

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "A": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA.No.834/Del./2017  
Assessment Year 2013-2014

Shri Bishan Bansal, Faridabad. Haryana. PAN AEZPS1452H C/o. RRA Taxindia, D-28, South Extension, Part-I, New Delhi-110049	vs.,	The Dy. Commissioner of Income Tax, Central Circle-II, Faridabad.
(Appellant)		(Respondent)

For Assessee :	Shri Rakesh Gupta, Advocate And Shri Somil Agarwal, Advocate
For Revenue :	Shri Sanjay Goyal, CIT-D.R.

Date of Hearing :	30.01.2020
Date of Pronouncement :	30.01.2020

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Assessee has been directed against the Order of the Ld. CIT(A), Karnal, Dated 21.12.2016, for the A.Y. 2013-2014.

2. We have heard the Learned Representatives of both the parties, perused the findings of the authorities below and material on record.

3. On Ground Nos. 1 and 2, assessee challenged the Order of the Ld. CIT(A) in allowing the part relief out of the total addition made by A.O. of Rs.10,69,543/- on account of jewellery found in search.

3.1. In this case, the residential as well as business/ office premises of M/s. SRS Group were subjected to search and seizure operations on 09.03.2012. During the course of search and seizure operation under section 132 of the I.T. Act, 1961, jewellery worth of Rs.66,31,229/- was found from the residential premises of the assessee. At the time of recording of the statement of Shri Suresh Bansal, brother of assessee, the assessee has explained the possession of the jewellery belong to him and his family members, the bifurcation of which is given. Further, jewellery was found from the locker lying with Punjab & National Bank. The explanation of assessee was substantially accepted. Since at the time of recording of the statement at the time of search

operation that jewellery amounting to Rs.10,69,543/- belong to the assessee and no documentary evidence was provided to explain the source of purchase of the said jewellery, the A.O. made the addition of Rs.10,69,543/- on account of unexplained jewellery. The assessee pleaded before the Ld. CIT(A) that in view of CBDT Instruction No.1916 and various other judicial pronouncements, credit of 600 grams have been given, therefore, jewellery found relating to gifts received during marriage and other occasions should be considered as sufficient explanation for the jewellery found during the course of search. The Ld. CIT(A) considering the Board Circular No.1916 granted credit of 100 grams gold jewellery found in possession of the assessee on account of gifts received during various occasions and also status of the assessee, A.O. was directed to grant benefit of 100 grams gold. The appeal of assessee was partly allowed.

4. The Learned Counsel for the Assessee referred to PB-10 annexure to Panchanama which is report of valuation of jewellery and as against the amount of Rs.10,69,543/-,

the weight of the jewellery is mentioned at 318.600 grams found from him. He has referred to PB-68 which is written submissions filed before the Ld. CIT(A) in which assessee explained that total jewellery came up of 569.600 grams [i.e., 318.600 grams found from him and 251.000 grams found from locker], received by the assessee and his family members on various ceremonial occasions. The assessee's family consist of himself, his wife and three sons. The assessee, therefore, requested that benefit of 900 grams jewellery may be given to the assessee being explained as per Board Circular (supra). Learned Counsel for the Assessee relied upon the Judgment of Hon'ble Gujarat High Court in the case of CIT vs., Ratanlal Vyaparilal Jain [2011] 339 ITR 351 (Guj.) in which it was held as under :

*“Instruction No.1916, dt.11<sup>th</sup> May, 1994 which lays down guidelines for seizure of jewellery in the course of search takes into account the quantity of jewellery which would generally be held by the family members of an assessee and, therefore, unless anything contrary is shown, it can be safely presumed that the source to*

*the extent of the jewellery stated in the circular stands explained.”*

5. On the other hand, Ld. D.R. relied upon the Orders of the authorities below and submitted that Board Circular was regarding seizure at the time of search.

6. Considering the facts of the case in the light of Judgment of the Hon'ble Gujarat High Court in the case of CIT vs., Ratanlal Vyaparilal Jain (supra), we are of the view that assessee has been able to explain the possession of the jewellery received on ceremonial occasions. The Ld. CIT(A) himself has granted benefit of 100 grams of gold jewellery found from possession of the assessee on account of gifts received during various occasions and also the status of assessee as per the above Board Circular. However, the Ld. CIT(A) has not given benefit of gold jewellery belonging to the wife of assessee and three sons as per the Board Circular. Since this specific fact was pleaded before the Ld. CIT(A) and is not controverted by the Revenue through any material on record, therefore, entire addition would be unjustified. We, accordingly, set aside the Orders of the

authorities below and direct the A.O. to grant benefit of Board Circular No.1916 to the assessee in respect of jewellery held by his wife and his sons as well. In the result, Ground Nos.1 and 2 of the appeal of the Assessee are allowed.

7. On Ground Nos.3 and 4, assessee challenged the addition of Rs.50,000/- on account of unexplained cash found during the course of search.

8. The A.O. noted that assessee has no proper explanation with regard to cash of Rs.50,000/- found at the time of search. The assessee submitted before the Ld. CIT(A) that assessee has past savings and his wife is also senior citizen, therefore, no addition should be made. The Ld. CIT(A), however, did not accept the contention of assessee and in the absence of any evidence, confirmed the addition of Rs.50,000/-.

9. After considering the rival submissions, we do not find any merit in these grounds of appeal of assessee. At the time of search operation, an amount of Rs.3,87,200/- was

found from the residential premises of the assessee and explanation of assessee was called for. However, the same was not found acceptable in the absence of the complete details. The A.O. however, gave substantial benefit to the assessee and made addition of Rs.50,000/- only. Since no sufficient evidence has been filed before the authorities below to explain cash of Rs.50,000/- and that substantial benefit is already granted by the A.O, no further interference is called for in the absence of any evidence on record. Ground Nos.3 and 4 of the appeal of the Assessee are dismissed.

10. In the result, appeal of the Assessee partly allowed.

Order pronounced in the open Court.

Sd/-  
(N.K. BILLAIYA)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 30<sup>th</sup> January, 2020

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "A" Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches :  
Delhi.