

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.401/DEL/2024
(Assessment Year: 2017-18)**

Income Tax Officer,
Ward 52 (1),

vs.

Jasmine Kaur Kochar,
5, Kasturba Gandhi Marg,
New Delhi – 110 001.

(PAN : AOKPK6759G)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Gautam Jain, Advocate
Shri Ankit Kumar, Advocate
Shri Parth Singhal, Advocate

REVENUE BY : Shri Kailash Dan Ratnoo, CIT DR

Date of Hearing : 30.04.2025

Date of Order : 09.07.2025

ORDER

PER S.RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal is filed by the assessee against the order of Id. Commissioner of Income-tax (Appeals)-27, New Delhi [hereinafter referred to as 'Id. CIT (A)] dated 05.10.2023 for Assessment Year 2017-18 raising following grounds of appeal :-

“1. The Ld.CIT(A) has erred in not appreciating the fact that the assessee failed to provide any evidence which shows that the items of jewellery which found during search is declared in the WTR. Further no evidence of gift made by other person and bills or evidence with regard to the source of investment provided by the assessee during the

search operation which is on the spot proceedings and even not provided the same during the assessment proceedings.

2. The Ld.CIT(A) has erred in not appreciating the fact the addition was made after allowing the benefit of stridhan (500 gm jewellery in the hand of assessee) and 100 gms jewellery in the hands of husband of assessee.

3. The Ld.CIT(A) has erred in not appreciating the fact the question of segregation of jewellery and studded diamonds only arise when assessee given any evidence to investment made therein but in this case no documentary evidence provided by the assessee during search operation as well during the assessment proceedings.

4. The Ld.CIT(A) has erred in entertaining additional evidence in violation of Rule 46(A) of the Income Tax since there is nothing mention in the CIT(A) order of calling any remand report from the AO.

5. The Ld. CIT(A) has erred in not appreciating the fact that the cash deposit during demonetization period is only allowable when the same are [duly explained by the assessee but as per the assessment order the assessee failed to explain the same.”

2. Brief facts of the case are, a search and seizure operation under section 132 of the Income-tax Act, 1961 (for short ‘the Act’) was conducted by the Investigation Wing on 22.10.2016 in Sukhija Group of cases at various residential and business premises including the premises of the assessee. The cases were centralized. The assessee had filed her original return of income on 01.08.2017 declaring an income of Rs.4,94,920/-. Notices u/s 143(1) and 142(1) were issued and served on the assessee. In response, ld. AR of the assessee attended and submitted relevant information. During the course of search at the residential premises, jewellery worth Rs.9,15,56,838/- was

found out of which jewellery valued at Rs.5,79,57,842/- was seized. Out of the jewellery found, jewellery worth Rs.1,94,11,279/- was found in the case of the assessee as per panchnama dated 02.12.2016. During post enquiry, it was submitted that jewellery belongs to whole family and valuation of the same was done. It was submitted that assessee is living in joint family of other three families, namely, Shri Bhupinder Singh Kochar, Shri Virender Singh Kochar and Shri Kuljeet Singh Kochar along with mother, Mrs. Mohinder Kaur. The jewellery seized from the assessee and other members are jointly owned by different members, therefore, the details of ownership of jewellery are given and sometimes the same are kept in locker which is held by the members other than the owner of the jewellery lying in the locker. Further assessee has filed a wealth tax return wherein assessee has declared jewellery worth of Rs.69,15,418/- as on 31.03.2013 in her wealth tax return. Therefore, the jewellery of Rs.1,94,11,279/- was found from the possession of the assessee and the other jewellery belongs to other family members. It was explained that jewellery worth Rs.27,86,218/- pertains to the husband of the assessee, Shri Harshit Kochar who has made detailed submissions in his reply dated 14.12.2018. Further assessee filed affidavit for the receipt of jewellery of Rs.31,00,000/- as gift from Shri Bhupinder Singh, it was submitted that who has explained the source of this jewellery in his return of income. It was also submitted that other jewellery of other family members

i.e. Ms. Aakriti Kochar, Ms. Banni Kochar and Ms. Gavin Kochar was also found in locker and also filed the confirmation from all the above persons before the AO. After considering the above, the AO rejected the same, however he gave a concession of 600 gms. as per CBDT Instruction No.1916 to her and her husband and balance jewellery was brought to tax, accordingly, made an addition of Rs.1,77,73,279/-.

3. Further during the course of assessment proceedings, assessee furnished a copy of her bank account statement with Punjab National Bank, Gujrawala, New Delhi for the period 01.04.2016 to 31.03.2017. On perusal of the same, AO observed that assessee has deposited cash of Rs.2,50,000/- on 23.11.2016 i.e. during the period of demonetization. Since assessee has not explained source of cash deposited in her account, he proceeded to make the addition under section 69A of the Act.
4. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT(A) and submitted detailed submissions by the assessee which is reproduced at pages 4 to 23 of the impugned order. After considering the detailed submissions, Id. CIT (A) deleted the additions made by the AO by observing as under :-

“5.1 The main objection of the AO was that the appellant was not able to give one to one reconciliation between the declared jewellery and jewellery found during search and since all the members of the family stay under one roof and exchange of jewellery among the

family members is a common practice therefore total jewellery found should be considered as jewellery of the family.

