

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI NRS GANESAN, JUDICIAL MEMBER &
SANJAY ARORA, ACCOUNTANT MEMBER**

IT(SS)A Nos.12 to 14/JAB/2014
Assessment Years: 2005-06,2009-10 & 2010-11

Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.31/JAB/2014
Assessment Year: 2004-05

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)
(Appellant)		(Respondent)

CO No.18/JAB/2014
Assessment Year: 2004-05

Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.32/JAB/2014
Assessment Year: 2005-06

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)
(Appellant)		(Respondent)

CO No.19/JAB/2014
Assessment Year: 2005-06

Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.34/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)
(Appellant)		(Respondent)

CO No.21/JAB/2014
Assessment Year: 2009-10

Smt. Sarika Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6567B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A Nos.48 to 50/JAB/2014
Assessment Years: 2008-09,2009-10 & 2010-11

Shri Lalit Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHL4727R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.97/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Lalit Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHL4727R)
(Appellant)		(Respondent)

CO No.44/JAB/2014
Assessment Year: 2009-10

Shri Lalit Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHL4727R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.98/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Lalit Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHL4727R)
(Appellant)		(Respondent)

CO No.45/JAB/2014
Assessment Year: 2010-11

Shri Lalit Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHL4727R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.65/JAB/2014
Assessment Year: 2004-05

Asstt. Commissioner of Income Tax, Circle-Katni,	Vs.	Shri Pawan Kumar Mittal 8, HIG Housing Board
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M.P.		Colony, Katni, M.P. (PAN:ADSPM6542Q)
(Appellant)		(Respondent)

CO No.94/JAB/2014
Assessment Year: 2004-05

Shri Pawan Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6542Q)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. No.45/JAB/2014
Assessment Year: 2009-10

Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.73/JAB/2014
Assessment Year: 2005-06

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)
(Appellant)		(Respondent)

CO No.33/JAB/2014
Assessment Year: 2005-06

Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
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(Appellant)		(Respondent)
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IT(SS)A No.74/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)
(Appellant)		(Respondent)

CO No.34/JAB/2014
Assessment Year: 2009-10

Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.75/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)
(Appellant)		(Respondent)

CO No.35/JAB/2014
Assessment Year: 2010-11

Shri Pawan Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A Nos.58 to 62/JAB/2014

Assessment Years: 2005-06 to 2007-08 & 2009-10 to 2010-11

Shri Vijay Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6555B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.80/JAB/2014

Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Vijay Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6555B)
(Appellant)		(Respondent)

CO No.86/JAB/2014

Assessment Year: 2009-10

Shri Vijay Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6555B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.81/JAB/2014

Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Vijay Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6555B)
(Appellant)		(Respondent)

CO No.87/JAB/2014

Assessment Year: 2010-11

Shri Vijay Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6555B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.54/JAB/2014
Assessment Year: 2005-06

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Vijay Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AACHV2243J)
(Appellant)		(Respondent)

CO No.37/JAB/2014
Assessment Year: 2005-06

Shri Vijay Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AACHV2243J)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. No.83/JAB/2014
Assessment Year: 2005-06

Shri Vijay Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AACHV2243J)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.85/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni,	Vs.	Shri Vijay Kumar Mittal (HUF)
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M.P.		8, HIG Housing Board Colony, Katni, M.P. (PAN:AACHV2243J)
(Appellant)		(Respondent)

CO No.39/JAB/2014
Assessment Year: 2009-10

Shri Vijay Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AACHV2243J)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. No.64/JAB/2014
Assessment Year: 2009-10

Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.91/JAB/2014
Assessment Year: 2008-09

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)
(Appellant)		(Respondent)

CO No.79/JAB/2014
Assessment Year: 2008-09

Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.92/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)
(Appellant)		(Respondent)

CO No.80/JAB/2014
Assessment Year: 2009-10

Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.93/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)
(Appellant)		(Respondent)

CO No.81/JAB/2014
Assessment Year: 2010-11

Shri Lalit Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6537F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.15,16 &17/JAB/2014
Assessment Years: 2005-06,2008-09 & 2009-10

Smt. Seema Mittal		Asstt. Commissioner of
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8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6549F)	Vs.	Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.25/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Seema Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6549F)
(Appellant)		(Respondent)

CO No.12/JAB/2014
Assessment Year: 2009-10

Smt. Seema Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6549F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.18,19,20 & 21/JAB/2014
Assessment Years: 2005-06, 2008-09,2009-10 & 2010-11

Smt. Satya Devi Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6568Q)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.43/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Satya Devi Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6568Q)
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(Appellant)		(Respondent)
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CO No.30/JAB/2014

Assessment Year: 2009-10

Smt. Satya Devi Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6568Q)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.44/JAB/2014

Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Satya Devi Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6568Q)
(Appellant)		(Respondent)

CO No.31/JAB/2014

Assessment Year: 2010-11

Smt. Satya Devi Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6568Q)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.10 & 11/JAB/2014

Assessment Years:2008-09&2009-10

Smt. Kavita Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ACIPA3747L)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.39/JAB/2014

Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Kavita Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ACIPA3747L)
(Appellant)		(Respondent)

CO No.26/JAB/2014

Assessment Year: 2009-10

Smt. Kavita Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ACIPA3747L)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.56 & 63/JAB/2014

Assessment Years:2008-09 & 2009-10

Shri Suresh Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6547M)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.108/JAB/2014

Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Suresh Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6547M)
(Appellant)		(Respondent)

CO No.92/JAB/2014

Assessment Year: 2009-10

Shri Suresh Kumar Mittal 8, HIG Housing Board Colony,	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni,
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Katni, M.P. (PAN:ADSPM6547M)		M.P.
(Appellant)		(Respondent)

IT(SS)A No.109/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Suresh Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6547M)
(Appellant)		(Respondent)

CO No.93/JAB/2014
Assessment Year: 2010-11

Shri Suresh Kumar Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6547M)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.46&46/JAB/2014
Assessment Years:2005-06 & 2009-10

Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAEHS7392R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.111/JAB/2014
Assessment Year: 2005-06

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P.
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		(PAN:AAEHS7392R)
(Appellant)		(Respondent)

CO No.103/JAB/2014
Assessment Year: 2005-06

Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAEHS7392R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.113/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAEHS7392R)
(Appellant)		(Respondent)

CO No.104/JAB/2014
Assessment Year: 2009-10

Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAEHS7392R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.114/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P.
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		(PAN:AAEHS7392R)
(Appellant)		(Respondent)

CO No.105/JAB/2014
Assessment Year: 2010-11

Shri Suresh Kumar Mittal (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAEHS7392R)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.6,7,8 & 9/JAB/2014
Assessment Years:2005-06, 2008-09,2009-10&2010-11

Smt. Sarla Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6548E)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.29/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Sarla Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6548E)
(Appellant)		(Respondent)

CO No.16/JAB/2014
Assessment Year: 2009-10

Smt. Sarla Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6548E)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.30/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Smt. Sarla Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6548E)
(Appellant)		(Respondent)

CO No.17/JAB/2014
Assessment Year: 2010-11

Smt. Sarla Mittal 8, HIG Housing Board Colony, Katni, M.P. (PAN:ADSPM6548E)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.51,52&53/JAB/2014
Assessment Years:2005-06, 2007-08 &2009-10

Shri C.R. Mittal & Sons (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAH9481K)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.103/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Shri C.R. Mittal & Sons (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAH9481K)
(Appellant)		(Respondent)

