

**आयकर अपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम**

IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &  
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ I.T.A. No.91/Viz/2022

(निर्धारण वर्ष / Assessment Year: 2018-19)

Muppavarapu Kavitha,  
Vijayawada.  
PAN: AZFPM 0151 L

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by

प्रत्यार्थी की ओर से / Respondent by

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of  
Pronouncement

Vs. Asst. Commissioner of  
Income Tax,  
Central Circle,  
Vijayawada.

(प्रत्यार्थी/ Respondent)

Sri MV Prasad, CA

Sri MN Murthy Naik, CIT-DR

27/06/2022

27/07/2022

**ORDER**

**PER S. BALAKRISHNAN, Accountant Member :**

This appeal filed by the assessee against the order of the Ld. CIT(A)-12, Hyderabad [Ld. CIT(A)] in appeal No.10590/2019-20, dated 24/01/2022 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 ["the Act"] for the AY 2018-19.

2. Brief facts of the case are that the assessee is an individual derives income from business and remuneration from a partnership firm M/s. Lifestyle Housing. A Search and Seizure operation U/s. 132 of the Act was conducted in the group cases of M/s. Yugandhar Housing Private Limited and others on 25/10/2017 including the residence of Sri M. Maheswara Reddy, Managing Director of M/s. Yugandhar Housing Pvt Ltd. The assessee (Smt. Muppavarapu Kavitha) is the wife of Sri M. Maheswara Reddy. A notice U/s. 142(1) was served on the assessee on 03/01/2019. In response, the assessee filed return of income on 26/08/2019 declaring total income of Rs. 7,80,460/-. The assessee accepted the same income filed by her in response to the notice U/s. 153C of the Act. Subsequently, notice U/s. 143(2) was issued and served on the assessee. During the course of assessment proceedings, the AO assessed the income of the assessee including an amount of Rs. 7,94,372/- being the value of gold jewellery weighing 284.600 grams which is found in excess after considering the eligible exemption as per the CBDT Instruction No.1916, dated 11/05/1994. The AO assessed the excess gold jewellery under 69A of the Act. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A).

3. The Ld. CIT(A) observed that none attended for the hearing during the appellate proceedings inspite of several opportunities and thereby dismissed the appeal of the assessee. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

4. The assessee raised the following grounds of appeal:

- “1. The Ld. CIT(A) erred in facts and law while passing the order.*
- 2. The Ld. CIT(a) ought to have considered the appeal based on merits of the case instead of dismissing the appeal.*
- 3. On the facts and circumstances of the case, the Ld. CIT(A) ought to have noticed that the Assessing Officer is not justified in making the additions towards unexplained investment in gold as the appellant has submitted that this gold belongs to mother in law, mother and father of the appellant.*
- 4. On the facts and circumstances of the case the Ld. CIT(A) ought to have noticed that the Assessing Officer is not justified in making the addition without considering the Assessee’s explanation submitted during the course of assessment proceedings.*
- 5. On the facts and circumstances of the case the Ld. CIT(A) ought to have noticed that the assessing officer is not justified in making the addition towards unexplained investment in gold as the gold jewellery seized is ancestral gold of old persons which cannot be proved with evidence. But the Department has not disproved that the appellant’s mother-in-law, mother and father are not residing with the appellant. In the absence of such the addition is not justified.*

6. *Any other ground or grounds that may be urged at the time of hearing of the appeal.”*

5. The Ld. Authorized Representative [Ld. AR] argued that gold jewellery of 1628.025 grams was found during the search operation and considering the CBDT Instruction No. 1916, dated 11/5/1994 284.600 grams was considered excess gold jewellery which was valued at Rs. 7,94,372/- was taxed in the hands of the assessee. The Ld. AR further submitted that the gold jewellery belong to the family members of the assessee as detailed in para 4 of the assessment order. Therefore, he pleaded that the Ld. AO has erred in giving effect to the CBDT instruction to the gold jewellery belonging to the mother of assessee while allowing the gold jewellery belonging to mother-in-law of the assessee. The Ld. AR further submitted that the mother of the assessee is staying with her daughter, who is the only daughter and hence the benefit of CBDT Instruction No. 1916 should also be extended to the mother of the assessee. Per contra, the Ld. DR supported the order of the AO but could not controvert the taxing of excess jewellery belonging to the mother of the assessee.

6. We have heard the rival contentions, perused the material available on record and the orders of the authorities below. Admitted facts are that the gold jewellery belonging to family

members was seized to the extent of 1628.025 grams and there is no dispute on the fact that as per the CBDT Instruction No.1916, dated 11/5/1994 that in a case of a person who is not assessed to wealth tax, gold jewellery and ornaments to the extent of 500 grams per a married lady, 250 grams per an unmarried lady and 100 grams per male member of the family should not be seized. As per the list mentioned in para 4 of the assessment order it is noted that the AO has erred in disallowing the excess gold of 284.600 grams belonging to the mother of the assessee who is staying with the assessee being the only daughter, and considered as belonging to the family members of the assessee. In these peculiar circumstances, we find merit in the argument of the Ld. AR and we are of the considered view that the order of the Ld. CIT(A) needs to be quashed and allow the appeal of the assessee. It is ordered accordingly.

7. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on the 27<sup>th</sup> July, 2022.

Sd/-

(दुव्वूरु आर.एल रेड्डी)  
(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)  
(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated :27.07.2022

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Muppavarapu Kavitha, C/o. CA MV Prasad, D.No. 60-7-13, Ground Floor, Siddhartha Nagar, 4<sup>th</sup> Lane, Vijayawada, Andhra Pradesh – 520010.
2. राजस्व/The Revenue – The Asst. Commissioner of Income Tax, Central Circle, Stalin Towers, Autonagar, Vijayawada, Andhra Pradesh – 520007.
3. The Principal Commissioner of Income Tax (Central), Visakhapatnam.
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals)-12, Hyderabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam