

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 600/DEL/2023 [A.Y. 2019-20]

Smt. Madhulika Tiwari  
C - 26, Defence Colony  
New Delhi

Vs.

The A.C.I.T  
Central Circle - 20  
New Delhi

PAN - ACBPT 4739 L

(Applicant)

(Respondent)

Assessee By : Shri Vinod Kumar Garg, Adv  
Department By : Shri Subhra Jyoti Chakroborty, CIT-DR

Date of Hearing : 13.02.2024  
Date of Pronouncement : 15.02.2024

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
ld. CIT(A) - 27, New Delhi dated 11.01.2023 pertaining to A.Y 2019-20.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in confirming the addition of Rs. 3,72,209/- made u/s 69 r.w.s 115BBE of the Income-tax Act, 1961 [the Act, for short].

3. Briefly stated, the facts of the case are that a search and seizure operation u/s 132 of the Act was conducted by the Investigation Wing on 12.07.2018 in Rohit Tiwari Group of cases. Two lockers, namely Locker No. 724 and Locker No. 482 of New Delhi Vaults Limited were also covered u/s 132 of the Act.

4. The contents of the Lockers were as under:

Particulars	Net Weight (Gm.)	Total Value (Rs.)	Value of Gold (Rs.)	Value of Diamond & Stones (Rs.)
<b>Locker No. 482</b> In the name of Appellant and Mrs. Samita Tiwari daughter of the Appellant ( <u>claimed to be of NRI daughter</u> ) <b>PB Page 49</b>	920.08	26,05,860	25,85,760	20,100

<b>Locker No. 724</b> In the name of Appellant and Mrs. Usha Bajpai, sister in law of Appellant. ( <u>claimed to be of Appellant</u> ). <b>PB Page 9</b>	565.624	18,10,515	17,19,035	91,480
<b>Total</b>	<b>1485.704</b>	<b>44,16,375</b>	<b>43,04,795</b>	<b>1,11,580</b>

5, While framing the assessment, the Assessing Officer accepted the possession of jewelry as per the CBDT Circular No. 1916 dated 11.05.1994 in respect of the appellant and her husband at 600 gms and made addition of the balance 885.704 gms valued at Rs. 28,14,072/-

6. The assessee agitated the matter before the ld. CIT(A) and the ld. CIT(A) further gave relief drawing support from the same CBDT Circular in respect of daughter of the assessee, her husband and two children. Relief of 1400 gms was granted by the ld. CIT(A) and addition of Rs. Rs. 3,72,209/- of 85.704 gms was sustained.

7. Before us, the ld. counsel for the assessee vehemently stated that locker No. 482 was in the joint name with daughter Ms. Samita Tiwari and her daughter has categorically accepted that the contents in Locker 482 belonged to her and her only.

8. The ld. counsel for the assessee drew our attention to the letter written by the daughter which is exhibited at pages 17 to 19 of the order of the ld. CIT(A).

9. Per contra, the ld. DR stated that the ld. CIT(A) has already given relief of 1400 gms considering the CBDT Circular in the hands of the daughter and her husband and children.

10. We have given thoughtful consideration to the orders of the authorities below. The undisputed fact is that Locker No. 482 was jointly held by the assessee and her daughter. It is also not in dispute that the daughter Ms. Samita Tiwari is a non-resident and lives in the United States of America. It is quite reasonable and logical for a married daughter to keep her jewelry with her mother, more so when she is living abroad. The letter written by the daughter also makes it abundantly clear that the items in Locker No. 482 belonged to the daughter of the assessee.

11. We find that no enquiry whatsoever has been done thereafter, neither by the Assessing Officer nor by the ld. CIT(A). Therefore, accepting the Principle of Probability, ownership of jewellery by the daughter cannot be ruled out.

12. We, accordingly, direct the Assessing Officer to delete the addition of Rs. 3,72,209/- sustained by the ld. CIT(A).

13. In the result, the appeal of the assessee in ITA No. 600/DEL/2023 is allowed.

The order is pronounced in the open court on 15.02.2024.

**Sd/-**

**[KUL BHARAT]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 15<sup>th</sup> FEBRUARY, 2024

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
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	
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Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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