

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ ए”, चण्डीगढ़

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CHANDIGARH BENCH ‘A’, CHANDIGARH  
BEFORE: SHRI N.K. SAINI, VICE PRESIDENT  
AND SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपील सं./ ITA No.1573/Chd/2018

निर्धारण वर्ष / Assessment Year : 2016-17

M/s Inder International, 594, Nirankari Mohalla No.1, Overlock Road, Ludhiana	बनाम	The A.C.I.T., Central Circle-II, Ludhiana.
स्थायी लेखा सं./PAN NO: AABF17996J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri Parikshit Aggarwal, CA  
राजस्व की ओर से/ Revenue by : Smt.C.Chandrakanta, CIT DR

सुनवाई की तारीख/Date of Hearing : 19.05.2021  
उदघोषणा की तारीख/Date of Pronouncement: 07.06.2021

**(Hearing through webex)**

**आदेश/Order**

**Per Mahavir Singh, Vice President:**

This appeal by the assessee is arising out of the order of the Learned Commissioner of Income Tax (Appeals)-5 [in short the ‘Ld.CIT(A)’, Ludhiana dated 15.10.2018 relating to assessment year 2016-17, passed u/s 250(6)) of the Income Tax Act, 1961 (hereinafter referred to as ‘Act’. The assessment was framed by the ACIT, Central Circle-II, Ludhiana for the assessment year 2016-17 u/s 153A of the Act vide order dated 30.06.2017.

2. At the outset, the Ld. Counsel for the assessee drew our attention to assessee's application dated 19.03.2020 by virtue of which, additional ground is raised. He drew our attention to the relevant additional ground No.8 which reads as under:

*“8. That on law, facts and circumstances of the case, the impugned assessment order passed u/s 153A deserves to be quashed since the statutory and mandatory approval as required u/s 153D has not been obtained and the approval sought and granted was totally mechanical and ritualistic only.”*

3. The Ld.Counsel for the assessee stated that this ground is purely legal in nature and no new facts are required for the adjudication of this ground and hence, the same deserves to be admitted keeping in mind the law laid down by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. (NTPC) Vs. CIT (1998) 229 ITR 383(SC). The Ld.Counsel for the assessee took us through the Paper Book filed on 18.05.2021 whereby he has enclosed copy of approval granted u/s 153D of the Act vide dated 29.06.2017. The Ld.Counsel for the assessee took us through the letter written by the AO to the Addl CIT vide No.ACIT/C-II/Ldh/2017-18/446, dated 29.06.2017 and pointed out that the AO applied for approval u/s 153D of the Act to the Addl.CIT only on 29.06.2017. He further took us through

page No.2 of assessee's Paper Book wherein relevant approval was granted u/s 153D of the Act by the Addl.CIT, Central Circle Range, Ludhiana vide F.No.Addl.CIT(C), R/Ldh./16-17/560, dated 29.06.2017. He further stated that this approval is also accorded on the same day i.e. 29.06.2017. He further stated the fact that the last hearing of this case took place on 28.06.2017 and assessee filed various details on 28.06.2017. According to the Ld.Counsel for the assessee the AO has gone through these details and after that he has prepared draft assessment order consisting pages 1 to 165 which has annexures A to E enclosed with this order running into pages 1 to 41. The Ld.Counsel for the assessee stated that in case the assessment order is passed u/s 153A of the Act, a mandatory approval as required u/s 153D of the Act has to be obtained by the AO from the Addl.CIT and granting of approval is not a mere formality as the Addl.CIT has to apply his mind while giving approval to the draft assessment order. The Ld.Counsel for the assessee stated that this is a search and seizure case and requisition u/s 132A of the Act was made by the Investigation Wing, Ludhiana in lieu of search conducted by the Directorate of Revenue Intelligence, Ludhiana Unit on the assessee on 14.12.2015. The investigation of the Income Tax Department accordingly requisitioned u/s 132A of the

Act dated 26.05.2016. It was contended that a number of documents were seized during the course of search which was considered by the AO during the course of proceedings u/s 153A of the Act. The Ld.Counsel for the assessee stated that the approval granted by the Addl.CIT on the same date i.e. 29.06.2017 when the AO requisitioned the approval u/s 153D of the Act from the Addl.CIT and the manner in which statutory approval u/s 153D of the Act is accorded is bad in law. The Ld.Counsel for the assessee also relied upon the case law of Hon'ble Supreme Court in the case of NTPC (supra) and also the decision of the Hon'ble Jurisdictional High Court in the case of VMT Spinning Co. Ltd. Vs. CIT & Another (2016) 389 ITR 326 (P&H). In view of the above, the Ld.Counsel for the assessee stated that the additional ground be admitted and adjudicated as this is a purely legal ground and no new facts are required to be gone into to adjudicate this ground because all these facts as produced before the Bench are very much part of the assessment record.

