

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H" NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 2800/DEL/2022  
[Assessment Year: 2019-20]**

Tulsi Kumar Ralhan, W-83, Greater Kailash Part-II, New Delhi-110048. PAN-AGMPD2271L	<u>Vs</u>	ACIT, Central Circle-3, New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	<b>Shri Anup Mehta, CA</b>	
<b>Department represented by</b>	<b>Shri Amir Katoch, Sr. DR</b>	
<b>Date of hearing</b>	<b>22.09.2023</b>	
<b>Date of pronouncement</b>	27.09.2023	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-23, New Delhi, dated 27.10.2022, pertaining to the assessment year 2019-20. The assessee has raised following grounds of appeal:

“1. That on the facts & circumstances of the case and in law the order passed by Ld. CIT(A)-23, New Delhi (hereinafter referred to as CIT(A)) is contrary to the facts and bad in law.

2. That on the facts & circumstances of the case and in law the Ld. CIT(A) was not justified in upholding the addition of Rs. 3,92,151/- made in

the assessment order on account of alleged unexplained investment in jewellery and, disregarding the provision contained in Instruction No. 1916 issued by CBDT.

3. That the appellant craves leave to add, alter, amend, modify any of the grounds of appeal at the time of hearing or before.

2. The only effective ground is against upholding the addition made in the assessment order on account of alleged unexplained investment in jewellery and not following the Instruction No. 1916 issued by CBDT

3. The facts, giving rise to the present appeal, are that a search and seizure operation was carried out u/s 132 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") in the case of M/s Super Cassettes Industries Pvt. Ltd. on 28.11.2018. The assessee's case was also covered in operation u/s 132 of the Act. Thereafter, the assessee filed its return of income u/s 139 of the Act on 15.10.2019, thereby declaring total income of INR 1,97,57,870/-, which was processed u/s 143(1) of the Act. A notice u/s 143(2) of the Act was issued. In response thereof the learned AR of the assessee attended the proceedings. While framing the assessment u/s 143(3) of the Act the AO made addition of Rs. 3,92,151/- on account of unexplained investment in jewellery. Aggrieved against this the assessee preferred appeal before learned CIT(A), who sustained the addition. Now the assessee is in appeal before this Tribunal.

4. Learned counsel for the assessee vehemently argued that the authorities below failed to give benefit of CBDT Instruction No. 1916. He contended that as per the Revenue itself the total jewellery valuing at Rs. 6,27,00,968/- was found out of which jewellery worth Rs. 5,26,26,452/- was seized. Out of total jewellery worth Rs. 6,27,00,968/- the AO found purchases of jewellery worth Rs. 3,92,151/- as unexplained. He contended that the authorities below ought to have give benefit of CBDT Instruction No. 1916.

5. On the other hand, learned DR opposed the submissions and supported the orders of the authorities below.

6. We have heard rival contentions and perused the material available on record. We find that the learned CIT(A) has sustained the addition by observing as under:

*“7. During the course of search jewellery worth Rs.6,27,00,968/- were found, out of nich jewellery worth Rs.5,26,26,425/- was seized from the search premise and locker. During the course of assessment proceedings, the Assessing Officer asked the appellant explain the jewellery. After considering the explanation of the appellant, the Assessing Officer did not find the explanation in respect of jewellery worth Rs. 3,92,151/- as acceptable and therefore made an addition of Rs. 3,92,151/- u/s 69A of the Act. The amount of addition included pure gold coin and ginni.*

*8. During the course of appellate proceedings, the appellant could not offer any plausible explanation in respect of the jewellery found and added to the total income of the appellant. The appellant stated that the jewellery is explained however, if the Assessing Officer was not satisfied, in that case he should have given the benefit of instruction no.1916 of the CBDT. The*

*appellant argued that the addition made was in respect of one gold coin and 17 gold ginnies. Further, weight of ginnies and gold coin added is only 138.90 gms. It was further stated that the appellant was able to reconcile jewellery worth Rs.6.27 Crores, Therefore, the Assessing Officer should have allowed the remaining jewellery after invoking instruction no. 1916 of the CBDT.*

*9. The reply of the appellant is examined. As per instruction no. 1916, there is exemption to some extent from seizure in respect of jewellery found. The instruction does not lay down that unexplained jewellery to the extent of 500 gms in the case of a married lady is automatically explained or there is no need to explain the jewellery to the extent of 500 gms. Further, gold coin and ginnies are not jewellery. The instruction no.1916 is applicable for jewellery/ornaments. Ginnies and gold coins do not take the character of jewellery or ornament. Therefore, on this ground also the explanation of the appellant is not acceptable,*

*10. In this case, it is an admitted fact that jewellery/gold to the extent of Rs.3,92,151/- could not be explained by the appellant. The Assessing Officer after considering the explanation of the appellant did not make an addition to the extent of more than Rs.6.27 Crores. No infirmity is found in the action of the Assessing Officer in making addition of Rs. 3,92,151/-. Therefore, the addition made by the Assessing Officer is sustained.”*

6.1 From the assessment order it is clear that the AO made addition on account of non-explanation of source of acquisition/purchase of jewellery items worth Rs. 3,92,151/- and the learned CIT(A) in the appellate order states about gold coins and 17 gold ginnies. The learned CIT(A) was of the view that gold coins and ginnies are not jewellery, which is contrary to the finding of the AO, who in unequivocal terms states that the source of acquisition/purchase of jewellery worth Rs. 3,92,151/- was without any documentary evidence. Learned CIT(A) failed to take note of the fact that assessee is having high social status and duly declared

jewellery of more than 6.27 crores. Looking to the peculiarity of facts of the present case where there is no finding by AO that addition was made on account of the fact that items do not partake the character of jewellery, we direct the AO to delete the impugned addition. Grounds of appeal are allowed.

7. In the result, assessee's appeal stands allowed.

Order pronounced in open court on 27<sup>th</sup> September, 2023.

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**  
**\*MP\***

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**