IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (L) NO. 34357 OF 2024
WITH
INTERIM APPLICATION NO. 1072 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34357 OF 2024

Pr Commissioner of Income Tax Central 4 … Appellant

Versus

Citron Infraprojects Limited AADCC3735C … Respondent

WITH
INCOME TAX APPEAL (L) NO. 34371 OF 2024
WITH
INTERIM APPLICATION NO. 1880 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34371 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34382 OF 2024
WITH
INTERIM APPLICATION NO. 1071 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34382 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34393 OF 2024
WITH
INTERIM APPLICATION NO. 1082 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34393 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34394 OF 2024
WITH
INTERIM APPLICATION NO. 1080 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34394 OF 2024
WITH

INCOME TAX APPEAL (L) NO. 34430 OF 2024
WITH
INTERIM APPLICATION NO. 1074 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34430 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 35473 OF 2024
WITH
INTERIM APPLICATION NO. 1083 OF 2025
IN
INCOME TAX APPEAL (L) NO. 35473 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 35504 OF 2024
WITH
INTERIM APPLICATION NO. 1010 OF 2025
IN
INCOME TAX APPEAL (L) NO. 35504 OF 2024
WITH
INCOME TAX APPEAL NO. 769 OF 2025
WITH
INCOME TAX APPEAL NO. 771 OF 2025
WITH
INCOME TAX APPEAL NO. 775 OF 2025

AND
INCOME TAX APPEAL (L) NO. 34768 OF 2024
WITH
INTERIM APPLICATION NO. 1885 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34768 OF 2024

Pr Commissioner of Income Tax Central 4 … Appellant

Versus

Helios Mercantile Limited AACCH3797G … Respondent

WITH
INCOME TAX APPEAL (L) NO. 34792 OF 2024
WITH
INTERIM APPLICATION NO. 1956 OF 2025

IN
INCOME TAX APPEAL (L) NO. 34792 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34854 OF 2024
WITH
INTERIM APPLICATION NO. 1962 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34854 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34913 OF 2024
WITH
INTERIM APPLICATION NO. 1959 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34913 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34916 OF 2024
WITH
INTERIM APPLICATION NO. 1893 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34916 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34920 OF 2024
WITH
INTERIM APPLICATION NO. 4911 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34920 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34930 OF 2024
WITH
INTERIM APPLICATION NO. 1888 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34930 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34934 OF 2024
WITH
INTERIM APPLICATION NO. 1953 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34934 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 34948 OF 2024

WITH
INTERIM APPLICATION NO. 1955 OF 2025
IN
INCOME TAX APPEAL (L) NO. 34948 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 35346 OF 2024
WITH
INTERIM APPLICATION NO. 1961 OF 2025
IN
INCOME TAX APPEAL (L) NO. 35346 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 35351 OF 2024
WITH
INTERIM APPLICATION NO. 1891 OF 2025
IN
INCOME TAX APPEAL (L) NO. 35351 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 35354 OF 2024
WITH
INTERIM APPLICATION NO. 1892 OF 2025
IN
INCOME TAX APPEAL (L) NO. 35354 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 35368 OF 2024
WITH
INTERIM APPLICATION NO. 1952 OF 2025
IN
INCOME TAX APPEAL (L) NO. 35368 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37167 OF 2024
WITH
INTERIM APPLICATION NO. 1346 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37167 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37307 OF 2024
WITH
INTERIM APPLICATION NO. 1339 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37307 OF 2024

WITH
INCOME TAX APPEAL (L) NO. 37309 OF 2024
WITH
INTERIM APPLICATION NO. 1316 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37309 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37314 OF 2024
WITH
INTERIM APPLICATION NO. 1347 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37314 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 38201 OF 2024
WITH
INTERIM APPLICATION NO. 1895 OF 2025
IN
INCOME TAX APPEAL (L) NO. 38201 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 38215 OF 2024
WITH
INTERIM APPLICATION (L) NO. 8907 OF 2025
IN
INCOME TAX APPEAL (L) NO. 38215 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 38273 OF 2024
WITH
INTERIM APPLICATION (L) NO. 8863 OF 2025
IN
INCOME TAX APPEAL (L) NO. 38273 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 38292 OF 2024
WITH
INTERIM APPLICATION NO. 1341 OF 2025
IN
INCOME TAX APPEAL (L) NO. 38292 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 81 OF 2025
WITH
INTERIM APPLICATION (L) NO. 8876 OF 2025

IN
INCOME TAX APPEAL (L) NO. 81 OF 2025

AND
INCOME TAX APPEAL (L) NO. 36500 OF 2024
WITH
INTERIM APPLICATION NO. 1137 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36500 OF 2024

Pr Commissioner of Income Tax Central 4 … Appellant

Versus

Shri Vallabh Pittie South West Industries Limited AABCN1537H … Respondent

WITH
INCOME TAX APPEAL (L) NO. 36519 OF 2024
WITH
INTERIM APPLICATION NO. 1141 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36519 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36557 OF 2024
WITH
INTERIM APPLICATION (L) NO. 8772 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36557 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36558 OF 2024
WITH
INTERIM APPLICATION NO. 1144 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36558 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36566 OF 2024
WITH
INTERIM APPLICATION NO. 1136 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36566 OF 2024

WITH
INCOME TAX APPEAL (L) NO. 36567 OF 2024
WITH
INTERIM APPLICATION NO. 1138 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36567 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36586 OF 2024
WITH
INTERIM APPLICATION NO. 1139 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36586 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36601 OF 2024
WITH
INTERIM APPLICATION NO. 1143 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36601 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36602 OF 2024
WITH
INTERIM APPLICATION NO. 1145 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36602 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36609 OF 2024
WITH
INTERIM APPLICATION NO. 1401 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36609 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36610 OF 2024
WITH
INTERIM APPLICATION NO. 1140 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36610 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36611 OF 2024
WITH
INTERIM APPLICATION NO. 1135 OF 2025

IN
INCOME TAX APPEAL (L) NO. 36611 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36660 OF 2024
WITH
INTERIM APPLICATION NO. 1142 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36660 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36963 OF 2024
WITH
INTERIM APPLICATION NO. 1403 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36963 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36967 OF 2024
WITH
INTERIM APPLICATION NO. 1344 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36967 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 36981 OF 2024
WITH
INTERIM APPLICATION (L) NO. 8817 OF 2025
IN
INCOME TAX APPEAL (L) NO. 36981 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37002 OF 2024
WITH
INTERIM APPLICATION NO. 1133 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37002 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37009 OF 2024
WITH
INTERIM APPLICATION NO. 1342 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37009 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37019 OF 2024

WITH
INTERIM APPLICATION (L) NO. 8889 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37019 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37080 OF 2024
WITH
INTERIM APPLICATION NO. 1348 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37080 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37081 OF 2024
WITH
INTERIM APPLICATION NO. 1345 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37081 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 39529 OF 2024
WITH
INTERIM APPLICATION (L) NO. 8803 OF 2025
IN
INCOME TAX APPEAL (L) NO. 39529 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 4 OF 2025
WITH
INTERIM APPLICATION NO. 1343 OF 2025
IN
INCOME TAX APPEAL (L) NO. 4 OF 2025

AND
INCOME TAX APPEAL (L) NO. 37127 OF 2024
WITH
INTERIM APPLICATION NO. 1349 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37127 OF 2024

Pr Commissioner of Income Tax Central 4 … Appellant

Versus

SVP Global Textiles Limited AACCS2582C … Respondent

WITH
INCOME TAX APPEAL (L) NO. 37128 OF 2024
WITH
INTERIM APPLICATION NO. 1335 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37128 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37129 OF 2024
WITH
INTERIM APPLICATION NO. 1151 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37129 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37136 OF 2024
WITH
INTERIM APPLICATION NO. 1334 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37136 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37140 OF 2024
WITH
INTERIM APPLICATION NO. 1147 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37140 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37142 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37151 OF 2024
WITH
INTERIM APPLICATION NO. 1150 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37151 OF 2024
WITH
INCOME TAX APPEAL (L) NO. 37155 OF 2024
WITH
INTERIM APPLICATION NO. 1146 OF 2025
IN
INCOME TAX APPEAL (L) NO. 37155 OF 2024
WITH

INCOME TAX APPEAL (L) NO. 74 OF 2025
WITH
INTERIM APPLICATION NO. 1336 OF 2025
IN
INCOME TAX APPEAL (L) NO. 74 OF 2025

Mr. Suresh Kumar, *for the Appellant in all the matters.*

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 26 November 2025

ORAL JUDGMENT:- *(per M. S. Sonak, J)*

1. Heard Mr Suresh Kumar for the Appellants/Applicants.

2. Mr Suresh Kumar states that notices have been served upon the Respondents in all these matters. He points out that the delay in matters listed at Sr. Nos. 401 to 462 ranges between 1 day to 51 days. Sufficient cause has been shown in the Interim Applications. Accordingly, he submits that the delay involved in instituting these Appeals be condoned.

3. We have perused the Interim Applications, and we are satisfied that sufficient cause has been made out for condoning the delay, which is not even inordinate.

4. Accordingly, all the Interim Applications are allowed, and delay is condoned.

5. With consent, the Appeals are immediately taken up for consideration, since, Mr. Suresh Kumar pointed out that all these Appeals are directed against the Income Tax Appellate Tribunal's (ITAT) common order dated 30 April 2024 by which the ITAT has recorded a finding that the "prior approval"

contemplated under Section 153D of the Income Tax Act (IT Act) was vitiated by total non-application of mind and on such basis, quashed such approval. The ITAT has held that the proceedings under Section 153A, based upon an approval under Section 153D which was vitiated by total non-application of mind, were not competent and accordingly, quashed the final orders in such proceedings, solely on such ground.

6. To the Court's query that in several of these Appeals the tax effect is less than Rs. 2 Crores, Mr Suresh Kumar submitted that these Appeals related to accommodation entries and therefore, would be covered under the exceptions provided under the Central Board of Direct Taxes (CBDT) Circulars.

7. Without examining whether the Appeals where the tax effect is less than Rs. 2 Crores indeed fall within the exceptions carved out under the CBDT Circulars, we have heard Mr. Suresh Kumar on the merits of the Appeal.

8. Mr Suresh Kumar submits that the only substantial question involved in all these Appeals is "*whether, in the facts and circumstances of the present case, the ITAT was justified in faulting the prior approval under Section 153D of the IT Act on the ground that the same was vitiated by non-application of mind".*

9. Mr. Suresh Kumar submits that the above question constitutes a substantial question of law for several reasons. At the outset, he submits that the ITAT has referred to instances of alleged non-application of mind only in four to

five cases but has proceeded to allow the 34 Appeals by the assesses and dismiss the 31 by the Revenue, even though, in other than the four to five cases discussed by the ITAT, there was no evidence of any alleged non-application of mind. He submitted that even in the four to five cases, there may have been some discrepancies, but the inference of non-application of mind was not called for.

10. Mr Suresh Kumar submits that one of the circumstances held against the Revenue is that the approvals were granted in haste, i.e., within 24 hours of the date on which such approval was sought, along with draft orders. Mr Suresh Kumar submitted that the Tribunal has acknowledged that there were frequent discussions between the officials seeking approval and the official granting it during the pendency of proceedings. He submits that even the ITAT has accepted this position. Accordingly, he submits that there was nothing wrong in the expeditious grant of such approvals. He submits that the expeditious grant of such approvals was not indicative of any non-application of mind.

11. Mr Suresh Kumar submitted that, in such matters, elaborate reasons are not expected from the approving authorities; it is sufficient if the draft orders accompanying the proposal for approval are considered. He submits that such orders were duly considered. He submitted that the ITAT has not examined the matter on merits but, on technical pleas, faulted the approvals duly granted by the approving authority. He submitted that these Appeals must be admitted on the above proposed substantial question of law.

12. We have considered Mr Suresh Kumar's submissions and, with his assistance, perused the record and the ITAT's common and impugned judgment and order dated 30 April 2024. For reasons discussed hereafter, we are satisfied that the Approvals granted by the Additional Commissioner in this case were indeed vitiated by total non-application of mind, and the ITAT has not exceeded jurisdiction or acted with any perversity in quashing such approvals or holding that action under Section 153A of the IT Act was incompetent, being based upon such vulnerable approvals.

13. Mr. Suresh Kumar's contention that the ITAT has referred to the infirmities only in respect of four to five cases is by no means accurate. The four to five instances, apart from covering several Appeals out of this batch, are only illustrative of the extent to which the approval orders were granted without any application of mind. The ITAT order records that a chart was prepared and produced by the assessee's representative, indicating the infirmities based on which the non-application of mind was evident. The ITAT order records at paragraph 46 that none of these charts were even controverted by the learned Departmental representative.

14. The chart is transcribed in paragraph 13 of the ITAT impugned order. The chart indeed reflects that the approvals were rushed through, and, at least in the facts and circumstances of the present case, this was correctly held by the ITAT to constitute a complete lack of application of mind. The ITAT has observed that, in several cases, the proposal was submitted to the approving authority at 05.02 PM, yet the approvals were issued on the same day. The tribunal has noted that the proposals were accompanied by draft orders

that set out diverse facts and issues. Besides the glaring discrepancies in such draft orders, the ITAT, quite correctly, found it difficult to believe that the Additional Commissioner could have considered all such proposals and the accompanying draft assessment orders within a few minutes or even a couple of hours, as was claimed in these cases. The so-called "discussions" between the official seeking approval and the Additional Commissioner cannot replace proper approvals that demonstrate no application of mind or even a basic reasoning process that might indicate some level of consideration.

15. The entire approval process and the requirement for approval under section 153D were reduced to mere ritual, meaningless formality, or even a mockery in these matters. Most surprisingly, the draft orders that were supposed to accompany the approval proposals already included the date and number of the approval orders that had yet to be issued. This glaring inconsistency shows that the approval was a foregone conclusion even before the proposal and draft orders were received by the Additional Commissioner, or that the authorities considered the mandatory approval a trivial formality subject to casual compliance.

16. Some serious explanation was called for regarding how the details of the approval orders were reflected in the draft assessment orders accompanying the proposal for approval. Such a glaring discrepancy remains unexplained, but it was sought to be downplayed. The ITAT has noted that the proposals were received by the Additional Commissioner at 5.02 pm and that over 30 approvals were granted within minutes. The ITAT, in such circumstances, which are common

to all cases, cannot be faulted for drawing an inference of total non-application of mind in the grant of approvals. The draft assessment orders, as noted by the ITAT, were not common but rather addressed diverse factual scenarios.

17. Apart from the fact that even the draft assessment orders contained glaring discrepancies, it is too much to accept that the Additional Commissioner, in a matter of minutes or, at most, a few hours, could have read, let alone applied his mind to, and issued the approvals. The ITAT's inferences about the mechanical exercise of powers without any application of mind are based on established facts and warrant no interference even if we were to expand the scope of our review under Section 260A of the IT Act. The appeals under Section 260A can only be entertained if they involve some substantial questions of law, which these appeals do not.

18. As if the above circumstances were not sufficient, the ITAT has noted that the approval orders, by themselves, contain nothing to show even a minimal application of mind to the proposals that accompanied the draft assessment orders. The ITAT correctly acknowledges that approval orders need not resemble any reasoned decision or judgment. However, such orders, or at least the circumstances documented at the time of making such orders, should reflect some minimal application of mind. Otherwise, this salutary and mandatory requirement of obtaining approvals can be reduced to a mere formality by rushing through the approvals and the approving authority granting them, perhaps even without reading the papers or applying their minds to the issues raised. In this case, the ITAT has correctly observed, at paragraph 47 of the impugned order, that neither the interests

of the Revenue nor the principles of fair play and natural justice were considered in approving the draft orders of the AO.