4. On the other hand, the Ld.CIT DR Mrs.C.Chandrakanta opposed the admissibility of the additional ground. She first took us through the technicalities that the assessee's application for additional ground is dated 19.03.2021 whereas the assessee has deposited the challan for taking

copies from the AO only on 20.03.2021. According to her, this application is totally mechanical and ritualistic and documents obtained from the Department were not available with the assessee at the time of raising this additional ground. Hence, she argued that at this very count the assessee's additional ground should be rejected.

5. When this fact was pointed out to the Ld.Counsel for the assessee, he stated that the assessee obtained the letter written by the AO to the Addl.CIT for approval of assessment order u/s 153D of the Act and approval accorded by the Addl.CIT u/s 153D of the Act were actually handed over by the AO only on 19.03.2021, whereas the assessee was asked to deposit a sum of Rs.100/- which was eventually deposited only on 20.03.2021. When a question was pointed out to the Ld.CIT DR about the authenticity of these documents, she stated that these documents are taken from the Department but her only point is that the assessee first raised this additional ground and after that obtained the copies of approval accorded u/s 153D of the Act by the Addl.CIT.

6. We have gone through the documents i.e. application of the AO to the Addl.CIT dated 29.06.2017 and the approval accorded by the Addl.CIT u/s 153D of the Act dated 29.06.2017. We have also gone through the additional ground raised in regard to the validity of assessment order

passed u/s 153A of the Act that the statutory and mandatory approval as required u/s 153D of the Act was obtained mechanically and ritualistic only and there is no application of mind by the Addl.CIT. After going through the additional ground raised by the assessee, we are of the view that this ground is purely legal in nature and no new facts are required to be gone into to adjudicate this ground, as the facts are available on the assessment record as discussed above, hence, we admit this additional ground and adjudicate the issue.

7. The Ld.Counsel for the assessee before us stated that this issue is squarely covered by the decision of the Hon'ble Bombay High Court in the case of PCIT Vs. Shreelekha Damani (2019) 307 CTR 218. He also stated that the Tribunal is consistently taking view and he cited the following case laws:

<b>S.No.</b>	<b>Name of the Judgement</b>	<b>Citation</b>
1.	Sanjay Duggal Vs. ACIT	ITA No.1813/Del/2019
2.	M3M India Holdings Vs. DCIT	71 ITR(Trib.) 451
3.	Dilip Constructions Pvt. Ltd. Vs. ACIT	IT(SS)A No.66 to 71/CTK/2018
4.	Saurabh Agarwal Vs. DCIT	ITA Nos. 263 to 267/Agr/2017
5.	Rajesh Ladhani Vs. DCIT	ITA No. 106 to 108/Agra/2019
6.	Uttarakhand Uthan Samiti Vs. ITO	ITA No. 48 to 52/DDN/2019
7.	Rishabh Buildwell Pvt. Ltd. Vs. DCIT	ITA No. 2212/Del/2018

8.	AAA Paper Marketing Ltd. Vs. ACIT	ITA No. 167/Lkw/2016
9.	M/s Rajat Minerals Pvt. Ltd. Vs. DCIT	IT(SS)A Nos.41 to 47/Ran/2019
10.	Geetarani Panda Vs. ACIT	IT(SS)A Nos. 1/CTK/2017
11.	ACIT Vs. CR Mittal & Sons (HUF)	IT(SS)A No. 100/JAB/2014

8. The Ld.Counsel for the assessee also relied upon the recent decision of the ITAT, Mumbai Bench in the case of Arch Pharmalabs Ltd. Vs. ACIT, CC-32 in ITA No.6656/Mum/2017 & Others dated 07.04.2021, wherein exactly on identical facts the Tribunal has held that the approving authority has not mentioned any process of deriving satisfaction so as to exhibit due application of mind by the approving authority.

9. On the other hand, the Ld.CIT DR took us through the Departmental Circular F.No.286/161/2006-IT (Inv.II) dated 22.12.2006 wherein entire process of search and seizure assessment is mentioned and according to her this is strictly followed and there is no deviation from the same. She also stated that the Addl.CIT is supervising authority of the AO in case of search assessment and there is no allegation by the assessee that there is any deviation in the process. She read out the relevant clauses of the above circular issued by the Board.

10. We have gone through all the facts of the case first and also gone through the Paper Book filed by the assessee on 18.05.2021 wherein relevant two documents i.e. letter by the AO to the Addl.CIT which is enclosed in assessee's Paper Book at page No.1 and which reads as under:

**Government of India**

*Office of the  
Asst. Commissioner of Income Tax, Central Circle-II,  
Opp.B.V.M. School Kitchlu Nagar, Ludhiana.*

No.ACIT/C-II/Ldh/2017-18/446

Dated:29.06.2017

To

*The Additional Commissioner of Income Tax,  
Central Range, Ludhiana.*

Madam,

**Sub: Approval under section 153D of the Income Tax Act, 1961- in the case of M/s Inder International (PAN AABF17996J) and Sh.Abhay Jain (PAN AHEPJ7203M) - matter regarding-**

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*Kindly refer to the subject cited above.*

*Keeping in view the orders of Hon'ble Punjab & Haryana High Court Chandigarh (whereby directing the assessment order to complete the assessment proceedings by 30.06.2017), draft assessment orders of the following cases have been prepared:*

<b>S.No.</b>	<b>Name &amp; address of the assessee</b>	<b>PAN</b>	<b>Assessment Years</b>
1.	<i>M/s Inder International, 594, Nirankari Mohalla No.1, Overlock Road, Ludhiana</i>	<i>AABF17996J</i>	<i>2011-12 to 2016-17 (six Years U/s 153A)</i>
2.	<i>S.Abhay Jain Prop. M/s Shree Lakshmi Steels, 467, Industrial Area-B, Millerganj, Ludjhiana</i>	<i>AHEPJ7203M</i>	<i>2012-13 to 2016-17 (Five Years U/s 153C)</i>

*Submitted for kind perusal and statutory approval U/s 153D of the Income Tax Act, 1961.*

*Yours faithfully*

*Encls: Assessment folders in  
11 cases alongwith  
Corresponding draft  
assessment Orders.*

*Sd/-  
(Manke Shah Kapoor)  
Asstt. Commissioner of Income Tax  
Central Circle-II, Ludhiana*

12. On page 2, the relevant statutory approval accorded u/s 153D of the Act by the Addl.CIT is also enclosed and the same reads as under:

**Government of India  
Ministry of Finance**

*Office of the  
Addl. Commissioner of Income Tax,  
Central Range, Ludhiana.*

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*SCO 1-6, 2<sup>nd</sup> Floor, Opp.B.V.M. School Kitchlu Nagar, Ludhiana.*

*F.No.Addl.CIT(C), R/Ldh./16-17/560*

*Dated:29.06.2017*

To

*The Asst. Commissioner of Income Tax,  
Central Circle-II, Ludhiana.*

***Sub: Approval u/s 153D of the I.T. Act, 1961 in the case of  
M/s Inder International (PAN AABFI7996J) and Sh.Abhay  
Jain (PAN AHEPJ7203M) –regarding-***

***\*\*\*\*\****

*Kindly refer to the subject cited above.*

*Please refer to your office letter No.446 dated 29.06.2017, received in this office on 29.06.2017 thereby submitted draft assessment order in the following cases:*

<b>S.No.</b>	<b>Name &amp; address of the assessee</b>	<b>PAN</b>	<b>Assessment Years</b>
1.	M/s Inder International, 594, Nirankari Mohalla No.1, Overlock Road, Ludhiana	AABF17996J	2011-12 to 2016-17 (six Years U/s 153A)
2.	Sh.Abhay Jain Prop. M/s Shree Lakshmi Steels, 467, Industrial Area-B, Millerganj, Ludjhiana	AHEPJ7203M	2012-13 to 2016-17 (Five Years U/s 153C)

*Necessary statutory approval u/s 153D is given to pass the above assessment order, as sub. Assessment record in this case is returned herewith.*

Encls: As above.

Sd/-  
(Dr.Rajinder Kaur)  
Addl.Commissioner of Income Tax  
Central Range, Ludhiana

11. From these two documents it is clear that the AO has prepared a draft assessment order only either on 28.06.2017 or on 29.06.2017. This draft assessment order was sent to the Addl.CIT only on 29.06.2017 alongwith draft assessment order of other group cases and the Addl.CIT, Central Range, Ludhiana has accorded approval u/s 153D of the Act that very day i.e. 29.06.2017 as is clear from the above approval reproduced. The Addl.CIT simply recorded that;

*“Necessary statutory approval u/s 153D is given to pass the above assessment order as such. Assessment record in this case is returned herewith.”*

12. We have gone through the decision of Hon'ble Bombay High Court cited by the Ld.Counsel for the assessee in the

case of Shreelekha Damani (supra) wherein almost identical approval was considered by the Hon'ble Bombay High Court and the relevant findings are as under:

*"6. Having heard the learned Counsel for the both sides and having perused the documents on record, we have no hesitation in upholding the decision of the Tribunal. The Additional CIT while granting an approval for passing the order of assessment, had made following remarks :-*

*"To, The DCIT(OSD)-1 Mumbai Subject : Approval u/s 153D of draft order u/s 143(3) r.w.s. 153A in the case of Smt. Shreelekha Nandan Damani for A.Y. 2007-08 reg.*

*Ref : No. DCIT (OSD)-1/CR-7/Appr/2010-11 dt. 31.12.2010  
As per this office letter dated 20.12.2010, the Assessing Officers were asked to submit the draft orders for approval u/s 153D on or before 24.12.2010. However, this draft order has been submitted on 31.12.2010. Hence there is no much time left to analyse the issue of draft order on merit. Therefore, the draft order is being approved as it is submitted.*

*Approval to the above said draft order is granted u/s 153D of the I.T. Act, 1961."*

*7. In plain terms, the Additional CIT recorded that the draft order for approval under Section 153D of the Act was submitted only on 31st 3 of 4 Uday S. Jagtap 668-16-ITXA-15=.doc December, 2010. Hence, there was not enough time left to analyze the issues of draft order on merit. Therefore, the order was approved as it was submitted. Clearly, therefore, the Additional CIT for want of time could not examine the issues arising out of the draft order. His action of granting the approval was thus, a mere mechanical exercise accepting the draft order as it is without any independent application of mind on his part. The Tribunal is, therefore, perfectly justified in coming to the conclusion that the approval was invalid in eye of law. We are conscious that the statute does not provide for any format in which the approval must be granted or the approval granted must be recorded. Nevertheless, when the Additional CIT while granting the approval recorded that he did not have enough time to analyze the issues arising out of the draft order, clearly this was a case in which the higher Authority had granted the approval without consideration of relevant issues. Question of*

*validity of the approval goes to the root of the matter and could have been raised at any time. In the result, no question of law arises.”*

13. We have also gone through the recent case law of Mumbai Tribunal in the case of Arch Pharmalabs Ltd. (supra) wherein the Tribunal held as under:

*“11.1 It may be pertinent to observe at this stage that the impugned assessment orders were passed u/s. 143(3) rws 153A of the Act for the AY 2003-04 to AY 2008-09 and for the AY 2009-10 u/s. 143(3) of the Act pursuant to search carried out under s.132 of the Act. For passing such assessment orders, the Assessing Officer is governed by s.153D of the Act whereby the Assessing Officer should complete the assessment proceedings and prepare a draft assessment order which need to be placed before the approving authority i.e. Joint / Addl. Commissioner (designated authority giving approval to search assessments u/s. 153D of the Act). The approving authority is necessarily required to objectively evaluate such draft assessment order with due application of mind on various issues contained in such order so as to derive his/ her conclusive satisfaction that the proposed action of AO is in conformity with subsisting law. The AO is obligated to pass the assessment order exactly, as per approval/ directions of the designated authority. Inevitably, this evaluation is to be made on basis of material gathered at time of search as well as obtained in the course of the assessment proceeding. The requirement of law is to grant approval not merely as a formality or a symbolic act but a mandatory requirement.*

*11.2 In the backdrop of facts narrated in the preceding paras, it is the contention on behalf of the assessee that approval granted under S. 153D does not meet the requirement of law and hence assessment orders passed in consequence of such non-est approval is a nullity in law. The assessment orders thus passed is vitiated in law*

*which illegality cannot be cured. In support of charge of nonest approval, several contentions have been raised viz (i) the approval accorded under section 153D is without any occasion to refer to the assessment records and seized material, if any, incriminating the assessee and hence such approval is in the realm of an abstract approval of draft assessment orders which was unsubstantiated and unsupported and consequently suffered from total non-application of mind (ii) approval granted hurriedly in a spur involving voluminous assessments spanning over 7 assessment years and thus only a symbolic exercise to meet the requirement of law (iii) Total lack of objectivity in drawing satisfaction on objective material while giving a combined approval for 7 assessments and also without evaluating the nuances of each assessment year involved (iv) the mundane action of Addl. CIT under S. 153D in a cosmetic manner gives infallible impression of approval on dotted line and thus defeats the purpose of supervision of search assessments (iv) initialed draft assessment orders not available in office records.*

*11.3 As observed, Section 153D bestows a supervisory jurisdiction on the designated authority in respect of search related assessment and thus enjoins a salutary duty of statutory nature. The designated superior authority is thus expected to confirm to the statutory requirement in letter and spirit. It is evident from the communication of AO and consequent approval thereon under S. 153D that no assessment record for any assessment year in question or any seized material had traveled to the authority concerned for his objective consideration of the same qua the draft assessment orders. No reference in this regard is made in the approval note either which may discard such allegation as untrue. No other material or order sheet in assessment proceedings etc. were placed before us either to establish otherwise. Except these two documents namely, a solitary communication from AO to the Addl. CIT dated 29/12/2010 and an in turn approval by Addl. CIT dated 31/12/2010, there is nothing else before us to gauge the facts differently. A bare*

*glance at the approval so accorded makes it evident that such approval is generic and listless and accorded in a blanket manner without any reference to any issue in respect of any of the 7 assessment years. Apparently, the approval has been granted on a dotted line without any availability of reasonable time which firms up the belief towards non application of mind. Besides, the approval has been granted in a consolidated manner for all assessment years for which voluminous assessment orders were prepared. The whole sequence of action apparently appears to be illusory to merely meet the requirement of law as an empty formality. It is also alleged on behalf of assessee that the draft assessment orders are not available on record which allegation has not been rebutted. The draft assessment orders showing some marking / initials etc. could have given a valuable input on the applicability of mind and could throw light on objectivity applied owing to total silence on any delineation on these aspects in the approval memo. The records before us are totally muted.*

*11.4 Based on solitary communication placed before us, it is ostensible that draft assessment orders were placed before the Addl. CIT on 29.12.2010 for the first time. It is axiomatic from the plain reading of approval memo that various assessment orders and the issues incorporated in the assessment orders, were never subjected to any discussion with the authority granting approval prior to 29.12.2010. It is evident from the CBDT Circular No. 3 of 2008 dated 12.03.2008 that the legislature in its highest wisdom made it obligatory that the assessments of search cases should be made with the prior approval of superior authority, so that the superior authority apply their mind on the materials and other attending circumstances on the basis of which the Assessing officer is making the assessment and after due application of mind and on the basis of seized materials, the superior authority is required to accord approval the respective Assessment order. Solemn object of entrusting the duty of Approval of assessment in search cases is that the Additional CIT, with his experience and maturity of*

*understanding should at least minimally scrutinize the seized documents and any other material forming the foundation of Assessment. It is elementary that whenever any statutory obligation is cast upon any statutory authority, such authority is required to discharge its obligation not mechanically, not even formally but after due application of mind. Thus, the obligation of granting Approval acts as an inbuilt protection to the taxpayer against arbitrary or unjust exercise of discretion by the AO. The approval granted under section 153D of the Act should necessarily reflect due application of mind and if the same is subjected to judicial scrutiny, it should stand for itself and should be self-defending. There are long line of judicial precedents which provides guidance in applying the law in this regard.*

*11.5 At the cost of repetition, it may be reiterated that in the instant case, approving authority did not mention anything in the approval memo towards his/ her process of deriving satisfaction so as to exhibit his/her due application of mind. We may observe that Para 2 of the above approval letter merely says that "Approval is hereby accorded u/s. 153D of the Income-tax Act, 1961 to complete assessments u/s. 143(3) r.w.s. 153A of the I.T. Act in the following case on the basis of draft assessment orders..."which clearly proves that the Addl. CIT had routinely given approval to the AO to pass the order only on the basis of contents mentioned in the draft assessment order without any application of mind and seized materials were not looked at and/or other enquiry and examination was never carried out. From the said approval, it can be easily inferred that the said order was approved, solely relying upon the implied undertaking obtained from the Assessing Officer in the form of draft assessment order that AO has taken due care while framing respective draft assessment orders and that all the observations made in the appraisal report relating to examination / investigation of seized material and issues unearthed during search have been statedly considered by the AO seeking approval. Thus, the sanctioning authority has, in effect, abdicated his/ her statutory functions and*

*delightfully relegated his/her statutory duty to the subordinate AO, whose action the Additional CIT, was supposed to supervise. The addl. CIT in short appears to have adopted a short cut in the matter and an undertaking from AO was considered adequate by him/ her to accord approval in all assessments involved. Manifestly, the Additional CIT, without any consideration of merits in proposed adjustments with reference to appraisal report, incriminating material collected in search etc. has proceeded to grant a simplicitor approval. This approach of the Additional CIT, Central has rendered the Approval to be a mere formality and can not be countenanced in law.*

*11.6 There are several decisions, which supports the view that approval granted by the superior authority in mechanical manner defeats the very purpose of obtaining approval u/s 153D. Such perfunctory approval has no legal sanctity in the eyes of the law. The decision of the co-ordinate bench in Shreelekha Damani vs. DCIT 173 TTJ 332(Mum.) and approved by jurisdictional High Court subsequently as reported in 307 CTR 218 affirms the plea of the Assessee.*

*11.7 Very recently, the co-ordinate bench in Sanjay Duggal & ors (ITA 1813/Del/2019 & ors; order dated 19.01.2021 has also echoed the same view after a detailed analysis of similar facts and also expressed a discordant note on such mechanical exercise of responsibility placed on designated authority under section 153D of the Act. Hence, vindicated by the factual position as noted in preceding paras, we find considerable force in the plea raised by the Assessee against maintainability of hollow approval under S. 153D totally devoid of any application of mind. The approval so granted under the shelter of section 153D, does not, in our view, pass the test of legitimacy. The Assessment orders of various assessment years as a consequence of such inexplicable approval lacks legitimacy. Consequently, the impugned assessments relatable to search in captioned appeals are non est and a nullity and hence quashed.”*

14. In view of the above decision and the fact that in the present case before us also the Addl.CIT has accorded the approval u/s 153D of the Act only on 29.06.2017 when the AO placed the assessment order on that very date i.e. 29.06.2017. The relevant approval by the Addl.CIT reads as under:

*“Necessary statutory approval u/s 153D is given to pass the above assessment order as such. Assessment record in this case is returned herewith.”*

15. From the above, it is clear that this is totally non application of mind by the Addl. CIT, who is the supervising authority of the AO, while granting statutory approval u/s 153D of the Act, the issue stands covered in favour of the assessee by various decisions cited above. In the present case before us, we noted that the Addl. CIT did not mention anything in the approval memo towards his process of deriving satisfaction so as to exhibit his due application of mind. We noted that the Addl. CIT merely approved the letter and the relevant is noted in above paras. We noted that the relevant Para of the above approval letter merely says that *"Necessary statutory approval u/s 153D is given to pass the above assessment order as such. Assessment record in this case is returned herewith..."* which clearly proves that the Addl. CIT had routinely given approval to the AO to pass

the order only on the basis of contents mentioned in the draft assessment order without any application of mind and seized materials were not looked at because that was not available before him at the time of granting of approval to the draft assessment order and other enquiry and examination was never carried out. From the said approval, it can be easily inferred that the said order was approved, solely relying upon the implied undertaking obtained from the Assessing Officer in the form of draft assessment order that AO has taken due care while framing respective draft assessment orders and that all the observations made in the appraisal report relating to examination / investigation of seized material and issues unearthed during search have been statedly considered by the AO seeking approval. Thus, the sanctioning authority has, in effect, abdicated his statutory functions and delightfully relegated his statutory duty to the subordinate AO, whose action the Additional CIT, was supposed to supervise. The addl. CIT in short appears to have adopted a short cut in the matter and an undertaking from AO was considered adequate by him to accord approval in all assessments involved. Manifestly, the Additional CIT, without any consideration of merits in proposed additions with reference to incriminating material collected in search etc. has proceeded to grant a simplicitor

approval. This approach of the Additional CIT, Central has rendered the Approval to be a mere formality and can not be considered as actual approval in law. Hence, we quash the assessment framed u/s 153A of the Act on this additional ground alone.

16. Needless to say that we need not to adjudicate the grounds raised on merits by the assessee as we have already quashed the assessment on jurisdictional issue that the statutory approval granted u/s 153D is without application of mine by the Addl.CIT,

17. In the result, the appeal of the assessee is allowed.

Order pronounced on 07.06.2021.

Sd/-  
**(N.K. SAINI)**  
**VICE PRESIDENT**

Sd/-  
**(MAHAVIR SINGH)**  
**VICE PRESIDENT**

**Dated: 07<sup>th</sup> June, 2021**

**\*रती\***

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