

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

**BEFORE SHRI S. RIFUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

**ITA No.7064/Del/2025 (A.Y. 2014-15)**

Manoj Kumar Singh S-17, Ground Floor, Panchsheel Enclave, New Delhi – 110 017 PAN: AAXPS2824H	Vs.	DCIT, Central Circle-28 New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

**ITA No.30/Del/2026 (A.Y. 2014-15)**

DCIT, Central Circle-28 New Delhi	Vs.	Manoj Kumar Singh S-17, Ground Floor, Panchsheel Enclave, New Delhi- 110 017 PAN: AAXPS2824H
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Ajay Vohra, Sr. Adv. Shri Aseem Chawla, Sr. Adv. Ms. Daizy Chawla, Adv.
Revenue by	Ms. Pooja Swaroop, CIT(DR)

Date of Hearing	26/02/2026
Date of Pronouncement	27/03/2026

## ORDER

### PER SUDHIR KUMAR, JM:

These are cross appeals preferred by the assessee as well as the Revenue against the order of the Learned Commissioner of Income-Tax (Appeals)-30, New Delhi [“Ld. CIT(A)”, for short] dated 09.09.2025 for the Assessment Year 2014-15. Both the appeals are interconnected, hence, were heard together and disposed off by this common order. It is noted that that there is a delay of 2 days in filing the appeal of the Revenue. After hearing both the sides and perusing the records, we are of the considered view that reasonable cause has been attributed to the Revenue in filing the belated appeal, hence, the delay in dispute is condoned and appeal of the revenue stands admitted.

2. Heard the rival contentions and perused the records. The preliminary and legal issue argued before us was questioning the approval given by the Ld. JCIT, Range-8, Delhi to the Draft Assessment Order, and as per the contentions of Ld. AR the approval was given u/s 153D of the Act without application of mind and in complete violation of mandatory requirement of Section 153D of the Act. As for convenience the relevant grounds raised in the appeal of assessee is reproduced as under:

*“Re: Mechanical approval under section 153D of the Act.*

1. *Because Ld. CIT(A) has erred in law and on the facts in confirming the Assessment Order without appreciating that the draft Assessment Order was mechanically approved by jurisdictional JCIT-Range 8, Delhi (now Range-7), without application of mind, and in complete violation of mandatory requirement of Section 153D of the Act.*

1.1. *Because the Hon'ble ITAT, in appellant's own case for AY 2012-13 (ITA No. 2237/Del/2025), order dated 19.9.2025), has already held that the approvals granted under section 153D for AYs, 2012-13, to*

*2020-21 being identical in content and format, were mechanical and vitiated the entire assessment proceedings and consequential orders.*

3. At the time of hearing, Ld. AR for the assessee brought to our notice that the issue under consideration is exactly similar to the facts in assessment year 2012-13 in assessee's own case vide ITA No. 2237/Del/2025. The approval granted u/s 153D is bad in law in this regard. He brought to our notice page no. 1-21 of the paper book.

4. On the other hand, Ld. DR relied on the findings of lower authorities. Para 26.1 of paper book at page 438 is reproduced as under for the sake of convenience:

*“It is to be appreciated that Statutory Compliance Does Not Mandate Explicit “Application of Mind”. Section 153D requires only prior approval from the JCIT, with no statutory mandate for detailed reasoning or recorded application of mind. Judicial interpretations imposing such requirements are not universally binding, and approvals granted in good faith fulfil the legislative intent.”*

5. Considered the submissions of Ld. DR for the Revenue and material placed on record. We observed that the Co-ordinate Bench has considered the similar facts on record and adjudicate the same as under:

*“3. On hearing both the sides on this issue, the relevant facts that transpire are that assessee's return of income was selected for scrutiny and assessment proceedings u/s 143(3) of the Act were concluded on 30.03.2015 and assessed the income of Rs.22,05,420/- and thereafter a search and seizure operation was carried out on 14.10.2020 in the case*


