

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Before Shri Shamim Yahya (AM)

I.T.A. No. 4500/Mum/2018 (Assessment Year 2016-17)

Mangilal Bachraj Sanghvi 17/19, 1 <sup>st</sup> Parsiwada Near V.P. Road Mumbai-400 004.  PAN : AJPPS2392K (Appellant)	Vs.	DCIT CC-2(2) Mumbai.  (Respondent)
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Assessee by	Ms. Pooja Chhawachharia
Department by	Shri Chaitanya Anjaria
Date of Hearing	8.7.2019
Date of Pronouncement	20.8.2019

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 25.4.2018 and pertains to A.Y. 2016-17.

2. Grounds of appeal read as under :-

1. *That the Ld. CIT(A) has erred in confirming the order of the Assessing Officer in sustaining an addition of Rs. 15,40,4327- on account of investment U/s 69 in Gold Jewellery.*
2. *That the Ld. CIT(A) has failed to give any benefit of Jewellery acquired at the time of marriage and later on different occasions.*
3. *That the finding of the Ld. CIT(A) that Board Circular is only for the purposes of seizure is contrary to the finding in various Judgments of different Hon'ble High Courts and the Hon'ble Benches of ITAT.*
4. *That the Ld. CIT(A) has failed to appreciate that as per Hindu Customs the Jewellery is acquired by the family at the time of marriage and later on different occasions and, as such, the confirmation of addition is against the facts and circumstances of the case.*

3. Brief facts of the case are that pursuant to search and seizure action, addition on account of unaccounted jewellery was done. To the extent the

assessee could produce purchase vouchers credit was given. However, assessee's plea that the assessee should also be given credit in terms of CBDT Instruction 1994 dated 11.5.1994 was not accepted by learned CIT(A). Learned CIT(A) held that values mentioned in the said circular was only for seizure purpose and their verifiability is governed by regular law and such jewellery cannot be held explained automatically.

3. Upon hearing learned both the counsel and perusing records, I find that the above CBDT Instruction provides certain amount of jewellery as understood to have been held by family members on account of custom prevalent in the country. Hence, in my considered opinion credit to this extent deserves to be granted. The same cannot be brushed aside as has been done by the authorities below. I remit this issue to the file of the Assessing Officer to examine the issue with respect to facts on record regarding family member of the assessee. Accordingly, this issue is remitted to the file of the Assessing Officer. Needless to add the assessee should be granted adequate opportunity of being heard.

4. In the result, assessee's appeal is allowed for statistical purposes.

Order has been pronounced in the Court on 20.8.2019.

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 20/8/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS