

Ardee Industries Ltd ,Chennai vs Dcit Central Circle -01 Delhi, Delhi on 8 May, 2026

1

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", NEWDELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUDHIR KUMAR, JUDICIAL MEMBER

ITANo.6123/DEL/2025
(Assessment Year : 2020-21)

ITANo.6124/DEL/2025
(Assessment Year : 2021-22)

ITANo.6125/DEL/2025
(Assessment Year : 2022-23)

ITANo.6126/DEL/2025
(Assessment Year : 2023-24)

ITANo.6127/DEL/2025
(Assessment Year : 2024-25)

Pilot Industries Limited,
Khasra No.340, 2nd Floor & 3rd Floor,
Village Sultanpur, Mehrauli,
Delhi - 110 030.

vs.

DCIT, Central Circle 1,
Delhi.

(PAN : AAACP0655R)

ITANo.6841/DEL/2025
(AssessmentYear:2018-19)

ITANo.6565/DEL/2025
(AssessmentYear:2019-20)

ITANo.6842/DEL/2025
(AssessmentYear:2020-21)

2

ITA No. 6123/DEL/2025 and other

ITANo.6566/DEL/2025
(AssessmentYear:2021-22)

ITANo.6843/DEL/2025
(AssessmentYear:2022-23)

ITANo.6567/DEL/2025
(AssessmentYear:2023-24)

DCIT, Central Circle 1,
Delhi.

vs.

Pilot Industries Limited,
Khasra No.340, 2nd Floor & 3rd Floor,
Village Sultanpur, Mehrauli,
Delhi - 110 030.

(PAN : AAACP0655R)

ITA No. 6122/DEL/2025
(Assessment Year : 2023-24)

Ardee Industries Pvt. Ltd.,
No.6/2, Wellington Crescent,
1st Floor, Pycrofts Garden,
Chennai - 600 006 (Tamil Nadu).

vs.

DCIT, Central Circle 01,
Delhi.

(PAN : AAACA73567D)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Amit Goel, CA
Shri Pranav Yadav, Advocate
REVENUE BY : Shri Mahesh Kumar, CIT DR.

Date of Hearing : 16.03.2026
Date of Order : 08.05.2026

ORDER

PER S. RIFAUR RAHMAN, AM :

1. These cross appeals are filed by the assessee (Pilot Industries Limited) and Revenue against the order of Learned Commissioner of Income Tax (Appeals), Delhi-23 ["Ld. CIT(A)", for short] dated 25.07.2025 for the Assessment Years 2020-21 to 2023-24. The assessee has also filed appeal against the order of ld. CIT (A) dated 25.07.2025 for AY 2024-25. The Revenue has also filed appeals against the order of the ld. CIT (A) dated 25.07.2025 for AYs 2018-19 & 2019-20. The assessee, Ardee Industries Limited has filed appeal against the order of ld. CIT (A) dated 23.07.2025 for AY 2023-24.

2. Since the issues are common and the appeals are connected, hence the same are heard together and being disposed off by this common order. First we take up the cross appeals of assessee (Pilot Industries Limited) and Revenue for Assessment Years 2020-21 to 2023-24.

3. There is delay in filing the appeals by the revenue, after considering the reasons for delay and considering the submissions of both parties, we proceeded to condone the delay and proceeded to adjudicate the issues under appeals.

4. Brief facts of the case are, the assessee company is engaged in the business of manufacturing lead alloys, lead oxide and lead acid batteries. Search and seizure action u/s 132 of the Income Tax Act, 1961 (for short 'the Act') was carried out in the case of the assessee on 30.05.2023. The Assessing Officer has completed assessment after making certain additions on account of disallowance of purchase, disallowance of warranty expenses, commission paid, unaccounted sales etc. Aggrieved with the additions made in the assessment order, the assessee filed appeals before Id. CIT(A). The Id. CIT(A) allowed substantial relief to the assessee and deleted most of the additions made in the assessment order and confirmed some of the additions made. The details of addition made by AO, deleted/confirmed by CIT(A) is tabulated as under: -

A.Y. 2018-19 (u/s 148) Assess-

A.Y.	ment under section	Issue/Nature of Addition	Additions	Addi conf CIT(
		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	1,36,92,050	
2018-19	148	Disallowance warranty expense u/s 37 Total	1,58,04,122 2,94,96,172	
		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	1,89,74,442	
2019-20	148	Disallowance warranty expense u/s 37 Total	1,65,09,343 3,54,83,785	
		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	1,79,94,746	
		Disallowance warranty expense u/s 37	4,93,50,372	
2020-21	148	Difference in closing stock as undisclosed business profit u/s 37 Total	1,99,630 6,75,44,748	
		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	2,77,78,901	
2021-22	148	Disallowance warranty expense u/s 37 Disallowance of commission expense Total	59,22,735 3,75,76,506	38,74,87

		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	56,89,533	
2022-23	143(3)	Unaccounted sales u/s 28	93,50,105	4,14,988
		Inflated expenses u/s 37	1,03,06,355	10,30,633
		Disallowance warranty expense u/s 37	60,12,795	
		Difference in closing stock as undisclosed business profit u/s 37	20,92,847	20,92,847
		Total	3,34,51,635	35,38,463
		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	1,05,46,982	
2023-24	143(3)	Unaccounted sales u/s 28	1,70,70,503	18,23,133
		Warranty expenses u/s 37	85,71,801	
		Inflated expenses u/s 37 Over invoicing through freight carriers	2,93,23,228	29,32,233
		Total	7,32,19,064	1,24,61,900
		A.Y. 2024-25 (u/s 143(3))		
2024-25	143(3)	Unexplained investment u/s 69	5,23,711	5,23,711
		Unexplained investment u/s 69	33,12,076	33,12,076
		Alleged Bogus/Non Genuine Purchase (@ 3.27% of certain purchases)	26,56,271	0
		Disallowance warranty expense u/s 37	25,48,000	0
		Total	1,36,34,046	52,23,334

4. Now both the assessee as well as Revenue are in appeals before us.

Revenue's appeal for AY 2018-19 [Issue of alleged bogus purchases]

5. At the time of hearing, ld. AR of the Assessee brought before us the facts and his submissions. The AO has inferred that the assessee company has taken accommodation entries in the form of non-genuine purchases and the AO has made the addition by applying estimated rate of 3.27%.

6. In this regard, it is submitted that the addition made by the AO is erroneous and point out that the material relied upon by the AO on the basis of which the AO has drawn adverse inference neither relate to the assessee company, nor to the year under appeal nor relate to the parties for which addition has been made. The purchases from parties as doubted/alleged by the AO were made during the ordinary course of business and duly recorded in the audited books of accounts. The payments were made through proper banking channels. The AO has made the addition on assumption and presumption basis only. The AO has accepted the books of accounts of the assessee company i.e. books of accounts have not been rejected by the AO. The assessee company has submitted the following details before the AO which have been duly admitted in the assessment order: -

- i) Confirmation of accounts from the parties
- ii) Detailed ledger account of the party in the books of appellant company

iii) Detailed, confirmed ledger account of the appellant company as per the books of accounts of supplier

iv) Copies of invoices along with transporter receipt, e-way bill and Kanta Receipt (weighing slip)

v) Copy of goods inward register

vi) Copy of GST Certificate

vii) Copy of return of income filed by the suppliers

viii) Dharam Kanta Receipts

ix) Photo of truck in the premise of appellant company

x) Udyam Certificate of suppliers

6. From the above, he submitted that it is evident that the assessee company has submitted all the requisite details before the AO. As regards the observation made by the AO that no freight charges have been paid by the assessee company and therefore doubted the purchases made by the company as non-genuine, in this regard, it is submitted that the AO has failed to appreciate that the freight charges were included in the value of goods purchased and therefore no separate freight charges were paid by the company.

7. Further, he submitted that the AO has applied the rate of 3.27% in totally arbitrary manner. There is no basis of applying rate of 3.27% by the AO. The AO has erred in comparing the incriminating documents of hand written slip with the records of books of accounts of another company namely Bindal Smelting Private Limited and on the basis of such comparison has inferred that the assessee company being in the similar line of business is also indulge in booking bogus purchases however actual material is received from other suppliers at low rate.

8. He submitted that the inference made by the AO is totally erroneous and without any documentary evidence. The AO has merely presumed that the assessee company being in the similar line of business is also involved in such kind of practice. The AO has acted upon suspicion, conjecture and surmise. The addition has been made by the AO solely on the basis of assumption and presumption. It is a settled law that suspicion, however strong, cannot take place of proof. In this regard, he relied on the decision of Umacharan Shaw & Bros Vs. CIT [1953] 37 ITR 271 and Dhakeshwari Cotton Mills Ltd. vs. CIT 26 ITR 775 (SC).

9. Further he submitted that in the case of PCIT vs Forum Sales Private Limited (ITA No. 862/2019, the Hon'ble Delhi High Court vide order dated 01.03.2024 has held that the AO cannot make the estimated addition without rejection of books of accounts.

10. He submitted that the Ld CIT(A) has considered the issue in a detailed manner and has deleted the addition made by the AO by holding as under: -

"6.2 I have carefully considered the facts of the case, observation of the AO in the assessment order and the submission of the appellant. There is no dispute by the AO that the purchases from the above parties are duly recorded in the books of accounts. The payments for these purchases were made through proper banking channels. The AO has accepted the books of accounts of the appellant i.e books of accounts have not been rejected by the AO.

6.3 The appellant has furnished the details before the AO in respect of the purchases such as confirmation of accounts from the parties, ledger account of the party in the books, ledger account of the appellant company as per the books of accounts of supplier, copies of invoices along with transporter receipt, e-way bill and Kanta Receipt (weighing slip), copy of goods inward register, copy of GST Certificate, Dharam Kanta Receipts, photo of truck in the premise of appellant company and Udyam Certificate of suppliers.

6.4 As regards the observation made by the AO that no freight charges have been paid by the appellant company and therefore doubted the purchases made by the company as non-genuine, there is merit in the submission of the appellant that the freight charges were included in the value of goods purchased and therefore no separate freight charges were paid by the appellant company. 6.5 The appellant has submitted that purchases made by the appellant are on FOR basis (Freight on Road) which means that the appellant is not required to pay the freight charges separately rather

the same is included in the value of goods purchased.

6.6 As a matter of fact, the AO has accepted the entire purchases and has made ad-hoc addition of 3.27%. There is no basis of applying rate of 3.27% by the AO. There is no rationality in the action of the AO in making the addition based on the case of another company namely M/s Bindal Smelting Private Limited. The AO has acted upon presumption that the appellant company being in the similar line of business is also involved in such kind of practice.

6.7 The AO in para 8 to 8.2 discussed the issue of bogus purchases and investigation in the case of parties covered under search proceedings and noted that parties such as Sh. Aman and Sh. Bijendar carried out manufacturing of lead alloy/ingots.

6.8 At the end, out of 13 parties identified, the AO finally considered only 9 parties as bogus and adopted average rate of 3.27 % for disallowance. The basis of 3.27% was stated to be the price difference between invoiced and without invoiced material sold by M/s Bindal Smelting Pvt. Ltd. Here, it is pertinent to mention that M/s Bindal Smelting is an independent entity and the finding in that case cannot be borrowed that too where search has taken place in the case of appellant. The addition should have been based on cogent material found during the course of search u/s 132 of the Act.

6.9 As discussed above that the AO has neither rejected books of account nor questioned the sales corresponding to the alleged bogus purchase made from the parties mentioned in para 10.20 of order for sum of Rs. 58.02 crores for the year under consideration, appellant has discharged its primary onus by providing required details in respect of alleged bogus purchases such as invoices, VAT details, inward & Stock register, details of payments made through banking channel etc. On the other hand, it is also noticed that sales are accepted by the Assessing Officer and a finding is also recorded by him in para 10.13 of order wherein he himself held that purchases are genuine whereas parties from whom purchases are made are bogus.

6.10 In the case of PCIT vs Forum Sales Private Limited (ITA No. 862/2019, the Hon'ble Delhi High Court has held that the AO cannot make the estimated addition without rejection of books of accounts.

6.11 In the case of CIT vs Kohinoor Foods Ltd. [2015] 61 taxmann.com 84 (Delhi) (High court of Delhi) the primary issue revolves around the acceptance of the assessee's appeals concerning the rejection of books of account and an addition of 1 per cent gross profit on a uniform basis for the assessment years 2002-03 to 2007-08. The ITAT considered that the assessee's books of account were regularly maintained and audited without discrepancies indicated by the AO.

The Tribunal didn't appreciate the AO's rejection of books and the ad hoc addition of 1 per cent of sales, terming it an interplay of surmises and conjectures without material basis. The High Court affirmed the ITAT's decision, concluding that the AO's narrow basis for rejecting books and adding 1 percent of sales was legally untenable.

6.12 In view of the above, the addition of Rs. 1,36,92,050/- made by the AO for adhoc disallowance is not sustainable and directed to be deleted. The ground of appeal is thus allowed."

11. Accordingly, he pleaded that there is no infirmity in the order of the ld.

CIT(A) and this ground may be dismissed.

12. On the other hand, ld. DR of the Revenue brought to our notice the relevant facts on record from the assessment order and submitted that he relies on the detailed and categorical findings in the assessment order. He submitted that the assessee is in similar line of business and the regular practice in the industry is being followed and the case of assessee cannot be different, further submitted that the rate was adopted only for comparison purpose and practices are generally same within the same industry, he relied on the findings of the Assessing Officer.

13. Considered the rival submissions and material placed on record. We observed that the AO has observed, the assessee had purchases from the parties, according to him are bogus for the reason that the assessee had not recorded any freight charges against any of the purchases. On these findings/issues, the assessee made detailed submissions in this regard before Ld CIT(A) and the Ld CIT(A) had appreciated the fact that these purchases are made by the assessee on the basis of CIF i.e., freight charges are included in the price of goods purchased by the assessee. In this regard, the assessee had submitted relevant documents in support of the same and Ld CIT(A) had adjudicated that there is no requirement to submit separate bills for freight charges.

14. With regard to adoption of rate applied by the AO to make GP addition which was taken from the search carried out in the case of Bindal Smelting Private Limited, it is fact on record that they have taken bogus purchases to book in their books of account and determined the above rate of GP, whereas there is no finding that the assessee had also indulged in such activities of bogus purchases. It is only the presumption of the AO that the assessee had not booked any freight charges, hence the purchases can only be bogus. The factual matrix in this case is different compared to the facts in the Bindal Smelting Private Ltd, in our view, adopting the same to make addition in the case of assessee is farfetched. After considering the findings of Ld CIT(A), we do not see any reasons to disturb the same. In the result, ground raised by the Revenue in the AY 2018-19 under consideration is dismissed. Revenue's appeal for AY 2018-19 [Disallowance of warranty expenses u/s 37]

15. The AO has stated that the assessee company has consistently creating a surplus provision and therefore amount of warranty related expenses as claimed in the ITR has been disallowed by the AO.

16. In this regard, ld. AR brought to us the brief facts of the issue and he submitted that the action of the AO of disallowing warranty related expenses is totally erroneous. The AO has made the

disallowance without appreciating the facts correctly. The company is in the business of manufacturing of different types of batteries for different segments with different designs & developments, techniques, applications, uses and life cycles, which are also based on past experience and expertise. The assessee company give warranty to the customers if any case of default batteries, the company will replace the batteries in due course. Whenever the company received the default batteries within the remaining warranty period the old batteries are taken back and new battery is given to the customer. The old battery is used for recycling as a raw material. The cost of new battery as reduced by the value of old defective battery is charged to warranty expenses. The apparent mistake in the understanding of the AO is evident from the fact that he has disallowed the entire amount of warranty expenses claimed in the P&L account/ITR. The AO has failed to appreciate that the Provision for Warranty as shown in the Balance sheet was neither charged in the P&L account nor claimed in the ITR. The Provision for Warranty as shown in the Balance sheet was the cost of new battery to be given in replacement. However, against that provision, estimated realisable value of old battery was correspondingly declared in the asset side under the stock and only the difference was claimed as warranty expenses. It is not the case of the AO that the Provision for Warranty as shown in the Balance sheet was claimed as deduction.

17. He further submitted that it is also pertinent to point out that same type of expense was incurred/claimed in the earlier years and subsequent years which have been duly accepted by Income tax department in the order of assessment passed u/s 143(3)/143(1). - Details of the expenses allowed/accepted in the earlier years in the assessment u/s 143(3)/143(1)are as under: -

Warranty Expenses Turnover (in Claimed (In Lacs) Assessment order reference F. Year Lacs) 2015-16 47,113.66 42.17 Order u/s 143(3) dated 12.12.2018 2016-17 48,056.20 119.86 Order u/s 143(3) dated 10.12.2019 2018-19 65,269.68 165.09 As per intimation u/s 143(1) 2019-20 69,746.80 493.50 Order u/s 143(3) dated 23.09.2022 2020-21 68,369.11 59.23 Order u/s 143(3) dated 29.12.2022

18. From the above, he submitted that it is evident that warranty expenses have been consistently allowed in the earlier years and subsequent years in the assessments made u/s 143(3) prior to date of search. There is no change in the facts and circumstances of the present case as compared to earlier years. Moreover, during the search, no incriminating material was found with regard to warranty expenses.

19. He submitted that in accordance with doctrine of consistency, the expenses were duly allowable.

20. He further submitted that the AO has also failed to appreciate that Principles of Consistency applies in judicial proceedings even though principle of resjudicata may not be strictly applicable to Income Tax proceedings. In accordance with Doctrine of Consistency deduction of rent expenses should have been allowed to the assessee as has been allowed to it in last many years. There is no change in facts and circumstances during the year.

21. He submitted that the Hon'ble Supreme Court in case of CIT v. Excel Industries Ltd. (2013) 358 ITR 295 has held that it was not appropriate to allow reconsideration of an issue for a subsequent

assessment year if the same "fundamental aspect" permeates in different assessment years.

22. Further he submitted that Hon'ble Supreme Court in Principal Commissioner of Income Tax, New Delhi vs. Maruti Suzuki India Ltd. [2019] 107 taxmann.com 375 (SC) has emphasized the importance of promoting the 'principle of consistency and certainty' in tax matters. The Apex Court has held "There is a value which the court must abide by in promoting the interest of certainty in tax litigation. The view which has been taken by this Court in relation to the respondent for AY 2011-12 must, in our view be adopted in respect of the present appeal which relates to AY 2012-13. Not doing so will only result in uncertainty and displacement of settled expectations. There is a significant value which must attach to observing the requirement of consistency and certainty. Individual affairs are conducted, and business decisions are made in the expectation of consistency, uniformity and certainty. To detract from those principles is neither expedient nor desirable."

23. Reliance in this regard is placed on the following case law: -

Delhi High Court in Apparel Export Promotion Council (244 ITR

734) CIT Vs Shriram Memorial Foundation (139 ITR 3), (Delhi) CIT Vs Godavari Corp. Ltd. (M.P.) (156 ITR 835) CIT Vs Shri Dev enterprises (Cal.) (192 ITR 165) Dhansi Ram Agarwal Vs.CIT (Gauhati) 217 ITR 4 In the case of CIT v Belpahar Refractories Ltd. (1981) 128 ITR 610 (Ori), - it was held that where the nature of an expenditure has been determined in any particular year, it will not be open for the revenue to come to a diametrically opposite conclusion in another year in the absence of any fresh compelling facts.

24. In view of the above, it is submitted that disallowance of warranty expenses made by the assessing officer is totally erroneous.

25. He submitted that the Id. CIT(A) has considered the issue in a detailed manner and has deleted the addition made by the AO by holding as under:

"7.1 It is seen that the appellant company is in the business of manufacturing of different types of batteries for different segments with considering different designs & developments, techniques, applications, uses and life cycles. The warranty expenses are necessary considering the nature of business of the appellant company.

7.2 It is pertinent to note that such warranty expenses were incurred/claimed in the earlier years and subsequent years also which has been duly accepted by the assessing officer in the assessment made u/s 143(3). Moreover, the warranty expenses claimed in the year under appeal was also accepted by the assessing officer in the assessment made u/s 143(3) of the Act. Details of the warranty expenses allowed in the assessment u/s 143(3)/143(1) are as under:

F. Year Turnover (in Warranty Expenses Assessment Order Lacs) Claimed (In Lacs)
2015-16 47,113.66 42.17 Order u/s 143(3) dated 12.12.2018 2016-17 48,056.20 119.86
Order u/s 143(3) dated 10.12.2019 2017-18 50,909.45 158.04 Order u/s 143(3) dated
24.02.2021 2018-19 65,269.68 165.09 As per intimation u/s 143(1) 2019-20
69,746.80 493.50 Order u/s 143(3) dated 23.09.2022 2020-21 68,369.11 59.23 Order
u/s 143(3) dated 29.12.2022 7.3 From the above, it is evident that warranty expenses
have been consistently allowed by the assessing officer for the year under appeal,
earlier years and subsequent years in the assessments made u/s 143(3) prior to date
of search. There is no change in the facts and circumstances of the present case as
compared to other years. Moreover, during the course of search, no incriminating
material was found with regard to warranty expenses. Therefore, the AO was not
justified in making the disallowance of warranty expenses.

7.4 Further, in accordance with Doctrine of Consistency, deduction of warranty expenses should have been allowed to the assessee. The Hon'ble Apex Court in case of CIT v. Excel Industries Ltd. (2013) 358 ITR 295 has held that it was not appropriate to allow reconsideration of an issue for a subsequent assessment year if the same "fundamental aspect" permeates in different assessment years.

7.5 The Supreme Court in PCIT, New Delhi vs. Maruti Suzuki India Ltd. [2019] 107 taxmann.com 375 (SC) has emphasized the importance of promoting the 'principle of consistency and certainty' in tax matters. The Apex Court has held "There is a value which the court must abide by in promoting the interest of certainty in tax litigation. The view which has been taken by this Court in relation to the respondent for AY 2011-12 must, in our view be adopted in respect of the present appeal which relates to AY 2012-13. Not doing so will only result in uncertainty and displacement of settled expectations. There is a significant value which must attach to observing the requirement of consistency and certainty. Individual affairs are conducted, and business decisions are made in the expectation of consistency, uniformity and certainty. To detract from those principles is neither expedient nor desirable."

7.6 In view of the above, the disallowance of warranty expenses made by the assessing officer cannot be held to be justified. Accordingly, the addition of Rs. 1,58,04,122/- made by the AO is directed to be deleted. The ground of appeal is thus allowed.

26. Accordingly, he pleaded that there is no infirmity in the findings of ld. CIT (A) and the same may be upheld.

27. On the other hand, ld. DR of the Revenue submitted that the method adopted by the assessee is not scientific basis, therefore deserved to be disallowed and he relied on the findings of the Assessing Officer.

28. Considered the rival submissions and material placed on record. We observed that the assessee is in the business of selling batteries and giving warranty is part of the business. It has computed the warranty expenses and created the provisions based on the past experience and replaced the

batteries as when the parties return the defective batteries. In this regard, it was brought to our notice that the assessee treats the replacement cost of new batteries and reduces the residual value of the defective batteries. It was brought to our notice that the assessee originally created the provisions and charges the same in the Balance Sheet, the corresponding value of recovery also brought to the assets side of the Balance Sheet. The assessee claims the actual cost of warranty (provisions less residual value) as explained above. This method of calculating the actual warranty expenses is followed by the assessee consistently over the years and the same was accepted by the revenue. That being the case and after careful consideration of the detailed finding of Ld CIT(A), we do not see any reason to disturb the same. In the result, ground raised by the revenue in AY 2018-19 is dismissed.

29. In the result, the appeal filed by the Revenue for AY 2018-19 is dismissed.

30. Since the facts in AY 2018-19 are exactly similar to Assessment Years 2019-20, 2020-21 & 2021-22, our above findings in AY 2018-19 are applicable mutatis mutandis in Assessment Years 2019-20, 2020-21 & 2021-

22. Accordingly, the appeals filed by the Revenue for AYs 2019-20, 2020- 21 & 2021-22 are dismissed.

31. With regard to assessee's appeal being ITA No.6123/Del/2025 for AY 2020- 21, Ground Nos.1 to 3 and 5 are general in nature and ground no.4 is not pressed, hence dismissed as not pressed, accordingly, the appeal of assessee for AY 2020-21 is dismissed.

32. With regard to assessee's appeal being ITA No.6124/Del/2025 for AY 2021- 22, Ground Nos.1 to 3 and 6 are general in nature, hence not adjudicated. Ground No.4 is not pressed, hence the same is dismissed as not pressed.

33. The only ground to adjudicate in this assessment year i.e. AY 2021-22 is ground no.5 with regard to issue of Commission disallowance of Rs.36,74,805/-.

34. Considered the rival submissions and material placed on record. We observed that the AO has made the addition of commission paid on the grounds that the commission paid was not genuine. According to Assessing Officer, as per certain WhatsApp chat, it was found that the commission was not genuine. The addition made by the Assessing Officer has been confirmed by CIT(A).

35. We further observed that ld. AR submitted that the lower authorities have erred in making/confirming the addition made and all the commission payment is through banking channel after due deduction of TDS. He submitted that during the course of assessment proceeding, the AO issued notice under section 133(6) to the payees, and all the payees confirmed the receipt of commission. He further submitted that it is worthwhile pointing out that in the original assessment made u/s 143(3) for A.Y. 2021-22, the assessing officer had made the disallowance of commission. On appeal, the CIT(A) had deleted the addition made by the assessing officer. Thereafter, the assessing officer accepted the order of CIT(A) on this issue and no further appeal was filed before

ITAT on this issue.

36. After going through all these facts and submissions, we are of the view that how can the same commission be disallowed in regular assessment and the same commission was accepted by FAA. The revenue finds it acceptable and does not prefer to appeal against the above order. On exact fact on record, the same commission was once again disallowed and even after the payee's confirm the genuineness of the transaction by filing confirmation, the same commission is being sustained by the subsequent FAA. There cannot be two facts on the same transaction. After considering the peculiar facts on record, the payee's had already confirmed the transactions, hence, in our view, the assessee has a genuine case. Hence, we are inclined to allow the ground raised by the assessee.

37. In the result, the appeal of assessee for AY 2021-22 is partly allowed.

38. Now we take up assessee's appeals in case of Pilot Industries Ltd. for AYs 2022-23 and 2023-24 and assessee's appeal in case of Ardee Industries Ltd. for AY 2023-24. The assessee has taken the following additional grounds in these assessment years as under:-

Pilot Industries Ltd. for AYs 2022-23 and 2023-24 Additional grounds:

1. On the facts and circumstances of the case and in law, no notice u/s 148 was issued by the assessing officer and hence, the assessment proceedings initiated and the assessment order passed are liable to be quashed.
2. On the facts and circumstances of the case and in law, the assessment proceedings initiated without complying with the provisions of section 148 of the Act is bad-in-law and without jurisdiction and therefore, the assessment order passed by the assessing officer is liable to be quashed.
3. On the facts and circumstances of the case and in law the assessment framed u/s 143(3) is bad-in-law, as it pertains to a year preceding search year where the mandatory approval as prescribed u/s 148B of the Act has not been followed."

Ardee Industries Pvt. Ltd. for AY 2023-24 Additional Grounds :

1. On the facts and circumstances of the case and in law, no notice u/s 148 was issued by the assessing officer and hence, the assessment proceedings initiated and the assessment order passed are liable to be quashed.
2. On the facts and circumstances of the case and in law, the assessment proceedings initiated without complying with the provisions of section 148 of the Act is bad-in-law and without jurisdiction and therefore, the assessment order passed by the assessing officer is liable to be quashed.

3. On the facts and circumstances of the case and in law the assessment framed u/s 143(3) is bad-in-law, as it pertains to a year preceding search year where the mandatory approval as prescribed u/s 148B of the Act has not been followed.

39. Considered the rival submissions and material placed on record by both the parties. We observed that the issues raised by the assessee on additional grounds go to the root of the matter challenging the jurisdictional issue. In the light of Hon'ble Supreme Court in the case of NTPC, Limited vs. CIT (1998) 229 ITR 383 (SC), we are inclined to admit the additional grounds and take up the same for adjudication herein below.

40. At the time of hearing, ld. AR of the assessee submitted that in the present case, search u/s 132 was conducted on 30.05.2023 i.e. F.Y. 2023-24 relevant to A.Y. 2024-25. In this regard, he brought to our notice Explanation 2 to section 148 which read as under: -

- Explanation 2.--For the purposes of this section, where,--

(i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or

(ii) a survey is conducted under section 133A, other than under sub-section (2A) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee where the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

- Provision of section 148B is as under: -

148B. No order of assessment or reassessment or recomputation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of

an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.]

- Memorandum explaining the provision of section 148B introduced by Finance Bill 2022 are as under: -

Clause 46 seeks to insert a new section 148B in the Income-tax Act relating to prior approval for assessment, reassessment or recomputation in certain cases.

The proposed new section seeks to provide that no order of assessment or reassessment or recomputation under the Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, in respect of an assessment year to which clause (i), clause (ii), clause (iii) or clause (iv) of the Explanation 2 to section 148 apply.

This amendment will take effect from 1st April, 2022.

41. He submitted that thus, for AYs 2022-23 and 2023-24, the only permissible statutory course available to AO for initiating the assessment proceedings was to issue notice u/s 148 and to complete the assessment after obtaining prior approval u/s 148B before passing assessment order. In the present case, there is no compliance by the AO either on the provisions of section 148 or on the provisions of section 148B of the Act, therefore, the assessment proceedings initiated and also assessment order passed by the AO is bad-in-law and without jurisdiction. In this regard, he relied on the following case laws:-

(i) Deepak Agarwal Vs DCIT, CC-25, New Delhi, 2025 (10) TMI 1101 - ITAT DELHI

(ii) Montage Enterprises Pvt. Ltd. Vs. DCIT/ACIT, Central Circle-

II, Noida, ITA No. 5458/ Del/ 2025 & 5906/ Del/ 2025 ITAT Delhi

(iii) M/s Malbros International Pvt. Ltd Vs. DCIT Central Circle-2 Ludhiana and (Vice-Versa) And M/s Om Sons Marketing Pvt. Ltd. Vs. DCIT Central Circle-2 Ludhiana and (Vice-Versa), 2026 (1) TMI 983 - ITAT Chandigarh \

(iv) Jamna Dass Nikkamal Jain Saraf Private Ltd. Vs. The DCIT Central Circle-1, Ludhiana And (Vice-Versa), 2025 (12) TMI 171 - ITAT Chandigarh

(v) Homelife Buildcon Private Limited Vs. The DCIT Central Circle-1, Ludhiana, Punjab And (Vice-Versa), 2025 (7) TMI 1231 - ITAT Chandigarh

42. In reference of the above, he submitted that thus the assessment framed u/s 143(3) for AYs 2022-23 & 2023-24 are bad-in-law and without jurisdiction, as the assessment ought to have been framed under special provisions of section 148 and to undertake the same, approval of specified authority u/s 148B was required to be taken. Accordingly, he pleaded that the assessment order is without jurisdiction and the same is liable to be quashed.

43. On the other hand, ld. DR of the Revenue relied on the orders of the authorities below and submitted that the procedure was properly followed as per law.

44. Considered the rival submissions and material placed on record. We observed that the assessee had taken additional ground on the issue of jurisdiction. We noticed that the search was conducted on 30.05.2025. The search assessment year would be AY 2024-25. The six assessment years prior to the searched AY would be from AY 2018-19 to AY 2023-24. As per the amended provisions for completing search assessments under the provisions of section 148, 148B and 151 of the Act. We noticed that the assessments for the AYs under consideration are completed u/s 143(3) of the Act. We also noticed that the revenue, in this case respondent has not brought on record any material to substantiate that the AO had proceeded to follow the above due process to complete the search assessments. We noticed that the coordinate benches and ITAT Chandigarh had considered the similar issues and held as under:

(i) ITAT, Delhi in the case of Deepak Agarwal Vs DCIT, CC-25, New Delhi (supra) held as under: -

10. Sixth issue is specific to AY 2021-22, and the ld. counsel has raised a ground that the impugned assessment u/s 143(3) of the Act is vitiated as the same is on the basis of the search action on the assessee dated 17.11.2021 and is contrary to the mandate of Explanation (2)(i) of section 148 of the Act. In AY 2021-22, assessment for this particular year is subject to search action u/s 132 of the Act on 17.11.2021. Assessee filed regular return u/s 139(1) of the Act on 15.03.2022 with income declared of Rs. 37,69,390.

