

**IN THE INCOME TAX APPELLATE TRIBUNAL,
NEW DELHI BENCHES “DB”, NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.8350/DEL/2018
Assessment Year: 2016-17

Sh. Kailash Ahuja, C/o- Matta Garg & Co., 15 Astley Hall, Dehradun, Uttarakhand	Vs.	DCIT, Central Circle, Dehradun
PAN :AZQPA1158E		
(Appellant)		(Respondent)

Assessee by	Sh. S.K. Matta, CA
Department by	Sh. S.K. Chaterjee, CIT(DR)

Date of hearing	17.03.2025
Date of pronouncement	13.06.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee’s appeal for assessment year 2016-17, arises against the Commissioner of Income Tax (Appeals)-IV [in short, the “CIT(A)”], Kanpur’s order dated 30.11.2018 passed in case No. CIT(A)-IV/KNP/10540/DCIT-CC/DDN/2017-18/673, involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’).

2. Heard both the parties at length. Case file perused.

3. Coming to the assessee's sole substantive grievance challenging unexplained jewellery addition of Rs.7,67,395/- made in the course of assessment framed on 21st December, 2017, we note that the CIT(A) has granted part relief to her, reading as under:

"5.3 The undersigned has carefully gone through the assessment orders, written submission as well as verbal arguments of the Ld. AR. It is seen from the assessment order that during search action u/s 132 at the residence of appellant 808.475 gms. of jewellery were found and further from locker no. 250 of Punjab & Singh Bank, Rajpur Road, Dehradun 14.70 gms jewellery were found. In total 913.18 gms of gold jewellery were found.

During the course of assessment proceeding, appellant was required to explain the source of gold jewellery possessed by her. In response, appellant submitted before the AO that Jewellery was received by her at the time of her marriage and inherited in past. In her reply, appellant also mentioned the instruction no. 1916 dated 11.05.1994 of CBDT and submitted that her jewellery is covered under said instruction therefore, same may be treated as explained. The AO, after considering the explanation of appellant, was of the view that source of acquisition of jewellery could not explain by the appellant and AO assumed that the 200 gms jewellery is explained and remaining 713.15 gms jewellery is unexplained. Accordingly, AO added the value of said 713.15 gms of gold jewellery to the total income of the assessee.

5.4 Before the undersigned, Ld. AR of appellant submitted his written submission which has been reproduced above. It is seen from the above that Ld. AR challenged the addition made by AC on following grounds;

- i. That at the time of search operation u/s 132 no seizure of jewellery was made by the search party and entire jewellery was returned to the appellant, meaning thereby gold jewellery was treated as explained in view of CBDT instruction no. 1916 dated 11.05.1994, status of family and marital status of the appellant.*
- ii. Gold jewellery containing 2 gold coins of 70 gms and 1 gold coin of 20grms, aggregating 90 gms was also found and is the part of 913.18 gms gold jewellery. This jewellery has also been assessed in the name of her husband which resulted in double*

addition of same jewellery items, therefore, same should be deleted.

In addition to the above, appellant also relied upon following case laws:

- 1. CIT v. Satya Narain Patni [2014] 46 taxmann.com 440 (Rajasthan)*
- 2. CIT v. Ghanshyam Das Johri [2014] 41 taxmann.com 295 (Allahabad)*
- 3. CIT v. Divya Devi [2014],*

5.5 The undersigned has very carefully analyzed the finding of AO as well as challenges made by Ld. AR and it is found that acceptance of explained jewellery to the extent of 200gms jewellery is actually based on his assumption. Though, AO has discussed the events and chronology of submission made by appellant but he could not elaborately discuss that how assumption of only 200gms gold jewellery was made by him. There should be specific finding and basis of addition in which order of AO lacks merit. If AO was of the view that no explanation was offered by the assessee regarding source of acquisition of gold jewellery, then addition of whole jewellery was needed and if he considered that some of jewellery is explained then, there should be clear finding linked with affirmed evidence, whatsoever, in the shape of document, instruction and any calculation for the purpose. But, in this case nothing is seen in the Assessment order. Thus, undersigned finds that addition made by AO is not justified in toto.

5.6 Now, it is seen from the challenges made by Ld. AR, that appellant relied upon CBDT instruction no. 1916 dated. 11.05.1994 and on above said judicial pronouncements. For the sake of clarity in the matter, CBDT instruction is reproduced as under:

Instances of seizure of jewellery of small quantity in the course of operation under section 132 have come to the notice of the Board. The question of a common approach to situation where search parties come across items of jewellery has been examined by the Board and following guidelines are issued for strict compliance

- i. In the case of a wealth-tax assessee, gold jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return only need to be seized*

- ii. *In the case of a person not assessed to wealth-tax gold jewellery and ornaments 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*
- iii. *The authorized officer may having regard to the status of the family and the customs and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure. This should be reported to the Director of Income-tax/Commissioner authorising the search all the time of furnishing the search report.*
- iv. *In all cases, a detailed inventory of the jewellery and ornaments found must be prepared to be used for assessment purposes.*

It is seen from the above that appellant's case falls under para (ii) of above instruction. The appellant is a married lady and not assessed to wealth tax as mentioned in the assessment order, therefore, jewellery to the extent of 500gms need not to be seized. The instruction of CBDT has been clarified by the various judicial pronouncements as stated above in which it is observed that jewellery to the extent of limits provided in instruction needs to be treated as explained. The undersigned finds merit in the argument of Ld. AR and of the opinion that jewellery of 500gms is explained because keeping in view the status of appellant being married lady, age of the appellant and family status in terms of return of income filed by her as well as by her husband. It can easily be believed that on her marriage and on other ceremonial functions up to this age, 500gms of jewellery would have received by her and accordingly same is explained. Remaining jewellery of 413.15 gms required explanation regarding source of acquisition of same. On this score, it is seen that firstly at the assessment level and also before the undersigned, Ld. AR could not submit any documentary evidence which may prove that jewellery of 413.15gms is explained. Only submission of appellant that said jewellery is old one and received through inheritances or on marriage cannot help her. The benefit of CBDT instruction has already been granted to her, so remaining jewellery cannot be covered with. Hence, in absence of cogent documentary evidence, remaining jewellery of CIT(A)-IV/KNP/10540/DCIT-CC/DDN/2017-18,

413.15gms is treated as unexplained. However, appellant's objection that addition of 90gms of jewellery of 2 gold coin and 1 gold coin has also made in her husband's case. The undersigned has verified the facts from appeal in the case of Shri Amarnath Ahuja and finds that contention of appellant is correct. In the case of Shri Amarnath Ahuja, undersigned has opined in his order dated 29/11/2018 that said 90gms jewellery pertains to him. Therefore, in the present case

addition of 90gms cannot be sustained. In totally, it is viewed that out of 413.15gms of unexplained jewellery, 90gms does not pertain to the appellant, therefore, addition to the extent of 323.18gms (413.18-90) can only be made in spite of total addition made for 713.50gms. Thus, excess addition of 390.32gms is deleted and addition of 323.18gms hereby confirmed. In terms of value addition of Rs. 9,27,830/- is deleted and balance addition of Rs. 7,67,395/- is hereby confirmed.

6. Result:

In the result, for statistical purposes, this appeal is partly allowed.”

4. We have given our thoughtful consideration to the assessee's and Revenue's respective vehement submission against and in favour of the impugned addition. We make it clear first of all that there is no denial to the fact of the learned departmental authorities having recovered/seized the impugned jewellery weighing 913.18 grams jewellery during the course of search. And also that the CIT(A) has already granted benefit to her in light of the CBDT's landmark Instruction No. 1994 dated 11-05-1994. It is in this factual backdrop that the sole question herein is that of correctness of the remaining jewellery representing 323.18 grams addition only. That being the clinching case, the department could hardly dispute that the assessee's stand from the day one was that she had a daughter Ms. Ruchita Sethi and daughter-in-law Mrs. Anjana Ahuja whose jewellery credit has nowhere been given despite her claim that it is a common practice as per family

tradition to keep such jewellery items together. The fact also remains that the assessee does not appear to have discharged her onus to the entire satisfaction of the learned lower authorities to this effect.

5. Be that as it may, keeping in mind the above narrated facts as well as possibility of some marginal error in quality, quantity and rate issues, this tribunal is of the considered view that a lumpsum addition of Rs.1,00,000/- only would be just and proper with a rider that the same shall not be treated as a precedent. The assessee gets the relief of Rs.6,67,395/- in other words. Necessary computation shall follow as per law.

6. This assessee's appeal is partly allowed.

Order pronounced in the open court on 13th June, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13th June, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi