

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER AND
SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.832/Del/2017 for A.Y. 2013-14

Sh. Raju Bansal C/o. M/s. RRA TAXINDIA D-28, South Extension, Part-I, New Delhi - 110049 PAN- AANPB 7648 A	Vs.	DCIT Central Circle - II Faridabad
(APPELLANT)		(RESPONDENT)

Assessee by	Dr. Sh. Rakesh Gupta, Adv. Sh. Somil Agarwal, Adv.
Revenue by	Smt. Sushma Singh, CIT-DR

Date of hearing:	29/09/2020
Date of Pronouncement:	/10/2020

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the Assessee is directed against the order dated 21.12.2016 of the Commissioner of Income Tax (A)-Karnal relating to Assessment Year 2013-14.

2. The relevant facts as culled from the material on records are as under:

3. Assessee is an individual stated to be having income from salary and other sources. A search action u/s 132 of the Act was conducted on 09.05.2012 at the residential and office premises of the assessee. AO has noted in the assessment order that during the course of search jewellery of Rs.18,03,066/- was found from the residential premises and jewellery worth Rs 38,33,682/- was found from the locker maintained by the assessee with PNB, Ballabgarh. The statement of the assessee was recorded and he was asked to explain the source of acquisition of jewellery with supporting documentary evidence. The submissions made by the assessee was not found acceptable to AO. AO thus made addition of Rs 56,36,748/-

4. AO also noted that Rs 3,87,200/- in cash was found from the residential premises of the assessee. The assessee was asked to explain the same. The submissions made by the assessee was not found acceptable to AO. He thus made addition of Rs 50,000/-. The AO thus in the order dtd 27.02.2015 passed u/s 153B r.w.s 143(3) determined the total income at Rs 69,06,098/- as against the returned income of Rs 12,19,350/-

5. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dtd 21.12.2016 in Appeal No IT/10/GGN/2015-16 granted partial relief to the assessee.

Aggrieved by the order of CIT(A), assessee is now in appeal before us and has raised the following grounds:

1. *“That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in allowing part relief, out of the total addition made by Ld. A.O. of Rs. 56,36,748/- on account of jewellery found in the search.*
 2. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making an addition of Rs.56,36,748/- is bad in law and against the facts and circumstances of the case.*
 3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. A.O. in making an addition of Rs.50,000/- on account of cash found during the search.*
 4. *That in any case and in any view of the matter action of Ld. CIT(A) in confirming the action of Ld. A.O in making the impugned additions are bad in law and against the facts and circumstances of the case.*
 5. *That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other.”*
6. Before us, Ld AR submitted that ground No 1 & 2 are in connection with addition of Rs 56,36,748/- made on account of jewellery found at the time of search.

7. Before us, Learned A.R. reiterated the submissions made before the lower authorities and further pointed to the statement recorded at the time of search and which has been reproduced by the AO in the assessment order. From the answer given by the assessee to the question raised, he pointed to the fact that he was

staying in the house which consisted of his parents, the family of his brothers and himself and thus all the members of the joint family were staying together. He submitted that in the statement, it was stated by the assessee that the jewellery belongs to the family members and the breakup (value wise) was also provided. He pointed to the summary of jewellery that was found (a copy of which was placed in the paper book) and from there he pointed that it matched with the copy of panchnama. The Ld. A.R. further submitted that in terms of Instruction No. 1916 dated 11.05.1994 issued by CBDT, the entire jewellery found during the course of search stands explained and once the aforesaid CBDT instruction is considered alongwith the explanation provided, the jewellery found stands fully explained and no addition is called for. He further relied on the decision of Hon'ble Gujarat High Court in the case of Ratanlal Vyaparilal Jain (339 ITR 351 (Guj)). Ld DR on the other hand pointed to the findings of AO and observations made by CIT(A). He further submitted that the assessee has not filed the return of wealth and CIT(A) after considering the factual position has granted relief. She therefore submitted that no interference to the order of CIT(A) is called for.

8. We have heard the rival submissions and perused the material on record. The issue in the present grounds is with respect to addition on account of jewellery found during the course of search. It is an undisputed fact that the jewellery was found from the residential premises of the assessee. The fact that the assessee was staying in a joint family consisting of his

parents, the family of his brothers and his family consisting of his wife and daughter is undisputed. It is also a fact that during the course of search, the statement of the assessee was recorded and his explanation about the jewellery was that it belonged to the family members and he had also provided the breakup (value wise). The statement of the Assessee that were recorded at the time of search has not been found to be false or incorrect. We find that the CBDT had issued instructions No 1916 ([F.No.286/63/93-IT (INV.II)] dtd 11th May 1994 wherein it has issued Guidelines for seizure of jewellery and ornaments in the course of search. The instructions *inter alia* states that in the case of a person not assessed to wealth-tax, gold jewellery and ornaments to the extent of 500 gms. per married lady, 250 gms. per unmarried lady and 100 gms. per male member of the family, need not be seized. We find that the Hon'ble High Court in the case of CIT v. Ratanlal Vyaparilal Jain 339 ITR 351 (Guj) has held that though the CBDT Circular No.1916 dated 11th May 1994 has been issued for the purpose of non seizure of jewellery during the course of search but unless the Revenue shows anything to the contrary, it can safely be presumed that source to the extent of jewellery stated in the circular stands explained.

9. In the present case if the facts are seen in the light of the aforesaid decision of Hon'ble High Court in the case of Ratanlal Vyaparilal Jain (supra), it is seen that nothing has been brought on record by Revenue to contradict the statement made at the

time of search. Before us no contrary binding decision supporting the stand of Revenue has been placed by the Revenue. In such a situation, respectfully following the aforesaid decision of Hon'ble Gujarat High Court, we are of the view that no addition can be made in the present case. We thus direct the deletion of addition. **Thus the ground of the assessee is allowed.**

10. 2nd issue is with respect to addition of Rs 50,000/-.

11. AO has noted that cash of Rs. 3,87,200/- was found at the time of search. Since the assessee could not explain its source, AO after considering the submissions of the assessee made addition of Rs. 50,000/- . Aggrieved by the order of AO, assessee carried the matter before CIT(A) who confirmed the action of AO. Aggrieved by the order of CIT(A), assessee is now before us.

12. Before us, Ld AR pointed to the answers given by the assessee at the time of search and which is noted by the AO in the assessment order. He submitted that the assessee had given the explanation and there was no justification in making the addition of Rs. 50,000/. He thus submitted that the addition be deleted. Ld DR on the other hand supported the order of lower authorities.

13. We have heard the rival submissions and perused the material on record. The issue in the present ground is with

respect to addition of Rs. 50,000/- It is an undisputed fact that during the course of search, cash of Rs. 3,87,200/- was found. After considering the explanation, AO did not made addition of the entire cash but made the addition of Rs 50,000/- only. CIT(A) while confirming the action of AO has noted that the assessee could not explain the availability of cash through any cash withdrawals from bank or cash book or any other documentary evidence. Before us also the Ld AR has not placed any evidence to controvert the findings of CIT(A). He has merely relied on the general explanation about the availability of cash given by the assessee at the time of search. In such a situation, we find no reason to interfere with the order of CIT(A) and **thus this ground of assessee is dismissed.**

14. In the result the appeal of assessee is partly allowed.

Order pronounced in the open court on 07.10.2020

Sd/-

**(H.S. SIDHU)
JUDICIAL MEMBER**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 07.10.2020

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI