

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1750/Chny/2018

निर्धारण वर्ष / Assessment Year : 2010-11

Shri Rakesh Kumar Kundanmalji Jain,  
44/40, E.K. Agraharam, Park Town,  
Chennai - 600 003.

v. The Income Tax Officer,  
Non Corporate Ward - 6(1),  
Chennai - 600 006.

PAN : AAEPR 5870 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.1751/Chny/2018

निर्धारण वर्ष / Assessment Year : 2010-11

Shri Ranjit Kumar Kundanmal (HUF),  
44/39, E.K. Agraharam, Park Town,  
Chennai - 600 003.

v. The Income Tax Officer,  
Non Corporate Ward - 6(1),  
Chennai - 600 006.

PAN : AACHR 0071 C

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.1752/Chny/2018

निर्धारण वर्ष / Assessment Year : 2010-11

Smt. Pushpa Bai,  
81, Audiappa Naicken Street,  
Sowcarpet, Chennai - 600 079.

v. The Income Tax Officer,  
Non Corporate Ward - 6(1),  
Chennai - 600 006.

PAN : AAHPP 5053 B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

**आयकर अपील सं./ITA No.1753/Chny/2018**

निर्धारण वर्ष / Assessment Year : 2010-11

Ms. Kajal Jain,  
44/39, E.K. Agraharam, Park Town,  
Chennai - 600 003. v. The Income Tax Officer,  
Non Corporate Ward - 6(1),  
Chennai - 600 006.

PAN : AAKPJ 2012 R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

**आयकर अपील सं./ITA No.1754/Chny/2018**

निर्धारण वर्ष / Assessment Year : 2010-11

Kanhayalal Jain & Sons (HUF),  
39, Kalathi Pillai Street,  
Sowcarpet, Chennai - 600 079. v. The Income Tax Officer,  
Non Corporate Ward - 5(1),  
Chennai - 600 006.

PAN : AAAHS 6895 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

**आयकर अपील सं./ITA No.1755, 1756 & 1757/Chny/2018**

निर्धारण वर्ष / Assessment Years : 2010-11, 2012-13 &amp; 2013-14

Shri S. Kanhayalal Jain,  
39, Kalathi Pillai Street,  
Sowcarpet, Chennai - 600 079. v. The Income Tax Officer,  
Non Corporate Ward - 5(1),  
Chennai - 600 006.

PAN : AAIPJ 1171 H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellants by : Shri R. Padmanabhan, CA

प्रत्यर्थी की ओर से/Respondent by : Shri Guru Bashyam, JCIT

सुनवाई की तारीख/Date of Hearing : 05.11.2018

घोषणा की तारीख/Date of Pronouncement : 16.11.2018

**आदेश / O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

The appeals filed by five independent assesseees are directed against the respective orders of the Commissioner of Income Tax (Appeals) -5, Chennai. Since common issue arises for consideration in all these appeals, we heard these appeals together and disposing of the same by this common order.

2. The assesseees claim for exemption under Section 10(38) of the Income-tax Act, 1961 (in short 'the Act'), which was not allowed by the Assessing Officer after referring to the Investigation Report said to be received from Investigation Wing of the Department at Kolkata.

3. We heard Shri R. Padmanabhan, the Ld. representative for the assesseees and Shri Guru Bashyam, the Ld. Departmental Representative. Admittedly, the Investigation Report said to be received by the Assessing Officer from Kolkata was not furnished to the assesseees. Moreover, the statement said to be recorded from Shri Ashok Kumar Kayan at Kolkata was also not furnished to the assesseees. The Revenue claims that the assesseees have invested

in Penny stock companies. It is not known how the Revenue claims that the assesseees invested in Penny stock companies? How the Penny stock companies are allowed to issue public shares so as to invite the general public for investment? It is also not known how this kind of companies are allowed to be listed in stock exchange? Therefore, an investigation has to be made by the Assessing Officer. The Assessing Officer shall furnish a copy of Investigation Report said to be received from the Investigation Wing of the Department at Kolkata and a copy of statement recorded from Shri Ashok Kumar Kayan at Kolkata to the assesseees. Accordingly, the orders of both authorities below are set aside and the Assessing Officer is directed to furnish copies of the Investigation Report received from the Department at Kolkata and the statements recorded at Kolkata and at Chennai and also to make a thorough investigation how the Penny stock companies are allowed to issue public shares and bring on record the action taken against the officers who are responsible for allowing such Penny stock companies to issue public shares. The Assessing Officer shall also examine whether these companies are listed in stock exchange. If so, what are the actions taken for delisting such companies from stock exchange. The Assessing Officer shall examine all these

aspects and bring on record all material facts and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assesseees.

4. In the result, all the appeals filed by the assesseees are allowed for statistical purposes.

Order pronounced in the court on 16<sup>th</sup> November, 2018 at Chennai.

sd/-  
(ए. मोहन अलंकामणी)  
(A. Mohan Alankamony)  
लेखा सदस्य/Accountant Member

sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,  
दिनांक/Dated, the 16<sup>th</sup> November, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellants
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-5, Chennai-34
4. Principal CIT-9, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.