

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,  
NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 931/DEL/2012 [A.Y. 2007-08]  
ITA No. 932/DEL/2012 [A.Y. 2008-09]

The A.C.I.T                      Vs.                      M/s Dhoot Infrastructure Projects Ltd  
Central Circle - 1    904-907, Time Tower, M.G. Road  
New Delhi    Sector - 28, Gurgaon

PAN: AACCD 2118 H

CO No. 150/DEL/2019 [A.Y. 2007-08]  
CO No. 151/DEL/2019 [A.Y. 2008-09]

M/s Dhoot Infrastructure Projects Ltd      Vs.                      The A.C.I.T  
904-907, Time Tower, M.G. Road    Central Circle - 1  
Sector - 28, Gurgaon    New Delhi

PAN: AACCD 2118 H

(Applicant)

(Respondent)

Assessee By                      :      Shri Manoj Kataruka, Adv

Department By                      :      Shri T. James Singson, CIT-DR

**Date of Hearing                      :      09.11.2023**  
**Date of Pronouncement                      :      17.11.2023**

**ORDER**

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

The above captioned two separate appeals by the Revenue and cross objections by the assessee are preferred against two separate orders of the Id. CIT(A) - 3, New Delhi dated 19.12.2011 & 20.12.2011 pertaining to Assessment Years 2007-08 & 2008-09 respectively.

2. Since underlying facts in the issues are identical in the captioned appeals, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. Briefly stated, the facts of the case are that search and seizure operation was carried out at the premises of the assessee on 25.09.2008 and accordingly, statutory notices were issued and served upon the assessee, in response to which, the assessee filed its return of income.

5. During the course of scrutiny assessment proceedings, the Assessing Officer noticed that the assessee has received share premium of Rs. 8.10 crores from the following parties :

1.	Aarpee Commercial Co Pvt Ltd-Premium	69,30,000
2.	Carnex vinimay Pvt Ld - Premium	88,20,000
3.	C G Securities (P) Ltd - Premium	45,00,000
4.	Gangotri Syntex (P) Ltd - Premium	45,00,000
5.	Ganpati Riverside(P) Ltd - Premium	45,00,000
6.	Jineshwar Trade (P) Ltd - Premium	76,50,000
7.	Maxxon Trading & Finvest (P) Ltd -	72,00,000
8.	Navoday Mercentils (P) Ltd - Premium	85,50,000
9.	Oasis Synetx- Premium	49.50,000
10	PKC Credit (P) Ltd - Premium	45,00,000
11	Ravlon Commodities (P) Ltd - Premium	45,00,000
12	Stupendors(P) Ltd - Premium	76,50,000
13	Trincas Agency & Credit (P) Ltd - Premium	<u>67,50,000</u>
.	Total	<u>8,10,00,000</u>

6. To verify the genuineness of the aforementioned credits, the Assessing Officer issued a questionnaire asking the assessee to furnish the following:

"a. Return of income, balance sheets and 3CD report of all the companies on whose behalf share premium has been shown in the books of accounts.

b. *Complete bank accounts of all these companies for the period 1-04-2006 to 31-03-2009.*

c. *Detail of shares allotted to these companies specifying the number of shares allotted.*

d. *Enquiry of this office has revealed that these are non existence companies. As entries. As the amount has been introduced in your books of accounts so u/s 68 of Income Tax Act, 1961 the onus lies on you to prove that these are not sham companies but real entities. In this regard you are required to produce the Managing Directors of these companies in this office so as to verify the genuineness of the entity on whose behalf share premium has been introduced in the books of account."*

7. The assessee filed a detailed reply alongwith the required documents. The Assessing Officer further made enquiry by issuing notice u/s 133(6) of the Act to the aforementioned companies but received reply from five companies and accepted the transaction with these five companies but in respect of other companies, the Assessing Officer was of the opinion that these companies do not have sufficient funds for making the impugned investment in the share purchase of the assessee and proceeded to complete assessment by making an addition of Rs. 5.75 crores u/s 68 of the Act in respect of share premium.

8. The assessee carried the matter before the Id. CIT(A) and vehemently contended that the assessee has successfully discharged the onus cast upon it by provisions of section 68 of the Act by establishing the identity, genuineness of the transaction and capacity of the investors.

9. After considering the facts and submissions and after examining the documentary evidences, the Id. CIT(A) was convinced with the claim of the assessee and directed the Assessing Officer to delete the impugned addition.

10. We have given thoughtful consideration to the orders of the authorities below. We have also carefully verified the evidences brought on record in respect of credit entry. We find that the assessee has furnished declaration, allotment letter, bank statements and financial statements of the share applicants.

11. We find that each and every share applicant has confirmed the transaction by submitting reply to the information called for u/s 133(6) of the Act to the Deputy Commissioner of Income Tax, Central Circle-1. In our considered opinion, it is the prerogative of the Directors to

decide the share premium amount and wisdom of the applicants whether to purchase shares at such premium or not.

12. All that the Assessing Officer can examine for the impugned A.Y is credit in light of provisions of section 68 of the Act, for which the assessee is required to prove the identity, genuineness of the transaction and capacity. Evidences on record show that the identity has been established beyond doubt, share application transactions are through banking channel, entries duly reflected in the bank statement thereby justifying the genuineness of the transaction.

13. In so far as capacity is concerned, the following chart speaks for itself:

(Amt. in Rs.)

<u>Name of the company</u>	<u>Investment</u>	<u>Reserves &amp; surplus</u>	<u>Share capital</u>	<u>Loan taken by the company</u>	<u>Cash and bank balance</u>
Aarpee Commercial Co. Pvt. Ltd.	198,651,000	195,625,944	10,000,000	NIL	3,103,892
Trincas Agencies & Credit (P) Ltd	242,565,000	240,409,793	9,700,000	NIL	478,510
Carnex Vinimay Pvt. Ltd.	496,478,000	479,297,842	23,950,000	NIL	772,504
Gangotri Syntex Pvt. Ltd.	298,235,000	285,188,984	15,750,000	NIL	884,625
Maxxoon Trading & Finvest Pvt. Ltd.	191,090,190	196,070,917	10,000,000	NIL	428,001
Navoday Mercentils Pvt. Ltd.	386,390,000	370,305,000	19,500,000	NIL	1,144,235
PKC Credits Pvt. Ltd.	168,820,474	166,961,737	8,200,000	NIL	672,727
Ravlon Commodities Pvt. Ltd.	105,559,000	103,919,007	6,200,000	NIL	1,832,484

14. Considering the demonstrative evidences, we are of the considered view that the assessee has successfully discharged the onus cast upon it by provisions of section 68 of the Act. Therefore, we decline to interfere with the findings of the Id. CIT(A).

15. Appeals of the Revenue are accordingly dismissed.

16. Since the cross objections are not pressed, the same are also dismissed.

17. Before parting, the chart explaining the credit worthiness in ITA No. 932/DEL/2012 is as under:

Name of the company	Investment Etc	Reserves & surplus	<u>Share</u>	Loan taken by the company	Cash and <u>bank</u> balance
			capital		
Irrincas Agency & Credit Pvt Ltd	246,565,000	240,409,793	9,700,000	NIL	1,026,781
PKC Credit Pvt. Ltd.	167,657,424	166,961,737	8,200,000	NIL	1,120,879
Maxxon Trading & Finvest Pvt. Ltd.	193,875,190	196,070,917	10,000,000	NIL	2,563,479
Navoday Mercantile Pvt. Ltd	4,69,50,0000	370,319,371	19,500,000	NIL	215,306
Aarpee Commercial Co. Pvt Ltd	499,694,500	488125944	17,500,000	NIL	15342

18. In the result, the appeals of the Revenue in ITA Nos. 931 & 932/DEL/2012 as well as the cross objections of the assessee in CO Nos. 150 & 151/DEL/2019 are dismissed.

The order is pronounced in the open court on 17.11.2023 in the presence of both the rival representatives.

**Sd/-**

**[ASTHA CHANDRA]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 17<sup>th</sup> NOVEMBER, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

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Date on which the fair order is placed before the Dictating Member for pronouncement	
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