

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Mahavir Singh, Hon'ble Vice-President and
Shri Manjunatha, G. Accountant Hon'ble Accountant Member

आ.अपी.सं / **ITA Nos.296, 297 & 298/Hyd/2020**
(निर्धारण वर्ष/Assessment Years: 2010-11, 2011-12 & 2012-13)

Shri Gajulapalli Shoban Babu Hyderabad PAN:AGFPG4314G (Appellant)	Vs.	Dy. C. I. T. Central Circle 2(2) TIRUPATI (Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Mohd.Afzal, Advocate	
राजस्व द्वारा/Revenue by::	Shri B. Balakrishna, DR	
सुनवाई की तारीख/Date of hearing:	23/09/2024	
घोषणा की तारीख/Pronouncement:	08/11/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

These three appeals filed by the assessee are directed against the separate, but identical orders of the learned CIT (A) Vijayawada, all dated 25/02/2020 and pertains to AYs 2010-11, 2011-12 & 2012-13 respectively. Since facts are identical and issues are common, for the sake of convenience, these appeals were heard together and are being disposed off, by this consolidated order.

2. At the outset, it is seen that there is a delay of 21 days in filing of these appeals by the assessee. The learned Counsel for the assessee explained the reasons for such delay. After hearing the learned DR, the delay of 21 days in filing these appeals are hereby condoned and admitted for adjudication.

3. The assessee has more or less raised common grounds of appeal in all the three appeals. Therefore, for the sake of brevity, grounds of appeal filed for A.Y 2010-11 are hereby reproduced are as under:

“1. The order of the learned CIT (A) is against the law, weight of evidence and probabilities of case.

2. The learned CIT (A) erred in confirming addition of Rs.25,00,000/- which is made relying upon the dumb documents.

3. The learned CIT (A) ought to have appreciated that the alleged pro notes does not mention the name of the person who has advanced the money and also the rate of interest and mode of payment such as cash/cheque/draft/PT, therefore, erred in confirming the addition of Rs.25,00,000/-

4. The learned CIT in confirming an addition of Rs.3,47,75,000/- which is added considering the rough notings of the diary which has no evidentiary value.

5. The learned CIT (A) ought to have appreciated that the alleged notings in the diary does not clarify any transaction of advancing loan to the film producers, therefore, erred in confirming the addition of Rs.3,47,75,000/-.

6. The learned CIT (A) ought to have appreciated that the assessee received gifts of Rs.5,00,000/- through banking channel from brother-in-law, therefore, erred in confirming the addition of Rs.5,00,000/-.

7. The learned CIT (A) erred in confirming the addition of Rs.3,72,75,000/- (25,00,000 + 3,47,75,000), which is made on the basis of documents/papers which have no evidentiary value.

8. The learned Assessing Officer made a part of addition in respect of unaccounted investments in film financing business, without mentioning page no. Of the seized material. The learned Addl. Commissioner also approved the same without making any enquiries. As the order is approved u/s 153D, routinely without application of mind, therefore, the order is to held as invalid.

9. The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary”.

4. The brief facts of the case are that the assessee is a film financier. A search & seizure operation u/s 132 of the I.T. Act, 1961 was conducted in the residential premise of the assessee on 2/5/2011. During the source of search & seizure operation, a bundle of loose sheets serially numbered from 1 to 95 were found and seized vide Annexure A/GSP/Res/1, 2 & 3, which contains copies of dated promissory note as well as blank one signed by borrowers without the name of the lenders etc. During the course of search, a statement of oath was recorded from the assessee and confronted with those promissory notes and loose sheets and called upon the assessee to explain the contents. In response to a specific question, the assessee admitted to have engaged in the business of financing to film producers and contents of loose sheets is loans given to various film producers in black and through account. The assessee further stated that the entries contain on the right side of the document relates to amount received from various lenders/associates in turn, the amount has been given to film producers which is recorded in the left side of the loose sheets. Consequent to the search, notice u/s 153A of the I.T. Act, 1961 dated 16/10/2012 was issued and

served on the assessee. In response to the notice, the assessee has filed return of income for A.Y 2010-11 on 23/11/2012 by admitting total income of Rs.4,89,750/-, for the A.Y 2011-12, the assessee admitted total income of Rs.13,64,760/- and for the A.Y 2012-13 admitted total income of Rs.38,71,430/-. The case was selected for scrutiny and during the course of assesment proceedings, the Assessing Officer called upon the assessee to explain as to why addition shall not be made towards unexplained investment in film financing business. In response, the assessee submitted that he has received loans and advances from various associates/ lenders and the same has been in turn, advanced to film producers and from this business he earns income of Rs.400/- per lakh. The Assessing Officer after considering the relevant submissions of the assessee and also taken note of material found during the course of search, coupled with the statement recorded from the assessee has made addition towards unaccounted investment in film financing and additions towards unexplained gifts claimed to have been received from brother-in-law, addition on cash found during search and jewellery found during search.

5. The assessee carried the matter in appeal before the first appellate authority and the learned CIT (A) for the reasons stated in their appeal order dated 25/02/2020 sustained the addition made by the Assessing Officer and dismissed the appeal filed by the assessee for all the 3 A.Ys.

6. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

7. The first issue that came up for our consideration from Ground of assessee's appeal for A.Y 2010-11 to 2012-13 is the addition towards unaccounted investment in film financing. During the course of search & operation u/s 132 of the I.T. Act, 1961, bundle of loose sheets serially numbered from 1 to 95 were found and seized vide Annexure A/GSB/Res/03 which contains dated promissory note as well as blank promissory note signed by the borrowers without the name of the lenders and the details of each are reproduced in Para 3 on page 2 & 3 of the assessment order. The Assessing Officer made addition towards the loan given to various film producers as unexplained investment on the ground that the assessee could not explain the source for the loans and also not able to file necessary evidences to prove that, he has received loans from associates/lenders. It was the argument of the learned Counsel for the assessee before the Assessing Officer that he is into film financing business and in the process receives loan from various associates/lenders and given loan to film producers. Since the assessee act as a middlemen between lenders and film producers, film producers execute blank promissory note in favour of the lenders before the loan is arranged and the reason for executing blank promissory note is that at the time of discussion with the film producers, the name of the lender is not known. Therefore, he submitted that the entire amount of unaccounted loans cannot be added as his income and only the income earned from the business can be assessed. The

Assessing Officer after considering the relevant submissions of the assessee and also taken note of relevant material found in the residential premise of the assessee observed that, as per provisions of section 132(4A)(ii) of the I.T. Act, 1961 the presumption is on the assessee that the said material belongs to the appellant and contents recorded therein are true and correct. Therefore, rejected the explanation of the assessee and made addition towards loan given to various film producers as unexplained investment in film financing. The details of year-wise addition made by the Assessing Officer are as follows:

A.Y 2010-11

S.No	Particulars	Amount
1	Unaccounted Investment in film financing business	25,00,000
2	Unaccounted Investment in film financing business	3,47,75,000

A.Y 2011-12

S.No	Particulars	Amount
1	Unaccounted Investment in film financing business	64,00,000
2	Unaccounted Investment in film financing business	10,76,83,000
3	Unaccounted Investment in film financing business	76,00,000

A.Y 2013-13

S.No	Particulars	Amount
1	Unaccounted Investment in film financing business	1,20,00,000
2	Unaccounted Investment in film financing business	85,00,000
3	Unaccounted Investment in film financing business	1,55,00,000

8. The learned Counsel for the assessee, referring to the document found during the course of search submitted that a promissory note can be enforced under law, if it is complete in all respects. If it is not complete in all respects, it cannot be enforced under law. In the present case, the promissory notes are not signed by the appellant and only signed by the film producers. Further, the name of the lenders and rate of interest in few cases is blank. Therefore, these promissory notes cannot be treated as valid document for the purpose of addition. The learned Counsel for the assessee further submitted that the assessee explained the contents of loose papers and stated that the left side of the document denotes loans and advances given to various film producers and right side of the document denotes loans and advances received from associates/lenders. The assessee receives loans from various associates in small amount, aggregate the amount and lend to film financiers in lumpsum amount. The assessee pays interest ranging from 18% to 24% to associates/lenders and receives interest from film producers ranging from 24% to 30%. This fact has been explained to the Assessing Officer, but the Assessing Officer ignored the explanation furnished by the assessee only on the ground that few associates/lenders denied having paid any amount to the assessee without appreciating the fact that those statements of the associates/lenders were not confronted to the assessee and the opportunity of cross examination was not provided. Therefore, he submitted that a reasonable amount of income may be estimated from film financing business.

9. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that the documents found during the course of search, including the signed and blank pro notes clearly proves finance extended to various film producers. Although, the name of the lenders is not available in the pro notes, but fact remains that those pro notes were found in the premise of the assessee and as per provisions of section 132(4A)(ii) r.w.s. 292C of the I.T. Act, 1961, the presumption is on the assessee and further the said document belongs to the appellant and contends recorded therein are true and correct. Further, the assessee himself has admitted that loans has been given through account and also in cash. The loans given in cash is unaccounted. The assessee also claims to have explained the other part of the seized material and claimed that, he has received loans from associates/lenders, but all the associates have denied having given any loan to the assessee which is confirmed during the post search investigation where all of them have deposed before the Assessing Officer and denied transactions. The Assessing Officer and the learned CIT (A) after considering relevant facts has rightly made addition towards unaccounted investment in film financing business and their orders should be upheld.

10. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. During the course of search, bundle of loose sheets containing signed and blank promissory notes along with a diary was found and seized. Promissory note indicates loans given to various film producers. Further, the said promissory notes

contain the amount of loan, rate of interest and period of loan. The blank promissory note does not contain any information including the name of the lender and rate of interest. The Diary seized during the course of search has details of loans given to various film producers over the period along with rate of interest and other details. The seized documents were confronted to the assessee and a statement on oath was recorded u/s 132(4) of the Act, and called upon the assessee to explain the contents of the promissory notes and other seized documents. The assessee in response to a specific question, explained the contents of the seized material and submitted that, he has acted as a middlemen/ agent between financiers/lenders and film producers. The assessee receives loans from various associates/lenders in small amount, aggregate the amount and given to film producers and production houses. The assessee has further explained that the blank promissory notes are signed by film producers, because at the time of discussion, the lender name was not known. Since he was a middlemen/agent between the lenders and film producers, the promissory notes were kept in his possession. The assessee further contented that for arranging finance to film producers, he gets Rs.400/- per lakh of each loan transaction. The Assessing Officer made addition towards total amount of loan given to film producers on the basis of documents found during the course of search on the ground that the appellant could not explain the source of loan given to film producers and further the argument of the assessee that, he is only acting as a middlemen/agent is not substantiated with relevant evidences. According to the Assessing Officer, the

associates/lenders from whom the appellant claims to have received loan have denied any transaction with the assessee. Therefore, the Assessing Officer opined that the entire transaction recorded on the seized document coupled with promissory notes is unaccounted transaction of the assessee's investment in film financing business and thus, made additions.

11. We have given our thoughtful consideration to the reasons given by the Assessing Officer to make additions towards unaccounted investment in film financing business on the basis of seized document in light of various averments made by the assessee and we ourselves do not subscribe to the reasons given by the Assessing Officer for the simple reason, first of all the promissory notes relied upon by the Assessing Officer is not enforceable under the law, because those promissory notes are blank without any details as to the name of the lenders, rate of interest etc. Although in few cases of promissory notes, the amount of loan and rate of interest is mentioned, but name of the lenders is conspicuously absent. Once the document is not complete in all respects, then it cannot be enforced under law. Therefore, based on the said document, no additions can be sustained. Further, in respect of other documents relied upon by the Assessing Officer including the entries in the diary, we find that the assessee has recorded the date of loan, period of loan, due date of repayment, number of days, interest, etc., against each borrowers. Further, in the same diary, in the right side, the appellant has recorded the name of the associates and the amount received from them. The Assessing Officer took entries

recorded in left side of the seized document which relates to the loans given by the appellant to various film producers, however, ignored the right side of the very same seized material which contain the names of associates/lenders and amount received from them. In our considered view, when any document is relied upon for the purpose of making any addition, then the said document should be considered in total without any cherry picking of entries which suits the Revenue. In the present case, the Assessing Officer made addition to the loan claimed to have been given to film producers based on seized document and at the same time, ignored other part of the seized document which contain name of the associates/lenders. Although, the presumption as per section 32(4) r.w.s. 292C of the Act is on the assessee to explain the contents of the seized material because of the presumption goes against the assessee that the document found during the course of search in the premise of any person belongs to the said person and contents recorded therein in true and correct, but fact remains that in the present case right from the beginning, the appellant explained that he was acted as a middlemen/agent between lenders and given loan to the borrowers and also he receives amount from various lenders and given to film producers. Going by the stand taken by the appellant during the course of search, post search investigation and also during the course of assesment proceedings, it is very clear that the assessee has taken only one stand and explained that he was a middlemen and arranging loans for the film producers from his place and for this purpose he is receiving commission income. Further, as explained by the learned Counsel for the assessee it is

undisputedly clear that the Proddattoor town in A.P is famous for film financing business as there are several persons who act as middlemen between producers and the local financiers who lend money. In the present case, the appellant at the time of search very clearly explained that he arrange finance through lenders and given to film producers and the purpose of keeping the pro-notes in his possession is that, at the time of discussion with the producers, the lenders was not known and because of this reason in few pro notes the name of the lender is absent. Therefore, we are of the considered view that the argument of the assessee that he is acting as a middlemen/agent between financiers and borrowers appears to be bonafide and acceptable.

12. We further note that the Assessing Officer and the learned CIT (A) rejected the explanation of the assessee on the presumption that no borrower would execute pro-note in advance without mentioning any details. However, fact remains that in many cases, business is carried out on the basis of mutual trust and respect. Further, especially in the field of financing, more particularly in the field of film financing, it is mostly unorganized sector and transaction happens through mutual trust and belief and going by the place of business where the appellant operates, it is very famous for film financing and thus, in our considered view, the arguments advanced by the learned Counsel for the assessee in light of various evidences including the statement recorded from the assessee during the course of search that the assessee is only a middlemen and arrange finance to film producers through associates/lenders is bonafide and needs to be accepted.

13. Having said so, let's come back, how to quantify the income of the appellant. Admittedly, the Assessing Officer made addition towards unexplained investment in film financing business by considering only one part of seized document which relates to loans given to various film producers. The Assessing Officer ignored other part of the very same seized material (right side) which contain details of names of associates/lenders and amount received from them. The assessee right from the beginning claimed that he received amount from various associates/lenders in small amount, aggregate the amount and lend to different film producers and production houses. We find that the seized material A/GSB/Res/02, Page No.1 to 16 contain details of loans given to film producers on the left side and the loans received by the assessee from various associates/lenders on the right side. The same has been tabulated by the assessee and given to the Assessing Officer during the course of search and assesment proceedings. The Assessing Officer assessed sum of Rs.3,47,75,000/- for A.Y 2010-11, Rs.10,76,83,000/- for A.Y 2011-12 and Rs.85,00,000/- for the A.Y 2012-13 based on seized material A/GSB/Res/03. The learned Counsel for the assessee explained that the assessee received loan from various persons by paying interest @ 18 to 24% per annum. The assessee given loans to various film producers/production houses by charging interest ranging from 24 to 30%. Going by the admission of the learned Counsel for the assessee, the assessee earns 6% margin from his business activity of arranging loans to film producers. The assessee also claims it has incurred certain expenditure for this

business. In any case, business cannot be done without incurring any expenditure. Although, the assessee is not able to file any evidences for incurring the expenditure, but possibility of incurring day-to-day expenditure like travelling expenses, telephone charges and other general administrative expenses cannot be ruled out. Therefore, considering the nature of the business of the assessee and also amount of business carried out by the assessee for all these years, in our considered view, a reasonable amount of expenditure needs to be estimated. The assessee has earned 6% margin on total loans given to film producers. Against this for various expenditure, the assessee must have incurred 1% income generated from his finance business. Therefore, considering the totality of the facts and circumstances of the case and also the nature of the business, we are of the considered view that out of 6% margin claimed to have been earned by the assessee, a deduction of 1% towards expenditure needs to be allowed. If we deduct 1% towards the expenditure, then the net income earned by the assessee from the film finance business is 5% on total loans given to film producers and production houses. Therefore, we are of the considered view that 5% net profit on total amount of loans given by the appellant as quantified by the Assessing Officer appears to be reasonable. Therefore, we direct the Assessing Officer to estimate 5% net income on total loans quantified by the Assessing Officer towards unaccounted investment in film financing for all the 3 A.Ys. In other words, out of additions made by the Assessing Officer for the A.Y 2010-11 amounting to Rs.3,72,75,000/-, the Assessing Officer is directed to restrict addition to the extent of 5% of net

income on total amount of Rs.3,72,75,000/- and the balance amount is hereby directed to be deleted. Similarly, for A.Y 2011-12, out of addition made by the Assessing Officer for Rs.12,16,83,000/- the Assessing Officer is directed to restrict addition to the extent of 5% net profit on total loans and delete the balance addition. For A.Y 2012-13, out of addition of Rs.2,52,00,000/-, the Assessing Officer is directed to restrict addition to the extent of 5% net income on total loans and balance amount is hereby deleted.

14. The next issue that came up for our consideration for A.Y 2010-11 is addition of Rs.5 lakhs towards gift received from brother-in-law. The Assessing Officer made addition of Rs.5 lakhs towards gift claimed to have been received from brother-in-law on the ground that the assessee could not establish relationship with donor and also creditworthiness of the donor. It was the argument of the assessee that, he has filed confirmation letter from the donor along with the ledger extracts. The assessee further contended that the gift has been received through proper banking channels.

15. We have heard both parties and considered the relevant reasons given by the Assessing Officer to make addition towards the gift of Rs.5 lakhs received from brother-in-law. Although, the assessee claims to have received gift through cheque, but the Assessing Officer recorded clear findings that the assessee has received gift in cash. Further, except confirmation letter and ledger account, no other details has been filed including

relationship with the donor and creditworthiness of the donor. Therefore, we are of the considered view that there is no error in the order of the learned CIT (A) to sustain the addition made by the Assessing Officer towards gift received from brother-in-law amounting to Rs.5 lakhs. Thus, we are inclined to uphold the findings of the learned CIT (A) and reject the ground taken by the assessee.

16. The next issue that came up for our consideration for the A.Y 2011-12 is the gift received by the assessee for Rs.48,17,730/-. The Assessing Officer made addition of Rs.48,17,730/- towards gift claims to have been received from brother-in-law on the ground that except filing confirmation letter and ledger account, the assessee could not furnish any other evidence and also failed to establish relationship of the said person with the assessee and the creditworthiness of the donor. It was the argument of the assessee that the amount has been received from Shri B Girish and Smt. B Soumya in the financial years 2007-08 and 2008-09 and the same has been treated as loans in the books of account of the assessee. During the financial year relevant to A.Y 2011-12, the same has been treated loans as gift received from brother-in-law and sister. The assessee has filed all evidences including confirmation from the donor, their PAN details and bank account.

17. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The fact with regard to the impugned dispute are that on

20/04/2007, the assessee received Rs.4 lakhs and Rs.16 lakhs from Smt. B. Sangeeta and out of this amount, Rs.10.00 lakhs has been treated as gift for the subject A.Y. with the consent of donor who is the sister of the assessee. Similarly, the appellant has received Rs.11,98,660/- in the financial year 2007-08 and Rs.20.00 lakhs in the financial year 2008-09 from Shri B Girish who is brother in law of the assessee i.e. husband of Smt. B. Sangeeta. The aggregate amount received is Rs.31,98,660/- up to the year ending 31/03/2009. This amount was considered as loan from Shri B Girish and therefore, an interest amounting to Rs.4,97,374/- was credited for the year ending 31/03/2010 and further interest of Rs.1,21,723/- for the year ending 31/03/2011. The aggregate amount outstanding in the name of Shri B Girish as on 31/03/2011 was at Rs.38,13,730/- and the same has been treated as gift to the assessee with the consent of Shri B Girish for the subject A.Y. The assessee has furnished all evidences including confirmation and relevant bank account statement of the donor and the assessee. The Assessing Officer ignored the evidences filed by the assessee and made addition u/s 56(2)(vii) of the Act, as income from other sources. We do not subscribe to the reasons given by the Assessing Officer for the simple reason that first of all, the assessee is able to establish identity of the donor and also proved genuineness of the transaction by filing confirmation letter from the donor. Secondly, assuming for a moment, the assessee is not able to prove the gift with relevant evidences, but the amount received from Shri B Girish cannot be treated as unexplained credit or income from other sources u/s 56(2)(vii) for the subject A.Y for the simple reason that the amount

has been received in financial years 2007-08 and 2008-09. If at all, the addition is required to be made, then the same can be made for the A.Ys 2008-09 and 2009-10 but not for the A.Y 2011-12. Therefore, we are of the considered view that the Assessing Officer is erred in making addition towards gifts claims to have been received from brother-in-law. The learned CIT (A) without considering the relevant facts simply sustained the addition made by the Assessing Officer. Thus, we set aside the order of the learned CIT (A) and direct the Assessing Officer to delete the gift amounting to Rs.48,17,730/-.

18. The next issue that came up for our consideration for the A.Y 2012-13 is addition of Rs.29,43,250/- towards unexplained cash found during the course of search. During the course of search on 2/5/2011, at the residential-cum-business premises of the assessee, cash of Rs.29,43,253/- was found and seized. During the course of search, a statement was recorded from the assessee and called upon the assessee to explain the source of cash found at the time of search and in response, the assessee submitted that he has updated his cash book up to 30/04/2011 and as per cash book, closing balance was at Rs.2,79,338/-. Further, one more statement was recorded on 2/1/2012 and in response to specific question, the appellant submitted that the cash balance as on 30/04/2011 was about Rs.5 lakhs. The balance amount of Rs.24,43,000/-, the assessee expressed his inability to explain the source. The Assessing Officer made addition of Rs.29,43,250/- towards cash found during the course of search on the ground that the appellant

could not establish availability of cash in hand of Rs.5lakhs as on 30/04/2011 with known source of income.

19. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the cash found and seized during the course of search at Rs.29,43,250/-. It is also an admitted fact that the cash book maintained by the assessee was not updated as on the date of search. Since the date of search was in between the financial year and there is a time for appellant to update the cash book, the explanation offered by the assessee with regard to the availability of cash balance as on 30/04/2011 as per updated cash book amounting to Rs.5 lakhs needs to be accepted. If we accept the source of cash found during the course of search to the extent of Rs.5 lakhs, but still there is unexplained cash found at the time of search at Rs.24,43,250/- and the assessee could not explain the source for the same. Therefore, we are of the considered view that out of total cash found during the course of Rs.29,43,250/-, the appellant is able to explain the cash in hand available as on the date of search for Rs.5lakhs only. The remaining amount of cash of Rs.24,43,250/- is still unexplained. Therefore, we are of the considered view that the addition made by the Assessing Officer towards cash found during the course of search needs to be sustained to the extent of Rs.24,43,250/-. Thus, we direct the Assessing Officer to restrict the addition to the extent of Rs.24,43,250/- towards cash found and seized during the course of search.

20. The next issue that came up for our consideration for the A.Y 2012-13 is addition towards unexplained investment in jewellery. During the course of search, jewellery amounting to Rs.12,15,500/- was found in the residence and locker of the assessee. The aforesaid jewellery was not seized. During the course of assesment proceedings, the Assessing Officer called upon the assessee to explain the source of investment in jewellery along with documentary proof. Since the assessee has not filed any explanation, the Assessing Officer made addition towards gold jewellery and silver article found worth Rs.12,15,500/- as undisclosed investment in the hands of the assessee.

21. The learned Counsel for the assessee referring to the CBDT Instruction No.1916, dated 4.5.1994 submitted that the CBDT has very clearly directed the Field Officers to not to seize jewellery up to 500g in the case of married women and 200g in the case of unmarried women and 100g in the case of men. If we go by the quantity of jewellery found and seized during the course of search, the quantity is less than 500g. The assessee explained that the said jewellery belongs to his wife and his unmarried children and himself. Although the assessee has explained the source and nature of the investment in jewellery, the Assessing Officer made addition as unexplained investment. Therefore, he submitted that the addition made by the Assessing Officer towards jewellery should be deleted.

22. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that the assessee could not explain the investment in jewellery along with the documentary

proof and source is also not explained. The Assessing Officer after considering the relevant facts has rightly made addition and their orders should be upheld.

23. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the value of the jewellery found during the course of search is at Rs.12,15,500/- and if we convert into weight, it is less than 500g of jewellery. The assessee during the course of search and during the course of assessment proceedings, explained that the said jewellery belongs to his wife, children and himself. As per the CBDT Instruction 1916, dated 11/05/1994. jewellery found during the course of search up to an extent of 500g in the case of married women cannot be seized. Similarly, in the case of unmarried women up to 200g of jewellery cannot be seized. Likewise, in the case of men up to 100g jewellery, there cannot be any seizure. In the present case, going by the amount of jewellery found during the course of search, it is well within the parameters prescribed by the CBDT for seizure of jewellery. No doubt, the Department has not seized jewellery. However, when it comes to explanation of the source for the said jewellery, it is a customary in India that every household will have certain quantity of jewellery in family and the same has been acquired out of their savings and known source of income. Since going by the quantity of jewellery found in the present case, in our considered view, the same is within the parameters prescribed by the CBDT for not seizure of the jewellery and also the assessee is able to explain the

source out of his known source of income. Therefore, we are of the considered view that the Assessing Officer is erred in making addition towards jewellery found during the course of search as unexplained investment. The learned CIT (A) without appreciating the relevant facts simply sustained the addition made by the Assessing Officer. Thus, we set aside the findings by the learned CIT (A) and direct the Assessing Officer to delete the addition made towards the jewellery found during the course of search.

24. In the result, appeals filed by the assessee for the A.Ys 2010-11, 2011-12 and 2012-13 are partly allowed.

Order pronounced in the Open Court on 8th November, 2024.

Sd/- (MAHAVIR SINGH) VICE-PRESIDENT	Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER
---	---

Hyderabad, dated 8th November, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Gajulapalli Shoban Babu, c/o Advocate Mohd. Afzal, No.405 Sherson's Residency, 11-5-465, Criminal Court Road, Red Hills, Hyderabad 500004
2	Dy.CIT Central Circle 3 rd Floor, Aayakar Bhavan, KT Road Tirupati
3	Pr. CIT -Central, Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order