

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

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA Nos.6449 & 7066/Del/2018
Assessment Years : 2012-13 & 2013-14**

Raju Bansal, C/o-M/s. RRA Taxindia, D-28, South Extension, Part-I, New Delhi-110049. PAN-AANPB7648A	vs	DCIT, Central Circle-II, Faridabad.
APPELLANT		RESPONDENT
Appellant by	Sh.Somil Agarwal	
Respondent by	None	
Date of Hearing	21.10.2021	
Date of Pronouncement	21.10.2021	

ORDER

PER KUL BHARAT, JM :

Both appeals filed by the assessee for the assessment years 2012-13 & 2013-14 are directed against the separate orders of Ld. CIT(A)-3, Gurgaon dated 13.07.2018 & 22.09.2018 respectively. Both appeals were taken up for hearing together and are being disposed of by way of consolidated order.

2. No representation was made on behalf of the Department.
3. First we take up **ITA No.6449/Del/2018** pertaining to **Assessment Year 2012-13.**

4. The Ld. Counsel for the assessee, vide its letter dated 21.10.2021, received through email, has requested for withdrawal of the appeal filed by him and stated that the assessee has opted to settle the dispute relating to the tax arrears for the assessment year under consideration under the "Vivad Se Vishwas Scheme, 2020". Form No.5 issued by the Department is also enclosed with the application seeking withdrawal of the appeal.

5. In view of the above, we accept the request of the assessee for withdrawal of the appeal.

6. In the result, the appeal filed by the assessee is dismissed.

7. Now, we take up **ITA No.7066/Del/2018** pertaining to **Assessment Year 2013-14**.

8. At the outset, Ld. Counsel for the assessee submitted that the present appeal has been filed against the levy of penalty u/s 271AAA of the Income tax Act, 1961 ("the Act"). He contended that the Assessing Officer had made addition in respect of jewellery amounting to Rs.56,36,748/- and cash of Rs.50,000/-. Ld. Counsel for the assessee submitted that on the quantum proceedings, the issue had travelled upto the stage of the Tribunal and the Tribunal in ITA No 832/Del/2017 pertaining to Assessment Year 2013-14 vide order dated 07.10.2020 was pleased to delete the addition related to the addition made on account of unexplained jewellery of Rs.56,36,748/- by observing as under:-

8. *“We have heard the rival submissions and perused the material on record. The issue in the present grounds is with respect to addition on account of jewellery found during the course of search. It is an undisputed fact that the jewellery was found from the residential premises of the assessee. The fact that the assessee was staying in a joint family consisting of his parents, the family of his brothers and his family consisting of his wife and daughter is undisputed. It is also a fact that during the course of search, the statement of the assessee was recorded and his explanation about the jewellery was that it belonged to the family members and he had also provided the breakup (value wise). The statement of the Assessee that were recorded at the time of search has not been found to be false or incorrect. We find that the CBDT had issued instructions No 1916 ([F.No.286/63/93-IT (INV.II)] dtd 11th May 1994 wherein it has issued Guidelines for seizure of jewellery and ornaments in the course of search. The instructions inter alia states that in the case of a person not assessed to wealth-tax, gold jewellery and 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 be seized. We find that the Hon’ble High Court in the case of CIT v. Ratanlal Vyaparilal Jain 339 ITR 351 (Guj) has held that though the CBDT Circular No.1916 dated 11th May 1994 has been issued for the purpose of non seizure of jewellery during the course of search but unless the Revenue shows anything to the contrary, it can safely be presumed that source to the extent of jewellery stated in the circular stands explained.*

9. *In the present case if the facts are seen in the light of the aforesaid decision of Hon’ble High Court in the case of Ratanlal Vyaparilal Jain (supra), it is seen that nothing has been brought on record by Revenue to contradict the statement made at the time of search. Before us no contrary binding decision supporting the stand of Revenue has been placed by the Revenue. In such a situation, respectfully following the aforesaid decision of Hon’ble Gujarat High*

Court, we are of the view that no addition can be made in the present case. We thus direct the deletion of addition. Thus the ground of the assessee is allowed.

10. 2nd issue is with respect to addition of Rs 50,000/-.

11. AO has noted that cash of Rs. 3,87,200/- was found at the time of search. Since the assessee could not explain its source, AO after considering the submissions of the assessee made addition of Rs. 50,000/- . Aggrieved by the order of AO, assessee carried the matter before CIT(A) who confirmed the action of AO. Aggrieved by the order of CIT(A), assessee is now before us.

12. Before us, Ld AR pointed to the answers given by the assessee at the time of search and which is noted by the AO in the assessment order. He submitted that the assessee had given the explanation and there was no justification in making the addition of Rs. 50,000/. He thus submitted that the addition be deleted. Ld DR on the other hand supported the order of lower authorities.”

However, the addition of Rs.50,000/- made on account of cash was confirmed. Ld. Counsel for the assessee submitted that the penalty qua the unexplained jewellery deserves to be deleted.

9. We have heard the Ld. Counsel for the assessee and perused the material available on record. We find that the Tribunal in ITA No.832/Del/2017 (supra) has deleted the addition in respect of unexplained jewellery amounting to Rs.56,36,748/-. Therefore, the penalty related to the unexplained jewellery amounting to Rs.56,36,748/- is hereby deleted and the remaining amount related to the confirmation of addition of Rs.50,000/- is sustained.

10. In the result, the appeal of the assessee is partly allowed.

Above decision was pronounced on conclusion of Virtual Hearing on 21st October, 2021.

Sd/-

**(N.K.BILLAIYA)
ACCOUNTANT MEMBER**

Amit Kumar

Copy forwarded to:

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

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR
ITAT, NEW DELHI