

आयकर अपीलीय अधीकरण, खंडपीठ गुवाहाटी ,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI*

Before **Shri S.S.Godara, Judicial Member** and  
**Dr. A.L. Saini, Accountant Member**

**ITA No.195/Gau/1996**  
Assessment Year :1992-93

ACIT, Circle-1(1), Guwahati	<b>V/s.</b>	Sri Rajendra Prasad Borah, Sonamioni, Bhawan, Ulubari, Guwahati
PAN No./GIR No. R-710DCIT Inv-2		
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

**ITA No.29 & 30/Gau/2006**  
Assessment Years: 1990-91 & 1991-92

Sri Rajendra Prasad Borah, Sonamioni, Bhawan, Ulubari, Guwahati	<b>V/s.</b>	ACIT, Circle-1(1), Saikia Commercial Complex, Guwahati
PAN No./GIR No. R-710DCIT Inv-2		
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

**ITA No.35 & 36/Gau/2006**  
Assessment Years: 1988-89 & 1989-90

Sri Rajendra Prasad Borah, Sonamioni, Bhawan, B.M. Road, Guwahati	<b>V/s.</b>	DCIT/INV, Circle-1(1), Saikia Commercial Complex, Guwahati
PAN No./GIR No. R-710DCIT Inv-2		
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

आवेदक की ओर से/By Assessee	None
राजस्व की ओर से/By Revenue	Shri Rabindra Singh, JCIT-DR
सुनवाई की तारीख/Date of Hearing	02-07-2019
घोषणा की तारीख/Date of Pronouncement	10-07-2019

## **आदेश /ORDER**

### **PER BENCH:-**

These five appeal(s) pertains to the single assessee, namely Shri Rajendra Prasad Borah. Relevant assessment year(s) are 1992-93, 1990-91,1991-92, 1988-89 & 1989-90. The assessee is in appeal in former four assessment year(s) in ITA No.29-30, 35-36/Gau/2006 whereas the department has preferred ITA No.195/Gau/1996 in assessment year 1992-93. The Commissioner of Income Tax (Appeals)-1, Guwahati has passed his lower appellate order in all these cases in proceedings herein are u/s 143(3) r.w.s. 147 r.w.s. 251 r.w.s. 144/ 147 of the Income Tax Act, 1961; in short 'the Act'.

Cases called twice. None appears at the assessee's behest. Case file(s) suggest that the assessee had not put in appearance in a similar fashion before the earlier co-ordinate bench on 23.08.2007 as well. He said bench applied case law in CIT vs. Multiplan India (P) Ltd. 38 ITD 320 (Del) for dismissing assessee's four cases for non-prosecution. This taxpayer filed writ petition Civil Writ Petition No. 588/2008. Their lordships accepted the assessee's said petition in order / judgment dated 03.04.2008 and restored all these appeal(s) for afresh decision on merits. It is in this backdrop of facts that we are seized to instant "lis".

2. Mr. Singh invites our attention to the Special Judge CBI Assam, Guwahati's detailed judgment No.43/2004 dated 29.2006 convicting the assessee and his other accomplices in an alleged scam involving bogus accommodation entries relating to Animal & Husbandry, Department State of Assam. He further takes us to the said judgment and pinpoints the fact as the assessee has been convicted and sentenced for rigorous imprisonment under the relevant penal provisions involving case No.9/93, u/s 409, 468, 120B IPC and sec. 13(2), r.w.s. 13(i)(d) of the Prevention of Corruption Act. The

Revenue therefore states that the CIT(A)'s order(s) under challenge in all these cases do not taken into consideration all these clinching / intervening developments and therefore, the matter needs to be re-examined on merits in lower appellate proceedings. Mr. Singh further reiterates that both the assessee as well as the Revenue are aggrieved against the various addition(s) restricted / confirmed by the CIT(A) in all these assessment year(s). We deem it appropriate in these peculiar facts and circumstances that the CIT(A) needs to re-adjudicate all these issues once again in then light of these intervening developments under penal as law. We order accordingly and restore the instant case file(s) back to the CIT(A) to finalize consequential proceedings within three effective opportunities of hearing.

3. These assessee's four appeal(s) and Revenue's appeal ITA No.195/Gau/1996 are allowed for statistical purposes in above terms.

Order pronounced in the open court 10/07/2019

Sd/-  
(लेखा सदस्य)  
( A.L.Saini)  
(Accountant Member)  
Guwahati,

Sd/-  
(न्यायिक सदस्य)  
(S.S.Godara)  
(Judicial Member)

\*Dkp

दिनांक:- 10/07/2019 गूवाहाठी ।

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. आवेदक/Assessee-Sri Ranejdra Prasad Borah, Sonamoni Bhawan, Ulubari, Guwahati
2. राजस्व/Revenue-ACIT Cir-1(1),/ACIT/DCIT/Inv, Cir-2, Saikia Commercial Complex Guwahati
3. संबंधित आयकर आयुक्त गूवाहाठी / Concerned CIT Guwahati
4. आयकर आयुक्त- अपील / CIT (A) Guwahati
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, गूवाहाठी खंडपीठ / DR, ITAT, Guwahati
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True copy/

Sr. Private Secretary (on tour)  
आयकर अपीलीय अधिकरण,  
गूवाहाठी ।