Amol

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

INCOME TAX APPEAL (L) NO. 12683 OF 2024

Pr. Commissioner of Income Tax -1, Thane	…Appellant
Versus	
Vrushali Sanjay Shinde	…Respondent

Mr. Akhileshwar Sharma, *for the Appellant.*

Ms. Vidhi Punamiya, *Ms. Sankalp Mallik (through VC) & Mr. Sanket S. Bora, i/b, Malik & Co, & SPCM Legal, for the Respondent.*

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

DATED: 10 DECEMBER 2025

ORAL Order:- *(Per M. S. Sonak, J)*

1. Heard learned Counsel for the parties.

2. This Appeal was admitted by order of 26 February 2025 on the following substantial question of law:-

> *"Whether on the facts and the circumstances of the case, the Hon'ble ITAT is justified in raising the presumption that the approval u/s 153D is mechanical without application of mind and without considering the merits of the additions suggested by the assessing officer, stating that no satisfaction has been recorded by the additional commissioner before according approval when there is no such requirement of recording satisfaction prescribed in the Act?"*

3. However, later on, Ms. Punamiya the learned Counsel for the Respondent pointed out that the issue involved in this Appeal is covered by decisions of various High Courts and Special Leave Petitions against some of them have already been dismissed. Accordingly, we posted this matter on 10 December 2025 for direction/disposal.

4. Our order of 26 November 2025 reads as follows:-

> *"1. Mr. Sharma points out that this Appeal is already admitted.*
>
> *2. Ms. Vidhi Punmiya, however, submits that the issue involved in this Appeal is covered by the decisions of various High Courts and the SLPs of some of them have already been dismissed. She points out that the issue in this Petition concerns approval under Section 153D of the IT Act and therefore would also be covered by this Court's decision in ITXA No. 34357 of 2024.*
>
> *3. Considering the submissions made, we post this matter on 10 December 2025 for directions/disposal."*

5. The substantial question of law framed in this Appeal concerns the approval dated 6 August 2010 granted by the Additional Commissioner of Income Tax Central Range Thane for proceedings under Section 153C of the Income Tax Act (IT Act).

6. The approval letter dated 6 August 2010 has been transcribed by the Income Tax Appellate Tribunal (ITAT) in paragraph 18 of the impugned order. However, for the sake of convenience, we are also transcribing this letter below:-

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INCOME TAX DEPARTMENT

No. THN/Addl.CIT/CR/Scr.Appr./T-53/2010-11/291 Office of the Addl. Commissioner of Income Tax,
Central Range, Thane.
2nd floor, Pawar Industrial Estate,
Edulji Road, Charai, Thane
Tel: 253936 97
Fax: 253806 00
Date : 06.08.2010

The Asstt.Commissioner of Income-tax
Central Circle-1
Thane

Sub: Approval u/s 153D to the draft assessment orders in the case of Smt. Vrushali Shinde of Unique Group.

Ref: Your letter No.Thn/ACIT/CC-1/Asst-Approval/2010-11 dated 05.08.2010

Please refer to the above.

The draft assessment order submitted by the A.O. in the case of Smt.Vrushali Shinde of Unique Group is approved for the following Asstt. Year.

S.NO.	A.Y.	SECTION
1.	2008-09	153C r.w.s. 143(3)

Copy of the assessment order issued in the above referred cases is to be forwarded to this office.

(VATSALYA SAXENA)
Addl. Commissioner of Income-tax
Central Range, Thane

Encl: As above.

7. The ITAT, in paragraphs 16 to 20 has held that the approval letter does not indicate even prima facie any application of mind and that the approval would be deemed to have been granted mechanically. On this basis, the ITAT has held that the proceedings under Section 153C were incompetent.

8. Mr. Sharma however submitted that this was a case where there was a raid by the State Police followed by Special Audit conducted under Section 142(2A) of the Act. He submitted that even statements of the assessee were recorded. He also submitted that most of the additions were made based on the Special Audit Report. He further submitted that despite opportunities, the assessee offered no clarification and submitted no details.

9. Based on the above, Mr. Sharma submitted that the approval dated 6 August 2010 was granted in the above circumstances and on the above material. He submitted that the approval order is not required to be like some reasoned or order.

10. Although, it is correct that the approval order is not required to resemble a reasoned judgment or order, such approval order should reflect at least a minimum application of mind. An order, which does not reflect even minimum application of mind, cannot be saved by filing an affidavit claiming that there was material based upon which such approval could have been granted. Here, the argument is that there was some material as was pointed out by Mr. Sharma and the approval should be deemed to have been granted after the approving authority consider such material. Such arguments have been expressly rejected in several decisions including the one referred to by the ITAT in its impugned order.

11. In any event, we refer to our judgment and order in the case of **Principal Commissioner of Income Tax Central 4 Vs Citron Infraprojects Limited**[1] in which, we have considered several decisions on the aspect of grant of approvals for proceedings under Section 153C of the IT Act. Some of the decisions referred to by us were questioned by the Revenue before the Hon'ble Supreme Court but the SLP against the same came to be dismissed.

12. Therefore, by following the decision in *Citron Infraprojects* (supra) and the various decisions referred to therein, we are satisfied that the approval dated 6 August 2010 is vitiated by non-application of mind. There is no dispute that such approval is a mandatory pre-requisite. In the absence of a valid approval, the proceedings under Section 153C would not be competent.

13. Accordingly, we answer the substantial question of law framed in this Appeal against the Revenue and in favour of the assessee.

14. The Appeal is accordingly dismissed. No costs.

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

1 Income Tax Appeal (L) No. 34357 2024 dated 26 November 2025.