

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI
BEFORE,
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER
ITA No.3003/Del/2022
(ASSESSMENT YEAR 2018-19)**

DCIT Central Circle-17 New Delhi	Vs.	Renu Punj B-20, Greater Kailash Part-1, South Delhi New Delhi-110048 PAN-AIUPP4839L
(Appellant)		(Respondent)

ITA No.3002/Del/2022
(ASSESSMENT YEAR 2018-19)

DCIT Central Circle-17 New Delhi	Vs.	Pooja Punj B-20, Greater Kailash Part-1, South Delhi New Delhi-110048 PAN-AYXPP9419P
(Appellant)		(Respondent)

Appellant by	Mr. Pavitra H. Arora, Advocate
Respondent by	Mr. P. N. Barnwal, CIT-DR

Date of Hearing	15/04/2024
Date of Pronouncement	26/04/2024

ORDER

PER S.RIFAUH RAHMAN,AM:

The both appeals have been filed by the Revenue against the orders of Learned Commissioner of Income Tax (Appeals)-27, New

Delhi [“Ld. CIT(A)”, for short], dated 20/10/2022 for Assessment Year 2018-19.

2. These two appeals are interconnected having common issues. Both these appeals are heard together and disposed off by this common order. We are taking ITA No.3003/Del/2022 as a lead case.

3. The following grounds raised by the Revenue are as under:

ITA No.3003/Del/2022

“1. The Ld. CIT (A) has erred on facts and in law by allowing the appeal of the assessee by deleting the addition of Rs. 1,73,17,945/- made on account of unexplained jewellery found on the residence premises and lockers of the assessee.

2. The Ld. CIT (A) has erred on facts and in law, in not appreciating the fact that the jewellery declared by the assessee in VDIS scheme was not only materially different in appearance and form, but also in caratage and weight to the ones seized during the search operation.

3. The Ld. CIT(A) has erred on the facts and in law, in ignoring the fact that the jewellery found from the residence premise and lockers of the assessee was not a part of jewellery declared by the assessee in her WTR/VDIS disclosure and AO had already allowed the credit of the same while making additions on account of unexplained jewellery.

4. The Ld. CIT(A) has erred on facts and in law in not appreciating the fact that the jewellery shown in the invoices submitted by the assessee is substantially different to the ones which has been added as his unexplained jewellery u/s 69A of the Income Tax Act, 1961.

5. The Ld. CIT (A) has erred on facts and in law, in ignoring the fact that the assessee failed to provide reconciliation as well as the source of the jewellery found from the residence premise and lockers of the assessee.

6. The Ld. CIT(A) has erred on facts and in law in allowing the appeal of the assessee by deleting the addition of Rs. 88,24,473/- on account of unaccounted cash received by assessee on scrap sale.

7. The Ld. CIT(A) has erred on facts and in law in allowing the appeal of the assessee by accepting the contention of the assessee that the assessee himself failed to produce any supporting documents to substantiate his contention regarding the details of cash received from scrap sales.

8. (a) The order of the Ld. Commissioner of Income Tax (Appeals) is erroneous and not tenable in law and on facts.

(b) The appellant craves to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”

ITA No.3002 /Del/2022

“1. The Ld. CIT (A) has erred on facts and in law by allowing the appeal of the assessee by deleting the addition of Rs. 1,44,78,356/ made on account of unexplained jewellery found on the residence premises and lockers of the assessee.

2. The Ld. CIT (A) has erred on facts and in law, in not appreciating the fact that the jewellery declared by the assessee in VDIS scheme was not only materially different in appearance and form, but also in caratage and weight to the ones seized during the search operation.

3. The Ld. CIT(A) has erred on the facts and in law, in ignoring the fact that the jewellery found from the residence premise and lockers of the assessee were not a part of jewellery declared by the assessee in her WTR/VDIS disclosure and AO had already allowed the credit of the same while making additions on account of unexplained jewellery.

4. The Ld. CIT(A) has erred on facts and in law by not appreciating the fact that the jewellery shown in the invoices submitted by the assessee is substantially different to the ones which has been added as her unexplained jewellery u/s 69A of the Income Tax Act, 1961.

5. The Ld. CIT (A) has erred on facts and in law, in ignoring the fact that the assessee failed to provide reconciliation as well as the source of the jewellery found from the residence premise and lockers of the assessee.

6. (a) *The order of the Ld. Commissioner of Income Tax (Appeals) is erroneous and not tenable in law and on facts.*

(b) *The appellant craves to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”*

4. Brief facts relating to grounds 1 to 5 are, a search action was conducted in the case of Havells Group of cases including LEEL Electricals Limited on 06/02/2018 whereby residence of the assessee at B-20, Greater Kailash-1, New Delhi and other premises belonging to the assessee and the family members were also covered. During the course of post search investigations conducted at the premises of the assessee including residence and various lockers owned by the assessee were covered and value of jewellery found are valued at Rs.7,81,03,224/- and seized. The assessee was issued show caused notice dated 23/11/2019 to provide supporting documents w.r.t to source of jewellery found during the search. In response to this, the assessee submitted that the value of jewellery found in the search has been inherited and received as a gifts over a period of time during wedding and festive occasion and also acquired out of past savings. The jewellery is part of the streedhan and also submitted that the assessee had filed her wealth tax

returns. Further the assessee submitted a chart showing details of jewellery purchased along with copies of various bills and source of jewellery purchased. The Assessing Officer observed that the assessee has submitted the chart showing the details of jewellery, however, assessee was not able to provide, item wise reconciliation of the jewellery found with copies of bills produced. After considering the above submissions, the Assessing Officer issued further show cause noticed dated 17/12/2019 after adjusting the source of investments of jewellery to the extent of Rs.6,07,85,278/- and why the difference of Rs.1,73,17,945/- should not be added to the income of the assessee. In response vide letter dated 20/12/2019 submitted as under:

“Late S. Brij Raj Punj (husband) was looking after day to day affair of M/s Leel Electricals Limited, who had passed away on 05/12/2017 and that her son Sh. Bharat Raj Punj who was aboard had to migrate back to India to look after the day to day concerns arising after the passing of his father and as already submitted that he was in JC in GST, we could only submit the bills that were made available by the assessee.

The assessee has also shown her jewellery in her wealth tax return in AY 2014-15 & 2015-16 and that she had opted for the VDS scheme of 1997 in which she has declared her jewellery as well and which was verified at the time of search with bills etc. It is also submitted that the jewellery valued during the search was at Rs.7,81,03,224/- and out of which jewellery of Rs.1,16,97,936/- was seized after verification.

Hence, it is submitted that there is no difference in the jewellery found and copies of bills submitted.”

After considering the above submissions, Assessing Officer observed that the assessee has failed to submit the item wise reconciliation of the jewellery purchased and also nowhere objected method adopted by the Assessing Officer for valuation of jewellery. Further he observed that assessee has submitted that all the items of jewellery were disclosed in wealth tax return, however, assessee has failed to submit copies of the wealth tax return for Asst. Year 2014-15 and 2015-16. With the above observation Assessing Officer proceeded to make the addition u/s 69A of the Act to the extent of Rs.1,73,17,945/-.

5. Aggrieved the assessee preferred an appeal before the Ld. CIT(A) and filed the details submissions in this regard.

6. After considering the detailed submissions of the assessee, the Ld. CIT(A) observed that based on the punchnama in the names of Bhasrat Raj Punj, Renu Rani Punj, and Mrs. Pooja Punj found the jewellery to the extent of 14876.66 gms. He observed that the assessee and her family has declared in Voluntary Disclosure of

Income Scheme (VIDS), 1997 to the extent of 5560.80 gms of gross weight of gold jewellery. Further observed that the details of purchases made by the assessee from Financial Year (FY) 2007-08 to FY 2017-18 which was accepted by the Assessing Officer to the extent of 6498.78 gms and further details of purchases belongs to Late Brij Raj Punj (Husband of the assessee) during F.Y.2006-07 & 2007-08 to the extent of 2237.830 gms. The details of above purchases are reproduced by Ld. CIT(A) in his order. Further, Ld. CIT(A) has worked out the jewellery allowance as per CBDT Instruction No.1916 for the family members of the assessee to the extent of 1600 gms. The Ld. CIT(A) observed that the total jewellery found during the search is 14876.66 gms and the jewellery declared by the family members of the assessee and the jewellery allowance put together comes to 15897.41 gms. Therefore, the declared gold jewellery is more than the jewellery found during the search. Accordingly, he allowed the ground raised by the assessee and deleted the additions proposed by the Assessing Officer.

7. Aggrieved, the Revenue is in appeal before us by raising the above said grounds.

8. At the time of hearing, the Ld. DR brought to our notice the relevant facts on record and brought to our notice the facts from the assessment order and submitted that assessee failed to submit item wise, carat wise, reconciliation of purchases with the jewelleries found during the search. He supported the finding of the Assessing Officer that assessee has not substantiated the jewelleries found during the search with proper evidences on record. He objected to the findings of the Ld. CIT(A). He submitted that in absence of proper reconciliation in terms of itemwise and evidence to show that the assessee had declared the same in her wealth tax return, the addition proposed by the Assessing Officer may be sustained.

9. On the other hand, the Ld. AR brought to our notice various submissions made by the assessee before the lower authorities, and submitted that the assessee was able to demonstrate the purchases made by the family before the tax authorities and the same was rightly appreciated by the Ld. CIT(A) and same were reproduced in appellate order. He submitted that it is not possible to reconcile the

jewellery itemwise. Considering the fact that all the jewelleries were kept with Late Maya Rani Punj (grandmother) as a family common assets. Smt. Pooja Punj is a NRI for a long period of time and all the family jewelleries were kept in one place and due to various occasions jewelleries were further purchased and modified, however, he submitted that assessee's husband Brij Raj Punj and assessee have submitted the details of purchases before the Assessing Officer and also submitted the details of VIDS Scheme. Therefore, the jewelleries found during the search were properly disclosed and reconciled by the assessee with various evidences. As per CBDT Instruction the assessee family is eligible to claim certain allowances. In view of the above facts and circumstances, the Ld. CIT(A) has rightly deleted the addition.

10. Considered the rival submissions and materials placed on record, we observed that during the course of search the Revenue has found 11853.72 gms jewellery in the residence of Mr. Bharat Raj Punj, 2069.49 gms gold were found in Locker No.1089-F which belongs to the assessee and 272.45 gms and 681.00 gms gold were found in Locker No.639 and 640 respectively, which are belonging

to Ms. Pooja Kunj, therefore, total gross gram of gold jewellery found during the search are 14876.66 gms. The assessee during appellate proceedings has brought to our notice that she has brought to the knowledge of the lower authorities, to the extent of 5560.80 gms which was declared by the family members of the assessee in VIDS, 1997 Scheme and further submitted that details of purchases made by the assessee and her husband to the extent of 6498.78 gms and 2237.83 gms respectively, therefore, the declared value of gold jewelries before the authorities are 14876.66. Therefore, the difference of jewellery found during the search and declared jewellery is only 579.25 gms. After careful consideration of the facts on record and back ground of the family and the income declared by the family, in our considered view, the excess jewellery found during the search is 579.25 gms which is within the limits of allowance as granted by the CBDT vide Instruction No.1916 and also considering the back ground of the family member & wealth, we do not find any reason to disturb the findings of the Ld. CIT(A) in this regard. Accordingly, grounds raised by the Revenue are dismissed.

11. Coming to the other grounds No.6 & 7. The relevant facts are, during the survey action which was conducted in the case of M/s LEEL Electrical Limited (LEL) on 07/12/2018 at the business premises at Okhala Industrial Area, Phase-2, New Delhi. During the above course of survey proceedings the officer found an excel sheet from the desktop of Mr. Sunil Jindal, Sr. Manager Accounts of the company from Feb,2019 to 15th May, 2018 with the heading scrap collection. When confronted, he admitted that the company makes scrap sales without recording in the books of account and the cash were handed over to Mr. Shiv Kumar Sharma. When Shiv Kumar Sharma was confronted u/s 131 of the Act on 28/08/2019, he admitted that the above said cash on sale of scrap after receipt were handed over to assessee and her husband equally. Accordingly, the show cause notice u/s 142(1) of the Act were issued to assessee and her husband and it was asked to explain why the above said undisclosed receipts should not be added in her hands. The assessee has not filed any submissions in this regard, in order to give opportunities of cross examination to the assessee, notice were issued to the assessee and Mr. Shiv Kumar Sharma,

however, both of them has not appeared before the Assessing Officer, therefore, the Assessing Officer observed that assessee has not utilized the opportunities of cross examination and further he observed that even the company LEL has not offered to tax of above said scrap sales in the respective years. Accordingly, he proceeded to make 50% of the scrap sales recorded in the excel sheet and found during the survey proceedings in the hands of the assessee i.e., to extent of Rs.88,24,473/-.

12. Aggrieved, assessee preferred an appeal before the Ld. CIT(A) and after considering the submissions of the assessee, the Ld. CIT(A) deleted the addition with the following observations:

“The excel sheet with the heading “LEEL-Scrap Collection From feb-18 to 15th May 2018” was found during the survey action on M/s LEEL Electrical Limited on 07.12.2018. The AO has made addition on account of income from unaccounted scrap sales in the hands of Mr. Bharat Raj Punj and Mrs. Renu Punj not in the hands of M/s without bringing on record:

- i. Whether impounded excel sheet was confronted to M/s LEL during asst. proceedings in the case of M/s LEL;*
- ii. What was the stand of M/s LEL on the impounded excel sheet;*
- iii. How scrap sales were accounted for in the books of accounts of M/s LEL.*

Further, the AO has not brought on record any reason/justification as to why addition on account of income from unaccounted cash scrap sales has been made in the hands of Mr. Bharat Raj Punj and Mrs. Renu Punj and

not in the hands of M/s LEL as these cash scrap sales are unaccounted and out of books sales of M/s LEL.

9.5 In view of above discussion, it is held that this fact cannot be denied that scrap sales in cash were made by M/s LEL not the appellant. If these scrap sales are unaccounted and out of books sales than any addition on this basis/issue should be made in the hands of M/s LEL not the appellant. Therefore, addition of Rs.88,24,473/- made by the AO is hereby deleted and this ground of appeal is hereby allowed.”

13. Aggrieved, the Revenue is in appeal before us. At the time of hearing, the Ld. DR submitted that it is fact on record that undisclosed scrap sales were found during the survey proceedings and it is admitted fact that the above said cash were handed over to the assessee and her husband and none of these were recorded or reported by the company LEL, therefore, the additions made by the Assessing Officer is just and proper. He objected to the findings of the Ld. CIT(A) and prayed for sustaining the finding of Ld. Assessing Officer.

14. On the other hand, Ld. AR reiterated the findings of the Ld. CIT(A) and submitted that the materials were impounded in the hands of the company LEL. Therefore, it should be added in the hands of the LEL not in the hands of the assessee. The Bench has asked the Ld. AR to substantiate the same at the bar and directed

the assessee to submit the details of scrap sales declared by the company LEL. The Ld. AR submitted that it is not possible to substantiate the same.

15. Considered the rival submissions and material placed on record, we observed that during survey proceedings in the case of the company ,LEL', the authorities found an excel sheet comprising the details of scrap sales and the same was not recorded by the company, however, on statement recorded u/s 131 of the Act. Sr. Accounts Manager and Manager Shiv Kumar Sharma has accepted above said transactions and also accepted the cash were handed over to assessee and her husband in equal proportion. When the issue was investigated by the Assessing Officer, the assessee has not filed any objections or filed any document to show that assessee has not received the cash. Further, the Assessing officer also given opportunities to the assessee to confront the above issue with Mr. Shiv Kumar Sharma who was admitted in statement that the cash of scrap sales were handed over to the assessee and her husband. After considering the overall facts on record, it is admitted fact that the company LEL has sold the scrap sales without recording the

same in their books of accounts from the statement recorded u/s 131 of the Act, they admitted the above said fact. It is also admitted position as per law that the above said sales actually belongs to the company 'LEL' and it should be undisclosed income in the hands of the LEL, however, nothing was brought on record to show that the company LEL has disclosed the above said income in their return of income. It is important to note that even Assessing Officer in his order has observed that LEL has not disclosed the above said income in the relevant assessment year. In our considered view, it is admitted fact that scrap sales were found during the survey and it should be an income in the hands of the company or in the hands of the beneficiaries of the transactions. Since, there is no record brought to our notice that company has disclosed the above said income in their return of income and also assessee has failed to confront the statement of Shri Shiv Kumar Sharma which clearly shows that assessee is direct beneficiary of above said transactions along with her husband. For the overall justice, we direct the Assessing Officer to call for record from the company 'LEL' whether they disclosed the same in the return of income during the

assessment year 2019-20 or in the relevant assessment year. In case, it is found that the company 'LEL' has not disclosed the above in their return of income. The additions made by the Assessing Officer may be sustained in the hands of the assessee. Accordingly, we remit the above said grounds to the file of the Assessing Officer and after verification the same, the addition may be sustained in the hands of the assessee. It is needless to say that the assessee may be given opportunity of being heard, and, accordingly, grounds raised by the Revenue are allowed for statistical purposes.

16. The other ground No.8 made by the Revenue is general in nature. The same is not adjudicated.

17. In the result, the appeal filed by the Revenue is partly allowed as indicated above.

ITA No.3002/Del/2022

18. As stated earlier, ground Nos. 1 to 5 in the case of Renu Punj (ITA No.3003/Del/2022) raised by the Revenue are exactly the similar and are identical with ground Nos. 1 to 5 in the case of Pooja Punj (ITA No.3002/Del/2022) as well as the facts are also

same except variance in figures recorded. Hence, the decision rendered, herein above, in the case of Renu Punj, cited (supra), shall apply *mutatis mutandis* to the case of Pooja Punj. Accordingly, the appeal filed by the Revenue are dismissed.

18. In the result, the appeals filed by the Revenue in the case of Renu Punj is partly allowed for statistical purposes and Pooja Punj is dismissed.

Order pronounced in open Court on 26th April, 2024.

Sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Sd/-

(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 26/04/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI