

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI

BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER

ITA No. 2450/DEL/2017 [A.Y. 2012-13]

Smt. Shashi Arora
190, Sector 12, HUDA,
Panipat

Vs.

The I.T.O
Ward - 4
Panipat

PAN : ADFPA 5882 Q

[Appellant]

[Respondent]

Date of Hearing : 11.10.2017
Date of Pronouncement : 13.10.2017

Assessee by : Shri Y.P. Rawla, CA

Revenue by : Shri T. Vasanthan Sr. DR

ORDER

This appeal of the assessee arises from the order of the ld. CIT(A), Karnal vide order dated 20.01.2017 for assessment year 2012-13.

2. The assessee has raised following grounds of appeal:

“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned order u/s 147 r.w.s. 143(3) of the Income-tax Act, 1961 that too without assuming jurisdiction as per law and without giving adequate opportunity of being heard.

2. *That Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in making aggregate addition of Rs.3,03,750/- on account of unexplained investment u/s 69 of the Income-tax Act, 1961 and that too by recording incorrect facts and findings and without considering the submissions and evidences filed by the assessee and in violation of principles of natural justice.*

3. *That without prejudice to the other grounds, Ld. CIT(A) has erred in law and on facts in not granting the benefit of the list of articles/ gold items etc.*

4. *That the appellant craves to leave, add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

3. Facts, in brief, are that the Assessing Officer obtained information regarding purchase of gold jewellery weighing 150 gms. on 02.09.2011. The assessee was asked to explain the source of this investment and after following the due procedure of law, the AO issued notice u/s 148 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short]. During the assessment proceedings, the AO examined the list of dowry articles as per the complaint filed with the police authority on 15.09.2012. The assessee was provided opportunity to explain the gold items and there was no explanation regarding two gold chains weighing

150 gms, The AO found that these two gold items weighing 150 gms had not been submitted in the revised list of dowry articles submitted by the assessee before the Civil Court vide petition dated 04.09.2013. Assessing Officer, therefore, sought explanation regarding the source of investment in these two chains weighing 150 gms of gold. However, since no proper explanation regarding source of investment was provided by the assessee, the AO applied the rate of Rs. 22,500/- per ten grams to arrive at the addition of Rs. 3,03,750/-

4. The ld. CIT(A) confirmed the action of the Assessing Officer.

5. I have heard both the sides and perused the relevant material on record. At the outset, it is evident that there is no application of mind by the Assessing Officer while entering jurisdiction u/s 147/148 of the Act and it is only on the basis of outside information that he has added the value of 150 gms of jewellery and added the same to the income of the assessee.

6. As regards the issue on merits, the assessee has already revised the jewellery list before the Assessing Officer though not revised before the Civil court. The Dabri case is a different matter and the

Income tax proceedings are impendent proceedings and there are no basis for the possession of this extra jewellery of 150 gms. with the assessee which was given in dowry. It may be possible that jewellery might have been given by somebody else though I cannot comment upon the same in the absence of facts of the civil case. But in the facts and circumstances of the case, the Assessing Officer does not have any material to add the investment of 150 gms of jewelery to the income of the assessee and the same is directed to be deleted. Accordingly, all the grounds of the assessee are allowed.

6. In the result, the appeal of the assessee in ITA No. 2450/DEL/2017 is allowed.

The order is pronounced in the open court on 13.10.2017.

Sd/-
[B.P. JAIN]
ACCOUNTANT MEMBER

Dated: 13th October, 2017

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi