



IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: G : NEW DELHI

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

ITAs No.2462 & 2463/Del/2016
Assessment Years: 2011-12 & 2012-13

ACIT,
Central Circle-3,
New Delhi.

Vs Splendor Landbase Ltd.,
F-38/2, Splendor House,
Okhla Industrial Area, Phase II,
New Delhi.

PAN: AAECA3986E

CO Nos.101 & 102/Del/2024
(ITAs No.2462 & 2463/Del/2016)
Assessment Years: 2011-12 & 2012-13

Splendor Landbase Ltd.,
F-38/2, Splendor House,
Okhla Industrial Area, Phase II,
New Delhi.

Vs. ACIT,
Central Circle-3,
New Delhi.

PAN: AAECA3986E

AND

ITAs No.3173 & 3174/Del/2016
Assessment Years: 2011-12 & 2012-13

ACIT,
Circle-3,
New Delhi.

Vs Hridey Vikram Bhatia,
Sai Kunj, B-402,
New Friends Colony,
New Delhi – 110 065.

PAN: ABSPV2038A

CO Nos.02 & 03/Del/2025
(ITAs No.3173 & 3174/Del/2016)
Assessment Years: 2011-12 & 2012-13

Hridey Vikram Bhatia,
Sai Kunj, B-402,
New Friends Colony,
New Delhi – 110 065.

Vs. ACIT,
Circle-3,
New Delhi.

PAN: ABSPV2038A

(Appellants)

(Respondents)

Assessee by	: Shri Ajay Wadhwa, Advocate; Shri Anil Chopra, CA; Ms Ragini Handa, Shri Shivam Garg & Shri V.K. Garg, Advocates
Revenue by	: Ms Jaya Chaudhary, CIT-DR
Date of Hearing	: 10.02.2025
Date of Pronouncement	: 07.03.2025

ORDER

PER ANUBHAV SHARMA, JM:

These appeals arise from a common set of facts and were argued together by the Id. Representatives, thus are disposed of together. **ITAs No.2462 & 2463/Del/2016** are appeals preferred by the Revenue against the order dated 26.02.2016 of the Commissioner of Income-tax (Appeals)-23, New Delhi (hereinafter referred to as the Id. First Appellate Authority or ‘the Id. FAA’ for short) in Appeals No.34 & 35/15-16 and **ITA Nos.3173 & 3174/Del/2016** are appeals preferred by the Revenue against the order dated 22.03.2016 of the Id. FAA in Appeals No.86 & 87/15-16 arising out of the appeals before the Id.

FAA by both the assesseees for the respective assessment years against the orders dated 31.03.2015 passed u/s 153A/143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ACIT, Central Circle-3, New Delhi (hereinafter referred to as the Ld. AO). Both the assesseees have filed Cross Objections for the respective assessment years also.

2. The background to these appeals is that search and seizure action was carried in Splendor Group on 22.03.2013 and cases of assessee covered in the search were centralized. Assessee/respondent here before us, Splendor Landbase Ltd. is the flagship company of Splendor Group and assessee/respondent Hridey Vikram Bhatia is the Director. Assessment was concluded in the hands of assessee company by making impugned additions on substantive basis while protective addition was made in hands of Director. Ld. CIT(A) has deleted the substantive additions in the hands of company and resultantly protective additions in hands of director were also deleted and against same the Revenue has come in appeal before this Tribunal.

3. At the time of hearing, the Id. Counsel for respondents has pointed out that both the assessee/respondents have raised an additional ground under Rule 27 of the Income-tax (Appellate Tribunal) Rules, 1963 (hereinafter referred to as 'the Rules') whereby the impugned orders have been challenged on the basis that statutory approval u/s 153D has been granted without application of mind,

without perusing the records in a mechanical manner. At the same time, by way of an application under Rule 11 of the Rules, the assessee/respondent has sought indulgence of this Tribunal to adjudicate upon jurisdictional grounds. Pertinent to mention is that the assessee had also filed cross objections raising similar ground. However, the same are filed belatedly with justification for filing delayed CO.

