case of Sh. Aman Batra, the Hon'ble Tribunal held that:

- DML reports and digital data cannot be the sole basis for quantifying unaccounted sales.
- Estimation must be based on tangible material.
- Arbitrary application of excessive GP rates is impermissible.
- GP should be aligned with industry norms and actual GST impact.

6.2 The Hon'ble Tribunal ultimately determined that a GP rate of 13% would meet the ends of justice and further held that unaccounted sales should be worked backwards from unaccounted purchases.

6.3 The relevant findings of the Hon'ble Tribunal are reproduced herein for ready reference:

"We do find force in the argument of the assessee that the estimation should be based upon some tangible material… application of enhanced GP rate is arbitrary and excessive… to meet the ends of justice, we are inclined to levy a GP rate of 13%…"

7. Application of the Same Principle to the Present Case

7.1 Following the binding precedent of the Coordinate Bench, even if any addition is warranted, it can only be computed in the following manner:

Particulars	**Amount**
Alleged Unaccounted purchases	1,13,62,652.00
Gross Profit as determined by Hon'ble ITAT	13%
Alleged unaccounted sale worked out by Grossing of unaccounted profit	1,30,60,519.54
Applicable GP @ 13%	16,97,867.54

7.2 Accordingly, the addition, if any, deserves to be restricted to Rs.16.98 lakhs, or alternatively, deleted in entirety.

8. Issue No. 2 – Alleged Unaccounted Purchases (Rs.1,13,62,652/-)

8.1 The addition on account of alleged unaccounted purchases was made solely on the basis of handwritten slips and WhatsApp chats retrieved from electronic devices during the search.

8.2 The Ld. CIT(A) rightly allowed the benefit of telescoping, holding that the alleged unaccounted purchases were made out of proceeds of unaccounted sales and, therefore, only the net result can be brought to tax.

8.3 This view is fully supported by the decision of the Coordinate Bench in Sh. Aman Batra, wherein the Hon'ble Tribunal upheld deletion of addition under section 69C on identical facts.

8.4 The Hon'ble Tribunal categorically held that taxing both unaccounted sales and unaccounted purchases would result in double taxation, which is impermissible in law.

6. The Ld. Departmental Representative relied upon the orders of the lower authorities.

7. We have carefully considered the rival submissions and perused the material available on record. We find that the controversy involved in the present appeal and the Cross Objection is squarely covered by the decisions of the Coordinate Bench of this Tribunal in the cases of Jamnadas Nikkamal Jain in ITA No. 403/Chd/2025 dt. 04/11/2025, particularly in paras 13.6 to 13.10 of its order, has laid down as under:

13.6 This position finds substantial support from the ratio of various decisions of Hon'ble High Court and Hon'ble Supreme Court. The Courts unanimously held that once a search has been conducted and proceedings are triggered under section 153A, the Assessing Officer cannot continue parallel proceedings under section 143(3) or section 147 for the same assessment year, because 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*; therefore, ordinary assessments abate and cannot coexist with the search-based assessment.

13.7 Drawing this analogy to the current regime, it is evident that when a search takes place and information is unearthed suggesting escapement of income, the Assessing Officer must act under section 148 (which now performs the role formerly assigned to section 153A) rather than continuing with a pending section 143(3) proceeding. The legislative intent remains the same — to prevent multiplicity of proceedings and ensure that only one comprehensive order is passed, factoring in both the pre-search and post-search materials.

13.8 The rationale is further reinforced by the well-settled principle of **generalia specialibus non derogant** — the special provision overrides the general. Section 148 (as a special provision triggered by search information) must prevail over section 143 (the general provision for regular scrutiny). Allowing the Assessing Officer to continue and conclude proceedings under section 143(3) after a search would defeat this legislative scheme and render the safeguards, such as prior approval of the Principal Commissioner, redundant.

13.9 Accordingly, we hold that once a search is initiated under section 132 and material is found relating to the assessee, the pending assessment under section 143(3)

cannot validly continue, as the time for issuing the 143(2) in response to original return of income had already expired, therefore the Assessing Officer must necessarily proceed in accordance with the special provisions contained in section 148 of the Act.

13.10 We also draw the strength from the reasoning given by the Coordinate Bench in Homelife Buildcon Pvt. Ltd. (supra), faced with identical facts (search on 16.11.2021 and assessment u/s 143(3) for A.Y. 2021-22), held that:

22. The core question before the Bench is whether, in the facts and circumstances of the case, the assessment ought to have been framed under section 143(3) or under section 147 of the Income-tax Act, 1961. From the plain reading of the statutory provisions and in light of Explanation 2 to section 148, it becomes abundantly clear that the legislature has widened the scope of reassessment, particularly through the Finance Act, 2021, which introduced significant changes to the reassessment regime. These amendments explicitly include instances involving third-party search material and make it incumbent upon the Assessing Officer (AO) to follow the procedure under section 148, including obtaining prior approval from the Principal Commissioner of Income Tax (PCIT).

23. In the present case, the AO proceeded to frame the assessment under section 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. This conduct not only, violates the express mandate of law, but also renders the assessment a jurisdictional error. The AO has, in fact, gone a step further by bypassing the legal safeguards embedded in section 147, thereby vitiating the assessment proceedings ab initio

24. Furthermore, a plain reading of the Finance Act, 2021 and the Explanatory Memorandum to the Finance Bill clearly indicates that the legislative intent was to bring all searches conducted on 20 or after 1st April 2021 within the ambit of the new reassessment regime under section 147 of the Income-tax Act, 1961. This new regime was introduced through significant amendments to section 147 and section 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 is evident that in cases where a search is initiated on or after 1st April 2021, the Assessing Officer 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.

25. In the present case, where the AO has admittedly relied upon material seized during searches conducted on other persons, i.e., Sh. Ravi Kapoor and Sh. Ajay Kumar Prabhakar, it was mandatory for the AO to invoke the provisions of section 147 and not to bypass the statutory framework by proceeding under section 143(3). Granting such unfettered powers to the AO to rely on third-party material without adhering to the safeguards under section 147 would defeat the very purpose of the amendment and open the floodgates to arbitrary assessments.

26. The relevant extract Memorandum explaining the finance bill is reproduced as under:-

'(ii) Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.

(VI) Further, in search, survey or requisition cases initiated or made or conducted, on or after Ist April, 2021, it shall be deemed that the Assessing officer has 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 requisition is made or any material is seized or requisitioned or survey is conducted."

27. The notice issued under section 143(2) was also produced by the AR. Upon perusal of the said notice, it is evident that the assessment under section 143(3) was initiated solely for the purpose of verifying the return of income filed by the assessee. In such circumstances, the importing and reliance upon material seized from third-party searches, namely, those conducted on Sh. Ajay Kumar Prabhakar and Sh. Ravi Kapoor, goes beyond the jurisdiction conferred under section 143(3). Particularly, where the applicable law— 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 that requirement renders the assessment legally untenable.28.

In the present case, the AO did not issue a notice under section 148, nor did he follow 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 under section 143(3), because of being based on third-party material without adhering to statutory safeguards, is bad in law. The AO was only empowered to verify the return of income and restrict his scope of inquiry accordingly; 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.

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 cass.

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 (iti) 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)
Applicable Period	Search initiated between 01.06.2003 to 31.03.2021	Search/survey initiated on or after 01.04.2021 but before 01.09.24

Context	Search assessment under Section 153A/153C	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
Triggering Event	Search or requisition on the assessee under Sections 132 /132A or material is used against assessee from third party search	1. Search/requisition 2. Survey (except under 133A(2A)) on assessee 3. Search/requisition on another person, but assets/documents relate to assessee
Purpose of Approval	Supervisory check in search assessments to ensure fairness and oversight	Prevent misuse of powers in reassessment based on search/survey-related information under new regime
Who Gives Approval	Joint Commissioner (mandatory)	Any of: Joint Commissioner /Addl. Commissioner / Joint Director/Addl. Director

Aspect	Section 153D	Section 148B (with Explanation 2 to Section 148)
Deeming Presumption	Not expressly stated	Explanation 2 creates a legal presumption: AO is deemed to have information suggesting income has escaped assessment in specified cases

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. 299/36/2020/1DAR/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 Serajuddin and Co. case, [2024] 163 taxmann.com 118***

(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."

8. Respectfully following the decision of Coordinate Bench, we are of the considered opinion that the assessment order passed under section 143(3) is not sustainable as it was required to be passed under section 148 r.w. 143(3) of the Act.

9. Further, we are also of the opinion that the identical issue have been adjudicated by the Coordinate Bench in the case of Aman Batra (supra) and therefore we do not find any reason take a different view as taken by us in the case of Aman Batra(supra). Therefore the appeal of the Revenue is not maintainable and is required to be dismissed.

10. Therefore, respectfully following the decision in the case of Aman Batra(supra) the appeal of the Revenue is not maintainable and is liable to be dismissed and we dismiss the same.

11. In the light of the above discussion the C.O of the assessee is allowed and the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 09/02/2026

Sd/-	**Sd/-**
कृणवन्त सहाय	**ललित कुमार**
(KRINWANT SAHAY)	**(LALIET KUMAR)**
लेखा सदस्य/ ACCOUNTANT MEMBER	**न्यायिक सदस्य /JUDICIAL MEMBER**

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar