

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

**BEFORE SMT. BEENA A PILLAI, JUDICIAL MEMBER
AND SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No. 3392/Del/2015
AY: 2011-12**

Sh. Mohan Gupta Lane 13 B, Western Avenue Sainik Farms New Delhi 110 034 PAN: AANPG5697C	Vs.	Dy.CIT, Central Circle 25 New Delhi
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(Appellant)

(Respondent)

Assessee by : Ms. Saumya Singh, Adv.

Department by : Sh. Surender Pal, Sr. D.R.

Date of Hearing : 08/11/2018

Date of Pronouncement: 28/11/2018

ORDER

PER BEENA A PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 25/03/15 passed by Ld.CIT(A)-25, New Delhi for Assessment Year (A.Y.) 2011-12 on following grounds of appeal:

1. *That on the facts and circumstances of the case, the order passed by the Ld. CIT(A)- 25, New Delhi is perverse, illegal as the proper opportunity of being heard was not given to the assessee and hence it is liable to be quashed.*

2. That on facts and circumstances of the case the Ld. CIT(A) has grossly erred in holding that appellant has not taken any ground with regard to seizure amount to Rs. 4,50,000/-, so there is no decision on that amount. Whereas, the assessee has taken the following ground :

“That on fact and circumstances of the case the Ld.AO has grossly erred in making the addition of Rs.4,50,000/- on account of cash seized from the premises of the assessee illegally. Therefore the same is liable to be quashed. ”

Therefore, the order is also perverse on this account also.

3. That on the fact and circumstances of the case the Ld.CIT(A) has erred in confirming the addition made to the tune of Rs.2,69,130/- on account of unexplained jewellery, in defiance of the Instruction no.1916, which is illegal, hence liable to be quashed.

4. The appellant craves leave for addition, modification, alteration, amendment of any of the grounds of appeal.

2. Brief facts of the case are as under:

Assessee filed his return of income declaring total income of Rs.14,44,400/- on 31/03/12. A search and seizure operation under section 132 of the Income Tax Act, 1961 (the Act) was carried out on 03/03/11 wherein cash amounting to Rs.5,86,950/-, and jewellery amounting to Rs.15,98,094/-was found. The search team seized cash amounting to Rs.4,50,000/- and the jewellery amounting to Rs.2,69,130/-. Accordingly a show cause notice was issued to assessee for explaining the source of cash and jewellery with supporting evidences. Assessee

placed reliance upon Instruction No.1916 issued by Board in regards to jewellery seized. It was submitted that jewellery weighing 640.850 gm, valuing Rs.15,98,094/- belonged to assessee's wife and other family members.

3. Ld.AO rejected assessee's claim by submitting that no details were furnished in respect of the jewellery seized and held that explanation regarding the seized jewellery was not satisfactory.

4. Aggrieved by order of Ld.AO assessee preferred appeal before the Ld.CIT(A) who rejected assessee's claim.

5. Aggrieved by the order of Ld.CIT(A) assessee is in appeal before us.

6. Ld.AR primarily submitted that sufficient opportunity was not granted to assessee in order to substantiate his claim.

6.1. On the contrary Ld.Sr.DR placed reliance upon the orders of authorities below.

7. We have perused submissions advanced by both sides in light of records placed before us.

8. It is observed that assessee instituted appeal before Ld. CIT (A) on 18/12/14 and impugned order was passed on 25/03/15. In our considered opinion Ld.CIT(A) should have granted sufficient time to assessee to represent his case and to file requisite details in support of the claim.

9. Accordingly we are inclined to set aside this issue back to Ld.CIT(A) with a direction to grant proper opportunity to assessee as per law. Assessee is directed to file all requisite details as called for in support of his claim.

10. In the result appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 28th November, 2018.

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(BEENA A PILLAI)
JUDICIAL MEMBER**

Dt. 28th November, 2018

- Gmv

Copy forwarded to: -

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

- TRUE COPY -

By Order,

ASSISTANT REGISTRAR
ITAT Delhi Benches

	Date
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Date on which file goes to the Head Clerk.	
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