

## **Excess jewellery found during search proceedings which belonged to the partners cannot be added in the hands of the firm**

**Summary – The High Court of Madras in a recent case of Sri. Kavitha Jewellers, (the Assessee) held that excess jewellery found during search proceedings which belonged to the partners cannot be added in the hands of the firm**

### **Facts**

- The assessee was firm in the business of jewellery.
- The Assessing Officer added back excess stock of gold jewellery found during search as undisclosed income.
- The Commissioner (Appeals) deleted the entire addition by holding that on an examination of the seized material it was found that the excess jewellery belonged to the partners, and thus the Assessing Officer was not justified in adding the same to the firm.
- The ITAT observed that the jewellery belonged to the partners of the assessee.
- On appeal to the High Court:

### **Held**

- The HC observed that the Tribunal had failed to discharge its duty in an appropriate manner since it directed the assessee firm to offer some undisclosed income on account of the excess stock of gold jewellery for the assessment year which was found with the partner of the firm. The Commissioner (Appeals), had correctly decided that the seized material during search belonged to the partners of the assessee firm and therefore, the addition made in the hands of the assessee firm was not justified.
- The HC held that the tenor of the order passed by the Tribunal did not have any relevant material or basis on which addition should have been made in the hands of the firm.
- Accordingly, the appeal of the assessee was allowed and the order of the Tribunal was set aside while the Commissioner (Appeals) order was to be restored.