

GAHC010045692026



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : ITA/2/2026

DEBABRATA SAHA AND ANR
(PROPRIETOR, MOTORSTAND FOREIGN LIQUOR SHOP) SON OF SRI BINOD
LAL SAHA, RESIDENT OF SHANT PARA, TRIPURA- 799001, AGARTALA

2: JAYANTA ROY
(PROPRIETOR
SONAMURA FOREIGN LIQUOR SHOP NO. 02) S/O LATE MANORANJAN
ROY
R/O HOUSE NO. 2
MATH CHOWMUHANI
KAMARPUKUR
A.A ROAD
AGARTALA
WEST TRIPURA- 79909

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NEW DELHI.

2:THE ADDITIONAL COMMISSIONER OF INCOME TAX (BP) -CUM-
APPROVING AUTHORITY
AYAKAR BHAWAN
CHRISTIAN BASTI
G.S. ROAD
GUWAHATI-781005.

3:THE ASSISTANT COMMISSIONER OF INCOME TAX (BP) -CUM-
INITIATING OFFICER
AYAKAR BHAWAN
CHRISTIAN BASTI
G.S. ROAD
GUWAHATI-781005.

4:THE INITIATING OFFICER
DEPUTY COMMISSIONER OF INCOME TAX (BENAMI PROHIBITION)
GUWAHATI
NEAR ROOM NO- 313
3RD FLOOR
AAYAKAR BHAWAN G.S. ROAD
CHRISTIAN BASTI
GUWAHATI-781005
ASSA

Advocate for the Petitioner : MR. H. BURAGOHAİN, MS A DEVI,MS. H BORAH,M
BURAGOHAİN

Advocate for the Respondent : DY.S.G.I., SC, INCOME TAX

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

01.06.2026

(Nelson Sailo, J)

1. Heard Mr. H. Buragohain, learned counsel for the appellants, who submits that by filing this appeal under Section 49 of the Benami Transactions (Prohibition) Amendment Act, 2016, the appellants have challenged the common order dated 05/01/2026 passed by the learned Appellate Tribunal at New Delhi under the Prohibition of Benami Property Transaction Act, 1988, as amended, in respect of MP-PBPT-938/GWH-2025 (Review), MP-PBPT-939/GWH/2025(CoD) in FPA-PBPT-928/GWH/2019 and (ii) MP-PBPT-964/GWH/2025 (Review) MP-PBPT-965/GWH/2025 (CoD) in FPA-PBPT-978/GWH/2019.

2. The learned counsel submits that the challenge made in the instant appeal

is squarely covered by the decision rendered by this Court in ITA No.1/2026 (Satyajit Saha & 9 Others vs. The Union of India & 3 Others) rendered vide order dated 30/01/2026, which is also annexed as Annexure-VI to the instant appeal. The learned counsel therefore submits that the impugned order may be set aside and pending final consideration, an interim order may be passed staying the order dated 05/01/2026 passed by the learned Appellate Tribunal.

3. At this stage, Dr. P. Agarwal, learned Standing Counsel appearing for the Income Tax Department submits that the appellants ought to have filed two separate appeals in view of the fact that there are two proceedings involved, namely FPA-PBPT-928/GWH/2019 and FPA-PBPT-978/GWH/2019. However, for reasons best known to the appellants, they have filed only one appeal, which will not be permissible. The learned Standing Council further submits that in the order dated 07/12/2022, it was clearly observed that if the appeals are allowed after governing it by the judgment of the Apex Court in the case of ***Union of India & Another vs. Ganpati Dealcom Private Limited***, reported in ***2022 SCC OnLine SC 1064***, the department would be at liberty to take appropriate remedies in case of review of the judgment of the Apex Court. She submits that since the Apex Court has reviewed the earlier judgment, the Appellate Tribunal was within its right to pass the impugned order.

4. Considering the above projection, we are of the view that the matter requires proper examination and therefore let Notice be issued returnable by 4 (four) weeks.

5. Dr. P. Agarwal, learned Standing Counsel accepts notice on behalf of respondent nos. 2, 3 and 4.
6. Appellants to take steps for service of notice upon the respondent no.1 by Speed Post within 3 (three) working days.
7. Extra copies be served to the learned counsel for the respondents within 2 (two) working days.
8. Having regard to the projection made by the learned counsel for the appellants and also the fact that this Court vide order dated 30/01/2026 in ITA No.1/2026 has taken a decision, we deem it proper to stay the operation of the common impugned order dated 05/01/2026 till the next returnable date.
9. The respondents may file their objection to the instant appeal, if so advised.
10. List the matter again on 16.07.2026.

JUDGE

JUDGE

Comparing Assistant