

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

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 1794/Del/2018 : Asstt. Year : 2014-15

| | | |
|---|----|------------------------------------|
| Pallavi Mittal, C/o Vinod Kumar Bindal & Co., CAs, Shiv Sushil Bhawan, D-219, Vivek Vihar, Phase-1, New Delhi-110095 | Vs | DCIT, Central Circle, Karnal |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AALPA3278K | | |

Assessee by : Sh. Vinod Bindal, CA

Revenue by : Ms. Shivani Bansal, Sr. DR

Date of Hearing: 15.09.2021

Date of Pronouncement: 21.09.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-2, Gurgaon dated 29.12.2017.

2. Following grounds have been raised by the assessee:

"1. The Id. CIT (A) erred in law and on facts in confirming the addition of Rs.41,48,174/- as undisclosed investment in jewellery-

(a) Even when the jewellery valued at Rs.27,33,536/- was not seized at the time of search and, thus, accepted to that extent by the Revenue as made from the disclosed sources following the CBDT Instruction No. 1916 dated 11.05.1994; and

(b) Even when the remaining jewellery valued at Rs.14,14,638/- was the family jewellery acquired by the assessee's father-in-law, Mr. Subhash Chander Mittal, and who had declared the equivalent sum as

his undisclosed income in his return of income filed for the A.Y. 2014-15 relevant to the date of search.

Thus, total addition of Rs.41,48,174/- so made must be deleted."

3. Heard the arguments of both the parties and perused the material available on record.

4. A search & seizure operation u/s 132(1) of the Income Tax Act, 1961 has been conducted at the residential as well as business premises of Sh. Vishnu Overseas Pvt. Ltd. on 17.01.2014. In connection with the proceedings, locker No. 6A of Union Bank of India, Ambala, Kiathal was operated and the jewellery found thereof belonging to the assessee worth Rs.41,48,174/- was found out of which jewellery amounting to Rs.14,14,638/- seized by the department. The Assessing Officer has brought the entire amount of jewellery to tax holding that the department has already given relief of jewellery worth Rs.23,26,432/- found from the residence at Kaithal in position of Sh. Subhash Chander Mittal, father-in-law of the assessee.

5. We find from the records that the total jewellery found from the residential premises and the lockers of the family of Sh. S.C. Mittal amounts to Rs.2,05,55,951/-. The details of the total jewellery found as per the panchnama prepared against the single warrant issued in the name of Sh. S.C. Mittal and all other family members is as under:

| S. No. | Name | Items | Amount(Rs.) |
|--------|--|------------------------|----------------------------|
| 1. | Sh. Subhash Chander Mittal (Joint family with 8 members) | Jewellery Silver | 15,25,117/- 8,01,315/- |
| 2. | Sh. Subhash Chander Mittal (Locker No. 81, PNB, Kaithal) (Locker No. 277, PNB, Kaithal) | Jewellery Jewellery | 12,55,654/- 40,27,042/- |
| 3. | Smt. Pallavi Mittal | Jewellery | 41,48,174/- |
| 4. | Sh. Hitesh Mittal | Jewellery | 52,30,179/- |
| 5. | Shruti Mittal | Jewellery | 35,68,470/- |
| | Total | | 2,05,55,951/- |

6. Out of the jewellery worth of Rs.2,05,55,951/-, the jewellery worth Rs.77,52,900/- weighing about 2550 gms. was not seized and jewellery worth Rs.1,28,03,000/- has been seized by the department. Sh. S.C. Mittal has disclosed an amount of Rs.1,47,00,000/- as undisclosed speculative profit from rice in his return of income for the A.Y. 2014-15 the application of which resulted in the purchase of jewellery.

7. The details of the jewellery found, seized, released and the undisclosed income declared is as under:

| SUBHASH CHANDER | | Value | Seized | Released |
|--------------------------------------|-----------|--------------|---------------|-----------------|
| (joint with other 8 family members) | Cash | 328310 | - | 328310 |
| | Jewellery | 1525117 | - | 1525117 |
| | Silver | 801315 | - | 801315 |
| SUBHASH CHANDER | | | | |
| (Locker No. 81 PNB Kaithal) | Jewellery | 1255654 | 1255654 | - |
| SUBHASH CHANDER | | | | |
| (Locker No. 277 PNB Kaithal) | Jewellery | 4027042 | 4027042 | - |

| NEERAJ MITTAL | | Value | Seized | Released |
|--------------------------------------|-----------|--------------|---------------|-----------------|
| (Joint with other 8 family members) | Cash | - | - | - |
| | Jewellery | - | - | - |
| | Silver | - | - | - |

| Pallavi Mittal | | Value | Seized | Released |
|--------------------------------------|-----------|--------------|---------------|-----------------|
| (Joint with other 8 family members) | Cash | - | - | - |
| | Jewellery | - | - | - |
| | Silver | - | - | - |
| Pallavi Mittal | | | | |
| (Locker No. 6A UBI Kaithal) | Jewellery | 4148174 | 1414638 | 2733536 |

| Hitesh Mittal | | Value | Seized | Released |
|---|-----------|--------------|---------------|-----------------|
| (Flat No. 1001, Sabri Basera Building, Opp. Diamond Garden, Chembur, | Jewellery | 5230179 | 3644840 | 1585339 |

| SHRUTI MITTAL | | Value | Seized | Released |
|--------------------------------------|---------------------------|-----------------|-----------------|-----------------|
| (Locker No. 4 KOTAK MAHINDRA MUMBAI) | Jewellery | 3568470 | 2460870 | 1107600 |
| | BLANK SHARE TRANSFER DEED | | | |
| Total | | 20884261 | 12803044 | 8081217 |

| Misc. Income Declared | |
|------------------------------|-----------------|
| Jewellery | 12803044 |
| Cash | 896956 |
| Mittal & Co. | 1000000 |
| | 14700000 |

| Jewellery Seized Person wise | |
|-------------------------------------|--------------------|
| S.C. Mittal | 1255654 |
| S.C. Mittal | 4027042 |
| Pallavi Mittal | 1414638 |
| Hitesh | 2460870 |
| Hitesh | 3644840 |
| Total | 1,28,03,044 |

8. From the above, we find that Sh. S. C. Mittal, father-in-law of the assessee staying under the same roof, as the head of the joint family has disclosed an amount equal to the unaccounted jewellery seized belonging to the entire family as an undisclosed income. The vary purpose of centralization of the cases of the family members is to have a comprehensive understanding and determination of undisclosed income. In the instant case, since the undisclosed income determined tallies with the undisclosed income declared in the return, no separate addition in the hands of the assessee is called for.

9. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 21/09/2021.

Sd/-

(Amit Shukla)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 21/09/2021

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR