Principal Commissioner of Income Tax (Central), Rajasthan v. Shailendra Kumar Gupta; connected Pawan Gupta and Raj Rajeshwari Gupta appeals

D.B. Income Tax Appeal Nos. 44/2025, 45/2025 & 46/2025

[2026:RJ-JP:12292-DB] | D.B. ITA Nos. 44/2025, 45/2025 & 46/2025 | 2026-03-24

Deletion of Section 68 additions on Long Term Capital Gains (LTCG) where the Assessing Officer relied on third-party statements recorded by the Kolkata Investigation Directorate without providing copies or opportunity of cross-examination to the assessees despite specific demand.

Income-tax Act, 1961: section 68; natural justice and cross-examination

High Court of Judicature for Rajasthan | 2-judge bench (Division Bench, Jaipur Bench) | Sanjeev Prakash Sharma, Acting C.J. | Shubha Mehta, J.

Assessment years:

Three distinct appeals; quoted facts kept separate

ITA44/2025 concerns Shailendra Kumar Gupta,45/2025 Pawan Gupta and46/2025 Raj Rajeshwari Gupta. The amounts and AY2002–03/2003–04 in the long NR Portfolio quotation are not facts of these appeals.

01 FACTS OF THE CASE

Revenue brought ITAs 44,45 and46 of 2025 against Tribunal relief concerning alleged bogus capital-gain entries under section 68. The Tribunal found that the AO relied on third-party statements recorded behind the assessee's back without providing cross-examination. Revenue relied on the Kolkata Investigation Directorate's account of brokers' methods and disputed the claimed long-term capital gains. The source does not identify the assessment years or addition amounts in these three appeals.

Source: Caption p.1; own paras.2–5, pp.2–5

02 DISCUSSION BY THE HON'BLE COURT

The Tribunal relied on Andaman Timber Industries v. CCE (2016)15 SCC785 and Rajasthan's PCIT v. Sanjay Chhabra, D.B.ITA22/2021. Revenue cited NR Portfolio,2013 SCC OnLine Del6466, and Swati Bajaj,2022 SCC OnLine Cal1244. The Court found that cross-examination had been demanded but denied and the entire assessment rested on the third-party statement. It also noted that Tribunal paragraph2.6 examined the banking transactions and evidence and found the evidence satisfactory. Revenue's remaining objections were factual.

Source: Own paras.3–8, pp.2–6; NR Portfolio quotation pp.3–5

03 JUDICIAL DECISION

Finding no substantial question of law, the High Court dismissed all three Revenue appeals. The Tribunal's relief remained undisturbed.

Source: Own paras.8–9, pp.5–6

04 OUTCOME / IN WHOSE FAVOUR

Assessees succeed in all three connected appeals on the record described. The judgment does not certify every share transaction as genuine merely because it passed through a bank.

Source: Own paras.7–9, pp.5–6

05 EXPERT COMMENTS

Identify the statement and preserve the demand — The Court stressed both reliance on a third-party statement and denial of cross-examination despite a request. Preserve the statement relied upon, the request and the AO's response when raising comparable prejudice. The holding should not be reduced to an automatic rule that any reference to third-party material invalidates an assessment.

Keep substantive proof alongside the procedural objection — Paragraph8 also relies on the Tribunal's satisfactory evaluation of the transactions and evidence. The quoted NR Portfolio reasoning warns that banking channels alone do not establish genuineness or creditworthiness. Present the complete transaction record; this decision does not dispense with the assessee's evidentiary burden merely because cross-examination was sought.

Do not import quoted facts or erase separate respondents — The NR Portfolio extract contains other assessment years, amounts and a private-company investment narrative. None supplies missing facts for Shailendra, Pawan or Raj Rajeshwari Gupta. Retain each appeal's identity and obtain its underlying Tribunal record for quantified relief or year-specific application.

State what happened to the competing authorities — Revenue invoked NR Portfolio and Swati Bajaj; the High Court nevertheless rejected the appeal on the procedural defect and the Tribunal's factual findings. This is not a declaration that those cases were overruled. A later matter requires comparison of the evidence and opportunity actually afforded.

Source: Editorial analysis; own paras.2–9, PDF pp.2–6

SOURCE & VERIFICATION

High Court of Judicature for Rajasthan official judgment PDF - AKHB Repository (20260324_RJHC020283002025.pdf)

6-page official High Court of Judicature for Rajasthan judgment PDF (20260324_RJHC020283002025.pdf, 103,089 bytes).

All 6 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Section 68 is expressly stated. No assessment year, addition amount or section 10(38),143(3),153A or260A is expressly identified in this source.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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