$~61, 62 and 69

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 15.10.2025*

\+ ITA 522/2025

PR. COMMISSIONER OF INCOME TAX-1

.....Appellant

Through: Mr. Indruj Singh Rai SSC, Mr. Sanjeev Menon, Mr. Rahul Singh JSC and Mr. Gaurav Kumar, Adv.

versus

ASHUTOSH DEVELOPERS P. LTD

.....Respondent

Through: Mr. Gautam Jain and Mr. Manish Yadav, Advs.

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\+ ITA 523/2025

PRINCIPAL COMMISSIONER OF INCOME TAX-7

.....Appellant

Through: Mr. Indruj Singh Rai SSC, Mr. Sanjeev Menon, Mr. Rahul Singh JSC and Mr. Gaurav Kumar, Adv.

versus

M/S SHIVGORI BUILDERS PVT. LTD

.....Respondent

Through: Mr. Gautam Jain and Mr. Manish Yadav, Advs.

69

\+ ITA 530/2025

PRINCIPAL COMMISSIONER OF INCOME TAX-1

.....Appellant

Through: Mr. Indruj Singh Rai SSC, Mr. Sanjeev Menon, Mr. Rahul Singh JSC and Mr. Gaurav Kumar, Adv.

versus

M/S MDLR RESORTS PVT. LTD .....Respondent

Through: Mr. Gautam Jain and Mr. Manish Yadav, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO , J. (ORAL)

CM APPL. 65026/2025 at ITA 522/2025
CM APPL. 65027/2025 at ITA 523/2025
CM APPL. 65042/2025 at ITA 530/2025

1. For the reasons stated in the application, the delay of 807, 806 and 807 days in re-filing ITA 522/2025, ITA 523/2025 and ITA 530/2025 respectively, is condoned.

2. The applications stand disposed of.

ITA 522/2025
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ITA 530/2025

3. At the outset, Mr. Indruj Singh Rai, Senior Standing Counsel for the Revenue/appellant states that the questions involved in this appeal are covered by the earlier decisions of this Court in ITA no. 593/2023 and connected matters and also ITA no. 574/2024 which followed the conclusion drawn by this Court in ITA no. 593/2023 and connected matters.

4. He submits that the Revenue has proposed similar questions of law as are proposed in the present appeal in those appeals as well, as said appeals arose from the common order dated 08.02.2023 passed by the Income Tax Appellate Tribunal (ITAT) which is also impugned in the present appeals. The conclusion drawn by this court in ITA no. 593/2023, from paragraph 2 onwards is reproduced as under:-

> *"2. The issue is principally concerned with the validity of the approval accorded in terms of Section 153D of the Income Tax Act,1961 ["Act"]. We note that the Tribunal has on facts ultimately found that the competent authority chose to accord approval to as many as 246 proposed*

assessments by way of a single letter of approval. That approval reads as follows:

> *"The above draft orders, as proposed, are hereby accorded approval with the direction to ensure that the orders are passed well before limitation period. Further , copies of final orders so passed be sent to this office for record."*

3. It is the aforesaid facts which appear to have constrained the Tribunal to observe as follows:

> *"13. We have given thoughtful consideration to the orders of the authorities below and have carefully perused all the relevant documentary evidences brought on record. We have also gonethrough each and every approval granted by the Additional Commissioner of Income tax, Central Range - 2 , New Delhi vis- a - vis, each and every proposal made by the DCIT, Central Circle - 15 , New Delhi.*
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> *14. The issue which we have to decide is, can these approvals be treated as fulfilling the mandate of provisions of section 153 D of the Act vis - a- vis legislative intent of the said section in the statute. Section 153 D of the Act reads as under :*
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> > *"No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of section 153A or the assessment year referred to in clause (b) of sub - section (1) of section 153 B, except with the prior approval of the Joint Commissioner. Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Commissioner under subsection (12) of section 144 BA."*

15. The Legislative intent can be gathered from the CBDT Circular No.3 of 2008 dated 12.3.2008 which reads as under:

> *"50. Assessment of search cases Orders of assessment and reassessment to be approved by the Joint Commissioner.*
>
> *50.1 The existing provisions of making assessment and reassessment in cases where search has been conducted under 6 ITA. No . 4061/ Mum/2012 section 132 or requisition is made under section 132 A does not provide for any approval for such assessment.*
>
> *50.2 A new section 153D has been inserted to provide that no order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner except with the previous approval of the Joint Commissioner. Such provision has been made applicable to orders of assessment or reassessment passed under clause (b) of section 153A in respect of each assessment year falling within six assessment years*

immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A. The provision has also been made applicable to orders of assessment passed under clause (b) of section 153B in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisitioned is made under section 132A. 50.3 Applicability- These amendments will take effect from the 1st day of June, 2007."

16. The Legislative intent is clear from the above, in as much as, prior to the insertion of Sec. 153D of the Act, there was no provision for taking approval in cases of assessment and reassessment in cases where search has been conducted. Thus, the legislature wanted the assessments/reassessments of search and seizure cases should be made with the prior approval of superior authorities which also means that the superior authorities should apply their minds on the material on the basis of which the officer is making the assessment and after due application of mind and on the basis of seized materials, the superior authorities have to approve the assessment order.

xxxx xxxx xxxx

18. In light of the afore-stated relevant provisions and legislative intent , approval dated 08.03.7.013 is in respect of 62 assessment orders as exhibited at pages 136 and 137 of the Index to Convenience Compilation furnished by the ld. counsel for the assessee. Approval dated 15.03.2013 is in respect of 37 assessment orders as exhibited at pages 138 and 139. Approval dated 18.03.2013 is in respect of 54 assessment orders as exhibited at pages 140 and 141. Approval dated 21.03.2013 is in respect of 24 assessment orders as exhibited at pages 142 and 143 and approval dated 25.02.2013 is in respect of 69 assessment orders as per exhibits in the Convenient Compilation.

19. Thus, the worthy Additional Commissioner of Income tax, Central Range - 2, New Delhi gave approval to 246 assessment order by a single approval letter u/s 153 D of the Act by mentioning as under:

"The above draft orders, as proposed, are hereby accorded approval with the direction to ensure that the orders are passed well before limitation period. Further, copies of final orders so passed be sent to this office for record."

20. In our considered opinion, there is no whisper of any seized material sent by the Assessing Officer with his proposal requesting the approval u / s 153D of the Act. All the requests for approval are exhibited at pages 123 to 135 of the Convenience Compilation.

21. Even the approval granted by the Additional Commissioner of Income

tax, Central Range - 2, New Delhi does not refer to any seized material/assessment records or any other documents which could suggest that the Additional Commissioner of Income tax, Central Range - 2, New Delhi has duly applied his mind before granting approvals."

4. We note that dealing with an identical challenge of approval having been accorded mechanically and without due application of mind had arisen for our consideration in Pr. Commissioner of Income Tax -7 vs Pioneer Town Planners Pvt. Ltd [2024 SCC OnLine Del 1685] and where we had held as follows: "

13. The primary grievance raised in the instant appeal relates to the manner of recording the approval granted by the prescribed authority under Section 151 of the Act for reopening of assessment proceedings as per Section 148 of the Act.

14. It is pertinent to first examine the mandate of Section 151 of the Act, as it stood prior to the substitution by Act No. 13 of 2021. For the sake of clarity, the same is reproduced as under:-

> *"151. Sanction for issue of notice.—(1) No notice shall be issued under Section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice. (2) In a case other than a case falling under subsection (1), no notice shall be issued under Section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice. (3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under Section 148, need not issue such notice himself."*

15. A plain reading of the aforesaid provision would indicate that Section 151 of the Act stipulates that the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner must be "satisfied", on the reasons recorded by the AO, that it is a fit case for the issuance of such notice. Thus, the satisfaction of the prescribed authority is a sine qua non for a valid approval as per the said Section.

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17. Thus, the incidental question which emanates at this juncture is whether simply penning down "Yes" would suffice requisite satisfaction as per Section 151 of the Act. Reference can be drawn from the decision of

this Court in N. C. Cables Ltd., wherein, the usage of the expression "approved" was considered to be merely ritualistic and formal rather than meaningful. The relevant paragraph of the said decision reads as under:—

> *"11. Section 151 of the Act clearly stipulates that the Commissioner of Income-tax (Appeals), who is the competent authority to authorize the reassessment notice, has to apply his mind and form an opinion. The mere appending of the expression "approved" says nothing. It is not as if the Commissioner of Income-tax (Appeals) has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise appears to have been ritualistic and formal rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the court is satisfied that the findings by the Income-tax Appellate Tribunal cannot be disturbed."*

18. Further, this Court in the case of Central India Electric Supply Co. Ltd. v. ITO [2011 SCC OnLine Del 472] has taken a view that merely rubber stamping of "Yes" would suggest that the decision was taken in a mechanical manner. Paragraph 19 of the said decision is reproduced as under:—

> *"19. In respect of the first plea, if the judgments in Chhugamal Rajpal, (1971) 79 ITR 603 (SC), Chanchal Kumar Chatterjee, (1974) 93 ITR 130 (Cal) and Govinda Choudhury and Sons case, (1977) 109 ITR 370(Orissa) are examined, the absence of reasons by the Assessing Officer does not exist. This is so as along with the proforma, reasons set out by the Assessing Officer were, in fact, given. However, in the instant case, the manner in which the proforma was stamped amounting to approval by the Board leaves much to be desired. It is a case where literally a mere stamp is affixed. It is signed by an Under Secretary underneath a stamped Yes against the column which queried as to whether the approval of the Board had been taken. Rubber stamping of underlying material is hardly a process which can get the imprimatur of this court as it suggests that the decision has been taken in a mechanical manner. Even if the reasoning set out by the Income-tax Officer was to be agreed upon, the least which is expected is that an appropriate endorsement is made in this behalf setting out brief reasons. Reasons are the link between the material placed on record and the conclusion reached by an authority in respect of an issue, since they help in discerning the manner in which conclusion is reached by the concerned authority. Our opinion is fortified by the decision of the apex court in Union of India v. M.L. Capoor, (1973) 2 SCC 836 : AIR 1974 SC 87, 97 wherein it was observed as under:*
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> > *"27.. .. We find considerable force in the submission made on behalf of the respondents that the 'rubber stamp' reason given*

mechanically for the supersession of each officer does not amount to 'reasons for the proposed supersession'. The most that could be said for the stock reason is that it is a general description of the process adopted in arriving at a conclusion.

28.. .. If that had been done, facts on service records of officers considered by the Selection Committee would have been correlated to the conclusions reached. Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable."

(emphasis supplied)"

19. In the case of Chhugamal Rajpal, the Hon'ble Supreme Court refused to consider the affixing of signature alongwith the noting "Yes" as valid approval and had held as under:—

"5. —

Further the report submitted by him under Section 151(2) does not mention any reason for coming to the conclusion that it is a fit case for the issue of a notice under Section 148. We are also of the opinion that the Commissioner has mechanically accorded permission. He did not himself record that he was satisfied that this was a fit case for the issue of a notice under Section 148. To Question 8 in the report which reads "whether the Commissioner is satisfied that it is a fit case for the issue of notice under Section 148", he just noted the word "yes" and affixed his signatures thereunder. We are of the opinion that if only he had read the report carefully, he could never have come to the conclusion on the material before him that this is a fit case to issue notice under Section 148. The important safeguards provided in Sections 147 and 151 were lightly treated by the Income Tax Officer as well as by the Commissioner. Both of them appear to have taken the duty imposed on them under those provisions as of little importance. They have substituted the form for the substance.

20. This Court, while following Chhugamal Rajpal in the case of Ess Adv. (Mauritius) S. N. C. Et Compagnie v. ACIT [2021 SCC OnLine Del 3613], wherein, while granting the approval, the ACIT has written-"This is fit case for issue of notice under section 148 of the Income- tax Act, 1961. Approved", had held that the said approval would only amount to endorsement of language used in Section 151 of the Act and would not reflect any independent application of mind. Thus, the same was considered to be flawed in law.

21. The salient aspect which emerges out of the foregoing discussion is

that the satisfaction arrived at by the prescribed authority under Section 151 of the Act must be clearly discernible from the expression used at the time of affixing its signature while according approval for reassessment under Section 148 of the Act. The said approval cannot be granted in a mechanical manner as it acts as a linkage between the facts considered and conclusion reached. In the instant case, merely appending the phrase "Yes" does not appropriately align with the mandate of Section 151 of the Act as it fails to set out any degree of satisfaction, much less an unassailable satisfaction, for the said purpose.

22. So far as the decision relied upon the Revenue in the case of Meenakshi Overseas Pvt. Ltd. is concerned, the same was a case where the satisfaction was specifically appended in the proforma in terms of the phrase-"Yes, I am satisfied". Moreover, paragraph 16 of the said decision distinguishes the approval granted using the expression "Yes" by citing Central India Electric Supply, which has already been discussed above. The decision in the case of Experion Developers P. Ltd. would also not come to the rescue of the Revenue as the same does not deal with the expression used in the instant appeal at the time of granting of approval.

23. Therefore, it is seen that the PCIT has failed to satisfactorily record its concurrence. By no prudent stretch of imagination, the expression "Yes" could be considered to be a valid approval. In fact, the approval in the instant case is apparently akin to the rubber stamping of "Yes" in the case of Central India Electric Supply."

5. In view of the aforesaid, we find no justification to interfere with the view expressed by the Tribunal. No substantial question of law arises. The appeals fail and shall stand dismissed.

6. While disposing of these set of appeals, we take note of the following observations that were made in ITA 8/2024: -

> *"4. Accordingly, while we dismiss the instant appeal following the reasons assigned in the earlier case of Anuj Bansal, we leave the question pertaining to the effect and impact of Section 144A of the Act as well as of the provisions contained in the Search and Seizure Manual, 2007, open to be addressed in appropriate proceedings."*

7. In the facts of the present case and those which have come to be recorded by the Tribunal, we find that there arises no occasion for us to examine the said issue. The same be accordingly kept open to be addressed in appropriate proceedings."

5. In view of above finding of this Court in***, PCIT, Central Circle-02 v. M/s MDLR Hotels Pvt Ltd, ITA 593/2023***, and connected matters, the

present appeals are dismissed, as no substantial question of law arises.

V. KAMESWAR RAO, J

VINOD KUMAR, J

OCTOBER 15, 2025
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