

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' 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.451/Mds/2016

निर्धारण वर्ष / Assessment Year : 2008-09

Shri G. Balasubramanian,  
C/o M/s PASS ASSOCIATES,  
No.90, Armenian Street, 4<sup>th</sup> floor,  
"ORIENT CHAMBERS",  
Chennai - 600 001.

v. The Assistant Commissioner of  
Income Tax,  
Central Circle – III,  
Madurai.

PAN : AAXPB 7299 R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No. 453/Mds/2016

निर्धारण वर्ष / Assessment Year : 2008-09

Shri G. Murugan,  
C/o M/s PASS ASSOCIATES,  
No.90, Armenian Street, 4<sup>th</sup> floor,  
"ORIENT CHAMBERS",  
Chennai - 600 001.

v. The Assistant Commissioner of  
Income Tax,  
Central Circle – III,  
Madurai.

PAN : ABIPM 5319 F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellants by : Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 03.05.2016

घोषणा की तारीख/Date of Pronouncement : 17.06.2016

**आदेश / O R D E R**

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

Both the appeals filed by different assesseees are directed against the respective orders of the Commissioner of Income Tax (Appeals) – 19, Chennai, dated 17.12.2015 and pertain to assessment year 2008-09. Since common issue arises for consideration in both the appeals, we heard these appeals together and disposing of the same by this common order.

2. Shri D. Anand, the Ld.counsel for the assesseees, submitted that both the assesseees are partners in M/s Sri Ganapathy Silks, engaged in textile business. According to the Ld. counsel, there was a search operation in the premises of one of the partners at Coimbatore. Simultaneously, search was also conducted at the godown of the partnership firm at Raja Street, Coimbatore. According to the Ld. counsel, Revenue authorities found 617.19 gms of gold jewellery in the residence of the assessee, Shri Balasubramanian and 679.43 gms of gold jewellery in the residence of Shri G. Murugan. Jewelleries of both the assesseees were examined. The Ld.counsel further submitted that during the course of marriage, the respective spouses of the assesseees received

Sridhan property in the form of gold jewellery. They have also purchased some of the jewellery after their marriage. The Assessing Officer found that no evidence was filed by the assesseees to support the claim of gold jewellery. Therefore, an addition was made to the extent of ₹4,66,115/- in the hands of Shri Balasubramanian and another sum of ₹5,76,772/- in the hands of Shri G. Murugan. The Ld.counsel submitted that it is a customary practice to give gold jewellery at the time of marriage and ceremonial occasions by the parents to the daughters. Therefore, according to the Ld. counsel, the addition made by the Assessing Officer is not justified.

3. On the contrary, Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that admittedly, there was search in the residential premises of the assesseees and gold jewellery was found at the residences of both the assesseees. In the absence of any evidence to show that the respective spouses of the assesseees received Sridhan property at the time of marriage and they have also acquired part of jewellery after their marriage, the Assessing Officer found that the claim of the assesseees cannot be accepted. Therefore, according to the Ld. D.R., the same was found to be

undisclosed investment of the assesseees. The CIT(Appeals) confirmed the addition in the absence of any material evidence.

4. We have considered the rival submissions on either side and perused the relevant material available on record. Both the assesseees are partners in a partnership firm, which engaged in the textile business. During the course of search operation at the residential premises of the assesseees, gold jewellery to the extent of 617.19 gms was found in the case of Shri Balasubramanian and 679.43 gms in the case of Shri Murugan. The Assessing Officer found that the value of gold jewellery was undisclosed investment in the absence of any material evidence to support the purchases. It is customary practice in this part of country to give gold jewellery to the daughters by the respective parents, depending upon their financial and social status in the locality. Both the assesseees are engaged in the business of textile and they are partners in the partnership firm. Therefore, acquisition of gold jewellery by their wives cannot be ruled out totally. Both the authorities below made addition on the ground that no material is available on record to support the acquisition of gold jewellery. When the jewellery was given as Sridhan property at the time of marriage, the parents of the

daughters do not give any evidence to their daughters for acquisition of the jewellery. The daughters also would not demand evidence for acquisition. It is a customary practice to give gold jewellery at the time of marriage. This customary practice prevailing in this part of country cannot be ignored by the authorities below while framing assessment in the income-tax proceeding. The assessing authority has to examine whether the spouses of the respective assesseees would have received so much of jewellery from their respective parents after considering the financial and social background of the respective parents. This Tribunal is of the considered opinion that when the assesseees are engaged in the business of textile at Coimbatore and Sankarankovil, they would commend social respect in both the localities. Therefore, receipt of Sridhan property by the respective wives of the assesseees cannot be totally ruled out. What was found at the residences of the assesseees were only 617.19 gms of gold jewellery in the case of Shri Balasubramanian and 679.43 gms of gold jewellery in the case of Shri Murugan. This Tribunal is of the considered opinion that it is quite natural that wives of the respective assesseees would have received the same at the time of their marriage. It is also possible that some of the jewellery would have been acquired by their

spouses in due course after their marriage. Under ordinary circumstances, no one maintains the supportive evidence / vouchers for purchase of jewellery. This customary practice prevailing in the society cannot be totally ignored by the authorities below. This Tribunal is of the considered opinion that by taking into consideration the social status and financial background of respective assessees and parents of respective wives, they would have received Sridhan from their parents. Therefore, consideration of the gold jewellery as undisclosed investment in the hands of the assessee is not justified. Accordingly, the orders of the authorities below are set aside and the entire addition made towards the cost of gold jewellery is deleted in the case of both the assessees.

5. In the result, appeals of both the assessees are allowed.

Order pronounced on 17<sup>th</sup> June, 2016 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 17<sup>th</sup> June, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellants
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-19, Chennai-34
4. Principal CIT, Central-2, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.