

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "F": NEW DELHI]**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 4483/Del/2017
(Assessment Year: 2014-15)

Smt. Reena Goel, E-270, Shastri Nagar, New Delhi-110005. PAN: AIAPG0202C	Vs.	DCIT, Central Circle :25, New Delhi.
(Appellant)		(Respondent)

Assessee by :	Shri Hiren Mehta, C. A.; & Shri Nirbhay Mehta, C. A.;
Department by :	Ms. Kirti Sankratyayan, Sr. D.R.;
Date of Hearing :	7/09/2021
Date of pronouncement :	7/10/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee for assessment year 2014-15 against the order passed by the Id. Commissioner of Income Tax (Appeals)-29, New Delhi, dated 28.04.2017 raising the solitary issue that addition sustained by the Id. CIT (Appeals) of Rs. 14,10,296/- on account of unexplained jewellery is deserves to be deleted.

2. The assessee has raised the following grounds of appeal:-

“1. That on the facts and circumstances of the case and in law, the order passed by CIT (Appeals)-29, New Delhi (hereinafter referred to as CIT (A), isbad in law.

2. That on the factsandcircumstances of the case and in law,the CIT (A) was notjustified in partlyupholding the action of the AO by sustaining addition of Rs.14,10,296/- on account of unexplained jewellery found from the premises R-4 during search action out of total jewellery aggregating Rs.1,45,79,924/-.

3. That the appellant craves leave to add, alter, amend, modify any of the grounds of appeal at the time of hearing or earlier. “

3. The brief facts of the case shows that assessee is an Individual deriving income from salary, house property, capital gain and income from other sources. She filed return of income under Section 139(1) of the Income Tax Act, 1961 (the Act) on 31.01.2015 declaring a total income of Rs.28,47,330/-. This return was processed under Section 143(1) of the Act at the returned income.
4. Facts shows that on 15.10.2013 search took place on SRM Group of cases including the assessee. Therefore, the notice under Section 143(2) of the Act was issued to the assessee. During the course of search jewellery worth Rs.1,45,79,924/- was found. The assessment under Section 144 of the Act was passed by the Id. Assessing Officer on 20.05.2016 at the total income of Rs. 2,84,44,615/- wherein the addition of Rs. 1,45,79,924/- was made on account of unexplained jewellery.
4. The assessee carried the matter before the Id. CIT (Appeals). The CIT (Appeals) deleted the addition to the extent of Rs. 1,35,58,230/-, which tallied with the valuation report of the Govt. approved valuer, but sustained the balance addition of Rs. 14,10,296/-. Therefore, the assessee is in appeal against this addition.
5. The only contention of the assessee is that the Id. CIT (Appeals) should have granted the benefit of CBDT Circular No. 1916 dated 11.05.1994, which states that if jewellery found in possession of a married lady, unmarried lady and male member of a family is to the extent of 500 gms., 250 gms. and 100 gms. Each the Revenue would not question source and acquisition of the same. He submitted that if the assessee is granted the benefit of this Circular, the addition would not sustain. The assessee submitted that if the benefit of the jewellery holding by her husband, unmarried daughter and a son is granted, then the addition is wrongly confirmed. He referred to the decision of various High Courts on this proposition.
6. The Id. DR submitted that the Id. CIT (Appeals) has already taken the valuation report into account and, therefore, no further relief is required.

7. We have carefully considered the rival contentions and perused the orders of the lower authorities. The Instruction No. 1916 dated 11.05.1994 clearly provides that the CBDT has keeping in view the status of the family, customs and practices of the community, issued the above said Circular. Therefore, one has to go with the weight and not with the value of the jewellery as the same may fluctuate over the years. The above relief is also not subject to over and above the jewellery which has been accounted for by the assessee. It is with respect to the jewellery found during the course of search for which acquisition and source cannot be explained by the assessee and therefore CBDT has mandated maximum amount of weight of jewellery which would not be questioned with respect to marital status and gender status of the family members. Such is the mandate of the Hon'ble Rajasthan High Court in CIT Vs. Satya Narain Patni 366 ITR 325; Hon'ble Allahabad High Court in CIT Vs. Ghanshyam Dass Johri (2014) 41 taxmann.com 295; Hon'ble Gujarat High Court in CIT Vs. Ratan Vyapari Lal Jain 2 taxmann.com 997, which supports the argument of the ld. AR. Therefore, we direct the ld. Assessing Officer to grant the benefit of the above CBDT Circular to the assessee and delete the addition to that extent. Accordingly, the solitary ground of appeal of the assessee is allowed.
8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on : 7/10/2021.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated : 7/10/2021.

MEHTA

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1. Appellant;
2. Respondent
3. CIT

4. CIT (Appeals)

5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	7.10.2021
Date on which the typed draft is placed before the dictating member	7.10.2021
Date on which the typed draft is placed before the other member	7.10.2021
Date on which the approved draft comes to the Sr. PS/ PS	7.10.2021
Date on which the fair order is placed before the dictating member for pronouncement	7.10.2021
Date on which the fair order comes back to the Sr. PS/ PS	7.10.2021
Date on which the final order is uploaded on the website of ITAT	7.10.2021
date on which the file goes to the Bench Clerk	7.10.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	