

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

**BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER AND  
SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.410/Del/2017 for A.Y. 2014-15

Mr. Parag Gupta, 237, Sukh Dev Vihar, New Delhi-110 025  PAN-AESPG 6701 L <b>(APPELLANT)</b>	Vs.	DCIT, Central Circle-19 New Delhi  <b>(RESPONDENT)</b>
---	-----	--

Assessee by	Dr. Rakesh Gupta, Adv
Revenue by	Ms. Sushma Singh, CIT DR

Date of hearing:	30/09/2020
Date of Pronouncement:	07/10/2020

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the assessee is directed against the order dated 09.11.2016 of the Commissioner of Income Tax (A)-28, New Delhi relating to Assessment Year 2014-15.

2. The relevant facts as culled from the material on records are as under:

3. Assessee is an individual stated to be having income from salary, business and other sources. A search proceeding under section 132 of the Act was carried at the residence of the assessee on 20.01.2014 at 237, Sukh Dev Vihar, New Delhi.

4. During the course of search, jewellery worth Rs. 1,07,79,839/- was found out of which jewellery worth Rs. 13,95,537/- was seized. During the course of assessment proceedings, assessee was asked to explain the source of jewellery found during the search to which assessee *inter alia* submitted that most of the jewellery was received by various members of the family especially females as gifts on various occasions and was part of their stridhan and the assessee also relied on the instruction No. 1916 dated 11.05.1994 issued by CBDT to contend the quantum of jewellery which is held by an individual is to be considered to be explained. The submissions of the assessee were not found acceptable to the AO. AO was of the view that the CBDT instructions relied by the assessee was not applicable as the Investigation Wing had not seized the entire jewellery that was found. AO also noted that the assessee had not furnished the copy of Wealth Tax Return to explain the jewellery found. AO noted that in the absence of any explanation about excess jewellery of 800 gms which has remained unexplained, its addition needs to be made as income. He accordingly, on the basis of valuation of assessee made for per gram of jewellery, made addition of Rs. 30 Lac.

5. Aggrieved by the order of the AO, assessee carried the matter before the CIT(A). CIT(A) noted that the excess jewellery found in the possession of assessee was 771.83 gms which was valued at Rs. 31,27,296/-. He after giving credit of jewellery of 600 gms (500 gms for assessee's wife and 100 gms for assessee) noted that the unexplained jewellery which remained was only 71.83 gms. He accordingly restricted the addition to Rs. 2,70,000/- for 71.83 gms.

6. Aggrieved by order of CIT(A), assessee is now before us.

7. Before us, learned AR reiterated the submissions made before the lower authorities and further submitted that CIT(A) has wrongly considered the total quantity of jewellery to be 771.83 gms (Rs 31,27,296) as against the jewellery found during the course of search of 671.53 gms valued at Rs 31,27,296. In support of his aforesaid contention, he pointed out to the copy of the *panchnama* which is placed in the paper book which shows the quantity of the jewellery to be at 671.53 gms valued at Rs. 31,27,296/-. He further submitted that CIT(A) has given the credit of 600 gms of jewellery for the assessee and his wife but has not given any credit of the jewellery for his son though his son also stays with him. In support of his contention that the family consisted of himself, his wife and his son and they stay together, he pointed to the copy of the statement recorded at the

time of search and specifically to answer to question no. 25 wherein it was submitted by the assessee that he was staying with the other family members and his son. He, therefore, submitted that if the correct quantity of jewellery (i.e. 671.53 gms instead of 771.83 gms) is considered and if the credit of jewellery of 100 gms as per the instructions of CBDT No. 1916 dated 11.05.1994 for his son is given, then there would not be any excess of unexplained jewellery and therefore no addition is called for.

8. Learned DR on the other hand, supported the order of lower authorities and submitted that the lower authorities have already granted him benefit of CBDT instructions. She thus supported the order of lower authorities.

9. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to addition of Rs. 2,70,000/- on account of unexplained jewellery. It is the contention of the learned AR that if the correct quantity of jewellery (i.e. 671.53 gms is considered instead of 771.83 gms) and if the credit for jewellery in the hand of his son is also given then there would remain no excess jewellery. We find force in the contention of the learned AR. We find that CIT(A) in para 2.3 of the order has noted that total jewellery of 771.83 gms valued at Rs. 31,27,296/- was found from the possession of the assessee and his wife. The figure of

771.83 gms noted by the CIT(A) appears to be incorrect as in the copy of the *panchnama* which has been placed by the assessee in the paper book shows the total weight of the jewellery found to be 671.534 gms with the value of Rs 31,27,296/-. We further find that CIT(A) has given credit of jewellery of 600 gms (500 gms for the wife of the assessee and 100 gms for the assessee) and no credit has been given for jewellery to the son of the assessee. The fact that the family of the assessee consists of himself, his wife and son is not disputed.

10. We find that CBDT vide instruction no. 1916 dated 11.05.1994 has issued guidelines which *inter alia* states that in case of person not assessed to wealth tax, gold jewellery 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 to be assessed.

11. In the present case, we find that CIT(A) has given credit for jewellery only to the assessee and his wife and no credit has been given to assessee's son. If the credit for 100 gms of jewellery to the son of the assessee is granted, then there would remain no unexplained excess jewellery in the hands of the assessee and therefore no addition is called for. We, therefore, direct the deletion of addition upheld by the CIT(A). **Thus, the ground of assessee is allowed.**

**12. In the result, the appeal of the assessee is allowed.**

**Order pronounced in the open court on 07.10.2020**

**Sd/-  
(H.S. SIDHU)  
JUDICIAL MEMBER**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

SH

Date:- 07.10.2020

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI