

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI**

**Before Sh. C. M. Garg, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 1145/Del/2021 : Asstt. Year : 2018-19**

Mrs. Jasmine Anand, H-5/2, Model Town-II, New Delhi-110009	Vs	ACIT, Central Circle-01, New Delhi-110055
(APPELLANT)		(RESPONDENT)
<b>PAN No. AWWPA6361N</b>		

**ITA No. 60/Del/2022 : Asstt. Year : 2018-19**

ACIT, Central Circle-01, New Delhi-110055	Vs	Mrs. Jasmine Anand, H-5/2, Model Town-II, New Delhi-110009
(APPELLANT)		(RESPONDENT)
<b>PAN No. AWWPA6361N</b>		

**ITA No. 1146/Del/2021 : Asstt. Year : 2018-19**

Jaswinder Kaur Anand, G-18, Pushpanjali Farms, Bijwasan South West, Delhi-110061	Vs	ACIT, Central Circle-01, New Delhi-110055
(APPELLANT)		(RESPONDENT)
<b>PAN No. AFNPA3493F</b>		

**Assessee by : Sh. Salil Kapoor, Adv. &  
Sh. Utkarsa Gupta, Adv.  
Revenue by : Mr. Waseem Arshad, CIT-DR**

<b>Date of Hearing: 27.09.2023</b>	<b>Date of Pronouncement: 16.10.2023</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeals have been filed by the assessee and the Revenue against the orders of Id. CIT(A)-23, New Delhi dated 15.07.2021.

2. In ITA No. 1145/Del/2021, following grounds have been raised by the assessee:

*"1. The Learned Commissioner of Income Tax (Appeals) has grossly erred in confirming an addition of Rs. 20,32,837/-, out of the total addition of Rs. 25,78,237, made by the assessing officer, representing Stridhan of the assessee u/s 69B of the Act, found during the course of the Search on the Joint locker of the assessee.*

*2. The Learned Commissioner of Income Tax (Appeals) also failed to appreciate that the contents of the affidavit, inter alia, pertaining to Stridhan, furnished by the assessee before the Learned Assessing Officer were never controverted by him.*

*3. The Learned Commissioner of Income Tax (Appeals) further erred in confirming the said amount ignoring the status of the assessee and the customs prevalent in the society to which the assessee belongs*

*4. The learned Commissioner of Income Tax (Appeals) further failed to appreciate that the learned Assessing Officer had accepted the gold portion of the jewellery found during the search but failed to accept the value of the diamonds/ precious/ semi-precious stones embedded in them.*

*5. The Learned Commissioner of Income Tax (Appeals) further failed to appreciate that there is not even an iota of evidence that the assessee had invested in the said jewellery out of unexplained sources, and thus, in absence of which no addition could be made u/s 69B of the Income Tax Act.*

*6. The Learned Commissioner of Income Tax (Appeals) has erred in confirming an addition of Rs. 4,49,750 made by the assessing officer being ½ share of the cash found from the Joint locker of the assessee, with total disregard to the facts and circumstances of the case.*

*7. The Learned Commissioner of Income Tax (Appeals) has further erred in not appreciating that the assessee belonged to the ALP group of industries and belonged to a reputed upper strata family. The said cash, inter alia, included the various shaguns received on various occasions from family members/ relatives."*

3. In ITA No. 60/Del/2022, following grounds have been raised by the Revenue:

*"1. The Id. CIT(A) erred in law and on facts in not confirming the addition of Rs.17.84 Cr., representing 10% of recorded cash sales (holding the same as unofficial cash premium earned by the assessee) in spite of the clear findings to the effect that the assessee consciously violated provision of section 269ST of the Income Tax Act, 1961, facilitated conversion of unaccounted demonetized currency with bullion and in the process must have earned the unofficial premium, a practice that was widely reported in public domain."*

4. In ITA No. 1146/Del/2021, following grounds have been raised by the assessee:

*"1. The Id. CIT(A) has erred in confirming an addition of Rs.4,49,750/- made by the Assessing Officer being ½ share of the cash found from the joint locker of the assessee with total disregard to the facts and circumstances of the case.*

*2. The Id. CIT(A) has further erred in not appreciating that the assessee belonged to the ALP group of industries and belonged to a reputed upper strata family. The said cash inter alia included the various shoguns received on various occasions from family members/relatives."*

**Jaswinder Kaur Anand**

**ITA No. 1146/Del/2021**

**Cash – Locker Rs.4,49,750/-:**

5. A survey action u/s 133A of the Income Tax Act, 1961 was carried out on "U&I Vaults Pvt. Ltd." on 16.11.2017. The locker No. L-953 which is in the name of the assessee and Jaswinder Kaur Anand has been searched by issue of warrant of authorization u/s 132. During the search, jewellery worth Rs.8,29,19,985/- was found and seized from the locker. Further, cash of Rs. 8,99,500/- was found & seized from the said locker No. L-953. From perusal of bank statement of the

assessee, the Assessing Officer found that the assessee did not withdraw any cash from any of its bank accounts. In absence of any justification or documentary evidence regarding source of cash found in the locker no. L-953 was treated as unexplained money and added to the total income of the assessee as per section 69A of the Income-tax Act, 1961. Since, the locker No. L-953 was jointly hold by Smt. Jasmine Anand and Smt. Jaswinder Kaur Anand, the cash of Rs. 8,99,500/- was distributed equally between both the account holders and an amount of Rs. 4,49,750/- being 50% of total cash found and seized was added to the total income of the assessee on account of unexplained money u/s 69A of the Income Tax Act, 1961 on substantive basis.

6. The Id. CIT(A) confirmed the addition.

7. Aggrieved, the assessee filed appeal before the Tribunal.

8. During the hearing, the Id. AR reiterated the arguments taken up before the Id. CIT(A). It was argued that the Id. CIT(A) has erred in confirming the addition of Rs.4,49,750/- for cash found in the Locker No. L-953, without appreciating the fact that the cash was partly withdrawn from various banks and partly gifts received from relatives on different occasions and pin money. The Id. AR submitted that the assessee belongs to the ALP group of industries which is a reputed name in the market. The assessee belongs to the upper higher strata of the society and it is very common for the assessee and her family to receive gifts in the shape of cash "shaguns" on various occasions such as marriages, birthdays, anniversaries, birth of a child, auspicious festivals and other such occasions. The Id. AR argued that pin money/Kitty which is very common to be received from the spouse in every family. The assessee's

financial status has been substantiated in the shape of returns of income filed by her for the past six years. The total taxable income for the block period was to the tune of Rs.8.83 Cr. Thus, the amount of Rs. 4,49,750/- is a very nominal amount looking into the status and submitted that the addition made be deleted.

9. On the other hand, the Id. DR supported the order of the Id. CIT(A) and argued that there were no cash withdrawals and it is difficult to believe that the assessee would keep the amounts received as gifts on festivals and occasions in her locker.

10. Heard the arguments of both the parties and perused the material available on record.

11. We have verified the tax returns filed by the assessee which are as under:

Assessment Year	Taxable Income	Exempt Income	Original ITR Acknowledgment no.
2012-2013	1,83,87,007.00	11,34,203.00	478031440310812
2013-2014	66,16,393.00	11,31,953.00	707551540300713
2014-2015	77,48,051.87	29,10,756.00	302079010310714
2015-2016	1,39,17,643.00	1,53,93,642.00	740184810290815
2016-2017	1,68,12,674.26	1,39,61,293.28	616868240100217
2017-2018	1,48,84,280.00	1,15,53,690.00	163568430090817
2018-2019	1,79,82,998.00	1,48,33,472.00	231534101300818

12. On going through the taxable income and the arguments of the assessee, realities of Indian society and various judicial pronouncements, we hold that no addition is warranted on the amount of Rs.4,49,750/-.

13. In the result, the appeal of the assessee is allowed.

**Jasmine Anand****ITA No. 1145/Del/2021 (Assessee Appeal)****ITA No. 60/Del/2022 (Revenue Appeal)**

14. A survey action u/s 133A of the Income Tax Act, 1961 was carried out on "U&I Vaults Pvt. Ltd." on 16.11.2017. The locker No. L-953 which is in the name of the assessee and Jaswinder Kaur Anand has been searched by issue of warrant of authorization u/s 132. During the search, jewellery worth Rs.8,29,19,985/- was found and seized from the locker. Further, Cash of Rs. 8,99,500/- was found & seized from the said locker No. L-953. From perusal of bank statement of the assessee, the Assessing Officer found that the assessee did not withdraw any cash from any of its bank accounts. In absence of any justification or documentary evidence regarding source of cash found in the locker no. L-953 was treated as unexplained money and added to the total income of the assessee as per the section 69A of the Income-tax Act, 1961. Since, the locker No. L-953 was jointly hold by Smt. Jasmine Anand and Smt. Jaswinder Kaur Anand, the cash of Rs. 8,99,500/- was distributed equally between both the account holders and an amount of Rs. 4,49,750/- being 50% of total cash found and seized was added to the total income of the assessee on account of unexplained money u/s 69A of the Income Tax Act, 1961 on substantive basis.

**Jewellery:**

15. The Assessing Officer made addition of Rs.25,78,237/- on account of difference in the jewellery and Rs.16,082/- on account of unexplained bullion on protective basis, Rs.82,43,262/- on account of jewellery on protective basis and

Rs.78,69,870/- on account of value of solitaire ring in addition to the unexplained cash of Rs.4,49,750/-.

16. The Id. CIT(A) deleted an amount of Rs.5,45,400/- and confirmed an amount of Rs.20,32,837/- out of the addition of Rs.25,78,237/- on account of difference in the jewellery. The Id. CIT(A) deleted the protective addition of Rs. 82,43,262/- on account of jewellery holding that the amount has been assessed in the hands of Sh. Pawan Deep Singh Anand. The Id. CIT(A) also deleted the addition of Rs. 78,69,870/- made on account of value of solitaire ring and confirmed the addition of unexplained cash of Rs.4,49,750/-.

17. Aggrieved with the order of the Id. CIT(A), the assessee as well as the Revenue filed appeal before us.

**Jewellery – Rs.25,78,237/-:**

18. During the search, jewellery worth Rs.8,29,19,985/- was found and seized. It was submitted that the jewellery belongs to members of the family namely, Sh. Preet Pal Singh Anand, Sh. Pawan Deep Anand, Sh. Ranjit Singh Chadda, Satinder Kaur Anand and other five family members. The Assessing Officer allowed 1604 gms. of gold and 7 cts. of diamonds and held that an amount of 465 gms. of gold bullion and 50 cts. of diamonds as undisclosed. On this account, the AO made addition of Rs.25,78,235/- taking into consideration the value of gold @ Rs.2,727/- per gms. and diamond @ Rs.26,190/- per cts. The Id. CIT(A) gave benefit of 200 gms of gold valued Rs.5,45,400/- and confirmed the addition of Rs.20,32,837/-.

19. Before us, the Id. AR argued that the taxable income of the assessee is more than Rs.30 lacs each year and the

assessee could have had jewellery of 2070 gms. valuing Rs.56,44,890/- and diamonds of 57 cts. worth Rs.14,92,830/-. It was submitted that the assessee's family income is more than Rs.10 Cr. in the block period and also the gifts from mother-in-law and stridhan.

20. Heard the arguments of both the parties and perused the material available on record. We have gone through the facts of the case and the judgments of various Courts on this issue.

21. At the outset, we hold that CBDT's instruction no. 1916 dated 11.05.1994 and press release dated 01.12.2016 pertains to seizure of jewellery. It postulates that by going through the archetypal Indian family standard, a persons of an Income Tax payee of considerable amount could have had the prescribed amount of jewellery in the circular. It was brought into force after a series of due deliberation and its impact on taxation. It is never envisaged that the Assessing Authority should restrict the amount of eligible jewellery to the quantity mentioned in the circular. The assessee has a returned income in the range of Rs.31 lacs to Rs.42 lacs as per the returns.

22. The statement showing the incomes of the assessess is as under:

Assessment Year	Taxable Income	Exempt Income	Original ITR Acknowledgment no.
2012-2013	31,10,400.00	1,00,000.00	477884970310812
2013-2014	36,28,890.00	1,00,000.00	6878488100270713
2014-2015	37,93,410.00	1,10,000.00	27722736029-714
2015-2016	38,10,120.00	1,50,000.00	740184810290815
2016-2017	39,20,520.00	1,50,000.00	323035030280716
2017-2018	42,96,020.00	3,24,000.00	922302630250717

23. The assessee stated that the income for all the years had fallen into the highest tax bracket which shows that the assessee has been earning substantial Income clearly establishing the status. It has time and again been held that due credit of the same has to be allowed by the Assessing Officer looking and appreciating the status, customs, and traditions relating to the family. Reliance is being placed upon following decisions:

- *Ashok Chaddha vs. ITO, 14 taxmann.com 57 (Delhi)*
- *Vibhu Aggarwal vs. DCIT, 93 taxmann.com 275 (Delhi - Trib.)*
- *Tara Devi Goenka vs. CIT 122 ITR 14 (Cal)*
- *Ms. Pooja Shree Chouksey Vs. ACIT in ITA No. 572/Ind/2018*
- *CIT Vs. Kailash Chand Sharma 198 CTR 201 (Raj)*
- *Suneela Soni Vs. DCIT in ITA No. 5259/DEL/2017*
- *DCIT Vs. Shri Haroon Mohd. Unni in ITA No.463/M/2012*
- *Susan Suresh Chandra Tilwa Vs. DCIT in ITA No.270/RJT/2015*
- *DCIT, CC-8(3), Mumbai Vs. Shri Manekchand Kothari ITA No. 194/Mum/2018*

24. The Hon'ble Delhi High Court in the case of Ashok Chaddha vs. Income-tax Officer 14 taxmann.com 57 (Delhi) held that collecting jewellery of 906.900 gms by a woman in a married life of 25 years in form of stree dhan or on other occasions is not abnormal. The operative part of the judgment is reproduced below:

*"3. Learned Counsel for the respondent on the other hand relied upon the reasoning given by the authorities below. After considering the aforesaid submissions we are of the view that*

*addition made is totally arbitrary and is not founded on any cogent basis or evidence. We have to keep in mind that the assessee was married for more than 25-30 years. The jewellery in question is not very substantial. The learned counsel for the appellant/assessee is correct in her submission that it is a normal custom for woman to receive jewellery in the form of "stree dhan" or on other occasions such as birth of a child etc. Collecting jewellery of 906.900 grams by a woman in a married life of 25-30 years is not abnormal. Furthermore, there was no valid and/or proper yardstick adopted by the Assessing Officer to treat only 400 grams as "reasonable allowance" and treat the other as "unexplained". Matter would have been different if the quantum and value of the jewellery found was substantial.*

*4. We are, therefore, of the opinion that the findings of the Tribunal are totally perverse and far from the realities of life. In the peculiar facts of this case we answer the question in favour of the assessee and against the revenue thereby deleting the aforesaid addition of Rs. 3,87,364."*

25. The Hon'ble Delhi High Court in the case of Suneela Soni Vs. DCIT in ITA No. 5259/DEL/2017 held as follows:

*"6.1 After perusing the aforesaid decision of the Hon'ble Delhi High Court, I am of the considered view that facts and circumstances of the present case are similar to the aforesaid decision of the Hon'ble Delhi High Court and hence, the issue in dispute is squarely covered by the aforesaid decision.*

*6.2 Keeping in view of the aforesaid facts and circumstances of the case as well as the status of the family and on the anvil of the judgement of the High Court of Delhi in the case of Ash ok Chadha vs. ITO reported in 14 taxmann.com 57 (Delhi.)/202*

*Taxman 395, the explanation given by the assessee's counsel is accepted. Accordingly the orders of the authorities below are cancelled and addition made by the AO and confirmed by the Ld. CIT(A) amounting to Rs. 10,65,312/- on account of purported unexplained Jewellery claimed by the assessee is deleted.*

*7. In the result, Assessee's appeal is allowed."*

26. The Co-ordinate Bench of ITAT Delhi in the case of Vibhu Aggarwal vs. DCIT 93 taxmann.com 275 (Delhi - Trib.) held that where Assessing Officer under section 69A made addition on account of jewellery found in search of assessee, since assessee belonged to a wealthy family and jewellery was received on occasions from relatives, excess jewellery was very much reasonable and, thus, no addition under section 69A was called for. The operative part of the judgment is reproduced below:

*"2. The brief facts of the case are that a search & seizure operation under section 132 of the IT Act was conducted at the business premises of M/s Best Group and as well as in the residential premise of the Directors on 28.03.2011, in consequence to which the case of the assessee was taken up for scrutiny. The AO has completed the assessment by making an addition of 30,73,373 on account of unexplained investment in jewellery and addition of Rs. 1.87,082/- on account of unexplained investment in property. The total jewellery found during the course of search was 2531.5 gms, out of which the AO has given assessee the benefit of 950 gms, as per the CBDT Instruction No. 1916 dated 11.4.1994 on account of wife and two children of the assessee. The Ld. CIT(A) in appeal has further allowed the benefit of 600 gms. Of jewellery on account*

*of mother and father of the assessee, holding that the same was allowable to the assessee as per the CBDT Instruction No. 1916, but however, sustained the balance addition made by the AO, vide order dated 22.12.2014 treating the balance jewellery weighting 1050 gms of gold as unexplained.*

*6.3 Keeping in view of the aforesaid facts and circumstances of the case as well as the status of the family and on the anvil of the judgement of the High Court of Delhi in the case of Ashok Chaddha (Supra) & of Sushila Devi (supra) and the IT AT Delhi decision in the case of Suneela Soni (supra), the explanation given by the assessee's counsel is accepted. Accordingly the orders of the authorities below are cancelled and addition made by the AO and partly confirmed by the Ld. CIT(A) on account of balance jewellery weighting 1050 gms of gold as unexplained is hereby deleted."*

27. Hence, keeping in view the facts and circumstances of the instant case and also the jewellery found, the total income declared, gifts received, bills produced, and in view of the various judgments cited above, we direct that the addition made on account of jewellery be deleted.

28. In the result, the appeal of the assessee on this issue is allowed and that of the revenue is dismissed.

**Solitaire Ring:**

29. The AO made addition of Rs.78,69,874/- on account of value of solitaire ring.

30. Before us, the Id. DR reiterated the arguments taken up by the Assessing Officer while making the addition. The Id. AR reiterated the arguments taken up before the Id. CIT(A).

31. Heard the arguments of both the parties and perused the material available on record.

32. The facts are as under:

- The assessee has submitted the bill dated 04.05.2017 showing purchase of 7.01 cts. of diamonds worth Rs.26,68,420/- from Naulakha Jewellers.
- The assessee has made payments through ICICI Bank for Rs.26,68,420/- in three installments from 28.02.2017, 16.05.2017 and 14.08.2017.
- The valuer Sh. Kailash Chauhan valued the ring at Rs.1,05,38,300/- on 12.01.2018, the date of search.
- The valuer determined diamonds of 7.01 cts. and gross weight of 8.55 gms.

33. Hence, it can be considered that the diamonds and the purchase thereof has been duly explained and the difference is due to valuation. The Assessing Officer has accepted the fact that the diamonds have been indeed purchased from Naulakha Jewellers. The size of the diamonds in the valuation report is exactly similar as what has been purchased by the assessee. The Id. CIT(A) relied on the judgments in the case of,

- Gautam Laljibhai Gajjar Vs. ITO (37 ITD 514)
- Dinesh Jain Vs. DCIT (34 SOT 444)
- CIT Vs. Smt. Shakuntala Devi (316 ITR 46) (Del.)
- K.P. Varghese Vs. ITO (131 ITR 597) (SC)

34. Having gone through the facts of the case narrated above and judgments relied upon by the Id. CIT(A), we are in total agreement with the decision of the Id. CIT(A) in deleting the addition.

35. In the result, the appeal of the revenue on this ground is dismissed.

**Cash – Locker Rs.4,49,750/-:**

The facts and circumstances of this issue are already dealt above in this order in ITA No. 1146/Del/2021 and hence the appeal of the assessee on this ground is hereby allowed.

In the result, the appeals of the assessee are allowed and that of the Revenue is dismissed.

Order Pronounced in the Open Court on 16/10/2023.

Sd/-

**(C. M. Garg)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 16/10/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**