*of assessee, his associates and various parties. During the course of search proceedings, it was allegedly established that the assessee entered into unaccounted cash transactions with the various person/entities and accordingly proceedings u/s 153A of the Act was initiated which were responded by the assessee by filing return on 22.11.2021 and subsequently mandatory notices were issued. The assessment order speaks that during the course of search proceedings certain Excel files amongst others were found and seized. Further, pen-drive were seized from the residence of Shri Devesh Singh, a key employee of Shri Manoj Kumar Singh, containing Excel files allegedly containing the details of cash transactions. A laptop was found and seized from the residence of Shri Devesh Singh also allegedly had excel files having details of cash transactions. A pen drive was found and seized from the possession of Shri Chander Prakash, employee of M/s Singh and Associates which also contains excel file recording allegedly cash transaction. Printouts found and seized from the residence of Shri Devesh Singh of the said excel files were also considered to be incriminating material. Then, diaries were impounded from office of M/s. Singh and Associates, which were also impounded as per provisions of section 131(3) of the Act and allegedly these diaries contained the same transactions as were given in the excel sheets. The said entries given in the excel sheet pertained to period 2009 to 2020 wherein the assessment order has also mentioned of the fact of recovery of cash in October 2019 by the police authority from Shri Devesh Singh and from his*

*phone certain data in the form of excel files were extracted and printouts were impounded. The assessment order mentioned that all the excel sheets and etc. were confronted to Shri Devesh Singh in his statement recorded on oath u/s 132(4) of the Act.*

*4. Now, a perusal of the assessment order shows that extensively electronic evidence alone have been relied including some forensically imaged data seized from the phone of assessee. After going through the assessment order, it appears that based on excel files and electronic*

evidences and the statements recorded, the AO has drawn conclusions leading to the additions of Rs.4,01,14,250/- u/s 28 of the Act, Rs.51,51,000/- u/s 69A of the Act and Rs.,29,06,780/- u/s 69AC of the Act. The assessee has challenged the same before the Id. CIT(A), where the assessee had succeeded partly as the Ld. CIT(A) has restricted the additions u/s 69C of Rs.62,75,991/- and accordingly both sides are in appeal.

5. Then from the copies of approval made available at pages 3-12 of the paper book, we observe that the approval for all the AYs for which assessee was show caused for search assessment u/s 153A, are similar in format and content. As for further convenient discussion, the approval given u/s 153D for AY 2013-14 is scanned and reproduced below;



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

**F. No.:** JCIT/CR-8/153D/2021-22/3146 **Dated:** 30.03.2022

To,  
**The Dy. Commissioner of Income Tax,  
Central Circle-29,  
New Delhi.**

**Sub: Approval u/s 153D of the Income Tax Act, 1961 in the case of Sh. Manoj Kumar Singh (PAN: AAXPS2824H) for the A.Y. 2013-14- Regarding.**

Please refer to your office letter F. No. DCIT/CC-29/2021-22/1836 dated 26.03.2022, seeking approval u/s 153D of the Income Tax Act, 1961 in the case of Sh. Manoj Kumar Singh.

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

S. No.	Name of the assessee	PAN	A.Y.	U/S	Returned Income (in Rs.)	Addition (Rs.)	Assessed Income (in Rs.)
1.	Sh. Manoj Kumar Singh	AAXPS2824H	2013-14	153A r.w.s. 143(3)	112,77,971/- (Assessed income u/s 143(3) of Rs. 13,75,572/-)	51,43,45,110/-	51,38,20,682/-

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

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

Dy. Commissioner of Income Tax  
Central Circle-29, New Delhi

30 MAR 2022

RECEIVED

Dy No. 1326

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

6. *At the same time it is relevant to take note of fact as to how, this issue has been considered and dismissed by the ld. CIT(A) by following observations in para 22 of the order, which is reproduced as under:-*

*“22. Ground No. 2 and Additional ground.2: The appellant challenges the assessment as being in violation of section 153D, alleging that the approval granted by the JCIT was mechanical and lacked application of mind. The AO explicitly stated that the assessment order was passed with the prior approval of the JCIT, Central Range-8 as documented in F.No.JCIT/CR-8/153D/2021-22/145 dated 30.03.2022. The provisions of section 153D do not require the JCIT to record satisfaction in any specific format or language. The appellant has failed to substantiate its claim of mechanical approval. No evidence was provided to demonstrate non-application of mind by the JCIT. The approval under section 153D was validly granted. This ground is dismissed.”*

7. *Ld. Sr. Counsel has submitted that the approval has been granted in consolidated manner and taking the Bench across pages 1 to 2 of the paper book, having letter seeking approval and pages 3-12 of PB, the impugned approval letters, it was submitted that separate approvals for AY 2011-12 to AY 2020-21 were issued u/s 153D of the Act on 30.03.2022 and all are verbatim similar, which shows there was non-application of mind and in a routine manner, the approvals were granted. The ld. Sr. Counsel submitted that in fact, the said approving authority has granted numerous approvals u/s 153D of the Act on 30.03.2022 and a list of same has been provided at pages 13 and 14 of the paper book. The ld. Sr. Counsel relied on a catena of decisions of Co-ordinate Benches at Delhi and decision of Hon’ble Delhi High Court in the case of Pr. CIT vs Shiv Kumar Nayyar [2024] 163 taxmann.com 9 (Delhi) and Hon’ble Supreme Court in the case of M/s Serajuddin and Company 163 taxmann.com 118, which has sustained decision of Hon’ble Orissa High Court, to submit that the law is now settled that approval granted u/s 153D of the Act should exhibit application of mind and cannot be a routine feature of completing the search assessment.*

8. *The ld. DR has opposed the aforesaid contentions and has submitted that approval granted is administrative in nature and there is no strict*

*format for grant of the approval. It was submitted that approval mentions specific fact about the draft assessment order “as amended” being approved and further that evidences including electronic evidences were considered. It was further submitted that the procedure of search assessment includes active participation of the approving authority and therefore approving authority can be presumed to be sufficiently aware of the incriminating materials. It was submitted that particularly in the case of the present assessee, the approval was sought on 28.03.2022 and approval has been granted on 30.03.2022, thus, there was sufficient opportunity with competent authority to further go into the draft assessment orders.*

*9. However, leaving apart the contentions of ld. Sr. Counsel that tenor of approval does not show application of mind or that multiple approval were granted so to presume that there was not application of mind what we find after taking into consideration, the copy of approval granted for relevant assessment years, is that approving authority has mentioned that the impugned letter of approval that the approval has been granted to the draft assessment order ‘as amended’. This phrase ‘as amended’ is quite ambiguous, and actually nothing could be explained or justified by ld. DR for using these words and thus rather than helping the case of Revenue and Ld. DR, it puts the case of the Revenue in docks as there is nothing in letter dated 28.03.22 by the AO to mention that at any stage before 28.03.22, there was any communication between the two authorities. The AO merely mentions that cases of assessee for AYs 2011-12 to 2021 are being put up for approval. It does not even mention of forwarding records and that any previous direction on the drafts is given effect. There is no mention that any time between this letter dated 28.03.2022 or 30.03.2022, the two authorities have gone through the draft assessment order afresh, so as to justify the use of words ‘as amended’ in the approval letter.*

*10. It can be further appreciated from the material on record and discussion aforesaid that this is a case where excessive reliance has been placed on the electronic/digital evidence, and the approving authority does not mention in the approval letter that electronic evidences were*

*examined and were tested on principles of law governing the relevancy and admissibility of electronic evidences seized during search or analyzed later on. Rather, the approving authority by mentioning para-3 of the approval letter that “you have certified about perusal and verification of data seized in electronic format through working copies having certified hash values as that of original hard drives/CDs/pen drives/mobile data & any other electronic data” admits that without any independent verification, the AO’s certification was relied to accept that the electronic evidences were collected and relied in accordance with law.*

*11. The ld. Sr. Counsel has pointed out that so far as the addition of Rs.2,69,06,780/- is considered, which has been restricted partly by the ld. CIT(A), from the assessment order, even the CIT(A) was unable to make out as to how this amount of Rs.2,69,06,780/- was arrived on the basis of electronic evidences and allegedly contains various payments have been made for personal expenses. In this regard, if we appreciate the order of the ld. CIT(A), we find that even a remand report was called from the AO to explain the rational of additions but no clarification was given by the AO and the relevant findings of the ld. CIT(A) in para 18.4 is reproduced as under:-*

*“As per the first remand report, AO stated that the rationale of additions made has been already mentioned assessment order. Further, letter was issued for seeking report for clarifications on the basis of addition from AO vide F. No. 243/RR/CIT(A) - 30/Delhi/2024-25/207 dated 17.10.204, but the clarifications were not given by AO till date. In para 33 of the assessment order, the year-wise details of unexplained expenditure in cash is given which is without any detailed working and bifurcation. The said table is extracted here as under from AO's order: -*

<i>Assessment Year</i>	<i>Amount (in Rs.)</i>
<i>2011-12</i>	<i>6,99,67,910/-</i>
<i>2012-13</i>	<i>2,69,06,780/-</i>

2013-14	11,87,34,210/-
2014-15	19,45,74,000/-
2015-16	4,84,67,930/-
2016-17	1,98,61,880/-
2017-18	1,89,44,720/-
2018-19	7,59,26,530/-
2019-20	6,65,35,410/-
2020-21	9,65,03,710/-
2021-22	63,39,100/-
<b>Total</b>	<b>74,27,62,170/-</b>

*Since, the working is not available on records till date, I am constrained decide on the basis of available facts on record. Even appellant denied have received any bifurcation of the same. Thus, the only recourse is to rely and peruse the available records.*

*ii. As per assessment order, the AO made an addition of Rs. 2,69,06,780/-based on excel data 'MyData xlsx' and 'Sunnyxlsx' which contain various of payments have been made for personal expenses. Appellant contended that there is no basis of calculation of unexplained expenditure, which is correct.”*

*11.1 This shows that AO has made certain conclusions which are not even substantiated from the analysis of evidences and prima facie non-comprehensible, and same could have escaped the attention of authority granting approval u/s 153D of the Act, if there was non-application of mind to the contents of draft assessment order.*

*12. In this context, we may also note that Digital Evidence Investigation Manual, 2014 (hereinafter called 'the Manual') of the Central Board of Direct Taxes provides a detailed procedure with regard to collection of digital evidences and the manner in which the same has to be relied during the assessment proceedings. The Manual is self contained code where Board has consciously and very articulately examined various*

*facet of collection, examining and reproducing the digital evidences, on the basis of judicial decisions and provisions of law as enshrined in Evidence Act or Information Technology Act. To bolster this conclusion of ours, we would like to observe that the CBDT in its Manual while feeling the relevance of the question with regard to admissibility of electronic evidences and taking note of sea change in the information and technology used in the business transactions has observed as to how in a relevant statutory provisions have been made with regard to recognizing electronic record as evidence and as for convenience we reproduce the aforesaid from para 1.1 of the Manual:-*

*“The law of the country has also taken cognizance of this reality. The Information Technology Act, 2000 has been enacted recognizing electronic records as evidence, governing access to and acquisition of digital and electronic evidence from individuals, corporate bodies and/or from the public domain. By way of this enactment, amendments were also brought in other laws like Indian Penal Code, Indian Evidence Act and Criminal Procedure Code, (Cr.PC). The Income-tax Act, 1961 has also been amended thrice by way of Finance Act 2001, Finance Act 2002 and Finance Act 2009 thereby according recognition to electronic evidence, facilitating access to them and giving when need be, powers to impound and seize them. By Finance Act, 2001, Clause (22AA) was inserted in Section 2 to provide that the term “document” in Income Tax Act, 1961, includes an electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000. By Finance Act, 2002, Clause (iib) was inserted in Sub-Section (1) of Section 132 requiring any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents; and by Finance Act, 2009, clause (c) was inserted in sub-section (1)*

*of Section 282 providing that service of notice in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000) will constitute valid service.”*

13. *Further it can be observed that in para 1.5 the objectives of the Manual are mentioned which states that the aim of this Manual is to apprise the user of “basic legal provisions relating to digital evidence in Income-tax Act and other laws including Information Technology Act and Indian Evidence Act.”*

14. *Then, we would like to reproduce from this Manual as to how the Board perceived the relevance of various provisions of the different statutes and how specifically referred to the provisions of section 65A and 65B of the Indian Evidence Act, 1872 and directed that “**accordingly while handling any digital evidence, the procedure has to be in consonance of these provisions.**”. The relevant part in para 2.7.3 is as follows:-*

*“2.7.1 The Information Technology Act-2000 has been enacted to provide legal recognition to transactions carried out by means of electronic data interchange and other means of electronic communication, which involve the use of alternatives to paper-based methods of communication and storage of information. The same enactment has also brought amendments in the Indian Penal Code, 1861, the Indian Evidence Act, 1872, the Bankers' Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934.*

*2.7.2 As far as Income-tax Act, 1961 is concerned, it has been amended thrice by way of Finance Act, 2001, Finance Act, 2002 and Finance Act, 2009 respectively.*

- By way of first amendment, provisions of sub-section (12A) of section 2 was inserted to give legal recognition to the books of account maintained on computer and sub-section (22A) to section 2 was inserted to provide definition of 'document' which*

*included "electronic record" as defined under Information Technology Act 2000.*

*Under Information Technology Act 2000 an electronic record has been defined to include data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro file. This definition of electronic record is wide enough to cover person in possession of computer, storage device, server, mobile phone, i-Pod or any such device.*

*The above amendment has thus specifically given recognition to electronic record as admissible evidence at par with a 'document'. Further, the powers to impound/copy a document during a survey action u/s 133A and power to seize a document during a search and seizure operation has also been automatically extended to electronic records as a result of the amendment.*

- By way of second amendment, provisions of section 132 (1)(iib) were inserted facilitating access to the electronic devices including computer, containing document or books of accounts in the form of electronic records by making it obligatory for the person under control of such device to afford the necessary facility to inspect such records.*

*By Finance Act, 2009, clause (c) was inserted in sub-section (1) of Section 282 providing that service of notice in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000) will constitute valid service.*

*2.7.3 Under Indian Evidence Act there are several references to documents and records and entries in books of account and their recognition as evidence. By way of the THE SECOND SCHEDULE to the Information Technology Act Amendments to the Indian Evidence Act have been brought in so as to, incorporate reference to Electronic Records along with the*

*document giving recognition to the electronic records as evidence.*

***Further, special provisions as to evidence relating to electronic record have been inserted in the Indian Evidence Act, 1872 in the form of section 65A & 65B, after section 65. These provisions are very important. They govern the integrity of the electronic record as evidence, as well as, the process for creating electronic record. Importantly, they impart faithful output of computer the same evidentiary value as original without further proof or production of original. Accordingly, while handling any digital evidence, the procedure has to be in consonance of these provisions.***

2.7.4 Under Indian Penal Code several acts of omission and commission relating to various documents and records are treated as offences. By way of the *THE FIRST SCHEDULE* to the Information Technology Act, Amendments to the Indian Penal Code have been brought in, so as to incorporate reference to *Electronic Records along with the document.*”

15. Now, the Manual very categorically lays down the importance of chain of custody and how the Manual lays down procedure to be followed by authorities for reporting and analysis of digital evidences and as to how the AO has to deal with the digital evidences and its analyse in the assessment order and what is the importance of chain of custody of digital evidences. The relevant para 9.1 and 9.6 of the Manual which:-

*“9.1 Reporting of Analysis of Digital Evidence in the Assessment Order should be done in a simple lucid manner, so that any person can understand. The report should give description of the items, process adapted for analysis, chain of custody on the movement of digital evidence, hard and soft copies of the findings, glossary of terms etc .The presentation and use of digital evidence in assessment order and presentation of the*

*same in court of the law in matters of appeal involves stating the credibility of the processes employed during analysis for testing the authenticity of the data.*

*Some guidelines that assessing officer need to follow when using the Digital Evidence Analysis in the assessment order etc, are as follows:*

- ***Brief description of the case, details/description of the objects, date and time of collection of the objects, Status of the objects when collected (On or Off), Seized from - person, organization, location etc should be included in the Assessment Order.***
- ***Digital Evidence Collection Form, Mobile Phone Evidence Collection Form should be enclosed in the order to show the initial state of the Digital Evidence.***
- ***Digital Forensic Report( Given by Forensic Examiner) containing details of hash value and the details of all mahazar drawn to open the digital evidence at various times to gather further evidences should be included as an annexure to the assessment order. If the chain of custody form is present, the same can be annexed to the assessment order. This will establish the integrity of the data before any court of law.***
- ***The Key digital evidences retrieved if deleted along with the description of the same, in case of business application software, a note on how the business application software is and the technical details of all critical components.***
- ***Whether these digital evidences have been confronted to the assessee under any section of the law? The relevant portions of the statement under various sections of Income Tax Act should be included in the order.***
- ***Circumstantial evidences and other key physical evidences seized/impounded should be linked to the digital evidence. Usually the physical evidences like loose papers, sheets gives***

*details of one particular transaction, while the .digital evidences may help in unearthing the entire consolidated data for the whole year. Such digital evidences should be linked to the physical evidences seized during the course of search to establish the genuineness of the data and also to quantify to the total unaccounted income.*

#### ***“9.6 Handling the digital evidence at a later stage***

*In the Income Tax Department, the digital evidence stored is used in the assessment proceedings and at later stages in case of legal tangles. In order to maintain the sanctity of data stored/seized, there is a need to maintain a chain of custody while handling the digital evidence during the course of assessment proceedings and at later stages. Due to the lengthy legal proceedings involved, it may be needed to retain evidence indefinitely.*

*Hence, a chain of custody of digital evidence should be created in order to know the details of who is accessing data, if anyone who accessed the data had tampered with the data etc.”*

16. *However, after examining the assessment order, we are of the considered view that it is not a case where a single issues was involved or same set of incriminating evidence, being some physical evidences, was relied by the AO. The incriminating evidences were multiple electronic evidences found form multiple digital devices thus in regard to same the approving authority should have made sure, before granting of approval, that at time of search and thereafter the investigation wing authorities and so also the AO has duly followed the instructions of the Board as laid in the Manual. The aforesaid directions of Board in para 9.1 and 9.6 of the Manual, requiring as to what all material should be annexed to the assessment order in case the assessment is outcome of electronic or digital evidences seems to be completely ignored by the AO. Even if for sake of arguments it is accepted that they are not instructions u/s 119 of the Act, but then that*

*does not lead to inference that the instructions of Board could be neglected by AO and while granting approval u/s 153D of the Act, too, the same can be left out of consideration by the competent authority on assumption that it is merely an administrative function. Rather, as discussed here above the approving authority casually records that veracity of electronic evidences have been accepted as certified by the AO. Same only leads to one conclusion that approval was mechanical.*

17. *The law in this regard has quite crystallized by now. The Hon'ble Orissa High Court in the case of **ACIT vs Serajuddin & Co. 454 ITR 312 (Orissa)** had an occasion to examine substantial question of law on the propriety of approval granted under s. 153D of the Act. The Hon'ble High Court made wide ranging observations towards the manner and legality of approval under s. 153D of the Act by observing that the approval under s. 153D of the Act being mandatory, while elaborate reasons need not be given, there has to be some indication that approving authority has examined draft orders and finds that it meets the requirement of law. The approving authority is expected to indicate his thought process while granting approval, held that it is not correct on the part of the Revenue to contend that the approval itself is not justifiable. Where the Court finds that the approval is granted mechanically, it would vitiate the assessment order itself. The Hon'ble High Court inter-alia observed that there is no even a token mention that draft order has been perused by the Ld. Addl. CIT. The approval letter simply grants approval. In other words, even the bare minimum requirement of approving authority having to indicate what thought process involved leading to the aforementioned approval has not been provided. As explained, the mere repeating of words of the Statute or mere rubber stamping of the communication seeking sanction by using similar words like 'approval' will not, by itself, meet the requirement of law. The Hon'ble Court made reference to manual issued by the CBDT in the context of erstwhile section 158BG of the Act and observed that such manual serves as a guideline to the AOs. Since it was issued by CBDT, the powers of issuing such guidelines can be traced to section 119 of the Act. The Hon'ble High Court also held that non-compliance*

*of requirement of section 153D of the Act is not a mere procedural irregularity and lapse committed by Revenue may vitiate the assessment order. The SLP filed against the aforesaid judgment in the case of ACIT vs Serajuddin & Co. Kolkata was dismissed as reported in (2024) 163 taxmann.com 118 (SC).*

18. *Though there are catena of decision of coordinate bench in favour of assesseees, we rely Hon'ble Jurisdictional High Court decision in case of **Shiv Kumar Nayar PCIT vs Shiv Kumar Nayar reported in 163 taxmann.com 9** which has also relied this decision in case of **Serajuddin**(supra) and held in para 10 to 15 as follow;*

*“10. Before embarking upon the analysis of the factual scenario of the instant appeal, we deem it apposite to examine the underlying intent of the relevant provision of the Act i.e., Section 153D, which is culled out as under:-*

*“153-D. Prior approval necessary for assessment in cases or requisition.—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 153-A] or the assessment year referred to in clause (b) of sub-section (1) of Section 153-B, 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 144-BA.”*

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. [2023SCC 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 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."*

*19. In the light of the aforesaid, we are inclined to sustain the ground no.2, which vitiates the whole assessment proceedings and consequential orders. Accordingly, the appeal of the assessee is allowed and consequently, the appeal of the Revenue deserves to be dismissed. Resultantly, the impugned assessment order is quashed."*

6. Therefore, respectfully following the decision of the Ld. Co-ordinate bench ITA No. 2237/Del/2025, A.Y. 2012-13 (supra), the appeal of the assessee is allowed and consequently, the appeal of the Revenue deserves to be dismissed.

We hold and direct accordingly.

7. In the result, appeal filed by the assessee is allowed and the appeal of the Revenue is dismissed.

Order pronounced in the open court on this 27<sup>th</sup> March, 2026.

**Sd/-**

**Sd/-**

**(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**(SUDHIR KUMAR)  
JUDICIAL MEMBER**

Dated: 27.03.2026

SR BHATNAGAR

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)-XXVI, New Delhi.
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI