

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

**BEFORE
SHRI MANJUNATHA G., ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

आ.अपी.सं / ITA No.852/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2019-20)

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| Sreenivasulu Balisetty Hyderabad [PAN : AHRPB7276R] | Vs. ACIT Central Circle-2(2) Hyderabad |
| अपीलार्थी / Appellant | प्रत्यर्थी / Respondent |

निर्धारिती द्वारा/Assessee by: Md.Afzal, AR
राजस्व द्वारा/Revenue by: Shri Karthiik Manickam, DR

सुनवाई की तारीख/Date of hearing: 23/10/2024
घोषणा की तारीख/Pronouncement on: 13/11/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 05/07/2024 passed by the learned Commissioner of Income Tax (Appeals)-12, Hyderabad ("Ld. CIT(A)"), in the case of Sreenivasulu Balisetty ("the assessee") for the assessment year 2019-20, the assessee preferred this appeal.

2. Assessee is challenging the addition of Rs.31,36,000/- towards the unexplained source for acquiring of jewellery found during the course of search that was conducted on 12/10/2018 in the case of Rithwik group of

cases. As a matter of fact, before the learned CIT(A) assessee placed reliance on the CBDT circular No.1916, dated 11/5/1994 which reads that, in case of a person not assessed to wealth tax and ornaments to the extent of 500 grams per married lady, 250 grams per unmarried lady and 100 grams per male member of the family, need not be seized, when come across items of jewellery during the course of search. Assessee also placed reliance on the decisions of the Hon'ble Rajasthan and all other Hon'ble High Courts and decisions rendered by various benches of the Tribunal to the effect that if one goes with CBDT's instruction No.1916, dated 11/5/1994 , jewellery found in possession of the assessee to the prescribed extent could not be treated as undisclosed investment.

3. Learned CIT(A), however, brushed aside the contention of the assessee and observed that the said instruction is applicable only for non-season of gold jewellery and ornaments considering the status of the family and the customs and practices of the community and does not give any leeway to the assessee to claim it as an explanation, and the assessee is bound to explain the source of the gold during the course of assessment proceedings consequent to the conclusion of search action.

4. Aggrieved by such findings of the learned CIT(A) assessee approached this Tribunal and it is the contention of the learned AR that the CBDT issued instructions vide Circular No.1916 dated 11/5/1994 and the rational of this circular was considered and relief was accorded by several High Courts and Tribunals and therefore there is no point in the learned CIT(A) stating that such instruction is limited to non-seizure only but not be extendable to the duty of the assessee to explain the source.

5. Per contra, learned DR submitted that as rightly pointed out by the learned CIT(A), the circular clearly reads that in case of a person not assessed to wealth tax, gold jewellery and ornaments to the extent of certain prescribed quantity are not to be seized, but nowhere in the instructions it is stated that subject to that threshold limit, the assessee is absolved of the responsibility to explain the source of acquiring such gold jewelry and ornaments.

6. We have gone through the record in the light of the submissions made on either side. It could be seen from the impugned order that the assessee pleaded before the learned CIT(A) that in spite of his request the learned Assessing Officer failed to furnish the information sought by him as to how the value of jewellery was arrived at by the learned Assessing Officer. Basing on the market rate in force in the month of October, 2018 at ₹ 3,050/- per gram, the assessee calculated the weight of the gold that was found during the search as 1030 grams and explained that they were to married woman, namely, the wife and mother of the assessee, and 2 male members, namely, himself and his son, and therefore, put together all of them are entitled to keep the gold weighing 1200 grams.

7. The assessee, therefore, submitted that in view of the circular instructions No. 1916 dated 11/5/1994, the gold that was found during the search was below the threshold limit prescribed therein, and therefore, no addition could be made towards unexplained source to acquire such gold jewelry and ornaments.

8. Though the learned CIT(A) opined that the circular instructions do not help the assessee in his plea that the possession of gold jewellery and ornaments within the prescribed limits in the circular instructions could be taken as explained, because such inspections are applicable only for non-seizure of the gold jewellery and ornaments considering the status of the family and the customs and practices of the community, and such instructions have nothing to do with the discharge of burden of the assessee to explain the source for acquisition of such gold jewellery and ornaments, but the judicial opinion is otherwise.

9. In the case of ACIT vs Rameshchandra R. Patel, [2004] 89 ITD 203 (AHD), the Ahmedabad Bench of the Tribunal observed that in view of the CBDT Instruction No. 1916 dated 11/5/1994 which suggest that a family is supposed to hold certain jewellery received at the time of marriage from parents and in-laws within the said limits, it is to be treated as explained. Though the instruction speaks of not seizing the same, the extended meaning of the same shows the intention that the jewellery is to be treated

as explained one and is not to be treated as unexplained for the purpose of the Act. In the case of CIT vs. Ghanshyam Das Johri [2014] 41 taxmann.com 295 (Allahabad), Hon'ble Allahabad High Court held that if one goes with CBDT Instruction No. 1916, dated 11-5-1994 and ratio laid down in case of Smt. Pati Devi v. ITO [1999] 240 ITR 727 (Kar.) then a married lady of reputed family is expected to own 500 gm. ornaments. In the case of CIT Vs. Satya Narain Patni [2014] 46taxmann.com440 (Rajasthan), Hon'ble Rajasthan High Court held that,-

“..... 12. It is true that the circular of the CBDT, referred to supra dt. 11/05/1994 only refers to the jewellery to the extent of 500 gms per married lady, 250 gms per unmarried lady and 100 gms per male member of the family, need not be seized and it does not speak about the questioning of the said jewellery from the person who has been found with possession of the said jewellery. However, the Board, looking to the Indian customs and traditions, has fairly expressed that jewellery to the said extent will not be seized and once the Board is also of the express opinion that the said jewellery cannot be seized, it should normally mean that any jewellery, found in possession of a married lady to the extent of 500 gms, 250 gms per unmarried lady and 100 gms per male member of the family will also not be questioned about its source and acquisition.

We can take notice of the fact that at the time of wedding, the daughter/daughter-in-law receives gold ornaments jewellery and other goods not only from parental side but in-laws side as well at the time of 'Vidai' (farewell) or/and at the time when the daughter-in-law enters the house of her husband. We can also take notice of the fact that thereafter also, she continues to receive some small items by various other close friends and relatives of both the sides as well as on the auspicious occasion of birth of a child whether male or female and the CBDT, looking to such customs prevailing throughout India, in one way or the another, came out with this Circular and we accordingly are of the firm opinion that it should also mean that to the extent of the aforesaid jewellery, found in possession of the various persons, even source cannot be questioned. It is certainly 'Stridhan' of the woman and normally no question at least to the said extent can be made.”

10. Many decisions relied upon by the assessee for the same principle. In view of this established judicial review taken in respect of the Instruction No. 1916, dated 11/5/1994, we are of the considered opinion that such instructions are applicable not only to non-seizure but also extendable to the explanation of the source. With this view of the matter, we accept the contention of the assessee and direct the learned Assessing Officer to delete the additions that were made.

11. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 13th November, 2024.

Sd/-
(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad, Dated: 13/11/2024
L.Rama, SPS

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Shri Sreenivasulu Balisetty, Flat No.501 & 601, F Block, Shaikpet, Jubilee Hills, Hyderabad
2. The ACIT, Central Circle-2(2), Hyderabad
3. Pr.CIT (Central), Hyderabad
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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