

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH: BANGALORE****BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.331/Bang/2023
Assessment Year: 2018-19

Deputy Commissioner of Income-tax Central Circle-1(1), Bengaluru	Vs.	Shri Satish Praphulla Chandra No.05, Mantri Altius 17, Cubbon Road Bangalore 560 001 PAN NO : ACZPC5058R
APPELLANT		RESPONDENT

Appellant by	:	Shri Nischal B., D.R.
Respondent by	:	Shri V. Srinivasan, A.R.

Date of Hearing	:	12.09.2023
Date of Pronouncement	:	12.09.2023

O R D E R**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by the revenue is against the order of CIT(A)-11, Bangalore dated 28.2.2023 for the AY 2018-19.

2. Facts of the case are that a search & seizure operation was conducted in the case of Shri Satish P Chandra on 01-02-2018. The assessee filed his original return of income on 31-10-2018 declaring taxable income of Rs. 1,83,91,940/-. Notice u/s 143(2) of the Income-tax Act,1961 ['the Act' for short] was issued on 05-07-2019 and served on the assessee. Notice u/s 142(1) issued on 06-05-2019 calling for information. During the search proceedings, Jewellery of 8650.81 gms of gold was found from residential premises of the assessee. The aforesaid jewellery found at the time of search was valued by an Approved Valuer which aggregated to Rs. 4,73,01,204/-. As per return of income filed for the AY 2016-17 of himself, wife and son

the assessee, as on 31-03-2016, had accounted total jewellery of Rs. 3,93,50,000/-. The assessee was asked to explain the excess jewellery found during the search proceedings. The assessee in the statement recorded u/s 132(4) of the Act stated that jewellery purchased after 1.4.2016 amounts to Rs.1 crore approximately for which he was unable to produce bills during the search proceedings but he had submitted bank statement as a proof for the purchases. The same was examined by the ld. AO and noticed that the assessee had purchased jewellery worth of only Rs. 49,01,438/- after 01-04-2016. But the assessee could not produce the bills for the purchase of the jewellery. Hence, jewellery of 2581.59 gms. valued at Rs. 80,67,469/- was seized and the AO concluded the assessment making addition of Rs. 80,67,469/- towards unexplained investment in jewellery u/s 69B of the Act.

3. The ld. CIT(A) observed that the only issue disputed in appeal is that the value of jewellery amounting to Rs. 80,67,469/- taxed as unexplained jewellery u/s 69B of the Act. During the search conducted on 01-02-2018, gold jewellery weighing 8650.81 gms was found which came to be valued at the rate of Rs. 3123 p/gms which was prevalent rate on the date of search. He observed that as per the AR of the assessee, the ld. AO made the following errors in treating the jewellery of Rs. 80,67,469 taxed as unexplained jewellery.

3.1 He further observed that the ld. AO himself has mentioned in para no. 3 of the assessment order that the jewellery valued at Rs.3,93,50,000/- was accounted as on 31-03-2016 in the Return of Income for the AY 2016-17 of himself, his wife & his son. This jewellery came to be valued applying the prevalent rate of Rs. 3123 per/gms on the date of search instead of the rate of Rs. 2611 per/gms for 22 ct. (as per published rate) as on 31-03-2016. If this analogy is corrected, the alleged

unexplained jewellery should be treated as explained as per the Id. A.R. of the assessee.

3.2 He further observed that the assessee stated that the jewellery purchased after 01-04-2016 was not considered in arriving at the alleged unexplained jewellery of Rs. 80,67,469/- The assessee had produced before the Assessing Officer, the bank accounts extract evidencing payment of purchase of jewellery after 01-04-2016. The relevant facts are noted in the assessment order itself. In the light of the above, he observed that there is no unexplained jewellery as per the Authorized Representative (AR) of the assessee.

3.3 The Id. CIT(A) observed that it is not disputed that the jewellery valued at Rs. 3,93,50,000/- was declared in the Return of Income as on 31-03-2016. As per the inventories, panchanama, and valuation report, the said jewellery available with the assessee came to be valued at the rate of Rs. 3123 p/gms applying the prevalent rate as on date of search. The jewellery declared in the return of income for AY 2016-17 should be valued applying the rate of Rs. 2611 p/gms prevailing as on 31-03-2016. As the value of ornaments found on the date of search of Rs. 4,73,01,204/- included the value of precious stones as well and in the inventory of ornaments belonging to the assessee's wife and daughter, a sum of Rs. 32,79,175 and Rs. 1,65,54,680/- respectively is considered as the value of precious stones. Some of these ornaments with precious stones have also been acquired by the assessee and his wife after 01-04-2016 which has been established from the invoices produced and these items are excluded from the working since these items are not seized. The working of the value of the jewellery declared in the return of income for AY 2016-17 would be as under:

Jewellery declared in the ITR for the AY 2016-17	Rs. 3,93,50,000
Less: Stones and diamonds as per Inventory excluded from the Above	Rs. 1,98,33,855
Less: Purchase made after 1/4/2016	Rs. 45,20,683
	<u>Rs. (1,53,13,172)</u>
	Rs. 2,40,36,828
Jewellery purchased during FY 2017-18	Rs. 3,04,353
	<u>Rs. 2,37,32,475</u>

Market value of the gold as on 31-03-2016 as per published rates for 22 carats Rs. 2611 p/gm

Quantity of gold ornaments held as on 31-03-2016 9089 gms.

3.4 The Id. CIT(A) observed that as could be seen from the above if the jewellery unexplained applying the correct rate, the entire value of gold seized at the time of search stands explained with reference to the disclosure made in the income tax return for the assessment year 2016-17 and there is no unexplained jewellery of Rs. 80,67,469/.

3.5 He further observed that it is also not disputed that the payments made for the purchase of jewellery after 01-04-2016 through the banking channels as evidenced by the bank account extracts is not considered by the Assessing Officer. Since the adaptation of correct rate, value of jewellery itself shows there was no unexplained jewellery of Rs.

80,67,469/- it is not necessary to conduct further examination into the purchases made after 01-04-2016 through banking channels and are accordingly accounted.

3.6 Therefore, the ld. CIT(A) observed that the ld. AO was not correct in making the addition of Rs. 80,67,469 on account of unexplained jewellery. Thus, he directed the ld. AO to delete this addition and allowed the ground of the assessee. Against this revenue is in appeal before us.

4. We have heard the rival submissions and perused the materials available on record. In this case, total gold ornaments found during the course of search action was weighing at 8650.81 gms. According to the ld. AO, there was excess jewellery to the tune of Rs.80,67,469/- and accordingly, he made the addition. The contention of the ld. D.R. is that the assessee has purchased jewellery after 1.4.2016 approximately amounting Rs.1 Crore, for which no bills are produced. The assessee has stated that it has purchased jewellery through the banking channels. On going through it, the ld. AO found that assessee has purchased jewellery through banking channels only to the tune of Rs.49,01,438/- after 1.4.2016 and further the ld. AO found that approximately Rs.30 lakhs worth has been purchased by assessee in the form of bullion and gold coins and it is not the gold ornaments. Hence, he considered the excess jewellery found during the course of search action at Rs.80,67,469/-. However, after going through the entire facts and circumstances of the case, the ld. CIT(A) has observed that assessee has declared jewellery in his income tax return for the assessment year 2016-17 at Rs.3,93,50,000/-. After excluding the stones and diamonds, the purchase after 1.4.2016 is at Rs.1,53,13,172/- and the remaining jewellery

was at Rs.2,40,36,828/-. Out of this, he deducted the jewellery purchased in the financial year 2017-18 upto Rs.3,04,353/- and net value of jewellery as on 31.3.2016 is arrived at Rs.2,37,32,475/-. Since the value of jewellery as on 31.3.2016 was Rs.2,611/- p.gm., the ld. CIT(A) had arrived at the possible quantity of gold with the assessee as on 31.3.2016 weighing at 9089 gms. and thus, the quantity of gold found during the course of search was 8650.81 gms., which is lesser than the possible gold to be with assessee as on 31.3.2016 at 9089 gms. As such, he gave a relief to the assessee for having the gold, which is less than the possible gold to be with the assessee as on 31.3.2016. In this finding of the ld. CIT(A), we do not find any infirmity and he has taken the possible view on the issue and the same is confirmed. Hence, all the grounds of revenue are dismissed.

5. In the result, the appeal of the revenue is dismissed.
Order pronounced in the open court on 12th Sept, 2023

Sd/-
(Madhumita Roy)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 12th Sept, 2023.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(Judicial)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.