

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**[Before Sri S. S. Godara, Judicial Member]**

**आयकर अपीलसं./I.T.A No.1231/Kol/2019**

**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>Sanjeev Bubna (HUF)</b> 11A, Judges Court Road, Alipore, Kolkata.	<b>Vs.</b>	<b>ITO, Ward-36(3), Kolkata</b>
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAFHS3337B</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri P J Bhide, FCA

Respondent by : Smt. Ranu Biswas, Addl. CIT-DR

&

**आयकर अपीलसं./I.T.A No.1258/Kol/2019**

**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>Smt. Kamala Devi Jhanwar</b> 89, Netaji Subhas Road, Dalhousie, Kolkata.	<b>Vs.</b>	<b>ITO, Ward-35(3), Kolkata</b>
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ACOPJ2000K</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri R C Jhaver, CA

Respondent by : Smt. Ranu Biswas, Addl. CIT-DR

&

**आयकर अपीलसं./I.T.A No.1259/Kol/2019**

**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>M/s Hansraj Jhanwar</b> 89, Netaji Subhas Road, Dalhousie, Kolkata.	<b>Vs.</b>	<b>ITO, Ward-34(3), Kolkata</b>
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABHH0566H</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri R C Jhaver, CA

Respondent by : Smt. Ranu Biswas, Addl. CIT-DR

&

**आयकर अपीलसं./I.T.A No.1260/Kol/2019**  
**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>Shri Narru Kumar Jhanwar</b> 89, Netaji Subhas Road, Dalhousie, Kolkata.	<b>Vs.</b>	<b>ITO, Ward-35(2), Kolkata</b>
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ACXPJ2501N</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri R C Jhaver, CA  
Respondent by : Smt. Ranu Biswas, Addl. CIT-DR

&

**आयकर अपीलसं./I.T.A No.1261/Kol/2019**  
**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>M/s Indra Chand Jhanwar (HUF)</b> 89, Netaji Subhas Road, Dalhousie, Kolkata.	<b>Vs.</b>	<b>ITO, Ward-35(2), Kolkata</b>
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAAHI2559E</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri R C Jhaver, CA  
Respondent by : Smt. Ranu Biswas, Addl. CIT-DR

&

**आयकर अपीलसं./I.T.A No.1262/Kol/2019**  
**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>Shri Narru Kumar Jhanwar (HUF)</b> 89, Netaji Subhas Road, Dalhousie, Kolkata.	<b>Vs.</b>	<b>ITO, Ward-35(2), Kolkata</b>
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AACHN8739H</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri R C Jhaver, CA  
Respondent by : Smt. Ranu Biswas, Addl. CIT-DR

सुनवाई की तारीख/ **Date of Hearing** : 29/01/2020  
घोषणा की तारीख/**Date of Pronouncement** : 14/02/2020

### **आदेश / O R D E R**

#### **Per Shri S. S. Godara:**

These six assessees' have filed their as many instant appeals for assessment year 2015-16 against the Commissioner of Income Tax (A)'s separate orders treating their long-term capital gains of Rs.40,20,000/-, Rs.3,59,250/-, Rs.4,49,683/-, Rs.4,48,625/-, Rs.4,50,750/- & Rs.4,49,500/-, respectively as bogus unexplained cash credits u/s 68, involving proceedings u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act') involved in such share transactions.

I have heard all these assessees as well as the Revenue. Case files perused.

2. It transpires at the outset that the assessees' identical sole substantive grievance in all these cases that both the learned lower authorities have erred in law and on facts in treating their respective long-term capital gains derived from sale of various scrips involving varying sums as bogus unexplained cash credits u/s 68 of the Act despite the fact that all the cogent/contemporaneous evidence duly proves genuineness and creditworthiness thereof. Learned authorized representatives also referred to the assessees' voluminous paper-books to this effect. He further submitted that the CBDT's recent SOP issued in the year 2019; along with annexure A-D, has directed the field authorities to carry out detailed investigations on multiple aspects.

3. The assessees' case accordingly is that the CBDT itself has acknowledged in SOP that such an addition has to be based on actual than circumstantial

evidence. The Revenue on the other hand pleaded to affirm the impugned additions, since the assesseees could not prove genuineness/creditworthiness of their share transactions indicating artificial rigging of scrip prices.

4. After giving my thoughtful consideration to the foregoing rival pleadings and on perusal of all the case files, I note that learned lower authorities' identical findings have gone by circumstantial than actual evidence before invoking the impugned addition. I therefore deem it appropriate that the CIT(A) needs to be re-examine the entire issue afresh in all these cases in view of the CBDT's latest "SOP", not considered earlier as per law within three effective opportunities of hearing in consequential proceedings. These assesseees' identical sole substantive grievance is restored back to the CIT(A) therefore.

4. Commission expenditure addition, if any, u/s 69C of the Act also follows suit.

5. These assesseees' appeals are allowed for statistical purposes in above terms. A copy of the instant common order be placed in the respective case files.

Order is pronounced in the open court on 14.02.2020.

*Sd/-*  
**(S. S. Godara)**  
**JUDICIAL MEMBER**

कोलकाता /Kolkata;

दिनांक/ Date: 14/02/2020

RS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. The Appellant – (i) Sanjeev Bubna (HUF)  
(ii) Smt. Kamala Devi Jhanwar  
(iii) M/s Hansraj Jhanwar  
(iv) Shri Narru Kumar Jhanwar  
(v) M/s Indra Chand Jhanwar (HUF)  
(vi) Shri Narru Kumar Jhanwar (HUF)

2. The Respondent- (i)ITO, Ward-36(3), Kolkata  
(ii) ITO, Ward-35(3), Kolkata  
(iii) ITO, Ward-34(3),  
(iv) ITO, Ward-35(2), Kolkata  
(v) ITO, Ward-35(2), Kolkata  
(vi) ITO, Ward-35(2), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.  
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,  
I.T.A.T, Kolkata Benches,  
Kolkata.