



।आयकर अपीलीय अधिकरण "ए" न्यायपीठ जयपुरमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCHES "A" :: JAIPUR

BEFORE DR.S.SEETHALAKSHMI, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.769/JPR/2024
निर्धारण वर्ष / Assessment Year : 2017-18

Sh. Lalit Maheshwari, Kalani & Co., Chartered Accountants, 5 th Floor, Milestone Building, Gandhinagar Turn, Tonk Road, Jaipur – 302015. PAN: ACFPM8337H	V s	The DCIT, Central Circle, Kota.
Appellant / Assessee		Respondent /Revenue

Assessee by	Shri P.C.Parwal – CA
Revenue by	Shri Arvind Kumar – CIT(DR)
Date of hearing	15/07/2024
Date of pronouncement	05/09/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the assessee is against the order of Id.Commissioner of Income Tax(Appeals), Udaipur-2 passed under section 250 of the Income Tax Act, 1961 dated 22.02.2024 for the A.Y.2017-18. The assessee has raised the following grounds of appeal :

“1. The Ld.CIT(A) has erred on facts & in law in confirming the addition of Rs.1,35,659/- u/s 69A of the Act by treating the silver jewellery found in search to this extent as unexplained.

2. The appellant craves to alter, amend & modify any ground of appeal.



3. *Necessary cost be awarded to the assessee.”*

Submission of Id.Authorised Representative(Id.AR) :

2. The Id.Authorised Representative(Id.AR) for the Assessee submitted as under :

“1. *After the order of Ld. CIT(A), the only issue left for consideration is whether or not the silver articles valuing Rs.1,35,659/- is unexplained.*

2. *It is submitted that in search silver article of 6.909 kg was found. The wife of assessee Smt. Seema Maheshwari in reply to Q. No. 14 of statement dt. 03.02.2017 (PB 16) with reference to the jewellery found at the bedroom explained that the gold jewellery and silver article is mostly received on the occasion of marriage and on various social occasions. Thereafter in reply to Q. No.20 (PH 19-20) with reference to gold jewellery & silver article found from the locker she stated that silver articles weighing 3.254 kg belongs to Smt. Pushpa Maheshwari. The assessee in reply to Q. No. 15 (PH 8) has also stated that jewellery kept in locker also pertain to his mother Pushpa Maheshwari. The search party has also not seized any part of gold jewellery and silver article found in search. Considering the status of assessee, the silver article of 6.909 kg is a reasonable possession as acquired at the time of marriage/ other social occasion and belonging to Smt. Pushpa Maheshwari. In search also no evidence of purchase of silver article was found. The Ld.CIT(A) has not given any reason as to why he has treated silver article of Rs.1 lacs as explained and balance Rs.1,35,659/- as unexplained. The addition confirmed by him is only on presumption. lienee considering the material on record, addition of Rs.1,35,659/- confirmed by Ld. CIT(A) is without basis and unjustified.”*

2.1 The Id.AR for the assessee also filed a paper book.



Submission of Id.Departmental Representative(Id.DR) :

3. The Id.DR for the Revenue relied on the order of Assessing Officer(AO).

Findings & Analysis :

4. We have heard both the parties and perused the records.

4.1 In this case, assessee had filed Return of Income u/sec.139 of the Act on 05.08.2017. There was a search in the case of assessee on 02.02.2017. Notice u/sec.143(2) and notice u/sec.142 were served on assessee. Assessee filed reply to the notices. During the search, following jewellery were found at the assessee's premises.

<i>Particulars</i>	<i>Annexure</i>	<i>Gold Jewellery (Net wt. in gms)</i>	<i>Silver Articles (Gross wt. in kgs)</i>	<i>Amount (Rs.)</i>
<i>Jewellery found as per panchnama at:</i>				
<i>1. A-205, Neelanchal Srinathpuram Kota</i>	<i>JF-01</i>	<i>375.400</i>	<i>3.655</i>	<i>12,09,553</i>
<i>2. Locker No.SML-01/0061, Corporation Bank, Aerodrome Circle, Kota</i>	<i>JF-02</i>	<i>499.540</i>	<i>3.254</i>	<i>13,47,426</i>
<i>TOTAL</i>		<i>874.940</i>	<i>6.909</i>	<i>25,56,979</i>

4.2 The Assessing Officer(AO) asked the assessee to explain the source of the said jewellery. Assessee submitted that some jewellery belongs to his mother i.e.Pushpa Maheshwari. Assessee explained that gold jewellery weighing 305.3 grams and silver jewellery of



2.026 grams belongs to Ms.Pushpa Maheshwari i.e.assessee's mother. However, AO observed that Ms.Pushpa Maheshwari's jewellery was separately notarized at the house of Shri Gaurav Maheshwari vide Annexure-JF-2. The assessee also relied on the CBDT Instruction No.1994 to explain the jewellery. After considering the submission of the assessee, the AO held in the assessment order as under :

“The CBDT instruction no. 1994 dated 11.05.1994 provides the provision of seizure of the jewellery during search action but source of the same required to be explained. The source of the above total jewellery is not explained by the assessee. Considering the overall facts of the case, the jewellery worth Rs.15,56,979/- (Out of total value of Rs.25,56,979/-) is accepted as explained in the hands of Shri Lalit Maheshwari and Smt. Seema Maheshwari which may be acquired from time to to me.

The remaining unexplained jewellery amounting to Rs.10,00,000/- is added in taxable income of the assessee under section 69A of the I.T.Act, 1961.”

4.3 Thus, AO made addition of Rs.10,00,000/- u/sec.69A of the Act. Aggrieved by the assessment order, assessee filed appeal before the ld.CIT(A).

5. Ld.CIT(A) after considering the submission of the assessee held as under:

“With regard total silver jewellery of 6.909 Kgs worth Rs.2,35,659/- the appellant explained that Sivler Jewellery of 2.026 Kgs was belonging to



mother of the appellant and remaining 4.883 gms is belonging to the family of the appellant. The appellant has not explained the source of acquisition of the silver jewellery either by mother or by family members of the appellant. Considering the facts of the case, the jewellery of Rs.1,35,659/- is treated as unexplained and the jewellery of Rs.1,00,000/- is treated as acquired on various occasions out of savings in view of social status of family. Accordingly, the addition made by the AO is sustained to the extent of Rs.1,35,659/- and the remaining addition of Rs.8,64,341/- (10,00,000 – 1,35,659) is not found to sustainable and delete.”

5.1 Aggrieved by the ld.CIT(A)'s order, assessee filed appeal before this Tribunal. There is a delay of 24 days in filing this appeal. On perusal of the condonation petition and affidavit of the assessee, we are convinced that there is a sufficient cause for delay. Hence, the delay is condoned.

6. In this case, ld.AR merely submitted that the silver jewellery is mainly received on various social occasions. Ld.AR also explained that during the search, assessee's wife Smt.Seema Maheshwari has already explained that they have received jewellery on various social occasions. Ld.AR also explained that looking at the status of the assessee, the silver article of 6.9 kg is reasonable possession acquired at various occasions.

6.1 Thus, assessee has not filed any specific explanation for the excess jewellery of Rs.1,35,659/-. As far as assessee's status is



concern, the ld.CIT(A) and AO has already considered it and given substantial relief to the assessee. The total value of jewelery was Rs.25,56,979/-, however, after the ld.CIT(A)'s order, the unexplained jewellery remains only Rs.1,35,659/-. Thus, it can be observed that ld.CIT(A) and AO has already considered the assessee's submission regarding social status and CBDT Instruction. In these facts and circumstances of the case, we do not find any infirmity in the order of the ld.CIT(A), accordingly, the addition of Rs.1,35,659/- confirmed by ld.CIT(A) is upheld. Therefore, grounds of appeal raised by the assessee are dismissed.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 5th September, 2024.

Sd/-
(DR.S.SEETHALAKSHMI)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 5th September, 2024/ SGR*

Copy of the order forwarded to:

1. The Appellant- Shri Lalita Maheshwari, Kota.
2. The Respondent- DCIT, Central Circle, Kota
3. The ld CIT
4. The ld CIT(A)
5. DR, ITAT, Jaipur
6. Guard File (ITA No.769/JPR/2024)

// TRUE COPY //

By order,

Asst. Registrar