

आयकर अपीलीय अधिकरण, चंडीगढ़ न्यायपीठ, चंडीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
CHANDIGARH BENCH, 'SMC', CHANDIGARH

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./ **ITA No. 239/CHD/2025**

निर्धारण वर्ष / Assessment Year : 2012-13

Jankey Polymers, Khatoni No.210/213, Khasra No. 482, Village Tirpa Hadbest No. 195 Barotiwala, Himachal Pradesh 174103	बना म Vs.	The ITO, Baddi
स्थायी लेखा सं./PAN NO: PTLJI1625F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

( Physical Hearing )

निर्धारिती की ओर से/Assessee by : Sh Ravinder Sharma, CA  
राजस्व की ओर से/ Revenue by : Smt. Priyanka Dhar, Sr. DR

सुनवाई की तारीख/Date of Hearing : 11-11-2025  
उद्घोषणा की तारीख/Date of Pronouncement : 17-11-2025

**आदेश/Order**

This appeal by the assessee is directed against the order  
of the Commissioner of Income Tax (Appeals), NFAC, dated  
17.03.2022, for the assessment year 2012-13.

2. The grounds of appeal raised by the Assessee are as  
under: -

*1. The Learned CIT (A) has wrongly confirmed the addition of Rs 40,00,000 under section 68, when in fact:*

- a) the Loan from Balkishan Damani HUF of Rs 18,00,000/- stands already repaid in FY 2013-14 through banking channel and each year interest has been paid to the lender.*
- b) the Loan from CHUNILAL KOTHARI (HUF) of Rs 7,00,000/- stands already repaid in FY 2019-20 through banking channel and each year interest has been paid to the lender.*
- c) Out of the Loan from Kanhaiyalal Rathor HUF of Rs 10,00,000/-, Rs 5,00,000/- stands already repaid in FY 2019-20 through banking channel and Rs 5,00,000/- is outstanding as on date and each year interest has been paid to the lender.*
- d) the Loan from SUSHMA KABRA of Rs 5,00,000/- stands already repaid in FY 2011-12 through banking channel and each year interest has been paid to the lender.*

*For all the above submissions Bank Statement highlighting the entries of repayment and ledgers of the respective lenders as per the books of the assessee are attached.*

*The ratio of the cases upon which the learned CIT(A) has relied is not applicable in the assessee's case. The submissions made by the assessee have not been considered by the CIT(A). The fact that the unsecured loans have been given out of the borrowings/accumulated capital*

*sources has not been considered by the CIT(A) nor cash flow given has been considered. Sec133(6) notice was also not given by the AO. No hearing opportunity by way of VC has been given. For loan transaction it is well settled that under section 68 the assessee has to prove three conditions, viz. (1) the identity of the creditor, (2) the "capacity" /Source of such creditor to advance the amount, and (3) the genuineness of the transaction. All the three conditions have been satisfied in case of the above lenders. Identity of the Creditors have been established as the PAN has been furnished. Capacity of the creditor has been established as he has prepared the financial statements and given the ITR along with Computation of Income. Genuineness of the transaction has been proved as the transaction is through proper bank channel.*

2. *Any other ground or grounds as may be urged at the time of hearing.*
3. *The Appellant craves leave to add, amend, alter vary and/or withdraw any or all the above grounds of appeal.*

### 3. Background

The assessee is a partnership firm engaged in the manufacturing of plastic mounded items filed its return of income for AY 2012-13 on 21.9.2012 declaring NIL income after claiming deduction u/s 80IC of the Income Tax Act, 1961 (in short 'the Act') of Rs. 17,28,126/-. The case of the

Assessee was later selected under CASS and notice u/s 143(2) was issued and in response the Ld. AR attended the assessment proceeding the furnished the requisite details in respect of each of the persons namely Balkrishan Damahi HUF, Chunni Lal Kohtan HUF, Kanahiyalal Rathore HUF and Sm. Sushma kabra. However, the AO being not satisfied with the details furnished, made a total addition of Rs. 40 lacs to the income of the Assessee.

4. Aggrieved, the Assessee preferred an appeal before the Ld. CIT(A) and the Ld. CIT(A) after considering the detailed submissions of the Assessee, found that the Assessing Officer was right in making the additions and confirmed the addition so made by the Assessing Officer.

5. Against the said confirmation of addition made by the Ld. CIT(A), the Assessee is in appeal before the Tribunal.

6. Before us, the Ld. AR has submitted that the addition confirmed by the Assessing Officer to the extent of Rs. 40 lacs is without any basis. It was submitted that the additions were made by the Assessing Officer (AO) on the ground that

Assessee was not able to prove the genuineness, identity and creditworthiness of the following four persons.

- 1) Balkrishan Damahi HUF
- 2) Chunni Lal Kohtan HUF
- 3) Kanahiyalal Rathore HUF
- 4) Smt. Sushma kabra.

7. It was submitted by the Ld. AR that the Assessee have failed to produce the documents before the lower authorities to prove the genuineness, creditworthiness and identity of the creditors as the Assessee was not having the sufficient documents at that point of time. On appeal, the Ld. CIT(A) had confirmed the order passed by the Assessing Officer. It was the contention of the Assessee before us that the Assessee had received the amount from Balkrishan Damani HUF and the said amount was reflected in the bank account of the Assessee. Further, it was submitted that M/s Balkrishan Damani HUF had received the amount through banking channel from the partners of the Assessee namely Sanjay Jaju. It was submitted that the said Balkrishan Damani HUF, in the earlier years has given an amount as loan to Shri Sanjay Jaju which has been returned by Shri Sanjay Jaju through banking

channel. Similar is the position with respect to Shri Chunni Lal Kothari HUF and Kanhaiyalal Rathor HUF. There also, the said Shri Sanjay Jaju partner of the Assessee on earlier occasion has taken a loan from that entity and thereafter had returned the amount to this entity during year under consideration through banking channel and ultimately these companies have given their loans to the Assessee.

8. In view of the above, the Assessee had submitted the identity, creditworthiness and genuineness of these parties have duly been proved. Further, with respect to the fourth i.e. Smt. Sushma Kabra from whom the amount of Rs. 5,00,000/- was received during the year was returned back by the Assessee to the said Sushma Kabra on 12.2.2012. The Assessee had placed on record confirmation, the ledgers and the bank statement of Sushma Kabra to prove the creditworthiness, genuineness and identity.

9. Per contra, the 1d. DR relied on the order passed by the lower authorities.

10. I have heard the rival submissions and perused the material available on record. The disputed additions relate to

loans aggregating to ₹35,00,000/- received by the assessee from M/s Balkishan Damani HUF (₹18,00,000/-), Chunni Lal Kothari HUF (₹7,00,000/-) and Kanhaiyalal Rathor HUF (₹10,00,000/-){ herein after called as HUF). Before the lower authorities, the assessee had failed to file any documentary evidence to establish the creditworthiness of these three lenders. The Ld. CIT(A), in para 5.2 of the appellate order, has noted that M/s Balkishan Damani HUF had an opening balance of merely ₹2,403/- on 01.04.2011 and that deposits immediately preceding the loan were made in its bank account without any supporting explanation. No balance sheet, statement of affairs, capital account, loan ledger, bank trail, or confirmation was produced to demonstrate availability of funds.

11. The assessee has contended before me that these HUFs had earlier advanced loans to Shri Sanjay Jajju in preceding years, and Shri Sanjay Jajju repaid the same amounts to each of these HUFs, and that these repaid amounts were subsequently forwarded to the assessee as loans. However, no documentary evidence of this entire fund flow—such as (i) loan agreements between the HUFs and Shri Sanjay Jajju, (ii) proof

of earlier disbursements, (iii) repayment evidence by Shri Sanjay Jajju, and (iv) corresponding bank entries in the books of the HUFs—was ever produced before the AO or the CIT(A). Thus, based on the material then on record, the Ld. CIT(A) was justified in holding that the assessee failed to prove creditworthiness and genuineness. A similar deficiency exists in the cases of Chunni Lal Kothari HUF and Kanhaiyalal Rathor HUF.

12. During the hearing before me, the assessee has now produced a balance sheet, confirmations and supporting documents to demonstrate the full trail of transactions, namely:

- That M/s Balkishan Damani HUF (₹18,00,000/-), Chunni Lal Kothari HUF (₹7,00,000/-) and Kanhaiyalal Rathor HUF (₹10,00,000/-) had advanced loans to Shri Sanjay Jajju in earlier years,
- That Shri Sanjay Jajju repaid exactly these amounts to the respective HUFs, and that the said HUFs thereafter advanced the same repaid amounts as loans to the assessee.

- These documents were never placed before the AO or the Ld. CIT(A) and have not been subjected to factual verification. The complete fund flow, amount paid and repaid, bank entries, and consistency with books of account now require detailed examination.

13. In view of the above, although the adverse findings of the Ld. CIT(A) were justified on the basis of the material then available, the newly produced evidences relating to the trail of transactions require thorough verification. Accordingly, the issue relating to the addition of ₹35,00,000/- is hereby remanded to the file of the Ld. CIT(A), subject to the payment of cost of Rs. 3000/- to be deposited in Prime Minister Relief Fund, with the following mandatory directions:

- (i) The Ld. CIT(A) shall verify the complete chain of transactions, including the earlier loans advanced by the HUFs to Shri Sanjay Jajju, the repayments by Shri Sanjay Jajju, and the subsequent loans advanced to the assessee.
- (ii) The assessee is directed to produce ALL relevant documents, including bank statements, confirmations, ledgers, balance sheets, loan agreements, evidence of repayment and re-disbursement, at the very first hearing, without seeking any adjournment.

(iii) Failure to produce the documents on the first date of hearing shall entitle the Ld. CIT(A) to draw an adverse inference under Section 68.

(iv) After verifying the fund trail, amounts paid and repaid, and genuineness and creditworthiness of all parties, the Ld. CIT(A) shall pass a speaking order in accordance with law after affording due opportunity of hearing.

14. Regarding the addition of ₹5,00,000/- relating to the loan from Smt. Sushma Kabra, it remains undisputed that she is a regular taxpayer, that she received funds from her husband, and that the loan was duly repaid by the assessee during the same year. The AO and the Ld. CIT(A) have not brought any contrary material to disprove these facts. Accordingly, the addition of ₹5,00,000/- is deleted.

Order pronounced on 17-11-2025.

**Sd/-  
( LALIET KUMAR )  
Judicial Member**

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,  
CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar