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Section 292BC: Has the Finance Act, 2026 made approvals u/s. 151 immune from legal challenge?

1. The controversy:

The Finance Act, 2026 has inserted section 292BC in the Income-tax Act, 1961 with retrospective effect from 01.04.2021. The provision states, in substance, that any approval given by an income-tax authority in relation to assessment, reassessment or re-computation proceedings shall be deemed to be administrative and supervisory in nature. It further provides that such approval shall not be invalid merely because the reasons recorded are insufficient, or because there is any defect in the form, authentication or communication of the approval, including absence of digital signature where approval is granted electronically. The text of section 292BC is as follows:

> *"292BC. Notwithstanding anything contained in this Act or in any judgment, order or decree of any Court, for the removal of doubts, it is hereby clarified that any approval given by an income-tax authority in relation to any assessment, reassessment or recomputation proceedings under this Act shall be deemed to be administrative and supervisory in nature and shall not be invalid or shall not be deemed to be invalid by reason of any insufficiency of the reasons recorded or by reason of any defect in the form or manner of its authentication or communication including whether digital signature have been appended to such approval or not, where such approval is granted electronically.]"*

At first glance, the provision appears to be a strong validating provision in favour of the Department. It seeks to neutralise a class of objections which were being raised in reassessment litigation, particularly in faceless and electronic proceedings, where approvals were challenged on the ground of absence of detailed reasons, improper authentication, communication defects or absence of digital signature. However, the more important question is this:

Does section 292BC mean that even a mechanical approval, granted without application of mind, must now be treated as valid? - In my respectful view, the

answer is clearly **'NO'**. Section 292BC protects an approval from technical attacks. It does not convert a statutory safeguard into an empty formality.

2. What section 292BC really cures:

Section 292BC appears to cure defects of a limited nature. For example, if the competent authority has in fact considered the proposal and granted approval, the assessee may not be able to invalidate the approval merely by contending that:

- the reasons in the approval are brief;
- the approval is not in a particular format;
- the approval is not properly communicated;
- the approval is not digitally signed;
- the approval suffers from some defect in authentication.

To that extent, the legislative intent is understandable. An otherwise valid approval should not fail merely because of some clerical or electronic defect. In an era where approvals are routed through ITBA/ Insight/ internal electronic systems, Parliament appears to have stepped in to protect the Department from litigation based purely on form. This is consistent with the broader trend of digital tax administration. However, as discussed in the context of digital issuance of notices, the law still draws a distinction between an internal departmental act and a legally effective statutory act. Mere existence of something in the system is not always sufficient; the statutory requirement must still be substantially fulfilled.

3. What section 292BC does not cure:

The provision does not say that approval can be granted mechanically. It does not say that the approving authority need not look at the reasons recorded. It does not say that sanction granted on wrong facts, wrong figures or wrong material will be valid. This distinction is critical and there is a difference between: ***A short approval****, and* ***A mechanical approval,*** there is a difference between: ***Insufficient reasons****, and* ***No application of mind,*** there is a difference between: ***A defect in authentication****, and* ***Absence of valid statutory satisfaction.*** Section 292BC protects the first category. It cannot protect the second. For example, if the approval refers to a wrong assessment year, wrong assessee, wrong quantum of escaped income, wrong provision, or wrong factual foundation, the defect is not merely procedural. It indicates that the approving authority did not examine the matter in the manner required by law. Similarly, if the approval is granted as a routine "Yes, approved" without the authority having considered the reasons

recorded and the material forming the basis of reopening, the defect goes to the root of jurisdiction.

4. Why section 151 still matters:

If section 292BC is interpreted to validate even mechanical approvals, section 151 would lose its entire purpose. The object of section 151 is to create a supervisory check before the Assessing Officer assumes reassessment jurisdiction. Reassessment is not an ordinary assessment. It disturbs finality. Therefore, the Legislature has consciously required approval of a higher authority in specified cases and that approval is not expected to be a detailed judicial order. But it must still be a real approval. The authority need not write pages. But the authority must apply its mind. The authority need not give elaborate reasons. But it must be clear that the authority has considered the correct material. The authority may act administratively. But administrative does not mean mechanical. This is where the Revenue's possible argument must be carefully tested. The words "administrative and supervisory" in section 292BC cannot be read as "automatic and meaningless". In fact, the word "supervisory" itself implies some level of oversight. If there is no oversight, there is no supervision.

The Hon'ble Supreme Court in ***Chhugamal Rajpal v. S.P. Chaliha [1971] 79 ITR 603 (SC)*** held that where sanction is accorded mechanically, the statutory requirement is not satisfied. The Court treated compliance with sanction requirement as a real safeguard and not as an empty ritual.

Similarly, in ***CIT v. S. Goyanka Lime & Chemical Ltd. [2016] 237 Taxman 378 (SC)***, the SLP of the Revenue was dismissed against the High Court ruling that mechanical sanction without application of mind vitiates reassessment.

Thus, the law prior to section 292BC was clear that sanction must reflect application of mind. Section 292BC may dilute challenges based on form, authentication or insufficiency of reasons, but it cannot erase the fundamental requirement that the approval must actually be granted after due consideration.

5. The real test after section 292BC:

After section 292BC, the assessee's challenge to approval must be framed differently. A vague challenge that "approval is not digitally signed" or "approval contains no detailed reasons" may not carry much force anymore. The better challenge would be:

- whether the correct reasons recorded were placed before the approving authority;
- whether the approval refers to the correct assessment year;
- whether the approval refers to the correct assessee;
- whether the approval proceeds on correct facts;
- whether the approving authority has considered the jurisdictional conditions;
- whether the approval was granted before issuance of notice;
- whether the approval was granted by the competent authority;
- whether there is any mismatch between reasons recorded and approval granted;
- whether the approval is based on borrowed satisfaction without independent supervisory consideration.

Thus, litigation will now shift from ***technical approval defects*** *to* ***substantive approval defects***.

6. Illustrations:

6.1 Defect likely protected by section 292BC

The Assessing Officer records reasons. The proposal is placed before the competent authority. The authority grants approval electronically. The approval is brief and does not contain elaborate reasons. It is also not digitally signed. In such a case, section 292BC may protect the approval.

6.2 Defect not protected by section 292BC

The reasons recorded allege escapement of Rs. 28 lakhs, but the approval records that escapement exceeds Rs. 50 lakhs. The reassessment notice is thereafter issued beyond three years by treating the case as falling in the higher threshold category. This is not a defect in form or authentication. It is a defect in application of mind.

6.3 Wrong year or wrong assessee

If the approval is granted for one assessment year but notice is issued for another assessment year, or if the approval refers to a wrong assessee, section 292BC cannot cure the defect. Such approval does not satisfy the statutory requirement at all.

6.4 Post-facto approval

If notice u/s. 148 is issued first and approval is obtained later, section 292BC cannot save the notice. The requirement is of prior approval. A retrospective validation of form cannot substitute a missing statutory precondition.

7. Suggested legal position:

The correct position, therefore, may be stated as follows: Section 292BC cures defects in the form of approval, not defects in the existence of approval. It cures defects in authentication, not defects in jurisdiction. It cures insufficiency of reasons, not absence of application of mind. It protects an approval which is otherwise valid, but imperfectly recorded or communicated. It does not validate an approval which was never validly granted in the first place.

8. Concluding remarks:

Section 292BC is certainly a powerful provision. It will reduce litigation based on petty defects in approvals. Assessees may no longer succeed merely because the approval is brief, unsigned digitally, imperfectly authenticated or not communicated in a particular manner. But the provision cannot be stretched beyond its purpose. The Department may now say that approval is administrative. That may be correct. But administrative approval is still approval. It must be granted by the competent authority, on the correct facts, before issuance of notice, and after meaningful consideration of the reasons recorded.

If section 292BC is interpreted to protect even mechanical approvals, then section 151 will become meaningless and reassessment jurisdiction will practically rest only on the subjective satisfaction of the Assessing Officer. That cannot be the intention of law.

- ***Chinmayy Suhas Pathak, C.A.***