5.2 Regarding first contention, ideally speaking each item of jewellery should match by description & weight of metal/stones/diamonds. However, considering the social set up & culture of India where the jewellery alterations are very common and prevalent in the society, as per the standard methodology, the next best possible methodology of comparing the jewellery items would be

- i. to compare the Gross Weight of gold jewellery including gold jewellery studded with precious stones found during the search with declared jewellery
- ii Loose diamonds to be considered separately.

5.3 The second contention of the appellant is found to be correct as all the Panchnamas have same address of 5. KG Marg, New Delhi.

Analysis and Findings

5.4 It is well settled law that when the gold jewellery in which the diamonds are studded has been accepted by the department as the jewellery received at the time of marriage or other occasion, then, it cannot be said that the diamond studded in the said jewellery were out of the undisclosed income of the appellant. It is also well settled law that where gross weight of jewellery disclosed in regular returns was in excess of gross weight of jewellery found in search, no seizure/addition is permissible. However, the value of diamond studded in gold jewellery is determined only by estimation and actual value of demand studded cannot be determined.

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5.6 It is observed that the jewellery declared/acquired by the appellant or his family members residing with him at the time of search, in any of the following manner can be considered as source of declared jewellery, in the absence of any specific defect pointed by the AO.

- i. Wealth tax return
- ii. VDIS 1996
- iii. Gift deed
- iv. Inheritance/Will
- v. purchases where payment has been made through banking channel.

5.7 As per the valuation reports of the departmental valuer, the jewellery found during the search from the family of the appellant is as under:

Sl. No.	Date & Address as per Panchnama	Owner of jewellery as per valuation report	Gross weight of jewellery (in gms)	Total value
1.	01.12.2016 5 KG Marg, Delhi	a) Bupinder singh Kochar & Others	803.450	16,45,839
		b) Gurmeet Kaur Kochar		
		c) Achin Kochar		
		d) Tarun Kochar		
		c) Prateek Kochar d) Harshit Kochar		
2	22.10.2016 5 KG Marg, Delhi	Satinder Kochar	785.1	69,27,046
3	22.10.2016 5 KG Marg, Delhi	Mohinder Kaur	162.07	8,76,491
4	22.10.2016 5 KG Marg, Delhi	Shelja Kochar	487.36	1,43,85,228
5	23.10.2016 5 KG Marg, Delhi	Prabhnoor Kochar	974.92	2,32,82,699
6	23.10.2016 5 KG Marg, Delhi	Gurpeet Kochar	353.35	1,24,80,428
7	26.10.2016 5 KG Marg, Delhi	Jasmine Kochar	836.31	1,94,11,279
8	26.10.2016 5 KG Marg, Delhi	Harpreet Kochar	954.85	83,39,997
9	26.10.2016 5 KG Marg, Delhi	Gurmeet Kochar	252.84	42,07,831
10	05.12.2016 (Locker no. 7010E)	Tarun Kochar & Gurpreet Kaur	3355.48	75,72,968
11	05.12.2016 (Locker no. 4500D)	Prabhnoor Kochar & Prateek Kochar	1101.4	1,03,91,943
12	05.12.2016 (Locker no. 800E)	Gurpreet Kaur & Harshit Kochar	2568.10	59,86,168
13	09.12.2016 (Locker No. 983)	Gurpreet Kaur	1353.80	37,57,693
Total			13989	11,92,65,610

5.8 Jewellery allowed as per Instruction No. 1916 to the family members of the appellant:

Sr. No.	Name	Relation with appellant	Minimum jewellery as per CBDT instruction no. 1916 (in gms)
1	Harshit Kochar	Nephew	100
2	Tarun Kochar	Nephew	100
3	Prateek Kochar	Nephew	100
4	Prabhnoor Kochar	Daughter-in-Law	500
5	Bhavika Kochar	Niece	250
6	Achin Kochar	Son	100
7	Gavin Kochar	Nephew	100
8	Bhupinder Singh Kochar	Brother-in-law	100
9	Master Guransh Kochar	Grand Nephew	100
10	Master Anhad Kochar	Grand Nephew	100
11	Miss Ameerah Kochar	Grand Niece	250
TOTAL			1800

5.9 The declared jewellery available with the appellant as per Wealth Tax Return is as under:-

S. No.	Name of person	Gross weight of jewellery (Gms)	Value as on 31.03.2012 (INR)	Value as on 31.03.2013 (INR)	Date of filing of Wealth Tax Return	Date of Wealth Tax Assessment Order for AY 2013-14
1	Gurpreet Kaur Kochar	1511.260	33,85,229	35,74,773	31.03.2015	30.03.2016
2	Mohinder kaur	1516.360	33,96,649	35,86,832	31.03.2015	30.03.2016
3	Jasmine Kochar	1336.850	65,48,763	69,15,438	31.03.2015	30.03.2016
4	Shelja Kochar	2788.730	62,46,762	65,96,527	31.03.2015	NA
5	Kuljeet Singh Kochar HUF	1371.574	30,72,357	32,44,383	31.03.2015	NA
6	Baani Kochar	1550.330	34,72,735	36,67,178	31.03.2015	30.03.2016
7	Harpreet Kaur	2019.414	45,23,487	47,76,764	31.03.2015	30.03.2016
8	Gurmeet Kaur	1904.530	42,66,454	45,05,339	31.03.2015	30.03.2016
9	Aakriti Kochar	1580.348	35,39,985	35,39,985	31.03.2015	30.03.2016
10	Bhupinder Singh HUF	1403.810	31,44,539	35,83,990	31.03.2015	30.03.2016
11	Virender Singh HUF	1773.183	39,71,971	41,94,325	31.03.2015	30.03.2016
12	Satinder Kaur	1805.627	52,05,727	52,05,727	31.03.2015	30.03.2016
TOTAL		20698.51				

5.10 The position of total jewellery, found during the course of search and the declared jewellery of the family considered as above, can be summarized as under:

S. No	Description	Gross weight of Gold jewellery in gms.
1	Total Jewellery Found During the Search (para 5.7)	13989.00
2	Total Jewellery as Per WTR (para 5.9)	20698.51
3.	Jewellery allowed as per Instruction No. 1916 of family members (para 5.8)	1800.00
4.	Total Jewellery allowed (S.No. 2+ S.No. 3)	22498.51

5.11 On the basis of above discussion, It is observed that the declared jewellery is more than the jewellery found during search operation.

5.122 Therefore, addition of Rs.1,70,73,279/- made by the A.O. under section 69A on account of unexplained jewellery, is deleted and these grounds of appeal are hereby allowed.”

5. With regard to cash deposit of Rs.2,50,000/-, ld. CIT (A) deleted the addition by referring to the Instruction No.3/2017 dated 21.02.2017, as per which in the case of an individual not having business income, no further verification is required if cash deposited is upto Rs.2,50,000/-. Accordingly, he deleted the above addition.
6. Aggrieved with the above order, Revenue is in appeal before us.
7. At the time of hearing, ld. DR of the Revenue brought to our notice detailed findings of the AO and also page 24 of the order of ld. CIT (A). He submitted that ld. CIT (A) has given benefit to the assessee based on the wealth tax return. He submitted that ld. CIT(A) has erred in not appreciating the additions made by the AO and the relevant jewellery was found at the possession of the assessee. He submitted that ld. CIT (A) has given benefit to the assessee on the question of segregation of jewellery and studded diamonds in absence of any documentary evidences provided by the assessee. He submitted that assessee has not submitted any additional evidences under Rule 46A still he proceeded to give benefit to the assessee with regard to mismatch of jewellery. Therefore, he objected to the findings of ld. CIT (A) and case law relied by him.

8. On the other hand, ld. AR of the assessee brought to our notice page 27 of the appellate order and brought to our notice various jewellery found during the search from the family of the assessee and as per the statement reproduced by the ld. CIT(A) along with other family members found during the search. Further he brought to our notice the declared jewellery available with the assessee as per wealth tax return are as per the chart as 22498.51 gms. He submitted that the total jewellery found during the search are 13,989 gms. and as per the wealth tax return total jewellery declared are 20,698.51 gms.. He submitted that as per the wealth tax return, assessee has declared more quantity of jewellery than the total jewellery found during the search. Therefore, no addition can be made in the case of the assessee and he supported the findings of the ld. CIT (A).
9. Considered the rival submissions and material placed on record. We observe that during search proceedings, gross weight of the jewellery found during search are 13,989 gms. as per the chart reproduced at para 5.7 of the ld. CIT (A)'s order also reproduced above at page 6 of this order and similarly jewellery declared by the family members including the assessee in their wealth tax return are 20,698.51 gms., refer chart reproduced at para 5.9 of ld. CIT (A)'s order reproduced above at page 7. From the above, it is clear that the assessee along with her family members had declared more in their wealth tax return and what was found during search is much less. Since the declaration of the jewellery in the wealth tax return is nothing but jewellery declared to the Revenue. Ld. DR submitted that assessee has filed

additional evidences under Rule 46A and Id. CIT (A) has not followed the due procedure. We observe that jewellery under wealth tax return cannot be considered as additional evidence, therefore, it is part of the record as far as Revenue is concerned, therefore, Id. CIT(A) has elaborately discussed and brought on record the declared gross quantity of jewellery under wealth tax return and what was found during search is much less. Therefore, there is no room to make any additions. Accordingly, we do not see any reason to disturb the findings of the Id. CIT(A) and Ground Nos. 1 to 4 raised by the Revenue are dismissed.

10. With regard to Ground No.5, we observe that assessee is an individual and has deposited Rs.2,50,000/- during demonetization period. As per the CBDT Instruction No.3/2017, a person not having business income, no further verification is required if cash deposited is upto Rs.2,50,000//-. Therefore, we do not see any reason to disturb the findings of the Id. CIT (A) and Ground No.5 raised by the Revenue is dismissed.
11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on this 9th day of July, 2025.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 09.07.2025
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI