

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
(DELHI BENCH 'B' : NEW DELHI)  
BEFORE SH. N.K.BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 1795/Del/2018  
(Assessment Year : 2014-15)

Ms. Shruti Mittal Flat No. 1001 Shabri Basera Building Opp. Diamond Garden Chembur, Mumbai PAN : AJTPA6926B	Vs.	Dy. Commissioner of Income Tax Central Circle Karnal
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. V.K.Bindal, CA Sh. Saurabh Sharma, Adv. and Ms. Rinky Sharma, ITP
Revenue by	Ms. Rishpal Bedi, CIT- DR

Date of hearing:	30.05.2023
Date of Pronouncement:	08.08.2023

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The appeal has been preferred by the Assessee against the order dated 29.12.2017 of CIT(A)-2, Gurgaon (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. 422/2016-17 arising out of an appeal before it against the order dated 14.12.2016 passed u/s 144 r.w.s 153A(1)(b) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Central Circle, Karnal (hereinafter referred as the Ld. AO).

2. The facts in brief are that consequent to search and seizure operation at the residential as well as business premises of M/s. Vishnu Overseas P. Ltd. and Shri Vishnu Eatables India Ltd. Group of cases & bank locker of the assessee on 17.01.2014 and subsequent dates. Assessment proceedings for initiated u/s 153A notice u/s 142(1) along with questionnaires dated 01.07.2015 was issued the Id. AO was primarily examining the issue of jewellery worth Rs. 35,68,470/- found from the locker of assessee with Punjab National Bank. The assessee had claimed :

*"2. During the course of search jewellery amounting to Rs. 3568470/- was found from the locker of assessee with Kotak Mahindra Bank. In' this regard, it is stated that the assessee is a member of enlarged close knit family of Sh. Subhash Chander Mittal (PAN: ACDPM9847Q), who is also assessed with Centre Circle, Karnal. There are three ladies in the family and the jewellery is interchanged between all the members as and when required. The total record of jewellery and other valuable items is kept by Sh. Subhash Chander Mittal. The complete detail alongwith shortfall, if any, will be submitted in his return of income. The jewellery which has not been seized (vide CBDT instruction no. 1916 dated 11 may 1994) is belonging to me and my husband received since birth at various occasions and festivals from friends and relatives as per Hindu Customs." .*

3. However, Ld. AO observed that the assessee is income tax payee and return income is below taxable limit. She admitted issues not wealth Tax for assessee. The sources of jewellery was informed from savings and gifts. Ld. AO observed that department has already given relief of jewellery of Rs. 23,26,432/- found from the residence of the assessee at Kaithal and the source of the same has been questioned to Shri Subhas Chandra Mittal, Father in law of the assessee. Thus, considering her to be responsible of failure of furnish satisfactory reply addition of Rs. 35,68,470/- was made

and same has been sustained by the Ld. CIT(A) with following findings in Para no. 3 of CIT(A) reproduced as under :-

*“Ground of Appeal No. 3:- relate to addition of Rs. 35,68,470/- as undisclosed investment in jewellery. This has been contested by the appellant by taking the following two related issues.*

- a) *Even when jewellery valued at Rs. 11,07,600/- was not seized at the time of search and, thus, accepted by Revenue as made from disclosed sources following the CBDT instructions No. 1916 dated 11/05/1994; and*
- b) *Even when the remaining jewellery valued at Rs. 24,60,870/- was 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.*

*Fact of the case is that the jewellery worth Rs. 35,68,470/- was found from locker No. 04 of Kotak Mahindra Bank Ltd., Chembur Branch, Mumbai maintained in the name of the appellant. Out of this jewellery worth Rs. 24,60,870/- was seized by the department.*

*Before the Assessing Officer, the appellant did not give any details of the source of investment made in them but had only submitted that:-*

*“The assessee is a member of enlarged close knit family of Sh. Subhash Chander Mittal (PAN: ACDPM9847Q), who is also assessed with Centre Circle, Karnal.*

*There are three ladies in the family and the jewelleiy is interchanged between all the members as and when reqidred. The total record of jewellery and other valuable items is kept by Sh. Subhash Chander Mittal, The complete detail alongwith shortfall, if any, will be submitted in his return of income. The jewellery which has not been seized (vide CBDT instruction no. 1916 dated 11 May 1994) is belonging to me and my husband received since birth at various occasions and festivals from friends and relatives as per Hindu Customs.”*

*This argument of the appellant does not hold good as the*

*locker from where the entire jewellery worth Rs. 35,68,470/- was found, was in the name of appellant only and also it was not in Kaithal but in Mumbai. The appellant cannot be absolved of the duty to explain the source of the same. Moreover, the jewellery found worth 15,25,117/- from the residence of the Sh. Subhash Chander Mittal, which is claimed to be belonging to the family members, was neither seized nor added in the hands of the appellant in the assessment order. Hence, credit for 500 gm. of jewellery in the name of appellant has already been considered by the department and there is no scope for further deduction on 'this account, as claimed by the appellant.*

*During the appellate proceedings, the AR of the appellant submitted that the appellant's father-in-law, Shri Subhash Chander Mittal has declared an amount of Rs. 1,47,00,000/- as undisclosed income and also paid taxes on the same, in the return for A.Y. 2014-15. He has further submitted that this amount of 1,47,00,000/-declared by Sh. Subhash Chander Mittal, also includes the value of jewellery found from the locker at Kotak Mahindra Bank Ltd., Chembur Branch, Mumbai. As the appellant lives in a joint family, this explanation should be accepted and no further addition should be made in the hands of the appellant.*

*During the course of assessment proceedings for A.Y.2014-15 Shri Subhash Chander Mittal has submitted that the amount disclosed u/s 132(4) by him includes jewellery found from (i) Locker No. 227 with Punjab National Bank, Ambala Road, Kaithal and (ii) Locker No. 81 with Punjab National Bank, Ambala Road, Kaithal.*

*Also, it is seen from the computation of income filed alongwith the Return for A.Y. 2014-15 in case of Shri Subhash Chander Mittal, that the amount of Rs. 1,47,00,000/- declared by him has been shown as income from other sources and 'undisclosed speculative profit from Rice.' Therefore, the argument of the appellant that this undisclosed income offered includes investment in jewellery of the appellant is not accepted.*

*It is therefore clear that no amount of undisclosed income, declared for the jewellery found in the locker at Kotak Mahindra Bank Ltd., Chembur Branch, Mumbai, held in the name of the appellant.*

*Thus, the appellant's argument that the amount invested in acquiring jewellery of Rs.35,68,470/- kept in the locker no. 04 of Kotak Mahindra Bank Ltd., Chembur Branch, Mumbai has been declared by her Father-in-law, is not correct and cannot be accepted."*

4. The assessee is in appeal raising following grounds :-

*"1. The learned CIT(A) erred in law and on facts in confirming the addition of Rs. 35,68,470/- as undisclosed investment in jewellery-*

*(a) even when the jewellery valued at Rs. 11,07,600/- 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. 24,60,870/- 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 AY 2014-15 relevant to the date of search.*

*Thus, total addition of Rs. 35,68,470/- so made must be deleted.*

*2. The appellant craves the leave to add, substitute, modify, delete or amend all or any ground of appeal either before or at the time of hearing."*

5. Heard and perused the record.

6. Appreciating the material on record it can be observed that learned tax authorities below have given a specific finding that the disputed jewellery recovered from the locker of the assessee was not part of the declaration made by Shri Subhash Chander Mittal, the father-in-law of the assessee. In this context it can be appreciated that admitted fact is that jewellery worth Rs. 24,60,870/- was seized by the Department while that worth Rs. Rs. 11,07,600/- was let go unseized. Learned AO, however, had made addition of whole of the amount considering the same to be unexplained asset.

7. Now as a matter of fact a Coordinate Bench while examining the case of Pallavi Mittal, who was also daughter-in-law of Shri Subhash Chander Mittal in ITA No. 1794/Del/2018 for A.Y. 2014-15, order dated 21.09.2021 has observed in paras 6 to 8 as follows:

*“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:*

<b>SUBHASH CHANDER</b>		<b>Value</b>	<b>Seized</b>	<b>Released</b>
( joint with other 8 family members )	Cash	328310	-	328310
	Jewellery	1525117	-	1525117
	Silver	801315	-	801315
<b>SUBHASH CHANDER</b>				
(Locker No . 81 P NB Kaithal )	Jewellery	1255654	1255654	-
<b>SUBHASH CHANDER</b>				
(Locker No . 277 PNB Kaithal )	Jewellery	4027042	4027042	-
<b>NEERAJ MITTAL</b>		<b>Value</b>	<b>Seized</b>	<b>Released</b>
(Joint with other 8 family members )	Cash	-	-	-
	Jewellery	-	-	-
	Silver	-	-	-
<b>Pallavi Mittal</b>		<b>Value</b>	<b>Seized</b>	<b>Released</b>
(Joint with other 8 family members )	Cash	-	-	-
	Jewellery	-	-	-
	Silver	-	-	-
<b>Pallavi Mittal</b>				
(Locker No . 6A UBI Kaithal )	Jewellery	4148174	1414638	2733536
<b>Hitesh Mittal</b>		<b>Value</b>	<b>Seized</b>	<b>Released</b>
(Flat No .1001, Sabri Basera Building , Opp . Diamond Garden , Chembur , Mumbai)	Jewellery	5230179	3644840	1585339
<b>SHRUTI MITTAL</b>		<b>Value</b>	<b>Seized</b>	<b>Released</b>
(Locker No . 4 KOTAK MAHI NDRA MUMBAI )	Jewellery	3568470	2460870	1107600

	<i>B LANK SHARE TRANS FER DEED</i>			
<b>Total</b>		<b>20884261</b>	<b>1280304 4</b>	<b>80 81217</b>

<b>Misc. Income Declared</b>	
<i>Jewellery</i>	<i>12803044</i>
<i>Cash</i>	<i>896956</i>
<i>Mittal &amp; Co.</i>	<i>1000000</i>
	<b>14700000</b>

<b>Jewellery Seized Person wise</b>	
<i>S.C. Mittal</i>	<i>1255654</i>
<i>S.C. Mittal</i>	<i>4027042</i>
<i>Pallavi Mittal</i>	<i>1414638</i>
<i>Hitesh</i>	<i>2460870</i>
<i>Hitesh( Shruti Mittal)</i>	<i>3644840</i>
<b>Total</b>	<b>1,28,03,044</b>

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 o f 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 .”

7.1. Very categorically the Coordinate Bench has given a finding that jewellery worth Rs. 24,60,870/- which was seized in the hands of assessee Smt. Shruti Mittal was found to be part of the jewellery worth Rs. 1,28,03,044/-, surrendered by Shri S.C. Mittal, father-in-law of the assessee. **In ITA No. 4445/Del/2018 for A.Y. 2014-15 in the case of Shri Hitesh Mittal, vide order dated 07.02.2022** another Coordinate Bench has taken note of the order dated 21.09.2021 in the case of Pallavi Mittal and has again concluded that balance seized jewellery worth Rs. 36,44,840/- in the hands of Hitesh Mittal, son of Shri S.C. Mittal stood accounted being part and parcel of

jewellery surrendered by Shri S.C. Mittal. Learned DR could not bring on record anything to show that these factual findings were disputed, hence, this Bench is inclined to follow the same.

8. The arguments raised on behalf of the Revenue on the basis of reference to Section 110 of the Evidence Act, which provides that where a person is found in possession of anything the burden of proving that he is not the owner is on the person who affirms that he is not the owner, is not applicable to the facts as in the case in hand with regard to the claim of assessee that the jewellery was family jewellery and a part of which has been disclosed as unaccounted income by the father in law, justifies and explains her claim. Accordingly, the addition made in the hands of assessee cannot be sustained. Grounds are allowed and **the appeal of assessee is allowed.**

**Order pronounced in the open court on 8<sup>th</sup> August, 2023.**

**Sd/-**

**(N.K.BILLAIYA)**

**ACCOUNTANT MEMBER**

*Date:- 08.08.2023*

**\*Binita, SR.P.S\***

Copy forwarded to:

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

**Sd/-**

**(ANUBHAV SHARMA)**

**JUDICIAL MEMBER**

AR, ITAT  
New Delhi