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

O R D E R

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 assesse'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

sd/-	sd/-
ANUBHAV SHARMA	KHETTRA MOHAN ROY
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Nagpur: Dated: 10/08/2026
vr/-

Copy to:

1. The Assessee
2. The Revenue
3. The Pr.CIT concerned.
4. The DR, ITAT, Nagpur
5. Guard file.

By order

Vukkem Rambabu

Digitally signed by Vukkem Rambabu
Date: 2026.08.10 15:50:57 +05'30'

Senior Private Secretary
ITAT, Nagpur