



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Decision Delivered on: 20<sup>th</sup> September, 2011

+ **ITA NO.2070/2010**

COMMISSIONER OF INCOME TAX, DELHI .....Appellant  
Through: Mr. Suruchii Aggarwal, Advocate

*-versus-*

MAHESH KUMAR .....Respondent  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE A.K. SIKRI**  
**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

1. Whether reporters of local papers may be allowed to see the Order?
2. To be referred to the Reporter or not?
3. Whether the Order should be reported in the Digest?

**A.K. SIKRI, J.** (ORAL)

1. Notice was issued in this Appeal on the following two questions proposed in the Appeal:

- (i) Whether the ITAT could uphold the deletion of ₹2,52,021/- unexplained investment in Jewellery?
- (ii) Whether the ITAT could uphold the deletion of ₹2,17,100/- and ₹7,70,000/- on account of unexplained investment in house property at Pitampura and godown at Bakoli respectively?



2. A search and seizure operation was conducted at the premises of the Respondent-Assessee wherein some cash and jewellery was found and seized. The jewellery found was to the extent of ₹12,12,891/-. The Assessee had submitted his explanation with regard to the jewellery vide letter dated 12<sup>th</sup> March, 2007. However, during the course of post search enquiry he stated that there was an excess jewellery to the tune of ₹2,52,021/-, which may be considered unexplained investment in purchase of jewellery and surrendered that amount. On this ground addition to the extent of ₹2,52,021/- was made by the Assessing Officer under Section 69 of the Income Tax Act. Before the CIT(A), however, the Assessee gave his explanation about the source of the said jewellery as well. In addition, he relied upon the Board's Instruction No.288/63/92-IT (Inv.) dated 11<sup>th</sup> June, 1994 regarding the possession of jewellery and submitted that on the basis of the Board's instructions the jewellery of such a low value is not to be seized. Accepting this contention the CIT(A) deleted the said addition which is confirmed by the ITAT.



3. Learned Counsel for the Revenue could not point out as to how the aforesaid order was not in conformity with the Board's Instruction No. 288/63/92-IT (Inv.). We are, therefore, of the opinion that no question of law arises on this aspect.

4. Second addition made was on account of unexplained investment in house property at KU-81, Pitampura and Godown at Bakoli. Here again, there is no much of the difference between the valuation shown by the Assessee of these properties and valuation arrived at by the DVO. It is less than 10%. The CIT(A) and ITAT, in these circumstances, stated that when difference is between 10% to 15% no addition should be made as per the various judgments on this issue. No question of law arises. Dismissed.

**A.K. SIKRI, J.**

**SIDDHARTH MRIDUL, J.**

**SEPTEMBER 20, 2011**

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