

Principal Commissioner of Income Tax-1, Kolkata v. Russel Credit Limited

ITAT 153 of 2025 with IA No. GA 2 of 2025

ITAT 153 of 2025 (Cal HC, decided 20.02.2026) | 2026-02-20

Section 263 revision quashed: gain of Rs. 12.97 crore on sale of unquoted ICICI Bank preference shares held for 6 years pursuant to Board resolution rightly accepted as LTCG under CBDT Instruction dated 02.05.2016.

Income-tax Act, 1961: sections 28, 45, 142(1), 143(3), 260A and 263 | CBDT Instruction F.No. 225/12/2016/ITA.II dated 02.05.2016

High Court at Calcutta | 2-judge bench (Division Bench) | Rajarshi Bharadwaj, J. | Uday Kumar, J.

Assessment years: 2018-19

Revenue cannot sustain section 263 revision by introducing a new factual plea before the ITAT

The Division Bench emphasised (paragraphs 9-12, PDF pp. 5-7) that the Revenue's contention that the unquoted preference shares had been converted from stock-in-trade into capital asset—absent from both the section 263 show-cause notice and the PCIT's revision order—could not be raised for the first time before the Tribunal to expand the scope of section 263.

01 FACTS OF THE CASE

In June 2012, the assessee (Russel Credit Limited), pursuant to a specific Board resolution authorising long-term investment, acquired 34 unquoted preference shares of ICICI Bank Limited for Rs. 15,82,07,058. After holding the shares for nearly six years, the assessee sold them in March 2018 (AY 2018-19) for Rs. 32,71,82,000 and declared long-term capital gain (LTCG) of Rs. 12,97,56,648. During scrutiny under section 143(3), the Assessing Officer issued a specific notice under section 142(1) inquiring into capital gains, examined the assessee's explanation and supporting documents, and passed an assessment order dated 05.03.2021 accepting the LTCG claim. The Principal CIT invoked section 263 on 18.03.2023 to treat the gain as business income under section 28 solely because the shares appeared under 'Current Assets / Stock-in-Trade' in the balance sheet. The ITAT quashed the section 263 order on 19.03.2024.

Source: [Paragraphs 2-4; PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench held that the twin conditions of section 263—that the assessment order be both erroneous and prejudicial to the interests of the Revenue (*Malabar Industrial Co. Ltd. v. CIT*, (2000) 243 ITR 83 (SC))—were absent: (1) the AO had conducted a specific inquiry via section 142(1) notice and adopted a plausible view; (2) under *Investment Ltd. v. CIT*, (1970) 77 ITR 533 (SC), accounting entries or balance-sheet nomenclature are not determinative of the true legal character of a transaction, which was established by the June 2012 Board resolution and a six-year holding period without any trading in such unquoted shares; (3) the Revenue could not shore up a section 263 order by alleging conversion of stock-in-trade into capital asset for the first time before the ITAT when no such allegation existed in the section 263 show-cause notice or order; and (4) CBDT Instruction dated 02.05.2016 binds the department to accept gains on transfer of unlisted shares as capital gains absent specific exceptions (such as sham transactions or transfer of underlying business control), none of which was invoked by the PCIT.

Source: [Paragraphs 6-14; PDF pp. 4-7](#)

03 JUDICIAL DECISION

Answering all substantial questions of law in the negative and against the Revenue, the High Court dismissed ITAT 153 of 2025 and connected application IA No. GA 2 of 2025, affirming the Tribunal's order dated 19.03.2024.

Source: [Paragraphs 15-17; PDF pp. 7-8](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (*Russel Credit Limited*). The Revenue's appeal was dismissed and the quashing of the section 263 revision order stood affirmed.

Source: [Paragraphs 15-17; PDF pp. 7-8](#)

05 AKHB REVIEW POINT

AKHB analysis: where unlisted or unquoted shares held for a multi-year period are inadvertently grouped under current assets or inventory schedules in financial statements, anchor the capital-gains characterisation in contemporaneous Board investment resolutions, non-trading history, section 142(1) scrutiny replies, and CBDT Instruction dated 02.05.2016 (F.No. 225/12/2016/ITA.II). Also verify whether any new theory raised by the DR in appellate proceedings travels beyond the four corners of the PCIT's section 263 show-cause notice.

Source: [AKHB analysis based on paragraphs 6-14 / PDF pp. 4-7](#)

SOURCE & VERIFICATION

[Calcutta High Court official judgment PDF - AKHB Cloud Repository](#)

Eight-page official Calcutta High Court judgment PDF (Form No. J(2), Original Side); paragraphs 1-17 span PDF pages 1-8.

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

Open cited source rendition

Full 8-page official Calcutta High Court PDF read and verified. Original bytes match SHA-256 58ea810ce532b7ed2e516e0f1a1100834490022c6e4c9c3915120d25dc73973b.

STATUTORY SCOPE

Applies sections 28, 45, 143(3) and 263 of the Income-tax Act, 1961 read with CBDT Instruction dated 02.05.2016 for AY 2018-19. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-16. Full judgment checked. Applies *Malabar Industrial Co. Ltd. v. CIT*, (2000) 243 ITR 83 (SC) and *Investment Ltd. v. CIT*, (1970) 77 ITR 533 (SC). Comprehensive subsequent judicial treatment has not been verified.

AI DISCLOSURE

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