

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI**

**BEFORE**

**SHRI G.S. PANNU, HON'BLE PRESIDENT  
AND  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 2696/Del/2016  
Asstt. Year: 2009-10

Neeti Rastogi, 803, Rohtas Court, Gokhle Marg, Lucknow. PAN AGSPR5095E (Appellant)	Vs.	ACIT, Central Circle Meerut  (Respondent)
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Assessee by:	Shri Saurav Rastogi, CA
Department by:	Shri Dilip Singh Kothari, CIT DR
Date of Hearing	15.06.2023
Date of pronouncement	26.07.2023

**ORDER**

**PER AMIT SHUKLA, JM**

The aforesaid appeal has been filed by the assessee against the order dated 18.03.2016 passed by Ld. Commissioner of Income Tax (Appeals)-IV, Kanpur for the quantum of assessment passed under section 143(3) of the Income Tax Act, 1961 for the assessment year 2009-10.

2. The only ground raised by the assessee in partly confirming the addition out of Rs. 10 lacs made by the AO on estimated basis on account of jewellery found during the course of search.

3. Brief facts are that a search and seizure action under section 132 was conducted on 09.07.2008 at various premises of assessee in which assessee and her husband, Shri Paresh Rastogi was also covered. During search at the residence, jewellery aggregating to Rs. 14,97,838/- was found belonging to Shri Paresh Rastogi and Smt. Neeti Rastogi which was not seized. Ld. Assessing Officer on estimated basis has treated jewellery to the extent of Rs. 10,00,000/- as unexplained in his opinion and added the same under section 69A of the Act. Ld. CIT (A) has given part relief by stating that jewellery to the extent of 500 gms per married lady should not be treated as unexplained in view of the circular No. 1916 dated 1994.

4. We have heard both the parties and also perused the relevant finding given in the impugned orders. One of the issue which was raised before the authorities below was that the jewellery found belonged to the assessee, her husband and two unmarried daughters who are staying together and all these jewellerys have been gifted over the period of time at her marriage and on birth of her both the daughters and on various festivals and occasions for more than two decades. It was also explained that, if as per the circular, 500 gms for the assessee, 100 gms for her husband and 250 gms for her two unmarried daughters are to be considered in light of CBDT circular 1916

(supra), then the value of said jewellery works out to Rs.11,31,900/. Thus, if benefit of this circular is being given, then no addition is called for.

5. We find that this proposition stands approved by various judgments of Hon'ble Rajasthan High Court, Hon'ble Gujarat High Court and various decisions of the Tribunal wherein it has been held that the quantity of gold jewellery found and to the extent it is covered by CBDT circular for family member same should not be treated as unexplained in view of the customary practice in India. The few of the judgments on this point are as under:

1. CIT vs. Satya Narain Patni in Income Tax Appeal No. 196/2010 dtd. 07.04.2014 of Hon'ble Rajasthan HC
2. CIT vs. Ratanlal Vyaparilal Jain in Income Tax Appeal No. 661 of 2009 dtd. 19.07.2010 of Hon'ble Gujarat HC
3. DCIT vs. Shri Mehul Johnson in ITA No. 1647/MUM/2020 dtd. 19.05.2012 of Mumbai ITAT

6. In view of the aforesaid judgments, the unexplained jewellery added by the Assessing Officer stands deleted.

7. In the result appeal of the assessee is allowed.

**Order pronounced in the open court on 26<sup>th</sup> July, 2023.**

**sd/-**  
**(G.S. PANNU)**  
**PRESIDENT**

**MEMBER**

Dated: 26/06/2023

**sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL**

**Veena**

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

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