

GAHC010047952026



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

Case No. : WP(C)/1785/2026

DAWA TSERING THONGDOK
S/O- LATE KEJANG DANDU,
R/O- RUPA, RUPA CIRCLE, DIST- WEST KAMENG, ARUNACHAL PRADESH,
PIN-790003

VERSUS

THE UNION OF INDIA AND OTHER
REP. BY THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF
FINANCE, NORTH BLOCK, NEW DELHI

2:THE DIRECTORATE OF ENFORCEMENT
THROUGH ITS DEPUTY DIRECTOR
GUWAHATI ZONAL OFFICE -I
6TH FLOOR
MAINAAK TOWER
SHREE NAGAR
CHRISTIAN BASTI
GUWAHATI
KAMRUP (M)
ASSAM
PIN-78100

Advocate for the Petitioner : MR. S P SHARMA, MR. N SARMA,MS U SHARMA,DR. AK SARAF

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

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 27-03-2026

Heard Dr. A.K. Saraf, learned Sr. counsel assisted by Mr. S.P. Sharma, learned counsel for the petitioner. Also heard Mr. R.K.D. Choudhury, learned DSGI appearing for the respondent No. 1 and Mr. R. Dhar, learned standing counsel, Enforcement Directorate appearing for the respondent No. 2.

2. The petitioner has instituted the present writ petition assailing a summon dated 16-02-2026, issued by the respondent No. 2 invoking the provision of Section 50(2) of the Prevention of Money Laundering Act, 2002 (in short "the Act of 2002"), requiring the petitioner to give evidence and/ or produce documents as mentioned in the schedule to the said notice.

3. Dr. Saraf at the outset by referring to the provisions of the Act of 2002, has submitted that the power of the Enforcement Directorate (ED) to investigate into an offence so arises in the event a police case is registered and therein, the sections under which the case is registered falls within the offence set out in the schedule to the Act of 2002. Dr. Saraf, submits that the initiation of the criminal proceeding was the registration of Demow P.S. Case No. 13/2024, under Section 379/ 420/ 34 IPC read with Section 51-1A of the Assam Excise Act. Dr. Saraf submits that Section 420 having been incorporated in the Demow P.S. Case No. 13/2024 and the same being a scheduled offence under the Act of 2002, the ED authorities instituted an enquiry in the matter. Dr. Saraf further highlights that the police on conclusion of the investigation in Demow P.S. Case No. 13/2024, had laid a charge-sheet against the accused persons, therein, under Section

379/ 420/ 34 IPC read with Section 53A of the Assam Excise Act, 2010. It is submitted that the Trial Court while considering of framing charges against the accused in PRC Case No. 165/2024, upon examination of the materials brought on record in the charge-sheet, had found that there was no material to form a *prima-facie* opinion of commission of offence by the accused, therein, under Section 379/ 420/ 34 IPC and accordingly, the charges levelled under the said sections came to be dropped. It is further highlighted that the accused, therein, were charged only under Section 53-1A of the Assam Excise Act read with Section 34 of the IPC. Dr. Saraf, accordingly, submits that the accused in PRC Case No. 165/2024, arising from the Demow P.S. Case No. 13/2024, not being charged under any scheduled offence under the Act of 2002, the ED would not have jurisdiction to continue with further investigation in the matter in pursuance to the ECIR registered against one Sanjay Dewan and Ritu Dewan. Dr. Saraf further submits that the accused in Demow P.S. Case No. 13/2024, not being charged under offence which is a schedule offence in the Act of 2002, the notice issued to the petitioner invoking the provision of Section 50(2) of the Act of 2002, would not be sustainable.

4. Mr. R. Dhar, learned standing counsel, ED appearing for the respondent has disputed the said position and submits that a police case having been registered in the matter and therein, a scheduled offence being involved, the provisions of the Act of 2002, would stand automatically attracted and the subsequent dropping of the charges, which is also included as schedule offence under the Act of 2002, would not deprive the ED authorities of the jurisdiction to continue to investigate the matter. Mr. Dhar submits that the stand of the respondent represented by him would be brought on record by way of

filing an affidavit and therein, the ED authorities would in details, deal with the submission of the petitioner that on dropping of the schedule offence from the charges involved in the PRC Case No. 165/2024, the ED would loose its jurisdiction to continue to investigate the matter on the basis of the case already registered by it in the matter.

5. The submissions made by the learned counsel for the parties have been considered by this Court. This Court is of the considered view that the submissions made would require a detail consideration and the same would be permissible only after the respondents file an affidavit in the matter. Accordingly, the respondents are directed to file their affidavit on/ or before 30-04-2026.

6. On filing of such affidavit, the petitioner to file its rejoinder, if so advised, on/ or before 15-05-2026.

7. Registry to list this matter again on 20-05-2026 in the motion column.

8. Considering the submission raised by Dr. Saraf with regard to the jurisdiction of the ED authority to continue to investigate the matter by invoking the provisions of the Act of 2002, this Court provides that till the next date of listing, the ED authority shall not insist for the personal appearance of the petitioner before them.

9. The said direction is also passed by considering the submissions made by Dr. Saraf that in pursuance to the notice dated 16-02-2026, the documents as sought for, therein, has already been submitted before the concerned authorities by the petitioner.

10. Registry to list this matter again on 20-05-2026.

JUDGE

Comparing Assistant