

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**(Conducted through E-Court, Rajkot)**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**  
**And**  
**SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 287/Rjt/2018

With

CO No. 28/Rjt/2018

निर्धारण वर्ष/Asstt. Year: 2013-14

D.C.I.T, Morbi Circle, Morbi.	Vs.	M/s. Clayris Ceramic Pvt. Ltd., Opp. Soriso Ceramics, B.H Fame Ceramics Pvt., 8A-NH, Morbi.  <b>PAN: AAFCM4827P</b>
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(Applicant)		(Respondent)
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Revenue by	:	Shri Shramdeep Sinha, CIT. D.R
Assessee by	:	Shri Mehul Ranpura, A.R

सुनवाई की तारीख/**Date of Hearing** : **18/10/2023**

घोषणा की तारीख /**Date of Pronouncement:** **20/12/2023**

**आदेश/ORDER**

**PER WASEEM AHMED ACCOUNTANT MEMBER:**

The captioned appeal and CO have been filed at the instance of the Revenue and the Assessee against the order of the Learned Commissioner of Income Tax (Appeals)-3, Rajkot, (in short "Ld. CIT(A)") arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act 1961 (here-in-

after referred to as "the Act"). The assessee has filed CO in revenue's appeal bearing ITA No. 287/Rjt/2018 relevant to the Assessment Year 2013-14.

2. First, we take up ITA No. 287/Rjt/2018, an appeal by the Revenue for A.Y. 2013-14. The Revenue has raised following grounds of appeal:

*1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition under section 68 of the Income Tax Act, 1961 in respect of unsecured loans of (1) Rs. 45,90,000/- from Dhiman Trading Pvt Ltd and (2) Rs. 40,00,000/- from Krishna Enterprise despite the creditworthiness and genuineness not proved.*

*1.1 The Ld.CIT(A) has erred relying on copy of ING Vyshya Bank Statement pertaining to M/s Dhiman Trading Pvt Ltd while deleting the unsecured loan of Rs. 40,00,000/- which was actually received in the case of M / s Krishna Enterprise.*

*2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in granting relief on the basis of the evidences furnished during appellate proceedings on 30/06/2017 & 23/04/2018 (page no. 34 & 35 of the Ld.CIT(A)'s order), such evidences not submitted during assessment proceedings.*

*2.1 On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in accepting additional evidences in violation of rule 46A of Income Tax Rules, 1962 without giving an opportunity to the Assessing Officer.*

*2.2 On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the assessee has proved the identity, creditworthiness and genuineness of the transactions of Share Capital to the extent of Rs. 5,30,63,780/- accepting the journal entries passed, transferring the Creditors and Loans to Share Capital.*

*3. On the facts and in the circumstances of the case and in law, the Ld.CIT(A) ought to have upheld the order of the Assessing Officer.*

*4. It is, therefore, prayed that the order of the CIT(A) be set aside and that of the AO be restored to the above extent.*

*5. Any other ground that the Revenue may raise before or during the proceedings before the Hon'ble ITAT.*

2.1 The first issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition made by the AO for Rs. 85,90,000.00 under section 68 of the Act by treating the unsecured loans as unexplained cash credit.

2.2 The facts in brief are that the assessee in the present case, a private limited company, is engaged in the business of manufacturing of tiles. During the

year under consideration, the assessee has shown receipt of unsecured loan of Rs. 1,23,90,000/- from 3 parties detailed as under:

1. Priya Sales corporation	Rs. 38,00,000/-
2. Dhiman Trading Pvt Ltd	Rs. 45,90,000/-
3. Krishna Enterprise	Rs. 40,00,000/-

2.3 The assessee was asked to furnish the necessary details regarding identity, genuineness, and creditworthiness of the creditors. The AO noticed that in the case of "M/s Priya Sales Corporation" only a copy of confirmation has been furnished. As such, no other details such as bank statement, ITR etc. were filed. Likewise, in the case of M/s Krishna Enterprise only a copy of confirmation and ITR of proprietor Shri Kehraram Shankaran Prajapati was furnished. As per ITR, Shri Kehraram Shankaran Prajapati has declared total income of Rs. 3,34,150/- only whereas the assessee has claimed receipt of unsecured loan of Rs. 40 Lakh. There were no other details furnished by the assessee to establish the sources and creditworthiness of impugned loan parties.

2.4 Regarding the credit of loan from M/s Dhiman Trading Pvt Ltd, the AO found that loan amount was adjusted against the allotment of shares to third parties which has been held as unexplained, therefore the credit of impugned loan from the also cannot be held as genuine.

2.5 Hence, the AO in view of the above treated the credit of unsecured loan of Rs. 1,23,90,000/- from the above-mentioned 3 parties as unexplained cash credit under section 68 of the Act and added to the total income of the assessee.

3. The aggrieved assessee preferred an appeal before the learned CIT(A). The learned CIT(A) after considering the finding of the AO and assessee's submission confirmed the addition with respect to credit of loan from Priya Sales corporation for Rs. 38 Lakh. However, the learned CIT(A) deleted the addition with respect to

the credit of loan from Dhiman Trading Pvt Ltd and Krishna Enterprise for Rs. 45.90 lakh and 40 Lakh respectively. The relevant finding of the learned CIT(A) is extracted as under:

*1. The unsecured loan from Priya Sales Corporation of Rs. 38,00,000/-*

*The appellant had submitted ledger account, confirmed contra ledger account (in the books of the depositor) bank statement (of appellant) in which the loan from Priya Sales Corporation is appearing. The AO has ruled this loan as not genuine due to absence of assessment details of Priya Sales Corporation and non submission of bank statement from Priya Sales Corporation. In brief the creditworthiness of this party has not been found genuine by the AO. The fact on impugned loan amount coming from the depositors bank account to the appellant's bank account is apparent from the bank statement of the appellant's itself and amount of RS. 38,00,000/- has been credited to appellant's bank account on 08.05.2012 through RTGS from Priya Sales Corporation account with Dhalakshmi Bank. Confirmation from said party is also not in doubt. But it is fact that for establishing creditworthiness of this entity appellant was required to file the books of account, income tax return, bank statement or land holding etc of this depositor and the same could not be submitted. In such circumstances it cannot be said that the appellant has discharged its onus regarding establishing the Creditworthiness of this party. Hence this loan has rightly been added u/s 68 of the Act. This addition is hereby confirmed.*

*2. Loan from Dhiman Trading corporation of Rs. 45,90,000/-*

*The appellant had submitted ledger account, confirmed contra ledger account and bank statement of self showing credit entry from said party, bank statement of said party and return of income filed by the said party for AY 2013-14 with total income of Rs. 615540/-. The AO has disregarded these evidences only because the amount received from this party has been further mis-utilised (in AO's view) for making adjustment entries in respect of share allotment. It is obvious that AO has not applied a rationale approach while determining the genuineness of this loan or deposit. AO has to see whether appellant has discharged its onus of establishing identity, creditworthiness and genuineness of the transaction. All these parameters have been fulfilled by the appellant in respect of this deposit. An onus to discredit evidences submitted by the appellant had now moved to AO. AO has nowhere challenged or rebutted or discredited the evidences regarding identity, creditworthiness and genuineness of transaction from this depositor. Hence, there is no ground for making addition u/s 68 in the hand of the appellant. Utilization of this loan by the appellant cannot determine whether the said loan was genuine or not. It has to be decided on the relevant parameters i.e. sufficiency of evidences in respect of identity, creditworthiness and genuineness of the depositor. This addition is fit to be deleted.*

*3. Loan from M/s Krishna Enterprises of Rs. 40 Lakhs :-*

*The appellant had submitted ledger account, confirmed contra ledger account and bank statement of self showing credit entry from said party, and return of income filed by the said party for AY 2013-14 with total income of Rs. 334150/-. The AO has disregarded these evidences only because in his opinion the income returned by the depositor (of Rs. 334150/-) was not commensurate to the loan given. The AO had noted that appellant has not submitted bank statement of this party. The Bank statement of appellant with SBI is clearly showing RTGS from ING Vyshya Bank account of M/s Krishna Enterprises of Rs. 40,00,000/- on 05.05.2010 depositor's bank account with ING Vyshya Bank on the page No. 41 of the paper is also showing remittance to appellant of the said amount of Rs. 40 Lakh. Thus remaining objection of AO is lack of presumed commensurate income in the*

*hand of depositor. The returned income alone cannot be utilized to judge the capacity of the depositor. The balance-sheet items play equal role in determination of the creditworthiness. Further the bank statement of the said depositor is showing previous credit entries through Cheque clearing; this is not a case of huge cash deposit just prior to issue of cheque to the appellant. Moreover so far as legal principal of the items u/s 68 is concerned appellant had discharged its onus of establishing identity, creditworthiness and genuineness of transaction. If AO thinks that depositor has no explained sources in its hand the addition can only be made in the hand of the depositor and not in the hand of appellant. The AO is free to initiate the requisite proceedings in the case of depositor if he thinks "source of the source" is unexplained. This addition is also fit to be deleted. In effect ground 3 is partly allowed.*

4. Being aggrieved by the order of the learned CIT(A), both the Revenue and the assessee are appeal/cross objection before us. The Revenue is in appeal against the deletion of the addition for Rs. 85.90 Lakh whereas the assessee is in cross objection against the confirmation of addition for Rs. 38 Lakh. The relevant ground of assessee's cross objection in CO No. 28/Rjt/2018 reads as under:

*2. The learned Commissioner of Income-tax(Appeals)-3, Rajkot[hereinafter referred to as the "CIT(A)"] erred on facts as also in law in retaining addition of Rs.38,00,000/- u/s.68 of the Act being alleged unexplained cash credit received from M/s.Priya Sales Corporation. The addition retained is totally unjustified on facts as also in law and may kindly be deleted.*

5. The learned DR before and submitted that the assessee has not discharged the onus by furnishing the details of the creditworthiness of the loan parties as specified under the provisions of section 68 of the Act. Accordingly, the learned DR contended that the order of the learned CIT-A needs to be reversed.

6. On the other hand, the learned AR before us filed paper book running from pages 1 to 311 and submitted that the assessee has furnished the details of the identity, creditworthiness of the parties and genuineness of the transactions. As such the primary onus imposed upon the assessee was duly discharged. Had there been any doubt to the AO, then the same should have been verified by him under the provisions of section 131/ 133(6) of the Act.

7. Both the Id. DR and AR before us vehemently supported the order of the authorities below as favourable to them.

8. We have heard the rival contentions of both the parties and perused the materials available on record. The provision of section 68 of the Act fastens the liability on the assessee to make proper and reasonable explanation regarding the nature and sources of sum credited in its books of accounts to the satisfaction of the AO. The assessee is liable to provide proof of the identity of the lenders/creditors, establish the genuineness of the transactions and creditworthiness of the parties. In the case on hand, the books of accounts of the assessee were credited by unsecured amount of loan from three parties as mentioned in previous paragraphs.

8.1 From the preceding discussion, we note that the assessee with respect to party namely M/s Priya Sales Corporation has only provided ledger copy and contra ledger copy and its own bank statement reflecting amount credited from Priya sales corporation through RTGS. However, details such as PAN, bank statement, ITR or books of account etc. were not furnished by the assessee. In our considered opinion, the assessee has not furnished sufficient detail to discharge its liability in establishing the creditworthiness and genuineness of the loan creditor. Therefore, we hold that the learned CIT(A) rightly confirmed the addition made by the AO with respect loan from Priya Sales Corporation of Rs. 38 Lakh. Hence, the ground of cross objection of the assessee is hereby dismissed.

8.2 Coming to the loan credited by the other 2 parties namely Dhiman Trading Pvt Ltd and Krishna Enterprise, in this regard, we note that the assessee has furnished ledger copy of the party, ledger confirmation, ITR, bank statement showing amount credited from the parties through RTGS, bank statement of the parties showing amount transferred to the assessee. The AO did not point any infirmity in the primary document submitted in the case of the party namely Dhiman Trading Pvt Ltd but made addition on the reasoning that liability was adjusted against the allotment of shares to other parties. In this regard, we are of the opinion that the assessee has discharged the primary onus cast upon it under

section 68 of the Act. The party has also confirmed the transfer of liability to the share subscriber. If the AO had any doubt regarding such arrangement, then he should have made an independent inquiry from the party. However, the AO merely on presumption and surmises treated the impugned credit as unexplained. Likewise, in the case of the party namely M/s Krishna Enterprise, the AO held the creditworthiness of impugned party was not established on the reasoning that the party in return of income declared low income than the amount of loan amount extended to the assessee. First of all, the amount of income declared in ITR cannot be a sole criterion for deciding the creditworthiness of a particular person. As such, there may be cases where a person may does not have taxable income in a particular assessment year, but it is quite possible that he/she/it may have accumulated profit and reserved or balance in banks etc. Further the AO lost sight of the fact that the amount was transferred through banking channel and the party had sufficient balance in his bank and there was no unusual cash deposit or credit entry pointed out in the party bank account. Hence, we do not agree with the reasoning of the AO and are of the considered opinion that the assessee has provided sufficient primary document to establish identity, genuineness, and creditworthiness of the party. If the AO still had any doubt, then he should have conducted an independent inquiry and should have brought contrary material before rejecting the primary documentary evidence furnished by the assessee. Thus, in our considered opinion, the learned CIT(A) rightly deleted the addition made by the AO in respect unsecured loan from these two parties. Hence, in view of the above discussion, the ground of appeal raised by the Revenue and the ground of cross objection by the assessee is hereby dismissed.

**9. The next** issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition made under section 68 of the Act for Rs. 5,30,63,780/- on account of credit of share capital and share premium.

10. The assessee in the year under consideration allotted fresh shares to 22 individuals which included directors of the assessee company and their family members/ relatives. The share application and premium thereon receivable from these share allottees for Rs. 6,29,01,740/- were adjusted against the outstanding balance of 9 different sundry creditors for Rs. 5,50,63,800/- and against the outstanding balance of 2 loan creditors namely Priya Sales corporation and Dhiman Trading Pvt Ltd for an amount aggregating to Rs. 78,37,940/- only. As such, the assessee has shown certain outstanding creditors in the name of 9 parties against the purchase of raw materials. The assessee against the purchase of raw materials was liable to make the payment to the sundry creditors. But the assessee has not shown any payment to such sundry creditors but adjusted the same against the amount of share application money and premium receivable from the different 22 individuals. In other words, the sundry creditors, instead of collecting any payment from the assessee against the supply of goods, were entitled to receive payments from the parties to whom the assessee had issued shares. Similarly, the loan creditors also agreed to collect the outstanding amount from the share subscribers instead of the assessee. These sundry creditors' accounts were running accounts in the books of the assessee which were adjusted partly against the shares issued to the other parties as discussed above. The assessee in support of the transactions, where the sundry creditors balances were adjusted against the share capital, has furnished the documents as detailed below:

- (a) Name, address, and PAN of the share subscriber
- (b) Ledger copy of the share subscriber in the books of the assessee
- (c) Confirmation from the share subscriber
- (d) Their books of account & ITR (both books and ITR or only ITR as the case maybe except in case of director).
- (e) Copy of net worth certificate by CA or bank in case of directors whose ITR not available.
- (f) Confirmation from the sundry creditor and loan showing the acceptance of diversion of liability towards shareholder.

10.1 The assessee based on the above documents contended that the sundry creditors balances are on account of purchases made by it which has been accepted by the VAT department and by the Auditor, therefore the genuineness of sundry creditor cannot be doubted. Similarly, the sundry creditors and loan creditors have confirmed transfer of liability to share subscribers against the share application money. All the necessary details regarding share subscribers have been furnished. Therefore, no adverse inference can be drawn against it (the assessee) under the provisions of section 68 of the Act.

10.2 However, the AO doubted the arrangements being transfer of sundry creditors liability to the shareholder in lieu of allotment of share on premium. The AO held that there was no concrete evidence furnished by the assessee to establish that the sundry creditors had given their consent for transfer of their outstanding balance receivable from assessee to its share subscribers. The books of account of sundry creditor were not produced showing such arrangement except the copy of ledger confirmation which is not sufficient. The AO was also of the opinion that no party in the business will agree to transfer its outstanding balance from debtor to some other individual that too without charging interest. The AO in this regard also referred to the principles of human probability and surrounding circumstantial evidence as laid down by the Hon'ble Supreme Court in case of Sumati Dayal reported in 214 ITR 801. The AO also held that mere filing of confirmation and copy of ITR etc. of the share subscribers are not sufficient especially considering the facts that the share application money was not received through banking channel but the same was adjusted through journal entry. Further, the AO found that no detail regarding a sundry creditor, namely M/s Hari Enterprises is furnished in whose case outstanding balance of Rs. 1,33,36,269/- was adjusted against the share application money. Thus, the AO in view of the treated the credit of share capital and share premium for Rs. 6,29,01,740/- as unexplained cash credit under section 68 of the Act. However, the AO while

making final addition given the credit of Rs. 78,37,940 on account separate addition made for credit of unsecured loan. Hence the AO made the final addition of Rs. 5,50,63,800/-.

10.3 On appeal by the assessee the learned CIT(A) held that out of the total (Rs. 6,29,01,740/-) credit of share capital & premium, an amount of Rs. 78,37,940 cannot be made subject to addition as the AO itself has not added the same. Regarding the remaining amount, the learned CIT(A) found that the assessee has discharged the primary onus cast upon it except in case of the party namely Shri Amrish L Sadrkhiya from whom share application money for Rs. 20 lakhs was credited. Hence, the learned CIT(A) deleted the addition to the extent of Rs. 5,30,63,800/- and sustained the part addition of Rs. 20 Lakhs.

11. Being aggrieved by the order of the learned CIT(A) both the Revenue and the assessee are in appeal before us. The revenue is in appeal against the deletion of addition for Rs. 5,30,63,800/- whereas the assessee is in cross objection against the confirmation of the addition for Rs. 20 Lakhs. The relevant ground of the assessee's cross objection in CO No. 28/RJT/2018 reads as under:

*3. The ld.CIT(A) erred on facts as also in law in retaining addition of Rs.20,00,020/- u/s.68 of the Act being alleged unexplained share application money received from Shri Amrish L. Saddrakhiya. The addition retained is totally unjustified on facts as also in law and may kindly be deleted.*

12. The learned DR before us submitted that the creditworthiness of the share subscribers was not proved by the assessee. As such, the income shown by the share subscribers was not commensurate with the amount of investment. It was submitted by the learned DR that there was no evidence submitted by the assessee demonstrating that the transaction between the sundry creditors and share subscribers was settled. As per the learned DR, the transaction reflecting the allotment of shares in the manner discussed in the order of the AO is quite

unusual and therefore the same is not free from doubt in the given facts and circumstances.

13. On the other hand, the learned AR before us submitted that all the necessary details and confirmation of the sundry creditors were duly filed during the assessment proceedings. Furthermore, the creditworthiness of the sundry creditors was not doubted by the AO and therefore the transactions between the share subscribers and sundry creditors cannot be the basis of drawing any adverse inference against the assessee. As per the learned AR, once the onus is discharged by the assessee, there cannot be any addition to the total income of the assessee by treating the share capital as unexplained. The learned AR also submitted that all the shares were allotted to the family members and the relatives of the directors. To this effect, the learned counsel has also furnished the list of the share subscribers along with relation of the directors.

14. Both the learned DR and the AR before us vehemently supported the order of the authorities below to the extent favourable to them.

15. We have heard the rival contentions of both the parties and perused the materials available on record. The facts of the issue on hand have been elaborately discussed in the preceding paragraph, therefore we are not inclined to repeat the same. The books of account of the assessee have been credited in the form of share capital & premium. Therefore, the assessee as per the provision of section 68 of the Act was liable to explain the nature and sources of such credit by providing the primary documentary evidence in relation to identity of investors, their creditworthiness and genuineness of the transaction. Once the assessee furnished the primary document, the burden is shifted on the assessing officer to disprove the primary evidence of the assessee based on corroborative material brought on record after making independent inquiries.

15.1 The assessee in the case of hand has provided primary documentary evidence as envisaged under section 68 of the Act by furnishing details such as name, address, PAN, ITR, Bank statement, confirmations, and other details of the shareholder's, except for one party from whom amount of Rs. 20 lakh was credited as evident from the finding of the learned CIT(A). The AO has not found any infirmity in the primary documents but rejected the same for the reason that the share application & premium receivable from shareholders were adjusted against the outstanding liability on account of purchases. The AO doubted that a sundry creditor under normal circumstances will not agree to transfer of its receivable from the assessee to some individual in lieu of shares allotted to such individual. In this regard, we are of opinion that arrangement made by the assessee for allotment of shares is suspicious, but it is settled position of the law that the suspicion howsoever strong is, cannot be made basis for making assessment in the hands of the assessee. As such, these sundry creditors in the books of the assessee are on account of goods purchased covered under the provisions VAT Act and duly reported in VAT return. The assessee has also provided ledger confirmation from the sundry creditors regarding transfer of their dues to the shareholders. If the AO had any doubt or suspicion, then the AO should have conducted independent inquiries from the sundry creditors who are regular tax assessee and from the shareholder. The law has given sufficient power in the hands of the AO to make independent inquiry from any person in relation to an assessment of an assessee. However, the AO did not utilize the tools provided under the Act for making independent inquiries to unearth the truth or bring the contrary materials, but he (AO) proceeded to reject the explanation of the assessee merely on doubt and suspicion.

15.2 Furthermore, at the time of hearing the Id. AR also furnished the list of the share subscribers containing 22 names of the shareholders demonstrating that all the share subscribers were the family members and relatives of the directors which was not controverted by the Id. DR appearing on behalf of the Revenue.

Therefore, the addition made by the AO in such circumstances cannot be sustained. Therefore, we do not find any reason to interfere in the finding of the learned CIT(A). Hence the grounds of appeal raised by the Revenue is hereby dismissed.

15.3 Coming to issue of amount of Rs. 20 Lakhs credited from shareholder namely Shri Amrish L Sadraikiya in whose case the learned CIT(A) confirmed the addition under section 68 of the Act, in this regard, we note that the assessee has provided name address, contra ledger confirmation and ITR as well as confirmation of the sundry creditor against which the amount of share capital has been adjusted which are also available on record. Furthermore, there was no infirmity was pointed in those documents. However, the addition was confirmed merely for the reason that books of account or bank statement etc of Shri Amrish L Sadraikiya have not been provided by the assessee. In our considered opinion the assessee has provided sufficient primary details regarding the identity and creditworthiness of the shareholder and genuineness of transaction. The AO and the learned CIT(A) before rejecting such primary evidence was required to make independent inquiry from the party or should have pointed any infirmity in the details provided by the assessee based on contrary material. It is also pertinent to note that the amount of share capital receivable from Shri Amrish L Sadraikiya was adjusted to sundry creditor namely Hari enterprises. Besides the impugned shareholders, there were also other shareholders in whose cases the amount of share capital has been adjusted against the outstanding balance of M/s Hari Enterprises. However, no such addition was confirmed by the learned CIT(A) in those shareholders accounts. Therefore, the learned CIT(A) has taken contradictory stand. Hence, considering the facts in totality, we hereby set aside the finding of the learned CIT(A) regarding the amount of share capital credited from Shri Amrish L Sadraikiya. Accordingly, we set aside the finding of the Id. CIT-A and direct the AO to delete the addition made by him. Hence, the ground of assessee's cross objection is hereby allowed.

15.4 In the result, the appeal of the revenue is hereby dismissed.

**Coming to CO No. 28/RJT/2018 by the assessee**

16. At the outset, we note that issue raised by the assessee in its cross objection has been adjudicated along the revenue's grounds of appeals in ITA No. 287/RJT/2018. The issues raised by the assessee and by the revenue have been adjudicated by us vide paragraph Nos. 8 and 15 of this order, wherein we have dismissed the assessee's grounds of objections regarding the unsecured of Rs. 38,00,000.00 from Priya Sales Corporation and allowed the objection against the share capital of Rs. 20 Lakhs from Shri Amrish L Sadrakiya. For detailed discussion, please refer to the aforesaid paragraph Nos. of this order. Hence the grounds of objections raised by the assessee are hereby partly allowed.

16.1 In the result, the cross objection filed by the assessee is hereby partly allowed.

17. In the combined result, the appeal of the revenue is dismissed whereas cross objection of the assessee is partly allowed.

**Order pronounced in the Court on 20/12/2023 at Ahmedabad.**

**Sd/-  
(SIDDHARTHA NAUTIYAL)  
JUDICIAL MEMBER**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

Ahmedabad; Dated  
*Manish*

**(True Copy)  
20/12/2023**