

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B' CHANDIGARH**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 660/CHD/2023

निर्धारण वर्ष / Assessment Year: 2017-18

The DCIT, Central Circle-1, Ludhiana.	Vs	Smt. Meena Singla, C-47, C/o Avinash Industries, Focal Point, Khanna.
स्थायी लेखा सं./PAN NO: AFIPS6555F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Rohit Kapoor, Advocate and
Shri Virsain Aggarwal

Revenue by : Smt. Kusum Bansal, CIT, DR

Date of Hearing : 02.12.2024

Date of Pronouncement : 09.01.2025

PHYSICAL HEARING

ORDER

PER RAJ PAL YADAV, VP

The Revenue is in appeal before the Tribunal against the order of the Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 11.08.2023 passed for assessment year 2018-19.

2. Though the Revenue has taken three grounds of appeal but its substantial grievance is confined to one issue namely,

CIT(A) has erred in deleting the addition of Rs.83,72,312/- which was added by the AO on the ground that unexplained jewellery having value equivalent to this amount was found during the course of search.

3. The brief facts of the case are that a search & seizure operation was carried out at the residential premises of the assessee and business premises of the Group under Section 132(1) of the Income Tax Act, 1961 on 25.04.2018. The assessee has filed her return of income under Section 139(1) on 19.06.2018 declaring total income of Rs.2,11,160/-. The case of the assessee was selected for scrutiny and a notice under Section 143(2) was issued on 17.09.2020. The AO thereafter issued number of questionnaires vide notice under Section 142(1). The AO has observed that during the course of search, a locker was opened out of which gold and diamond jewellery was found. While explaining the source of acquisition, assessee had contended that Shri Abhishek Singla has withdrawn a sum of Rs.83,80,000/- from M/s Sheetal Industries. It was further submitted that in the hands of M/s Sheetal Industries, the income of

Rs.2,80,00,000/- was surrendered which has been assessed to tax. Shri Anmol Singla withdrew Rs.10,70,000/-, thus this amount was available with the assessee for application against recovery of jewellery. The Id. CIT(A) has noticed the details regarding surrendered amount in the hands of M/s Sheetal Industries and as to how such amount has been allocated towards different items, which read as under :

<i>A.Y.</i>	<i>Income Surrendered (in Rs.)</i>	<i>Particulars</i>	<i>Amount (in Rs.)</i>
2018-19	2,80,00,000/-	<i>Building</i>	26,60,998.00
		<i>Land</i>	72,43,000.00
		<i>Withdrawals by partners Anmol Singla= 1070000/- Abhishek Singla=8380000/-</i>	94,50,000.00
		<i>Difference in stock</i>	84,30,002.00
		<i>Miscellaneous fixed assets</i>	2,16,000.00

4. The stand of the assessee was that Rs.83,80,000/- was withdrawn from M/s Sheetal Industries and it was available with her and out of that, this jewellery was purchased. The AO did not accept this contention of the assessee and made the addition.

5. Dissatisfied with the above, the assessee carried the matter in appeal before CIT(A). Assessee has demonstrated the details vide which amount was surrendered and how that

income was allocated to different items of assets. The Id. CIT(A) was satisfied with the explanation of the assessee and deleted it. The First Appellate Authority has reproduced all the seized material and discussed the issue elaborately. Her finding is contained in page No. 16 to 22 of the impugned order.

6. With the assistance of Id. Representative we have gone through the record carefully. It is pertinent to note that income cannot be assumed in the air. It is always to be represented, either by assets or by expenditure. If during the course of search, neither unexplained expenditure was found nor any asset was found, then there could not be any assumption of unexplained income. In the present case, M/s Sheetal Industries is one of the stakeholder, has declared an extra income of Rs.2,80,00,000/-. This Rs.2,80,00,000/- is to be represented either by unexplained expenditure or by unexplained assets. The assessee has allocated this against the building, land, withdrawals by partners, difference stock etc. This amount which was withdrawn by the partners, it is available in their hands. The Department cannot lay its

hand on discovery of cash to the extent of Rs.94,50,000/-.

We could appreciate the case of the AO had a cash was recovered or unexplained expenditure was discovered during the search. If both things are not there, then what happened to that cash which has been declared extra in M/s Sheetal Industries. It is to be set off against the unexplained jewellery as submitted by the assessee. Therefore, ld. First Appellate Authority has rightly deleted the addition and no interference is called for.

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

Order pronounced on 09.01.2025.

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar