Principal Commissioner of Income Tax-5, Kolkata v. Raghvendra Mohta

ITAT/51/2025 (IA Nos: GA/1/2025, GA/2/2025)

ITAT/51/2025, High Court at Calcutta, 5 May 2025 | 2025-05-05

The Revenue appeal was dismissed and the questions answered against it after condoning 117 days' delay.

Income-tax Act, 1961: 120, 143(2), 143(3)

High Court at Calcutta | Division Bench | T. S. Sivagnanam | Chaitali Chatterjee (Das)

Assessment years: 2014-15

Scope of this source order

The additions relating to alleged penny-stock gains were not decided on their merits. Keep the jurisdictional holding separate from any claim that the transactions were genuine.

01 FACTS OF THE CASE

After condoning Revenue's explained delay of 117 days, the Court considered its section260A appeal against ITAT's 8 April 2024 order in ITA2416/Kol/2017 for AY2014–15. The assessee had returned nil income. The dispute concerned the AO's jurisdiction, notices under sections143(2) and142(1), and the 29 December 2016 assessment. Revenue's proposed question also referred to Rs.42,27,500 under section68 and Rs.1,48,657 under section69C relating to alleged penny-stock accommodation entries.

Source: Opening and questions, PDF pp.1–2; notice history pp.2–3

02 DISCUSSION BY THE HON'BLE COURT

The Tribunal found inherent lack of jurisdiction after considering section120 and CBDT Instruction1/2011. The High Court noted that the Tribunal had followed Bhagyalaxmi Conclave and that Revenue's appeal in that case, ITAT221/2022 etc., had been dismissed in the judgment reported at 2022 (12) TMI1514 on an identical question. It therefore upheld setting aside this assessment for lack of inherent jurisdiction.

Source: Reasons, PDF pp.2–3

03 JUDICIAL DECISION

Revenue's appeal was dismissed and the substantial questions of law answered against Revenue. The Tribunal's jurisdictional annulment was upheld.

Source: Concluding reasons and disposition, PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

Assessee-favourable final jurisdictional result. The Court did not decide whether the alleged penny-stock gain was genuine or substantively exempt, nor did it order a fresh assessment in this judgment.

Source: Questions p.2; operative reasoning p.3

05 EXPERT COMMENTS

Jurisdiction is the decisive ground — The High Court sustained annulment for inherent lack of jurisdiction, following the earlier decision on an identical question. Preserve that basis when using the case: the result is not a merits ruling accepting Ashika Credit Capital share transactions or rejecting the evidence behind the additions.

Do not turn Revenue's proposed question into the rule — The proposition that Instruction1/2011 merely distributes work and PAN jurisdiction validates the notice appears in Revenue's question. The Court answered against Revenue. A sound comparison requires the actual allocation instruction, return and officer details; this short order does not set out every monetary threshold or an exhaustive jurisdiction test.

Separate delay relief from success in the appeal — Condonation of117 days allowed Revenue's challenge to be considered, but the appeal still failed. Equally, the judgment contains no fresh-assessment direction. Procedural access, jurisdictional validity and underlying tax merits are separate matters, and none should be inferred from the other.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 3-page source PDF; corrected note based on this document.

All 3 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Source-era statutory provisions only; no Income-tax Act, 2025 equivalence asserted.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.