Assessee case for this year was selected for scrutiny u/s 143(2) of the Act vide notice dated 03.06.2022. Ld. Counsel has submitted that it could only be taken u/s 148 Expl. 2 under deemed escapement clause and not u/s 143(2)/143(3) of the Act. The above scrutiny action was founded /initiated on basis of impugned approval of PCIT (Central) Delhi dated 28.06.2022. This approval is also subject matter of assail from assessee side being rubber stamp/mechanical and with only "approved" remarks and "unsigned" on face of it. Then centralization order u/s 127 of the Act was passed on 03.01.2022 by PCIT Central. Admittedly the impugned assessment action is made u/s 143(3) of the Act vide impugned assessment order dated 11.02.2023. Same mentions that approval is taken on 15.07.2022 from Range Head.

10.1 It is submitted by ld. Counsel that after 01.04.2021 vide Finance Act 2021, legislature made a policy shift in assessment of search related matters and search cases which were earlier separately assessed u/s 153A/153C of the Act respectively for searched and non searched person, said search

related cases are brought under ambit of Sec 148 of the Act by way of reopening under income escaping assessment vide Explanation 2 to sec 148 of the Act which in turn deals with deemed escapement cases. The relevant date is search action initiated after 01.04.2021. Notably for search action after 01.09.2024, again block assessment scheme u/s 158B to Sec 158 BI has been inserted vide Finance No 2 Act 2024 w.e.f 01.09.2024. It was submitted that in case of assessee search action u/s 132 of the Act is after 01.04.2021 and before 01.09.2024 that is, 17.11.2021. So relevant applicable provision could be only Section 148 read with Explanation 2 clause (i) covering deemed escapement clause. Thus present action of revenue by taking recourse to Section 143(2)/143(3) of the Act, which is general provision is totally unlawful and invalid.

10.2 Ld. Counsel submitted that effect has to be given to words "deemed to have escaped assessment" under Expl. 2 to sec 148 of the Act. Further present situation is same where under erstwhile assessment u/s 153A of the Act, courts have held that for assessment falling u/s 153A of the Act, recourse cannot be had to general provision u/s 143(3) of the Act. Further the legislature has used word "shall" in Explanation 2 to Section 148 of the Act, which supports assessee's contention. This is more so when entire impugned assessment u/s 143(3) of the Act is solely founded on information /material emanating from search action u/s132 of the Act and it is not a case of general assessment based on routine or non search issues. Reference was made to Hon'ble Apex court decision in case of UOI vs Rajeev Bansal 469 ITR 46, where it has been held that;

"If a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself. Further, when a statute vests certain power in an authority to be exercised in a particular manner, then that authority has to exercise its power following the prescribed manner. Any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid."

10.3 Ld. Counsel has relied Hon'ble Apex Court decision in case of Managing Director Chhattisgarh State Cooperative Bank Marayadit vs Zila Sahakarikendriya Bank Maryadit 2020 6 SCC 411 to submit that the general provision operates, save and except in situations covered by the specific provision. The rationale behind this principle of statutory construction is that were there appears a conflict between two provisions, it must be presumed that the legislature did not intend a conflict and a subject-specific provision governs those situations in exclusion to the operation of the general provision.

(ii) In the case of Montage Enterprises Pvt. Ltd. Vs. DCIT/ACIT, Central Circle-II, Noida (supra), ITAT Delhi held as under: -

2. We notice at the outset that there arises the first and foremost issue of validity of the impugned section 143(3) assessment itself framed by the learned DCIT, Central Circle-II, Noida as per the assessee's pleadings in its appeal ITA No.5458/Del/2025. A combined perusal of both these case files indicates that the assessee/appellant is engaged in the business of manufacturing and sale of flexible packaging material etc. It has filed its return for the impugned assessment year 2022-23 on 29.10.2022,

declaring loss of Rs.64,53,88,702/-. And the same was taken for scrutiny. The learned departmental authorities thereafter carried out section 132 search action as well as section 133A survey in its case on 21.02.2023. There is further no dispute that the learned Assessing Officer then proceeded to frame the impugned assessment on 30th March, 2024 in its case inter alia making various disallowances/additions etc., involving varying sums, which stand partly upheld in the CIT(A)'s lower appellate discussion.

3. It is in this factual backdrop that the assessee seeks to raise its precise question challenging validity of the impugned assessment for the sole reason that the same ought to have been framed under section 148 with approval under section 148B of the Act in light of Homelife Buildcon (P.) Ltd. Vs. DCIT, (2025) 176 taxmann.com 614 (Chandigarh - Trib.) as relied in Jamna Das Nikkamal Jain Saraf Pvt. Ltd. Vs DCIT (ITA No. 403/Chd./2025) decided on 04.11.2025, adjudicating the very issue against the department as under:

"11.4 In conclusion, it was submitted that since the year under appeal formed part of the three assessment years immediately preceding the year in which search was conducted, the assessment ought to have been framed under section 148 with approval u/s 148B. The framing of the assessment u/s 143(3) and approval taken only for the purposes of section 143(3) was thus asserted to be fundamentally defective, non-compliant with statutory mandate, and consequently void ab initio. On these grounds, following the ratio in Homelife Buildcon Pvt. Ltd., it was prayed that the impugned assessment be quashed.

12. The Ld. CIT-DR Shri Manav Bansal opposed the contention, stating that the return for A.Y. 2022-23 was filed prior to the date of search, and validly selected for scrutiny under CASS. The AO was competent to complete the assessment u/s 143(3).

12.1 He contended that section 148B applies only to "re assessment" and not to "regular assessments." The AO's approval from Addl. CIT, being in line with the CBDT Instruction No. 7/2022 dated 15.07.2022, fulfils the supervisory requirement. The DR also submitted that Homelife Buildcon is distinguishable, as the AO therein relied on third-party search data, whereas the present case is based on assessee's own seized material.

13. We have carefully considered the rival submissions and perused the record. It is undisputed that search u/s 132 was conducted on 24.11.2022, relevant to A.Y. 2023-24. Thus, A.Y. 2022 23 is one of the three preceding years under Explanation 2(iv) to section 148. The Explanation reads that if a search is initiated, "the Assessing Officer shall be deemed to have information suggesting escapement of income for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated." 13.1 Therefore, the only permissible statutory course was to issue notice u/s 148 and obtain prior approval u/s 148B before passing assessment order. 13.2 As the Assessing Officer completed the assessment under section 143(3) of the Act without issuing the notice under section 148 of the Act. Therefore, the question before us is whether the assessment proceedings initiated under section 143(3) of the Act can be validly

continued and completed after a search under section 132 has been conducted in the case of the same assessee, without following the procedure prescribed under section 148 (Explanation 2) of the Act. 13.3 In our considered opinion, the answer lies in the scheme of the Act itself. Section 143 provides the general framework for regular assessment, whereas sections 147-148 (post-2021 regime) deal with reassessment based on information suggesting escapement of income, including that unearthed during a search.

13.4 A plain reading of section 143(2) shows that such notice can be issued only when a return of income is furnished under section 139 or in response to a notice under section 142(1). It empowers the Assessing Officer to scrutinize that return if he considers that income has been understated or tax underpaid. However, when a search under section 132 takes place and materials are found indicating possible escapement of income, the statute envisages a different route for carrying out assessment or reassessment under section 147 read with section 148, which is the special mechanism for bringing to tax the income discovered in consequence of a search.

13.5 Although section 148 (inserted w.e.f. 01.04.2021) does not begin with a non- obstante clause similar to the erstwhile section 153A, its context and Explanation 2 make it clear that where a search is initiated, the jurisdiction thereafter must flow through this special channel, subject to prior satisfaction and approval of the Principal Commissioner or Commissioner. The legislative intent is to ensure that when a search is carried out, the assessment is framed under the specific provisions meant for such cases and not under the general provision of section 143(3). Further we may mention that no notice under section 143(2) could have been issued after 3 months from the from the end of the financial year in which the return is furnished. In the present case the original return of income was filed on 4/11/2022 for the assessment year 202223 and 143 (2) was issued on 21/6/2023 , therefore also the assessment was framed under 143(3) of the Act is not sustainable. In other words the time required for issuing the notice under 143(2) had already expired, and the revenue can not be allowed to issued issue 143(2) on 21.6.2023 after the search was carried out and notice had been issued on 21.6.2023 and assessment was framed under 143(3) of the Act. The relevant portion of section 143(3) reads as under:-

143(2) Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be issued after the expiry of three months from the end of the financial year in which the return is furnished.

13.6 This position finds substantial support from the ratio of various decisions of Hon'ble High Court and Hon'ble Supreme Court. The Courts unanimously held that

once a search has been conducted and proceedings are triggered under section 153A, the Assessing Officer cannot continue parallel proceedings under section 143(3) or section 147 for the same assessment year, because the entire assessment for that year stands merged in the search assessment. The Courts emphasized that the existence of a special procedure for assessment consequent to a search is a complete code in itself; 5 | Page ITA Nos.5458/Del/2025 & 5906/Del/2025 therefore, ordinary assessments abate and cannot coexist with the search-based assessment.

13.7 Drawing this analogy to the current regime, it is evident that when a search takes place and information is unearthed suggesting escapement of income, the Assessing Officer must act under section 148 (which now performs the role formerly assigned to section 153A) rather than continuing with a pending section 143(3) proceeding. The legislative intent remains the same -- to prevent multiplicity of proceedings and ensure that only one comprehensive order is passed, factoring in both the pre-search and postsearch materials.

13.8 The rationale is further reinforced by the well-settled principle of *generaliaspecialibus non derogant* -- the special provision overrides the general.

Section 148 (as a special provision triggered by search information) must prevail over section 143 (the general provision for regular scrutiny). Allowing the Assessing Officer to continue and conclude proceedings under section 143(3) after a search would defeat this legislative scheme and render the safeguards, such as prior approval of the Principal Commissioner, redundant. 13.9 Accordingly, we hold that once a search is initiated under section 132 and material is found relating to the assessee, the pending assessment under section 143(3) cannot validly continue, as the time for issuing the 143(2) in response to original return of income had already expired, therefore the Assessing Officer must necessarily proceed in accordance with the special provisions contained in section 148 of the Act."

4. Learned CIT(DR) representing the Revenue vehemently supports the impugned assessment that the Assessing Officer had rightly finalized the same under the normal provision once the entire issue was pending before him as on the date of search.

5. We have given our thoughtful consideration to the assessee's and the Revenue's foregoing vehement submissions. We find merit in the assessee's legal ground herein once the impugned search had taken place in its case, no normal assessment under section 143(3) of the Act could have been framed in light of the tribunal's foregoing twin decisions going against the department. We thus adopt the above extracted reason *mutatis mutandis* to quash the impugned assessment framed by the learned Assessing Officer on 30th March, 2024 in very terms.

(iii) In the case of *M/s Malbros International Pvt. Ltd Vs. DCIT Central Circle-2 Ludhiana and (Vice-Versa) And M/s Om Sons Marketing Pvt. Ltd. Vs. DCIT Central Circle-2 Ludhiana and (Vice-Versa)* (supra), it was held as under: -

11. The Ld. CIT-DR has referred to CBDT Circular F.No.225/66/2023/ITA-II dated 24-05-2023 to state that the jurisdiction was validly acquired by Ld. AO. However, the said circular merely in the nature of guidelines for compulsory selection of returns for complete scrutiny during the financial year 2023-24. After going through the Circular, we find that this circular merely contains parameters for compulsory selection of returns for complete scrutiny. The relevant clause 2(ii) which apply to the facts of present case, provide that assessment in search & seizure cases / requisition cases u/s 132 / 132A conducted on or after 01-04-2021 shall be selected with prior administrative approval of Pr. CIT / Pr. DIT / CIT / DIT concerned who shall ensure that such cases are transferred to central charges u/s 127 of the Act within 15 days of service of notice u/s 143(2) / 142(1) of the act by the jurisdictional AO. The same is thus merely administrative in nature and prescribe a procedure to be followed in search cases which have been conducted after 01-04-2021. The same do not address the various legal issues as raised by Ld. AR before us and which have been enumerated in preceding paragraphs. Therefore, this circular does not render any assistance to the case of the revenue.

12. Finally, considering the entirety of facts and circumstances of the case, we would hold that the assessment ought to have been framed under special provisions of Sec.148.

To undertake the same, approval of specified authority as envisaged u/s 148B was required to be taken which is not shown to have been taken. Further, the approval of appropriate authority stood vitiated for application of mind. The procedure as required under the provisions of Sec.148 is not shown to have been fulfilled in the present case. The approval as sought by Ld. AO of the order u/s 143(3) is non-est / bad in law and the granting of the approval of the order u/s 143(3) by the Addl. CIT is null and void and thus, assessment as framed u/s 143(3) vide order dated 26-03-2024 deserves to be quashed on various legal grounds. We order so. Since the assessment order has been quashed on legal grounds, delving into the merits of the case has been rendered mere academic in nature. However, for the sake of completeness we deal with the merits of the additions also which has been raised in these cross-appeals.

(iv) In the case of Jamna Dass Nikkamal Jain Saraf Private Ltd. Vs. The DCIT Central Circle-1, Ludhiana And (Vice-Versa) (supra), ITAT Chandigarh held as under: -

13. We have carefully considered the rival submissions and perused the record. It is undisputed that search u/s 132 was conducted on 24.11.2022, relevant to A.Y. 2023-24.

Thus, A.Y. 2022-23 is one of the three preceding years under Explanation 2(iv) to section

148. The Explanation reads that if a search is initiated, "the Assessing Officer shall be deemed to have information suggesting escapement of income for the three

assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated."

13.1 Therefore, the only permissible statutory course was to issue notice u/s 148 and obtain prior approval u/s 148B before passing assessment order.

13.2 As the Assessing Officer completed the assessment under section 143(3) of the Act without issuing the notice under section 148 of the Act. Therefore, the question before us is whether the assessment proceedings initiated under section 143(3) of the Act can be validly continued and completed after a search under section 132 has been conducted in the case of the same assessee, without following the procedure prescribed under section 148 (Explanation 2) of the Act.

13.3 In our considered opinion, the answer lies in the scheme of the Act itself. Section 143 provides the general framework for regular assessment, whereas sections 147-148 (post-2021 regime) deal with reassessment based on information suggesting escapement of income, including that unearthed during a search.

13.4 A plain reading of section 143(2) shows that such notice can be issued only when a return of income is furnished under section 139 or in response to a notice under section 142(1). It empowers the Assessing Officer to scrutinize that return if he considers that income has been understated or tax underpaid. However, when a search under section 132 takes place and materials are found indicating possible escapement of income, the statute envisages a different route for carrying out assessment or reassessment under section 147 read with section 148, which is the special mechanism for bringing to tax the income discovered in consequence of a search.

13.5 Although section 148 (inserted w.e.f. 01.04.2021) does not begin with a non-

obstante clause similar to the erstwhile section 153A, its context and Explanation 2 make it clear that where a search is initiated, the jurisdiction thereafter must flow through this special channel, subject to prior satisfaction and approval of the Principal Commissioner or Commissioner. The legislative intent is to ensure that when a search is carried out, the assessment is framed under the specific provisions meant for such cases and not under the general provision of section 143(3). Further we may mention that no notice under section 143(2) could have been issued after 3 months from the from the end of the financial year in which the return is furnished. In the present case the original return of income was filed on 4/11/2022 for the assessment year 202223 and 143 (2) was issued on 21/6/2023, therefore also the assessment was framed under 143(3) of the Act is not sustainable. In other words the time required for issuing the notice under 143(2) had already expired, and the revenue cannot be allowed to issue 143(2) on 21.6.2023 after the search was carried out and notice had been issued on 21.6.2023 and assessment was framed under 143(3) of the Act. The relevant portion of section 143(3) reads as under:-

143(2) Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be issued after the expiry of three months from the end of the financial year in which the return is furnished.

13.6 This position finds substantial support from the ratio of various decisions of Hon'ble High Court and Hon'ble Supreme Court. The Courts unanimously held that once a search has been conducted and proceedings are triggered under section 153A, the Assessing Officer cannot continue parallel proceedings under section 143(3) or section 147 for the same assessment year, because the entire assessment for that year stands merged in the search assessment. The Courts emphasized that the existence of a special procedure for assessment consequent to a search is a complete code in itself; therefore, ordinary assessments abate and cannot coexist with the search-based assessment.

13.7 Drawing this analogy to the current regime, it is evident that when a search takes place and information is unearthed suggesting escapement of income, the Assessing Officer must act under section 148 (which now performs the role formerly assigned to section 153A) rather than continuing with a pending section 143(3) proceeding. The legislative intent remains the same -- to prevent multiplicity of proceedings and ensure that only one comprehensive order is passed, factoring in both the pre-search and post-

search materials.

13.8 The rationale is further reinforced by the well-settled principle of *generaliaspecialibus non derogant* -- the special provision overrides the general. Section 148 (as a special provision triggered by search information) must prevail over section 143 (the general provision for regular scrutiny). Allowing the Assessing Officer to continue and conclude proceedings under section 143(3) after a search would defeat this legislative scheme and render the safeguards, such as prior approval of the Principal Commissioner, redundant.

13.9 Accordingly, we hold that once a search is initiated under section 132 and material is found relating to the assessee, the pending assessment under section 143(3) cannot validly continue, as the time for issuing the 143(2) in response to original return of income had already expired, therefore the Assessing Officer must necessarily proceed in accordance with the special provisions contained in section 148 of the Act. 13.10 We also draw the strength from the reasoning given by the

Coordinate Bench in Homelife Buildcon Pvt. Ltd. (supra), faced with identical facts (search on 16.11.2021 and assessment u/s 143(3) for A.Y. 2021-22), held that:

22. The core question before the Bench is whether, in the facts and circumstances of the case, the assessment ought to have been framed under section 143(3) or under section 147 of the Income-tax Act, 1961. From the plain reading of the statutory provisions and in light of Explanation 2 to section 148, it becomes abundantly clear that the legislature has widened the scope of reassessment, particularly through the Finance Act, 2021, which introduced significant changes to the reassessment regime. These amendments explicitly include instances involving third-party search material and make it incumbent upon the Assessing Officer (AO) to follow the procedure under section 148, including obtaining prior approval from the Principal Commissioner of Income Tax (PCIT).

23. In the present case, the AO proceeded to frame the assessment under section 143(3) despite relying heavily on material found during searches conducted on third parties. The AO, instead of complying with the jurisdictional preconditions laid down under the reassessment provisions, proceeded without recording the mandatory satisfaction and without obtaining prior sanction from the competent authority. This conduct not only, violates the express mandate of law, but also renders the assessment a jurisdictional error. The AO has, in fact, gone a step further by bypassing the legal safeguards embedded in section 147, thereby vitiating the assessment proceedings ab initio

24. Furthermore, a plain reading of the Finance Act, 2021 and the Explanatory Memorandum to the Finance Bill clearly indicates that the legislative intent was to bring all searches conducted on 20 or after 1st April 2021 within the ambit of the new reassessment regime under section 147 of the Income-tax Act, 1961. This new regime was introduced through significant amendments to section 147 and section 148, along with the insertion of Explanations 1 and 2, and the concept of "information suggesting escapement of income" was explicitly defined. From the reading of Explanation 2 to Section 147, it is evident that in cases where a search is initiated on or after 1st April 2021, the Assessing Officer shall be deemed to have information, which suggests that income chargeable to tax has escaped assessment for three assessment years immediately preceding the assessment year relevant to the previous year, in which, the search is initiated, provided that books of account, documents, assets, bullion, jewellery, or other valuable articles are seized or requisitioned in the course of the search. This deeming provision is not limited only to the person searched, but also extends to "other persons", provided that due procedure under the law-specifically, the recording of satisfaction that such seized material belongs to the assessee and obtaining prior approval from the PCIT-is followed.

25. In the present case, where the AO has admittedly relied upon material seized during searches conducted on other persons, i.e., Sh. Ravi Kapoor and Sh. Ajay

Kumar Prabhakar, it was mandatory for the AO to invoke the provisions of section 147 and not to bypass the statutory framework by proceeding under section 143(3). Granting such unfettered powers to the AO to rely on third-party material without adhering to the safeguards under section 147 would defeat the very purpose of the amendment and open the floodgates to arbitrary assessments.

26. The relevant extract Memorandum explaining the finance bill is reproduced as under:-

'(ii) Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.

(VI) Further, in search, survey or requisition cases initiated or made or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year, in which, the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted."

27. The notice issued under section 143(2) was also produced by the AR. Upon perusal of the said notice, it is evident that the assessment under section 143(3) was initiated solely for the purpose of verifying the return of income filed by the assessee. In such circumstances, the importing and reliance upon material seized from third-party searches, namely, those conducted on Sh. Ajay Kumar Prabhakar and Sh. Ravi Kapoor, goes beyond the jurisdiction conferred under section 143(3). Particularly, where the applicable law-- Explanation 2 to section 148 (as amended by the Finance Act, 2021) mandates prior approval from the Principal Commissioner of Income Tax (PCIT) before initiating reassessment proceedings on the basis of such material, the failure to comply with that requirement renders the assessment legally untenable.

28. In the present case, the AO did not issue a notice under section 148, nor did he follow the due process of law under the new reassessment framework, including recording of satisfaction and obtaining prior sanction from the PCIT. Therefore, the assessment framed under section 143(3), because of being based on third-party material without adhering to statutory safeguards, is bad in law. The AO was only empowered to verify the return of income and restrict his scope of inquiry accordingly; he was not permitted to expand the assessment by importing and relying upon third-party seized material without following the mandatory procedure laid down under the law.

29. Furthermore, there exists a mandatory statutory requirement that in all cases involving search-related assessments falling within the assessment year, immediately preceding the year of the search, the prior approval of the Joint Commissioner is required under section 148B of the Income-tax Act, 1961. In the present case, the Assessing Officer (AO) has proceeded without obtaining such approval, which is a clear violation of the procedural safeguards envisaged under the law and, as such, vitiates the assessment proceedings. In the present case, approval has been

granted for assessment framed u/s 143(3) only. The relevant provision of section 148B reads as under:

Prior approval for assessment, reassessment or recompilation in certain case.

148B. No order of assessment or reassessment or recompilation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.

30. A comparison of the requirement of approval under section 153D and section 148B is drawn, from which it is evident that approval under section 153D was earlier required only in cases where assessments were completed under section 153A/153C and also for search year. However, under the amended provisions, approval under section 148B is now required in all cases where proceedings are initiated pursuant to a search, requisition, or survey, or where asset/material/documents found during such search pertain to or relate to another person. In such cases, the Assessing Officer must take the approval under section 148B from the specified higher authority.

Aspect	Section 153D	Section 148B (with Explanation 2 to Section 148)
Applicable Period	Search initiated between 01.06.2003 to 31.03.2021	Search/survey initiated on or after 01.04.20 but before 01.09.24
Context	Search assessment under Section 153A/153C	All cases where assessment/reassessment is based in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply

Triggering Search or requisition on the assessee under Sections 132/132A or material is used

1. Search/requisition Event assessee under Sections 132/132A or material is used
2. Survey (except under 133A(2A)) on against assessee from third party search

3. Search/requisition on another person, but assets/documents relate to assessee Purpose of Supervisory check in search Prevent misuse of powers in reassessment Approval assessments to ensure fairness based on search/survey-related information and oversight under new regime Who Gives Joint Commissioner Any of: Joint Commissioner / Commissioner / Approval (mandatory) Joint Director / Director Aspect Section 153D Section 148B (with Explanation 2 to Section

148) Deeming Not expressly stated Explanation 2 creates a legal presumption: AO Presumption is deemed to have information suggesting income has escaped assessment in specified cases

31. This requirement has also been explicitly discussed in the Explanatory Memorandum to the Finance Bill, 2022, which emphasizes the need to protect taxpayer rights by ensuring that no reassessment is carried out without proper sanction and due process. It is further seen that the Joint Commissioner has not even been supplied seized material relied upon as seized from third-party in

the present assessment. There exists a prescribed procedure under which such seized material (including material found from third-party premises) is to be forwarded to the approving authority at least 30 days in advance of granting approval. This procedural safeguard is crucial to prevent arbitrary and unregulated use of third-party material.

32. In the present case, there is no evidence to demonstrate that the prescribed procedure was followed, or that the Joint Commissioner was apprised of the seized material by forwarding copies of the documents found from the third party prior to framing the assessment. The complete failure to comply with the mandatory provisions of section 148B renders the reassessment not only procedurally defective but also without jurisdiction.

33. Even we find while framing the assessment under section 143(3), the Assessing Officer (AO) has, on the last page of the assessment order, referred to an approval obtained from the supervisory authority. However, a bare perusal of this approval shows that it was obtained in reference to F. No. 299/36/2020/1DAR/INV3(3)/577 dated 15.07.2022, i.e., in accordance with the CBDT Circular dated 15th July 2022, and not under the mandatory provisions of section 148B of the Income-tax Act, 1961.

At the outset, it is important to note that the approval so obtained does not mention or consider any of the seized materials sourced from the third-party. searches conducted on Sh. Ajay Kumar Prabhakar and Sh. Ravi Kapoor, despite the AO having heavily. relied on those materials in framing the additions. The approval merely states that the appraisal report was considered, without any reference to the original documents seized or to the statutory procedure outlined under section 148B.

It is pertinent to refer to the Manual of Office Procedure in February 2003, which lays down a mandatory protocol: that in all search cases, especially where material pertains to persons other than the one searched, such material is to be forwarded in original to the approving authority, and a draft order is required to be submitted for approval at least 30 days in advance. In the present case, the approval letter was issued by the DCIT only on 22nd August 2023, which clearly contravenes this procedural requirement. This procedural lapse is further compounded by the judgment of the Hon'ble Supreme Court in Serajuddin and Co. case, [2024] 163 taxmann.com 118 (SC) wherein it was held that in search cases, strict adherence to the approval protocol as laid down in the departmental Manual of Office Procedure in February 2003 and law is essential to uphold the validity of the assessment.

34. Thus, from the above, it is quite evident from the approval granted by the Addl.CIT(Central), there is no mention or consideration of the seized material sourced from the third party, namely Sh. Ajay Prabhakar and Sh. Ravi Kapoor, though, we find that in the assessment order and in the order of CIT(A), both the authorities have heavily relied upon on such seized material and it only states that the appraisal report have been considered without any reference to any original documents seized for statutory procedure outlined u/s 148. Thus, in view of above, the assessment as framed by Assessing Officer vide order dated 24.08.2023 is quashed."

14. With respect to Additional Ground No. 4 the Ld. AR submitted that the assessment has arisen from a search action wherein voluminous incriminating documents were seized. The panchnama and inventory of loose papers and diaries seized from the business premises are placed in the Paper Book at pages 116 and 121-122, comprising 1,596 pages. Further seized documents were obtained from the residence of the director, Shri Manak Chand.

15. It was submitted that the Ld. DCIT forwarded the draft assessment order to the Ld. Addl. CIT on 31.03.2024 seeking approval and on the very same date, approval was granted. It was contended that there is no material on record to establish that the seized material was forwarded to the Ld. Addl. CIT for his consideration while according approval.

16. Considering the volume of seized documents running into 1,596 pages, the Ld. AR argued that it was humanly impossible for the Ld. Addl. CIT to have examined the entire record and apply his mind within the same day. The approval was thus submitted to be mechanical, perfunctory, and without jurisdiction, rendering the assessment order void ab initio. Reliance was placed on:

- AB Alcobev Pvt. Ltd., ITA Nos. 356, 357, 358 & 360/Chd/2024, wherein the Chandigarh Bench held that absence of proper satisfaction and application of mind while granting approval vitiates the assessment.
- Pushpanjali Construction Pvt. Ltd., ITA No. 1001/Del/2025 (Delhi ITAT), wherein similar approval granted mechanically on the same day was held to be invalid, and the assessment was quashed.

16.1 Thus, it was prayed that the assessment be quashed for want of valid approval.

17. Per contra, the Ld. DR submitted that no formal guidelines / formula has been provided for according the approval and therefore the approval granted by the authorities is in accordance with law.

18. We have heard the rival contentions and perused the material available on record.

It is an undisputed fact that the request for grant of approval under statutory provisions was sought on 31/03/2024 and it was granted by the Ld. Addl. CIT on the same date on which the draft assessment was forwarded by the Assessing Officer. 18.1 It is also not disputed that the seized material runs into approximately 1,596 pages, besides additional documents seized from the residence of the director. From the record, the Revenue has not demonstrated that the seized materials were actually forwarded to the approving authority, nor has it been shown that the Ld. Addl. CIT made any independent examination thereof. Although, in para 2 of the approval dt. 31/03/2024 it was mentioned as under"

In this regard, I have gone through the case records and case was discussed with the A.O from time to time. On the basis of discussion and replies received, I am satisfied that the draft assessment order put for approval in the below mentioned case from

the A.Y. 2022-23 is justified and fair.

18.2 In such circumstances, when neither there is an evidence of submitting the information nor there is any evidence of replies received by the Addl. CIT it is difficult to comprehend that a meaningful consideration of such voluminous material in a single day appears to have taken place. The grant of approval is not an empty formality as it has the trapping of a quasi-judicial function by the competent authority. The approval authority is bound to apply its mind, which reflects the application of its mind and the documents submitted to it. The record shows that there was a tiring hurry for granting the approval, without looking into the contents of the underlying documents and placing on record the replies, if any, received in the office and the queries raised by the Addl. CIT.

18.3 The Coordinate Benches, in AB Alcobev Pvt. Ltd. (supra) and Pushpanjali Construction Pvt. Ltd. (supra), have consistently held that approval granted in a mechanical manner without application of mind renders the assessment order invalid. The facts of the present case are squarely covered by these precedents. Once the statutory approval suffers from non-application of mind, the consequential assessment cannot survive in the eyes of law.

18.4 In AB Alcobev Pvt. Ltd. (supra), the Tribunal held that an assessment framed u/s 143(3) for the year preceding the search year, without approval u/s 148B, is non est in law being taken in a mechanical way.

13.1 In the light of propositions laid down in all these judgements, if we examine the facts of the present case, then it would reveal that more than 100 assessments have been sent to the ld. Addl. CIT for approval. It was not humanly possible for the ld. Addl. CIT to go through these assessments of different assessees alongwith the seized material used in each case. For example, in the case of the assessee, assessment is running into 25 pages in each year, meaning thereby 175 pages of the assessment for six years in the case of the assessee were sent to the approving authority. Similarly, there were 15 more assessees whose six years' assessments have been sent to the ld. Addl. CIT simultaneously with the assessments of the assessee. If all those pages are to be counted, then they are more than 1000 pages. Practically, it was impossible for the ld. Addl. CIT to go through all these pages and apply his mind. Therefore, the proposition laid down in all these judgements is fully applicable in the case of the assessee. We find that ITAT Chandigarh in the case of S.P. Construction has made reference to the judgement of ITAT Delhi in ITA No.2503 and 2693/Del/2017 in the case of Seth Realtors Ltd. In this judgement, ITAT Delhi has taken note of the submissions made by the ld. CIT DR before us. In paragraph 8 of this judgement, the Co-ordinate Bench of the ITAT Delhi has duly taken note of the submissions made by the CIT DR that Addl. CIT is associated with the assessment proceedings from very inception. The ITAT has observed that if scheme of the Income Tax Act is being perused, then it would reveal that it provides a leeway to both the ld. AO as well as

JCIT to even ignore the conclusion drawn in the Appraisal Report by the Investigation Wing and take a different stand in the assessment proceedings.

13.2 The argument of the Revenue that JCIT is involved in the search assessment right from the receipt of copy of Appraisal Report, has no substance. Thus, this argument has duly been dealt with by the ITAT Delhi Bench and we concur with the finding of the ITAT Delhi on this aspect. The ITAT, across India has followed this proposition and Hon'ble Delhi High Court, Allahabad High Court, Bombay High Court, Orissa High Court has affirmed the conclusions drawn by the ITAT that if it was not humanly possible to go through all the assessment orders alongwith the seized material, then it is to be construed that approval granted by the Addl. CIT/JCIT is not in consonance with the scheme of Income Tax, rather it is being granted in a mechanical way which would render the assessment order unsustainable in the eyes of law. Accordingly, we allow this ground of appeal and quash all the assessment orders for A.Y. 2016-17, 2017-18 and 2019-20.

19. In the light of the above said discussion with respect to additional ground no. 3 & 4 we hold that the impugned assessment order dated 24.08.2023 is without jurisdiction, and the assessment order was passed without taking the approval from the competent authority as envisaged under the Act and further the approval granted under section 153D was mechanical and was not in accordance with law. In view of the above the assessment is required to be quashed and the additional grounds 3 & 4 are allowed. Consequently, the Revenue's grounds challenging partial relief also fail, as the foundation assessment does not survive. Nevertheless, since both parties argued the merits, we record findings thereon for completeness.

(iv) In the case of Homelife Buildcon Private Limited Vs. The DCIT Central Circle-1, Ludhiana, Punjab And (Vice-Versa) (supra), ITAT Chandigarh held as under: -

22. The core question before the Bench is whether, in the facts and circumstances of the case, the assessment ought to have been framed under section 143(3) or under section 147 of the Income-tax Act, 1961. From the plain reading of the statutory provisions and in light of Explanation 2 to section 148, it becomes abundantly clear that the legislature has widened the scope of reassessment, particularly through the Finance Act, 2021, which introduced significant changes to the reassessment regime. These amendments explicitly include instances involving third-party search material and make it incumbent upon the Assessing Officer (AO) to follow the procedure under section 148, including obtaining prior approval from the Principal Commissioner of Income Tax (PCIT).

23. In the present case, the AO proceeded to frame the assessment under section 143(3) despite relying heavily on material found during searches conducted on third parties. The AO, instead of complying with the jurisdictional preconditions laid down under the reassessment provisions, proceeded without recording the mandatory satisfaction and without obtaining prior sanction from the competent authority. This

conduct not only, violates the express mandate of law, but also renders the assessment a jurisdictional error. The AO has, in fact, gone a step further by bypassing the legal safeguards embedded in section 147, thereby vitiating the assessment proceedings ab initio

24. Furthermore, a plain reading of the Finance Act, 2021 and the Explanatory Memorandum to the Finance Bill clearly indicates that the legislative intent was to bring all searches conducted on or after 1st April 2021 within the ambit of the new reassessment regime under section 147 of the Income-tax Act, 1961. This new regime was introduced through significant amendments to section 147 and section 148, along with the insertion of Explanations 1 and 2, and the concept of "information suggesting escapement of income" was explicitly defined. From the reading of Explanation 2 to Section 147, it is evident that in cases where a search is initiated on or after 1st April 2021, the Assessing Officer shall be deemed to have information, which suggests that income chargeable to tax has escaped assessment for three assessment years immediately preceding the assessment year relevant to the previous year, in which, the search is initiated, provided that books of account, documents, assets, bullion, jewellery, or other valuable articles are seized or requisitioned in the course of the search. This deeming provision is not limited only to the person searched, but also extends to "other persons", provided that due procedure under the law-specifically, the recording of satisfaction that such seized material belongs to the assessee and obtaining prior approval from the PCIT-

is followed.

25. In the present case, where the AO has admittedly relied upon material seized during searches conducted on other persons, i.e., Sh. Ravi Kapoor and Sh. Ajay Kumar Prabhakar, it was mandatory for the AO to invoke the provisions of section 147 and not to bypass the statutory framework by proceeding under section 143(3). Granting such unfettered powers to the AO to rely on third-party material without adhering to the safeguards under section 147 would defeat the very purpose of the amendment and open the floodgates to arbitrary assessments.

26. The relevant extract Memorandum explaining the finance bill is reproduced as under:-

'(ii) Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.

(VI) Further, in search, survey or requisition cases initiated or made or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year, in which, the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted."

27. The notice issued under section 143(2) was also produced by the AR. Upon perusal of the said notice, it is evident that the assessment under section 143(3) was initiated solely for the purpose of verifying the return of income filed by the assessee. In such circumstances, the importing and reliance upon material seized from third-party searches, namely, those conducted on Sh. Ajay Kumar Prabhakar and Sh. Ravi Kapoor, goes beyond the jurisdiction conferred under section 143(3). Particularly, where the applicable law-- Explanation 2 to section 148 (as amended by the Finance Act, 2021) mandates prior approval from the Principal Commissioner of Income Tax (PCIT) before initiating reassessment proceedings on the basis of such material, the failure to comply with that requirement renders the assessment legally untenable.

28. In the present case, the AO did not issue a notice under section 148, nor did he follow the due process of law under the new reassessment framework, including recording of satisfaction and obtaining prior sanction from the PCIT. Therefore, the assessment framed under section 143(3), because of being based on third-party material without adhering to statutory safeguards, is bad in law. The AO was only empowered to verify the return of income and restrict his scope of inquiry accordingly; he was not permitted to expand the assessment by importing and relying upon third-party seized material without following the mandatory procedure laid down under the law.

29. Furthermore, there exists a mandatory statutory requirement that in all cases involving search-related assessments falling within the assessment year, immediately preceding the year of the search, the prior approval of the Joint Commissioner is required under section 148B of the Income-tax Act, 1961. In the present case, the Assessing Officer (AO) has proceeded without obtaining such approval, which is a clear violation of the procedural safeguards envisaged under the law and, as such, vitiates the assessment proceedings. In the present case, approval has been granted for assessment framed u/s 143(3) only.

The relevant provision of section 148B reads as under:

Prior approval for assessment, reassessment or recompilation in certain case.

148B. No order of assessment or reassessment or recompilation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clause (i) or clause (ii) or clause (iti) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.

30. A comparison of the requirement of approval under section 153D and section 148B is drawn, from which it is evident that approval under section 153D was earlier required only in cases where assessments were completed under section 153A/153C and also for search year. However, under the amended provisions, approval under section 148B is now required in all cases where proceedings are initiated pursuant to a search, requisition, or survey, or where asset/material/documents found during such search pertain to or relate to another person. In such cases, the Assessing Officer must take the approval under section 148B from the specified higher authority.

Aspect	Section 153D	Section 148B (with Explanation 2 to Section 148)
Applicable Search Period	initiated between 01.06.2003 to 31.03.2021	Search/survey initiated on or after 01.04.20 but before 01.09.24
Context	Search assessment under Section 153A/153C	All cases where assessment/reassessment is based in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148

Triggering Search or requisition on the assessee 1. Search/requisition on assessee 2. Survey Event assessee under Sections (except under 133A(2A)) on assessee 3.

132/132A or material is used Search/requisition on another person, but against assessee from third assets/documents relate to assessee party search Purpose of Supervisory check in search Prevent misuse of powers in reassessment Approval assessments to ensure fairness based on search/survey-related information and oversight under new regime Who Gives Joint Commissioner Any of: Joint Commissioner / Addl.

Approval (mandatory)	Commissioner / Joint Director / Addl. Director
Deeming Not expressly stated	Explanation 2 creates a legal presumption: is deemed to have information suggesting
Presumption	

income has escaped assessment in specified cases

31. This requirement has also been explicitly discussed in the Explanatory Memorandum to the Finance Bill, 2022, which emphasizes the need to protect taxpayer rights by ensuring that no reassessment is carried out without proper sanction and due process. It is further seen that the Joint Commissioner has not even been supplied seized material relied upon as seized from third-party in the present assessment. There exists a prescribed procedure under which such seized material (including material found from third-party premises) is to be forwarded to the approving authority at least 30 days in advance of granting approval. This procedural safeguard is crucial to prevent arbitrary and unregulated use of third-party material.

32. In the present case, there is no evidence to demonstrate that the prescribed procedure was followed, or that the Joint Commissioner was apprised of the seized material by forwarding copies of the documents found from the third party prior to framing the assessment. The complete failure to comply with the mandatory provisions of section 148B renders the reassessment not only procedurally defective but also without jurisdiction.

33. Even we find while framing the assessment under section 143(3), the Assessing Officer (AO) has, on the last page of the assessment order, referred to an approval obtained from the supervisory authority. However, a bare perusal of this approval shows that it was obtained in reference to F. No. 299/36/2020/1DAR/INV3(3)/577 dated 15.07.2022, i.e., in accordance with the CBDT Circular

dated 15th July 2022, and not under the mandatory provisions of section 148B of the Income-tax Act, 1961. At the outset, it is important to note that the approval so obtained does not mention or consider any of the seized materials sourced from the third-party. searches conducted on Sh. Ajay Kumar Prabhakar and Sh. Ravi Kapoor, despite the AO having heavily. relied on those materials in framing the additions. The approval merely states that the appraisal report was considered, without any reference to the original documents seized or to the statutory procedure outlined under section 148B. It is pertinent to refer to the Manual of Office Procedure in February 2003, which lays down a mandatory protocol: that in all search cases, especially where material pertains to persons other than the one searched, such material is to be forwarded in original to the approving authority, and a draft order is required to be submitted for approval at least 30 days in advance. In the present case, the approval letter was issued by the DCIT only on 22nd August 2023, which clearly contravenes this procedural requirement. This procedural lapse is further compounded by the judgment of the Hon'ble Supreme Court in Serajuddin and Co. case, [2024] 163 taxmann.com 118 (SC) wherein it was held that in search cases, strict adherence to the approval protocol as laid down in the departmental Manual of Office Procedure in February 2003 and law is essential to uphold the validity of the assessment.

34. Thus, from the above, it is quite evident from the approval granted by the Addl.CIT(Central), there is no mention or consideration of the seized material sourced from the third party, namely Sh. Ajay Prabhakar and Sh. Ravi Kapoor, though, we find that in the assessment order and in the order of CIT(A), both the authorities have heavily relied upon on such seized material and it only states that the appraisal report have been considered without any reference to any original documents seized for statutory procedure outlined u/s 148. Thus, in view of above, the assessment as framed by Assessing Officer vide order dated 24.08.2023 is quashed.

45. Respectfully following the aforesaid precedents, thus we hold that the assessments framed u/s 143(3) for AYs 2022-23 & A.Y. 2023-24 are bad-in- law and without jurisdiction, as the assessment ought to have been framed under special provisions of section 148 and to undertake the same, approval of specified authority u/s 148B was required to be taken. Accordingly, additional grounds taken by the assesseees, Pilot Industries Ltd. and Ardee Industries Limited are allowed.

46. Since the additional grounds on legal issues are allowed, the issues on merit become academic, therefore, not deliberated upon.

47. In the result, the assessee's appeals for AY 2022-23 & 2023-24 in the cases of Pilot Industries Limited and Ardee Industries Limited in AY 2023-24 are allowed on the above terms.

48. With regard to Revenue's appeals for AYs 2022-23 and 2023-24, since we have quashed the assessment in assessee's appeals for AYs 2022-23 and 2023-24, the appeals filed by the Revenue are dismissed.

49. We are now taking up assessee's (Pilot Industries Ltd.) appeal for Assessment Year 2024-25.

50. The assessee has taken the following additional grounds:-

"1. On the facts and circumstances of the case and in law, the ld. CIT(A) erred in confirming the action of the assessing officer in making the addition of Rs.5,23,711/- on account of alleged unexplained investment u/s 69 r.w.s. 115BBE of the Act.

2. On the facts and circumstances of the case and in law, the ld. CIT(A) erred in confirming the action of the assessing officer in making the addition of Rs.33,12,076/- on account of alleged unexplained investment u/s 69 r.w.s. 115BBE of the Act."

51. Considered the rival submissions and material placed on record by both the parties. We observed that the issues raised by the assessee in additional grounds go to the root of the matter challenging the jurisdictional issue. In the light of Hon'ble Supreme Court in the case of NTPC, Limited vs. CIT (1998) 229 ITR 383 (SC), we are inclined to admit the additional grounds and take up the same for adjudication herein below.

52. At the time of hearing, ld. AR of the assessee did not press Grounds No.1, 2, 4 and 5, hence the same are dismissed as not pressed.

53. Ground No.3 is regarding addition of cash found at the time of search i.e. Rs.3,47,658/-.

54. Considered the rival submissions and material placed on record. We observed that addition of Rs. 3,47,658/- made by the Assessing Officer on account of cash found at the time of search. In this regard ld. AR submitted that the ld. CIT(A) has already made/confirmed addition of Rs.42,27,240/- on account of profit on unaccounted sales. Vide ground no. 2, the assessee has challenged the addition of Rs.42,27,240/-, however, ground no. 2 is not pressed. Therefore, he submitted that the assessee has availability of cash of Rs.42,77,240/-. Thus, he pleaded that the addition of Rs.3,47,658/- on account of cash found at the time of search amounts to double addition and the assessee is entitled to telescoping benefit. Accordingly, he prayed for deletion of addition of Rs.3,47,658/- whereas ld. DR relied on findings of lower authorities.

55. Considered the rival submissions and material placed on record. We observed that the cash was found during the search and the assessee has to independently explain the physical cash not rely on telescoping benefits. Hence, it is dismissed as such.

56. Additional Grounds No.1 & 2 are with regard to addition of Rs.5,23,711/- & Rs.33,12,076/- respectively on account of alleged unexplained investment in stock.

57. With regard to addition of Rs.5,23,711/-, Assessing Officer observed that assessee submitted reconciliation of stock difference of 2315558 kg out of physical stock found of 2318482 by submitting confirmation from purchase vendor apart from other substantiating documents. However, he observed that the assessee has failed to substantiate the difference between physical stock and stock as per books of 2924 Kg (2318482 kg minus 2315558 kg) valued at Rs.5,23,711/- of stock. He further observed that the assessee itself accepted that it is not possible for them to count the physical stock and the onus is on the assessee to substantiate the difference of stock.

Accordingly, Assessing Officer did not accept the contention of the assessee as assessee has failed to reconcile the difference of physical stock and stock as per books of accounts. He further observed that even director of the company, Sh. Sandeep Aggarwal was not able to reconcile the difference between the physical stock and stock as per books and the director of the assessee company also could not explain when confronted with the difference in stock as elaborated above not only during the course of search but in subsequent proceeding as well. Accordingly, he held that stock difference of Rs.5,23,711/- is found in excess of stock recorded in the books of account and value of the investment is deemed to be income of the assessee as per the provisions of section 69 of the Act.

57.1 With regard to addition of Rs.33,12,076/-, the Assessing Officer dealt with the issues at pages 60 to 63 of the assessment order. He observed that the assessee has failed to reconcile the difference between physical stock and stock as per books of 3355 Kg valued at Rs.22,76,989/- of stock. He further observed that the assessee itself accepted that it is not possible for them to count the physical stock and the onus is on the assessee to substantiate the difference of stock. Accordingly, he observed that the contention of the assessee is not acceptable as assessee has failed to reconcile the difference of physical stock and stock as per books of accounts. Even director of the company, Sh. Sandeep Aggarwal was not able to reconcile the difference between the physical stock and stock as per books. Further he observed that the director of the assessee company also could not explain when confronted with the difference in stock as elaborated above not only during the course of search but in subsequent proceeding as well. As such, he observed that the assessee has failed to reconcile the difference of stock of Rs.22,76,989/- between physical stock and stock as per books of accounts. He further observed that there was stock difference of 3355 Kg at Pantnagar Plant. Accordingly, he held that stock difference of Rs.22,76,989/- is found in excess of stock recorded in the books of account and value of the investment is deemed to be income of the assessee as per the provisions of section 69 of the Act.

57.2 Assessing Officer observed from the submissions of the assessee that the difference may be some solar item which arose due to physical stock taking cannot be done for all micro to major items of each segment wise & stage wise properly within a day or two during the time bounded limited search period. Assessing Officer from the reply of the assessee observed that assessee has no proper explanation with documentary evidences to reconcile the excess stock of solar panel and inverter. He further observed that as assessee has failed to discharge its onus to reconcile the difference of stock despite various opportunities, hence said stock remained unexplained. Accordingly, Assessing Officer observed that stock difference of Rs.10,35,087/- is unexplained investment and value of the investment is deemed to be income of the assessee as per the provisions of section 69 of the Act. Thus, the addition of Rs.33,12,076/- (Rs.10,35,087/- + Rs.22,76,989) is deemed to be income of the assessee as per the provisions of section 69 of Act.

58. In appeal, ld. CIT (A) observed that the AO on account of unexplained investment u/s 69 r.w.s 115BBE of the Act stated that stock differences of 294 kg amounting to Rs.5,23,711/- at bhiwadi plant and difference of 3355 kg amounting to Rs. 33,12,076/- at Pantnagar plant were found as excess of stock recorded in the books of account as undisclosed investment. Ld. CIT (A) after going through the submissions of the assessee and material available on record observed that there was time gap of 2-3 day in the receipt of goods and their entry in the financial book, hence as a result of

this stock has been considered in the physical stock at the time of the search but they were not entered in financial books at the time of the search. He further observed that the assessee has also submitted reconciliation chart along with log sheet and purchase bill, e-way bill, Transportation production, MRN, logsheet alongwith production/consumption details. Further he observed that the assessee has also submitted confirmation of purchase parties which fortify the stand of the assessee that certain stock which were received during the intervening period of search operations from different parties were not entered into the busy software. He observed that the difference in physical stock taking and stock as per books of accounts arose from the said fact which was supported with the documentary evidence including confirmation, gate slip, vehicle number, e-way bill, MRN, GST returns etc . Accordingly, he deleted the additions and allowed the grounds.

58.1 However, vide order u/s 154 of the Act dated 25.07.2025, ld. CIT (A) upheld the addition made by the Assessing Officer by observing as under :-

"While adjudicating ground of appeal no. 5 and 6 related to addition on account of unexplained investment u/s. 69 rws 115BBE of the Act in the form of excess stock found during the course of survey, there occurred a typo error in para 6.3 of the order. The para 6.3 typed in the order dated 25.07.2025 u/s. 250 vide DIN No. ITBA/APL/S/250/2025-26/1078909608(1) is as under:-

"In view of the above, the addition of Rs. 5,23,711/- and 33,12,076/- made by the AO on account of unexplained investment are not sustainable and directed to be deleted. The grounds of appeal are thus allowed."

The same may be read as under.

6.3 The reply filed during the course of appellate proceedings is mere reiteration of the reply furnished during the course of assessment proceedings. The AO has given his finding in para 83 to 92 after analysing the details furnished during the course of assessment proceedings wherein the AO himself allowed the benefit of bills received for the intervening period. The excess stock found at Pant Nagar Plant to the tune of Rs.33,12,076/- (finished goods of Rs.10,35,087/- and raw material of Rs.22,76,989/-) and at Bhiwadi Plant for Rs.5,23,711/- remain unexplained. Therefore, in view of the above, the addition of Rs.5,23,711/- and 33,12,076/- made by the AO on account of unexplained investment are confirmed and grounds of appeal no. 5 and 6 are dismissed."

59. At the time of hearing, ld. AR submitted that the ld. CIT(A) has already made/confirmed addition of Rs.42,27,240/- on account of profit on unaccounted sales. He further submitted that vide ground no. 2, the assessee has challenged the addition of Rs.42,27,240/-, however, ground no. 2 is not being pressed. Therefore, the assessee has availability of cash of Rs.42,77,240/-. Thus, the addition of Rs. 33,12,076/- and Rs.5,23,711/- on account of alleged unexplained investment in stock amounts to double addition. He submitted that the assessee is entitled to telescoping benefit. Therefore, the addition of Rs. 33,12,076/- and Rs.5,23,711/-are liable to be deleted.

60. At the same time, ld. DR heavily relied on the detailed findings of Assessing Officer and findings of ld. CIT (A) in rectification order u/s 154 of the Act.

61. Considered the rival submissions and material placed on record. We observed that during the survey, it was found that there is difference in stock maintained by the assessee with regard to Pant Nagar Plant and Bhiwadi Bhiw Plant. The Assessing Officer observed that the assessee could not reconcile the difference even though sufficient time was granted. Assessing Officer treated the difference in stock and the corresponding investment in stock as undisclosed investment.

62. After careful consideration, we noticed that the difference is between physical stock vs. book stock. We observed that the excess stock found is in book stock not in physical stock. We noticed that the stock difference of raw material as per Busy Data aand physical stock as under :-

63. From the above, the book stock is more that means, the assessee had booked the purchase properly and the shortage found in physical stock shows that the assessee has booked excess consumption. The same cannot be considered undisclosed investment. Therefore, in our considered view, the physical stock variation can only be treated as loss. Therefore, the addition made is deleted.

64. With regard to stock difference in finished goods difference of Rs.10,35,087/-. In this case, the physical stock found is excess compared to book stock maintained by the assessee. In this case, assessee had to explain the excess physical stock.

65. We noticed that the Assessing Officer had found that the assessee had declared undisclosed sale during the year, the same was confirmed by ld. CIT (A). Before us, the assessee had not pressed for the above ground. Therefore, there is excess source of income available in the business. The assessee was found to hold excess stock of finished goods, there is need for additional investment. Since the assessee had additional fund in the business from the sale of undisclosed sales in the books, the same investment can be considered for holding excess finished goods. Therefore, we are inclined to allow the excess investment from the sale to carrying stock of finished goods. Therefore, there is direct source of investment within the business. Therefore, we are inclined to allow both the additional grounds raised by the assessee as per above terms.

66. In the result, appeal filed by the assessee for AY 2024-25 is partly allowed.

67. To sum up : in the cases of Pilot Industries Ltd., assessee's appeal for AY 2020-21 is dismissed; the assessee's appeals for AYs 2021-22 & 2024-25 are partly allowed and AYs 2022-23 & 2023-24 are allowed and all the appeals of the Revenue in the case of Pilot Industries Ltd. are dismissed. The appeal filed by the Ardee Industries Ltd. for AY 2023-24 is allowed. Order pronounced in the open court on this 8th day of May, 2026.

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated : 08.05.2026

TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI