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

Case No. : ITA/6/2026

SRI JAYANTA ROY
(PROPRIETOR SONAMURA FOREIGN LIQUOR SHOP NO. 02) SON OF LATE MANORANJAN ROY, HOUSE NO. 2, MATH CHOWMUHANI, KAMARPUKUR, A.A ROAD, AGARTALA, WEST TRIPURA- 799091

VERSUS

THE UNION OF INDIA AND 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
ASSAM- 780005. Email- soumendu.s.clas@incometax.gov.i

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

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

:::BEFORE:::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

Advocate for the appellant : Mr. H. Buragohain.

Advocate for the respondents : Dr. P. Agarwal,
Sr. SC, Income Tax Deptt.

Date on which judgment is reserved : 15.10.2026.

Date of pronouncement of judgment : 06.11.2026

Whether the pronouncement is of the operative part of the judgment ? : No.

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (CAV)

(S.K. Sharma, J)

Heard Mr. H. Buragphain, learned counsel for the appellant. Also heard Dr. P. Agarwal, learned Senior Standing Counsel for the Income Tax

Department/respondents.

2. This is an appeal under Section 49 of the Benami Transactions (Prohibition) Amendment Act, 2016, against the 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 up-to-date in the matter i) MP-PBPT-964/GWH/2025(Review) MP-PBPT-965/GWH/2025/(CoD) in FPA-PBPT-978/GWH/2019.

3. The facts of the case as narrated in the instant appeal are as follows:

i) A search and seizure were conducted by the Income Tax Department in the office-cum-residence of one Sri Pradip Kumar Saha, and a few documents containing the name of the appellant were found on 25.03.2015. On 20.03.2017 the Deputy Commissioner of Income Tax, Circle-1, Guwahati, received intimation from the office of the Assistant Commissioner of Income Tax, Agartala, regarding benami transactions allegedly undertaken by Shri Pradip Kumar Saha, Proprietor of M/s Pioneer Foreign Liquor Shop, Agartala. It was stated that a search and seizure operation had been conducted on 25.03.2015 at his residential and business premises, and that, upon examination of the appraisal report and seized materials such as bank accounts and ledgers, notices under Section 153A were issued and assessments were completed under Sections 153A and 153C of the Income Tax Act.

The seized documents and other evidence allegedly revealed that Shri Pradip Kumar Saha had entered into numerous benami transactions, was operating several liquor shops in the names of other persons, including the

current appellant, and had acquired benami property in the nature of business stock-in-trade and other related assets. Accordingly, it was conveyed that the case was fit for action under the Prohibition of Benami Property Transactions Act, 2016. Notably, these transactions coming within the definition of "benami transaction", only in terms of the enlarged definition brought about by the Amendment Act of 2016.

ii) The Ministry of Finance, vide Notification No. 40/2017/F.No.173/429/2016-ITA, notified the appointment of the Initiating Officer to perform the functions of the "Authority" under the Prohibition of Benami Property Transactions Act, 1988. The appellant on 14.03.2018 appeared before the Initiating Officer to record their statement u/s 19(1)(b) of the Prohibition of Benami Transaction Act, 1988. On 28.03.2018 a 'show cause notice' was issued to the appellant under Section 24 of the Prohibition of Benami Transaction Act, 1988 and the appellant in pursuant to the Show cause notice submitted his reply on 16.04.2018 to the said Show Cause Notice.

However, the learned Initiating Officer upon perusal of the materials and records, passed order for provisional attachment of assets on 25.06.2018. Soon thereafter, a reference was made to the learned Adjudicating Authority for confirmation of the provisional attachment order dated 25.06.2018, passed by the Initiating Officer. The appellant being aggrieved and prejudiced by the above act of high handedness of the respondent Tax Department challenged the legality and validity of the said Order by filing few writ petitions before the Hon'ble Gauhati High Court and the writ petition was registered and numbered as *WP(C) No. 4986/2018*, namely, *Sonamura Foreign Liquor Shop No. 2 and Anr. Vs. The Union of India and Ors.*

Iii) All the above-mentioned writ petition was finally heard and decided by the Gauhati High Court and the Gauhati High Court by an Order dated 07.09.2018 was pleased to dispose of the writ petition with the following observations:-

"*Para 13. In the aforesaid circumstance, this Court is of the view that instead of exercising the discretion of continuing the interim order passed on 01.08.2018, the interest of justice will be met and the public revenue will be better served, if the appropriate authorities in the Income Tax Department i.e. the respondent No.3 gives a further consideration to the aforesaid stand of the petitioner as raised in paragraph-6 of the reply dated 16.04.2018.*

14. This Court is of the view that in the event the interim order is continued and the attachment is stayed further, the department may suffer an irreparable loss, whereas, on the other hand, if the interim order is refused to be continued any further and the stand of the petitioner happens to be correct and acceptable, the petitioner may also suffer an irreparable loss.

15. In the event, this Court is of the view that interest of justice will be served, if the respondent No.3 gives a fresh consideration to the aforesaid stand of the petitioner made in paragraph-6 of the reply dated 16.04.2018 and pass a reasoned order thereon. If the stand of the petitioner is acceptable, the authorities shall give its reason for the same and if it is unacceptable, then also the authorities shall give its reasons.

Depending on the order to be passed upon such exercise, further continuance of provisional attachment by the notice dated 25.06.2018 shall follows.

16. The aforesaid decision shall be taken within a period of three weeks from the date of receipt of certified copy of the order and in doing so, the respondent authorities shall also give the petitioners an opportunity of hearing and allow them to produce any material, he may desire to produce.

In terms of the above, the writ petition is disposed of.

The interim order passed on 01.08.2018 stands vacated."

Similar Orders were passed by the Gauhati High Court in other similar writ petitions as well, filed by the appellant.

iv) In terms of the Order dated 07.09.2018 passed in the above-mentioned writ petition, the appellant herein had approached the learned Adjudicating authority ventilating his grievances and cause and the learned Adjudicating Authority after hearing the parties was pleased to decide the case by a common order dated 26.07.2019, without deciding the main objection of the appellant, as to whether retrospective effect can be given to the Prohibition of Benami Transaction Act, 1988, by the impugned order, held the appellant to be benamider and Pradip Kumar Saha to be the beneficial owner.

v) Being aggrieved by the said order dated 26.07.2019 passed by the learned Adjudicating Authority, the appellant herein along with other similarly placed persons filed few statutory appeal in between September-October 2019 challenging the impugned order dated 26.07.2019 before the Hon'ble Appellate Tribunal.

vi) In the meanwhile the Hon'ble Supreme Court in *Union of India & Anr. Vs. M/s Ganpati Dealcom Pvt. Ltd*, reported in *(2023) 3 SCC 315*, by a Judgment and Order dated 23.08.2022 held that the provisions of the 2016 Amendment to the Prohibition of Benami Property Transactions Act, cannot be applied retrospectively for initiating confiscation proceedings in respect of transactions that had taken place prior to 01.11.2016. The appellant soon thereafter along with other similarly placed persons filed applications before the learned Appellate Tribunal for PBPT Act, New Delhi, seeking quashing of the proceedings

initiated under the Prohibition of Benami Property Transactions Act, 1988 in light of the judgment of the Hon'ble Supreme Court in the case of *Union of India & Anr. Vs. M/s Ganpati Dealcom Pvt. Ltd.,* reported in *(2023) 3 SCC 315*.

vii) By an Order dated 07.12.2022, passed in a series of appeals filed by the alleged benamidars including the current appellant (i.e. in FPA-PBPT-978/GWH/2019), the learned Appellate Tribunal, at New Delhi, allowed all the appeals and set aside the orders of the Adjudicating Authority confirming the action of the Initiating Officer. The learned Appellate Tribunal also set aside the proceedings initiated by the Initiating Officer in reference to the alleged benami transactions pertaining to a period prior to the Amendment Act of 2016, in compliance with the law laid down in *Union of India & Anr. v. M/s Ganpati Dealcom Pvt. Ltd (2023), 3 SCC 315*.

However, almost after more than a period of 2 years, the Union of India, moved a Review Application before the Hon'ble Apex Court for reviewing the earlier Judgment and Order passed in the reported namely case, *Union of India & Anr. Vs. M/s Ganpati Dealcom Pvt. Ltd.,* reported in *(2023) 3 SCC 315*. Soon thereafter in *Union of India and Anr. Vs. Ganpati Dealcom Pvt. Ltd*, reported in *(2025) 474 ITR 354,* Hon'ble Apex Court by a Judgment and Order dated 18.10.2024 allowed the review petition and recalled its earlier judgment and order dated 23.08.2022.

viii) The respondents herein thereafter filed review applications along with applications seeking condonation of delay before the learned Appellate Tribunal for PBPT Act, New Delhi, under Section 40(2)(f) of the Prohibition of Benami Property Transactions Act, 1988, as amended up to date, in short 'PBPT Act',

read with Section 151 CPC, seeking a Review of the earlier Order/s dated 07.12.2022 passed by the learned Appellate Tribunal in FPA-PBPT-978/GWH/2019 and FPA-PBPT-928/GWH/2019. The respondents in the said proceeding submitted that the review had become necessary in view of the Order dated 18.10.2024 passed by the Hon'ble Supreme Court in Review Petition passed in *Union of India and Anr. Vs. Ganpati Dealcom Pvt. Ltd,* reported in *(2025) 474 ITR 354*, whereby the Hon'ble Apex Court allowed the review petition and recalled its earlier judgment and Order dated 23.08.2022.

ix) Upon receipt of summons from the learned Appellate Tribunal, New Delhi, the appellant herein filed his detailed reply before the learned Tribunal opposing the Review Petitions filed by the respondents under Section 40(2)(f) of the PBPT Act, primarily on the ground that review can be allowed only on limited grounds such as new evidence, an apparent error, or any sufficient reason and none of these grounds exist in this case. The appellant also raised an objection regarding delay in filing the review petition without showing sufficient cause explaining the delay on day-to-day basis. The appellant herein further relied on the order in the case of *Deputy Director of Income Tax (BPU Unity) & Ors. Vs. Kokilaben Chhaganbhai Patel* reported in *2025 SCC OnLine SC 2622* dismissing a similar review application by placing reliance upon the judgment in the case of *State (NCT of Delhi) Vs. K.L. Rathi Steels Ltd.,* reported in *(2014) 7 SCC 315*.

x) The Hon'ble Appellate Tribunal allowed the Review Applications filed by the respondent Union of India, as well as the application for condonation of delay filed by the respondent by an Order dated 05.01.2026, i.e., the Order under challenge before this Hon'ble Court, and restored the appeal to its original number for further proceedings in a perfunctory manner and without

considering any of the appellant's submissions.

xi) The Hon'ble Appellate Tribunal had passed the common impugned Order dated 05.01.2026. It may be pertinent to mention herein that the Hon'ble Appellate Tribunal while allowing the Review Application of the respondents and the application for condonation of delay have relied upon an Order dated 10.07.2025 passed in the case of *Abdullah Ali Balsharaf Vs. the Initiating Officer, BPU, Delhi* in Review Application No. FPA-PBPT/1553/DLI/2024 in Appeal No. FPA-PBPT-1113/DLI/2020 by observing that-

"*It is covering all the arguments of the parties on the application of condonation of delay and Review Application. Both the Applications have been allowed therein. Thus, this Review Application and the Application for Condonation of Delay is to be governed by the Order of this Tribunal dated 10.07.2025 in case of Abdullah Ali Balsharaf Vs the Initiating Officer, BPU, Delhi in Review Application No. Review Application no. FPA-PBPT/1553/DLI/2024 in Appeal No. FPA-PBPT-1113/DLI/2020."*

xii) The appellant being aggrieved and prejudiced by the common impugned order dated 05.01.2026 passed in i) 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 has filed the present appeal, challenging the impugned order dated 05.01.2026.

xiii) Recently some of the other alleged benamidars/similarly placed persons, who were also proceeded under the same provisions of law i.e. under the Prohibition of Benami Property Transaction Act, 1988, as amended up-to-date,

in short 'PBPT Act of 1988' by the same authorities in the backdrop of same incidence of events, wherein they were also charged with similar allegations like the current applicants, had moved the Gauhati High Court by filing similar statutory appeal under Section 49 of the Prohibition of Benami Property Transaction Act 1988, as amended up to date, assailing the legality and validity of Order dated 13.10.2025 passed by the learned Appellate Tribunal, New Delhi, in connected review applications. The said appeal was registered and numbered as ITA/01/2026 namely, *Satyajit Saha and 9 other Vs. The Union of India and others*.

The Division Bench of the Gauhati High Court after hearing the parties to the said appeal by an order dated 30.01.2026 was pleased to allow the said appeal by setting aside and quashing the common order dated 13.10.2025 passed by the learned Appellate Tribunal, at New Delhi. The current appellant herein also being similarly aggrieved and prejudiced by the common impugned order dated 05.01.2026 passed by the learned Appellate Tribunal in Review applications being i) 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 have filed the instant statutory appeal under Section 49 of the Prohibition of Benami Property Transaction Act, 1988 as amended up-to-date, assailing the legality and validity of order dated 05.01.2026 passed by the learned Appellate Tribunal.

4. Mr. H. Buragohain, the learned counsel for the appellant submits that the present appeal is squarely covered by the aforesaid decision of the Co-ordinate Bench of this Court in ITA No. 01 of 2026, dated 30.01.2026, and therefore, a

similar order may also be passed in the present appeal.

5. It is further pointed out that the respondents herein had challenged the aforesaid judgment and order dated 30.01.2026 passed in ITA No. 01 of 2026 by way of a Special Leave Petition, being SLP (C) No. 53803 of 2026, before the Hon'ble Supreme Court; however, the said Special Leave Petition was dismissed vide order dated 07.10.2026, thereby according finality to the view taken by this Court.

6. Dr. P. Agarwal, learned Senior Standing Counsel representing the Income Tax Department/respondents also submits that the present appeal is squarely covered by the aforesaid decision and she has no objection if the present appeal is disposed of in terms of the order passed in ITA No. 01 of 2026.

7. In view of the above, we deem it fit to hold that in terms of the judgments of the Supreme Court in i) *State (NCT of Delhi) Vs. K.L. Rathi Steels Ltd. (Supra)* and ii) *Deputy Director of Income Tax (BPU Unity) & Ors. Vs. Kokilaben Chhaganbhai Patel (Supra),* the learned Appellate Tribunal could not have allowed the review petition only on the basis of the liberty granted by the Hon'ble Supreme Court in *Union of India & Another Vs. Ganpati Dealcom Private Limited*, reported in *2024 SCC OnLine SC 2981*, without taking a decision as to whether the provisions of Order 47 of the Code of Civil Procedure (CPC) was attracted.

8. Therefore, the impugned common order against the 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 up-to-date in

the matter i) MP-PBPT-964/GWH/2025 (Review) MP-PBPT-965/GWH/2025/(CoD) in FPA-PBPT-978/GWH/2019 is accordingly set aside.

9. The appeal stands allowed and disposed of.

10. The connected IA, if any, also stands disposed of.

JUDGE **JUDGE**

Comparing Assistant