

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES 'A' JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 436/JP/2017  
निर्धारण वर्ष/Assessment Year : 2012-13

Shri Mohammed Akhlaq, Jaipur	बनाम Vs.	Dy. Commissioner of Income-Tax, Central Circle-2, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AFIPM5122Q		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

आयकर अपील सं./ITA. No. 434/JP/2017  
निर्धारण वर्ष/Assessment Year : 2012-13

Smt. Shaheen Akhlaq, Jaipur	बनाम Vs.	Dy. Commissioner of Income-Tax, Central Circle-2, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADOPA0243N		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से/ Assessee by : Shri S. R. Sharma &  
Shri Rajnikant Bhatra (C.A)  
राजस्व की ओर से/ Revenue by : Shri Varindar Mehta (CIT)

सुनवाई की तारीख/ Date of Hearing : 14/05/2019  
उदघोषणा की तारीख/Date of Pronouncement : 24/05/2019

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

These are two appeals filed by the respective assessees against the order of Id. CIT(A)-4, Jaipur dated 17.03.2017 for the Assessment

Year 2012-13. Since the common issues are involved, both these appeals were heard together and are disposed off by this consolidated order.

2. In ITA No. 436/JP/2017, the assessee has taken the following grounds of appeal.

*"1. That on the facts and in the circumstances of the case the Id. CIT(A) is wrong, unjust and has erred in law in confirming addition of Rs. 10,26,240/- made to the income of the appellant by the Id. Assessing Officer on account of ½ share in alleged unexplained investment in jewellery valuing Rs. 20,52,479/- (weighing 779.92 gams) and silver articles valuing Rs. 1,00,000/- claimed by the appellant to have been received from friends and relatives on marriage and other occasion."*

3. Briefly stated, the facts of the case are that a search and seizure action u/s 132 of the Act was carried out on the members of Sunny Group on 01.12.2011 of which the assessee is one of the members. During the course of search proceedings, certain jewellery valued at Rs. 51,08,301/- was found from the residence and bank locker of the assessee and his wife, however, there was no seizure by the Department/surrender by the assessee during the search proceedings. During the course of assessment proceedings, the assessee was asked by the Assessing officer to explain the source of investment in such jewellery.

4. In response, the assessee submitted that the said jewellery belongs to him and his family which has been received from both sides

of relatives and friends at the time of marriage and thereafter on various other festivals and auspicious occasions. It is customary in Indian society that parents, friends & relatives present gold ornaments and silver items etc to their daughter and son in law at the time of marriage and other social functions/festivities. It was submitted that the said fact can be verified from the items of jewellery duly inventorised by the search team that the jewellery items were acquired long back and at that time, the value was very low. Due to sharp increase in the price of the gold/silver in the preceding years and in the year of search, the value of the said items has increased and has been determined at Rs. 51,08,301/-. It was submitted that the family of assessee and his in-laws are families of repute and means and his in-laws were old Jagirdars. Therefore, looking at the status of the family, customs of the society and other facts and circumstances of the case, the total weight of gold and silver should be found reasonable and source of acquisition as explained above deserves to be accepted. It was further submitted that as per the statement of Smt. Shaheen Akhlaq, wife of Shri Mohd. Akhlaq, recorded during the course of search, her married daughter Gazala has also left some jewellery with her for safe keeping while going out-of-station for safety purposes. It was also submitted that the possession of the said jewellery is covered by the guidelines issued by the CBDT for the jewellery and gold ornaments of a family found during the course of search and the same thus should be accepted and no addition should be made on this account.

5. The reply so filed by the assessee was not found acceptable to the Assessing Officer. As per the Assessing Officer, neither the assessee nor any of his family members are filling their respective Wealth Tax

Returns. Further, there are not drawing their personal balance sheet or statement of affairs and entire jewellery was found from the bedroom of the assessee and his wife, and jointly owned by them. The AO at the same time accepted that some customary possession on account of marriage gifts and gifts on other occasions to the assessee and his family members cannot be denied. The family of the assessee consists of five adult members consisting of one married lady, two unmarried female members and two male members. As per the CBDT guidelines, the maximum weight on account of customary possession works out to 1200 gms as against gold jewellery 1979.92 gms found during the course of search and the same was considered as explained and the balance gold jewellery was brought to tax equally in the hands of the assessee and his wife. Regarding the assessee's contentions that some of the jewellery found during search belongs to assessee's married daughter, the AO stated that the same cannot be accepted since no proper evidence in this regard was furnished nor was any such evidence found or seized during the course of search. Regarding silver articles (3229 gms) valued at Rs. 1,52,222/- found during the course of search, the assessee's contentions were accepted to the extent of Rs. 52,222/- and the balance of Rs. 1,00,000/- represented by the silver articles is held to be acquired out of the undisclosed income and the same was also brought to the tax. Therefore, out of the total gold jewellery and silver articles found during search and valued at Rs. 51,08,301/-, jewellery and silver items worth Rs. 30,55,822/- were considered as explained and the balance amount of Rs. 20,52,479/- was brought to tax equally in the hands of the assessee and his wife u/s 69A of the Act.

6. Being aggrieved, the assessee carried the matter in appeal before the Id. CIT(A) who has since confirmed the addition and the relevant findings are contained at para 3.1.3 of his order which is reproduced as under:-

*"3.1.3 I have duly considered assessee's submissions and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. It is submitted that jewellery weighing 1979.92 gms and silver articles weighing 3229.00 gms found at the time of search were received by the appellant and his family members from their relatives and friends on occasion of marriage and other occasions. It is also submitted that during the course of assessment proceedings A.O. on assessee's submission/explanation has allowed gold jewellery to the extent of 500 gms per married lady, 250 gms per unmarried lady and 100 gms per male member. Following the CBDT Instruction, A.O. has allowed in all 1200 gms of gold jewellery (value Rs.30,03,600/-) to family of assessee as against 1979.92 gms (value Rs. 51,08,301/-) found & inventorized in course of search. Following this, AO has made the addition of Rs. 10,26,240/- (being  $\frac{1}{2}$  of Rs. 20,52,479/) in the hands of assessee by treating the gold jewellery /silver articles as unexplained possession and taxing the same u/s 69A of the Act. Here AO's action is legally justified and I do not find any reason for intervention as prayed by the assessee.*

*Now coming to the alternative plea of telescoping benefit of Rs. 96,220/- being actual cash balance available with the assessee*

*and her wife Sh Md Shami Akhlaq , assessee has asked for suitable relief by allowing this as expenditure for treating the gold determined by the AO as unexplained gold jewellery/ silver article. I do not find any reason for allowing this relief to the assessee.*

*In view of facts and circumstances as discussed above, addition made by the AO is hereby sustained, accordingly, assessee's appeal in Gr No. 1 fails."*

7. Against the said finding, the assessee is now in appeal before us. During the course of hearing, the Id. AR reiterated the submission made before the lower authorities and submitted that in course of search proceedings, the assessee submitted the same explanation, as we have noted above, which was accepted by authorized officer of search team in view of guidelines issued by CBDT relating to seizure of gold jewellery etc. which was found at the time of search and, therefore, no item of gold jewellery/silver jewellery/utensils were seized during the course of search. In course of assessment proceedings, the Id. AO basis the same explanation has only allowed minimum gold jewellery, as per CBDT guidelines, to the extent of 500 gms per married lady, 250 gms per unmarried lady and 100 gms per male member. Thus Id. AO allowed in all 1200 gms of gold jewellery (value Rs. 30,03,600/-) to family of assessee as against 1979.92 gms (value Rs. 51,08,301/-) found in course of search.

8. The Id. AR drawn our reference to the CBDT Instruction No. 1916 dated 11/05/1994 wherein it has been held as under:-

*"Instances of seizure of jewellery of small quantity in course of operations under section 132 have come to the notice of the Board. The*

*question of a common approach to situations where search parties come across items of jewellery, has been examined by the Board and following guidelines are issued for strict compliance.*

*(i) In the case of a weath-tax assessee, gold jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return only need be seized.*

*(ii) 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.*

*(iii) The authorized officer may, having regard to the status of the family, and the custom and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure. This should be reported to the Director of Income-tax/Commissioner authorising the search at the time of furnishing the search report.*

*(iv) In all cases, a detailed inventory of the jewellery and ornaments found must be prepared to be used for assessment purposes.*

*These guidelines may please be brought to the notice of the officers in your region."*

9. It was submitted by the Id AR that in the said guidelines, the minimum jewellery allowed to even a married lady just married or even married 20 years back and unmarried lady even may be 3-5 years of age. At the same time, it provides that authorized officer, having regard to the status of family and the custom and practices of the community to which family belongs and other circumstances of the case, may

decide to exclude a large quantity of jewellery and ornaments for seizure in course of search. The assessee belongs to reputed old Jagirdar family and so enjoying high status in society, married about 30 years back when in marriage mostly gold jewellery were given to daughters on marriage as there were no other valuable things for gifts in those days. The assessee belongs to Muslim community where there is custom and community practice to give large quantity of gold ornaments at the time of marriage. One daughter is married and the other two daughters of assessee are of marriageable age and so looking at that, often gold ornaments etc. are given as gifts etc. on functions and occasions by friends & relatives. The assessee is enjoying a status of prominent builder group and, therefore also there exists circumstances to receive often gifts of gold jewellery/silver articles. In view of these facts, the gold jewellery of 1979.92 gms found from assessee and his family members deserves to be treated as explained. The silver articles of 3.229 Kg (value Rs. 1,52,222/-) found from said entire family are quite negligible as such silver articles are often received in gifts and occasionally also purchased. The Id. AO is wrong in allowing only 1.107 kg (value Rs. 52,222/-) as explained and remaining 2,222 kg (value Rs. 1,00,000/-) as not properly explained. Thus the addition of Rs. 10,26,240/- (1/2 of Rs. 20,52,479/-) in the hands of assessee by treating the gold jewellery/silver articles as unexplained possession and subjecting the same to tax u/s 69A is wrong, unjust and bad in law.

10. Further, the Id. AR relied on the Co-ordinate Bench decision in case of Sh. Vibhu Aggarwal vs. DCIT, CC-06, New Delhi (*ITA No. 1540/DEL/2015 dated 04/05/2018*) which has followed the decision of

the Hon'ble Delhi High Court in case of Ashok Chadha vs. ITO (14 taxmann.com 57) and decision of the Hon'ble Rajasthan High Court in case of CIT vs Satya Narain Patni (46 Taxmann.com 440).

11. The Id CIT DR is heard who has vehemently argued the matter and submitted that the AO has been reasonable in allowing the credit for jewellery possessed by the assessee and his family and the excess jewellery has rightly been brought to tax. He accordingly submitted that there is no infirmity in the order of the Id CIT(A) and the same should be confirmed.

12. We have heard the rival contentions and gone through the material available on record. The assessee is married for last 30 years and the family of the assessee consists of his wife, three daughters out of which two are unmarried and one unmarried son. It is not in dispute that the assessee over the period of time had purchased some gold jewellery for himself and his family members, and further customary possession of gold jewellery/silver items on account of marriage gifts and gifts on other social occasions and festivities to the assessee and his family members cannot be denied. The limited question for consideration is what is the reasonable quantity of jewellery which can be considered as acquired/received by the assessee over the period of time and which can be considered as explained for tax purposes. During the course of search, gold jewellery weighing 1979.92 gms and silver jewellery/items weighing 3229 gms were found in possession of the assessee. In her statement recorded u/s 132(4), the wife of the assessee (duly accepted by the assessee) has stated as under:

"प्रश्न 4 आज दिनांक 2.12.2011 को आपके मकान नं.17,18,19 गौरव नगर, सिविल लाईन्स, जयपुर पर आयकर अधिनियम की धारा 132 के तहत हुई तलाशी

की कार्यवाही के दौरान आपके तथा आपके पति श्री मोहम्मद अखलाक के कमरे से प्राप्त कुल रूपये 51,08,301/-की सोने व चाँदी की ज्वैलरी प्राप्त हुई जिसकी Valuation हमारे Govt. approved Valuer श्री कैलाश चौहान जी करके Annexure JF-VII व Annexure SF में दर्ज की? क्या आप इस Valuation से संतुष्ट है तथा क्या आप यह बता सकती है कि उपरोक्त ज्वैलरी किस-2 से संबंधित है तथा उसे क्रय करने के स्रोत क्या है । इसी ज्वैलरी में आपके J&K बैंक लॉकर नं 90 से पाई व घर पर मूल्यांकन हेतु लाई गई ज्वैलरी शामिल है।

उत्तर उपरोक्त कथित ज्वैलरी का जो valuation आपके Valuer श्री कैलाश चौहान ने की है और Annexure JF-VII व Annexure SF में दर्ज है, उससे मैं पूर्णतया संतुष्ट हूँ। यह ज्वैलरी जो बैंक लॉकर (J&K बैंक लाकर नं.90) तथा हमारे घर से प्राप्त हुई है वह मेरे स्वयं, मेरे पति श्री मोहम्मद अखलाक, मेरी दो अविवाहित बेटी आस्मा व फोजिया, मेरे पुत्र श्री मोहम्मद समी तथा मेरी दो नवाजी अरफिया व माहेरा तथा मेरी विवाहित पुत्री गजाला से संबंधित है। परन्तु कौन सी ज्वैलरी किससे संबंधित है यह मैं बताने में असमर्थ हूँ क्योंकि ये ज्वैलरी हम common रूप से प्रयोग करते हैं। ये ज्वैलरी हमने विभिन्न त्यौहारों व अवसरों पर अपनी बचत से क्रय की है तथा कुछ ज्वैलरी इसमें से ही हमे मेरे माता-पिता तथा रिश्तेदारों ने हमारी शादी के अवसर पर दी थी। अपनी सारी ज्वैलरी हम अपने घर 17,18,19 गौरव नगर, सिविल लाईन्स जयपुर तथा अपने बैंक लॉकर्स नं. 90, J&K बैंक, एम.आई रोड, जयपुर में रखते हैं। इस लॉकर की सारी ज्वैलरी दिनांक 01.12.2011 को हमारे अनुरोध पर हम आपको स्टाफ के साथ जाकर अपने उपरोक्त बताये गये मकान पर मूल्यांकन व सत्यापन के लिये लाया गया था। मैं यह भी स्पष्ट करना चाहती हूँ कि इस ज्वैलरी में मेरी बेटी गजाला व उसकी दो बेटी अरफिया व माहेरा की भी ज्वैलरी सम्मिलित है। मेरी बेटी गजाला दो दिन पहले आगरा शादी में गई थी तो वह अपनी ज्वैलरी सुरक्षा की दृष्टि से हमारे घर पर रख गई थी। ”

13. Basis the above statement, the search team has found the possession of the above jewellery by the assessee and other members of the family within the reasonable limits and has not carried any seizure of the aforesaid jewellery. The Assessing officer has however considered jewellery pertaining to assessee, his wife, two unmarried daughters and one son as explained as per minimum threshold prescribed by the aforesaid CBDT circular and the remaining jewellery stated to be belonging to married daughter and two grandchildren as

unexplained. To our mind, once the assessee has stated on oath in her statement u/s 132(4) that the jewellery also belongs to her married daughter and her two children besides other family members, there is no basis with the Assessing officer to restrict the same to only few members excluding the other members. Once the assessee has stated that though the jewellery has been found in her possession, a part of the jewellery belongs to and thus owned by her married daughter, the said statement cannot be negated in absence of anything contrary on record. Under section 69A, the language used is where the assessee is found to be owner of any jewellery, therefore mere possession is not sufficient enough to determine the ownership especially when the assessee has stated on oath u/s 132(4) that a part of jewellery belongs to/owned by her married daughter. The statement of the assessee has to be read as a whole and not in parts. The Revenue cannot take the stand that only part of the statement is accepted and remaining is not acceptable. Where the Revenue disputes a part of the statement as not correct, the onus shifts on the Revenue to prove otherwise and not the assessee. Therefore, going strictly by clause (i) of the CBDT Circular dated 11.05.1994, the gold jewellery found in possession of the assessee is within the permissible limits as belonging to the assessee and other family members including married daughter and children.

14. Further, if we read clause (ii) of the said CBDT circular, even as per said clause, the search team has found the possession of the above jewellery by the assessee and other members of the family within the reasonable limits as per the status, customs and practices of the community to which the family belongs and has not carried any seizure of the aforesaid jewellery. The assessee belongs to a reputed old

Jagirdar family and so enjoying high status in society, married about 30 years back and has three daughters and one son and possession of gold and silver jewellery is customary in the Indian society and also gifts on marriages and other social functions. The Courts have held that where the CBDT looking to such customs and practices prevailing throughout India, in one way or the another, came out with this Circular and the search team makes no such seizure effectively accepting the status of the assessee, customs and practices and possession of the jewellery, it should also mean that to the extent of the aforesaid jewellery, found in possession of the assessee, even source cannot be questioned. In the present case, looking at the status of the family and the jewellery found during the search, it was held to be reasonable and therefore, the search team, in the first instance, did not seize the said jewellery and thus, in our view, subsequent addition is also not justified on the part of the Assessing Officer. Similar is the position regarding silver jewellery and items found in possession of the assessee in respect of which the source can be said to be duly explained. In this regard, useful reference can be drawn to **Hon'ble Rajasthan High Court** decision in case of **CIT vs Satya Narain Patni** 46 Taxmann.com 440 wherein it was held as under:

*"8. Thus, from the perusal of above chart as well as statements, it is abundantly clear that jewellery which has been found in possession of the family members is in accordance with customs and practice prevalent in the community and in accordance with status of the family.*

*9. On perusal of the order of CIT (Appeals) as also the Tribunal, we notice that the Assessing Officer had not given any basis for restricting the claim of jewellery at 1600 gms as reasonable while*

*the Assessing Officer has simply mentioned about there being four ladies, but ignored that in addition to four ladies, there were four male members so also three children and if the male members so also the children are considered, then even factually the claim of respondent-assessee appears to be reasonable in the light of the aforesaid instruction dated 11.5.1994. If the circular is strictly followed, then to the extent of 2700 gms, no jewellery could be seized. (500x4 ladies+100x7 male+ children=2700 gms.). In the aforesaid facts, we fail to understand the basis of 1600 gms held reasonable by the Assessing Officer.*

*10. Therefore, in our view, the Tribunal has rightly considered the said issue and we are also in conformity with the order passed by the Tribunal. We are also of the view that the Central Board of Direct Taxes keeping in view the status of the family, customs and practice of the community, came down with the said circular and one has to go with the weight and not with the value as the value may fluctuate over the years. The Tribunal has also appreciated the fact on record that the marriage of three sons were performed in the year 1996, 2000 and 2003 and all the marriages including the assessee and three sons were performed prior to 2003. It is also on record that the statement of various family members were recorded and none has stated that these are not personal wearing jewellery and same were received by the respective ladies/daughter-in-law on/or at the time of their marriages either from the parental side or in-laws side and even subsequently at the time of birth of their children.*

*11. On perusal of the circular of the Board, quoted supra, it is clear that in the case of wealth tax assessee, whatever gold jewellery and ornaments have been found and declared in the wealth tax return, need not be seized. However, sub-clause (ii) prescribes that in 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. Sub-clause (iii) also prescribes that the authorised officer may, having regard to the status of the family, and the custom and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure.*

*12. It is true that the circular of the CBDT, referred to supra dt. 11/05/1994 only refers to the jewellery 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 and it does not speak about the questioning of the said jewellery from the person who has been found with possession of the said jewellery. However, the Board, looking to the Indian customs and traditions, has fairly expressed that jewellery to the said extent will not be seized and once the Board is also of the express opinion that the said jewellery cannot be seized, it should normally mean that any jewellery, found in possession of a married lady to the extent of 500 gms, 250 gms per unmarried lady and 100 gms per male member of the family will also not be questioned about its source and acquisition. We can take notice of the fact that at the time of wedding, the daughter/daughter-in-law receives gold ornaments*

*jewellery and other goods not only from parental side but in-laws side as well at the time of 'Vidai' (farewell) or/and at the time when the daughter-in-law enters the house of her husband. We can also take notice of the fact that thereafter also, she continues to receive some small items by various other close friends and relatives of both the sides as well as on the auspicious occasion of birth of a child whether male or female and the CBDT, looking to such customs prevailing throughout India, in one way or the another, came out with this Circular and we accordingly are of the firm opinion that it should also mean that to the extent of the aforesaid jewellery, found in possession of the various persons, even source cannot be questioned. It is certainly 'Stridhan' of the woman and normally no question at least to the said extent can be made. However, if the authorized officers or/and the Assessing Officers, find jewellery beyond the said weight, then certainly they can question the source of acquisition of the jewellery and also in appropriate cases, if no proper explanation has been offered, can treat the jewellery beyond the said limit as unexplained investment of the person with whom the said jewellery has been found.*

*13. Admittedly, looking to the status of the family and the jewellery found in possession of four ladies, was held to be reasonable and therefore, the authorized officers, in the first instance, did not seize the said jewellery as the same being within the tolerable limit or the limits prescribed by the Board and thus, in our view, subsequent addition is also not justifiable on the*

*part of the Assessing Officer and rightly deleted by both the two appellate authorities namely' CIT(A) as well as the Tribunal.*

*14. It can also be observed here that prior to 1992, when the exemption limit under the Wealth Tax Act was about Rs.1,00,000/- or Rs.1,50,000/-, then in most of the cases, returns were filed under the Wealth Tax Act because even in case of possession of 500 gms per lady and the other assets namely; capital, investments in firms/shares, landed property etc. etc. being taxable return of wealth were invariably filed by the assesseees. However, by the Finance Act, 1992 w.e.f. 01/04/1993 drastic change was introduced under the Wealth Tax Act where only some assets u/s 2(ea) came within the perview of the definition of an "Asset" under the wealth tax and by and large, the other assets namely; liquid, capital investments in firms/shares, one house property, commercial assets were exempt and even the limit of other assets was raised to 15 lacs (for the Assessment Year 1993-94 to 2009-10) and thereafter, by and large, even the assesseees, who were furnishing returns prior to 01/04/1992, in view of the drastic amendment made under the Wealth Tax Act, chose not to file wealth tax return as there was no liability for furnishing wealth tax returns. That does not mean that whatever assets were there in their possession, not disclosed under the Wealth Tax Act, remained undisclosed. May be, later on, on account of increase in the gold/silver prices, value of gems/ stones, value of jewellery may have exceeded but that does not mean that if a person has not filed wealth tax return, then jewellery even to the said extent of 500 gms prescribed by*

*the aforesaid circular, became undisclosed. Admittedly, it is not the case of the revenue that the jewellery, so found, which has been prescribed hereinabove, was not admitted by the family members at the time of search. All the ladies in the family admitted that the jewellery found were all their own and some of the jewellery was lying in custody and control of their mother-in-law and in Indian conditions, it happens that the daughter-in-law keeps her jewellery with her mother-in-law or/and head of the family and takes the same whenever required for some occasion in the family. Even otherwise, the jewellery is personal wearing in nature and the revenue has not placed any material on record to show that the items, which were found, were not personal wearing of the ladies.*

*15. Considering the above facts and circumstances, in our view, the Tribunal has correctly analyzed the Circular of the Board and we do not find any infirmity or perversity in the order of the ITAT so as to call for any interference of this Court. In our view, no substantial question of law arise out of the order passed by the ITAT."*

15. In light of above discussions and in the entirety of facts and circumstances of the case and respectfully following the decision of the Hon'ble Rajasthan High Court (supra), the matter is decided in favour of the assessee and against the Revenue. The order of the lower authorities is set-aside and the appeal of the assessee is allowed.

16. In ITA No. 434/JP/2017, the assessee has taken the following grounds of appeal.

*"1. That on the facts and in the circumstances of the case the Id. CIT(A) is wrong, unjust and has erred in law in confirming addition of Rs. 10,26,240/- made to the income of the appellant by the Id. Assessing Officer on account of ½ share in alleged unexplained investment in jewellery valuing Rs. 20,52,479/- (weighing 779.92 gms) and silver articles valuing Rs. 1,00,000/- claimed by the appellant have been received from friends and relatives on marriage and other occasion."*

17. Admittedly, under the identical facts and circumstances as in ITA No. 436/JP/17, the impugned addition has been made in the hands of the assessee. Therefore, following our detail discussions and reasoning as in ITA no. 436/JP/17, the matter is decided in favour of the assessee and against the Revenue. The order of the lower authorities is set-aside and the appeal of the assessee is allowed.

In the result, both of the appeals are allowed.

Order pronounced in the open Court on 24/05/2019.

Sd/-

(विजय पाल राव)  
(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव)  
(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 24/05/2019.

\*Ganesh Kr.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Mohammed Akhlaq, Jaipur & Smt. Shaheen Akhlaq, Jaipur
2. प्रत्यर्थी / The Respondent- DCIT, Central Circle-2, Jaipur

3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 436 & 434/JP/2017 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar