

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'G': NEW DELHI)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No:- 2350/Del/2019  
(Assessment Year: 2015-16)**

Shekhar Agarwal, New Delhi.	Vs.	ACIT, Circle-8, New Delhi.
<b>PAN No:</b> AFBPA7991L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Ved Jain, Adv. &  
Ms. Supriya Mehta, CA  
**Revenue by** : Shri Sanjay Gupta, CIT(DR)

**Date of Hearing** : 04.01.2024  
**Date of Pronouncement** : 04.01.2024

**ORDER**

**PER N.K. BILLAIYA, AM**

This appeal by the assessee is preferred against the order of the CIT(A)-24, New Delhi, dated 25.02.2019 pertaining to A.Y. 2015-16.

2. The only grievance of the assessee is that the CIT(A) erred in upholding the order of the AO, who made the addition of Rs. 4,48,796/- under section 69A of the Act.

3. Briefly stated the facts of the case are that a search and seizure operation was conducted in the case of Priyagold Group of assessee by Investigation Wing on 16.12.2014. During the search operation at the residential premise of the assessee and his wife Smt. Nidhi Agarwal, diamond jewellery of 13.75 carat was found from the possession of the assessee and his wife. During the operation of locker, diamond jewellery of 25 carat was also found. Thus, total diamond jewellery found in the possession of the assessee and his wife was 38.75 carat. The AO found that in the Wealth Tax Return, the assessee has not declared any diamond jewellery and the wife of the assessee did not file any Wealth Tax Return.

4. The AO was of the firm belief that diamond Jewellery of Rs. 4,88,250/- was not declared in the Wealth Tax Return. The AO sought explanation from the assessee and the assessee filed a detailed reply, which did not find any favour with the AO. The AO completed the assessment by making addition of Rs. 4,48,796/-

5. The assessee agitated the matter before the CIT(A) but without any success.

6. Before us, the Counsel for the assessee stated that on identical set of facts in the appeals of the family members, this Tribunal has deleted the addition. It is the say of the Counsel, that the jewellery was studded with diamond and no loose diamond were found and the jewellery declared in the Wealth Tax Return was much higher than the jewellery found at the time of search. The Counsel placed strong reliance on the decision of the Co-ordinate Bench in the case of one of the family member Smt. Bina Aggarwal in ITA No. 2349/Del/2019. The DR strongly supported the orders of the authorities below.

7. We have given a thoughtful consideration to the orders of the authorities below. It is an admitted fact that loose diamond were not found during the search only the jewellery studded with Diamond was found. It is also a fact that the jewellery declared in the Wealth Tax Return was higher than the jewellery found. On identical set of facts, the Co-ordinate Bench in the case of Smt. Bina Aggarwal in ITA No. 2349/Del/2019 order dated 30.10.2019 held as under:

*"We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the diamond jewellery is always studded with gold and it is not a case of revenue that separate diamonds were found during the search operation. Merely because the jewellery is studded with the diamond of 47.18 carat in the instant case, the same cannot be added in the hands of the assessee when such jewellery*

*formed part of the gross weight of the jewellery found from the premises of the assessee. The assessee made full disclosure and has submitted the details of the jewellery which were accepted by both the authorities and was never questioned. Thus, this addition does not sustained. Hence, Ground No. 2 of the assessee is allowed."*

7.1 On following the decision of co-ordinate Bench , we direct the AO to delete the impugned addition. Appeal of the assessee is allowed.

Order pronounced in the Open Court on 04.01.2024

**Sd/-**  
**(YOGESH KUMAR US)**  
**JUDICIAL MEMBER**

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

Dated: 04/01/2024.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	04.01.24
Date on which the typed draft is placed before the dictating Member	04.01.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	