19. The ITAT also observed that the Departmental Manual provides guidance on the processing of proposals for approval. In this case, the ITAT found that these procedures were only followed in breach. It further noted that the manual of office procedures is equivalent to instructions under Section 119 of the IT Act and thus binding on IT officials. Considering that the prescribed procedures were followed only in breach, along with other circumstances mentioned in the impugned order, we conclude that the ITAT's finding that the approvals were granted without any application of mind is well-founded. Such a finding is well supported in facts and by several precedents on the subject.

20. In the case of **ACIT Vs. Serajuddin and Co.**[1], the Orissa High Court was concerned with prior approval of the superior officer before an order of assessment or re-assessment is passed pursuant to a search operation under Section 153D read with Section 153A of the IT Act. The Court held that such approval is mandatory and must not be given mechanically. The Court explained that, while elaborate reasons need not be given, there must be some indication that the approving authority examined the draft orders and found that they met the requirements of law. The Court held that where approval was granted mechanically, it would vitiate the assessment order itself. The Court also referred to the CBDT guidelines for granting such approvals and noted that these guidelines can be traced to Section 119 of the Income Tax Act,

[1] (2023) 150 taxmann.com 146 (Orisa)

1961. The Court also noted that there was a series of judgments about the instructions under Section 119 binding the Department. The Special Leave Petition against this decision was dismissed by the Hon'ble Supreme Court[2].

21. The requirement to obtain prior approval for the draft assessment order is an inbuilt protection against the arbitrary or unjust exercise of power by the Assessing Officer (AO). Therefore, this protection cannot be reduced to some mechanical exercise uninformed by any serious application of mind. The precedents referred to by the ITAT suggest that the legislature has introduced this requirement of prior approval, keeping in mind the following factors:-

> *"(i) On the one hand, he has to apply his mind to ensure the interest of the revenue against any omission or negligence by the Assessing Officer in taxing right income in the hands of right person and in right assessment year.*
>
> *(ii) On the other hand, superior authority is also responsible and duty-bound to do justice with the tax-payer by granting protection against arbitrary or creating baseless tax liability on the assessee."*

22. In **Union of India & Ors. In Vs Ashish Agarwal**[3], the Hon'ble Supreme Court has noted that the requirement for the grant of approvals is one of the safeguards provided under the law to ensure that an assessee is not unfairly or arbitrarily treated by the Revenue. This safeguard is rendered futile in the present matter by regarding the same as some ritualistic formality. The safeguards provided by the legislature, which are in the joint interest of the Revenue as well as the assessee, cannot be frustrated by granting *en masse* approvals without

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2 (2024) 163 taxmann.com 118 (SC)

3 Civil Appeal No. 3005/2022 (SC)

any application of mind to the particular facts and circumstances of each case.

23. The ITAT has transcribed the covering letters by which the proposals were forwarded for prior approval. The ITAT has also transcribed the actual approvals granted. None of the documents disclosed that all relevant details regarding the proposals were at all forwarded. Rather, in most cases, the proposals and the draft orders accompanying the same contained gross discrepancies. If such proposal details had been merely perused, let alone considered after due application of mind, such discrepancies would have been evident. But the *en masse* approvals were hastily granted within minutes or at best a couple of hours, casually, mechanically and without any application of mind.

24. From the instances referred to by the ITAT in its impugned order, we cannot but agree that this was a case of a mechanical grant of approvals without adverting even to the truncated material placed on record by the officials seeking the approvals. The ITAT has noted the identical approval orders, even though the Revenue accepts that the facts in each case were not the same, similar, or even identical. The argument that gross discrepancies were noted only in a few cases, not in others, is misconceived. The ITAT has merely referred to instances of gross discrepancies in some of the cases, only to flag the quality of the approvals and the utmost casualness with which the entire exercise was processed.

25. In paragraph 41 of the ITAT's impugned order, the ITAT refers to a glaring example of non-application of mind, and

we transcribe this paragraph below for the convenience of reference.

> *"041. Further glaring example of Non application of mind is that in case of Platinum textiles limited for assessment year 2016 – 17 to assessment year 2018 – 19 and in case Helios Mercantile Limited for assessment year 2017 – 18 and assessment year 2018 – 189 some information is received from the Deputy Director of Income Tax (investigation) regarding transaction with 'one-word group' through email on 26/2/2021 at 5.02 PM, the email is also referred to in the assessment order which was passed on 26/2/2021. Thus, natural corollary is that such assessment order is passed after 5.02 PM on 26/2/2021 and approval is also granted is without application of mind."*

26. Similarly, in paragraph 42 of the ITAT's impugned order, there is yet another instance of non-application of mind, and therefore, we transcribe the contents of this paragraph below for the convenience of reference:-

> *"042. In most of the cases for assessment year 2012 -13 provisions of section 115BBE was invoked whereas such section was inserted by The Finance Act 2012 with effect from 1/4/2013. Further for assessment year 2013 – 14 to assessment year 2016 – 17 the normal tax rate would have been charged for this assessment year but the learned assessing officer in the draft assessment order applied tax rate at the rate of 60%. Therefore, for assessment year 2012 – 13 such provisions could not have been levied for assessment year 2013 – 14 to assessment year 2016 – 17 under that section. The draft assessment order invoked such provision to which approval has been granted. Thus, the provisions which are not applicable for respective assessment year and the learned assessing officer mention such provisions of law in the assessment order and if same is approved by the approving authority, there cannot be more glaring example of non application of mind by the approving authority."*

27. In paragraph 44 of the ITAT's order, the ITAT has referred to the case of an assessee which was not at all in existence. Consequently, no returns were filed. Still, assessment proceedings were carried out, and the AO treated the return filed by the assessee as "non est". The Additional Commissioner, even in this case, granted approval without, perhaps, perusing the record. The ITAT has correctly inferred that this too was a glaring instance of non-application of mind.

28. Similarly, the ITAT, in paragraph 45, has referred to yet another glaring example: the draft assessment order, approved by the Additional Commissioner of Income Tax, mentions the company *Helios Exports Limited*. This assessment is purported to be for the years 2012 – 13 and 2013 – 14. However, records unmistakably show that this company was not even incorporated during these assessment years. Also, the Additional Commissioner of Income Tax has granted approval for a draft assessment order in the case of *Shri Vallabh Pittie Industries Ltd* for the assessment year 2014 – 15, even though the records unmistakably show that this company was not incorporated during the said assessment year.

29. The ITAT has also recorded how all approvals were granted within less than 24 hours on a single day, 26 February 2024. Mr Suresh Kumar's argument that the authority seeking approval and the authority granting approval "were discussing the matter on a routine basis," though partially accepted by the ITAT, cannot be regarded as some substitute for serious application of mind. If indeed such discussions were held and we are to assume they should be considered in explaining the haste with which the approvals were granted, then we wonder

how so many glaring discrepancies crept into the approval orders. The discrepancies are not, by any means, insignificant. The discrepancy in how the draft assessment orders referred to the date and number of the approval orders, even before those approval orders were granted, is glaring and has never been explained.

30. In this case, all the approvals are identically worded, and there is no reference to the draft orders having been pursued by the Additional Commissioner of Income Tax. The approval order merely states the following: -

> *"The draft assessment order, submitted by you in the following case of M/s Platinum Textiles Ltd. for Assessment Year as mentioned below, is approved u/s 153D of the Income Tax Act, 1961 based on the perusal of records submitted along with the submissions of the assessee"*

31. In the case of **Commissioner of Income-tax, Jabalpur Vs. S. Goyanka Lime & Chemicals Ltd.**[4], the Madhya Pradesh High Court was concerned with the validity of a sanction for the issue of notices under Sections 151 read with Sections 147 and 148 of the IT Act, 1961. The Joint Commissioner of Income Tax, who was the sanctioning authority, only stated that "*I am satisfied*". The High Court in its earlier decision in the case of **Arjun Singh Vs. Asstt. DIT**[5] held that the sanction was granted mechanically and reflected no application of mind. Therefore, the same was quashed and set aside. Incidentally, in the case of *Arjun Singh* (supra), not only did the sanction order not reflect any application of mind, but the Court found that such a sanction was granted within less than 24 hours, which was indicative of non-application of mind to

[4] (2015) 56 taxmann.com 390 (Madhya Pradesh)

[5] (2000) 246 ITR 363 (MP)

the materials placed before the sanctioning authority. The Court found that there was no objectivity, and the sanction was based on no objective material. The Special Leave Petition against the decision in *S. Goyanka Lime & Chemicals Ltd* (supra) was dismissed by the Hon'ble Supreme Court[6].

32. In **The Pr. Commissioner of Income Tax Vs. Smt. Shreelekha Damani**[7], the Coordinate Bench of this Court vide judgment and order dated 27 November 2018, upheld the quashing of the approval under Section 153D and the consequent action based upon such approval. The Additional Commissioner in this case did grant an approval on 31 December 2010 but noted that the draft order had been submitted only on 31 December 2010, and there was not enough time left to analyse the issues of the draft order on merits. Based upon the above facts, the Coordinate Bench upheld the quashing of such approval order and the action consequent to such approval order.

33. The Coordinate Bench noted that the approval should not be an empty ritual and must be based on consideration of relevant material on record. Further, the Coordinate Bench made the following observations, which are relevant in the context of the present matter:-

> *"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, perfectively justified in coming to the conclusion that the approval was invalid in eye of law. We are conscious*

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6 (2015) 64 taxmann.com 313 (SC)

7 ITXA/668/2016 (OS) decided on 27 November 2018

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."

34. In **Samp Furniture Pvt. Ltd.Vs. Income Tax Officer, Ward 3(3)-Thane & Ors.**[8], another Coordinate Bench of this Court was concerned with an approval accorded by the Chief Commissioner of Income Tax on 7 March 2024, the same being made available on the order sheet for issuance of impugned notice, the Coordinate Bench held that the Chief Commissioner of Income Tax has acted without application of mind before granting approval under Section 151 of the IT Act. The Coordinate Bench noted that in exercising authority in such manner, the whole purpose of a sanction under Section 151 stands defeated, which would be against the object and spirit of the provisions of law resulting in civil consequences. The Court noted that the Chief Commissioner acted with quite a heist.

35. In **Saraswat Co-operative Bank Ltd Vs. Assistant Commissioner of Income-tax Circle-1(3)**[9], yet another Coordinate Bench of this Court was concerned with a sanction for reassessment under Section 151 of the IT Act. In this regard, the Coordinate Bench noted that the requirement for sanction by a high-ranking official under Section 151 is an

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8 2024 SCC OnLine Bom 2774

9 2024 SCC OnLine Bom 2772

inherent check and balance in the statutory scheme of the Act. The sanctioning officers are expected to apply their minds to the facts and the applicable law and then accord a sanction. In the case before the Coordinate Bench, the sanction was granted by the Principal Commissioner of Income-tax, with the following remarks:-

"***Yes, I am satisfied with the reasons*** *recorded by the A.O.* ***for issuance of Notice u/s 148*** *of the I.T. Act, 1961."*

36. The Coordinate Bench held that the power to sanction reassessment under Section 151 is coupled with a duty to exercise such power reasonably, and not arbitrarily. It is a trite law that the absence of valid reasons constitutes arbitrariness. The Coordinate Bench noted that the entire process of granting sanction demonstrates a lack of application of mind to the ingredients of Section 147, rendering the sanction arbitrary and calling for intervention by a writ court. Evidently, the proposal, the recommendation, and the approval were mechanical, without either application of mind to the law or the facts, or even a modicum of attention to whether the ingredients of the law had been met. On this basis, the action based upon such a sanction was quashed.

37. In **Principal Commissioner of Income-tax Vs. Shiv Kumar Nayyar**[10], the Delhi High Court held that the grant of approval under Section 153D cannot be merely a ritualistic formality or rubber stamping by the authority, rather it must reflect an appropriate application of mind. The Court held that the Additional Commissioner granting approvals for 43 cases in a single day without perusing the draft assessment orders at all

[10] (2024) 163 taxmann.com 9 (Delhi)

and without any independent application of mind, vitiated the approval orders. The Court upheld the ITAT's order quashing such approval and the action based thereon.

38. In **Central India Electric Supply Co. Ltd. Vs. Income-tax Officer, Company Circle-X, New Delhi**[11], the Delhi High Court was concerned with a sanction issued under Section 151 for re-assessment under Sections 147 and 148 of the IT Act. The Delhi High Court noted that even if the CBDT agrees with the reasoning set out by the ITO for reopening the assessment, the least that is expected is that an appropriate endorsement is made in this behalf, setting out brief reasons. A mere rubber-stamping of the underlying material would suggest that there was no application of mind and the decision had been taken mechanically.

39. In **Synfonia Tradelinks (P.) Ltd Vs Income Tax Officer, Ward-22(4)**[12], the Delhi High Court held that the satisfaction arrived at by the concerned officer must be discernible from the sanction order passed under Section 151. A mere endorsement that the information received from the investigation wing and the reasons recorded by the AO satisfied that the income had escaped taxation was not sufficient to indicate the record of any proper satisfaction or application of mind for the grant of approval. To the same effect is the decision of the Delhi High Court in the case of **Principal Commissioner of Income-tax-7 Vs. Pioneer Town Planners (P.) Ltd.**[13].

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11 (2011) 10 taxmann.com 169

12 (2021) 127 taxmann.com 153 (Delhi)

13 (2024) 160 taxmann.com 652 (Delhi)

40. Applying the law in the above precedents to the facts involved in the present matters, the only inference that could be drawn is that the AO regarded this requirement of obtaining prior approval as merely a formality, and the Additional Commissioner who granted the approvals, likewise, was entirely in agreement with such an approach. These are sufficient grounds for the ITAT to quash the approvals. In the absence of valid approvals, the action under Section 153A cannot be justified and was rightly not upheld by the ITAT. The ITAT cannot be faulted for not adverting to the merits of the matter because in the absence of fulfilment of the jurisdictional requirement of a valid and prior approval under Section 153D, the action under Section 153A would be legally vulnerable.

41. As noted earlier, in an Appeal under Section 260A of the IT Act, it is not for this Court to sit in appeal over factual findings unless a case of perversity is made out. No case of perversity has been made out because the basic facts are not even disputed. What is sought to be disputed are the inferences drawn by the ITAT based on such facts. The inferences, in this case, cannot be said to be vitiated by any legal infirmity or perversity. The inferences drawn are quite reasonable, given the facts of record relating to the rush to approve and the several discrepancies highlighted by the ITAT.

42. For all the above reasons, we are satisfied that the question now proposed by Mr Suresh Kumar cannot qualify to be regarded as a substantial question of law. In any event, such a question would have to be answered against the Revenue. These are matters where the ITAT has adverted to the facts of each of the cases in some detail and based on the

facts, which were not even disputed by the Departmental representative, drew a reasonable and, in fact, the correct inference that the prior approvals under Section 153D were the product of total non-application of mind. Accordingly, we are satisfied that these Appeals involve no substantial questions of law.

43. For all the above reasons, while allowing the delay condonation applications, we dismiss all these Appeals.

44. However, there shall be no order for costs.

(Advait M. Sethna, J.) (M.S. Sonak, J.)