

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ A ‘ SMC Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member

S.No	Appeal in ITA No	Assessee	Respondent	A.Y
1	1314/Hyd/2018	Mannaru Shilpa, Kurnool PAN:CLCLRPS9384R	ACIT, Central Circle 3(2) Hyderabad	2014-15
2	1315/Hyd/2018	Midde Syamaladevi Kurnool PAN:AXZPS8600A	-do-	2014-15
3	1316/Hyd/2018	Midde Madavi Latha Kurnool PAN:AGTPL9778M	-do-	2014-15
4	1317/Hyd/2018	Midde Sreelatha, Kurnool PAN:BRPPS8911K	-do-	2014-15
5	1318/Hyd/2018	Penugonda Sai Haraha, Kurnool PAN:BHRPP9916P	-do-	2014-15

Assessee by:	Sri S. Srinivasulu
Revenue by:	Sri Alluru Venkata Rao
Date of hearing:	13/10/2020
Date of pronouncement:	19/10/2020

ORDER

All the above appeals are filed by the individual assessees for the A.Y. 2014-15.

2. Brief facts of the case are that all the assessee's are individuals and belong to the same family. As the issue involved in all of these appeals is the same, they were heard together and are being disposed of by this common and consolidated order.

2.1 There was a search and seizure operation u/s 132 of the Act on 25/07/2013 in the case of M/s Shafa Education Society and others, during the course of which, undisclosed jewellery was found. Therefore, during the assessments u/s 153A of the Act, the assessee voluntarily declared Rs. 67,90,400/- as the value of the ornaments in their returns of income. However, the AO estimated the unexplained jewellery at Rs. 1,03,12,000/- and the difference of Rs. 35,21,600/- was brought to tax in the hands of the assessee, equally, i.e. Rs. 7,04,320/- in the hands of each of the assessee. The AO taxed the income at the normal rate of tax as applicable to the individuals.

3. Aggrieved all the assessee filed appeals before the CIT (A) who deleted the addition made by the AO. While passing the consequential order, the AO has computed the tax liability by charging the tax @ 30% on the undisclosed income though it was voluntarily offered to tax by the assessee. Against the consequential orders passed by the AO, the respective assessee are in appeal before the Tribunal by raising the following grounds of appeal:

“1. The Appellant is an Assessee on the roles of Income Tax Department and regularly filling Income Tax returns and paying taxes.

2. During the Asst.Year 2014-15 the Income Tax Department searched the premises of Appellant Father in Law Dr.M.Santhiramudu and found 7306 gms of Gold

Jewellery belonging to the family members of the Appellant and Appellant mother in Law sisters in the premises of Appellant and also in the Bank Lockers.

3. As per the Income tax returns and Balance sheets filled by the family members of the Appellant. The family members alone owns 7151 gms of gold jewellery as per the returns and balance sheet filled before the Assessing Officer and and Appeals.

4. At the time of Search and Seizure, the Appellant family even though accounted for all the gold jewellery in their respective Income Tax Balance sheets and offered 150 gms of gold jewellery valued at RsA,80,000/- for the Asst Year 2014-15 and filled returns voluntarily by the appellant to purchase peace from the Income Tax Department.

5. For the Asst Year 2014-15, the Appellant filled total income of Rs.6,82,000/which includes voluntarily declaration of 150 gms gold and jewellery valued at RsA,80,000/-.

6. The Assessing Officer erroneously calculated tax @ 30% on RsA,80,000 treating it as undisclosed Jewellery u/s 69A of the Income Tax Act even though all the Jewellery of the family accounted for in their respective balance sheets.

7. With this and other grounds that will be submitted at the time of hearing. The appeal may kindly be allow directing the Assessing Officer to levy tax at slab rates instead of 30% on 4,80,000 for the Asst Year 2014-15”.

4. At the time of hearing, the learned DR has pointed out that these appeals are not maintainable as the assesseees have not filed any appeals before the CIT (A) against the consequential orders passed by the AO.

5. The learned Counsel for the assessee submitted that the AO in the original assessment proceedings charged rate of tax at the normal rate, whereas in the consequential orders dated

06/04/2008 has charged maximum rate of tax i.e. 30% against which the assesseees are in appeal before the Tribunal. The learned Counsel for the assessee further submitted that the assesseees are not aware of the legal position due to which the assesseees have filed appeals before the Tribunal directly against consequential orders.

6. Having regard to the rival contentions and the material on record, I find that the registry of the Tribunal had inadvertently considered the order passed by the CIT (A) in the appeal of the assesseees against order u/s 143(3), as the impugned order and accordingly fixed the appeals for hearing. These appeals were filed by the assesseees on 19.06.2018 and the appeals have been coming up for hearing from 14.12.2018 onwards and have been adjourned from time to time due to one or the other reasons. Only after going through the impugned orders of the AO, it has come to my notice that the assesseees have filed these appeals against the consequential orders of the AO, in which, the rate of tax applied by the AO is 30%. The consequential order passed u/s 154 of the Act is appealable before the CIT (A) u/s 246 of the I.T. Act. Therefore, these appeals of the respective assesseees are not maintainable and accordingly dismissed. However, liberty is granted to all the assesseees to file

appeals before the CIT (A) explaining the reasons for the delay in filing of the appeals before the CIT (A) and the CIT (A) shall consider the same and, thereafter, dispose of the appeals on merits. In view of the same, all the appeals of the assesseees are treated as allowed for statistical purposes.

7. In the result, appeals filed by the assesseees are treated as allowed for statistical purposes.

Order pronounced in the Open Court on 19th October, 2020.

Sd/-

**(P. MADHAVI DEVI)
JUDICIAL MEMBER**

Hyderabad, dated 19th October, 2020.

Vinodan/sps

Copy to:

- 1 All the Assesseees C/o Sreenivasulu & Co. C.As, Door No.2-94 Gokul Panyam Mandal, Kurnool Distt.
- 2 ACIT, Central Circle 3(2) Hyderabad
- 3 CIT (A)-11 Hyderabad
- 4 Pr. CIT – Central, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order

1.	Draft dictated on	13 th October, 2020	
2.	Draft placed before author	October, 2020	
3	Draft proposed & placed before the second Member	October, 2020	
4	Draft discussed/approved by second Member	October, 2020	
5	Approved Draft comes to the Sr.P.S./PS	October, 2020	
6.	Kept for pronouncement on	October, 2020	
7.	File sent to the Bench Clerk	October, 2020	
8	Date on which file goes to the Head Clerk	October, 2020	
9	Date of Dispatch of order	October, 2020	