

## **No additions on excess jewellery found during search if there was custom to gift jewellery in family**

**Summary – The Delhi ITAT in a recent case of Vibhu Aggarwal, (the Assessee) held that where Assessing Officer under section 69A made addition on account of jewellery found in search of assessee, since assessee belonged to a wealthy family and jewellery was received on occasions from relatives, excess jewellery was very much reasonable and, thus, no addition under section 69A was called for**

### **Facts**

- A search and seizure operation under section 132 was conducted at the business as well as the residential premise of the assessee. During search, jewellery of 2531 gms. was found.
- The Assessee explained that the jewellery belonged to the assessee's parents, their HUF, assessee's family members and his HUF. Most of the jewellery items were inherited from his grandparents and received as gifts on the occasion of his marriage and birth of his children and also gifts were received on marriage anniversary, birthdays of children, etc.
- The Assessing Officer had completed the assessment by making an addition on account of unexplained investment in jewellery and the total jewellery found during the course of search was 2531.5 gms. out of which the Assessing Officer had given assessee the benefit of 950 gms. as per the CBDT Instruction No. 1916, dated 11-4-1994 on account of wife and two children of the assessee.
- The Commissioner (Appeals) in appeal had further allowed the benefit of 600 gms. of jewellery on account of mother and father of the assessee, holding that the same was allowable to the assessee as per the CBDT Instruction No. 1916, but however, sustained the balance addition.
- On appeal:

### **Held**

- The Commissioner (Appeals) sustained the balance addition made by the Assessing Officer, treating the balance jewellery weighting 1050 gms. of gold as unexplained, without appreciating the fact that assessee belongs to a wealthy family where gifting of jewellery possessed by each of the family members is customary; all the family members as well as the HUF were assessed to tax separately; and the assessee has been married from the past 18 years, and also had two children; the jewellery was gifted to the assessee and his wife by their parents and grandparents and other relatives at the time of their marriage, and also on several occasions after that, such as birth of their two children, marriage anniversaries, etc. Also some of the jewellery was purchased by assessee's wife out of the cash gifts received by her from the relatives on various occasions.
- In view of CBDT Instruction No. 1916, dated 11-5-1994, the excess jewellery found in the case of assessee, his parents, his wife, their children and the HUF was very nominal, and was very much reasonable, keeping in mind the richness and high status and more customary practices.

- The explanation given by the assessee is accepted. Accordingly, the orders of the authorities below were cancelled and addition made by the Assessing Officer and partly confirmed by the Commissioner (Appeals) on account of balance jewellery weighing 1050 gms. of gold as unexplained is hereby deleted.