आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL , 'B' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकर अपील सं./**I.T.A.No.2979/Chny/2017**
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri A. Tenzing, No.1, Gnanagiri Road, Sivakasi – 626 123.	Vs	The ACIT, Central Circle – 2, Madurai.
PAN: ABPPT7646D		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri K. Paramanandham, FCA
प्रत्यर्थी की ओर से/Respondent by	:	Smt. Vijayaprabha, JCIT

सुनवाई की तारीख/Date of hearing	:	09.05.2018
घोषणा की तारीख /Date of Pronouncement	:	21.06.2018

आदेश / O R D E R

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals)-19, Chennai dated 20.09.2017 in ITA No.212/16-17 for the assessment year 2015-16 passed U/s.250(6) r.w.s. 143(3) of the Act.

2. The assessee has raised several grounds in his appeal however the crux of the issue is that the Ld.CIT(A) has erred in upholding the order of Ld.AO who had made addition of Rs.1,60,00,000/- U/s.69C r.w.s 115BBE of the Act towards unaccounted expenditure.

3. The brief facts of the case are that the assessee is an individual and Director of M/s. Standard Fireworks Pvt. Ltd., Sivakasi, filed his return of income for the assessment year 2014-15 and subsequently filed revised return of income admitting total income of Rs.45,16,240/-. A search U/s.132 of the Act was carried out in the premises of Standard Fireworks group of companies and the residential premises of the assessee on 16.10.2014. Finally assessment order was passed U/s.143(3) of the Act on 31.12.2016 wherein the Ld.AO had made addition of Rs.1,60,00,000/- towards unaccounted expenditure U/s. 69C r.w.s 115BBE of the Act. Initially the assessee had admitted unaccounted income of Rs.1,60,00,000/-. However in the return of income, the assessee retracted from the original admission of unaccounted income of Rs.1,60,00,000/- during the course of

search proceedings and worked out the additional income as follows:-

Gold shortfall	:	Rs.10,32,410
Diamond shortfall	:	Rs. 6,40,450
Silver excess	:	Rs.14,66,800
Total	:	Rs.31,39,660

Since the assessee had not furnished sufficient evidence to explain his stand, the Ld.AO made addition of Rs.1,60,00,000/- as admitted by the assessee during the course of the search. On appeal, the Ld.CIT(A) confirmed the order of Ld.AO by observing as under:-

> *"7. In view of the judicial precendents as above, it is held that the declaration of Rs.1.60 crores given by the assessee at the time of the search has a very high evidentiary value and that the Assessing Officer was right in relying on the same. Moreover it is further noted that the assessee did not dispute the deficit of gold and diamond jewellery or excess of silver utensils even during the time of assessment and came forward to declare an amount of Rs.31,39,660/- for taxation in place of the declared amount of Rs.1,60,00,000. In the light of the above, it is held that the Assessing Officer is correct in upholding the income declared by the assessee as per his own statement on oath. The addition of Rs.1.60 crores is sustained."*

4. The Ld.AR reiterated the arguments made before the Ld.Revenue Authorities on the earlier occasions while as the Ld.DR relied on the orders of the Ld.Revenue Authorities.

5. We have heard the rival submissions and carefully perused the materials on record. At the outset, we find that the assessee could not substantiate the shortage of jewellery viz., 2064.820 gms. of gold jewellery, diamond jewellery of 128.090 ct. when compared with the valuables declared in the wealth tax return during the course of search proceedings. Further there was excess quantity of silverware to the extent of 29.336 kgs. Accordingly the assessee had admitted his unaccounted income as Rs.1,60,00,000/- for the relevant assessment year at the time of search proceedings. However while filing the return of income, the assessee had admitted additional income of only Rs.31,39,660/-. The assessee has not explained before the Ld.Revenue Authorities as well as before us with cogent evidence as to how the amount of admitted unaccounted income of Rs.1,60,00,000/- is reduced to Rs.31,39,660/-. In this situation, we do not have any other option but to confirm the addition made by the Ld.Revenue Authorities. However keeping in view of the

substantial additions made in the hands of the assessee, and the prayer of the assessee that his unexplained income is only Rs.31,39,660/- based on the inventory, in the interest of justice, we hereby remit the matter back to the file of Ld.AO thereby providing one more opportunity to the assessee to justify his claim with proper accounts and requisite evidence.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on the 21st June, 2018 at Chennai.

Sd/-	Sd/-
(धुव्वुरु आर.एल रेड्डी)	(ए. मोहन अलंकामणी)
(Duvvuru RL Reddy)	(A. Mohan Alankamony)
न्यायिक सदस्य /Judicial Member	लेखा सदस्य / Accountant Member

चेन्नई/Chennai,
दिनांक/Dated 21st June, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF