

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. 1796/Del/2018
(Assessment Year : 2014-15)

Ms. Urmil Mittal Mittal Bhawan Opp. Bus Stand Kaithal-136 027 PAN : AAWPM7257M	Vs.	Dy. Commissioner of Income Tax Central Circle Karnal
(APPELLANT)		(RESPONDENT)

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. 417/2016-17 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 ld. AO was primarily examining the issue of jewellery worth Rs. 36,81,549/- as found from the locker of assessee with Punjab National Bank. In this regard the claim of assessee was that the assessee is a member of enlarged close knit family of Sh. Satnarain Mittal (PAN: ACDPM9846R), who is also assessed with Centre Circle, Karnal. There are two 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. Sat Narain 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 her and other family 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. 6,51,510/- 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 heard to be responsible of failure of furnish

satisfactory reply addition of Rs. 36,81,549/- was made and same has been sustained by the Ld. CIT(A) with following findings in Para no. 5 of CIT(A) reproduced as under :-

“5. Ground of Appeal No. 3:- *is regarding addition of Rs.36,81,549/- as undisclosed investment in jewellery. I have carefully gone through the submission of the AR and the contentions of the Assessing Officer. I have also perused the assessment order framed in case of Shri Satnarain Mittal, appellant’s husband. It is seen that total jewellery found in the possession of Shri Satnarain Mittal, was of Rs. 6,51,510/-. This amount being, undisclosed investment in jewellery was added in the hands of Shri Satnarain Mittal.*

Therefore, the submission of the AR, in the present appeal that the jewellery found from the Locker No. 14 is explained in the hands of appellant’s husband is not correct. This investment of Rs.36,81,549/- in jewellery, is also not covered by undisclosed income declared by appellant’s husband Shri Satnarain Mittal. A perusal of the computation of income filed by Shri Satnarain Mittal shows that He had offered an amount of Rs.35,00,000/- as undisclosed Speculative profit from Rice. There is no clarification as to how and where this amount was invested.

Therefore, the submissions of the appellant cannot be accepted as the investment in jewellery found from the Locker No. 14 in Punjab National Bank, Ambala Road, Kaithal, in her name remains unexplained.”

4. Assessee is in appeal raising following grounds of appeal :

1. *“The learned CIT(A) erred in law and on facts in confirming the addition of Rs. 36,81,549/- as undisclosed investment in jewellery -*

(a) *even when the jewellery valued at Rs. 29,44,036/- 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. 7,37,513/- was the family jewellery acquired by the assessee’s husband, Mr. Satnarain 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. 36,81,549/- 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 assessee was not part of the income declared by Shri Sat Narain Mittal, husband of the assessee. In this context it can be appreciated that admitted fact is that jewellery worthy Rs. 36,81,549/- was unearthed by the Department of which Rs. 7,37,513/- was seized by the Department. Learned AO, however, had made addition of whole of the jewellery considering the same to be unexplained asset. Learned AR has placed on record the computation of total income of Shri Sat Narain Mittal, husband of the assessee, for A.Y. 2014-15, wherein undisclosed speculative profit from rice of Rs. 35 lakhs has been mentioned. Learned CIT(Appeals) in para 2.2 of his order observed that when the assessment order was passed Shri Sat Narain Mittal had not filed his return of income. Learned CIT(Appeals) has relied the aforesaid observation of learned AO and concluded that the investment of Rs. 36,81,549/- in jewellery is not covered by the undisclosed income of the appellant's husband Shri Sat Narain Mittal. She, however, mentioned that the computation of income filed by Shri Sat Narain Mittal shows that he had offered an amount of Rs. 35 lakhs as undisclosed speculative profit from rice.

7. Learned AR has filed details of jewellery found, seized and released and the undisclosed income declared as under by Shri Sat Narain Mittal:

SAT NARAIN		Value	Seized	Released
(Joint with other 8 family members)	Cash	33300	-	33300
	Jewellery	518310	-	518310
	Silver	133200	-	133200
NIHAR MITTAL		Value	Seized	Released
(Residence Rajouri Garden)	Jewellery	2345480	1476055	869425
NIHAR MITTAL & URMIL MITTAL		Value	Seized	Released
(Joint with other 8 family members)	Cash	-	-	-
	Jewellery	-	-	-
	Silver	-	-	-
Nihar Mittal & Urmil Mittal				
(Locker No. 14 PNB Kaithal)	Jewellery	3681549	737513	2944036
Total		6711839	2213568	4498271

Misc. Income Declared in AY 2014-15	
Jewellery	2213568
Cash	1286432
	3500000

<i>Jewellery declared income of person wise</i>	
<i>Urmil Mittal</i>	<i>737513</i>
<i>Nihar Mittal</i>	<i>1476055</i>

7.1 Now from above it can be seen that Shri Sat Narain Mittal, husband of the assessee, staying under the same roof with the assessee has disclosed an amount equal to the unaccounted jewellery seized or belonging to his family.

8. In the group case of **Pallavi Mittal Vs. DCIT (ITA No. 1794/Del/2018 for A.Y. 2014-15) vide order dated 21.09.2021**, the Coordinate Bench considered the similar details filed by Shri S.C. Mittal, the father-in-law of Pallavi Mittal and observed that the very purpose of centralization of the cases of family members is to have a comprehensive understanding and determination of undisclosed income. Accordingly, in that case the undisclosed income accounted by the father-in-law Shri S.C. Mittal was taken into account for the jewellery allegedly found in the locker of Pallavi Mittal.

9. In the case in hand the aforesaid tabulation establishes that in Rs. 35 lakhs, offered income, Shri Sat Narain Mittal had shown jewellery component of Rs. 22,13,568/-, which is arrived by adding the seized jewellery of Nihar Mittal, the daughter of assessee of Rs. 14,76,055/- and of assessee of Rs. 7,37,513/-. Thus, the seized component of the assessee has been duly accounted by her husband.

10. The Revenue authorities have given the benefit to the assessee of the Circular No. 1916 dated 11.05.1994 at the time of search by not seizing the

entire jewellery worth Rs. 5,18,310/- in the hands of Shri Sat Narain Mittal and Rs. 29,44,036/- in the hands of assessee Urmil Mittal. The assessee is a married woman and not assessed to wealth-tax returns. Her claim of being into possession of family jewellery could not have been completely discarded. The benefit given could not have been withdrawn without evidence to contrary.

11. 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 husband, justifies and explains her claim. In the light of the aforesaid, the grounds raised are sustained. **The appeal of the assessee is allowed.**

Order pronounced in the open court on 8th August, 2023.

Sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Date:- 8 .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