

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

**BEFORE SHRI G.D. AGRAWAL, PRESIDENT
AND SHRI MAHAVIR SINGH, JUDICIAL MEMBER**

**I.T.A. No.156/Nag/2016
Assessment Year : 2001-02**

Shri Siddique Zikar Ghaniwala, Main Road, Banosa, Daryapur, District Amravati, Pin Code – 444 803. PAN : ABAPG2571K.	Vs.	Deputy Commissioner of Income Tax, Central Circle, Amravati, Now Additional charge with the Assistant Commissioner of Central Circle-2, Nagpur.
(Appellant)		(Respondent)

**I.T.A. No.159/Nag/2016
Assessment Year : 2001-02**

Shri Salim Zikar Ghaniwala, Main Road, Banosa, Daryapur, District Amravati, Maharashtra. PAN : AFIPG5806P.	Vs.	Joint Commissioner of Income Tax, Range-3, Nagpur.
(Appellant)		(Respondent)

**I.T.A. No.3/Nag/2016
Assessment Year : 2001-02**

Shri Anis Zikar Ghaniwala, Prop. M/s Anis Traders, Main Road, Banosa, Daryapur, District Amravati, Pin Code – 444 803. PAN : ADDPG1862J.	Vs.	Deputy Commissioner of Income Tax, Central Circle, Amravati, Now Additional charge with the Assistant Commissioner of Central Circle-2, Nagpur.
(Appellant)		(Respondent)

Appellants by : Shri R.P. Chandekar, Advocate.
Respondent by : Shri R.K. Baral, Senior DR.

Date of hearing : 08.03.2018
Date of pronouncement : 08.03.2018

ORDER

PER BENCH :

These three appeals by different assessees for the assessment year 2001-02 are directed against the order of learned CIT(A)-III, Nagpur dated 30.11.2015, 05.11.2015 and 05.10.2015. Since the issue involved in all these appeals is common, the same were heard together and are being disposed of by this consolidated order.

2. The only common issue in these three appeals of the assessees is as regards the order of learned CIT(A) in confirming the action of the Assessing Officer in treating the opening capital amounting to ₹50,000/- in ITA No.156/Nag/2016, ₹46,548/- in ITA No.159/Nag/2016 and ₹1,39,921/- in ITA No.3/Nag/2016 for assessment year 2001-02 as unexplained.

3. Since the facts and circumstances are exactly identical in all these appeals, hence, we will take up the facts from ITA No.156/Nag/2016 and decide the issue.

4. We have heard rival contentions and gone through the facts and circumstances of the case. Brief facts are that the Assessing Officer while completing the assessment u/s 153C of the Act treated the opening capital as on 01.04.2000 declared by the assessee at ₹68,000/- as unexplained. Finally, the Assessing Officer treated the sum of ₹50,000/- as unexplained for the reason that the assessee could not prove that this amount is received from his father by way of will or any other evidences. Aggrieved, assessee preferred appeal before learned CIT(A), who also confirmed the action of the Assessing Officer. We find from the facts of the case that the assessee has filed capital account from financial year 1992-93 to 2000-01 explaining the opening balance. We are of the view that opening balance cannot be added in the

relevant year. In any case, if the opening capital is not proved, it has to be added in the earlier year, if at all. In view of this, we are of the view that the addition of opening capital in all the three cases will not sustain and hence, we delete the same.

5. In the result, all the appeals of the assesseees are allowed.
Decision pronounced in the open Court on 08.03.2018.

**Sd/-
(G.D. AGRAWAL)
PRESIDENT**

**Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER**

Dated : 08.03.2018
VK.

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. Concerned CIT
4. The CIT(A)
5. D.R.

Assistant Registrar