CO No.50/JAB/2014
Assessment Year: 2010-11

Shri C.R. Mittal & Sons (HUF) 8, HIG Housing Board Colony, Katni, M.P. (PAN:AAAHC9481K)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.117 to 119&120/JAB/2014
Assessment Years:2004-05 to 2006-07 & 2009-10

Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.157/JAB/2014
Assessment Year: 2004-05

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)
(Appellant)		(Respondent)

CO No.66/JAB/2014
Assessment Year: 2004-05

Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.160/JAB/2014
Assessment Year: 2008-09

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)
(Appellant)		(Respondent)

CO No.69/JAB/2014
Assessment Year: 2008-09

Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.161/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)
(Appellant)		(Respondent)

CO No.70/JAB/2014
Assessment Year: 2009-10

Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.162/JAB/2014
Assessment Year: 2010-11

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)
(Appellant)		(Respondent)

CO No.71/JAB/2014
Assessment Year: 2010-11

Katni Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK1723A)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.132 to 134 &136 to 138/JAB/2014
Assessment Years:2004-05 to 2006-07&2008-09 to 2010-11

M.P Minerals Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AAACM0942L)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.115 &116/JAB/2014
Assessment Years:2004-05 & 2005-06

Mittal Roadways Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AAACM1693A)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. Nos.130 &131/JAB/2014
Assessment Years:2004-05 & 2005-06

Mittal Tractors Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AADCM8736B)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. No.121/JAB/2014

Assessment Year:2004-05

PLM Builders & Developers Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AAACP7878C)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

I.T(SS) A. No.122 & 123/JAB/2014

Assessment Years:2004-05 & 2005-06

V. K. Tractors & Automobiles Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCV8402D)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.151/JAB/2014

Assessment Year: 2008-09

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Katni Bauxite Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK4712F)
(Appellant)		(Respondent)

CO No.51/JAB/2014
Assessment Year: 2008-09

Katni Bauxite Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK4712F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.152/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Katni Bauxite Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK4712F)
(Appellant)		(Respondent)

CO No.52/JAB/2014
Assessment Year: 2009-10

Katni Bauxite Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCK4712F)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.141/JAB/2014
Assessment Year: 2009-10

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Trackway Securities & Finance Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCT0135D)
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(Appellant)		(Respondent)
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CO No.73/JAB/2014
Assessment Year: 2009-10

Trackway Securities & Finance Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AABCT0135D)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

IT(SS)A No.124/JAB/2014
Assessment Year: 2005-06

Asstt. Commissioner of Income Tax, Circle-Katni, M.P.	Vs.	Vijay Marbles Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AACCV0159L)
(Appellant)		(Respondent)

CO No.74/JAB/2014
Assessment Year: 2007-08

Vijay Marbles Pvt. Ltd. 26, Commercial Complex, Housing Board Colony, Katni(M.P) (PAN:AACCV0159L)	Vs.	Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
(Appellant)		(Respondent)

Appellant by	Shri Dhiraj Ghai, CA
Respondent by	Smt. Neerja Pradhan, C.I.T.-DR
Date of hearing	05/02/2021
Date of pronouncement	04 /03/2021

ORDER

Per Bench:

All the appeals of the independent assessee are directed against the respective orders of Id. C.I.T.(A). Since common issues arising for consideration in all these appeals, we heard the same together and disposing of the same by this common order.

2. Shri Dhiraj Ghai, the Id. representative for assessee submitted that the first ground taken by him is with regard to approval by the JCIT as required under section 153D of the Income Tax Act, 1961 ('the Act' hereinafter). According to Id. representative for the assessee, no assessment order shall be passed unless it is approved by the JCIT. Referring to Paper Book, the Id. representative for the assessee submitted that the JCIT in categorically terms says that due to shortage of time as he was holding charges of six ranges, it was not possible for him to go into deep. Therefore, the JCIT without going to the material available on record including the draft assessment order approved only for technical requirement u/s 153D of the Act. Referring to section 153D of the Act , the Id. representative for the assessee vehemently argued that unless the JCIT applies his mind to the material available on record and the draft assessment order as proposed by AO, it cannot be construed as approval as required u/s 153D of the Act. Placing reliance on the order of the Delhi Benches of this Tribunal in Sanjay Dungal & Others vs. M/s. ACIT in ITA

No. 1813/Del/2019 & Ors. (copies of which available in the P.B).
Submitted that approval of JCIT is not a mere formality or ritual. It is mandatory requirement of the statutory provision.

3. The ld. representative for the assessee further submitted that since the JCIT has not applied his mind to the facts of the matter and granted only a technical approval, the A.O. has no jurisdiction to pass the assessment order. Therefore, the entire assessment order as confirmed by the C.I.T.(A) is invalid, non-est and void, hence, the assessment order as confirmed by C.I.T.(A) cannot stand in the eye of law. The ld. representative for assessee also placed a copy of the order of this bench of the Tribunal in the Paper Book in case of Tarachand Khatri vs. ACIT in ITA No. 21/Jab/2019 dated 17.01.2020. The Tribunal on identical set of facts found that unless the JCIT applied his mind to the material available on record while granting approval under section 153D of the Act. The technical approval, cannot be an approved at all. The ld. counsel for the assessee has also filed the copies of the decision of the Bombay Bench of this Tribunal in ACIT vs. Shreelekha Damani and Lucknow Benches of the Tribunal in AAA Paper marketing Ltd. vs. ACIT.

4. On the contrary, Smt. Neerja Pradhan, ld. representative for the revenue submitted that no doubt, the letter of the JCIT says that he was

holding the charges of six ranges, therefore, it was not possible for him to go into the deep, however, finally he approved the draft assessment order as per technical requirement u/s 153D of the Act. Before this technical approval was given, according to Id. Departmental Representative there were discussions between the A.O. and the JCIT which is evident from the correspondence between the JCIT and the A.O. Referring to the copy of the letter addressed to the A.O. by the JCIT, the Id. DR submitted that there were discussions between the A.O. and the JCIT, therefore, it cannot be said that there was no application of mind. The A.O. also has responded to the letter of the JCIT dated 21.12.2011 by this letter dated 22.12.2011. The assessee was also invited for the discussion along with the A.O. in the chambers of the JCIT. The JCIT has also written a letter to the Commissioner on 20.12.2011 in order to take the Commissioner into confidence. The A.O also by his letter dated 26.12.2011 reminded the JCIT to give approval at the earliest opportunities, since, the assessment is getting time barred.

5. The Id. DR placed her reliance on the judgment of the Supreme Court in C.I.T. vs. Jai Prakash Singh (219 ITR 737) and submitted that charging sections fix the liability to tax and any violation of machinery provision will not render the assessment order void. Once the superior authority agreed to the finding of the lower authorities then it is not

necessary to record reasons for so agreeing. Referring to the judgment of the Bombay High Court in *C.I.T. vs. Ratanbai N.K. Dubash* (230 ITR 495). The Id. DR submitted that the power to determine the income vest in the authority exercising the quasi-judicial function. It is in violation of principle of quasi-judicial function that can render the assessment invalid. The Act of Administrative Approval by Additional C.I.T. does not take away the quasi-judicial powers which still vests in A.O. Therefore, even if there is some defect in the technical approval granted by the JCIT, the same may not invalidate the order of assessment.

6. We have carefully gone through the orders of both the authorities below in the light of the arguments advanced on both the sides and the material available on record. The issue of approval u/s 153D goes to the very root of the matter. For the purpose of convenience, the provision of section 153D is reproduced herewith.

[SECTION 153D. Prior approval necessary for assessment in cases of search or requisition

No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of [sub-section (1) of section 153A] or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner.]

7. This provision clearly says that no assessment order shall be passed unless it is approved by the JCIT. In other words, the A.O. is prohibited from passing any assessment order without approval of the JCIT. The

parliament in its wisdom thought it fit in cases of searches, a senior officer of the Department at the rank of the Joint Commissioner has to grant his/her approval before passing the assessment order. This provision of section 153D is not an empty formality. It has its own sanctity in the eye of law. In other words, unless the JCIT approves the proposal/draft assessment of the A.O. by applying his mind to the facts of the matter, the A.O. would not get jurisdiction to pass the assessment order. In other words, the AO will be vested with jurisdiction to pass assessment order only after the approval granted by JCIT u/s. 153D. Hence, the approval of JCIT is mandatorily requirement.

8. We have also carefully gone through the judgment of the Apex Court in Jai Prakash Singh (supra). This judgment of the Apex Court relate to service of notice on the legal heirs of deceased assessee. It is not a copy of approval as required by statutory provision. Therefore, the Judgment of the Apex Court is not applicable to the facts of this case.

9. We have also gone through the judgment of the Bombay High Court in Mrs. Ratanbai N.K. Dubash (supra). In this case, the AO passed the order without obtaining direction from Inspecting assisting Commissioner. Hence, the assessment was annulled. This judgment of the Bombay High Court in fact supported the case of the assessee. Moreover, the Bench of

the Tribunal in Tarachand Khatri (supra) has found that on identical circumstances, there was no approval u/s. 153D of the Act. One of the Accountant Member is party to the order.

10. Now, let us examine whether the JCIT granted approval for passing the assessment order. Under the scheme of the Act, u/s. 153D, the Commissioner has no role to play. It is not known, why the JCIT intended to take the Commissioner into confidence by addressing a letter to him. The Commissioner has all the powers u/s. 263 of the Act, in case, he/she is satisfied that the assessment order is erroneous and prejudicial to the interest of revenue. We are reproducing the correspondence between the JCIT on the one hand and A.O. on other and also a letter written by JCIT to the Commissioner.

OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX
RANGE-1, CR BUILDING, NAPIER TOWN, JABALPUR
HOLDING ADDITIONAL CHARGE OF RANGE-II, JABALPUR
RANGE-SATNA, KATNI, CHHINDWARA AND SAGAR

F.No.JCIT/Range/Katni/Mittail/2011-12

Dated: 26.12.2011

To

The Asstt. Commissioner of Income Tax,
Circle, Katni

Sub: Statutory approval of Draft Assessment order u/s 153D in the cases of different assesses of Mittal Group, Katni- Reg.

Please refer to your letter No.ACIT/KTE/MITTAL/153D/11-12 dated 23rd December, 2011 forwarding therewith draft assessment orders in Mittal Group of cases for AY 2004-05 to 2010-11:

Covering letter date	Name of the assessee	Assessment year
23.12.2011	1. Katni Bauxite Pvt. Ltd. 2. V.K. Tractors Automobiles P. Ltd.	2004-05 to 2010-11 2004-05 to 2010-11

2. Due to shortage of time, as I am holding charge of six Ranges, it is not possible for me to go into the deep, therefore, the draft assessment orders in the following cases submitted by you are hereby approved u/s 153D as per technical requirement. Case records as received are returned herewith.

3. Please ensure passing of order, issue of demand notice and challan as also service before the limitation date.

(Abhishek Shukla)
Jt. Commissioner of Income Tax
Range-Katni

OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX
RANGE-1, CR BUILDING, NAPIER TOWN, JABALPUR
HOLDING ADDITIONAL CHARGE OF RANGE-II, JABALPUR
RANGE-SATNA, KATNI, CHHINDWARA AND SAGAR

F.No.JCIT/Range/Katni/Mittail/2011-12

Dated: 26.12.2011

To

The Asstt. Commissioner of Income Tax,
Circle, Katni

Sub: Statutory approval of Draft Assessment order u/s 153D in the cases of different assesses of Mittal Group, Katni- Reg.

Please refer to your letter No.ACIT/KTE/MITTAL/153D/11-12 dated 26th December, 2011 forwarding therewith draft assessment orders in Mittal Group of cases for AY 2004-05 to 2010-11:

Covering letter date	Name of the assessee	Assessment year
26.12.2011	1. Vijay Kumar Mittal Katni (Incl) 2. M/s Mittal Roadways	2004-05 to 2010-11 2004-05 to 2010-11

	3. M.P Minerals Pvt. Ltd.	2004-05 to 2010-11
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2. Due to shortage of time, as I am holding charge of six Ranges, it is not possible for me to go into the deep, therefore, the draft assessment orders in the following cases submitted by you are hereby approved u/s 153D as per technical requirement. Case records as received are returned herewith.

3. Please ensure passing of order, issue of demand notice and challan as also service before the limitation date.

(Abhishek Shukla)
Jt. Commissioner of Income Tax
Range-Katni

OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX
RANGE-1, CR BUILDING, NAPIER TOWN, JABALPUR
HOLDING ADDITIONAL CHARGE OF RANGE-II, JABALPUR
RANGE-SATNA, KATNI, CHHINDWARA AND SAGAR

F.No.JCIT/Range/Katni/Mittail/2011-12

Dated: 26.12.2011

To

The Asstt. Commissioner of Income Tax,
Circle, Katni

Sub: Statutory approval of Draft Assessment order u/s 153D in the cases of different assesses of Mittal Group, Katni- Reg.

Please refer to your letter No.ACIT/KTE/MITTAL/153D/11-12 dated 15th December, 2011 forwarding therewith draft assessment orders in Mittal Group of cases for AY 2004-05 to 2010-11:

Covering letter date	Name of the assessee	Assessment year
15.12.2011	1. Aditya Welfare Trust	2004-05 to 2010-11
	2. Vedansh Welfare Trust	2004-05 to 2010-11
	3. Vineet Welfare Trust	2004-05 to 2010-11
	4. Ankur Welfare Trust	2004-05 to 2010-11
	5. C.R. Mittal & Sons (HUF)	2004-05 to 2010-11
	6. Pawan Kumar Mittal(HUF)	2004-05 to 2010-11
	7. Lalit Kumar Mittal (HUF)	2004-05 to 2010-11
	8. Suresh Kumar Mittal (HUF)	2004-05 to 2010-11
	9. Vijay Kumar Mittal (HUF)	2004-05 to 2010-11

2. Due to shortage of time, as I am holding charge of six Ranges, it is not possible for me to go into the deep, therefore, the draft assessment orders in the following cases submitted by you are hereby approved u/s 153D as per technical requirement. Case records as received are returned herewith.

3. Please ensure passing of order, issue of demand notice and challan as also service before the limitation date.

(Abhishek Shukla)

Jt. Commissioner of Income Tax

Range-Katni

OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX

RANGE-1, CR BUILDING, NAPIER TOWN, JABALPUR

HOLDING ADDITIONAL CHARGE OF RANGE-II, JABALPUR

RANGE-SATNA, KATNI, CHHINDWARA AND SAGAR

F.No.JCIT/Range/Katni/Mittail/2011-12

Dated: 26.12.2011

To

The Asstt. Commissioner of Income Tax,
Circle, Katni

Sub: Statutory approval of Draft Assessment order u/s 153D in the cases of different assesses of Mittal Group, Katni- Reg.

Please refer to your letter No.ACIT/KTE/MITTAL/153D/11-12 dated 16th December, 2011 forwarding therewith draft assessment orders in Mittal Group of cases for AY 2004-05 to 2010-11:

Covering letter date	Name of the assessee	Assessment year
16.12.2011	1. Smt. Satya Devi (Individual)	2004-05 to 2010-11
	2. Smt. Sarla Mittal (Individual)	2004-05 to 2010-11
	3.Smt. Kavita Mittal (Individual)	2004-05 to 2010-11
	4.Smt. Seema Mittal (Individual)	2004-05 to 2010-11
	5.Smt. Sarika Mittal (Individual)	2004-05 to 2010-11

2. Due to shortage of time, as I am holding charge of six Ranges, it is not possible for me to go into the deep, therefore, the draft assessment orders in the following cases submitted by you are hereby approved u/s 153D as per technical requirement. Case records as received are returned herewith.

3. Please ensure passing of order, issue of demand notice and challan as also service before the limitation date.

(Abhishek Shukla)
Jt. Commissioner of Income Tax
Range-Katni

OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX
RANGE-1, CR BUILDING, NAPIER TOWN, JABALPUR
HOLDING ADDITIONAL CHARGE OF RANGE-II, JABALPUR
RANGE-SATNA, KATNI, CHHINDWARA AND SAGAR

F.No.JCIT/Range/Katni/Mittail/2011-12

Dated: 26.12.2011

To

The Asstt. Commissioner of Income Tax,
Circle, Katni

Sub: Statutory approval of Draft Assessment order u/s 153D in the cases of different assesses of Mittal Group, Katni- Reg.

Please refer to your letter No.ACIT/KTE/MITTAL/153D/11-12 dated 20th December, 2011 forwarding therewith draft assessment orders in Mittal Group of cases for AY 2004-05 to 2010-11:

Covering letter date	Name of the assessee	Assessment year
20.12.2011	1. Pawan Kumar Mittal(Indl)	2004-05 to 2010-11
	2.Suresh Kumar Mittal (Indl)	2004-05 to 2010-11
	3. Vijay Marbles Pvt. Ltd.	2004-05 to 2010-11
	4. PLM Builders Pvt. Ltd.	2004-05 to 2010-11
	5.Trackway Securities & Finance Pvt. Ltd.	2004-05 to 2010-11
	6. Mittal Tractors Pvt. Ltd.	2004-05 to 2010-11

2. Due to shortage of time, as I am holding charge of six Ranges, it is not possible for me to go into the deep, therefore, the draft assessment orders in the following cases submitted by you are hereby approved u/s 153D as per technical requirement. Case records as received are returned herewith.

3. Please ensure passing of order, issue of demand notice and challan as also service before the limitation date.

(Abhishek Shukla)

Jt. Commissioner of Income Tax
Range-Katni

**OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
KATNI (MP)**

F.No.ACIT/Assessment/Approval/Mittal/2011-12

Dated: 22.12.2011

To

The Joint Commissioner of Income Tax,
Range-Katni, Katni(MP)

Sub: Reply to your letter regarding approval of Draft Assessment order u/s 153A/143(3) in case of different assessee of Mittal Group, Katni- Reg.

Ref: Your letter F.No.JCIT/R-KATNI/Mittal Group/11-12, dated 21/12/2011

Sir,

Please refer to above, in this connection most respectfully and most humbly at my end, I see the following for the kind consideration of your honor that:

1. Directions as given to me, are not clear regarding to which particular case and to which particular assessment year, same are issued, for not making addition?
2. As per Manual of Office procedure, it is an established administrative procedure that in case where the additions as proposed by investigation wing, are considered unwarranted by the AO, then investigation wing has to be consulted compulsorily. It is presumed that necessary consultation has been made. If so, please provide me the copy of minutes recorded of this consultation with the Investigation Wing.
3. You are aware that as an assessing officer in this case, I have examined each and every document along with the submission and gone through all the aspects of the cases and the findings are based on concrete evidence gathered by me during the course of assessment proceedings and as gathered by investigating wing during search and seizure proceedings.
4. The copy of directions addressed by you to me is without any DAK number and the photocopy of some original letter, which has not been received by me till now. It is requested your honor to provide me original copy of the same.
5. Since the directions are not clear I am withholding the passing of assessment orders till the specific directions are received. I would

also like to mention that the time barring date in said assessment orders is 31/12/2011. Hence you are requested to issue clear directions in each and every case assessment year wise.

Yours Sincerely,

Date: 22/12/2011

(Sanjay Kumar)
ACIT-Katni

Office of the Assistant Commissioner of Income tax Income tax

Circle Katni, Katni(MP)

F.No.ACIT-KTE/Mittal /153D approval/ Camp- Jabalpur, dated the
22Dece. 2011

To
The Joint Commissioner of Income tax,
Range Katni at Jabalpur.

(By name)

Sir,

Sub:-Approval of Draft assessment order u/s 153A/143(3) in the case of different Assesseees of Mittal Group Katni.. Regarding-

Ref:- Your office letter no.JCIT/R-Katni/Mittal Group/11-12 dated 20.12.2011- addressed to CIT-II Jabalpur and copy endorsed to me & dated 21/12/2011 addressed to me and copy to CIT-II Jabalpur-Clarification-regarding-

Please refer to the above.

It may be clarified that till 20/12/2011 in 21 cases draft orders were submitted to your office. However, from the letter address to me, I am unable to understand it is whether approval under section 153D or directions to reframe the assessments. Please clarify assessee wise and assessment year wise.

2. As regard the addition in the case of Smt. Sarla Mittal, one of the member of mittal family, it was clearly stated before your honour and also before Shri Lalit Mittal and RN Mittal, CA that the amounts of Rs.13,00,000/- was the shares claimed to have been sold by the relevant companies to various fictitious persons of Delhi and Kolkatta, the identity of these persons (companies) could not be traced by the Investigation wing during the post search enquiry and also the fact that the letters issued by me during the assessment proceedings were received back unserved with the postal remark

"No such addressee". It is also relevant to mention that those shares were transferred back to the mittal family in later years. During the course of search, such share certificates, transfer forms, power of attorney etc. were seized and all these documents are formed part of the assessment order. In view of the position, the shares sold in a particular financial year and claimed to have repurchased by the family members were treated as the investment of the family members from undisclosed sources. This is the position in respect of all HUFs & Individuals. Similar additions were made in the case of companies on protective basis as the amounts were found credited in their account. In view of the specific clarification, still you are in view of not making such additions, the same be clarified.

