

1.1. During the search proceedings, the jewellery worth Rs.XXXXXX was found from the Locker No. AB, Punjab National Bank, out of which jewellery worth Rs.8,95,230/- was seized. The detail of Jewellery found and seized during the course of search proceedings u/s 132 of the Act are as under:

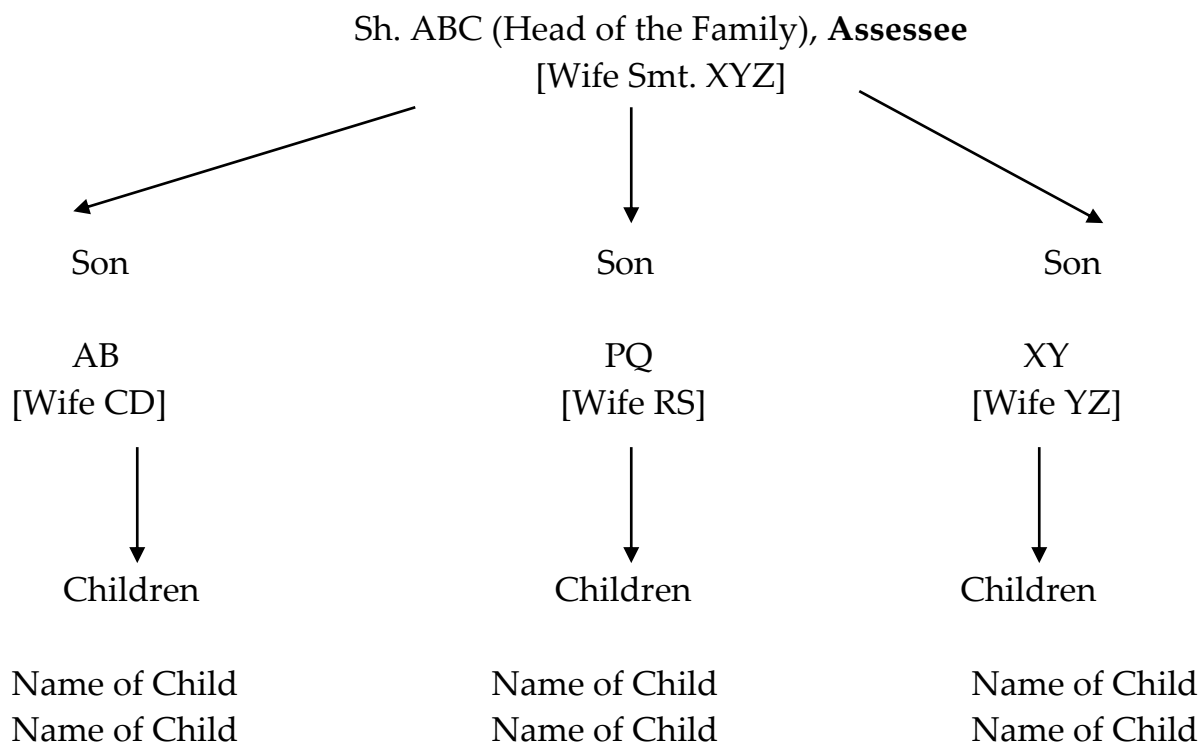
Particulars	Gold Net Weight (in gms)	Diamond (in carats.)	Value (in Rs.)
Found during course of search	1636.050	16.00	49,68,280.00
Seized	308.700	-	8,95,230.00
Released	1,327.350	16.00	40,73,050.00

(Panchanama along with valuation report datedis enclosed at page No.....)

1.2. Also, it is submitted that at the time of search, the department seized 308gms of jewellery, without reference to the fact of being joint family of the assessee i.e. his wife, sons & daughter-in laws and grandchildren. As the assessee along with his family members is entitled to aggregate of 2500 grams of gold jewellery as per instruction No. 1916(**detail is given at Point No. 1.7 of this letter**), which is less than the total jewellery found and seized during the search, i.e. 1636.050 gms.

1.3. Further, the assessee has submitted that the jewellery found and seized during the search u/s 132 of the Act belonged to the assessee and his family. The fact was also brought on record before the DDIT (Investigation, circle -2, Gurgaon, vide letter dated **Relevant copy of letter is enclosed for your kind reference at Page No.....**

1.4. Here, it is also submitted that the assessee belongs to huge family and considering the family status and their financial position, the aggregate jewellery found in the respective locker (i.e. 1636.050 gm.) is not very substantial. A family chart is provided below for evidencing that the assessee has an enormous family:



1.5. Further, in respect of source of jewellery found, it is submitted that the jewellery were either purchased by the assessee and his family, out of their regular source of income or received by women on various customary occasions like marriage, birth of child, festivals, birthday, etc. Therefore, the jewellery found is the aggregate of the family.

1.6. **Also**, as per the CBDT Instruction No. 1916, gold jewellery & ornaments up to 500gms. in case held by female married, 250 gm in case of unmarried female and 100 gm. In case of male assessee is not liable to seizure. The jewellery found in case of captioned assessee is 1636.050 grms (**as mentioned in the valuation report of Jewellers dated,Refer Page No.....**) which is within permissible limit according to the CBDT instruction. **The CBDT Instruction No. 1916 is reproduced as under:**

“Instances of seizure of jewellery of small quantity in course of operations under section 132 have come to the notice of the Board. The question of a common approach to situations where search parties come across items of jewellery, has been examined by the Board and following guidelines are issued for strict compliance.

- (i) In the case of a wealth-tax assessee, gold jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return only need be seized.
- (ii) In the case of a person not assessed to wealth-tax gold jewellery and ornaments to the extent of 500 gms. per married lady, 250 gms. per unmarried lady and 100 gms per male member of the family need not be seized.
- (iii) The authorised officer may, having regard to the status of the family, and the custom and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure. This should be reported to the Director of Income-tax/Commissioner authorising the search at the time of furnishing the search report.
- (iv) In all cases, a detailed inventory of the jewellery and ornaments found must be prepared to be used for assessment purposes.
- These guidelines may please be brought to the notice of the officers in your region."

1.7. That the assessee along with his family members is entitled to aggregate of 2500 grams of gold jewellery as per instruction No. 1916 issued by CBDT as the jewellery found during the course of search was collective jewellery of all the family members of the assessee. The detail is as under:

S. No.	Name of Person	Relationship	Explanation in respect of Gold Jewellery [as per instruction No. 1916, dated 11/05/1994]
1.		Assessee	100 gm.
2.		Wife	500 gm.
3.		Son	100 gm.
4.		Daughter in law (AB's wife)	500 gm.
5.		Grand Daughter	250 gm.
6.		Grand Son	100 gm.
7.		Son	100 gm.
8.		Daughter in law (CD's wife)	500 gm.
9.		Grand Daughter	250 gm.

10.		Grand Son	100 gm.
Total			2500 gm.

1.8. Thus, as per Instruction No. 1916 issued by CBDT, it can be said that the jewellery weighing 1636.050 gms should be treated as explained in the hands of assessee. Further, this circular is explained by **the Hon'ble Ahmedabad I.T.A.T. in case of ACIT vs. Rameshchandra R Patel, [2004] 89 ITD 203 and ITO vs. Manila S Dave, [2001] 117 Taxman 23**, wherein it has been explicitly held that though board circular is a guideline for not effecting seizure during the course of search, extended meaning of same shows the **intention that the jewellery to the extent mentioned in such circular should be treated as explained jewellery** and gold found to that extent for family members **cannot be treated as unexplained in the hand of assessee.**

1.9. Further, the assessee placed reliance on following judicial pronouncements:

- a. By Hon'ble High Court of Rajasthan in case of CIT v. Satya Narain Patni [2014] 366 ITR 325 (Rajasthan), it was held that:

"The circular of the CBDT, dated 11-5-1994 only refers to the jewellery to the extent of 500 gms. per married lady, 250 gms. per unmarried lady and 100 gms. per male member of the family, need not be seized and it does not speak about the questioning of the said jewellery from the person who has been found with possession of the said jewellery. However, the Board, looking to the Indian customs and traditions, has fairly expressed that jewellery to the said extent will not be seized and once the Board is also of the express opinion that the said jewellery cannot be seized, it should normally mean that any jewellery, found in possession of a married lady to the extent of 500 gms. 250 gms. per unmarried lady and 100 gms per male member of the family will also not be questioned about its source and acquisition. At the time of wedding, the daughter/daughter-in-law receives gold ornaments jewellery and other goods not only from parental side but in-laws side as well at the time of 'Vidai' (farewell) or/and at the time when the daughter-in-law enters the house of her husband. Thereafter also, she continues to receive some small items by various other close friends

and relatives of both the sides as well as on the auspicious occasion of birth of a child whether male or female and the CBDT, looking to such customs prevailing throughout India, in one way or the another, came out with this Circular and it should also mean that to the extent of the aforesaid jewellery, found in possession of the various persons, even source cannot be questioned. It is certainly 'Stridhan' of the woman and normally no question at least to the said extent can be made. However, if the authorized officers or/and the Assessing Officers find jewellery beyond the said weight, then certainly they can question the source of acquisition of the jewellery and also in appropriate cases, if no proper explanation has been offered, can treat the jewellery beyond the said limit as unexplained investment of the person with whom the said jewellery has been found. [Para 12]"

- b. By Hon'ble Jaipur ITAT in case of *Devi Lal Soni v. ACIT [(1998) 99 Taxmann 324 (Jaipur)]*
- c. By Hon'ble Jabalpur ITAT in the case of *Smt. Sulochna Devi Jaiswal v. DCIT (2003) 1 SOT 624 (Jab.)* where it was stated that:
- d. By Hon'ble High Court of Gujarat in the case of *CIT v. Ashok Chandrakant Gandhi (2014) 41 taxmann.com 121 (Guj.)*
- e. By Hon'ble High Court of Allahabad in the case of *CIT v. Ghanshyam Das Johri [2014] 41 taxmann.com 295 (Allahabad)*
- f. By Hon'ble ITAT Delhi in the case of *Divya Devi v. ACIT [2014] ITA No, 6397/DEL/2012*

Therefore, based on above facts and relevant judicial pronouncements, it is submitted that the impugned jewellery may please be considered as explained in the hands of the assessee, after considering the CBDT instruction no. 1916 and no addition should be made in the hands of the assessee in this regard.