

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD - BENCH 'B'**

**BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT  
AND  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No.213/Ahd/2013**

**निर्धारण वर्ष/Asstt. Year: 2009-10**

ACIT, Cir.5 Ahmedabad.	Vs.	M/s.Neesa Infrastructure Ltd. Plot No.278/289 Panchratna Indl. Estate Opp: Amec Cold Storage Changodar, Ahmedabad. PAN : AABCN 7916 N
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अपीलार्थी (Appellant)		प्रत्यर्थी (Respondent)
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Revenue by :	Shri Vinod Tanwani, CIT-DR
Assessee by :	None

मुनवाई की तारीख/Date of Hearing : 05/10/2021

घोषणा की तारीख/Date of Pronouncement: 01/12/2021

**आदेश/ORDER**

**PER RAJPAL YADAV, VICE-PRESIDENT**

The Id.CIT(A)-XI, Ahmedabad has decided appeal of the assessee for the Asstt.Year 2009-10 vide order dated 12.11.2012. Against this order, cross appeals were filed i.e. ITA No.2899/Ahd/2012 (by Assessee) and ITA No.213/Ahd/2013 (by Revenue). Both these appeals were dismissed by the Tribunal for want of prosecution vide order dated 16.8.2017. Thereafter Revenue filed MA bearing No.13/Ahd/2018. It was contended by the Revenue that its appeal cannot be disposed of for want of prosecution because the Id.CIT-DR was present on behalf of the Revenue. Considering the apparent error crept in the order of the Tribunal, appeal of the

Revenue was restored to its original number, whereas the assessee did not file any such application. This appeal of the assessee was dismissed way back in 2017 and no application for revival of that appeal has been filed by the assessee.

2. Similarly, in response to the notice of hearing in the Revenue's appeal, none has come present on behalf of the assessee, therefore with the assistance of the Id.DR, we have gone through the record carefully, and proceeded to decide the appeal *ex parte qua* the assessee respondent.

3. In the first ground of appeal, the Revenue has pleaded that the Id.CIT(A) has erred in deleting the addition of Rs.3,85,44,666/- which was added by the AO under section 68 of the Income Tax Act, 1961.

4. Brief facts of the case are that during the course of scrutiny assessment, it revealed to the AO that the assessee has received share application money amounting to Rs.3,85,44,666/- received from one Shri Sanjay Gupta, Director of the assessee-company. In a questionnaire, the assessee was asked to furnish details of the share application money received during the year along with confirmation, bank statements, copy of income-tax returns and the balance sheet of the persons who gave share application money. In response to that, the assessee vide letter dated 9.12.2011 submitted unsigned ledger account of Shri Sanjay Gupta (Share application) showing receipt of share application to the tune of Rs.3,85,44,666/- by the assessee. Further, the assessee was also asked to furnish necessary evidences showing genuineness, credit-worthiness and identity of the persons who paid the share application money. However, according to the AO, the assessee could not file satisfactory explanation with

evidence to prove genuineness, credit-worthiness and identity of the persons. Therefore, since the assessee failed to substantiate its claim of share application money, the Id.AO treated the share application money to the tune of Rs.3,85,44,666/- received from Shri Sanjay Gupta as unexplained cash credit, and accordingly made an addition under section 68 of the Income Tax Act, 1916 to the total income of the assessee. Aggrieved by the addition made by the AO, the assessee went in appeal before the Id.first appellate.

5. On the basis of the details submitted by the assessee before the Id.CIT(A), the Id.CIT(A) called for a remand report from the AO. In the remand report, the Id.AO noticed various irregularities in the accounts of Shri Sanjay Gupta which could not be explained by the assessee. We will reproduce the remand report of the AO later in this part of the order. The Id.CIT(A) after going through the remand report of the AO observed that since fact of payment of share application was recorded in the balance sheet of Shri Sanjay Gupta, who was regularly assessed to tax, the onus cast on the assessee by virtue of provisions of section 68 of the Act has been discharged, and therefore there was no need to make addition in the hands of the assessee. Accordingly, the Id.CIT(A) deleted the impugned addition made by the AO under section 68 of the Act. Aggrieved Revenue is now before the Tribunal.

6. Before us, the Id.DR relied upon order of the AO. He also taken us through the remand report submitted by the AO before the Id.CIT(A). It is pointed out that there were several irregularities in the accounts of Shri Sanjay Gupta. The Id.DR submitted that the said Shri Sanjay Gupta had made payment to the assessee on several occasions viz. he paid Rs.2 crores in four transactions of Rs.50 lakhs each to the assessee on 29.7.2008, and subsequently

paid an amount of Rs.1.75 crores on 1.8.2008 and another sum of Rs. 1 crore on 12.9.2008; at that time, his returned income for the Asstt.Year 2009-10 showed only Rs.47.00 lakhs and his balance sheet under "proprietor's capital showed minus (-)Rs.14,72,194/-. Besides that unsecured loans from "Others" showed in the balance sheet at Rs.77,25,30,551/- for which there was no proper explanation. The Id.DR further has drawn our attention to the fact that said Shri Sanjay Gupta made payment of Rs.2 crores to the assessee on 29.7.2008, while he received exactly the same amount in four equal instalments of Rs.50 lakhs through the bank on 28.7.2008, whose whereabouts were not known. Similarly, Rs.1.75 crores paid by Shri Gupta to the assessee on 1.8.2008, was received to this account on the same day through the demand draft. Therefore, looking to overall facts of the case, genuineness and credit-worthiness of giver of the funds were not established by the assessee. It is a fit case for invocation of provisions of section 68 of the Act, and the Id.AO justified the same by making the impugned addition, which deserves to be upheld.

7. We have heard the Id.DR and also gone through the material available on record. It is pertinent to note that section 68 of the Income Tax Act contemplates that where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year. The case of the assessee was that transaction is genuine and identity of the person who gave share application money was established, and therefore, provisions of section 68 could not be applicable in the case of the assessee. Whereas the case of the Revenue is

that there was no satisfactory explanation with supporting evidence to prove that impugned addition on account of share application received from Shri Sanjay Gupta was genuine, and therefore, the transaction in the form of share application money was bogus and fall within the ambit of section 68 of the Act. In this connection, it is imperative upon us to take note of the remand report submitted by the assessee and finding of the Id.CIT(A) thereof on the issue. It reads as under:

**Remand Report of AO:**

*"Disallowance of Share Application Money (Rs. 3,85,44,666/-) The AO had disallowed a sum of Rs. 3,85,44,666/- as share application money. During the assessment proceedings the assessee had furnished unsigned confirmation and unsigned ledger account of Sh. Sanjay R. Gupta. The assessee had failed to produce signed confirmations even after being told to do so. Since the assessee had failed to prove the genuineness and creditworthiness of the transaction with Sh. Sanjay Gupta, the share application money was added to the assessee's income u/s 68. During appellate proceedings, the assessee has furnished evidence which was Remanded to this office for verification. From the submissions, it is seen that Sh. Sanjay Gupta has confirmed the payment of Rs. 3,85,44,666/- to M/s Neesa Infrastructure Ltd. (NIL) The Bank Statements of M/s Neesa Infrastructure Ltd. and Sh. Sanjay Gupta have been studied. It is seen that Sh. Sanjay Gupta has paid Rs. 2 crore (in four transactions of Rs. 50 lacs each) to M/s Neesa Infrastructure on 29/07/2008. Subsequently, Sh. Gupta has paid Rs. 1.75 crore to M/s Neesa Infrastructure Ltd. on 01/08/2008 and on 12/09/2008 another sum of Rs. 1 crore has been transferred to the ICICI Bank A/c of M/s Neesa Infrastructure. What is interesting to note is that Sh. Sanjay Gupta's ITR for AY 2009-10 shows his returned income at only Rs. 47,00,000. A perusal of his Balance Sheet shows (-)Rs.14,72,194/- as Proprietor's Capital. An amount of Rs.77,25,30,551 is seen as unsecured loans from "Others" in his Balance Sheet. No explanation whatsoever has been furnished for these by the assessee's AR for these observations. Sh. Gupta's Balance Sheet shows investments of over Rs. 76 crore. Evidently, most of these investments have been financed through unsecured borrowings by Sh. Gupta. As against these huge unsecured borrowings, Sh. Gupta is showing only a token amount of Rs.22 lacs as interest payment Prima facie, most of this amount seems to have been paid for the secured loans of Rs.1.61 crore. Thus, Sh. Gupta*

*seems to have access to very low interest bearing loans amounting to Rs. 77 crore on which negligible interest payments are needed. It remains unclear as to who are the actual lenders to Sh. Gupta at such rates or interest. No explanation is offered on this count by the AR of the assessee. Furthermore, the Bank Statement of Sh. Sanjay Gupta shows a very strange pattern. While he made payments of Rs. 2 crore to NIL on 29 July 2008, he had received exactly the same amount in 4 equal amounts of Rs. 50 lacs through Axis Bank Ltd. on 28/07/2008. Who was the lender of these funds is not known from the Bank Statement. Similarly, Rs. 1.75 crores paid by Sh-Gupta to M/s. Nit on 1/08/2008 were received in his account on the same day through a Demand Draft (the number of this Demand Draft appears missing in the bank statement). Prior to this infusion of funds, the Bank Balance of Sh. Gupta stood at Rs. 69,599.79/-. Similarly, on 12/09/2008, Sh. Gupta transferred Rs. 1 crore to M/s. NIL but on the very same day he had received the same amount through a Demand Draft of Rs. 1 crore. The submissions made by the AR of the assessee hence, merely prove the identity of the giver of funds i.e. Sh. Sanjay R Gupta. They, however, do not prove the genuineness and the creditworthiness of the giver of these funds and hence, the addition made by the AO u/s 68 should be confirmed. Identity, genuineness and creditworthiness must be proved by the assessee to prove that the credited transactions in its account are explained transactions. Since in this case, the genuineness and creditworthiness has not been proved by the assessee, this is a fit case for addition under S 68 of the IT Act and the AO has rightly done so."*

### **Finding of the CIT(A)**

*"3.2 I have carefully considered rival contentions. The facts available on record clearly indicate that share application money has been received from Shri Sanjay Gupta, Director of the appellant company. The share application money of Rs.3,85,44,666/- was received through banking channels. The fact of payment of share application money is duly recorded in the balance sheet of Shri Sanjay Gupta. Shri Sanjay Gupta, is regularly assessed to Income-tax. This way the appellant has discharged onus cast upon him by the provisions of sec.68 of the I.T. Act. According, I hold that addition against share application money of Rs.3,85,44,666/- cannot be made in the hands of the appellant company.*

*3.3 In the remand report it is observed by the Id. A.O. that the source of share application money is loan of Rs.77,00,00,000/- which is raised at a very low interest rate by Shri Sanjay Gupta. This way the A.O. was not satisfied with the source of share application money. In this regard it is observed that if the A.O. is not satisfied with the source of share application money in the hands of Shri Sanjay Gupta, it will be appropriate to initiate proceedings in the*

*case of Shri Sanjay Gupta, but for this reason addition in the hands of the appellant company cannot be made.*

*3.4 It is also a matter of record that the appellant has received share application money from Shri Sanjay Gupta. The identity of Shri Sanjay Gupta had been conclusively established vide various documents placed before the A.O. It is an established proposition of law that in case of share application money, the appellant has to establish identity of the person from whom share application money is received. In case of share application money the appellant is not required to establish the genuineness of transaction and creditworthiness of the creditor for the purpose of sec.68 of Income-tax Act, 1961. Reliance in this regard is placed on CIT vs Lovely Exports Pvt. Ltd. 216 CTR (S.C) 195. Since the identity of Shri Snjay Gupta is established beyond doubt, accordingly, I hold that addition against share application money received from Shri Sanjay Gupta cannot be made in the hands of the appellant company. In view of the above, addition of Rs, 3,85,44,666/- against share application money is ordered to be deleted. This ground of appeal is allowed."*

8. On this issue, the main plank of the AO in making the impugned addition is that, apart from establishing the identity of the creditor, the assessee must establish genuineness of the transaction as well as the creditworthiness of his creditor – burden lies on the assessee. We find that though identity of the person who made share application money has been established, but his credit worthiness to pay such a huge amount has not been established. All that was shown to the AO by the assessee was that of an unsigned confirmation of Shri Sanjay Gupta. This was not a sufficient proof for payment of huge amount of Rs.3,85,44,666/-. In the remand report, the AO has noticed that on scrutiny of bank accounts of M/s.Neesa Infrastructure Ltd. and said Shri Sanjay Gupta revealed some dubious pattern of transactions. On 29.7.2008, Shri Sanjay Gupta has paid Rs.2 crores (in four transactions of Rs.50 laksh each) to the assessee company. Thereafter, he paid Rs.1.75 crores and Rs.1 crores on 1.8.2008 and 12.9.2008 respectively to the assessee. However, in the return filed by Shri Sanjay Gupta the returned income showed only at Rs.47.00 lakhs. His balance sheet

demonstrated proprietor's capital at (-) Rs.14,72,194/- and unsecured loan from others showed at Rs.77,25,30,551/-. For this observation, no explanation was given by the assessee to prove that share applicant has capacity to pay huge amount of Rs.3,85,44,666/- towards share application money in the assessee company, at the time when the applicant's capital was negative and having huge outstanding liability towards the unsecured creditors to the extent of Rs.77,25,30,551/-. The Id.AO further noticed strange pattern of the entries in the bank statement. While Shri Sanjay Gupta paid an amount of Rs.2.00 crores to the assessee-company on 29-7-2008, he has received back exactly the same amount in four instalments of Rs.50 lakhs through Axis Bank Ltd., on 28-7-2008. Besides that Shri Gupta paid Rs.1.75 crores to assessee company on 1.8.2008, and on the same day the said Shri Gupta received the equal amount by DD. Similar pattern was noticed from the bank statement that on 12.09.2008 where Shri Gupta transferred Rs.1 crores to assessee, but on the very same day, he received back the same amount through DD. Therefore, the AO was of the view that though identity of giver of the fund was made to know, but it did not demonstrate genuineness and the credit-worthiness of said Shri Gupta, and therefore, it was a clear cut case for introduction of unaccounted money in the books of the assessee and an ingenious way for legitimizing unaccounted money. However, the Id.CIT(A) did not appreciate this finding of the Id.AO. From the material available on record, we find that no sufficient material to support claim of the assessee that impugned transaction was genuine and creditor's credit-worthiness to give such an amount. The trail of transactions as noted by the AO from the bank statements would not gauge any authenticity of the impugned transactions so as to allow claim of the assessee. However, a perusal of the finding extracted (supra) would



reveal that the Id.CIT(A) was of the view that the Director has contributed this amount towards share application money, and he has taken loan of Rs.77 crores which was raised by him at very lost cost. This observation was not convincing enough. The objection of the AO is that financial health of the director was not such that he could introduce a huge amount to the extent of Rs.3.85 crores plus odd. He took the alleged unsecured loan of Rs.77.25 crores in his balance sheet whose source could not be explained.

9. The AO has demonstrated that all these capital introduced in the capital account of share applicants are of non-verifiable nature; credit-worthiness of Shri Sanjay Gupta is very much doubtful; most of the amounts were from unknown sources. The AO has rightly assumed that the transaction is not genuine rather rooted through unsecured loans etc. whose confirmation could not be filed. We find that though the assessee had provided identity of the giver of the funds, but onus to prove creditworthiness and genuineness of transaction beyond doubt have not been discharged by the assessee. Law on this issue on this point is clear. It is necessary for the assessee to prove *prima facie*, three aspects of the transaction which generated funds in the form of share application money. Section 68 provides three aspects to prove the case of cash credit such as proof of the identity of this creditor, the capacity of such creditor to advance the money and, genuineness of the transaction, and if these aspects are proved by the assessee, then burden shifts to the Department to prove otherwise. In the instant case, assessee has only established identity of the creditor, credit-worthiness and genuineness of the transaction with the assessee have come under serious cloud, and gave rise to reasonable belief in the mind of the AO that the assessee has indulged in a dubious transaction to launder its undisclosed income. Therefore, in our view, it is a fit case

where provisions of section 68 of the Act should be invoked, which the Id.AO has rightly done so. We do not find any infirmity in the impugned order of the AO, more so, in view of the reasoning given in the remand report submitted by the assessee before the Id.CIT(A). Accordingly, action of the Id.AO in invoking provisions of section 68 is upheld, and the addition deleted by the Id.CIT(A) is set aside, and order of the AO on this issue restored. Accordingly, this ground of Revenue is allowed.

10. In the second ground, the grievance of the Revenue is that the Id.CIT(A) has erred in restricting addition to Rs.23,73,122/- out of total addition of Rs.3,48,78,284/- made by the AO on account of disallowance of sundry creditors.

11. Brief facts of the case are that during the assessment proceedings the assessee shown sundry creditors, trade creditors and creditors for capital goods and creditors for expenses and others to the tune of Rs.3,48,78,284/-. The Id.AO sought for details in this behalf, viz. party-wise details of sundry creditors outstanding as on 31.3.2007, 31.3.2008 and 31.3.2009 along with their confirmations. Since the assessee failed to submit details with explanation, and therefore, addition to the extent of Rs.3,48,78,284/- was made to the total income of the assessee. Aggrieved assessee preferred appeal before the first appellate authority. On the basis of certain details submitted by the assessee before the Id.first appellate authority, the Id.CIT(A) called for remand report from the AO. However, the Id.AO was not convinced with the evidence produced before the Id.CIT(A) by the assessee, and he observed that these details did not reflect whether any actual transactions took place or not. Therefore, veracity and genuineness of the details could not be verified, more so in the absence of PAN/TAN or the addresses of the

parties. He further observed that mere submissions of ledger accounts of the parties with whom the assessee has transacted, could not prove the case of the assessee, unless the same were reflected in the profit and loss account of the assessee for the relevant year. He further submitted that onus to prove genuineness of the transactions, identity and credit-worthiness of the creditors lies with the assessee, and since the assessee failed to do so, addition was rightly made. However, the Id.CIT(A) rejected the observations of the Id.AO and deleted amount of Rs.3,25,05,162/- out of Rs.3,48,78,284/- made by the AO, and thus restricting only Rs.23,73,122/-. Dissatisfied with order of the Id.CIT(A), Revenue is before the Tribunal.

12. Before us, the Id.DR supported the order of the AO. However, there was no appearance on behalf of the assessee to defend its case.

13. On due consideration of the facts and circumstances of the case, we find that the Id.CIT(A) has restricted the impugned addition on the basis of the remand report filed by the AO and also based confirmations and other details filed during the remand proceedings as well as before the appellate proceedings. Since the assessee has not filed complete details of the parties, the Id.AO disallowed the entire claim of the assessee, though as noticed by the Id.CIT(A), the assessee has established genuineness of the sundry creditors and reconciled the amounts with details to the tune of Rs.3,25,05,162/-, The finding and observations of the Id.CIT(A) on this issue is worth to note, which reads as under:

*"7.4 I have carefully considered the rival contentions. It is seen that the AO was not satisfied in respect of following liabilities:*

(1)Ajay Gupta	Rs. 2,00,000/-
(2)Goyal Power System	Rs. 17,44,800/-
(3)M. Chandulal & Associates	<u>Rs. 4,28,322/-</u>
	TOTAL Rs. 23,73,122/-

*In - respect of other sundry creditors the appellant has furnished confirmations and the A.O. test checked the authenticity of these confirmations during the remand report proceedings. In case of Rushabh Chemicals, the party has not responded in response to summons u/s.131 of the I.T.Act. However, during the remand report proceedings the appellant has furnished confirmation from this party. The A.O. has not conducted further investigations against this party. Since the confirmation filed by M/s. Rushabh Chemical remains uncontroverted, accordingly, I am inclined to agree with the contentions of Ld.A.R. In view of above facts, I hold that the appellant has established the genuineness of sundry creditors of Rs.3,25,05,162/-. Accordingly, addition to the extent of Rs, 3,25,05,162/-(3,48,78,284 - 23,73,122/-) is deleted. Appellant will get relief to this extent.*

*7.5 In the remand report, the A.O. observed that in case of M/s. Goyal Power Systems, the appellant had not furnished confirmation. This way the address, PAN or TAN of this party was not before the A.O. This way the A.O. was prevented to make necessary enquiries in respect of this credit Accordingly, the A.O. was of the opinion that sundry creditor outstanding in the name of this party is not genuine. In response to this the appellant vide its rejoinder submitted that the A.O. has not asked for confirmation from this party during the remand report proceedings. It is also submitted that addition against sundry credit of Rs.17,44,800/- outstanding against this party cannot be made u/s.41(1) of the I.T.Act.*

*7.6 I have carefully considered the facts available on record. It is seen that the appellant vide its letter dated 27.4.2012 categorically submitted that complete name and address of the creditors along with their PANs and confirmation is filed. In view of this submission it is to be assumed that the appellant has furnished all these documents. These documents were forwarded to the office of the A.O. for further verification. On verification it was found that the confirmation from M/s. Goyal Power Systems were not filed. The A.O. made a categorical observation in this regard in its remand report. This remand report was duly confronted to the appellant. In the rejoinder*

*instead of filing any evidence the appellant is trying to find fault with the A.O. In my considered view the entire approach of the appellant is misplaced. The facts available on record indicate that these evidences were not furnished during the assessment proceedings. During the appellate proceedings, the appellant has made a categorical statement that confirmation from all the creditors has been furnished but the confirmation from this party was never furnished. Since the onus was on the appellant to furnish the confirmation from this party and the appellant has made categorical statement in this regard during the appellate proceedings, accordingly, the A.O. was not required to ask the appellant to file a confirmation from M/s. Goyal Power Systems in the remand report proceedings. In view of this, I do not agree with the submissions of the Ld. A.R. Since the appellant has failed to furnish cogent evidence to prove that the liability in case of M/s.Goyal Power Systems subsisted as on 31.3.2009, accordingly. I hold that the appellant has failed to discharge its initial onus. Reliance in this regard is made on Keshavram Industries and Cotton Mills vs CIT 196 ITR 845 (Cal.). The facts available on record further indicate that sundry credit outstanding against M/s. Goyal Power System is of dubious nature. In the immediately succeeding year i.e. A.Y.2010-11 the appellant has written back this liability and claimed the same as bad debt. This further proves the fact that the liability against 'Goyal Power System does not subsists as oh 31.3.2009. In view of above facts, I am inclined to agree with the contention of the Ld. A.O. and accordingly, addition of Rs.17,44,800/- against bogus sundry creditor is confirmed.*

*7.6 The A.O. had also not agreed with the genuineness of following sundry credits:-*

<i>1) Ajay Gupta</i>	<i>:</i>	<i>Rs. 2,00,000/-</i>
<i>2) M/s. Chandulal &amp; Associates</i>	<i>:</i>	<i><u>Rs. 4,28,322/</u></i>
<i>Total</i>	<i>.</i>	<i>Rs. 6,28,322/-</i>

*It is seen that the appellant has not furnished cogent evidences to prove the genuineness of these sundry creditors during the assessment proceedings. During the appellate proceedings although the appellant vide its letter dated 27.4.2012 submitted that confirmation from these persons are filed, however, these confirmations were not filed. The A.O. made specific reference to this sundry creditors in his remand report dated 31.10.2012. This remand report was confronted to the appellant during the appellate proceedings. In response to this*

*remand report also the appellant has not furnished any evidence to prove the genuineness of these liabilities. In view of above facts, I hold that the appellant has failed to file cogent evidence to prove that these liabilities were subsisting as on 31.3.2009. Accordingly, the appellant has failed to discharge its initial onus of proving the fact that the liabilities is subsists. Reliance in this regard is made on Keshavram Industries and Cotton Mills vs CIT 196 ITR 845 (Cal.). in view of above facts, I am of the considered view that sundry credits in respect of these two parties are not genuine and accordingly addition to the extent of Rs. 6,28,322/-is confirmed.*

*7.7 As a result of this appeal, the appellant will get a relief of Rs.3,25,05,162/-(3,48,78,284 - 23,73,122/-). Addition to the extent of Rs.23,73,122/- is confirmed. This ground of appeal is partly allowed."*

After going through above order of the Id.CIT(A), we find that the Id.CIT(A) has examined this issue in detail, such as details submitted by the assessee and remand report by the AO, and after giving well reasoned findings restricted the impugned addition. Therefore no interference from our side is called for on this issue, which we uphold, and reject the ground of appeal of the Revenue.

13. In the result, appeal of the Revenue is partly allowed.

Order pronounced in the Court on 1<sup>st</sup> December, 2021 at Ahmedabad.

Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER

Sd/-  
(RAJPAL YADAV)  
VICE-PRESIDENT

Ahmedabad; Dated 01/12/2021