3. One of the issue raised by you is regarding share capital in various group companies of Mittal Group-It may be made clear that till 19/12/2011, the cases which you are referring, no draft orders in cases of companies were furnished. In that situation, without going to the merit of the assessment order how a prudent person can decide what additions are to be made or otherwise. It may be mentioned ere that on this issue, during the personal discussion, your honour had advised me to refer the decision of the ITAT Indore in the case of Agrawal Coal Corporation wherein the case laws suggested by the assessee and also in the present letter you had quoted have been elaborately discussed and held that merely filing of PAN, copy of return, profit and loss account is not sufficient. In view of your advice, and following the decision of ITAT Indore bench, such additions were made.

4. Another point raised is Fixed deposit Receipts in the cases of Ankit/Novas/Nippon. It may be clarified that the case of Nippon is neither assessed at Katni nor where it is being assessed has given by Mittal. As regards this I want to say that the issue of Nippon is beyond the jurisdiction. As regards the Ankit & Novas, the draft order is yet to be finalized and the decision is still pending at my end due to the fact that on 20/12/2011 during the course of discussion, it was told to me that the matter is being referred to DI(Inv.) for clarification. Only on receipt of the clarification, the assessment order needs to be finalized. It may further be stated that in the case of Ankit Tracom Pvt. Ltd., the standing counsel had informed telephonically that passing of assessment order is stayed. However, it was made clear that assessment order may be prepared and not to be released.

5 Investment in Jewellery and capital gain on sale of these jewellery items linked to land purchased by the assessee in the name of Shri Kale- First of all, I may made it clear that the capital gain on sale of jewellery was made on account of purity of gold i.e. the gold jewellery purchased/possessed having purity of 79.96 and when it was sold, the purity was around 90. Some of the jewellery was claimed to have been acquired by gift from various family members. In spite of repeated opportunities given, the assessee had not given any details regarding the name of the person or the date of acquisition by those persons gifted the jewellery. In that situation, in my view except to apply the provisions of section 49(1), I have no other alternative. In view of this, it is requested that specific directions be given to exclude the capital gain on sale of jewellery particularly in view of purity and date of acquisition.

As regards the purchase of land in the name of Mr Kale, in spite of repeated opportunity, the assessee had not given any detail. In short, the point is clarified as- Mr. Kale is an Adivasi and as per the Govt. guidelines, the land of adivasis cannot be purchased by any other person except adivasi (except some exceptional cases.)In this case, the Mittal family purchased lands of Adivasis in the name of Mr. Kale and later on got transferred as per the exceptional circumstances. It is a well settled fact that the purchase of land in benami name cannot be from known sources of income. When later on transferred into assessee's name, the amount is being transferred to Mr. Kale's account and withdrawn and utilized by the assessee for their own purposes. In the case of assessee, neither the amount which was invested earlier out of unaccounted sources was subjected to tax nor are the persons introducing the capital by way of gift paying tax on such amount. Therefore, it was held in the assessment order that the unaccounted money which was used for purchase of land was brought on account, therefore, the investment in jewellery was thought to be taxed in this year. If the decision of mine is wrong, please clarify.

6. Issue related to sale of land having Dolomite mines through routes of sale/purchase of shares of the company- In my knowledge, no such issue had come to any of the draft assessment orders submitted to you. It appears that all the above issues are raised by your honour as per the version of Mr. Lalit Mittal and Shri RN Mitta, CA.

7. Similar is the position regarding Excavation and cartage charges- the matter relates to unaccounted purchases and non-debiting of expenses based on various seized documents; statements of various employees at the time of search and post search enquiries. The addition was made on account of unaccounted transactions.

8. From the perusal of the letter dated 21/12/2011, it is not clear, whether the assessment orders submitted to your office was approved or otherwise under sec.153D or the instructions are under sec.144A.

9. As per the appraisal report, the proposed additions were more than 125 crores and if there is major deviation from such proposal, as per instructions of the Board, deviation report should be furnished to the Investigation wing. From your above referred letter, it is not clear, whether any deviation report was furnished to the Investigation wing or not. This may also be made clear to me so that with the short time span, I could complete the search & seizure assessments.

10. It may be made clear that recently my Sister-in law(Bhabhi) expired on 21" Dec.2011 and due to these time barring cases, I could not even see her during her alling time or otherwise to attend the funeral which was held on 22/12/2011. At the same time, my mother was already a paralytic patient and recently suffered a second paralytic attack.

10. It may further be stated here that the valuation reports in the cases of Shri Vijay Kumar Mittal, MP Minerals and Mittal Roadways were received recently, and the assessee was given an opportunity to furnish their objections to

the proposed valuation. Only on receipt of the objections, these cases could be finalized. At the end, it may be mentioned that all the assessments in Mittal group are getting barred by limitation on 31/12/2011, keeping in view the peculiar situation, may I request you to kindly issue clear instructions whether to maintain the addition or to delete the additions proposed.

Yours faithfully,

(Sanjay Kumar)
Asstt. Commissioner Of Income tax
Circle, Kátni.

11. From the above correspondence between the A.O. on one hand and the JCIT on the other hand and the letter addressed by the JCIT to the Commissioner clearly shows that it was at the stage of discussion and the JCIT could not able to make his mind. Ultimately he simply says that due to shortage of time as he was holding charges for six ranges, it is not possible for him to go into the material deep, therefore, he approved the proposal technically as required u/s 153D of the Act, immediately, after the AO brings to his notice that the assessment is getting time barred.

12. From the above communications, it is obvious that the JCIT has not applied his mind even though there was a discussion between the A.O. and JCIT, the JCIT could not make his mind. Hence, this kind of casual approval/technical approval without going to the matter and without applying his mind to the material available on record is not an approval at all. Therefore, A.O. has no jurisdiction to pass the assessment order. In other words, the assessment order passed by A.O. as confirmed by C.I.T.(A) is void, nullity, non-est, hence, cannot be stand in the eye of law.

13. An irregularity in the assessment order may be rectified by remitting back the matter to the assessment. In the case on hand it is not an irregularity in the assessment order, it is a jurisdictional error. The A.O. has no jurisdiction to pass the assessment order unless the JCIT granted approval. This Tribunal is of the considered opinion that this is not a rectifiable error since it is a jurisdictional error and not an irregularity in the assessment proceeding. Moreover, even if the matter is remitted back, the AO cannot do anything better, since time limit provided under the Act has already expired. Therefore, this Tribunal is unable to uphold the orders of the lower authorities. Accordingly, the orders of both the authorities below were set-aside and the entire assessment order as confirmed by C.I.T.(A) are quashed.

14. In the result, all the appeals of the assessee stand allowed.

Order pronounced in the open court on 04.03.2021.

(as per my Separate, assent order)

(Sd/-)

(Sanjay Arora)
Accountant Member

(N.R.S.Ganesan)
Judicial Member

Dated: 04 /03/2021

In Re: Sarika Mittal & Ors. v. Asst. CIT (IT(SS)A Nos. 12 to 14/Jab/2018 & Ors.)

1. I have perused the Order proposed by my ld. brother, JM, and am principally in agreement therewith in that the impugned assessments fail for want of the necessary approval u/s. 153D. My reasons for the same take a different trajectory and, accordingly, are being stated per a separate, assent order, which is to be read in conjunction with the said order.

2. The appeal raises the issue of maintainability of the impugned assessments in view of the approval u/s. 153D of the Act dated 26/12/2011 by the Joint Commissioner of Income Tax, Jabalpur ('Jt. CIT' for short). Section 153D reads as under:

153D. Prior approval necessary for assessment in cases of search or requisition

No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of sub-section (1) of section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner.

(emphasis, supplied)

The operative part of the approval letter afore-referred reads as under:

'Due to shortage of time, as holding charge of six ranges, it is not possible for me to go into the deep, therefore, the draft assessment orders in the following cases submitted by you are hereby approved u/s. 153D as per technical requirement. Case records as received are returned herewith.'

(emphasis, supplied)

The facts and circumstances leading to the said 'approval' have been discussed in detail, reproducing the communications exchanged between the Jt. CIT, the approving/competent authority, and the Assistant Commissioner, Katni ('Asst. CIT' for short), the Assessing Officer (AO), in the order by my ld. brother. The same cannot, by any score, be regarded as a valid approval. It is not a case of non-application of mind, a question

of fact, as the Id. counsel for the assessee, Shri Ghai, would contend before us, but of it being indeed one, i.e., an approval in law, to which the answer must clearly be in the negative. As the exchange afore-referred, coupled with the letter dated 20/12/2011 by the Jt. CIT to the AO (forming part of the paper-book by the Revenue furnished on 03/02/2021), shows, the approving authority, on perusing the records and applying his mind to the various aspects of the assessment/s, finds himself unable to approve the draft assessment order/s as such. He, however, instead of requiring the AO to make change/s therein as deemed proper or, time permitting, even requiring him to, for the purpose, undertake inquiry on the lines he considers necessary, cites the reasons of overload of work and paucity of time, and grants – what he calls, ‘technical’ approvals. How, one wonders, could he do so, i.e., in law, being obliged thereby to, and even as required of him by the AO vide his letter dated 22/12/2011, either agree with the draft assessment order or advise necessary changes therein before according his approval. This is as the law contemplates an order of assessment or reassessment only upon his approval and, of course, within the time prescribed therefor. That his directions to the AO in the matter were not in clear terms and, besides, did raise concerns, not addressed, is the substance of AO’s letter dated 22/12/2011 to the Jt. CIT. The assessment order as passed – the said non-approval being manifest from the order granting ‘approval’, can therefore only be regarded as not bearing his approval.

3. It was vehemently argued before us on behalf of the Revenue that the approval cannot be regarded as invalid only for want of the approving authority having, as clearly stated therein, not gone into ‘depth’, i.e., as much as he would have otherwise, i.e., without the time constraint, preferred to, that being itself a subjective matter, which would vary from

person to person. Rather, as the communications exchanged between the two authorities would reveal, there was consideration of and application of mind to the various aspects of the assessment/s.

It may, toward this, be relevant to traverse the provision, considering it in light of the legislative intent leading to its enactment. The provision of section 153D was brought on the statute-book by Finance Act, 2007, w.e.f. 01.6.2007. The scope and effect of its insertion has been elaborated in Board Circular 3/2008, dated 12.3.2008. It states of the law providing thus for an approval of an assessment in cases where search has been conducted or requisition made. Not much guidance also flows from the Notes on Clauses explaining the statutory change; the sections 153A to 153C having been inserted on the statute-book by Finance Act, 2003, w.e.f. 01/4/2003. A review of the provisions of section 144A and, since omitted, section 144B, reveal them, and even as explained by the Hon'ble Courts, to be designed to provide a pre-assessment review and a forum to an assessee to know the merits of the proposed assessment order before the actual assessment is made and he saddled with a pecuniary liability resulting from it. The object appears to be to avoid multiplicity of proceedings and to reduce the area of dispute between the assessee and the Department and also to provide for a check and balance against arbitrary assessments causing unnecessary harassment, which could otherwise be avoided [*Bhagwat Prasad v. CIT* [1998] 232 ITR 480 (All)]. The Board Circulars issued *qua* the said sections have also explained the same to be an attempt to improve the quality of the scrutiny assessments as well as strengthening the machinery for review of assessments as well as inspection of assessment charges. In recent times, the concept of limited scrutiny has also been introduced with a view to focus the resources of the Revenue on targeted issues, with an inbuilt flexibility for enhancing the scope of

assessment in deserving cases – by following the procedure prescribed therefor – again, clearly, with the same intent and toward the same end.

Considered in this backdrop, the legislative intent behind s. 153D could be no different, or at least materially so. In fact, the need for framing a balanced assessment, i.e., providing a check on the arbitrary use of power through high pitched assessments, as well as to strengthen the internal monitoring and review system of the Department, is imperative and cannot be over-emphasized. It appears that inasmuch as no pre-decisional hearing to the assessee, as in ss. 144A/144B, has been provided in section 153D, its primary purpose is to improve the quality of the assessments in search and search-related cases. This perhaps also explains the absolute bar on the issue of an order of assessment/reassessment without prior approval by the Range head in such cases. Where, therefore, the approving authority states of being constrained for time to go into the depth of the matter, it only indicates his non-satisfaction with the draft order. That this non-satisfaction obtains despite his examination of the various aspects of the assessment/s makes it all the more relevant. The same results from his application of mind and not otherwise. At the same time, he using the same phrase in all the ‘approvals’, *given at the same time*, it could – and as it appears, that while he had gone into some depth in some cases, though not satisfied therewith, he might not have in others and, overwhelmed by the volume of work involved in the short span of time available, recused himself – so to speak, by issuing ‘technical’ approvals. *Either way, the object and intent of the law gets defeated.* Nothing, therefore, turns in law on the fact of deliberations between the assessing and the reviewing authority – which Ms. Pradhan, the Id. CIT-DR, was at pains to emphasize before us, as the assessment order/s that came to be finally passed cannot be regarded as an approved order/s, being ‘approved’, as apparent, to meet,

in the given facts and circumstances of the case, the technical requirement of 'approval'! It is also not open for this Tribunal to travel beyond the express statement by the competent authority in the 'approval letter', and to, upon a review of the correspondence exchanged (including the material referred to therein) between the Revenue authorities, form an opinion as to whether the approving authority ought to have been, or been not, satisfied. It is his, and his satisfaction alone that is relevant, and doing so would be to intrude upon and usurp his supervisory power and duty with regard to assessment, framing of which is the prerogative of the Revenue. It is equally impermissible to question the *bona fides* of the approval as given or the truthfulness of what is stated in the 'approval' letter or indeed in the AO's letter dated 22/12/2011 (*supra*) seeking clarifications.

4. The question of due application of mind, which is often raised by and on behalf of the assesseees in such-like situations, as indeed was in the instant case, it may be clarified here, arises for review only from the limited stand-point of whether the condition/s of the section or the provision is met, and not beyond. A parallel in this regard may be drawn to the recording of the reason/s to believe escapement of income from tax by the AO prior to the issue of a reassessment notice. The purview of an Appellate Court, as is well-settled, is limited to ascertaining the existence or otherwise of a live link or a rational nexus between the material or information available with the assessing authority and his honest belief as to the escapement of income chargeable to tax from assessment. The veracity of this material/information, as long as it is from a reliable source, cannot be examined at the stage of assumption of jurisdiction for reassessment; the scope being the relevancy of the reason/s recorded for the purpose with a view to determining the validity thereof. Application of

mind by the AO becomes a necessary ingredient toward this. Sufficiency of reason/s, which falls within the realm of the subjective satisfaction of the AO, cannot be gone into. Further, even this the Court does, not to review the manner of the exercise of the power of reassessment *per se*, but only to see as to whether the requirement of law, providing a condition precedent for the exercise of the said power, has been met or not. In the instant case/s as well, it would be a different matter where the Jt. CIT had issued some direction/s to the AO, subject to and on the basis of which he accords his approval. It will not, in that case, be open for an appellate court to review the same or sit in judgment thereon. No criterion for ‘approval’, except of course his satisfaction with the draft order, which is in fact implicit – as otherwise the exercise (of approval) itself would be rendered meaningless, has been provided by the statute. The requisite of ‘due application of mind’ is also toward this satisfaction inasmuch as there could be circumstances, as indeed have been found by the Appellate Courts, as in *Tarachand Khatri v. Asst. CIT* (in ITA No. 21/Jab/2019, dated 17/01/2020), of there being in fact no satisfaction inasmuch as the same could not arise under the given facts and circumstances, as, for example, apparent inconsistencies and anomalies in the ‘approved’ assessment order. Needless to add, this again can be examined by the Courts only from the stand-point of a *prima facie* satisfaction of the competent authority.

5. The question that arises next for consideration is the legal consequence of such an approval, i.e., which cannot be regarded as one in the eyes of law. Without doubt, there has been thus, in fact, non-compliance of section 153D of the Act. The provision, cast in negative terms, coupled with the use of word ‘shall’, clarifies a mandatory intent, law on which is well-settled (see: *Montreal Street Railway Co. v.*

Normadin [1917] A.C. 170, relied upon and applied in, to cite some, *Hazari Mal Kathulia v. ITO* [1961] 41 ITR 12 (SC) and *Bhakta Vedanta Swami Charitable Trust vs. CIT* (in WP(C) 12347/2005, dated 09/5/2006 (Orissa)).

5.1 An issue that came up in this regard during hearing was of the ‘approval’ being an ‘administrative approval’, lack of which may therefore not be fatal to the assessment. It may be necessary to clarify this aspect as want of administrative action, even as clarified in *State of UP v. Manbodhan Lal Srivastava* [1958] SCR 533 and *K.S. Srinivasan v. UoI* [1958] SCR 1295, 1321, noted with approval in *Hazari Mal Kathulia* (supra), may not affect the validity of the acts done. In the facts of the latter case, the Commissioner had failed to consult the Central Board of Revenue, which he was required to before finalizing the assessment under the Patiala Income Tax Act, as he had proceeded under the Indian Income Tax Act where-under no such consultation was necessary. This non-consultation was held as proof against the presumption of regularity of official acts, challenging the validity of the Commissioner’s order. The Apex Court repelled the charge, holding the provision as directory, as follows: (pgs. 16-17)

‘The provision about consultation must be treated as directory, on the principles accepted by this Court in *State of U.P. vs. Manbodhan Lal Srivastava* [1958] S.C.R. 533 and *K.S. Srinivasan vs. Union of India* [1958] S.C.R. 1295. In the former case, this Court dealt with the provisions of Art. 320(3)(c) of the Constitution, under which consultation with the Union Public Service Commission was necessary. This Court relied upon the decision of the Privy Council in *Montreal Street Railway Co. vs. Normandin* (1917) A.C. 170 where it was observed as follows: “.....The question whether provisions in a statute are directory or imperative has very frequently arisen in this country, but it has been said that no general rule can be laid down, and that in every case the object of the statute must be looked at. The cases on the subject will be found collected in Maxwell on Statutes, 5th Edn. p. 596 and following pages. When the provisions of a statute relate to the performance of a public duty and the case is such that to hold null and void acts done in neglect of

this duty would work serious general inconvenience, or injustice to persons who have no control over those entrusted with the duty, and at the same time would not promote the main object of the legislature, it has been the practice to hold such provisions to be directory only, the neglect of them, though punishable, not affecting the validity of the acts done."

The principle of the Privy Council case was also applied by the Federal Court in *Biswanath Khemka vs. King Emperor* [1945] F.C.R. 99 and there, as pointed out by this Court, the words of the provision were even more emphatic and of a prohibitory character. The essence of the rule is that where consultation has to be made during the performance of a public duty and an omission to do so occurs, the action cannot be regarded as altogether void, and the direction for consultation may be treated as directory and its neglect, as of no consequence to the result. *In view of what has been said in these cases, the failure to consult the Central Board of Revenue does not destroy the effectiveness of the order passed by the CIT, however wrong it might be from the administrative point of view.* The power which the CIT had, was entrusted to him, and there was only a duty to consult the Central Board of Revenue. The failure to conform to the duty did not rob the CIT of the power which he exercised, and the exercise of the power cannot, therefore, be questioned by the assessee on the ground of failure to consult the Central Board of Revenue, *provision regarding which must be regarded as laying down administrative control and as being directory.'*

5.2 The issue, nevertheless, is not *res integra*; the decision in *CIT vs. Maharaja Pratap Singh Bahadur of Gidhaur* [1961] 41 ITR 421 (SC), among others, being on the point. In the facts of that case, reassessment notices u/s. 34 (corresponding to section 148(1) of the Act) were issued by the AO without observing the procedure prescribed therefor. The notices were issued on August 8, 1948 without recording the reasons for doing so and putting them before the Commissioner for his approval. There was in fact no such requirement in law as on 08.8.1948, i.e., the date of issue of the notices. However, subsequently, i.e., on September 8, 1948, an Amending Act was promulgated, which stipulated such a requirement by way of *proviso* to the amended section, reading as under, and which was given a retrospective effect from March 30, 1948: (pg. 423)

Provided that—

(1) the ITO shall not issue a notice under this sub- section unless he has recorded his reasons for doing so and the Commissioner is satisfied on such reasons that it is a fit case for the issue of such notice.' (emphasis, supplied)

The assessments, on challenge, were regarded as not valid, from the stage of the Tribunal – whereat the issue of their being not maintainable was raised for the first time, onwards. The Revenue relying on section 6 of the General Clauses Act, 1897, the Apex Court held as under: (pgs. 423-425)

‘ The question is whether the notices which were issued were rendered void by the operation of this proviso. The Commissioner contends that section 6 of the General Clauses Act, particularly cls. (b) and (c), saved the assessments as well as the notices. He relies upon a decision of the Privy Council in *John Lemm vs. Mitchell* [1912] A.C. 400, *Eyre vs. Wynn-Mackenzie* [1896] 1 Ch. 135 and *Butcher vs. Henderson* [1868] LR 3 QBD 335 in support of his proposition. The last two cases have no bearing upon this matter, but strong reliance is placed upon the Privy Council case. In that case, the earlier action which had been commenced when the Ordinance had abrogated the right of action for criminal conversation, had already ended in favour of the defendant and no appeal therefrom was pending, and it was held that the revival of the right of action for criminal conversation did not invest the plaintiff with a right to begin an action again and thus expose the defendant to a double jeopardy for the same act, unless the statute expressly and by definite words gave him that right. The Privy Council case is thus entirely different.

No doubt, under section 6 of the General Clauses Act it is provided that where any Act repeals any enactment, then unless a different intention appears, the repeal shall not affect the previous operation of any enactment so repealed or anything duly done thereunder or affect any right, obligation or liability acquired, accrued or incurred under any enactment so repealed. It further provides that any legal proceedings may be continued or enforced as if the repealing Act had not been passed. Now, if the amending Act had repealed the original section 34, and merely enacted a new section in its place, the repeal might not have affected the operation of the original section by virtue of section 6. But the amending Act goes further than this. It repeals the original section 34, not from the day on which the Act received the assent of the Governor-General but from a stated day, viz., March 30, 1948, and substitutes in its place another section containing the proviso abovementioned. The amending Act provides that the amending section shall be deemed to have come into force on March 30, 1948, and thus by this retrospectivity, indicates a different intention which excludes the application of section 6. It is to be noticed that the notices were all issued on August 8, 1948, when on the statute book must be deemed to be existing an enactment enjoining a duty upon the Income Tax Officer to obtain prior approval of the Commissioner, and unless that approval was obtained, the notices could not be issued. The notices were thus invalid. The principle which was applied by this Court in *Venkatachalam vs. Bombay Dyeing & Mfg. Co. Ltd.* [1958] 34 ITR 143 (SC) is equally applicable here.

No question of law was raised before us, as it could not be in view of the decision of this Court in *Y. Narayana Chetty vs. ITO* [1959] 35 ITR 388 (SC), that the *proviso* was not mandatory in character. Indeed, there was time enough for fresh notices to have been issued, and we fail to see why the old notices were not recalled and fresh ones issued.

For these reasons, we are in agreement with the High Court in the answers given, and dismiss this appeal with costs.’

True, it is not the validity of the jurisdictional notice – as in *Maharaja Pratap Singh Bahadur* (supra), resulting in the proceedings taken without such a notice or in pursuance of an invalid such notice being void and illegal, and the assessments, in consequence, without jurisdiction, which is under question in the instant case. The ‘approval’ u/s. 153D, as aforementioned, is primarily towards safeguarding the interest of the Revenue in search and search-related cases, giving it a mandatory status. *It thus becomes as much integral to the procedure for assessment as is the issue of the notice for reassessment.* And, further, in discharge of his *quasi-judicial* functions by the Jt. CIT who, as the Range head, has been for the purpose allowed the requisite powers (see ss. 2(7A), 120(4),124(5), 131, 132, 133). There is, thus, no inconsistency between section 153D, the scope of which has been found as toward improving that quality of the assessments by providing for internal review by the supervisory head (refer para 3), and the powers and duties of the Jt. CIT under the Act. The assessment order/s in the instant case, passed in breach of the qualifying, mandatory condition of its passing, i.e., an approval u/s. 153D, is an invalid order/s, to which no cognizance in law can be given. The plea of the ‘approval’ thereunder being an ‘administrative approval/action’ is thus to no moment. As explained in *Panchamahal Steel Ltd. v. ITO* [1997] 225 ITR 458 (SC), in the context of sec. 144B, the AO becomes practically *functus officio* after forwarding the draft assessment order along with the assessee’s objections to the approving authority, and is to thereafter only follow the directions by the latter, which he cannot vary or depart from. His acceptance of the revised return by the assessee thereafter, even though furnished within the time period stipulated by law therefor, was

accordingly disapproved by the Hon'ble Court, explaining that the provision of sec. 139(5) for furnishing a revised return is to be understood and construed in a reasonable manner.

Sure, time permitting, it is open for the AO to, as in *Maharaja Pratap Singh Bahadur* (supra), seek fresh approval (u/s. 153D), and issue an assessment order – marking the culmination of the process of framing the assessment. This is, again, for the same reason; an order passed without a valid approval being of no consequence in law. Reference in this regard may also be made to *CIT v. Ratanbai N.K. Dubhash* [1998] 230 ITR 495 (Bom). There is however no gainsaying that the time constraint, as stated in the 'approval' itself, is the reason for its grant in the manner it has, so that this aspect becomes, even as in *Maharaja Pratap Singh Bahadur* (supra), academic. In fact, this fact itself, i.e., the grant of approval so as to circumvent the time limitation for assessment, is itself reason enough to invalidate the approval. The impugned assessments are, subject of course to the fulfillment of the other pre-requisite conditions of the provision, non-est in law.

5.3 It is not in dispute that the AO in all the cases is of the rank of the Assistant Commissioner, i.e., below the rank of the Joint Commissioner. Similarly, the year of search being f.y. 2009-10, all the assessment years under reference, i.e., AYs. 2004-05 to 2010-11, are those specified in s. 153D. The assessment order/s under reference is, thus, not valid in law inasmuch as no order of assessment or reassessment could be passed by the AO below the rank of Joint Commissioner for any of the years specified in section 153D, except with the approval of the Jt. CIT.

6. Before parting with this order, one cannot help note the irony of the situation, i.e., a measure adopted by law to protect the interest of the Revenue in critical cases should itself become the reason for the destruction thereof, an extremely unfortunate incident. This Court, however, cannot do anything beyond expressing its anguish at the sorry state of affairs with regard to the management of work as well as the commitment thereto of the officers concerned, and hope that the Revenue, so keen and anxious to improve the quality of the assessments and avoid unnecessary litigation, takes steps to prevent a recurrence, which has an opposite effect – being detrimental to the cause of the Revenue as well as the morale of its’ officers. Where, one wonders, was the scope for hearing the assessee and his counsel by the Jt. CIT in the sec. 153D proceedings? One cannot also help mentioning here the hard work and the painstaking efforts put in by the AO, which is commendable indeed, particularly considering the difficult circumstances he was placed in at the time.

Sd/-

Place: Jabalpur
Date: March 04, 2021
Bench

(Sanjay Arora)
AM, Jabalpur

Patel/P.S.

Copy of the order forwarded to :

The Appellants:

- (i) Smt. Sarika Mittal
- (ii) Shri Lalit Kumar Mittal
- (iii) Shri Pawan Kumar Mittal
- (iv) Shri Pawan Kumar Mittal (HUF)
- (v) Shri Vijay Kumar Mittal
- (vi) Shri Vijay Kumar Mittal (HUF)
- (vii) Shri Lalit Kumar Mittal (HUF)
- (viii) Smt. Seema Mittal

- (ix) Smt. Satya Devi Mittal
- (x) Smt. Kavita Mittal
- (xi) Shri Suresh Kumar Mittal
- (xii) Shri Suresh Kumar Mittal (HUF)
- (xiii) Smt. Sarla Mittal
- (xiv) Shri C.R. Mittal & Sons (HUF)
- (xv) Katni Minerals Pvt. Ltd.
- (xvi) M.P Minerals Pvt. Ltd.
- (xvii) Mittal Roadways Pvt. Ltd.
- (xviii) Mittal Tractors Pvt. Ltd.
- (xix) PLM Builders & Developers Pvt. Ltd.
- (xx) V. K. Tractors & Automobiles Pvt. Ltd.
- (xxi) Katni Bauxite Pvt. Ltd.

- (xxii) Trackway Securities & Finance Pvt. Ltd.
- (xxiii) Vijay Marbles Pvt. Ltd

2. **The Respondent:** Asstt. Commissioner of Income Tax, Circle-Katni, M.P.
3. The concerned C.I.T: C.I.T.(2), Jabalpur
4. The CIT (A) -1, Jabalpur
5. Sr. DR, ITAT
6. Guard File