

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DELHI BENCH "E" NEW DELHI**  
**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER**  
**AND**  
**SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.124/Del/2023**  
**Assessment Year: 2017-18**

<b>Narain Singh Yadav LH</b> <b>Late Smt Bhanvati</b> <b>(Legal Rep. Sh. Narain</b> <b>Singh Yadav)</b> <b>359, Sameypur,</b> <b>Delhi-110042</b> <b>PAN No. ADRPV2673C</b>	<b>Vs.</b>	<b>DCIT</b> <b>Central Circle-15,</b> <b>ARA Centre,</b> <b>Jhandewalan Extension,</b> <b>Delhi</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Sh. Salil Kapoor, Sh. Sumit Lalchandani, Sh.  
Shivam Yadav, Ms. Ananya Kapoor, Advocate  
Department by : Ms. Baljeet Kaur, CIT DR.

Date of hearing : 10-12-2024  
Date of pronouncement : 11-12-2024

**ORDER**

**PER RENU JAUHRI, AM :**

This appeal for the Assessment Year (hereinafter, the 'AY') 2017-18 filed by the assessee is directed against the order dated 25.11.2022 passed

by the Commissioner of Income Tax (Appeals)-28, New Delhi [hereinafter, the 'CIT(A) '].

2. Following grounds are raised in this appeal: -

*“These grounds of appeal represent the grievances of the Appellant against order dated 25 November 2022 passed by the Commissioner of Income Tax (Appeals)-28 under section 260 of the income-tax Act, 1961 towards appeal filed by the Appellant against the assessment order dated 25 December 2018 issued under section 143(3) of the Act by the ACIT, Central Circle-15, New Delhi ("AO)*

*1. That, in view of the facts and circumstances of the case and in law, the impugned assessment order passed u/s 143(3) of the Income-tax Act, 1961 (the Act) dated 26.12.2018 by the Assessing Officer ("AO") as upheld by the Commissioner of Income Tax (Appeals) ('CIT(A)') vide order dated 25.11.2022 and the addition made thereunder is illegal, bad in law and without jurisdiction.*

*2. That on the facts and circumstances of the case and in law, the AO/CIT(A) has grossly erred in assessing the income of the Appellant at INR 1,32,38,969 as against INR 7.02.562 returned income for the subject year.*

*3. That on the facts and circumstances of the case and in law, the AO/CIT(A) have grossly erred in by passing an order against the principle of natural justice since it is not a speaking order.*

*4. That on the facts and circumstances of the case and in law, the AO/CIT(A) have erred by not considering the explanation and information provided by the Appellant.*

*5. That on the facts and circumstances of the case and in law, the AO/CIT(A) have erred by not considering the documentary evidence like sworn affidavits as submitted by the Appellant.*

6. That on the facts and circumstances of the case and in law, the AG/CIT(A) have erred by ignoring the fact that the Appellant is only a representative assessee and the actual assessee is deceased.

7. That on the facts and circumstances of the case and in law, the AO/CIT(A) have erred making an adhoc disallowance without any application of mind.

8. That on the facts and circumstances of the case and in law, the AO/CIT(A) have erred by not understanding the facts and asking for bills for gifted jewellery.

9. That on the facts and circumstances of the case and in law, the AO/CIT(A) have erred by passing an order with self-contradictory statements.

10. That the observations and the additions made by the AO/CIT(A) are unjust, unlawful and are based on mere surmises and conjunctures.

11. That the explanation given in the evidence/submissions produced, material placed and material available on record has not been properly considered and has not been judicially interpreted.

12. That on the facts and circumstances of the case and in law, the CIT(A) has grossly erred in confirming initiation of penalty proceedings under section 271(1)(c) of the Act.

The above grounds of appeal are mutually exclusive and without prejudice to each other. The Appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.

The Appellant prays for appropriate relief based on the said grounds of appeal and the facts and circumstances of the case.”

3. Brief facts of the case are that a search and seizure operation u/s 132 of the Income Tax Act, 1961 (hereinafter 'the Act') was conducted on 06.10.2016 in the case of Delhi State Co-operative Bank Ltd. group of cases in which the assessee, Late Smt. Bhanvati's residence was also covered. During the course of search, jewellery valuing Rs. 65,95,228/- was found at the residential premises of the assessee out of which jewellery worth Rs. 28,79,409/- was seized after giving benefit of the CBDT Circular in this regard.

3.1 Subsequently, the assessee passed away on 12.03.2017 and proceedings were initiated on her husband Shri Narain Singh Yadav declaring him as a legal representative. The assessee filed her return in response to notice u/s 142(1) declaring income of Rs. 7,02,560/- from business of sale/ purchase of M/s. Patanjali Products. While finalizing the assessment u/s 143(3) of the Act, Ld. AO made an addition of the entire seized jewellery treating it as unexplained on the ground that the reply filed during the course of assessment proceedings to explain the source of acquisition of jewellery was not found acceptable.

4. Before the Ld. CIT(A), the assessee submitted that the jewellery seized actually belonged to her two married daughters and

also included jewellery inherited from her mother-in-law. It was further submitted that during the search as well as assessment proceedings this explanation regarding jewellery had been submitted multiple times and the details were also provided as under :-

Srl. No.	Particulars	Quantity (approx.)
1.	Smt. Renu Yadav (daughter) (Once divorced)	395 gms to 410 gms approx.
2.	Smt. Rinku Yadav (daughter)	250 gms to 270 gms approx.
3.	Inherited jewellery	375 gms to 400 gms approx.

5. However, Ld. CIT(A) held that the affidavits submitted by the appellant in this regard are not accompanied by any corroborative evidence such as purchase bills etc. and hence did not find these to be acceptable. Accordingly, the addition made by the Ld. AO of Rs. 28,79,409/- as undisclosed income represented by the seized jewellery was upheld.

6. Aggrieved with the order of the Ld. CIT(A), the assessee is in appeal before us. As many as 12 grounds have been taken by the assessee out of which the sole substantive issue pertains to the addition made on account of unexplained jewellery. Before us, the Ld. AR of the assessee has submitted a paper book containing assessee's submission filed during the course of assessment proceedings along with copies of

affidavit of the two daughters of deceased assessee claiming the amount of jewellery kept by them with the assessee. A copy of death certificate of mother-in-law of assessee has also been filed in support of the claim that the jewellery belonging to the mother-in-law was also inherited by the assessee. It was argued by the Ld. AR that considering the prevailing social norms, it is not unusual for married daughters to keep some of their jewellery with their parents due to various reasons. Accordingly, the affidavits of the daughters ought to have been accepted by the Ld. AO as well as Ld. CIT(A).

7. On the other hand, Ld. DR strongly relied on the orders of the lower authorities. She contended that no details of jewellery etc. were submitted in the affidavits of the daughters which are not, therefore, not reliable. She accordingly argued for upholding the order of the Ld. CIT(A).

8. We have heard the rival submissions and considered the material placed before us. A perusal of the assessment orders shows that the addition has been made simply on account of fact that the assessee could not explain the source of excess jewellery found during the course of search. However, the affidavits and other details/ documents submitted by the assessee have not been controverted nor any further inquiry has been made in this regard. Simply because the impugned jewellery was seized being in excess of the norms prescribed by the CBDT

Circular is not a valid reason for treating it as unexplained without further enquiry into rejecting the contention's of the assessee. It is also observed that it is not uncommon for married daughters to keep part of the jewellery in safe custody with their parents. We, therefore, hold that the Ld. AO was not justified in outrightly rejecting the documents submitted by the assessee in this regard without further enquiry and examinations of the deponents. Ld. AO is accordingly, directed to delete the addition made this account.

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

Order pronounced in open Court on 11<sup>th</sup> December, 2024

Sd/-

**(MS. MADHUMITA ROY)**  
**JUDICIAL MEMBER**

Dated: 11-12-2024

*\*Binita, Sr.P.S.\**

*Copy of order to: -*

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
- 5) The CIT-DR, I.T.A.T., New Delhi

Sd/-

**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

Assistant Registrar  
ITAT, New Delhi