

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

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| ITA No.2168/Bang/2024 |
| Assessment Year : 2020-21 |

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| ACIT, Central Circle – 1(1), Bangalore. | Vs. | Shri. Sunil Suresh, S-02, Skyline Apartment, Leonard Lane, Richmond Town, Bangalore – 560 025, Karnataka. PAN : AKRPS 0614 D |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri. V. Srinivasan, Advocate |
| Revenue by | : | Shri. Sankar Ganesh D, Addl. CIT(DR)(ITAT), Bangalore. |

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| Date of hearing | : | 12.08.2025 |
| Date of Pronouncement | : | 11.09.2025 |

O R D E R

Per Laxmi Prasad Sahu, Accountant Member :

This appeal is filed by the Revenue against the passed by the CIT(A) vide DIN and Order No.ITBA/ALP/M/250/2024-25/1068986756(1) dated 23.09.2024.

2. Briefly stated, the facts of the case are that a search and seizure under section 132(1) of the Act was conducted on 14.11.2019 in the case of Stanley Group. As part of search action, the residential premises of the assessee at S-02, Skyline Apartment, Leonard Lane, Richmond Town, Bangalore – 560 025 was also search under the warrant under section 132 of the Act on 14.11.2019. Consequent to the search operation carried out, jewellery found at the above

premises of the assessee was also seized. The jewellery found and seized at the premises of the assessee was duly inventorized and recorded as Annexure B/SS/B1/01 and D/SS/B1/01. Subsequent to the search operation and the assessment carried out, an order under section 144(3) r.w.s. 153D of the Act passed by the DCIT, Central Circle – 1(1), Bangalore, on 28.03.2022 in which the AO has made addition of Rs.1,65,45,323/- as unexplained investment in jewellery under section 69 of the Act. During the course of search, various kinds of jewellery were found and seized. The list of jewellery and ornaments are placed in Paper Book Page Nos.1 to 6. The statements were also recorded under section 132(4) of the Act and various statutory notices were issued to the assessee. During the course of assessment proceedings, assessee has furnished reply which is marked at Annexure A to G in which the assessee has submitted details of the jewellery purchased and payments made through banking channels and credit card payments. The reply was examined by the AO and he noted that the jewellery mentioned in Annexures do not match with the items of jewellery for which the payments were made from the bank account and credit card. Further, in support of bank account and credit card purchases, assessee has also produced details of invoices. However, after verifying the details of inventory prepared at the time of search & seizure with bank account and credit card payments, the invoices produced do not match with any of the items purchased and also do not match with the inventory list as mentioned in Annexures as found during search. During the course of search, the valuation of jewellery was made for an amount of Rs.1,65,45,321/- and the assessee in sworn statement under section 132 of the Act has stated that in the absence of documentary evidence, the unexplained investment in jewellery will be offered to tax. The AO noted that he has not filed any wealth tax return and the invoices produced do not match or identify with the terms mentioned in the inventory listed in the Annexures. Further, the assessee has not produced any supporting evidences to prove beyond doubt that the

inventory items as found during the search proceedings pertain to the said invoices and the bank account payments. He has also observed that certain payments of the jewellery purchased which had happened after the date of search, in such case the assessee cannot claim that there are proofs of purchases of jewellery after the date of search during which the jewellery found was inventorized as per Annexures prepared by the search team. Further, the assessee's claim to have acquired some of the jewellery through his ancestral and some by way of gifts from family, relatives and friends, but the assessee has not given any documentary proof of such confirmation from the list of family members from whom gifts are received. During any occasions, the list of persons who gave gifts would be maintained but the assessee is unable to furnish the same. Since the assessee has not given any documentary evidence to prove the source of investments of jewellery, the explanation furnished is not satisfactory. Further, the assessee has filed the return of income declaring jewellery worth Rs.5,20,140/- in his name and in his spouse Smt. Shubha Sunil's name a total jewellery worth of Rs.98,52,400/- as per the schedule of assets and liabilities. The assessee has not furnished the balance sheet for the Assessment Year 2020-21 as well as statement of affairs. Assessee was given ample opportunities but assessee could not prove the source of investments in jewellery found amounting to Rs.1,65,45,323/-. Therefore, it was added under section 69 of the Act as unexplained investment.

3. Aggrieved from the above Order, assessee filed appeal on 19.04.2022 before the CIT(A). The learned CIT(A), after considering the submissions of the assessee, he noted that in the case of assessment of assessee's spouse under section 153Cr.w.s. 153D of the Act, on similar satisfaction recorded, the AO had accepted the return of income filed by the assessee's spouse under section 153C of the Act, vide Order dated 20.03.2022 by the same AO and he examined the exhibits B/SS/B1/01 and D/SS/B1/01 which represents

jewellery inventorized and seized during search belongs to the spouse of the assessee and in the case of assessment of spouse, the AO has accepted the same and he observed as follows and deleted the addition :

7.2 Based on the submissions made by the Appellant and the Grounds urged by the Authorised representative of the Appellant during the hearing and on the examination of the various documents and evidence on which the addition has been made in the Appellant's case, there is force in the submissions of the Appellant that the additions made in the case of the Appellant cannot be sustained.

8.1 The Appellant has raised Grounds of appeal No 6 & No 7 stating that the additions have been made in the Appellant's case are as unexplained investment as per the provisions of Section 69 of the Income Tax Act and has contended that the provisions of Section 69 have no application on the nature of additions made. However, the said Grounds are not being adjudicated as the entire addition on account of the jewellery has already been deleted based on the conclusions drawn in 7 of this order. However, these contentions are left open to be dealt with on merit if the same arises for consideration.

4. The learned DR relied on the Order of the AO and he submitted that during the course of statement recorded under section 132(4) of the Act, assessee himself has accepted that he will offer in his income whatever the jewelleries were found during the course of search and he could not explain the source as per the ledgers and he further submitted that the statement recorded under section 132(4) of the Act has a great evidentiary value and relying on the judgment of the Hon'ble Apex Court in the case of Roshan Lal Sancheti vs PCIT reported in (2023) 150 taxmann.com 228 (SC). Even during the course of assessment proceedings, the documents submitted by the assessee were not matching with the list prepared by the investigation wing as the AO has also noted that the invoices produced by the assessee towards purchase of jewellery with payments made through banking channel as well

as credit card payments were also not matching. The AO has noted that some of the inventories placed are different which indicates that documents submitted by the assessee are not related to the jewellery obtained either by way of gifts, purchases, etc. Therefore, he requested that the Order of the AO may be upheld.

5. On the other hand, the learned AR strongly relied on the Order of the ld. CIT(A) and submissions made before the lower authorities. He submitted that the jewellery belongs to the spouse of the assessee. On going through the annexures, the kind of jewellery mentioned do not belong to the assessee. He also submitted that in the case of spouse of the assessee on the same annexure prepared by the investigation team, the same AO has recorded a satisfaction note to initiate proceedings u/s 153C of the Act which is reproduced in Assessment Order and the return of income has been accepted. However, in the case of the assessee, while framing the Assessment Order, the AO has relied on the same annexures prepared by the investigation wing and made addition in the hands of the assessee which cannot be brought to tax. The AO has accepted in the spouse's assessment that jewellery belongs to the spouse of the assessee and did not make any addition on the very basis to issue notice u/s 153C of the Act. Once the entire belongings are in the name of his wife and as per description of the jewellery only the lady can use, how the AO can assume that unexplained jewellery belongs to the assessee and he strongly relied on the findings recorded by the learned CIT(A). The judgement relied by the ld. DR is not applicable in the case of the assessee since the AO on the same satisfaction note accepted in return income filed by the assessee's spouse.

6. Considering the Order of the authorities below, we noted that a search and seizure action was conducted on 14.11.2019 in the case of Stanley Group.

As part of the said search action, the residential premises of the assessee noted above was also searched and jewellery weighing 2487.100 gms were found and seized and silver articles and ornaments weighing 3.00 kgs were found valuing Rs.1,75,45,323/-noted from the Assessment Order before issuing notice under section 143(2) of the Act at para No.2.1 of the Assessment Order which is as under:

2.1. A satisfactory reason for initiating action u/s. 153C of the Income Tax Act, 1961 was recorded in the case of the assessee which is reproduced:

"1. *Search & seizure action u/s 132 of the Income Tax Act, 1961 was carried out in the case of Stanley Lifestyles Limited on 14-11-2019. The residence of Shri Sunil Suresh, No. S-02, Skyline Apartment, Leonard Lane, Richmond Town, Bengaluru was searched and assets as per Panchanama were seized which belongs to Shri Sunil Suresh.*

2. *During the course of assessment proceedings u/s. 153A in the case of Stanley Lifestyles Limited, on examining the assets seized from the residence of Shri Sunil Suresh, the undersigned in the capacity of Assessing Officer of Shri Sunil Suresh was satisfied in terms of section 153C of the Income-tax Act, 1961 that the assets described as below belongs to Shri Sunil Suresh.*

* B/SS/B1/01 and D/SS/B1/01

3. *In the capacity of Assessing Officer of Shri Sunil Suresh, I have examined the assets seized as mentioned as above and I am satisfied that the said assets have a bearing on the determination of the total income of Shri Sunil Suresh for the assessment year 2020-21."*

7. During the course of hearing, the learned Counsel drew our attention that in the case of assessment of spouse completed on 28.03.2022 under section 143(3) r.w.s. 153D of the act which is placed at Paper Book Page Nos.174 to 176, notice was issued under section 143(2) of the Act observing as under:

3. Statutory Notice and compliance:

3.1 Subsequently, notice u/s. 143(2) of the Income-Tax Act, 1961 was issued to the assessee on 14.06.2021 requiring the assessee to produce or cause to be produced any documents, accounts and any other evidence on which it may rely in support of the return of income filed by it for AY 2020-21 and the same was duly served.

3.2. Notices u/s 142(1) of the Income-Tax Act, 1961 was issued to the assessee on 08.12.2022 and 12.01.2022.

4. The submission of the assessee is verified and the assessment is concluded as under:

Returned Income: 3,45,55,010/-

Assessed Income: 3,45,55,010/-

5. Assessed u/s. 143(3) r.w.s. 153D of the Income-tax Act, 1961 as above. Demand Notice and copy of order is issued to the assessee.

8. We found that on the same satisfaction note AO has issued notice to the assessee and in the case of spouse of the assessee the returned income has been accepted which is placed at P.B> page No. 174 to 176 in which the explanation of the spouse of the assessee has been accepted. On the same satisfaction note the proceeding u/s 153C has been initiated in the case of the assessee which is as under:-

2.1A satisfactory reason for initiating action u/s. 153C of the Income Tax Act, 1961 was recorded in the case of the assessee which is reproduced:

"1. Search & seizure action u/s 132 of the Income Tax Act, 1961 was carried out in the case of Stanley Lifestyles Limited on 14-11-2019. The residence of Shri Sunil Suresh, No. S-02, Skyline Apartment, Leonard Lane, Richmond Town, Bengaluru was searched and assets as per Panchanama were seized which belongs to Shri Sunil Suresh.

2. During the course of assessment proceedings u/s. 153A in the case of Stanley Lifestyles Limited, on examining the assets seized from the residence of Shri Sunil Suresh, the undersigned in the capacity of Assessing Officer of Shri Sunil Suresh was satisfied in terms of section 153C of the Incometax Act, 1961 that the assets described as below belongs to Shri Sunil Suresh.

B/SS/B1/01 and D/SS/B1/01

3. In the capacity of Assessing Officer of Shri Sunil Suresh, I have examined the assets seized as mentioned as above and I am satisfied that the said assets have a bearing on the determination of the total income of Shri Sunil Suresh for the assessment year 2020-21."

Once the same issue has been accepted by the same AO in the hands of wife, then the AO cannot assume that the aforesaid jewellery as mentioned in Annexures are unexplained and belong to the assessee. The Kinds of jewellery are related to the lady too. The Satisfaction note recorded by the very same AO are identical. The seized document referred are also identical. However, we noted that the AO has referred the different materials ie. 4/SS/B1 is not part of the satisfaction note in his order but the same annexure. On going through the Order of the learned CIT(A), we noted that there is no infirmity in the Order of CIT(A) and the observation of the learned CIT(A) is correct. We uphold the Order of the learned CIT(A).

9. In the result, appeal filed by the Revenue is dismissed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore.

Dated: 11.09.2025.

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Copy to:

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR,ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.