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, 119, 142(1), 143(3), 260A and 263 | CBDT Instruction dated 2 May 2016; Circular 6/2016 dated 29 February 2016

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

Assessment years: 2018-19

Corrected dates and authorities; result unchanged

The source identifies assessment on 8 March 2021, revision on 27 February 2023 and the ITAT order on 23 October 2024. The earlier note gave different dates and attributed authorities not cited in this judgment.

01 FACTS OF THE CASE

For AY 2018–19, the AO's 8 March 2021 assessment accepted Rs.12,97,56,648 from the sale of 34 unquoted ICICI Bank preference shares as long-term capital gain. The shares were acquired in June 2012 following a 21 May 2012 Board resolution authorising investment and sold in March 2018. The PCIT revised the assessment on 27 February 2023, citing stock-in-trade classification, excess loss set-off and a capital-loss issue. The ITAT's 23 October 2024 order restored the AO's view. Revenue's four High Court questions concerned revision, alleged conversion of stock into an asset, the character of the share gain and Circular 6/2016.

Source: Paras.1–4.7; PDF pp.1–4

02 DISCUSSION BY THE HON'BLE COURT

The Court found that the AO had made a section 142(1) inquiry and considered the Board resolution, transaction documents and gain computation. A short assessment order did not establish absence of inquiry; the AO had adopted a supported view. The new conversion theory lacked a finding in the assessment or revision order and could not supply a fresh factual basis in appeal. On characterisation, investment intent, nearly six years' holding, an isolated sale and consistent cost valuation outweighed accounting labels. The Court applied the 2 May 2016 Instruction for unlisted shares, finding no established exception; it distinguished the listed-share rule in paragraph 3(b) of Circular 6/2016.

Source: Paras.6–17; PDF pp.3–7

03 JUDICIAL DECISION

The Court expressly answered all four questions in the affirmative, specifying that the answers favoured the assessee and were against Revenue. It upheld the ITAT's setting aside of revision and restoration of the assessment. Revenue's appeal and GA 2 of 2025 were dismissed; no costs were ordered.

Source: Paras.18–20; PDF pp.7–8

04 OUTCOME / IN WHOSE FAVOUR

The assessee retained the benefit of the Tribunal's order quashing section 263 revision. The source does not support the earlier note's purchase-cost and sale-price figures. Its capital-gain conclusion rests on the stated evidence and applicable instruction, not merely a balance-sheet label or holding period.

Source: Paras.13–20; PDF pp.5–8

05 EXPERT COMMENTS

Prove inquiry through the assessment record — The relevant material was the specific notice and the taxpayer's evidence, not the length of the final assessment order. Preserve the question, reply, investment resolution and computation together. This decision protects a supported view actually considered; it does not say that every silent assessment has necessarily examined the claim.

Investment character requires cumulative evidence — The Court combined intention at acquisition, cost valuation, duration and absence of repeated dealing. A Board resolution or long holding period alone should not be treated as decisive. Reconcile the accounting description with actual conduct and transaction records; do not simply relabel inventory after a sale.

Select the instruction for the relevant asset — The Court separated listed-share Circular 6/2016 from the unlisted-share Instruction of 2 May 2016 and found no substantiated exception in this case. Verify the instrument's status and the instruction's conditions before relying on that reasoning. The judgment does not exempt a sham transaction from factual examination.

Do not repair revision through a new factual case — The conversion theory was not a finding in the AO's or PCIT's orders. Compare the actual revision grounds with the appellate defence before treating a later allegation as a basis for jurisdiction. This addresses the unsupported factual shift identified here, not every legal submission an appellate forum may entertain.

Source: Editorial analysis; paras.6–17, PDF pp.3–7

SOURCE & VERIFICATION

Calcutta High Court official judgment PDF - AKHB Cloud Repository

Eight-page judgment, own paragraphs 1–21. Four questions concern revision and the character of gains on unlisted preference shares.

All 8 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

Section 263 revision and capital-gain classification for AY 2018–19; the judgment distinguishes the listed-share Circular 6/2016 from the unlisted-share Instruction of 2 May 2016.

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.

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