4. Now, taking the Bench across the approval granted in case of the both the assessee, it is submitted that the approval has been granted without application of mind as it is by way of a common approval for various assessment years and the approval was sought by the ld. AO on 30.03.2015 and on the same day the said approval was granted. It is pointed out that only draft assessment orders were sent to JCIT and all the records were not forwarded and, accordingly, a mechanical approval was granted by the JCIT mentioning “following draft assessment orders are being approved”. It was pointed out that the mandate of law u/s 153D is that the approval should be granted with an independent mind after considering the material on record for each assessment year in respect of each assessee separately. The reliance in this regard was placed on the order of the Hon’ble Delhi High Court in the case *PCIT vs. Sapna Gupta (2023) 147 taxmann.com 288 (All)* and *PCIT vs. Shiv Kumar Nayyar (2024) 163 taxmann.com 9 (Delhi)*. Further, the ld. counsel has relied the judgement of the Hon’ble Delhi High Court in the case *PCIT vs. Anuj Bansal (2024) 165*

taxmann.com 2 (Delhi) and decision of the coordinate Bench of ITAT Delhi in the case *MDLR Airlines Pvt. Ltd. vs. DCIT, dated 24.04.2024 in ITA Nos.1420 & 1421/Del/2023*, to contend that in case of mechanical approval u/s 153D of the Act, the assessment is liable to be quashed.

5. Supporting the legality of approval granted u/s 153D of the Act, ld. Dr had placed on record written submissions in the case of both the appellants and for convenience and to be fair to the attempt of ld. DR in defending the issue we are reproducing the written submissions filed in the case respondent Hridey Vikram Bhatia, in totality:-

“Sub: Written Submission on behalf of the Department with regard to issue of approval u/s 153D of the I.T Act, 1961 in the above captioned appeals - Reg.

MAY IT PLEASE YOUR HONOURS'

1) That, with regard to the above-captioned appeals, Assessee has moved two Applications both dated 04.01.2025 under Rule 11 & 27 of the Income Tax Act (Appellate Tribunal), Rules, 1963, concerning the issue of invalid approval u/s 153D of the Act. In response to the same, the undersigned most respectfully submits that the contentions with respect to approval u/s 153D of the Act were not raised before the Ld. CIT (A) & even before Hon'ble ITAT prior to applications dated 04.01.2025. The same was raised after about 8 years of filing of appeal by the Department. Further, it is pertinent to mention here that the assessee moved the above said Applications wherein reasons for delay of about 8 years are not substantiated by any documentary evidence. Hence, the Applications filed by the Assessee on the issue of approval of u/s 153D of the Act may be not admitted on this ground alone.

2) Further, it is pertinent to mention here that in the applications so filed, the Assessee has also mentioned to have filed Cross Objections (CO) dated 04.01.2025 wherein he has raised the similar contentions regarding approval u/s 153D & in which reasons for delay of about 8 years are

explained to be some employees leaving the Assessee, Covid-19 etc. It is pertinent to mention here that such reasons are not even supported by any documentary evidences.

It is respectfully submitted that such reasons for inordinate delay are not acceptable for the reason that assessee has been attending the hearings before this Hon'ble Tribunal notwithstanding such reasons as cited by him and never has he shown any inability in presenting his side in the past for such reasons as cited now.

Thus, for the reasons mentioned above, the cross-objection, application under Rule 11 & application under Rule 27, filed by the Assessee on the issue of approval u/s 153D of the Act are devoid of merits and may not be admitted by the Hon'ble Bench.

3) *Without prejudice to foregoing objections, it is respectfully submitted that the assessment orders clearly state that the assessment order have been passed with the prior approval of Jt. CIT, Central Range-I, New Delhi vide his Letter No. Jt.CIT/CR- I/153D/2012-13/1834 dated 30.03.2015.*

4) *Further, in view of the CBDT's Guidelines being F. No. 286/161/2006-IT (Inv. II) dated 22.12.2006, Para 1.7, mandates that assessment in all cases be it search of a group or an assessee, assessment are framed simultaneously to ensure coordinated decision-making and eliminate the possibility of assessments being made in the wrong hands or for the incorrect assessment year(s). It is respectfully submitted that, in search cases, the Range Head (Addl./Joint CIT) is fully aware of the progress of the assessment proceedings, the relevant issues concerning different assessee, and the nature and content of the seized material.*

The said guidelines explicitly emphasize the close coordination required in search and seizure assessments. Therefore, it is reasonable to conclude that, in accordance with prevailing administrative practices and guidelines, the approving authority has a comprehensive understanding of the issues involved in a particular case well in advance, prior to the case being submitted to him for approval under section 153D of the Act. The CBDT guideline is a crucial document that provides insight into the manner in which search assessments are handled by field officers. Hence, by any stretch of imagination, it cannot be inferred that the Range Head was not in a position to independently apply his mind in a judicious manner while granting approval under section 153D of the Act and that the approval granted by the Range Head u/s 153D was in a routine and casual manner without considering the facts of the case.

(Copy enclosed as ANNEXURE-A)

5) *In addition, it is respectfully submitted that a written statement dated 04/11/2024 from Ms. Rinku Singh, presently CIT (Admn & TPS), Bihar and Jharkhand, and the then JCIT/Range Head, Central Range-I, New Delhi, who granted prior approval under section 153D of the Act categorically stated in the following words -*

"I had access to Appraisal report of Splendor Landbase Group and other seized documents. Case of M/s Splendor Landbase & Mr. Hriday Vikram Bhatia were part of this group. The final orders were passed in these cases in March 2015 and during this period of almost 6 months, these cases were discussed regularly with the concerned Assessing Officer and with due application of mind.

The case records were brought along by the Assessing Officer herself for discussion and there was no legal requirement of recording the discussion in order-sheet or movement of files movement register. Also, Statute nowhere prescribes the manner for recording the discussion between the Range-Head and Assessing Officer."

(Copy enclosed as ANNEXURE-B)

6) *Furthermore, it is respectfully submitted that a written statement dated 04/11/2024 of Dr. Ekta Chaddha, presently Addl. DIT (Systems), Vaishali and the then ACIT, Central Circle 3, New Delhi who passed the assessment order with prior approval of the JCIT (Range Head) in terms of section 153D of the Act, categorically stated in the following words -*

"The facts of the cases, the findings of the appraisal report, the seized material regarding the same were perused from time to time, and the matters were discussed with the then Range Head (Ms. Rinku Singh) on a regular basis, up to finalization of the said assessment.

The case records were brought along by me, to the chamber of the Range Head, as and when required, during the said course of discussions and appraisals with the Range Head and there was no statutory requirement to evidence the movement of the same in terms of file movement register or seeking multiple approvals of the same u/s 153D."

(Copy enclosed as ANNEXURE-C)

7) *In view of the foregoing, it is humbly submitted that the very belated contentions raised by the Assessee regarding the alleged illegality of*

approval under section 153D of the Income Tax Act is baseless and lacks merit. The said approval u/s 153D of the Act was granted by the competent authority, namely the Range Head.

The written statement of Dr. Ekta Chaddha, Addl. DIT (Systems), Vaishali, the then ACIT, Central Circle 3, New Delhi, who passed the assessment order with prior approval of Ms. Rinku Singh, CIT (Admn & TPS), Bihar and Jharkhand, the then JCIT, Central Range-1, New Delhi, affirms the continuous discussions that took place between the AO and the Range Head. Dr. Ekta Chaddha has categorically stated that the facts of the cases, the findings of the appraisal report, and the seized material were perused from time to time, and the matters were discussed with the Range Head (Ms. Rinku Singh) on a regular basis up to the finalization of the assessment. The case records were also brought to the Range Head's chamber by Dr. Ekta Chaddha for further discussions, ensuring a thorough and considered review of the matter. This evidence decisively establishes that the Range Head was well aware of the proceedings and duly applied their mind before granting approval.

Moreover, the written statement of Ms. Rinku Singh, CIT (Admn & TPS), Bihar and Jharkhand, and the then JCIT, Central Range-1, New Delhi, further corroborates the process of approval under section 153D. Ms. Rinku Singh has confirmed that the cases were regularly discussed with the Assessing Officer during the six-month period before the orders were passed in March 2015. Ms. Rinku Singh also clarified that the Assessing Officer brought the case records for discussion and that there was no legal requirement to record these discussions in the order-sheet or movement register. This emphasizes the procedural compliance followed in obtaining the approval.

8) *Furthermore, it is respectfully submitted that each approval must be assessed in light of the specific facts of the case, including the number of issues involved, the nature of those issues, the modus operandi, the number of cases, and the interrelationship among the facts of such cases. In instances where identical issues are involved, with the same modus operandi and cases pertaining to the same assessee, it would not be unreasonable to presume that the approving authority can judiciously apply its independent mind to such cases in a single day. Thus, the Range head approving all or a number of cases of an assessee on a single day ought not to be seen as non-application of mind, particularly when the Range Head has perused the records and engaged in discussions with the Assessing Officer from time to time as per the CBDT guidelines referred above.*

9) *Furthermore, it is respectfully submitted that the assessee has merely contented that the approval u/s 153D of the Act was mechanical in*

nature, without furnishing any specific evidence to substantiate such a claim (except copies of approval of Range head & letter of AO seeking approval). It is pertinent to note that the assessment orders clearly state that the assessment has been passed with the prior approval of the range head accorded under section 153D of the Act and communicated vide letter dated 30/03/2015. Therefore, mere assertion of a mechanical approval, absent any concrete evidence, cannot be accepted as sufficient to question the validity of the approval process when the then Range head and the AO have specifically affirmed again the perusal of records and regular discussion of the cases.

10) Furthermore, it is respectfully submitted that the Assessee's contention that Section 153D of the Income Tax Act, 1961 mandates separate approval for each assessment year is not only erroneous but also wholly unsupported by the provisions of the Act. Section 153D expressly requires the prior approval of the Joint Commissioner/Range head before the Assessing Officer passes any assessment or reassessment order under sections 153A or 153C, in cases involving search or requisition. However, the approval mandated under this provision is for the entire set of assessments arising from the search or requisition, encompassing all relevant years as a whole. The phrase "each assessment year" in Section 153D merely refers to the years involved in the search, and does not imply the necessity of separate approval for each individual year. The Assessee's argument, therefore, lacks any statutory foundation and fails to recognize the legislative intent behind Section 153D. In the present case, the issues were similar across the assessment years and hence, it cannot be said that the approval granted by common letter was mechanical, more so when the CBDT guidelines require that the assessments of a group be framed simultaneously for better coordination and to arrive at correct picture & facts of the cases involved therein. Therefore, it is most respectfully submitted that the Assessee's contention is entirely without merit and should be categorically rejected.

In view of the foregoing submissions, it is most respectfully submitted that the contentions of the assessee on the issue of approval of u/s 153D of the Act may please be rejected and the order of the AO may please be upheld."

6. We have taken the facts and circumstances and at the outset, reproduce the relevant Rule 11, here below;

"11. The appellant shall not, except by leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal,

but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or taken by leave of the Tribunal under this rule:

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground. ”

7. As with regard to the reasons for admissibility of the legal grounds under Rule 11 and Rule 27 of the Rules, we proceed to examine the issue on the basis of the scope of powers of this Tribunal which section 254(1) of the Act confers to pass an order “as it thinks fit”. The Rule 11 only complements the wide powers conferred upon the Tribunal under section 254(1) to render substantive justice to the party before it. Thus we are inclined to accept the submission of Id. Counsel that a constructive reading of section 254(1) of the Act and Rule-11 of Rules makes it amply clear that Tribunal is competent to consider any ground or issue not taken by either of the parties, if the same is found relevant to decide the appeal pending before it. The Hon’ble Guwahati High Court in the case of ***Assam Co. (India) Ltd. v. Commissioner of Income-tax. [2003] 133 Taxman 159 (Gauhati)*** has laid the law straight and held as follows;

“We are therefore not in favour of granting such a primacy to the rules of procedure so as to wipe off a substantial right otherwise available to the assessee in law. We find this view of ours also reinforced by the language of Rule 11 which does not require the Tribunal to be confined to the grounds set forth in the memorandum of appeal or taken by leave of the Tribunal provided the party who may be affected thereby had sufficient opportunity of being heard on that ground. In taking this view, we are conscious about the observations of the Madras High Court and the Calcutta High Court made in the decisions relied upon by learned counsel for the Revenue but we are, in the facts and circumstances of the case, persuaded to accept the observations of the apex court made in this regard

