

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC': NEW DELHI  
BEFORESHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.3141/Del/2026  
(ASSESSMENT YEAR: 2017-18)**

Palco Tex Feb Limited, 13/49 Punjabi Bagh West, New Delhi-110026 <b>PAN-AAACP5480G</b>	v.	Income Tax Officer, Ward-19(3), Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Deepak Bansal, Adv.
Department by	Shri Manoj Kumar, Sr. DR
Date of Hearing	12.05.2026
Date of Pronouncement	18.06.2026

**ORDER**

**PER RAMIT KOCHAR, AM:**

This appeal in ITA No. 3141/Del/2026 for Assessment Year: 2017-18 has arisen from the learned CIT(A)'s appellate order u/s 250 of the Income-tax Act, 1961 (in Short "1961 Act"), dated 11.02.2026 (DIN & Order No: ITBA/APL/S/250/2025-26/108587096(1)), which appeal in turn has arisen from the assessment order dated 18.12.2019 passed by the AO u/s 143(3) of the 1961 Act (Order No. ITBA/AST/S/143(3)/2019-20/1022636314(1)).

2. The brief facts of the case are that the assessee company had e-filed its return of income on 31.10.2017 declaring loss of Rs.8,24,305/-. The case of the assessee was selected for limited scrutiny under CASS. Statutory notices u/s 143(2) and 142(1) of the 1961 Act were issued from time to time by the AO during the course of assessment proceedings. The assessee participated in the assessment proceedings.

3. During the assessment proceedings, the AO observed that the assessee has raised share application money during the year under consideration, which was at Rs. 3,00,77,861.38 as at 31.03.2016 and which increased to Rs. 3,18,58,700.38 as at 31<sup>st</sup> March, 2017 , while the assessee was not doing any business during the year under consideration as per reply dated 03.10.2019 submitted by the assessee itself, details of share application money raised by the assessee are as under:

S. No.	Particulars	Opening Balance (In Rs.)	Transaction during the year		Closing Balance In Rs.
			Debit In Rs.	Credit In Rs.	
1	Amit Chadha	17,42,890			17,42,890
2	Anil Kumar Chadha	2,44,000			2,44,000
3	Komal Chawla	31,44,000		50,000	31,94,000
4	Manik Chawla	14,33,408.41	90,000		13,43,408.41
5	Nitin Chawla	13,27,180			13,27,180
6	Om Pramash Chawla	1,38,020			1,38,020
7	Seema Chadha	34,110			34,110
8	PalcoPlast Pvt. Ltd.	31,54,480		17,99,364	49,53,844
9	Sonal Chawla	37,25,957		3,00,000	40,25,957
10	Suneet Chawla	1,50,000			1,50,000
11	Surender Chawla	12,59,523.97			12,59,523.97
12	Surender Kr. Chawla (HUF)	33,40,973	4,00,000	2,00,000	31,40,973
13	Sushil Chawla	3,83,319	78,525		3,04,794
<b>Total</b>		<b>3,00,77,861.38</b>	<b>5,68,525</b>	<b>23,49,364</b>	<b>3,18,58,700.38</b>

3.1.2 During the course of assessment proceedings, the assessee had submitted before the AO that the share application money was Rs.3,00,77,861/- as at 31<sup>st</sup> March, 2016, which increased to Rs.3,18,58,700/- as at 31<sup>st</sup> March, 2017. It was submitted by the assessee that the assessee company was carrying on business of dyeing and printing of

cloth at its factory at Khuskhera Industrial Area, Bhiwadi, Rajasthan. Due to restriction on heavy pollution industry, it has to discontinue its business operations during the year ended on 31<sup>st</sup> March, 2015. Management of the company is exploring to start some other new venture, pending which it has allowed some other parties to use its business assets which include:-

- a) Office premises and office setup,
- b) Electrical and other machinery setup to operate in the assessee factory setup,
- c) Factory's land & building,
- d) Water pollution and other equipment's.

3.1.3 The AO issued notice u/s 136(6) to M/s Palco Plast Pvt. Ltd. to verify share application money. In the meantime, the assessee submitted confirmation(s) from the following parties namely (i) Komal Chawla (ii) Palco Plast Pvt. Ltd. (iii) Sonal Chawla & (iv) Surender Chawla, HUF. The assessee also submitted bank statements of the above parties. It was also submitted that the said amount were raised from Directors and relatives or companies under the same management, and the same may be considered as unsecured loans. The assessee also submitted that share application money received by the assessee from Palco Plast Private Limited during the year were to the tune of Rs.23,49,364/- , whereas Rs.5,68,525/- was repaid to the said party during the year, and hence net amount raised was Rs. 17,99,364/- . It was also submitted that the assessee is not carrying on business activity during the year under consideration , but the funds were raised to meet the requirement of funds for the following purposes:

- i) Repayment of secured loan taken against and for land & building;
- ii) Repairs & renovation of business premises.
- iii) Repayable of old dues payable to outside parties.

3.1.4 The party ledger was also submitted by the assessee before the AO , but the AO observed that the assessee has misreported the income under the wrong heads as it was shown as share application money despite the fact that there was no business activities carried on by the assessee. Later on the assessee requested to treat the same as unsecured

loans . The AO observed that it is not prudent for any business houses to receive share application money when there is no business carried on by the assessee. The AO observed that no prospectus was issued by the assessee for raising share application money. The AO in the concluding para 3.2 observed that the assessee has not submitted the confirmation from the parties concerned. The AO made the addition by invoking the provisions of section 68 of the Act, wherein the AO made the additions to the tune of Rs.17,80,839/- as unexplained money received during the year and added the same to the income of the assessee.

3.2 Aggrieved, the assessee filed first appeal before the Ld. CIT(A) who dismissed the appeal of the assessee by holding that the assessee has failed to establish identity and creditworthiness of the lender and genuineness of the transaction. The ld. CIT(A) observed that by filing confirmations from the aforesaid parties, identity is proved but creditworthiness of the lender and genuineness of the transaction is not proved., and hence the action of the AO was upheld.

3.3.1 Aggrieved, the assessee has filed second appeal with the Tribunal and the Ld. Counsel for the assessee submitted that the assessee was carrying on business of dyeing and printing of cloth at its factory at Khuskhera Industrial Area, Bhiwadi, Rajsthan. Due to restriction on heavy pollution industry, it has to discontinue its business operations during the year ended on 31<sup>st</sup> March, 2015. The assessee has received share application money from Director , their relatives and companies under the same management. It was submitted that all the confirmations were filed before the AO. It was also submitted that in the assessment order, the AO made enquiry u/s 133(6) of the 1961 Act with M/s Palco Plast Ltd. , and they have duly submitted confirmation. It was submitted that all the confirmations and bank statements of all the parties who are relatives, Directors and company under the same management were duly submitted before the AO , but despite

that the additions have been made on the ground that no confirmation have been submitted. It was submitted that the confirmations are now again submitted before the ITAT by way of paper book which are placed at page 6 to 24. The AO has on the basis of conjecture observed that there is no need of receiving of share application money , but the purposes for which the said share application money was received was also specified before the authorities below.

3.3.2 The Ld. Sr. DR relied upon the orders of the lower authorities.

3.3.3.1 I have heard the rival contentions and perused the materials available on record. I have observed that the assessee was running business of dyeing and printing of cloth at its factory at Khuskhera Industrial Area, Bhiwadi, Rajsthan. Due to restriction on heavy pollution industry, it has to discontinue its business operations during the year ended on 31<sup>st</sup> March, 2015. I am presently concerned with assessment year 2017-18. I have also observed that assessee has claimed that it was undertaking expansion of its business till financial year ended on 31<sup>st</sup> March, 2014, but however, in the financial year ending 31<sup>st</sup> March, 2015, the assessee business has to discontinue due to being heavy pollution industry. Since then business is lying closed. I have observed that the assessee company was having share application money as at 31<sup>st</sup> March, 2016 of Rs.3,00,77,861/-, which increased to Rs. 3,18,58,700.38 as at 31<sup>st</sup> March, 2017 . The assessee received share application money of Rs.23,49,364/- from four parties during the year under consideration , and has repaid Rs.5,68,525/- to three parties as tabulated below:-

S. No.	Particulars	Opening Balance (In Rs.)	Transaction during the year		Closing Balance In Rs.
			Debit In Rs.	Credit In Rs.	
1	Amit Chadha	17,42,890			17,42,890
2	Anil Kumar Chadha	2,44,000			2,44,000

3	Komal Chawla	31,44,000		50,000	31,94,000
4	Manik Chawla	14,33,408.41	90,000		13,43,408.41
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6	Om Pramash Chawla	1,38,020			1,38,020
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8	PalcoPlast Pvt. Ltd.	31,54,480		17,99,364	49,53,844
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10	Suneet Chawla	1,50,000			1,50,000
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13	Sushil Chawla	3,83,319	78,525		3,04,794
<b>Total</b>		<b>3,00,77,861.38</b>	<b>5,68,525</b>	<b>23,49,364</b>	<b>3,18,58,700.38</b>

3.3.3.2 I have observed that the assessee has stated to have received share application money during the year under consideration from Directors , their relatives as well as the company under the same management. I have observed that Palco Plast Limited while replying before the AO in response to notice u/s 133(6) submitted that the said amounts were given/received back as unsecured loans. They accounted in their books of accounts as unsecured loans , but the assessee classified as share application money. There was no intention of issuing shares by the assessee. Later, the assessee accepted that these are unsecured loans and not share application money. Be that as it may be, these are cash credits for the purposes of Section 68. These amounts were raised through banking channels. I have observed that the assessee had duly filed bank statements of all the parties in the PB filed with ITAT. I have also observed that assessee has filed confirmations from these parties. I have observed that the assessee has duly filed copies of ITR of the aforesaid parties. These amounts have been received by the assessee and stated to be utilized to repay secured loan received from Reliable Finvest Pvt. Ltd. of EMI of Rs. 290854/- , which was stated to have been raised for construction of building.

Further, the amount raised during the year towards share application money was stated to be utilized for electricity, payments to RIICO , repairs and renovation of business premises and repayment of old dues. The assessee has also filed its bank statement in Paper Book(PB) filed with ITAT. I have carefully gone through all the documents. I have observed that the assessee has duly discharged its primary onus u/s 68 of the 1961 Act. Present proceedings are to determine taxable income under the 1961 Act, and are not proceedings under the Companies Act, SEBI, Securities Contract Regulation Act etc. . The authorities below proceeded to make addition u/s 68 on account of suspicion, conjectures and surmises. The authorities below has not brought on record any cogent incriminating material to rebut the initial onus u/s 68 which stood discharged by the assessee. The AO has concluded that since the business stood discontinued, there is no need to raise share application money, in my considered view, it is the businessman who has to decide the manner in which his business needs to be organized keeping in view commercial expediency , and not for the Revenue to sit on the arm chair of businessmen to decide as to the manner in which businesses are to be run by the assessee, unless the purpose of such organizing is malafide in order to evade taxes. Reference is drawn to the decision of Hon'ble Supreme Court in the case of *S A Builders (2007) 288 ITR 1(SC)*. In my considered view keeping in view facts and circumstances of the case, there is no justification for making additions of Rs.17,80,839/- u/s 68 of the 1961 Act, and I hereby direct to delete the same. I order accordingly.

4. The second addition as was made by the AO was to the tune of Rs.7,70,000/- which was made under the head income from House Property. The AO has observed that assessee received rental income of Rs.11,00,000/- during the year under consideration, which has been shown under the head income from business or profession. The assessee submitted before the AO that the assessee has entered into two agreements wherein the assessee has leased out factory and /office premises. The assessee also claimed that

assessee has paid Rs.6,57,126/- as lease rent and other charges to Rajasthan State Industrial Development & Investment Corporation (RIICO), land owning agency, during the year under consideration, the AO rejected the contention of the assessee as the TDS of the said income was deducted as rental income u/s 194-I of the Act. Further, the AO observed that the contentions of the assessee that it has leased out factory building so that the same be treated as business income is not found correct. The AO observed that the main purpose of the assessee is renting out. Thus, it is not possible to treat the same as business income. The AO treated rental income of Rs. 11,00,000/- as income from house property and allowed standard deduction u/s 24(a) @30% , and brought to tax income of Rs. 7,70,000/- as income from house property in the hands of the assessee.

4.2 Aggrieved, the assessee filed first appeal with the Ld. CIT(A) who observed that the AO has rightly taxed the income under the head income of house property, however, the assessee is entitled to be allowed deduction u/s 23 & 24 as per the Income Tax Act, 1961, for which the AO was directed to allow the deduction u/s 23 & 24 after verification of the record.

4.3 Still Aggrieved, the assessee has filed appeal with the Tribunal. The Id. Counsel for the assessee submitted that the assessee has let out factory building and office premises. It was submitted that it included electrical and other machinery setup, pollution control equipments and other equipments etc which were let out along with factory building. The copy of rent agreement is not filed. It was submitted by Id. Counsel for the assessee that the business operations of the assessee were discontinued in the financial year ending 31<sup>st</sup> March, 2015. It was submitted that the assessee has rightly brought to tax said income under the head 'Income from business or profession. The AO has brought to tax under the head income merely on the ground that the tax has to be deducted by the lessee u/s 194-I of the 1961 Act.

4.4 The Ld. Sr. DR relied upon the orders of the authorities below.

4.5 . I have considered rival submissions and perused the materials available on record. The assessee was engaged in running of business of dyeing and printing of cloth at its factory at Khuskhera Industrial Area, Bhiwadi, Rajsthan. Due to restriction on heavy pollution industry, it has to discontinue its business operations during the year ended on 31<sup>st</sup> March, 2015. I have observed that the assessee is claiming that it has let out the entire industrial unit consisting of factory land & building , electrical and other machinery set up to operate assessee's factory , office premises and office set up , and water pollution and other equipments, on rental basis for which the assessee received rent of Rs.11,00,000/- during the year under consideration. It is pertinent to mention that the business of the assessee being dying and printing of cloth at its factory at Bhiwadi stood closed as back as in the financial year ended 31<sup>st</sup> March 2015 due to being heavy polluting industry. I am presently concerned with assessment year 2017-18. Thus, the factory machinery cannot be put to use either by the assessee or by the tenant as there are no Government/Court orders on records which could substantiate that such machinery could be put to use, as already due to being heavy polluting industry the said factory was lying closed. Thus, there is impossibility attached with user of the machinery installed for dying and printing of cloth. Thus, it is the factory land, building , electrical equipments etc. which were rented out by the assessee, as the core dying and printing of clothe machinery cannot be put to use due to pollution restrictions. I have observed that the assessee has chosen not to file rent agreements in the paper book filed with the ITAT. I have observed from material on record that the assessee has merely let out the aforesaid property as it could not be put to use by the assessee due to aforesaid supervening impossibility, and the intention was to earn rental income. There was no such systematic business activities carried out by the assessee towards managing or running of the business activities, or maintaining of the said rented premises. I am of the considered

view that the AO and the learned CIT(A) has rightly brought to tax the said income under the head income from house property. I am also of the considered view that the assessee is entitled for deduction u/s 23 & 24 of the Act on merits in accordance with law. The AO has rightly allowed standard deduction @30% u/s 23(a). I have also observed that in his written submissions, the assessee has claimed that the assessee raised loan from Religare Finvest Limited for construction of building for expansion on which interest expenses has been paid. Thus, in my considered view, the assessee is eligible for deduction of interest paid on construction of aforesaid Building u/s 24, if the same were part of the property let out by the assessee, which need verification and enquiry by the AO. I am remitting the matter back to the file of AO, to compute the income from house property and allow applicable deductions u/s 23 and 24, after due verification and enquiry on merits in accordance with law. The AO shall provide opportunity of being heard to the assessee in accordance with principles of natural justice. I order accordingly.

5. The assessee is also aggrieved by disallowing of the business loss of Rs.8,24,305/- by the AO as was claimed by the assessee in its return of income filed with the revenue, and which was set aside by the Ld. CIT(A) while adjudicating first appeal to the file of the AO to verify the record and, accordingly, adjudicate the same. Before me, the assessee submitted that the Ld. CIT(A) remitted the matter to the file of the AO but the AO has not adjudicated the same. It is a faceless assessment and AO be directed to allow the losses.

5.2. The Ld. Sr. DR relied upon the order of the authorities below.

5.3. I have considered the rival contention and perused the materials available on record. Admittedly the assessee has discontinued the business operation since financial year ending on 31<sup>st</sup> March, 2015 due to restriction on heavy pollution industry. There is

no business activities carried out by the assessee during the year under consideration. Infact, there is supervening impossibility of carrying out its business of dying and printing of cloth at its factory owing to pollution restrictions. There is no Government/Court Order which allowed carrying out such activity, and hence there is impossibility of conducting business. The assessee has let out its land, factory building, electrical set up etc. with intention to earn rental income. The agreement of rent is not filed by the assessee with ITAT. The said rental income is treated as income from house property vide this order in preceding para's. Since , the assets have not been put to use for business purposes due to supervening impossibility owing to pollution restrictions and factory was lying closed, no business loss can be allowed except for expenses incurred for keeping the company running such as audit fee, Roc fee etc. The Id. CIT(A) has rightly set aside to the file of the AO to verify the record and adjudicate the same. The order of Id. CIT(A) is upheld. The AO is directed to decide this issue on merits in accordance with law vide speaking order, uninfluenced by any observation in this order. The AO shall provide opportunity of being heard to the assessee in accordance with principles of natural justice. I order accordingly.

6. The next issue concerns itself with respect to the profits made by the assessee on the sale of assets , to the tune of Rs.4,55,938/- ,which was credited in the P&L Account vide its books of accounts, but was reduced by the assessee while filing return of income owing to the claim of the assessee that the same was reduced from Block of Assets under the 1961 Act as the Block of the Asset has not ceased to exist, while the AO has brought the same to tax as Short term capital gains. The Id. CIT(A) dismissed this ground. The contentions of the assessee prima facie appears to be correct, and the AO is directed to verify the claim of the assessee, and if found correct, grant relief in accordance with law on merits. The AO shall provide opportunity of being heard to the assessee in accordance

with principles of natural justice. This issue is restored to the file of the AO. I order accordingly.

7. In the result, the appeal filed by the assessee is partly allowed in the manner as indicated above.

Order is pronounced in the Open Court on 18.06.2026

Sd/-  
**(RAMIT KOCHAR)**  
**ACCOUNTANT MEMBER**

Dated: 18.06.2026

*\*PK, Sr. Ps\**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**  
**ITAT NEW DELHI**