

घर में कितना सोना रख सकते हैं

Income Tax Rules

Case

1

**Smt. Neeta Rai vs.
DCIT Central (1) Bhopal**
(लॉकर में 966 ग्राम सोना)

Case

2

**Nirmal Kumar Agrawal vs.
ACIT, Nagpur**
(पत्नी के गहने और Diamond Ring पर पंगा)





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भारत में सोने के स्वामित्व की कानूनी सीमाएं



श्रीमती अनुराधा

विवाहित महिला
500 ग्राम तक



कुमारी नेहा

अविवाहित महिला
250 ग्राम तक



श्री विक्रम

पुरुष
100 ग्राम तक



अतिरिक्त सोने के लिए
आय का प्रमाण आवश्यक



पैतृक या विरासत में मिले
सोने पर कोई सीमा नहीं

How to Prove the Source of Gold सोने के स्रोत का प्रमाण कैसे दें?



1. Purchase Invoices from Jewellers (खरीद बिल)

- Dated & Itemized Receipts
- Details of Weight & Purity
- Seller's VAT/GST Number



2. Bank Statements Showing Payment (बैंक स्टेटमेंट)

- Record of Transaction
- Payment to Jeweller
- Proof of Fund Availability



3. Wealth Declarations in Tax Filings (टैक्स फाइलिंग)

- Income Tax Return Records
- Assets Declaration Sections
- Continuity of Asset Values



4. Inheritance Legal Documents (विरासत दस्तावेज़)

- Will (Vasiyatnama)
- Gift Deed (Daan-patra)
- Probate or Succession Certificate



5. Gift Declarations from Relatives (उपहार घोषणा पत्र)

- Registered Gift Deed (required for high value)
- Relationship Declaration
- Donor's Affidavit & Source





इनकम टैक्स रेड: लॉकर में 966 ग्राम सोना!

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भोपाल के एक संभ्रांत परिवार में अचानक आयकर विभाग की रेड पड़ती है। बात 12 अगस्त 2014 की है, जब 'रीगल होम्स' और 'द्वारकाधीश हवेली बिल्डर्स ग्रुप' पर सर्च कार्रवाई के दौरान श्रीमती नीता राय के बैंक लॉकर की तलाशी ली जाती है। बैंक लॉकर खुलते ही अधिकारियों को उसमें 966 ग्राम सोने के गहने और 1,960 ग्राम चांदी के बर्तन मिलते हैं, जिनकी कुल कीमत लगभग साढ़े 25 लाख रुपये तय की जाती है।

आयकर अधिकारी (AO) बिना किसी गहन पड़ताल के सीधे निष्कर्ष पर पहुँचते हैं। चूंकि नीता राय नियमित इनकम टैक्स रिटर्न दाखिल नहीं करती थीं और मौके पर तुरंत कोई पक्के बिल या खरीदे गए गहनों के रसीद पेश नहीं किए जा सके, इसलिए अधिकारी पूरे 966 ग्राम सोने को 'अघोषित आय' मानकर उस पर भारी कर का जुर्माना ठोक देते हैं। नीता राय इस एकतरफा फैसले को चुनौती देते हुए प्रथम अपीलीय अधिकारी यानी CIT(A) के पास पहुँचती हैं। CIT(A) सुनवाई के दौरान CBDT के प्रसिद्ध निर्देश 1916 का सहारा लेते हैं। इस नियम के तहत परिवार के सदस्यों के हिसाब से सोने की छूट दी जाती है—पति के लिए 100 ग्राम, बेटे के लिए 100 ग्राम और खुद नीता राय के लिए 500 ग्राम, यानी कुल 700 ग्राम सोने को जायज मान लिया जाता है। लेकिन अधिकारियों ने बाकी बचे 266.5 ग्राम सोने को फिर भी अवैध मानते हुए कर योग्य आय में जोड़े रखा।



नीता राय का कहना बिल्कुल स्पष्ट था। उन्होंने अधिकारियों को समझाया कि यह लॉकर सिर्फ उनका अकेला नहीं है। भारतीय परिवारों की परंपरा के अनुसार महिलाओं का बैंक लॉकर संयुक्त रूप से इस्तेमाल होता है। उस लॉकर में रखी ज्वेलरी में उनकी बहू श्रीमती मंदाकिनी राय का 477.2 ग्राम और बेटी श्रीमती मानसी राय का 142.4 ग्राम सोना भी शामिल था, जो उन्हें शादी और पारिवारिक समारोहों में उपहार स्वरूप मिले थे। CBDT की तय सीमा के मुताबिक, उनके संयुक्त परिवार की कुल छूट 1,950 ग्राम बैठती थी, जबकि लॉकर में मिला कुल सोना तो महज 966 ग्राम ही था। मामला आखिरकार आयकर अपीलीय न्यायाधिकरण (ITAT), इंदौर पीठ के सामने पहुँचा। पीठ के न्यायिक सदस्य श्री कुल भारत और लेखा सदस्य श्री मनीष बोराड ने पूरे मामले की बारीकी से समीक्षा की। ITAT ने आयकर अधिकारियों की कार्यप्रणाली पर गंभीर सवाल उठाए। न्यायाधिकरण ने स्पष्ट शब्दों में माना कि भारतीय समाज और संस्कृति में बहू और बेटी का अपनी सास या मां के लॉकर में गहने सुरक्षित रखना एक अत्यंत सामान्य और स्वाभाविक बात है। अदालत ने कहा कि आयकर अधिकारी और CIT(A) ने नीता राय के बयानों की बिना कोई ज़मीनी जांच किए, बिना परिवार के सदस्यों से पूछताछ किए या गवाही लिए, केवल यांत्रिक और लकीर के फकीर वाले तरीके से उनके दावे को खारिज कर दिया। जब परिवार के सभी सदस्यों की पात्रता को मिलाया जाए, तो कुल 966 ग्राम सोना नियम अनुसार तय सीमा 1,950 ग्राम के काफी भीतर आता है।



आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.684/Ind/2017
Assessment Year: 2015-16**

Smt. Neeta Rai E-6/74, Arera Colony Bhopal (M.P.) (Appellant)	बनाम/ Vs.	DCIT- Central(1) Bhopal (Revenue)
P.A. No.ASMPR8277J		

Appellant by	Shri Prakash Jain & Miss Shreya Jain, A.Rs
Respondent by	Smt. Ashima Gupta, DR
Date of Hearing:	18.12.2018
Date of Pronouncement:	08.01.2019

आदेश / O R D E R

PER KUL BHARAT, J.M:

This appeal by the assessee is directed against order of the CIT(A)-III, Bhopal dated 13.9.2017 pertaining to the

assessment year 2015-16. The assessee has raised following grounds of appeal:

1. *The order of the learned CIT(A)-3, Bhopal is unjustified and is beyond the facts and circumstances of the case.*
2. *The learned CIT(A)-3, Bhopal has erred in passing the order under section 250 of the Income Tax Act, 1961, the Learned CIT(A)-3 has proportionately allowed the gold jewellery and ornaments weighing 700 grams and disallowed the remaining 266.5 grams. CBDT Instruction No.1916 prescribes the limit that “gold jewellery and ornaments to the extent of 500 grams per married lady, 2520 grams per unmarried lady and 100 grams per male member of the family need not be seized.” The learned CIT(A)-3 has not considered the relief for gold jewellery belonging to Mrs. Mandakini Rai, Daughter in Law of the assessee (eligible for holding gold jewellery weighing 500 grams) and Ku. Ananya Rai, Grand daughter of the assessee (eligible for holding gold jewellery weighing 250 grams.)*
3. *The appellant craves leave to add, to amend or alter any of the grounds of appeal as and when necessary.*

2. Briefly stated facts are that search & seizure operation u/s 132(1) of the Income Tax Act, 1961 (hereinafter called as ‘the Act’) was carried out at the residential and business premises of the persons/partners and associate concerns of Regal Homes and Dwarkadheesh Haveli Builders Group of Bhopal on 12.8.2014. The assessee being one of the member of the Regal Homes Group, search operation was carried out at her premises and the assessment u/s 153A

r.w.s. 153(3) of the Act was framed vide order dated 28.9.2016. While framing the assessment, the A.O. made addition of Rs.24,52,309/- on account of investment in jewellery. Against this, the assessee preferred an appeal before Ld. CIT(A). The Ld. CIT(A) deleted the addition to the extent of investment in 700 gms. Jewellery. Rest of the addition was sustained. Against this, the assessee is in appeal before this Tribunal.

3. Ld. Counsel for the assessee reiterated the submissions as made in the written synopsis. The contents of the same are reproduced as under:

“With reference to the hearing of above referred appeal, we have to submit the short facts of the case are as under:

- 1. Search operation u/s 132(1) of the Income Tax Act were carried out in the residential and business premises of M/s. Regal Home and Dwarkadheesh Haveli Builders Group. Assessee’s husband Shri Rakesh Kumar Rai was also connected with the said group, thus search u/s 132 was also carried out at her residential premises.*
- 2. During the course of search locker bearing No.632 held with Bank of Baroda was found by the search party. In the said locker the search party found gold jewellery and silver articles detailed as under*

S.No.	Particulars	Jewellery found (in Rs.)
1.	Gold jewellery weighing 966.00 gram (net wt.)	24,52,309/-
2.	Silver articles weighing 1960.00 gram (net wt.)	73,923/-
	Total	25,26,332/-

3. During the course of search statement u/s 132(4) of the assessee was recorded and in reply to question no.7 assessee stated that his family consists of herself, her husband Shri Rakesh Kumar Rai, Son Shri Rishin Rai, Daughter-in-law Smt. Mandakini Rai and Daughter Smt. Mansi Rai. A copy of statement u/ 132(4) is enclosed herewith.
4. During the course of assessment proceedings it was explained that the jewellery and silver articles found during the course of search is covered within the guidelines prescribed by the CBDT Circular No.1916 dated 11.5.1994 as tabulated below:

Name of the family member	Ornaments allowed as per notification (Grams)
Mrs. Neeta Rai (appellant)	500
Mr. Rakesh Rai (Husband)	100
Mr. Rishin Rai (son)	100
Mrs. Mandakini Rai (daughter in law)	500
Mrs. Mansi Rai Shrivastava (daughter)	500
Ku. Anaya Rai (grand daughter)	250
Total	1950ms.

5. It was contended before the Ld. A.O. that as per Board's Circular the assessee family can hold 1950 grams of gold jewellery against which the said party was found only 966 grams gold jewellery. Thus the quantum of jewellery found during the search is below the guideline prescribed by CBDT.
6. The Ld. A.O. has not accepted assessee's above submission by stating that assessee is not Income Tax payer, no bills and vouchers in respect of acquisition of jewellery is submitted nor the proof of receipt of jewellery in gift at the time of marriage and other occasions from relatives have been produced. Thus the Ld. A.O. has not accepted that assessee or his any of the family members is hold any gold jewellery or received by them in marriage or other family ceremonies, thus he made addition of total value of jewellery at Rs.24,52,309/-found during the course of search.

7. Aggrieved by the order of the Ld. A.O. assessee preferred appeal and reiterated the submission before the Ld. CIT(A) who hold that in view of the CBDT circular and decision relied by the assessee gold jewellery to the extent of 700 grams is reasonable and maintained the addition 266 grams.

8. Being dissatisfied from the order of Ld. CIT(A) assessee filed present appeal. Now our humble submissions before your honour are as under:

(i) The Ld. CIT(A) hold that jewellery to the extent of 700 grams is reasonable the break up of which is as under:

Neeta Rai (Appellant assessee)	500 grams
Rakesh Kumar Rai (Assessee's husband)	100 grams
Rishin Rai (assessee's son)	<u>100 grams</u>
Total	700 grams

(ii) We could not understand why the Ld. CIT(A) has not allowed the deduction of jewellery of daughter in law, grand daughter and married daughter particularly when in the statement recorded u/s 132(4) assessee specifically mentioned that her family consists of herself, her husband, son, daughter in law.

(iii) It is submitted that in view of the Board's Circular referred herein above the jewellery fund is below the prescribed limit. Reliance is placed on the following decisions:

a. Sunita Nigam Vs. DCIT (Central) ITA No.310/Ind/2017 order dated 27.6.2018 (2018) 33 ITJ 837 (Indore)

b. Suresh Chand Agrawal Vs. DCIT (2014) 23 ITJ 46 (Indore)

c. CIT Vs. M.s. Agrawal (HUF)(2008) 11 ITJ 721 (MP)

In view of above facts it is prayed that entire jewellery found be treated as disclosed and addition confirmed by the Ld. CIT(A) be deleted."

4. On the contrary, Ld. D.R. opposed the submissions and supported the orders of the authorities below. He submitted that before assessing officer, no evidence was adduced in support of the contention, therefore, A.O. was

justified in not giving benefit of circular of CBDT. It was incumbent upon the assessee to the contention of placing supporting evidences.

5. We have heard the rival submissions, perused the materials available on record and gone through the orders of the authorities below. We find that before the A.O. the assessee had categorically submitted as under:

7.6 *In the written reply dated 22.9.2016 the assessee has stated as under:-*

“Out of 966.50 Gram Gold jewellery, 346.90 gram, Gold jewellery belongs to Smt. Neeta Rai, 477.20 Gram Gold Jewellery belongs to Smt. Mandakni Rai (Daughter-in-law) and 142.40 gram Gold Jewellery belongs to Smt. Mansi Rai Shrivastava. Out of 1960.00 Gram Silver articles, 1187.00 gram silver articles belongs to Smt. Neeta Rai, 400.00 Silver articles belongs to Smt. Mandakni Rai and 200.00 gram silver articles belongs to Smt. Mansi Rai Shrivastava.

- 1. Mrs. Neeta Rai did not purchase any gold or silver after her husband's retirement from Banks service in 2008. All her ornaments were acquired/received as gifts, prior to that.*
- 2. Mrs. Mandakini (daughter in law) received all her gold as gifts from various relatives and her parents at the parents at the time of her wedding. Her husband also received 4 rings and a chain. A list of gifts received was prepared at that time in Nov.2010. A copy of the same is enclosed for your perusal. Her daughter, born in March 2013 also received 3 small chains, bangals and 3 coins as gifts. All these items are consolidated in Mandakini's list. She resides in Mumbai with her husband and find it unsafe to keep valuables there.*

3. *Mrs. Mansi Rai Shrivastava (daughter) is married to Mrs. Varun (Canadian citizen) in Oct 2012 and migrated there. They are residing in Canada with Varun's family. She was working with Infosys before marriage. She has kept some of her ornaments and clothes for use, during her visits for attending wedding and other family functions in India. Since only lightweight, white gold/white metal ornaments are preferred over yellow gold jewellery in Canada, she decided not to carry these along."*

6. However, these submissions were rejected by observing as under:

"7.7 the submission of the assessee has been examined and found to be not acceptable for the following reasons:-

- i. It is observed that the assessee was a non filer & not regularly filing her return. She has no source of income to explain the jewellery found in the locker clearly establishing that the jewellery was acquired through undisclosed sources.*
- ii. No bills and vouchers have been submitted by the assessee.*
- iii. No documentary evidence with regard to the receipts of gifts has been submitted by the assessee.*
- iv. No documentary evidence has been submitted to prove that the jewellery is related to Smt. Mandakni Rai or Smt. Mansi Rai Shrivastava.*
- v. The assessee has merely submitted a list of some of the relatives and has claimed that the jewellery has been received as gift from them, however, no documentary evidence has been submitted by the assessee to prove the gift paying capacity of these persons.*
- vi. The assessee has failed to explain that the jewellery has been acquired out of accounted income."*

7. Ld. CIT(A) gave benefit of CBDT circular to the extent of 700 gms. only. Rest of the addition was sustained. It is undisputed that before A.O., the assessee had stated that

the jewellery recovered from her locker belong to other individuals. The A.O. rejected the contention on the basis that no return was being filed. Further, no documentary evidence was submitted in respect of gifts, etc. Further, no evidence was produced to prove that jewellery is related to other individuals namely Smt. Mandakini Roy and Smt. Mansi Roy Srivatsav. In our view, the A.O. ought to have made enquiry from other persons. However, no such enquiry was made. Ld. CIT(A) also in a mechanical manner without conducting any enquiry from the other members of the family proceeded to give benefit to the extent of 700 gms. only. Under these facts, the A.O. ought to have made enquiries from the other persons. In the absence of such enquiry, in our view, addition so made is not justified. It is also common practice in Indian household that ladies share their locker for storing ornaments with other family members. Moreover, it is stated that the jewellery is

received in the form of gift, then the A.O. should have atleast made enquiries from the persons from whom such gift was received. Therefore, considering the totality of the facts, addition made by the A.O. is not sustained. We direct the A.O. to give benefit of the circular of CBDT and delete the addition. Grounds raised in this appeal are allowed.

8. In the result, appeal filed by the assessee is allowed.

Order was pronounced in the open court on 08.01.2019.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIALMEMBER

Indore; दिनांक Dated : 08/01/2019

VG/SPS

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By order

Assistant Registrar, Indore



2

C.A. के घर IT रैड: 2434g सोना बरामद!

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नागपुर शहर के एक जाने-माने Chartered Accountant (C.A.) निर्मल कुमार अग्रवाल जी के घर 26 जुलाई 2016 की सुबह Income Tax Department की टीम अचानक Search and Seizure Operation (रेड) के लिए पहुँचती है। अधिकारियों की नज़र घर में रखे सोने और गहनों पर पड़ती है। कुल मिला कर 2,434 ग्राम ज्वैलरी मिलती है, जिसमें से 1,314 ग्राम ज्वैलरी सीज़ (Seize) कर ली जाती है।

Assessing Officer (A.O.) बिना ठोस आधार के Section 69A के तहत सीधे ₹50 लाख की अघोषित आय (Addition) जोड़ देते हैं। मामला आगे बढ़ता है और CIT(A) के पास पहुँचता है। CIT(A) काफी हद तक राहत तो देते हैं, लेकिन 4 विशिष्ट आभूषणों (कीमत ₹3,86,186/-) पर अड जाते हैं।

Department की तरफ से दो अजीबोगरीब तर्क रखे जाते हैं:

1. पत्नी श्रीमती आस्था अग्रवाल के 55.8 ग्राम के पेंडेंट और ब्रेसलेट सेट का Source of Income स्पष्ट नहीं है।
2. शेष 48.9 ग्राम की अंगूठी और झुमका Diamond Studded (हीरे जड़े) हैं। अधिकारियों का कहना था कि CBDT Instruction No. 1916 की छूट केवल Plain Gold Jewelry पर मिलती है, Diamond/Precious Stones वाले गहनों पर नहीं।

इतना ही नहीं, Department ने उन पर Section 115BBE के तहत 60% का भारी Penalty Tax Rate लगाने का प्रयास भी किया।

अन्याय के खिलाफ यह जंग आखिरकार ITAT Nagpur Bench पहुँची, जहाँ Judicial Member श्री अनुभव शर्मा और Accountant Member श्री क्षेत्र मोहन रॉय की पीठ ने सुनवाई की। ITAT ने पूरे Case legal parameters पर समीक्षा की और निर्णय दिया:

- **Wife's Stridhan & Ownership:** कोर्ट ने स्पष्ट किया कि बेटियों के जन्म पर मायके से उपहार मिलना Marwari रीति-रिवाजों का हिस्सा है। जब पत्नी खुद Property/Jewelry की Ownership Claim कर रही हो, तो महज Joint Residence में मिलने के आधार पर उसे Husband की Undisclosed Income नहीं ठहराया जा सकता।
- **CBDT Instruction 1916 & Diamond Interpretation:** ITAT ने CIT(A) के तर्कों को पूरी तरह निरस्त करते हुए कहा कि 'Gold Jewelry' की Definition में Diamond Studded Ornaments भी शामिल हैं। कानून के मुताबिक एक पुरुष के पास 100 ग्राम तक का सोना Self-explained माना जाता है, और दर्ज गहनों को हटाकर बचा 48.9 ग्राम इस permissible limit के पूरी तरह भीतर है।
- **Prospective Amendment Rule:** Section 115BBE की 60% Tax Rate का Amendment 15 दिसंबर 2016 से लागू हुआ था (Prospective Effect)। चूँकि Search Operation 26 जुलाई 2016 को हुआ था, इसलिए यह बढ़ा हुआ Tax Rate इस Case में लागू ही नहीं हो सकता।



**IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

**ITA No. 530/NAG/2025
(Assessment Year : 2017-18)**

Nirmal Kumar Agrawal, Shiv Sadan, Main Road, Ramkrishna Nagar, Tumsar-441 912 PAN : ADBPA 1575 C	vs	ACIT, Central Circle-2(1), Nagpur
Assessee		Revenue

Assessee by	:	Shri Rohan Loya, CA
Revenue by	:	Shri Pankaj Kumar, CIT-DR
Date of hearing	:	12.06.2026
Date of pronouncement	:	10.08.2026

ORDER

PER KHETTRA MOHAN ROY, AM:

This appeal filed by the assessee is directed against the order of Learned Commissioner of Income Tax (Appeals)-3, Nagpur (for short, “**CIT(A)**”), dated 24/06/2025 passed under section 250 of the Income Tax Act, 1961 (for short, “**Act**”) which is emanating from the assessment order dated 26.12.2018 passed u/s. 143(3) of the Act by the ACIT, Central Circle-3, Nagpur, for the Assessment Year (**AY**) 2017-18.

2. Assessee has raised the following grounds of appeal:

- (1) *That the order of the learned Assistant Commissioner of Income Tax, Central Circle 1(3), Nagpur u/s 143(3) is bad in law and wrong on facts and the learned CIT(A) erred in confirming the same.*
- (2) *That the learned CIT(A) erred in law and on facts in confirming the addition to the extent of Rs.3,86,186/- holding that the source of such ornaments and jewellery remained unexplained. On the facts and circumstances of the case, the explanation regarding possession of jewellery was duly furnished and the same is justifiable considering the age, status and the custom prevailing in the society.*
- (3) *That the learned CIT(A) erred in law and on facts in holding that the provisions of Section 115BBE are applicable for A.Y.2017-18. On the facts of the case, the taxation laws (second amendment) was brought in the statute on 05-12-2016 and therefore applicable thereafter. The learned CIT(A) was unjustified in holding otherwise.*
- (4) *That the learned CIT(A) erred in law and on facts in confirming the action of AO in determining and charging interest u/s. 234A and 234B. On the facts and circumstances of the case and in law, the calculation is improper.*
- (5) *That for any other ground with kind permission of your honour at the time of hearing of appeal.*

3. Facts of the case in brief are that a search and seizure action u/s. 132 of the Act was conducted in the case of M/s. D.P.Jain Group on 26.07.2016, wherein assessee was also covered. Pursuant thereto, assessee filed his return of income for the A.Y. 2017-18 on 09.03.2018 declaring total income of Rs. 7,16,270/-. The case was selected for scrutiny and

statutory notices u/s. 143(2) & 142(1) of the Act were issued and duly served upon the assessee. In response thereto, assessee furnished requisite details and explained that he is a Chartered Accountant by profession and a partner in the firm M/s. SNJ & Associates, from which he derives remuneration, interest and share of profit. During the course of the search proceedings, jewellery weighing 2434 grams valued at Rs. 90,58,646/- was found, out of which, weighing 1314 grams valued at Rs. 33,33,248/- was seized. Further, cash amounting to Rs. 7,06,060/- was found, out of which Rs. 5,00,000/- was seized. The statement of the assessee was also recorded on oath u/s.132(4) of the Act. After considering the explanation furnished by the assessee Ld.AO completed the assessment u/s. 143(3) of the Act vide order dated 26.12.2018 by determining the total income at Rs. 57,16,270/-. While doing so, Ld. AO made an addition of Rs. 50,00,000/- u/s. 69A of the Act, treating the same as unexplained money/ undisclosed income.

4. On appeal, Ld.CIT(A) allowed part relief and sustained addition of Rs.3,86,186/- on account of ornaments and jewellery being with respect to four items of jewellery having gross weight 158.00 gms/net weight 104.70 gms, stones/ diamonds of 6.90 carats. Ld.CIT(A) sustained the addition holding that the source of those four items remained unexplained and that the Board's instruction No. 1916 dt.

11-05-1994 speaks about gold jewellery and not diamond studded jewellery. He further held that the Instruction lays down guidelines for seizure of jewellery and not explanation towards source of jewellery. Ld. CIT(A) upheld addition of Ring Jhumka valuing Rs.1,07,116/- mentioned in Annexure JF-1 and precious stone studded jewellery valuing Rs.2,79,050/- in Annexure JF-2.

5. Aggrieved with the order of Ld. CIT(A), assessee is in appeal before this Tribunal. the addition. Learned counsel for the assessee submitted that the source of entire jewellery including impugned items were duly explained. He produced item-wise explanation of various jewellery items which was furnished before the lower authorities and also explained the ownership and source of jewellery. It was explained that out of total impugned jewellery, 2 items having net weight of 55.80 gms in Annexure JF 2 belong to assessee's wife-Smt. Astha Agrawal being received as gifts from her parents on the occasion of birth of her 2 daughters. It was further submitted that when the ownership of impugned items was duly identified and claimed by appellant's wife, the addition in hands of assessee is incorrect and misplaced. It was also explained that remaining items belonged to the assessee i.e. ownership was claimed by assessee during the search as well as post search proceedings. From the item-wise explanation chart for Annexure JF1 and JF2, it was explained that the jewellery belonging to assessee was only 121.5 gms. out of which jewellery of 72.6 gms. was acquired through banking

channels between the years 2008 to 2011 and was duly found recorded in the individual books of assessee. It was further submitted that balance jewellery of 48.9 gms belonging to assessee was well within the limit of 100 gms as per CBDT Instruction 1916, dated 11th May, 1994. Learned counsel submitted that 48.9 gms of jewellery was reasonable, considering the age (41 years), education and occupation (Practising C.A.), societal status of the assessee. It was explained that assessee was married 15 years ago and has two daughters, he belongs to an affluent Hindu family where gold items are frequently gifted on important occasions like anniversaries, birthdays and on birth of kids. He vehemently contended that Ld.CIT(A) incorrectly comprehended the CBDT Instruction No.1916 and holding that said instruction does not cover diamond studded ornaments. Learned counsel relied upon the decision of the ITAT Delhi in case of *Kumkum Kanodia vs DCIT* in ITA No. 5260/Del/2014 in support of his contention. He also relied upon the decision of ITAT Mumbai in the case of *Mrs. Nawaz Singhania vs DCIT* 88 taxmann.com 327 to contend that the items of jewellery which are not seized during search, cannot be added as undisclosed. He also relied upon several other decisions, copies of which were furnished as a part of Paper book placed on record.

5.1 On ground No. 3, learned counsel objected to the action of Ld. AO in levying tax as per section 115BBE of the Act and relied upon the decision of Hon'ble Madras High Court in

case of *S.M.I.L.E. Microfinance Ltd vs ACIT* [2025] 479 ITR 172 (Mad.) wherein the court has held that provisions of Section 115BBE for enhanced rate of 60% are prospective and hence not applicable to the year under consideration.

6. *Per contra*, Learned Departmental Representative (DR) relied on the order of Ld. CIT(A) and submitted that the items with respect to which, the additions have been sustained by the Ld.CIT(A) are unexplained. Ld. DR submitted that Ld.CIT(A) has correctly interpreted the CBDT Instruction No. 1916 and passed a speaking order and therefore, no interference is needed in the order of Ld.CIT(A).

7. We have heard rival submissions and perused the material available on record. The main issue before us is whether the items of jewellery with respect to which additions have been sustained by the Ld.CIT(A) are explained or not and whether the addition made u/s. 69A in the hands of assessee is sustainable from the facts of case and interpretation of CBDT Instruction No. 1916, dated 11th May, 1994. We find that Ld.CIT(A) has sustained the addition totalling to Rs. 3,86,186/- pertaining to 04 items from the valuation report appearing in Annexure JF 1 and JF 2. On careful perusal of the assessment order, we find that assessee vide letter dt. 11.12.2018 (reproduced at page Nos. 2-6 of the assessment order) furnished detailed explanation with regard to each and every item of ornaments and jewellery found in possession at the time of search. Further,

the nature and source of such items were also furnished in a chart in which the ownership of each and every item was also identified with respect to family members. The assessee further substantiated the jewellery purchased in the block period with the help of ledger account, bank account and bills. Further, assessee furnished before the Ld.CIT(A) about the details of item-wise jewellery with ownership (Reference found at Pages 27 to 31 of CIT(A) order). Out of the above 4 items, two items in Annexure JF 2 viz Pendant Set with Ruby 25.5 gms and set with bracelet 30.3 gms belong to wife of assessee-Smt.Astha Agrawal and not to the assessee. The ownership of the same has been claimed to be belonging to Smt. Astha Agrawal even before the Ld. AO and CIT(A) also. On careful perusal of Annexure JF 2, we notice that it is in the name of Smt. Astha Agrawal and the explanation furnished in respect to Annexure JF 2 at page 16 of PB, we find that assessee's wife has received the above ornaments from her parents on her two daughters' birth. Such gifts from one's parents during important customs/occasions are normal and customary in Indian Marwari families. We find that this explanation was duly furnished before the lower authorities, but were disregarded without citing any plausible reason. In our considered view, when the wife has claimed ownership of the impugned two jewellery items as her own, in such a situation, Ld.CIT(A) has erred in considering the above two items as unexplained investment in assessee's hand. Where the ownership of jewellery is identifiable and it belongs to the wife or another family member, the addition

cannot be sustained in the hands of the assessee merely because it was found during search at the common residence. Further, there was no evidence found during search with reference to any investment made by the assessee in the impugned items. Considering the facts of the case, we hereby hold that the above two items of jewellery having total weight of 55.8 gms (Rs. 2,57,615/-) belong to assessee's wife and therefore the addition made in the hands of the assessee is hence erroneous and hereby deleted.

7.1 As regards other two items viz. 43.9 gms in JF-1 and 5 gms in JF-2, additions of which are confirmed by Ld.CIT(A), we find that assessee has claimed ownership of total jewellery of 121.50 gms as his belongings, reference of which is found at Page No. 31, Para-C.2 of Ld.CIT(A)'s order. Ld.CIT(A) found that jewellery of 72.6 gms has been duly recorded in individual balance sheet of assessee, which is purchased through banking channel and its source was also explained date-wise to the lower authorities. From explanation to Annexure JF1, we find that payments have been made through IndusInd Bank account, date of payment being made on 23.10.2008, 27.4.2009 and 29.8.2011. Thus, the same stands duly explained and the source is also recorded in the books. Thus, out of 121.5 gms, jewellery of 72.6 gms was already explained and acquired during the period 2008-2011. Ld. CIT(A) held that the same has to be explained. Thus, the remaining jewellery of which assessee is owner to only 48.9 gms, which issue is before us for our

consideration. It is pertinent to note that the following facts emanating from records that assessee is a Hindu married man, aged 41 years, married 15 years ago and has two daughters. He is a practising Chartered Accountant. Thus, considering his social status, earning capacity, familial traditions, age and occupation, jewellery of 48.9 gms acquired since his birth till date, on various occasions is reasonable. Limit of jewellery of 100 gms has already been prescribed by CBDT Instruction 1916 which is considered to be self-explained. The coordinate Bench of this Tribunal at Jaipur in the case of *Ram Prakash Mahawar vs DCIT* (2020) 182 ITD 55 (Jaipur) (Trib.) wherein it has been held as under:-

“2.6 Hence, the quantity of jewellery which is otherwise explained by the assessee by producing the purchase bills as well as recorded in the books of account of the assessee and the AO had not disputed the said explanation then the quantity which is explained otherwise by producing the purchase bills and books of account would not be treated as part of the quantity of reasonable possession as prescribed under the said CBDT Instruction No. 1916 dated 11-05-1994. Therefore, the benefit of CBDT Instruction No. 1916 dated 11-05-1994 will not take away the benefit of the explained jewellery acquired by the assessee.”

7.2 Respectfully applying the above judgement to the facts of the assessee's case, the remaining jewellery being 48.9 gms is well within the limits prescribed by CBDT Instruction 1916. The action of Ld.CIT(A) in sustenance of addition of diamond jewellery i.e. ring by holding that CBDT Instruction 1916 is not applicable to diamond studded jewellery is

misconstrued and erroneous. In common parlance, gold jewellery includes diamond and precious stone studded jewellery also. The Coordinate Bench of this Tribunal at Delhi in the case of Kumkum Kanodia Versus DCIT in ITA No.5260/Del/2014, dated 20/11/2018 observed that merely because the jewellery is studded with the diamond of 47.18 carat in the instant case, the same cannot be added in the hands of the assessee when such jewellery formed part of the gross weight of the jewellery found from the premises of the assessee which is within the permissible limits prescribed as per CBDT Instruction No.1916, dated 11th May, 1994. Considering otherwise will lead to absurd interpretations since jewellery worn in India frequently contains precious stones along with gold. We hereby fail to appreciate the action of Ld.CIT(A) in sustaining addition in respect of diamond jewellery on this ground. The addition made by the Ld. CIT(A) with respect to ring of 5 gms (Rs. 21,435/-) is hereby deleted.

7.3 As regards to the item ring Jhumka being 43.9 gms, it was explained that the same was received as gift from his relatives on various occasions. Ld. CIT(A) observed that it is unbelievable that “Ring Jhumka” is received by a male i.e. assessee. It is a common convention that ornaments/ jewellery are also wears by male and the nomenclature may be different. In a Rajasthani family, males do ware a Bali in the ears, ring jhumka is another form of ornament used for keeping keys etc. Whatever may be the case, in the instant

case, the assessee has owned the item and explained the source. It is customary in Hindu traditions that gold ornaments, jewellery, personal effects are gifted on important occasions of an individual's life starting from his birth. As discussed by us in preceding paragraph, assessee is a 41-year-old Hindu man, married 15 years ago and has two daughters. Considering the above facts and social status and standing of assessee, ornaments of 43.9 gms acquired as gifts throughout the life of assessee on various occasions seems to be reasonable and not excessive. Both items together weighing 48.9 gms are within the limits prescribed by the CBDT Instruction No. 1916 for a male member. The assessee derives force from a plethora of judgements relied upon by the learned counsel during hearing and forming part of their paper book.

8. It is pertinent to mention that Coordinate Bench of this Tribunal at Jaipur in *Shri Gyanendra Singh Shekhawat vs ACIT* in ITA No.49/JP/2022 by following the decisions viz *Ashok Chaddha vs ITO* in ITA no. 274/Del/2011 and *Vibhu Aggarwal vs DCIT* (2018) 93 taxmann.com 275 and *Radha Mital and Ruchie Mital vs DCIT* in ITA No. 2810/Del/2016 held that keeping in mind the age of assessee, their family background and traditions and their social standing, jewellery which is more than the limit prescribed by CBDT Instruction can be considered to be explained. The Hon'ble Delhi High Court in the case of *Ashok Chaddha* [2011] 14 taxmann.com 57 wherein the Hon'ble High Court has

accepted the jewellery of 906.60 grams in the case of married lady even without documentary evidence. The court stated that collecting jewellery of 906.900 grams by a woman in a married life of 25-30 years is not abnormal. The court has held that it is a normal custom for woman to receive jewellery in the form of "*streedhan*" or on other occasions such as birth of a child etc. Further, Hon'ble Delhi High Court following the decision of *Ashok Chaddha* (supra) in the case of *Sushila Devi* [2016] 76 taxmann.com 163 has held that the gold jewellery which is acquired through gifts made by relatives and other family members over a long period of time, is in keeping with prevailing customs and habits. In view of the discussion above, Ld. CIT(A) erred in sustaining the addition with respect to Ring Jhumka of 43.9 gms (Rs.1,07,116/-) as unexplained. Thus, the addition, on four items of jewellery, sustained by the Ld.CIT(A) being Rs.3,86,166/- is hereby deleted. This ground of appeal raised by the assessee is allowed.

9. With regard to ground No. 3, assessee has challenged the applicability of section 115BBE for the A.Y. 2017-18. As regards levy of enhanced rate of 60% tax u/s. 115BBE, we concur with the arguments advanced by the learned counsel for the assessee that the enhanced rate is applicable prospectively i.e. from 15-12-2016 only, whereas search was conducted on the assessee on 26.7.2016. The same is not applicable to the assessee's case search being conducted before 15.12.2016. This view has been duly adopted in many

judicial decisions including in *S.M.I.L.E. Microfinance Ltd vs ACIT* [2025] 479 ITR 172 (Mad. HC) by Hon'ble Madras High Court. Recently Hon'ble Rajasthan High Court in the case of *Deepak Maratha Vs. Union of India* vide decision in Civil Writ Petition No.3625/2020, dated 29.05.2026 also held that the Taxation Laws (Second Amendment) Act, 2016 is prospective in effect as specified therein (from 15.12.2016 except the amendment of Section 115BBE, which is effective from 01.04.2017). Considering the aforesaid decisions and facts of the case, the ground no. 3 raised by the assessee is allowed.

10. In the result, appeal filed by the assessee stands allowed.

Order pronounced on 10.08.2026 under Rule 34 of Income Tax (Appellate Tribunal) Rules, 1963

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ANUBHAV SHARMA
JUDICIAL MEMBER

sd/-
KHETTRA MOHAN ROY
ACCOUNTANT MEMBER

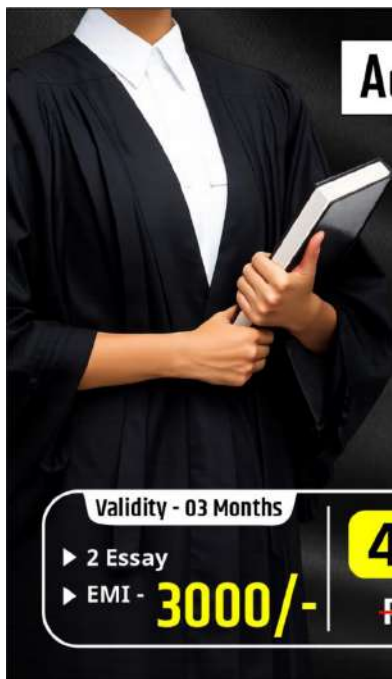
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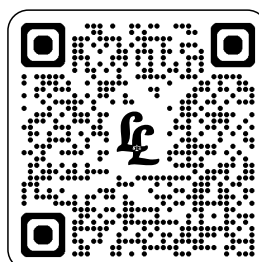

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