in the case of National Thermal Power Co. Ltd. [1998] 229 ITR 383. We are therefore of the view that it is permissible on the part of the Tribunal to entertain a ground beyond those incorporated in the memorandum of appeal though the party urging the said ground had neither appealed before it nor had filed a cross-objection in the appeal filed by the other party. We must however hasten to add that in order to enable either the assessee or the Department to urge a ground in the appeal filed by the other side, the relevant facts on which such ground is to be founded should be available on record. In the absence of such primary facts, in our opinion, neither the assessee nor the Department can be permitted to urge any ground other than those which are incorporated in the memorandum of appeal filed by the other party. In other words, if the assessee or the Department, without filing any appeal or a cross-objection seeks to urge a ground other than the grounds incorporated in the memorandum of appeal filed by the other side, the evidentiary facts in support of new ground must be available on record.”

8. Ld. Counsel has further relied upon the decisions of Delhi Bench in the case of ***Dy. D.I.T Circle 2 (2) New Delhi Versus M/S Travelport L.P. USA, 2021 (3) TMI 208*** and of Hon’ble Ahmedabad Bench in the case of ***Deputy Commissioner of Income-tax v. Suraj Ltd., [2024] 165 taxmann.com 410 (Ahmedabad - Trib.)***, wherein the Co-ordinate benches allowed the assessee/respondent to raise a legal and jurisdictional plea facts relating to which were already on record by invoking the powers of Tribunal under Rule 11 of the ITAT Rules irrespective of the fact that the assessee/respondent had not preferred an CO in the appeal filed by the Revenue.

8.1 Regarding right of respondent to raise an additional ground before ITAT under Rule 27 to support the order of the CIT(A), reference can be made to the decision of Hon’ble High Court at Delhi in the case of ***Sanjay Sawhney v. Principal Commissioner of Income-tax, [2020] 116 taxmann.com 701 (Delhi)***

wherein while allowing the right of assessee respondent to raise the jurisdictional ground under Rule 27 orally, it was held as under:

“14. It emerges that Rule 27 ought not to be applied narrowly and therefore we cannot agree with Mr. Hossain, that by permitting the Appellant- Assessee (respondent before the Tribunal) to invoke Rule 27 before the Tribunal, to challenge the ground decided against him, scope of the subject matter of appeal would get expanded. We must also bear in mind that jurisdictional issue sought to be urged by the appellant under Rule 27 is interlinked with the other grounds of appeal, and its adjudication would have a direct impact on the outcome of the appeal. The validity of the proceedings goes into the root of the matter and for this reason, the assessee should not be precluded from raising a challenge to that part of the order which was decided against him by the CIT(A). In this regard, it would be profitable to refer the following extract from the judgment of Sundaram & Co. (supra), where the court had also examined as to what constituted 'subject-matter of an appeal' and held as follows:—

21. Therefore, arguably Rule 27 has a limited sphere of operation, but this cannot be whittled or narrowed down to the extent, the Revenue would like us to hold. We cannot read Rule 27 in a restrictive manner to hold that the said provision can only be invoked to support the order in appeal and while doing so, the subject matter of the appeal before the ITAT should be confined only to the extent of the grounds urged by the Appellant. To read Rule 27 in this manner would render the said rule redundant as the respondent before the Tribunal would, even otherwise be entitled to oppose the appeal and raise submissions in answer to the grounds raised in the appeal that are pressed at the hearing of the appeal. With this clarity, we do not find any merit in the submissions of the Revenue that the assessee had accepted order of CIT (A), or that the issue of maintainability had attained finality. We also do not find that by such an interpretation, the scope of Rule 27 is expanded or that it would be contrary to section 253 (4), or that it would render the provision relating to cross objections redundant and otiose. In Sundaram & Co. (supra), the High Court observed that the reason for such a rule [Rule 27] was that when a decision is favorable to a person and comes to be challenged by his adversary, the person must be in a position to support the decision on every ground urged before the deciding authority whether or not it found favor, else such a person would be a victim of wrong reasons if no such freedom was given. In fact, the court has further held that even if Rule 27 as under the 1946 Rules had not been enacted, scope for invocation of the principle underlying the rule would still be possible based on principles of natural justice. This is the essence of the proceedings in appeal before the ITAT

which unfortunately has been completely ignored and, instead, the Tribunal has engaged itself in a totally irrelevant issue of the form and structure of the application. ”

8.2 Further we find that coordinate benches of the Tribunal in the case of ***Income-tax Officer v. Bishambhar DayalAgrawal [2024] 161 taxmann.com 1063 (Raipur - Trib.), Asstt. CIT Central Circle-2(1) v. M/s GM Modular Pvt. Ltd.. ITA Nos. 3033 to 3038/MUM/2022 order dated 31/05/2023*** and ***Income-tax Officer v. Parmanand Gupta [2023] 156 taxmann.com 551 (Raipur - Trib.)*** allowed the assessee to raise a ground of appeal which is jurisdictional in nature and goes to the root of the matter by invoking Rule 27 of the ITAT Rules irrespective of the fact that the ground was not raised before the CIT(A). **Thus we are inclined to admit these grounds of respondents.**

9. Further on merits of the grounds as contended, we find that Hon'ble Hon'ble jurisdictional High Court in the case of **PCIT vs. Shiv Kumar Nayyar in ITA No. 285/2024 (Del), dated 15.05.2024**, has decided the similar legal issue in favour of the assessee and against the Revenue. The relevant findings of the Hon'ble Delhi High Court are reproduced as under :-

"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."

9.1 In the case of ACIT, Circle-1 (2) Vs. Serajuddin and Co. the Hon'ble Supreme Court in SLP (Civil) Dairy No. 44989/2023 vide order dated 28/11/2023, dismissed the Appeal filed by the Department of Revenue against the order dated 15/03/2023 in ITA No. 43/2022 passed by the Hon'ble High Court of Orissa at Cuttack, wherein the Hon'ble High Court had quashed the Assessment Order on the ground of inadequacy in procedure adopted for issuing approval u/s 153D of the Act by expressing discordant note on such mechanical exercise of responsibility placed on designated authority under section 153D of the Act.

10. As borne out from the copy of assessment orders in the case of respondent assessee Shri Hridey Vikram Bhatia, passed by the Ld. AO u/s 153A/143(3) for AY 2007-08 to 2012-13 dated 31.3.2015, common approval has been granted by the Ld. JCIT vide common letter No. JCIT/C, Range-1/153D/2014-15/1834 dated 30.3.2015. Copy of the same filed by the ld. Counsel has been perused by us and for completeness and convenience we reproduce the same below:-

कार्यालय
संयुक्त आयकर आयुक्त,
केन्द्रीय रेंज-1, नई दिल्ली।

फा.सं.: सं.आ.आ./के.रेंज-1/153D/2014-15/1834

दिनांक: 30/03/2015

सेवा में,

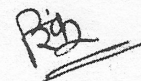
सहायक आयकर आयुक्त,
केन्द्रीय वृत्त-03,
नई दिल्ली।

विषय: आयकर अधिनियम, 1961 की धारा 153D के तहत (स्पलैण्डर ग्रुप) के
अनुमोदन के संदर्भ में—

कृपया आपके कार्यालय पत्र संख्या सं.आ.आ./के.वृ.-3/2014-15/2155 दिनांक
30/03/2015 के संदर्भ में।

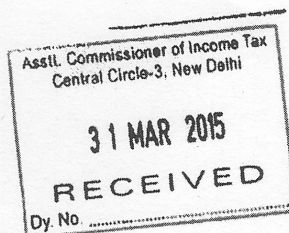
प्रारूप निर्धारण आदेश को निम्नलिखित विवरणों के अनुसार अनुमोदित किया जाता है।

क्र.सं.	मामले का नाम	निर्धारण वर्ष	संबंधित आदेश
1.	श्री हृदय विक्रम भाटिया	2007-08 से 2012-13	153A के साथ 143(3)
		2013-14	143(3)
2.	मै0 हॉस्टन टेक्नॉलाजीस लि0	2007-08 से 2012-13	153A के साथ 143(3)
		2013-14	143(3)



(रिकू सिंह)

संयुक्त आयकर आयुक्त,
केन्द्रीय रेंज-1, नई दिल्ली।



11. This approval establishes that the Ld. AO sent letter bearing No. ACIT/CC- 3/2014-15/2155 on 30.3.2015 seeking approval of the JCIT and the copy of approval shows it was granted on same day. Then a common approval has been sought and granted by single letter in case of appellant Shri Hridey Vikram Bhatia and M.s, Houston Technologies Pvt. Ltd. in respect of all assessment years i.e. for AY 2007-08 to 2013-14 as against individual approval for each "assessment year" in respect of "each assessee" separately.

12. Then it is established that on same day i.e. 30.3.2013, approvals have also been granted in respect of assessment orders for the assessment years for AY 2006-07 to 2013-14 of other assessee/ respondent M/s Splendor Landbase Limited, by the same Ld. JCIT vide common letter No. JCIT/C, Range-1/153D/2014-15/1842 dated 30.3.2015. It is verbatim of approval in case of respondent Hridey Vikram Bhatia.

13. Ld. Counsel has submitted that in between the said approval letters No. JCIT/C, Range-1/153D/2014- 15/1842 dated 30.3.2015 in respect of M/s Splendor Landbase Limited and letter No. JCIT/C, Range-1/153D/2014-15/1834 dated 30.3.2015 in respect of Vikram Bhatia, there must be other seven approvals on the same day in respect of minimum seven persons. Thus as per ld. Counsel this shows there non application of mind to the facts of each assessee and for each year.

14. Then we find that only draft assessment orders were sent to JCIT without any assessment or search record. The approvals establishes that approving authority has granted the approvals, without reasons or depicting having applied an active mind to the issue involved and the material relied by the AO, but by merely mentioning “*Following draft assessment orders are being approved*”, the impugned approval is granted.

15. Now more particularly in the present set of facts where substantive additions were made in the hands of respondent Splendor Landbase ltd. and protective assessment were made in the hands of its Director respondent Hridey Vikram, then that all the more needed to show in the approval letters that the competent authority has examined the issue so well so as to conclude of substantive and protective assessments being possibly made. Had the competent authority been even aware of the fact of the protective and substantive assessments being made, then it was more likely to have been granted in one letter. Rather if the sequence number of letters granting approval is considered the approval was first granted in case of protective addition in the hands of Hridey Vikram and then of substantive addition in case of the company Splendor Landbase Ltd. This certainly shows that unmindful of nature of material relied and nature of additions the approvals have been mechanically granted by the JCIT.

16. What ever attempt is now being made by the department to fill in the lacuna by filing letters of then JCIT who granted the approval is doing more damage to the case of the department because when we take into consideration the letter of then JCIT, annexure B, filed by Id. DR, with the submission, we find that the said JCIT seems to be still under impression that grant of approval is mere formality and for that reason the JCIT has stated in this letter that, “ *It is further noted that Approval letter U/s 153D is ‘only a formal’ culmination of application of mind, which takes place throughout the assessment period.*” On the contrary law as stands crystallized is that the approval letter should be speaking one and show that approval was granted by application of mind. There is inherent fallacy in the belief of JCIT as mentioned in this letter that “ *there is no requirement in law creating any evidence for discussions before granting the approval u/s 153D.*” On the contrary this bench is of firm view that not only as quasi-judicial authority but even in administrative capacity, if an approval is to be granted under a statute for initiating any quasi judicial proceedings then such approval should be self contained piece of evidence that due process of law was followed in grant of approval. Which certainly is not the case here.

17. As a sequel to aforesaid discussion we are inclined to sustain the grounds raised by the respondents and hold the approvals granted in case of both the assessee to be vitiated and thus all the consequential proceedings in the form of

impugned assessment orders against the respondents deserve to be quashed.

Accordingly appeals of revenue are dismissed and cross objections allowed,
with consequences to follow as per determination of grounds in favour of
respondents.

Order pronounced in the open court on 07.03.2025.

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 07th March, 2025.

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi

1.	<i>Date of dictation of Tribunal Order.</i>	<i>.03.2025</i>
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictated Member.</i>	<i>.03.2025</i>
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member.</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement.</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S.</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website.</i>	
8.	<i>Date on which the file goes to the Bench Clerk along with Tribunal Order.</i>	
9.	<i>Date of killing off of the disposed of files on the Judisis portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Superintendent (Judicial).</i>	
11.	<i>The date on which the file goes to the Assistant Registrar for endorsement of the order.</i>	
12.	<i>Date of Dispatch of the Order</i>	