

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G': NEW DELHI  
(Through Video Conferencing)**

**BEFORE,  
SHRI R.K.PANDA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**I.T.A No.836/Del/2017  
(ASSESSMENT YEAR 2013-14)**

Sh. Sunil Jindal H.No.535, Sector-14, Faridabad, Haryana. PAN-AFSPJ 5785L <b>(Appellant)</b>	Vs.	Dy. CIT, Central Circle-II, Faridabad. <b>(Respondent)</b>
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Appellant By	<b>Sh. Somil Aggarwal, Adv.</b>
Respondent by	<b>Sh. H.K. Choudhary, CIT-DR</b>
Date of Hearing	<b>01.11.2021</b>
Date of Pronouncement	<b>24.01.2022</b>

**ORDER**

**PER SUDHANSHU SRIVASTAVA, JM:**

This appeal is preferred by the assessee against order dated 23.12.2016 passed by the Learned Commissioner of Income Tax (Appeals), Karnal {CIT(A)} and pertains to Assessment Year 2013-14.

2. Brief facts of the case are that the assessee, during the year under consideration, was drawing income from salary and income from house property. A search was conducted on 09/05/2012 at the business premises of M/s SRS Group and as part of the said search, the residence as well as the business premises of the assessee were also searched. During the course of search and seizure operation, jewellery of Rs. 1,99,59,580/- was recovered from the residential premises of the assessee out of which the assessee could not

provide any documentary evidences to the tune of Rs. 49,22,732/-. Similarly, cash of Rs. 16,01,100/- was also found at the residential premises of the assessee. Apart from this during the course of search at the residence of Promoters of SRS Group some messages were retrieved from the mobile of the assessee which showed that he was transacting in chit fund. Subsequently, the assessee was required to file his return of income. The return was filed declaring total income of Rs. 8,30,040/- Subsequently, the assessment was completed after making addition of Rs. 33,25,473/- in respect of unaccounted jewellery, an addition of Rs. 6,00,000/- in respect of unexplained cash found and a further addition of Rs. 6,00,000/- in respect of undisclosed investment in chit fund.

3. Aggrieved, the assessee carried the matter before the Ld. CIT(A) who dismissed the appeal.

4. Now, the assessee has approached this Tribunal challenging the dismissal of his appeal by raising the following grounds of appeal:

*"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. A.O. in making an addition of Rs.33,25,473 on account of jewelry found in the search and that too by alleging failure of the assessee to give evidence.*

*2. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making an addition of Rs.33,25,473/- on account of alleged undisclosed investment in jewelry is bad in law and against the facts and circumstances of the case.*

*3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. A.O. in making an addition of Rs.6,00,000/- u/s 69A of the Income Tax Act, 1961 on account of cash found during the search.*

*4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. A.O. in making an addition of Rs.6,00,000/- on account of alleged subscription in committee/ chits.*

*5. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making an addition of Rs.6,00,000/- is bad in law and against the facts and circumstances of the case.*

6. *That in any case and in any view of the matter action of Ld. CIT(A) in confirming the action of Ld. A.O. in making the impugned additions are bad in law and against the facts and circumstances of the case.*

7. *That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."*

5. The Ld. AR argued that the Ld. CIT(A) has wrongly upheld the jewellery addition by alleging that the assessee had not given any evidences. It was submitted that the evidences were submitted in form of voluminous documents and, therefore, this allegation was not correct. It was also submitted that the working of relief which has been given by the Ld. CIT(A) is also not apparent from the order of the Ld. CIT(A).

5.1 Regarding the upholding of addition of Rs. 6,00,000/- on account of cash found during the course of search, it was submitted that it had been duly explained before the A.O. that it was related to withdrawals which had been made by the assessee on 20/04/2012.

5.2 In respect of the remaining issue of Rs. 6,00,000/- being added to the assessee income in respect of alleged investment in chit fund, it was submitted that on identical facts such addition was not made in the case of another assessee Shri Vikas Gupta. It was submitted that, therefore, the impugned order had been passed without appreciating the facts on record and the voluminous documents submitted during the course of assessment proceedings as well as first appellate proceedings.

6. Per contra, the Ld. CIT DR, while supporting the order of the authorities below, argued at length that as far as the issue of jewellery was concerned, the invoices of purchase were not submitted before the A.O. With respect to the unaccounted cash found, it was the argument of the Ld. CITDR that since the

assessee was not maintaining any books of account, the benefit of bank withdrawals could not be given to the assessee. With respect to the alleged unexplained investment in chit fund, the Ld. CIT DR submitted that the case of Shri Vikas Gupta cannot be the basis for deleting the addition in the case of the assessee in as much as the two cases were not identical and were on different footings. It was prayed that the order of the Ld. CIT(A) be upheld.

7. Having heard both the parties and having gone through the records, it is seen that the Ld. CIT(A) has simply followed the findings of the A.O. on all the three issues. Although, he has given some relief to the assessee in respect of the jewellery found, the Ld. AR has rightly brought to our notice that this working is nowhere discernible from the impugned order. Then it is the assessee's submission that voluminous documents had been filed in support of jewellery purchase whereas it is the contention of the Ld. CIT DR that invoices were not filed before the A.O. Similarly, with respect to the addition pertaining to cash found during the course of search, the assessee has not been able to suitably explain before the lower authorities as to how such cash was related to the withdrawals made earlier. It is also a fact on record that the assessee does not have any books of accounts. Therefore, the issue would require a correlation by drawing up cash flow statement which at this juncture has not been done. Similarly, the issue of alleged investment in chit fund, is although apparently, based on the details of call record as reproduced in the assessment order, the same seems to be based on surmises and conjectures as apart from such call records no evidence was there with the department. Accordingly, on an overall view of the facts of the case and keeping in mind that the interest of substantial justice should be served, we deem it fit to restore all the three issues to the file of the A.O. for being examined afresh after giving proper opportunity to the assessee to present its case.

8. In the final result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 24.01. 2022.

Sd/-  
**(R.K.PANDA)**  
**ACCOUNTANT MEMBER**

Dated: 24/01/2022

AG

Copy forwarded to:

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

Sd/-  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI