

The Peerless General Finance and Investment Company Ltd. v. Commissioner of Income Tax

Civil Appeal No. 1265 of 2007

[2019] 18 S.C.R. 957 | 2019-07-09

Whether the disputed repayable subscriptions received under Peerless's investment schemes were taxable income merely because the company credited them as income, notwithstanding their capital character and the absence of actual forfeiture.

Two-judge bench | R. F. Nariman, J. | Sanjiv Khanna, J.

Assessment years: 1985-86, 1986-87

Assessment-year discrepancy and receipt exclusions

The referred questions and High Court answers identify AYs 1985-86 and 1986-87; the opening paragraph instead prints 1986-97. The note preserves that source discrepancy. The disputed non-forfeited subscriptions were held capital; the admitted 3% income and surrendered certificates are outside this relief.

01 FACTS OF THE CASE

Peerless collected public subscriptions under investment schemes that required eventual repayment with interest. The schemes also contained forfeiture clauses. It was accepted before the Supreme Court that amounts actually forfeited mid-way would become income; 3% of the amounts was separately undisputed as income for the relevant years. Those qualifications are essential to the dispute's scope (paragraphs 1-3).

The Assessing Officer treated the disputed receipts as income because Peerless had credited them to its profit-and-loss account; CIT(A) agreed. The Tribunal reversed, relying on the second Peerless decision, the repayable nature of the receipts, the lack of actual forfeitures and the principle that account entries do not control legal tax character. It separately referred to surplus on surrendered certificates, but surrendered certificates were not before the Supreme Court in this appeal. After the High Court initially rejected the reference applications, the Supreme Court in 2002 directed consideration of three questions. On remand, the Calcutta High Court's 6 October 2005 judgment favoured Revenue on the potential for forfeiture, the company's own accounting treatment and the prospectivity of the 1987 RBI directions (paragraphs 3-7).

A supplementary affidavit relied on the High Court's interim order dated 3 September 1979 and confirmed that no subscriptions had actually been forfeited in the years in question. The appeal concerned AYs 1985-86 and 1986-87 as identified in the referred questions and quoted High Court answers; the differing 1986-97 label in the opening paragraph is recorded in the assessment-year note (paragraphs 3, 5, 7 and 8).

Source: [reported judgment / paragraphs 1-7 / PDF pages 3, 4, 5, 6, 7 / judgment](#); [official signed judgment / paragraphs 2-3; 7-8 / PDF pages 1, 2, 3, 4, 8, 9 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

On the actual scheme and facts, the subscriptions remained repayable deposits and had never been forfeited. Potential contractual forfeiture did not make the disputed receipts income at inception. Paragraph 8 expressly excludes surrendered certificates from the appeal. The Court's conclusion therefore concerns the non-forfeited capital receipts in dispute, not every amount received under the schemes or every later surplus (paragraphs 2-3 and 8).

The Court examined the second Peerless judgment, which had upheld RBI directions of 15 May 1987, including a requirement to show deposits and associated returns as liabilities. Although the earlier litigation focused on the directions' validity, both judicial opinions had also explained on general principles that deposit contributions were capital receipts and that crediting such liabilities as income conflicted with the Companies Act accounting framework. The present Court rejected the High Court's attempt to confine those pronouncements to prospective operation of the RBI directions. It treated the Supreme Court's legal pronouncement as binding on the High Court even though the tax-character question had not been its direct focus, and also reached the capital conclusion independently on general principles. It did not need to declare the regulatory directions retrospectively applicable (paragraphs 9-10).

The Court endorsed the true-character approach applied in Sahara Investment and noted dismissal of the appeals against that decision. Bookkeeping entries do not determine tax character; the principle operates by examining the receipt itself rather than accepting whichever ledger classification favours either party. Nor could the company be estopped from asserting the settled legal character merely because it had shown the receipt as income (paragraph 10).

Ram Janki Devi concerned whether a particular loan was a deposit, a different dispute from the classification at issue here. Poona Electric's emphasis on the business reality, viewed without disregarding statutory language, also did not help Revenue: the business reality of the repayable subscriptions was capital. The Court set aside the High Court's judgment and restored the Tribunal's result (paragraphs 11-14).

Source: [reported judgment / paragraphs 8-10 / PDF pages 7, 8, 9, 10, 11 / judgment](#); [reported judgment / paragraphs 11-13 / PDF pages 11, 12 / judgment](#); [official signed judgment / paragraphs 8; 10-13 / PDF pages 8, 9, 13, 14, 15, 16 / judgment](#)

03 JUDICIAL DECISION

The assessee's appeal was allowed; the Calcutta High Court judgment was set aside and the Tribunal's judgment restored, with no order as to costs. The disputed repayable subscriptions, which had not been forfeited, were capital receipts notwithstanding their treatment as income in the accounts. The admitted 3% income remained outside the disputed relief, and surrendered certificates were expressly outside the appeal (paragraphs 2-3, 8 and 14).

Source: [reported judgment / paragraphs 2-3; 8; 14 / PDF pages 3, 4, 7, 12 / judgment](#); [official signed judgment / paragraphs 14 / PDF pages 16 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the disputed non-forfeited subscription receipts

Appeal allowed; High Court judgment set aside; Tribunal restored; no costs

Capital character of the disputed repayable subscriptions finally determined

No relief is inferred for the admitted 3% income. Actual forfeiture was accepted to create income, and surrendered certificates were not within the Supreme Court appeal. No universal exemption for all scheme receipts or capital transactions.

Source: [reported judgment / paragraphs 2-3; 8; 14 / PDF pages 3, 4, 7, 12 / judgment](#); [official signed judgment / paragraphs 14 / PDF pages 16 / judgment](#)

05 AKHB REVIEW POINT

Reconcile the scheme contract, repayment obligation and certificate-level events with the ledgers. Distinguish outstanding repayable subscriptions from amounts actually forfeited, surrendered-certificate surplus and any admitted income component. The judgment's result depends on the established absence of forfeiture; a label such as subscription is insufficient by itself.

Accounting entries are evidence of treatment, not a substitute for the receipt's legal character. A company's earlier offer of a receipt as income does not create estoppel against the settled legal position, but that does not dispense with proving the scheme and factual obligations. Do not turn this into a claim that every capital receipt is exempt under every statutory regime or that every regulatory direction operates retrospectively.

For citation, disclose the source's AY discrepancy and rely on the repeated referred questions/answers for the 1986-87 index. Keep the 3% admission and surrendered-certificate exclusion visible. Check the applicable statutory charging provisions, later amendments and treatment for another case; no automatic Income-tax Act, 2025 mapping is made.

Source: [reported judgment / paragraphs 2-3; 8-14 / PDF pages 3, 4, 7, 8, 9, 10, 11, 12 / judgment](#)

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: No numbered charging or computation provision expressly construed

Role: Capital-versus-revenue character and effect of accounting treatment

Basis: The judgment decides the nature of the particular repayable, non-forfeited subscriptions on general principles; no section number is inferred solely for indexing.

2.

Act: Reserve Bank of India Act, 1934

Section: 45J; 45K

Role: Background authority for the 15 May 1987 directions considered in the earlier Peerless case

Basis: Paragraph 9 discusses the regulatory history; the present result does not depend on retrospectively applying the 1987 directions.

3.

Act: Companies Act, 1956

Section: Schedule VI, Part II

Role: Accounting framework considered through the earlier Supreme Court pronouncements

Basis: Repayable deposits were liabilities rather than company income; paragraphs 9-10.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. F. Nariman, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(official signed judgment\)](#)

Identified source rendition: 16 PDF pages; SHA-256

ea680a0e5c34a053c8a89c96c5df0508d10baf36fbc7bc48725a25fe40017abb. Original bytes preserved.

One signed judgment, paragraphs 1-14, on physical pages 1-16; signatures and date on page 16.

Cover, case number, author, signatures/date and selected substantive passages checked against the fully read reported judicial text. No full independent reread of the separate official rendition is claimed; cryptographic signature validity was not tested.

[Open cited source rendition](#)

The AY 1986-97 label appears in the original paragraph 1 and reported opening/headnote. Referred questions in paragraph 3 and reproduced High Court answers in paragraph 7 repeatedly identify 1986-87. The discrepancy is explicit; originals remain unchanged.

Paragraph 3 expressly records an undisputed 3% income component. It is not included in the disputed capital-receipt relief.

Paragraph 8 expressly excludes surrendered certificates. The Tribunal's discussion of surrender surplus is factual background, not a Supreme Court merits adjudication of those amounts.

The possibility of future forfeiture is distinct from actual forfeiture; no subscriptions were forfeited in the relevant years on the accepted record.

The result does not declare the 1987 RBI directions retrospective, nor that all capital receipts are outside any possible statutory charge.

No numbered Income-tax Act section is imported from a digest or assumed simply to populate the statutory index.

SCR citation verified on the cover. Catalogue neutral citation 2019INSC732 is not independently verified from the inspected renditions and is not adopted.

AYs 1985-86 and 1986-87 are repeatedly identified in the referred questions in paragraph 3 and the High Court answers reproduced in paragraph 7. Paragraph 1 of both the official original and reported text, and the reported headnote, instead print 1986-97. This apparent source typo is disclosed, not silently treated as an additional assessment year; underlying assessment records were not obtained.

STATUTORY SCOPE

General income-tax capital/revenue principles applied to subscriptions for AYs 1985-86 and 1986-87 as identified in the referred questions, with RBI Act sections 45J/45K, the 15 May 1987 directions and Companies Act 1956 Schedule VI considered historically. No unmentioned Income-tax Act section or current exemption is inferred.

No automatic Income-tax Act, 2025 crosswalk, comprehensive later-treatment audit or present-law certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory changes have not been comprehensively verified. Any separately identified later authority or amendment is a bounded check, not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 16](#)

SHA-256: ea680a0e5c34a053c8a89c96c5df0508d10baf36fbc7bc48725a25fe40017abb

[reported judgment - PDF pages: 12](#)

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