

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A. No. 36/2009
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06/07/2015
SECTION OFFICER (JUDL.)

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 36 / 2009
2. Miscellaneous Petition No /
3. Contempt Petition No /
4. Review Application No /

Applicant(s) Syed Basit Doley alias Budheswar Doley

Respondant(s) M. O. I. & ors

Advocate for the Applicant(s): Mr. A. Ahmed,

Mr. N. Ahmed

Advocate for the Respondant(s): 6 E. C. S. C.

Notes of the Registry	Date	Order of the Tribunal
<p>The application in form is filed in Form No. 39 of 1950 dated 7/10/08. No. 39 of 363691 Dated 7/10/08.</p> <p><i>[Signature]</i> Dy. Registrar 26.2.09</p> <p>steps taken with employers.</p> <p><i>[Signature]</i> 26/2/09</p> <p>Pl. send copies of this order to the three Respondents & 3 copies of this OA and a free copy be supplied to Mr. G. Baishya, SCBSC.</p> <p><i>[Signature]</i> 27/2/09</p> <p>Copies of notices along with order dt. 26/2/09 send to D/Sec. for issuing to resp. by regd. A/D post.</p> <p>Free copy of this order handed over to Mr. G. Baishya, Sr. E. C. S. C, CAT, CHY-5.</p> <p><i>[Signature]</i> 17/2/09. D/No. 173-09.</p>	<p>26.02.2009</p>	<p>Heard Mr N. Ahmed, learned Counsel appearing for the Applicant and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record.</p> <p>Call this matter on 19.03.2009; by which time Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, shall obtain up-to-date instructions from the Respondents.</p> <p>Send copies of this order to the three Respondents (alongwith copies of the O.A.) and a free copy be supplied to Mr. Baishya.</p> <p style="text-align: right;"><i>[Signature]</i> (M.R. Mohanty) Vice-Chairman</p>

N

- 2 - O.A. 36/09

① Service report
O.A. 36 of 2009
awarded.

18.3.09

Memo No. 1169
Dt. 17-3-2009

19.3.09

Send copies of this
order dt. 19.3.09 to the
Respondents immediately.

19/3/09

Copies of order

Dated 19/3/2009

Send to D/Sec. for
issuing to respondents,
by post.

24.04.2009

Cas D/No-1352-1354
20/3/09 Dt. 23/3/09

Notice duly served on R-2

W/S not filed.

22.4.09

Copies of order

Dated 24/4/09

/bb/

Send to D/Sec. for
issuing to applicant,
by post.

Sub 109. D/No-2146

Dt. 5-5-2009

NO rejoinder filed

22/4/09

19.03.2009 Mr. N. Ahmed, learned counsel
appearing for the Applicant is present. Mr.
G. Baishya, learned Sr. Standing Counsel
files his appearance memo for the
Respondents in this case and prays for
time to file written statement.

Written statement, if any, may be
filed by 24th April, 2009.

Send copies of this order to the
Respondents in the address given in the
O.A.

(M.R. Mohanty)
Vice- Chairman

lm

None appears for the Applicant.
Mr.G.Baishya, learned Sr. Standing counsel
undertakes to file the written statement on
behalf of the Respondents in course of the day.
He also undertakes to serve a copy of the
written statement on the learned counsel for
the Applicant.

Call this matter on 25.05.2009 awaiting
rejoinder from the Applicant.

Send a copy of this order to the
Applicant in the address given in the O.A.

(M.R. Mohanty)
Vice-Chairman

O.A.36 of 09

25.05.2009

Heard learned counsel for the

parties.

For the reasons recorded separately, this O.A. stands disposed of.

(N.D. Dayal)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

Reviewed by
Utpalprakash Bhattacharya
3/6/09
for.
Sr. Baishya
Sr. C. S. C.

12.6.09

order dt. 25.5.09

in O.A. 36/09 send to D/S
for issuing the order to the
Respondents and to the Applicant.

D/No. 3327 to 3330

dt. 19/6/09

12/6/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A No. 36/2009

Dated 25.5.2009

Syed Basit Doley alias Budheswar Doley

Applicant

By Advocates Mr. Adil Ahmed & Mr. N. Ahmed

Versus

The Union of India & others

Respondents

By Advocate Mr. G. Baishya, Senior CGSC

Present: The Hon'ble Mr. Manorajan Mohanty, Vice-Chairman
The Hon'ble Mr. N.D. Dayal, Member [Administrative]

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment? Yes/No

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
O.A.No. 36 of 2009

The 25th day of May 2009

Present: The Hon'ble Mr. Manoranjan Mohanty, Vice-Chairman
The Hon'ble Mr. N.D. Dayal, Member Administrative

Syed Basit Doley alias Budheswar Doley,
Son of Late Cheniram Doley,
Income-Tax Officer, [Headquarters],
Office of the Commissioner Income-Tax
[Audit], AYAKAR BHAWAN, G.S. Road,
Guwahati- 781 005

Applicant

By Advocates Mr. Adil Ahmed and Mr. N.Ahmed

Versus

1. The Union of India,
through the secretary
to the Government of India,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi- 110 001
2. The Chief Commissioner
of Income-Tax,
AYAKAR BHAWAN, G.S. Road,
Guwahati- 781 005.
3. The Commissioner of Income-Tax,
Gauhati-1, AYAKAR BHAWAN,
G.S. Road,
Guwahati- 781 05

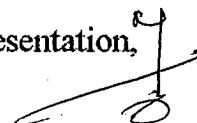
Respondents

By Advocate Mr. G. Baishya, Sr. CGSC

O.A.No.36/2009
ORAL ORDER.
25.05.2009

Manoranjan Mohanty, Vice-Chairman:-

Applicant, who joined the Govt. of India Services as an Inspector of Income-Tax during the year 1989, was promoted as an Officer of Income-Tax during the year 1994. Adverse entry [in respect of 2006-07] in his ACR was communicated [to him] on 06.08.2007. He submitted a representation,



on 08.08.2007, seeking to expunge the said adverse entry. On 06.09.2007, he was intimated that adverse comments [made against Column No.16 in the ACR] to have been expunged and confirming the adverse comments as against Column No.15 & 17(b) of the ACR to have been confirmed. On 10.09.007, the Applicant submitted an Appeal [addressed to the Chief Commissioner of Income-Tax/Guwahati; through the Commissioner of Income Tax//Audit] to expunge the adverse remarks in the ACR. He also submitted a reminder on 07.01.2008 through proper channel; which was duly forwarded on 21.01.2008. He submitted a second reminder on 03.12.2008 and, thereafter, approached this Tribunal with the present Original Application filed [on 16.02.2009] under Section 19 of the Administrative Tribunals Act, 1985; wherein he has prayed as under;-

“8.1 To set aside and quash the impugned ACR Adverse entry for the year of 2006-07 which was communicated to the Applicant vide F.No.ACR/SBD/(AP)/06-07/CIT/GHY-1/2007-08/2529 dated 06.08.2007 and also set aside and quash the order F.No.ACR/SBD/ (AP)/06-07/CIT/GHY-1/2007-08/3111 dated 06.09.2007 issued by the Commissioner of Income-Tax, Guwahati-1.

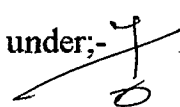
8.2 To pass such other order(s) as may be deemed fit and proper in the facts and circumstances of the case.

8.3 To pay the cost of the application.”

He has also made the following interim prayers;-

“The Applicant most humbly pray for an interim order from this Hon’ble Tribunal to the Respondents particularly Respondent No.2 to dispose of the Appeal dated 10.09.2007 submitted by the Applicant against the Adverse entries in his ACR for the year of 2006-07. This Hon’ble Tribunal may be pleased to pass any appropriate interim order[s] as may deem fit and proper.”

2. By way of filing a written statement on behalf of the Respondents, the Joint Commissioner of Income Tax (Hqrs) of the Office of the Chief Commissioner of Income Tax/Guwahati has disclosed as under;-



“.....the appeal filed by the applicant for expunge of adverse remarks in the ACR for the year 2006-07, is under consideration pending for disposal.....

.....the adverse entries in the ACR of the applicant was communicated vide communication dated 6.8.2007 and thereupon in the said communication, it was also provided if the applicant has any grievance against the adverse entry he may represent against the same.....

.....the applicant has filed a written representation against the adverse entries in his ACR, on 8.8.2007, and the same was replied by the respondent vide communication dated 6.9.2007; where the respondent has intimated the applicant that, after verifying the comments of the reporting officer against column No.15 and 17B have been confirmed. While the comments against column 16 was expunged by the authorities.....

.....the applicant filed his appeal on 10.09.2007 before the CIT [Audit], Guwahati vide his letter F.No.ACR/CIT(Audit)/07-08/440 dated 08.10.2007 and thereafter process has been initiated to dispose of the same as per the rules.....

.....appeal filed by the applicant for expunge of adverse remarks of the ACR for the year 2006-07 is under due consideration and is pending for disposal. Since there is no regular Chief Commissioner of Income Tax posted in Guwahati and further after the retirement of last incumbent on 31.12.08 on superannuation there was no such competent authority to dispose the appeal till joining of the regular Chief Commissioner on 8.4.2009.....

.....the appeal dated 10.9.2007 filed by the applicant was received by the appellate authority on 9.10.2007.....

.....on perusal of the applicant's appeal, on 30.11.2007, the appellate authority, directed his office to prepare a detailed note chronologically

under "Adverse Remarks" as well as vigilance proceedings pending against the applicant [for year wise] and also to make a note if there was any past similar history of the officer.....

.....on perusal of the detailed note regarding the remarks in the ACR file of the applicant from 1989-90 to 2005-06, on 31.01.2008, the appellate authority vide letter No.F.Comp-5/BD/CC/VIG/2007-08/3250 dated 01.02.08 requested the applicant to intimate as to the decision taken on the representation against the "Adverse Remarks" by the Reporting Officer in his ACR for the year 1996-97.....

.....on the same date i.e. 01.02.2008 the Disciplinary Authority i.e. CIT [Audit] was also requested to inform the status of the imposition of minor penalty in the case of the applicant which was pending for disposal at his end.....

.....the Disciplinary Authority [i.e. CIT[Audit] submitted the status report of the departmental proceedings initiated against the applicant stating that a minor penalty has been imposed vide order dated 14.2.2008.....

.....A reply dated 4.2.2008 of the applicant in response to above referred letter was also received.

The applicant in his above letter has stated quoted-

"That I was given as adverse remarks as public relation bad" by the Reporting Officer [then my Range DCIT, Range-1, Guwahati] and the same was communicated by the Reviewing Authority [then CIT, Shillong], if I had anything to represent against my adverse remarks. I represented against the adverse remarks for expunging the same. Subsequently I also sent a reminder for the same. Thereafter no single communication came in this regard and after expiry of the normal three months time of receiving a reply in such matter, I thought and deemed to have expunged the adverse remarks in the ACR of 1996-97."

.....the appellate authority, on 4.4.2008, gave direction to put up the file along with the penalty order.....

.....However, due to other pressing issues in the administrative matters etc. like transfer, holding of meetings of Departmental Promotion Committee for promotion in various cadres and also due to transfer of officers in the headquarters and subsequently shifting of entire CCIT 's office and other CIT Offices from Saikia Commercial Complex Building to New Aaykar Bhawan at G.S. Road, Christianbasti, Guwahati the appeal of the applicant could be taken up only in the fag end of the year 2008. Thereafter, to verify the accuracy/veracity of the claims made in the appeal of the applicant vis a vis the stand taken by the Reporting/Reviewing officer, a detailed statistical report for the financial year 2005-06 and 2006-07 during the tenure of the applicant as TRO-2, Guwahati was sought vide letter dated 30.12.2008.....

.....Meanwhile, the appellate authority retired on superannuation on 31.12.2008 and till date no regular Chief Commissioner of Income Tax is posted in North East Region.....

.....The matter of appeal of the applicant came before the present Appellate Authority only on 19.03.2009. Thereafter, due to the visit of Member[R] and DGIT [Admn], New Delhi along with other senior officers of Delhi and Kolkata from 21.3.2009 to 26.3.2009 the appeal of the applicant could only be discussed. Since the present Appellate Authority is holding substantive charge in Kolkata as CCIT-VIII, Kolkata, he had to leave Guwahati for Kolkata on 26.3.09 itself.....

.....the applicant had filed two appeals before appellate authority regarding expunction of adverse remarks in his ACR for the year 2006-07 and in the matter of minor penalty imposed on him.....

.....Both the appeals were being processed simultaneously. Therefore, due to complexity of the matter and other administrative reasons, the disposal of appeal may have taken more time than anticipated.....



.....though no target for achievement is fixed for Tax Recovery Officer. However, TRO is expected to function in accordance with the provision laid down in Chapter XVII of the I.T. Act under the head "Collection and Recovery". Further, the performance of the TRO for the year is inspected by the Range Heads annually. In this regard, it is to be stated that the performance of the applicant for the year 2006-07 was found not up to the mark and his reporting Officer i.e. Addl. Commissioner of Income Tax, Range-2, Guwahati had issued one letter vide F.No.R046/JCIT/Range-2/GHY/2007-08/1137 dated 9/10.07.2007 regarding his performance appraisal for the period 2006-07. In the said letter the reporting Officer has pointed out some mistakes committed by the applicant and to quote:

"Please refer to your letter.....dated 30.5.2007 on the above. On examination... that as per procedure of write off of tax arrears the TRO cannot write off any arrear demand. Arrear demands can be written off only by the concerned assessing officer by following the prescribed procedures. Therefore, the action of write off carried out by you in sl.No.1 to 35 is null and void and as such disposal shown by you are not correct."

.....regarding disposal shown by the applicant by way of collection/reduction at Sl. No.38 to 46 it is stated that these are not treated as certificates disposed of as only part collections/reductions was achieved in such cases. It is further stated that reduction of Rs.93,82,612/- of assessment year 1992-93 in the case of Smt. Indira Borah at Sl.No.41 was actually effected by ACIT, Circle-2, Guwahati vide order u/s 251 dated 24.10.2002. In view of the above, the reporting Officer has directed the applicant to submit reports in future after effecting necessary corrective steps so that similar mistakes do not occur. The copy of the letter is also endorsed to the Commissioner of Income Tax. However, there is nothing on record to suggest whether the applicant has taken any corrective steps nor it appears that any reply has been furnished by him in this regard.....

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.....before writing the ACR for the year 2006-07, the Reporting Officer had issued the above letter dated 9/10.7.2007 regarding his performance appraisal for the period 2006-07 because Reporting Officer found the performance of the applicant for the year 2006-07 not up to the mark. Moreover, the applicant himself in his written submission dated 8th August, 2007 [attached as Annexure-A with the OA] has made the following submissions against the adverse remarks for 2006-07 addressed to Commissioner of Income Tax, Guwahati-1, Guwahati. In para 2 regarding the comments of the reporting officer on Item 11 the applicant has stated-

“Poor”, “Very Poor”, Very, Very Poor” remarks in the performance appraisal report and ACR report are quite different. “Poor”, “Very Poor”, “Very Very Poor” remarks in the performance report are to gear up the officers for better performance but even a “Poor” remark in the ACR is enough to spoil the life and career of an officer. The reporting officer’s ACR report.... and the nature of the office.”

.....Therefore, an advice was issued to the applicant by the Reporting Officer before writing the ACR for 2006-07.....”

3. Heard Mr N. Ahmed, learned Counsel appearing for the applicant, and Mr. G. Baishya, learned Senior Standing Counsel representing the Respondents, and perused the materials placed on record.


4. Since it is the positive case of both the parties that the Appeal of the Applicant [addressed to the CCIT/Guwahati] is still pending undisposed and since same explanation for the delay in disposal of the same have been given, it appears to us that it would be sufficient to dispose of this case with direction [to the Respondents/Appellate Authority of the Applicant] to dispose of the pending Appeal of the Applicant [pertaining to adverse remarks in the ACR] within a time to be specified by us. At this stage, Mr. N. Ahmed, learned Counsel for the Applicant pointed out that since the subordinate officers in the Office of the CCIT/Guwahati have already disclosed their mind [not to expunge the adverse remarks in the ACR] in the written statement filed in this case, there are little hope of the Appeal being allowed. Mr. G. Baishya, learned Sr. Standing Counsel, on the other hand,

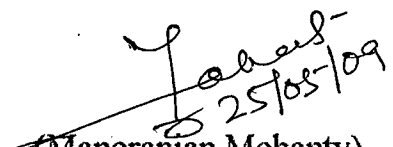
pointed out that, whatever may be the notings/views of the subordinate officers, the Appellate Authority, a very Senior Officer of Income Tax Department, certainly shall apply his mind independently, being uninfluenced by the adverse notings/views of his subordinates, while passing a final order on the Appeal of the Applicant.

5. In the above premises, without entering into the merits of the case of the Applicant, we hereby dispose of this case and remit the matter to the Appellate Authority [i.e. CCIT/Guwahati] with direction to expeditiously consider the Appeal of the Applicant, independently, without being influenced by the adverse notings [& views, expressed in the written statement filed in this case] of his subordinate officers and to pass a reasoned order within 60 days from the date of receipt of a copy of this order under intimation to the Applicant.

6. With the above observations and directions, this case stands disposed of.

7. Send copies of this order to the Applicant and all the Respondents [by Regd. Post] in the address given in the O.A. Free copies of this order be supplied to the Advocates of both parties.


(N.D. Dayal)
Member, Administrative


(Manoranjan Mohanty)
Vice-Chairman

cm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Original Application No. Of 2009

Syed Basit Doley alias Budheswar Doley,

. . . . Applicant

-Vs-

The Union of India & Ors.

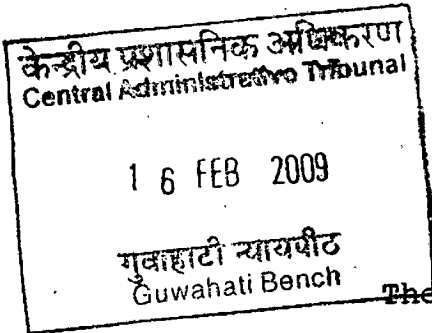
. . . . Respondents

S Y N O P S I S

The Applicant has joined as Inspector of Income-tax under the Ministry of Finance, Department of Revenue at Sivasagar on 30.01.1989. He was promoted to the post of Income-tax Officer on 16.12.1994. While the Applicant was working as Tax Recovery Officer-2 at Income-tax Department, Guwahati he received a communication dated 06.08.2007 from the office of the Commissioner of Income-tax, Guwahati regarding adverse entries in his ACR for the year 2006-07. He submitted his representation on 08.08.2007 before the Commissioner of Income-tax, Guwahati requesting him to expunge the adverse entries made in his ACR. Thereafter the Commissioner of Income-tax, Guwahati on 06.09.2007 intimated the Applicant that the comments of the Reporting Officer against the Column No.15 & 17(b) have been confirmed while the comments against Column No.16 have been expunged and the overall categorization is inadequate. On 10.09.2007 the Applicant preferred an appeal before the Chief Commissioner of Income-tax, Guwahati through the Commissioner of Income-tax(Audit) against the order dated 06.09.2007. Thereafter the Applicant submitted a reminder on 07.01.2008 before the Chief Commissioner of Income-tax, Guwahati through the Commissioner of Income-tax (Audit) for disposal of his appeal dated 10.09.2007. The Commissioner of Income-tax (Audit) Guwahati forwarded the reminder of the Applicant on 21.01.2008. Again the Applicant submitted a reminder on 03.12.2008 before the Chief Commissioner of Income-tax, Guwahati for his intervention and early disposal of the appeal dated 10.09.2007. But till date the Chief Commissioner of Income-tax, Guwahati did not dispose off the appeal dated 10.09.2007 preferred by the Applicant against the adverse entries in his ACR for the year 2006-07.

Hence this application is made for the ends of justice.

Syed Basit Doley



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

(An application under Section 19 of the Administrative Tribunal Act, 1985)

Original Application No. Of 2009

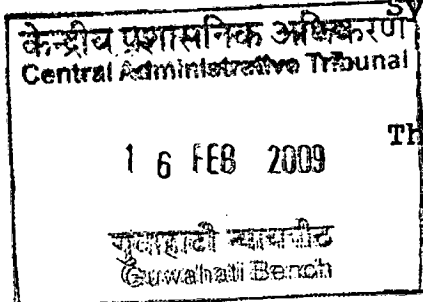
Syed Basit Doley alias Budheswar Doley,

. Applicant

-Vs-

The Union of India and Others

. Respondents



LIST OF DATES

30.01.1989 Para 4.2	The applicant has joined as Inspector of Income-Tax under the Ministry of Finance, Department of Revenue at Sivasagar.
16.12.1994 Para 4.2	Applicant was promoted to the post of Income-Tax Officer.
06.08.2007 Para 4.3 Annexure 1	The Commissioner of Income-Tax, Guwahati communicated the Applicant about his Adverse entries in his ACR for the year 2006-07.
08.08.2007 Para 4.4 Annexure 2	The Applicant submitted representation before the Commissioner of Income-Tax, Guwahati for expunges Adverse entries in his ACR.
06.09.2007 Para 4.5 Annexure 3	The Commissioner of Income-Tax, Guwahati intimated the Applicant that the comments of the Reporting Officer against the Column No.15 & 17(b) have been confirmed while the comments against Column No.16 have been expunged and the overall categorization is inadequate.
10.09.2007 Para 4.6 Annexure 4	The Applicant preferred an appeal before the Chief Commissioner of Income-Tax, Guwahati through the Commissioner of Income-Tax(Audit) against the Adverse entries made in his ACR.
07.01.2008 Para 4.7 Annexure 5	The Applicant submitted a reminder before the Chief Commissioner of Income-Tax, Guwahati through the Commissioner of Income-Tax(Audit) for disposal of his appeal dated 10.09.2007.
21.01.2008 Para 4.7 Annexure 6	The Commissioner of Income-Tax(Audit), Guwahati forwarded the reminder of the appeal of the Applicant.
01.02.2008 - 04.02.2008 03.12.2008 Para 4.8 Annexure 7	The Applicant again submitted a reminder before the Chief Commissioner of Income-Tax, Guwahati for his intervention and early disposal of the appeal dated 10.09.2007.

Date- 16.02.2009

Filed by

Nuruddin Ahmad
Advocate

Syed Basit Doley

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Original Application No. of 2009

Syed Basit Doley alias Budheswar Doley,

. Applicant

केन्द्रीय प्रशासनिक अपीलकरण
Central Administrative Tribunal

-Vs-

The Union of India and Others

16 FEB 2009

. Respondents

गुवाहाटी बेंच
Guwahati Bench

I N D E X

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2	Verification		9
3	Copy of the letter No. F.No. ACR/SBD/(AP)/06-07/CIT/GHY-/2007-08/2529 dated 06.08.2007.	1	10 to 11
4	Copy of the representation submitted by the Applicant dated 08.08.2007.	2	12 to 40
5	Copy of the letter No. F.No. ACR/SBD(AP)/06-07/CIT/GHY-I/2007-08/3111 dated 06.09.2007.	3	41
6	Copy of the appeal preferred by the Applicant dated 10.09.2007.	4	42 to 43
7	Copy of the reminder dated 07.01.2008 submitted by the Applicant.	5	44
8	Copy of the forwarding letter No. F.No.C-5/ACR/GO/CIT(Audit)/Ghy/2007-2008/812 dated 21.01.2008.	6	45
9	Copy of the reminder dated 03.12.2008.	7	46

Date- 16.02.2009

Filed by

Nuruddin Ahmad
Advocate

Syed Basit Doley

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

(An application under Section 19 of the Administrative
Tribunal Act, 1985)

Original Application No. 36 of 2009

BETWEEN

Syed Basit Doley alias Budheswar Doley,
Son of late Cheniram Doley,
Income-Tax Officer, (Headquarters),
Office of the Commissioner Income-Tax
(Audit), AYAKAR BHAVAN, G.S. Road,
Guwahati, Pin Code-781005

-Applicant

-AND-

1. The Union of India, through the
Secretary to the Government of India,
Ministry of Finance, Department of
Revenue, North-Block, New Delhi-110001.

2. The Chief Commissioner of Income-
Tax, AYAKAR BHAVAN, G.S. Road, Guwahati,
Pin Code-781005

3. The Commissioner of Income-Tax,
Gauhati-I, AYAKAR BHAVAN, G. S. Road,
Guwahati, Pin Code-781005

-Respondents

केन्द्रीय प्रशासनिक अपीलकरण
Central Administrative Tribunal

16 FEB 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

DETAILS OF THE APPLICATION

1. Particulars of the order(s) against which this
application is made:

This application is made against the ACR adverse entry
for the year of 2006-07 which was communicated to the
Applicant vide F.No.ACR/SBD/(AP)/06-07/CIT/GHY-I/2007-
08/2529 dated 06.08.2007 and F.No.ACR/SBD/(AP)/06-
07/CIT/GHY-I/2007-08/3111 dated 06.09.2007. Further, for
seeking a direction from this Hon'ble Tribunal to the
Respondents to dispose off the Appeal dated 10.09.2007
submitted by the Applicant before the Chief Commissioner of
Income-Tax, Guwahati for expunge of the Adverse entries
from the ACR of the Applicant for the year of 2006-07.

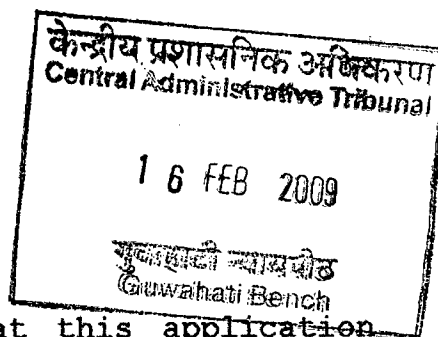
2. Jurisdiction of the Tribunal:

The Applicant declares that the subject matter of this
application is well within the jurisdiction of this Hon'ble
Tribunal.

Syed Basit Doley

FILED BY

Syed Basit Doley @ Budheswar
Doley 12
Applicant
through Mr. Nandini Ahluwalia



3. Limitation:

The Applicant further declares that this application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case:

4.1] That your Applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

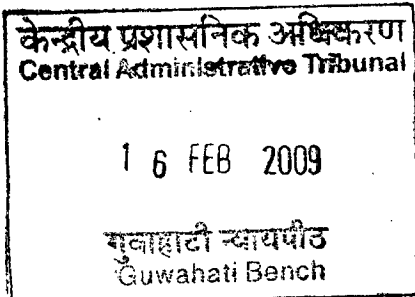
4.2] That your Applicant begs to state that he has joined as Inspector of Income Tax under the Ministry of Finance Government of India, Department of Revenue on 30.01.1989 at Sivasagar, Assam. He was promoted to the post of Income Tax Officer (I.T.O. in short) on 16.12.1994. He had served as I.T.O. at North Lakhimpur, Dibrugarh and Sivasagar. Presently, he is working as I.T.O. under the Commissioner Income-Tax (Audit), AYAKAR BHAVAN, G.S. Road, Guwahati, Pin Code-781005. It is worth to mention here that the Applicant is also known as Shri Budheswar Doley.

4.3] That your Applicant begs to state that while he was working as Tax Recovery Officer-2 at Income-Tax Department, Guwahati, he received a communication vide F.No.ACR/SBD/(AP)/06-07/CIT/GHY-I/2007-08/2529 dated 06.08.2007 from the office of the Commissioner of Income Tax, Guwahati. The subject matter of the communication was "Adverse entries in his ACR of the year 2006-07 (period 01.04.2006 to 31.03.2007)". He was also directed to submit representation against the Adverse entries made in his ACR if any within one month from the date of the received of the letter.

Copy of the letter No. F.No. ACR/SBD/(AP)/06-07/CIT/GHY-I/2007-08/2529 dated 06.08.2007 is annexed herewith and marked as ANNEXURE-1.

Buzed Basit Doley

4.4] That your Applicant begs to state that he submitted details and brief representation on 08.08.2007 before the Commissioner of Income-Tax, Guwahati regarding Adverse entries made in his ACR for the year of 2006-07. Therefore, he requested the authority to expunge the Adverse entries made in his ACR's.



Copy of the representation submitted by the Applicant dated 08.08.2007 is annexed herewith and marked as ANNEXURE-2.

4.5] That your Applicant begs to state that the Commissioner of Income-Tax, Guwahati vide its letter No. F.No.ACR/SBD(AP)/06-07/CIT/GHY-I/2007-08/3111 dated 06.09.2007 intimated him that on a consideration of the entire matter without verifying the correctness of the adverse entries, facts and figures, the comments of the Reporting Officer against Column No.15 & 17(b) have been confirmed while the comments against Column No.16 have been expunged. The overall categorization is "inadequate".

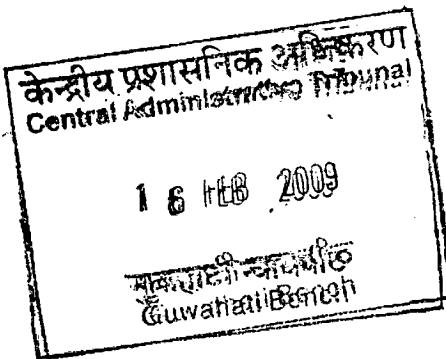
Copy of the letter No. F.No. ACR/SBD(AP)/06-07/CIT/GHY-I/2007-08/3111 dated 06.09.2007 is annexed herewith and marked as ANNEXURE-3.

4.6] That your Applicant begs to state that he preferred an appeal on 10.09.2007 before the Chief Commissioner of Income-Tax, Guwahati through the Commissioner of Income-Tax(Audit), Guwahati against the adverse entries made in his ACR for the year of 2006-07. In the said appeal he prayed before the authority to expunge the bias adverse entries from his ACR for the year of 2006-07.

Copy of the appeal preferred by the Applicant dated 10.09.2007 is annexed herewith and marked as ANNEXURE-4.

Syed Basit Dary

4.7] That your Applicant begs to state that on 07.01.2008 he submitted a reminder before the Chief Commissioner of Income-Tax, Guwahati through the Commissioner of Income-Tax (Audit), Guwahati for disposal of his appeal dated 10.09.2007 for expunging the bias adverse entries from his ACR for the year of 2006-07. The Commissioner of Income-Tax(Audit), Guwahati vide its letter No. F.No.C-5/ACR/GO/CIT(Audit)/Ghy/2007-2008/812 dated 21.01.2008 forwarded the reminder of the Appeal dated 10.09.2007 of the Applicant to the Chief Commissioner of Income-Tax, Guwahati for kind consideration and doing the needful.



Copy of the reminder dated 07.01.2008 submitted by the Applicant is annexed herewith and marked as ANNEXURE-5.

Copy of the forwarding letter No. F.No. C-5/ACR/GO/CIT(Audit)/Ghy/2007-2008/812 dated 21.01.2008 is annexed herewith and marked as ANNEXURE-6.

4.8] That your Applicant begs to state that he again on 03.12.2008 submitted a reminder before the Chief Commissioner of Income-Tax, Guwahati for his intervention and early disposal of the appeal dated 10.09.2007 which is pending for the last 1 year and three months. Till date the Chief Commissioner of Income-Tax, Guwahati did not dispose off the Appeal preferred by the Applicant against the Adverse entries in his ACR for the year of 2006-07. Hence, the Applicant has filed this Original Application before this Hon'ble Tribunal for seeking justice in this matter.

Copy of the reminder dated 03.12.2008 is annexed herewith and marked as ANNEXURE-7.

4.9] That your Applicant submits that he has got reasons to believe that the Respondents are resorting the colorable exercise of power only to deprive him from his legitimate rights.

Syed Basit Ali

4.10] That your Applicant submits that the action of the Respondents are mala-fide, arbitrary and a motive behind.

4.11] That your Applicant submits that the action of the Respondents particularly Respondent No.2 for non-disposal of the Appeal is highly illegal, improper, whimsical and also against the policy adopted by the Government of India.

4.12] That your Applicant submits that the Respondents have totally violated the principle of natural justice.

4.13] That in view of the facts and circumstances narrated above it is a fit case for interference by this Hon'ble Tribunal to protect the interest of the Applicant.

4.14] That this application is made bonafide and for the cause of justice.

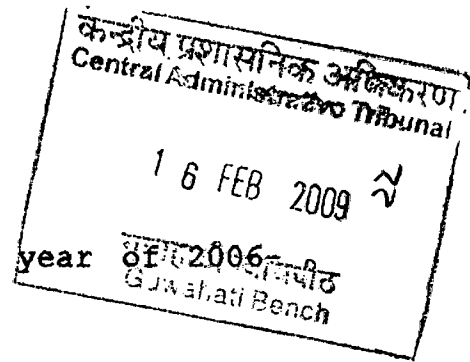
5. Grounds for relief (s) with legal provisions:

5.1] For that, under the above facts and circumstances the action of the Respondents are prima-facie, illegal, arbitrary, mala-fide and total violation of principle of natural justice. Hence, the impugned ACR Adverse entry of the Applicant for the year of 2006-2007 is liable to be set aside and quashed.

5.2] For that, the appellate authority should disposed off the appeal made by the Applicant against the adverse entry within three months from the date of receipt of the same. But in the instant case the Appeal is pending for about sixteen months before the Appellate Authority. Hence, the impugned ACR Adverse entry of the Applicant for the year of 2006-2007 is liable to be set aside and quashed.

5.3] For that, the nature of job and function of a Tax Recovery Officer and Income-Tax Officer are totally different. There are no targets for achievement of Tax Recovery Officer, only the Income-Tax Officer who assess the Income-Tax are given achievement target. Therefore, fulfilment of specific achievement target by Tax Recovery Officer in the ACR are not sustainable. Hence, the impugned

Syed Basit Ishaq



ACR Adverse entry of the Applicant for the year 2007 is liable to be set aside and quashed.

5.4] For that, there was no warning or advices to improve the performance of the Applicant by the superior authority before giving Adverse remark in the ACR. Therefore, there are gross procedural lapse in entry of Adverse remark in the ACR of the Applicant. Hence, the impugned ACR Adverse entry of the Applicant for the year of 2006-07 is liable to be set aside and quashed.

5.5] For that, mere perusal of the Adverse entries for the year of 2006-07 in the ACR of the Applicant would clearly reflect the non-application of mind by the authority in the matter. Hence, the impugned ACR Adverse entry of the Applicant for the year of 2006-2007 is liable to be set aside and quashed.

5.6] For that, the action of the Respondents are arbitrary, mala-fide and discriminatory for all intent and purpose.

5.7] For that, the disciplinary authority has totally violated the principle of natural justice in the instant case.

5.8] For that, the Respondents have violated the provisions of Article 14, 16 and 21 of the Fundamental Rights granted under the Constitution Of India.

The Applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of the instant application.

6. Details of remedies exhausted.

That the Applicant declares that he has exhausted all the remedies available to him and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The Applicant had not previously filed any application, writ petition or suit before any Court or any

Syed Basit Iqbal

other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the Applicant humbly prays that Your Lordships be pleased to admit this application, call for the entire records of the case and issue notice to the Respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1] To set aside and quash the impugned ACR Adverse entry for the year of 2006-07 which was communicated to the Applicant vide F.No.ACR/SBD/(AP)/06-07/CIT/GHY-I/2007- 08/2529 dated 06.08.2007 and also to set aside and quash the order F.No.ACR/SBD/(AP)/06-07/CIT/GHY-I/2007-08/3111 dated 06.09.2007 issued by the Commissioner of Income-Tax, Guwahati-I.

8.2] To pass such other order(s) as may be deemed fit and proper in the facts and circumstances of the case.

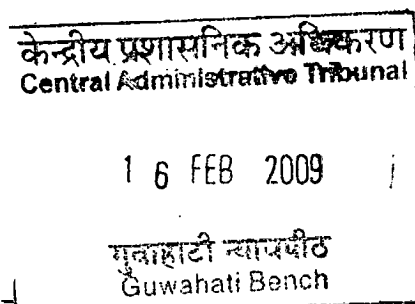
8.3] To pay the cost of the application.

9. Interim Order prayed for:

The Applicant most humbly pray for an interim order from this Hon'ble Tribunal to the Respondents particularly Respondent No.2 to dispose up the Appeal dated 10.09.2007 submitted by the Applicant against the Adverse entries in his ACR for the year of 2006-07. This Hon'ble Tribunal may be pleased to pass any appropriate interim order(s) as may deem fit and proper.

10. Application is filed through Advocate.

Syed Basit Ali



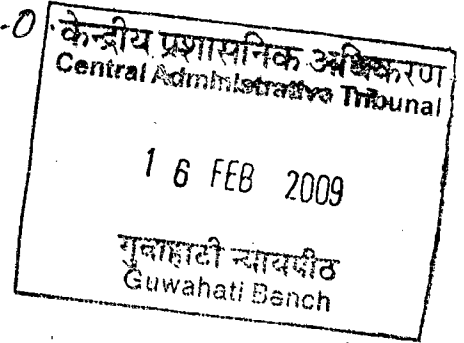
11. Particulars of I.P.O.:

I.P.O. No. : 396 363691

Date of Issue : 7.10.2008

Issued from : Guwahati G.P.O.

Payable at : Guwahati



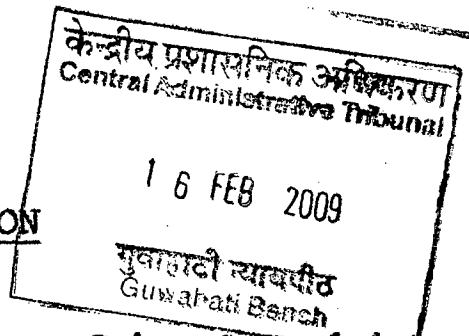
12. List of Enclosures:

As stated above.

Verification

Syed Basit Shy

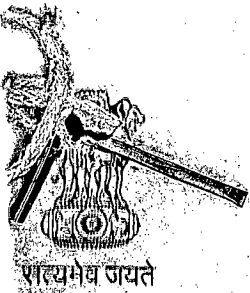
VERIFICATION



I Syed Basit Doley alias Budheswar Doley Son of late Cheniram Doley, aged about 52 years, Income-Tax Officer, (Headquarters), Office of the Commissioner Income-Tax (Audit), AYAKAR BHAVAN, G.S. Road, Guwahati, Pin Code-781005, do hereby verify that the statements made in para ~~4.1, 4.2, 4.4, 4.6, 4.7 (Partly), 4.8~~ ----- are true to my knowledge and those made in ~~4.3, 4.5, 4.7 (Partly)~~ ----- are being matters of records are true to my information derived therefrom which I believe to be true and those made in Paragraph 5 are true to my legal advice and rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 16th day of February 2009.

Syed Basit Doley
DECLARANT



भारत सरकार
वित्त मंत्रालय, राजस्व विभाग
आयकर आयुक्त, गुवाहाटी-1 का कार्यालय
सैकिया कमर्शियल कॉम्प्लेक्स, श्रीनगर, जी. एस. रोड, गुवाहाटी - 781 005

GOVERNMENT OF INDIA

Ministry of Finance, Department of Revenue
OFFICE OF THE COMMISSIONER OF INCOME-TAX, GUWAHATI- I

Saikia Commercial Complex, Sreenagar, G.S. Road, Guwahati-781 005

दुरभाष / Phone : 2345117, Fax : 2345111 EPABX : 2269733 (Ext. 104)

CONFIDENTIAL

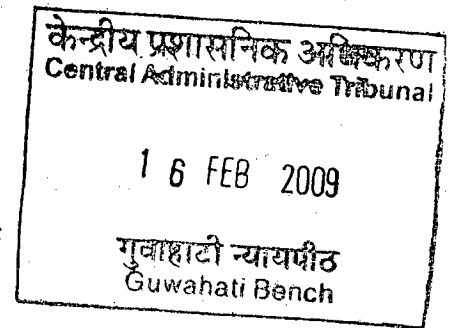
F. No. ACR/SBD/(AP)/06-07/CIT/GHY-I/2007-08/ 2529

Date : 06-08-2007.

To

Syed Basit Doley,
Tax Recovery Officer-2,
Income-tax Department,
Guwahati.

Sub: ACR for the year 2006-07 –
(period 01-04-2006 to 31-03-2007) –
Communication of entry – regarding –
.....



Please refer to the above-mentioned subject.

2. In this connection, this is to inform you that in your ACR for the period 01-04-2006 to 31-03-2007 the following entries have been found recorded:

COLUMN NO. :

REMARKS :

15. Comments of the Reporting Officer on item 11. : I do not agree with statistics of achievement shown by Shri Doley. The total collection achieved by him is only Rs.1,01,734/- and he has disposed off only 1 (one) certificate case. Therefore, his performance is not satisfactory and requires improvement.

CIT in his performance appraisal has remarked that the performance of TRO-2 is "very very poor". This was informed to him and he was reminded to improve upon his performances.

16. Comments on Columns 12 & 13. : No special work was done by him and no orders was passed by him. Therefore, his performance is assessed as 'inadequate'.

17(b) Knowledge of procedure : Inadequate.

The aforesaid remarks are treated as adverse in nature.

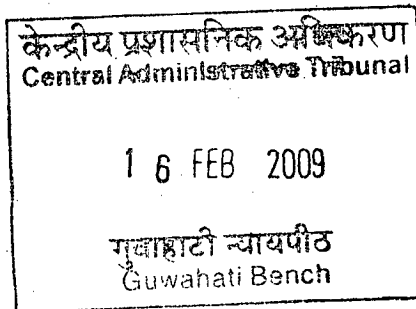
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(M)
ADVOCATE

3. You are, therefore, allowed 1 (one) month's time from the date of receipt of this letter to submit your representation if any, to the undersigned against the remarks mentioned above.

4. Please note that if no representation is received within the time limit given above, the remarks will be deemed as correct and confirmed as such.

(P. K. Ray)

Commissioner of Income-tax, Guwahati-I
Guwahati



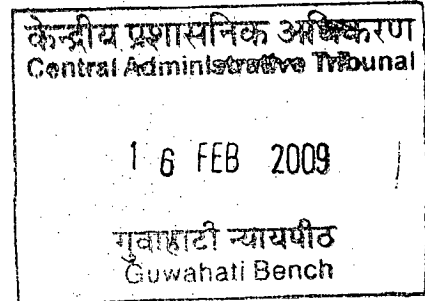
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ADVOCATE

F. No. Per/E-15/ITO(Hqrs)/CIT(Audit)GHY/2007-2008/10
 OFFICE OF THE INCOME -TAX OFFICER(Hqrs)
 OFFICE OF THE COMMISSIONER OF INCOME-TAX.(AUDIT),
 GAUHATI, SAIKIA COMMERCIAL COMPLEX,
 SREENAGAR, G.S. ROAD, GUWAHATI-5
 DATED GUWAHATI, THE 8th Aug 2007.

To,

The Commissioner of Income-tax, (By name),
 Gauhati-I,
 Saikia Commercial Complex,
 Sreenagar, G.S. Road,
 Gauhati-5.



Sir,

Sub: ACR for the year 2006-2007, Communication of entries - regarding

With humble submission, most respectfully I beg to reply as under:

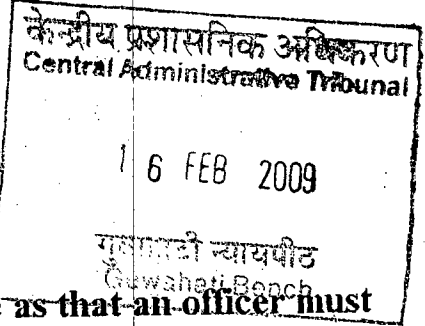
Comments of the reporting officer on Item 11: The officer's comments on item 11 as "Not satisfactory" is quite bias and wrong. He failed to evaluate my achievement that achievement means the total collection and reduction both. As reported by the reporting officer, my total achievement is not only Rs.101734/- but it is Rs.94,95298/- and total disposal is not only 1 but the total disposals are 48 cases out of which 9 cases are partial disposals. (*Left enclosed*).

"Poor", "Very Poor", "Very very Poor" remarks in performance appraisal report and ACR report are quite different. "Poor", "Very Poor" "Very very Poor" remarks in the performance appraisal report are to gear up the officers for better performance but even a "Poor" remark in the ACR is enough to spoil the life and career of an officer. The reporting officer's ACR report must not transpire from out sources but he must exercise his own sense and conscience impartially and also must look into the practical circumstances of the work-environments and the nature of the office.

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ADVOCATE



Comments on Column 12: There is no rule as that an officer must perform some special or outstanding works in the year. As during the year there was no special or outstanding works, so there was no report of the same. The reporting officer should have understood it and so there was no need of any comments on this(as there was no false report as I have performed this or that special or outstanding works).

Comments on Column No. 13 : The comments on this is also not acceptable at all. The TRO's work is related to collection and recovery works. The TRO is not passing any assessment order and its related order like penalty etc. and the TRO cannot pass such orders. Therefore, comments on this column is quite unacceptable and most irrelevant.

On 17(b) knowledge of procedure: The reporting officer's report as "inadequate" in respect of knowledge of procedure is also quite bias and unacceptable. At times, I had to make him occur about the procedure. For instance, he was questioning me the reduction of Rs.93,82,612/- in respect of Smti.Indira Bora for the A.Y. 1992-93. The original demand in this case was Rs.1,54,26,162/- and after appeal effect the demand was reduced to Rs.60,43,550/ only. The order u/s 251 was of 24.10.2002 which falls in the F.Y. 2002-03 but the fact is that the reduction was never effected in the F.Y.2002-03 or at any point of time in TRO's office. I received the appeal effect order in the month of Dec'2006 without any forwarding and accordingly the reduction was effected by me in the month of Dec'2006, i.e. in the F.Y. 2006-07. The reporting officer should have asked explanation from the A.O. as to why this appeal effect was not intimated to the TRO in time. Instead he asked explanation from me. An assessee's demand was 1 crore and after appeal the demand becomes nil, the appeal effect was not intimated to the TRO in time, later on when the TRO knows the fact- will he keep the 1 crore demand of the assessee in TRC register without reducing it thereby making it a superfluous figure which demand is practically no more(this instance was also cited before him to clarify him). The reporting officer is not accepting the reduction effected by me in respect of Smt Indira Bora and telling that my achievement is only Rs. 101734/- and this shows his knowledge of the procedure.

Sir, for your comparison, I am enclosing herewith my ACR copies

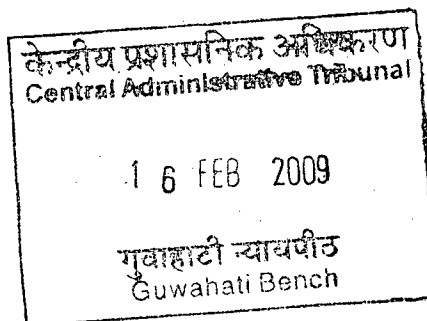
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ADVOCATE

of the last 3 years furnished to the same reporting officer, and it will be seen that there is nothing objectionable in this year's ACR. My achievements of the last 3 years are 2 lacs, 3.66 lacs and 94.96 lacs. In the column 12 and 13 also all the same are visible, nothing unusual. In fact, in practical analyses of the 3 ACRs, the comments in this year's ACR should have been better in comparison to the previous 2 years. But with a bias mind, the reporting officer has willfully, used "not satisfactory", "inadequate" etc. It clearly shows that the reporting officer has misused and abused his position of reporting as otherwise my performance in this year is better than my last 2 previous years.

Sir, with your kind permission, if I may put forward that there are TROs in my knowledge which disposal is nil and collection is also almost nil but in their cases too, no such adverse remarks seen. Your good self shall well understand that TRO's cases and jobs are such that at times despite lot of endeavours no result is yielded and sometimes with little efforts too, lot of result is gained.

Sir, in view of the above facts, I pray your benevolent authority to expunge the adverse entries which have no base but made whimsically with bias mind.



Yours faithfully,

(S. B. Doley)
ITO(Hqrs.)
O/o the CIT(Audit), GHY.

ATTESTED

ADVOCATE

16 FEB 2009

गुवाहाटी न्यायपीठ

Disposal by Summary write off:

Sl. No.	Name & address of the CD	RC No.	Year	Amount
1	Smti. Gura Devi Rungta, Uttar Strand Road, Guwahati	G-165/80-81	1974-75 to 1975-76	Rs. 475/-
2	Smti. Ghewar Debi Sancheti, Fancy Bazar, Guwahati	611/80-81	1975-76	Rs. 190/-
3	Sri Guldeep Chand Gangwal, Fancy Bazar, Guwahati	G-299/86-87	1983-84	Rs. 123/-
4	Dr. G. D. Das, Silpukhuri, Guwahati	G-1687/84-85	1981-82	Rs. 103/-
5	M/S Gauhati Mazdoor's Co-op. Societies Ltd., Paltan Bazar, Guwahati	G-19/79-80	1974-75	Rs. 91/-
6	Sri Ghana Kanta Das, Ulubari, Guwahati	G-12/77-78	1975-76	Rs. 123/-
7	Sri Gyan Singh Rajput, Sarania, Guwahati	G-1065/82-83	1977-78	Rs. 361/-
8	M/S G.S. Sethia & Sons, Station Road, Guwahati	G-540/84-85	1981-82	Rs. 415/-
9	Sri Gulachand Gangwal, Fancy Bazar, Guwahati	G-8/77-78	1973-74	Rs. 278/-
10	Sri Gokul Barua, Pub Sarania, Guwahati	G-110/79-80	1976-77	Rs. 135/-
11	Sri Gujraj Dugar, Fancy Bazar, Guwahati	G-1929/84-85	1980-81	Rs. 258/-
12	Sri Dwarka Das Jain, Fancy Bazar, Guwahati	D-2/77-78	1973-74	Rs. 580/-
13	M/S Daga Enterprise, Mahabir Market, Guwahati	D-17/88-89	1984-85	Rs. 128/-
14	Sri Dipak Das, Fancy Bazar, Guwahati	D-176/82-83	1978-79	Rs. 167/-
15	Sri Dalchand Sharma, New Market, Guwahati	D-488/85-86	1979-80	Rs. 270/-
16	Sri Deba Kanta Hazarika, Panbazar, Guwahati	D-1033/82-83	1976-77	Rs. 380/-
17	Sri Ghanashyam Kalita, GNB Road, Guwahati	G-669/73-74	1969-70	Rs. 155/-
18	Sri Gauri Shankar Jajodia, S.C. Road, Guwahati	G-1080/78-79	1974-75	Rs. 229/-
19	Sri Gajraj Sharma, Paltan Bazar, Guwahati	G-1071/78-79	1974-75	Rs. 125/-
20	Sri Dharamchand Doshi, Babu Bazar, Guwahati	D-571/80-81	1973-74 & 1974-75	Rs. 499/-
21	Sri Dharaj Agarwalla, Fancy Bazar, Guwahati	D-83/88-89	1983-84	Rs. 203/-
22	Sri Dev Kishan Sadu Dev, S.S. Road, Guwahati	D-440/83-84	1979-80	Rs. 108/-
23	Sri Dharam Chand Pawan Kr., Paltan Bazar, Guwahati	D-1358/85-86	1981-82	Rs. 157/-
24	Sri Dilip Kr. Bora, Uzan Bazar, Guwahati	D-90/79-80	1975-76	Rs. 178/-
	Total			Rs. 5731/-

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ATTESTED
ADVOCATE

16 FEB 2009

गुवाहाटी न्यायपीठ
Guwahati Bench


32

Disposal by summary write off:

Bfd

Rs.5731/-

25	Sri Dinesh Ch. Sharma, Lakhtokia, Guwahati	D-243/79-80	1975-76 & 1976-77	Rs. 157/-
26	Sri Debidutta Singhania, Fancy Bazar, Guwahati	D-811/82-83	1976-77	Rs. 492/-
27	Sri Debu Chakraborty, Pub Sarania, Guwahati	D-1039/82-83	1977-78	Rs. 330/-
28	Sri Karan Kr. Raitani, Fancy Bazar, Guwahati	K-1720/85-86	1981-82	Rs. 160/-
29	Sri D.K. Sen, Advocate, Manipuribasti, Guwahati	D-1683/84-85	1982-83	Rs. 268/-
30	Sri Sitaram Agarwalla, Fancy Bazar, Guwahati	S-441/85-86	1985-86	Rs. 159/-
31	Sri Subhkaran Kundalia, Fancy Bazar, Guwahati	S-1213/82-83	1982-83	Rs. 202/-
32	Sri Ratanlal Dharmendra Kr., Fancy Bazar, Guwahati	R-396/79-80	1974-75 & 75-76	Rs. 210/-
33	Smt. Sumeri Devi, Fancy Bazar, Guwahati	S-4/77-78	1973-74	Rs. 354/-
34	Sri Bhikamchand Banthia, Fancy Bazar, Guwahati	553/80-81	1977-78	Rs. 275/-
35	Sri Balchand Sarawgi, Fancy Bazar, Guwahati	B-498/82-83	1979-80	Rs. 812/-
36	Sri Bijoy Kr Sarmah, Fancy Bazar, Guwahati	B-72/74-75/	1974-75	Rs. 370/-
37	Sri Bakim Ch. Chatterjee, S.S. Road, Guwahati	B-922/78-79/	1974-75	Rs. 432/-
	Total			Rs.9952/-
Dispos	al by Collection and Reduction			
38	Sri Govinda Ch. Talukdar, Silpukhuri, Guwahati	373/80-81	1976-77	Rs. 779/-
39	Smt. Kanwari Devi Jain, Fancy Bazar, Guwahati	105/C-II/83-84	1979-80	Rs. 955/-
40	Smt. Suprabha Devi, Beltola (Partly)	L-658/84-85	1978-79	Rs. 8,000/-
41	M/S Rajendra Chalachitra (P) Ltd., Beltola, Guwahati (Partly)	126/80-81	1976-77	Rs. 20,000/-
42	Sri R. P. Borah (Partly)	R-182/97-98	1993-94	Rs. 9,500/-
43	Smt. Indira Borah (Partly)	I-6/93-94	1992-93	Rs.93,92,112/
44	M/S Rajashree Publication Pvt. Ltd. (Partly)	R-185/97-98	1992-93	Rs. 9,500/-
45	M/S Raja Rama Brothers Pvt. Ltd. (Partly)	R-186/92-93	1992-93	Rs. 9,500/-
46	M/s Dutta Baruah & Co. Pan Bazar, (Partly)	D-76/88-89	1982-83	Rs.13000/-
47	M/sRam Gopal Sikaria, HUF (Partly)	R-30/93-94	1987-88	Rs.9000/
48	Sri Sandeep Kr Sikaria (Partly)	S-4/07-98	1991-92	Rs.13000/-
Total				Rs.9495298/-

ATTESTED

ADVOCATE

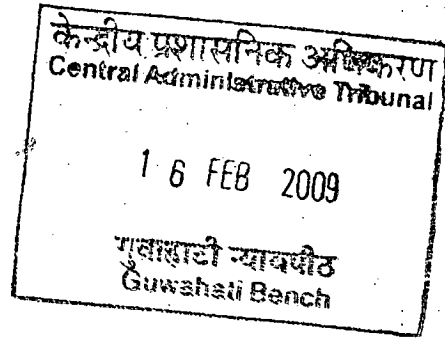
- 17 -

आयकर कोन.-2
I.T. Con.-2

आयकर आयुक्त के कार्यालय में पहुंचने की तारीख
Due date in CIT's Office

बोर्ड के कार्यालय में पहुंचने की तारीख
Due date in Board's office

आयकर अधिकारियों की गोपनीय रिपोर्ट
CONFIDENTIAL REPORT OF INCOME-TAX OFFICERS



से तक की अवधि के लिए
For the period 01.04.2004 to 31.03.2005

भाग I-प्रशासनिक अनुभाग द्वारा भरा जाए
PART I-To be filled in by the Administrative section

1. अधिकारी का पूरा नाम (स्पष्ट अक्षरों में)
Name of the officer in full (Capital letters)
2. जन्म तिथि
Date of Birth
3. शैक्षणिक योग्यताएं
Educational Qualifications
4. क्या अनुसूचित जाति या अनुसूचित जनजाति के हैं?
Whether belongs to Scheduled Caste/Scheduled Tribe?
5. वर्तमान में किस समूह ("क"/समूह "ख") और उसमें निरन्तर तैनात होने की तारीख
Present grade (Group "A"/Group "B") and the date of continuous appointment to it
6. 31 मार्च को वेतन और अगली वेतन वृद्धि की तारीख
Pay as on 31st March and the date of next increment
7. रिपोर्ट की अवधि के दौरान जिन पदों पर काम किया है उनके नाम, अवधि और मुख्यालय
Post held during the period under report with date and headquarters
8. अनुपस्थिति की अवधि
Period of absence on
 - (क) छुट्टी (छुट्टी के प्रकार का उल्लेख कोजिए)
(a) Leave (specify kind of leave)
 - (ख) प्रशिक्षण
(b) Training
 - (ग) प्रतिनियुक्ति
(c) Deputation
9. वर्ष के दौरान दिया गया दंड यदि कोई हो
Penalties, if any, imposed during the year

SYED BASIT DOLEY

01-10-56

B.S. (Distt.)

S.T

Group B, 16-12-94.

R. 87507, 01.04.2005

- (i) 01-04-2004 to 04-06-2004
as ITO, W-1, Sibsagan
- (ii) 07-06-2004 to 31-03-2005
as TRO-2, Garooh
- (iii)

EL from 05-07-2004 to 16-11-2004
and 28-02-2005 to 11-03-2005

NIL

NIL

NIL

ATTESTED

ADVOCATE

भाग II-जिस अधिकारी की यादत यह रिपोर्ट है उसके द्वारा भरी जाए
PART II-To be filled in by the officer reported upon

84

10. वर्ष के दौरान शैक्षिक और व्यावसायिक उपलब्धियां, प्रकाशित पुस्तकें/लेख, प्रशिक्षण कार्यक्रम में सम्मिलित होना आदि को प्रकाश में लाएं।
 Academic & professional achievements during the year, books/articles published, training courses attended etc.

11.	लक्ष्य Targets	उपलब्धियां Achievements	स्पष्टीकरण, यदि कोई हो Clarifications, if any
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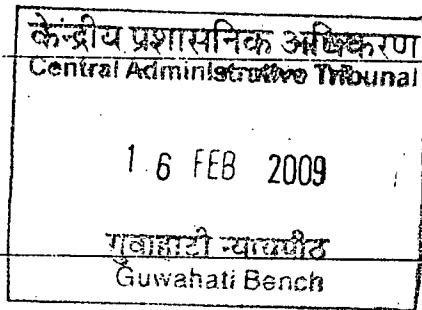
50 cases

102 cases

I.T. only

During the period 2004-2005, I discharged my duties as JAO-2, Guwahati. I issued various notices to defaulters relating to recovery, pursued collection of demands, framed hearing and heard hearings.

12. किए गए किसी विशेष/उत्कृष्ट कार्य का संक्षिप्त विवरण
 Brief resume of any special/outstanding work done



ATTESTED

ADVOCATE

पारित किए गए आदेशों का स्वरूप और संख्या तथा वर्ष के दौरान उसके आदेश के विरुद्ध दायर की गई अपीलों की संख्या
Nature and number of orders passed and number of appeals filed during the year against his order

रित किए गए आदेश
Orders passed

(i) कर-निर्धारण आदेश
Tax Assessment orders

(क) संक्षिप्त
(a) Summary

(ख) संवीक्षा
(b) Scrutiny

(ii) छुपाई गई आय पर अर्थ दंड सवसा आदेश
Concealment Penalty Orders

(iii) अन्य आदेश
Other orders

TDO's work. no assessments order passed.

दायर की गई अपीलें
Appeals filed

NIL

NIL

NIL

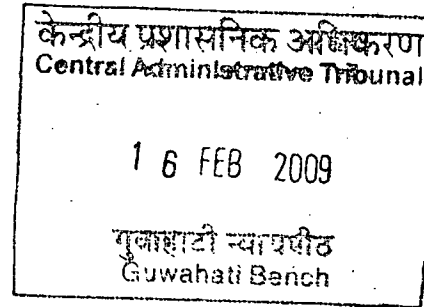
NIL

NIL

4 "कृपया-यताएं पूर्ववर्ती कलेंडर वर्ष के लिए अचल संपत्ति की वार्षिक विवरणी को देहित तिथि के भीतर अर्थात् इस कलेंडर वर्ष की 31 जनवरी तक दाखिल किया गया है। यदि नहीं तो विवरणी को दाखिल करने की तिथि दी जानी चाहिए।"

"Please state whether the annual return on immovable property for the preceding calendar year was filed within the prescribed date i.e. 31st January of the year following the calendar year. If not, the date of filing the return should be given".

Yes, filed in time



ATTESTED

ADVOCATE

हस्ताक्षर

Signature

तारीख

Date

(S. B. Doley)

10-05-2005

भाग III-रिपोर्टिंग अधिकारी द्वारा भरा जाए
PART III-To be filled in by the Reporting Officer

नणी-नीचे कालम 16 से 18 के सामने मूल्यांकन को चार में से एक कोटि-उत्कृष्ट, बहुत अच्छा, अच्छा और अपर्याप्त-कोई इंगित कर उपयुक्त कोटि लिखें। यदि वर्ष के दौरान कोई निरीक्षण किया गया हो तो उस आधार पर विचार दें।
NOTE: The Assessment against columns 16 to 18 below should be made in one of the four categories-Outstanding, Very Good, Good and Inadequate-to be indicated by writing the appropriate category. If any inspection has been carried on during the year, comments may be based on that.

नद 11 पर रिपोर्टिंग अधिकारी के विचार
Comments of the Reporting Officer on item 11.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 FEB 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

16. मद सं. 12 और 13 पर विचार
Comments on Columns 12 and 13

ATTESTED

ADVOCATE

17. तकनीकी योग्यता:

Technical ability:

यदि रिपोर्टिंग अधिकारी ने वर्ष के दौरान अधिकारी के कार्य का निरीक्षण किया है तो उक्त निरीक्षण परिणाम के आधार पर निम्नलिखित के बारे में अपने विचार दें
If the Reporting Officer has carried out inspection of the work of the officer during the year, on the basis of results of inspection he should comment on that

(क) लेखाओं का ज्ञान

(a) Knowledge of Accounts

(ख) पद्धति का ज्ञान

(b) Knowledge of Procedure

18. निम्नलिखित से संबंध

Relations with:-

(क) वरिष्ठ

(a) Superiors

(ख) सह-कर्मचारियों

(b) Colleagues

(ग) अधीनस्थों

(c) Subordinates

(घ) जनता

(d) Public

19. निम्नलिखित की बाबत अन्य योग्यताएं:

Other qualities:

(1) निर्णय लेना

Decision making

(क) गति

(a) Speed

(ख) विवेकशीलता

(b) Soundness

(2) कर्मचारियों का मार्गदर्शन

Guidance of Staff

(3) कर्मचारियों का नियंत्रण

Control of Staff

(4) जांच करने की क्षमता

Investigating Capability

(5) काम की अधिकता को संभालने की क्षमता

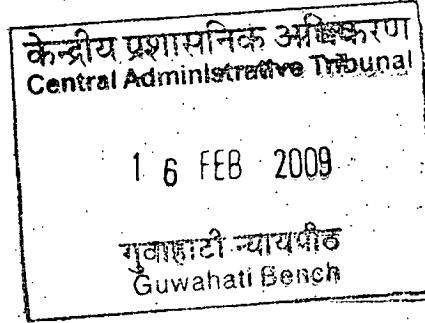
Capacity to handle pressure of work

(6) अपीलीय प्राधिकारियों के समक्ष मामले प्रस्तुत/बहस करने की क्षमता

Capacity to present/argue cases before Appellate Authorities

20. सत्यनिष्ठा

Integrity



ATTESTED

(M)

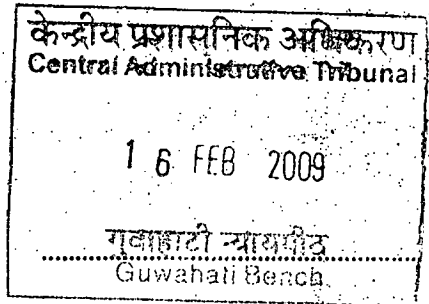
ADVOCATE

21. कार्य पर लगाए जाने की प्रकृति जिसके लिए अधिकारी योग्य है।
Nature of placement for which the officer is suited

1. विभाग के अन्तर्गत (जैसे जांच, न्यायिक, लेखापरीक्षा, प्रशासन से संबंधित कार्य, न्यायाधिकरण या किसी अन्य के समक्ष प्रतिनिधित्व देना),
कृपया विनिर्दिष्ट करें
Inside the department (e.g. work relating to investigation, judicial
audit, administration, representation before Tribunal or any other)
Please specify

2. विभाग के बाहर (सचिवालय में किसी पद, किसी सार्वजनिक क्षेत्र के
उपक्रम में प्रतिनियुक्ति आदि के लिए)
Outside the department (post in the Secretariat, Dputation to
Public Sector Undertaking etc.)

22. साधारण टिप्पणियां—
(यहां अधिकारी की वर्तमान/भविष्य की नियुक्ति से संगत किसी विशेष
योग्यता, विशेषता या कार्य निष्पादन का उल्लेख करें)
General observations—
(Here mention any special ability, traits or performance relevant to
future assignments)



रिपोर्टिंग अधिकारी के हस्ताक्षर
Signature of the Reporting
Officer

नाम (स्पष्ट अक्षरों में)
Name (Block letters)

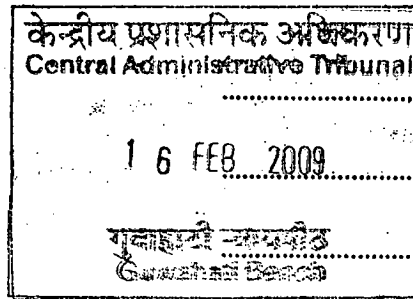
पदनाम
Designation

तारीख
Date

ATTESTED
ADVOCATE

भाग IV-आयुक्त (अपील) द्वारा भरा जाए
PART IV-To be filled in by Commissioner (Appeals)

1. जिस अधिकारी की बाबत यह रिपोर्ट है उसका नाम
Name of the Officer reported upon
2. उसका पदनाम
His designation
3. उसकी वर्तमान तैनाती
His present posting
4. *वर्तमान रिपोर्ट की अवधि
*Period covered by the Present report
5. कर-निर्धारण और छुपाई गई आय पर जुर्माना संबंधी उसके आदेशों की संख्या जिनके विरुद्ध उपर्युक्त अवधि के दौरान अपील की सुनवाई हुई और उस पर निर्णय लिया गया था।
Number of his orders of assessment and concealment penalty against which appeal was heard and decided during the above period.
6. जुर्माना संबंधी आदेशों की संख्या
Number of penalty orders:
 (क) पुष्टिकृत
(a) Confirmed
 (ख) रद्द किए गए
(b) Cancelled
 (ग) विविध
(c) Varied
7. कर-निर्धारण आदेशों की संख्या जिनमें प्रमुख वृद्धियां थी :
Number of assessment orders in which major additions were :
 (क) पुष्टिकृत
(a) Confirmed
 (ख) हटाई गई
(b) deleted
 (ग) कम की गई
(c) reduced
 (घ) वृद्धि किए गए
(d) enhanced
8. रद्द किए गए आदेशों की संख्या
Number of orders set aside
9. उसके कार्य की गुणवत्ता पर विशेष विचार:
Special comments on quality of his work:
 (क) क्या वाद विषयों को सही ढंग से समझते हैं?
(a) whether issues are properly indentified?
 (ख) क्या तथ्यों का पता लगाने के निष्कर्ष पर पहुंचने के लिए साक्ष्य व्यवस्थित रूप से रखते हैं?
(b) whether evidence is properly marshalled for arriving at findings of fact?



*यहां अवधि से तात्पर्य है वह अवधि जिसके दौरान आयुक्त (अपील) ने अपीलों पर निर्णय लिया।
*Period here means the period during which CIT (A) decided the appeals.

ATTESTED

ADVOCATE

- (ग) क्या संगत सांविधिक और निर्णय विधि लागू किए?
 (c) whether relevant statutory and caselaw applied?
 (घ) क्या बोर्ड के अनुदेशों का अनुपालन किया गया?
 (d) whether Board's instructions followed?
 (ङ) क्या आदेशों के प्रारूप विषयों, साक्ष्य, तथ्य और कानून को व्यक्त करते हुए समुचित रूप से तैयार किए और आख्यात्मक आदेश जारी किया?
 (e) whether orders properly drafted bringing out issues, evidence, facts and law and speaking order is passed?

10. अधिकारी द्वारा किए गए कर-निर्धारण की गुणवत्ता के संबंध में साधारण विचार
 General observations regarding the quality of assessments made by the officer

हस्ताक्षर आयुक्त (अपील)
 Signature of the Commissioner
 (Appeals)

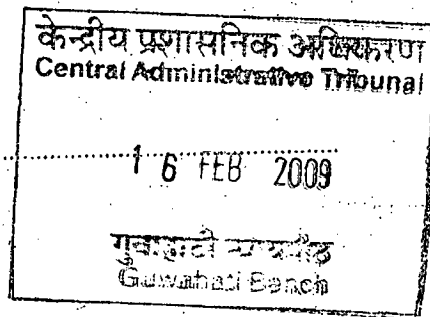
नाम (स्पष्ट अक्षरों में)
 Name (Block letters)

पदनाम
 Designation

दिनांक
 Date

भाग V-पुनर्विलोकन अधिकारी द्वारा भरा जाए
 PART V-To be filled in by Reviewing Officer

1. वर्ष के दौरान पुनर्विलोकन अधिकारी के अधीन सेवा की अवधि
 Length of service under the Reviewing Officer during the year
2. क्या पुनर्विलोकन अधिकारी रिपोर्टिंग अधिकारी द्वारा दी गई अभ्युक्तियों से सहमत हैं, यदि नहीं, तो असहमति के कारण व किस हद तक आप सहमत हैं, संक्षेप में बताएं
 Does the Reviewing Officer agree with the remarks of the Reporting Officer? If not, the reasons for disagreement may be mentioned in brief.
3. सामान्य मूल्यांकन
 General Assessment



हस्ताक्षर
 Signature

नाम (स्पष्ट अक्षरों में)
 Name (Block letters)

पदनाम
 Designation

दिनांक
 Date

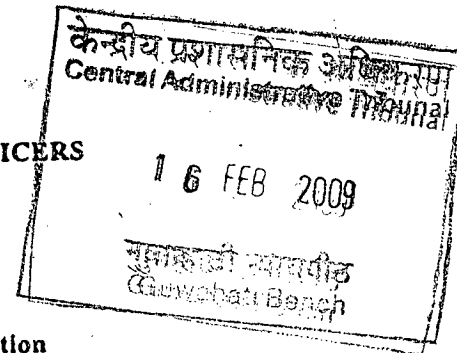
आयकर आयुक्त के कार्यालय में पहुंचने की तारीख
Due date in CIT's Office

बोर्ड के कार्यालय में पहुंचने की तारीख
Due date in Board's office

आयकर अधिकारियों की गोपनीय रिपोर्ट
CONFIDENTIAL REPORT OF INCOME-TAX OFFICERS

से तक की अवधि के लिए
For the period 1.4.2005 to 31-3-2006

भाग I-प्रशासनिक अनुभाग द्वारा भरा जाए
PART I-To be filled in by the Administrative section



- अधिकारी का पूरा नाम (स्पष्ट अक्षरों में)
Name of the officer in full (Capital letters) SYED DASIT DOLEY
- जन्म तिथि
Date of Birth 1-10-1956
- शैक्षणिक योग्यताएं
Educational Qualifications B.Sc (Dist.)
- क्या अनुसूचित जाति या अनुसूचित जनजाति के हैं?
Whether belongs to Scheduled Caste/Scheduled Tribe? ST
- वर्तमान ग्रेड (समूह "क"/समूह "ख") और उसमें निरन्तर तैनात होने की तारीख
Present grade (Group "A"/Group "B") and the date of continuous appointment to it 170 and 16.12.1994
- 31 मार्च को वेतन और अगली वेतन वृद्धि की तारीख
Pay as on 31st March and the date of next increment Rs. 9000/- and 14.2.06
- रिपोर्ट की अवधि के दौरान जिन पदों पर काम किया है उनके नाम, अवधि और मुख्यालय
Post held during the period under report with date and headquarters
(i) TRA-2, Gauhati
(ii)
(iii)
- अनुपस्थिति की अवधि
Period of absence on
(क) छुट्टी (छुट्टी के प्रकार का उल्लेख कीजिए)
(a) Leave (specify kind of leave) EL for 17 days bet 7.12.2005 to 23.12.2005
(ख) प्रशिक्षण
(b) Training nil
(ग) प्रतिनियुक्ति
(c) Deputation nil
- वर्ष के दौरान दिया गया दंड, यदि कोई हो.
Penalties, if any, imposed during the year nil

ATTESTED
M
ADVOCATE

भाग II-जिस अधिकारी की बाबत यह रिपोर्ट है उसके द्वारा भरी जाए
PART II-To be filled in by the officer reported upon

10. वर्ष के दौरान शैक्षिक और व्यावसायिक उपलब्धियां, प्रकाशित पुस्तकें/लेख, प्रशिक्षण पाठ्यक्रम में सम्मिलित होना आदि को प्रकाश में लाएं।
Academic & professional achievements during the year, books/articles published, training courses attended etc.

Article Published,
1. Freedom of Expression.
2. With or without I.M.
(IT) Act
3. Jihad: Condemned.
4. Why, Assam to Bismillah?

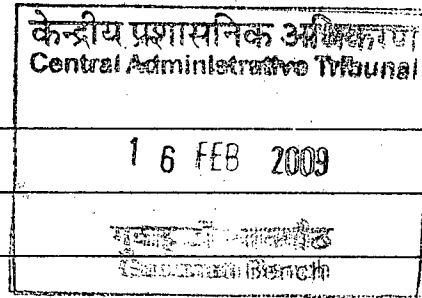
11. लक्ष्य
Targets उपलब्धियां
Achievements स्पष्टीकरण, यदि कोई हो
Clarifications, if any

3.66 lakhs.

I.T.-only

During the period 2005-2006 I discharged my duties as T Re-2 Bench. I issued various notices to defaulters relating to recovery, made correspondence with other offices and banks in connection with recovery matters, pursued collection of demands over phones and deputing T.R. and staff, filed cases and heard hearings.

12. किए गए किसी विशेष/उत्कृष्ट कार्य का संक्षिप्त विवरण
Brief resume of any special/outstanding work done



ATTESTED
ADVOCATE

परित किए गए आदेशों का स्वरूप और संख्या तथा वर्ष के दौरान
उसके आदेश के विरुद्ध दायर की गई अपीलों की संख्या
Nature and number of orders passed and number of appeals
filed during the year against his order

रित किए गए आदेश
Orders passed

(i) कर-निर्धारण आदेश
Tax Assessment orders

(क) संक्षिप्त
(a) Summary

(ख) संवीक्षा
(b) Scrutiny

(ii) छुपाई गई आय पर अर्थ दंड संबंधी आदेश
Concealment Penalty Orders

(iii) अन्य आदेश
Other orders

4. "कृपया बताएं पूर्ववर्ती कलेण्डर वर्ष के लिए अचल संपत्ति की वार्षिक
विवरणों को विहित तिथि के भीतर अर्थात् इस कलेण्डर वर्ष की
31 जनवरी तक दाखिल किया गया है। यदि नहीं तो विवरणों को
दाखिल करने की तिथि दी जानी चाहिए।"

"Please state whether the annual return on immovable property
for the preceding calendar year was filed within the prescribed
date i.e. 31st January of the year following the calendar year.
If not, the date of filing the return should be given".

TR0's work, no
assessment order passed.

दायर की गई अपीलें
Appeals filed

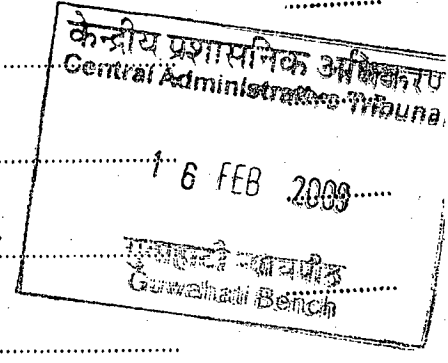
NIL

NIL

NIL

NIL

NIL



Yes, filed in time

ATTESTED
ADVOCATE

हस्ताक्षर
Signature

तारीख
Date

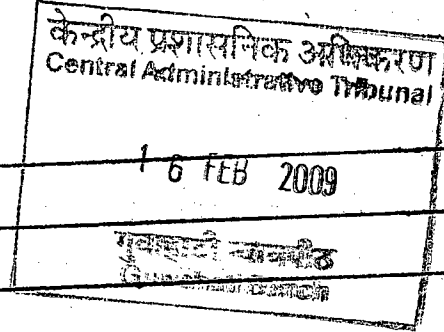
23.05.2006

Signature of S. B. Doley
23.05.2006

भाग III-रिपोर्टिंग अधिकारी द्वारा भरा जाए
PART III-To be filled in by the Reporting Officer

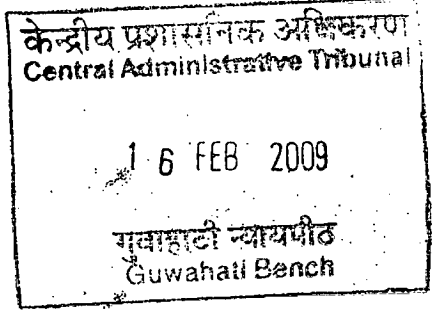
टिप्पणी:-नीचे कालम 16 से 18 के सामने मूल्यांकन को चार में से एक कोटि-उत्कृष्ट, बहुत अच्छा, अच्छा और अपर्याप्त-कोई इंगित कर उपयुक्त कोटि लिखें। यदि वर्ष के दौरान कोई निरीक्षण किया गया हो तो उस आधार पर विचार दें।
NOTE : The Assessment against columns 16 to 18 below should be made in one of the four categories-Outstanding, Very Good, Good and Inadequate-to be indicated by writing the appropriate category. If any inspection has been carried on during the year, comments may be based on that.

15. मद 11 पर रिपोर्टिंग अधिकारी के विचार
Comments of the Reporting Officer on item 11:



16. मद सं. 12 और 13 पर विचार
Comments on Columns 12 and 13

ATTESTED
(M)
ADVOCATE



17. तकनीकी योग्यता:
Technical ability:
यदि रिपोर्टिंग अधिकारी ने वर्ष के दौरान अधिकारी के कार्य का निरीक्षण किया है तो उक्त निरीक्षण परिणाम के आधार पर निम्नलिखित के बारे में अपने विचार दें
If the Reporting Officer has carried out inspection of the work of the officer during the year, on the basis of results of inspection he should comment on that

(क) लेखाओं का ज्ञान
(a) Knowledge of Accounts

(ख) पद्धति का ज्ञान
(b) Knowledge of Procedure

18. निम्नलिखित से संबंध
Relations with:-

(क) वरिष्ठ
(a) Superiors

(ख) सह-कर्मचारियों
(b) Colleagues

(ग) अधीनस्थों
(c) Subordinates

(घ) जनता
(d) Public

19. निम्नलिखित की बाबत अन्य योग्यताएं:
Other qualities:

(1) निर्णय लेना
Decision making

(क) गति
(a) Speed

(ख) विवेकशीलता
(b) Soundness

(2) कर्मचारियों का मार्गदर्शन
Guidance of Staff

(3) कर्मचारियों का नियंत्रण
Control of Staff

(4) जांच करने की क्षमता
Investigating Capability

(5) काम की अधिकता को संभालने की क्षमता
Capacity to handle pressure of work

(6) अपीलीय प्राधिकारियों के समक्ष मामले प्रस्तुत/बहस करने की क्षमता
Capacity to present/argue cases before Appellate Authorities

20. सत्यनिष्ठा
Integrity

ATTESTED
ADVOCATE

21. कार्य पर लगाए जाने की प्रकृति जिसके लिए अधिकारी योग्य है।
Nature of placement for which the officer is suited

1. विभाग के अन्तर्गत (जैसे जांच, न्यायिक, लेखापरीक्षा, प्रशासन से संबंधित कार्य, न्यायाधिकरण या किसी अन्य के समक्ष प्रतिनिधित्व देना),
कृपया विनिर्दिष्ट करें
Inside the department (e.g. work relating to investigation, judicial audit, administration, representation before Tribunal or any other)
Please specify

2. विभाग के बाहर (सचिवालय में किसी पद, किसी सार्वजनिक क्षेत्र के उपक्रम में प्रतिनियुक्ति आदि के लिए)
Outside the department (post in the Secretariat, Deputation to Public Sector Undertaking etc.)

22. साधारण टिप्पणियां—
(यहां अधिकारी की वर्तमान/भविष्य की नियुक्ति से संगत किसी विशेष योग्यता, विशेषता या कार्य निष्पादन का उल्लेख करें)
General observations—
(Here mention any special ability, traits or performance relevant to future assignments)

<p>केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal</p> <p>16 FEB 2009</p> <p>गुवाहाटी न्यायापीठ Guwahati Bench</p>

रिपोर्टिंग अधिकारी के हस्ताक्षर
Signature of the Reporting Officer

नाम (स्पष्ट अक्षरों में)
Name (Block letters)

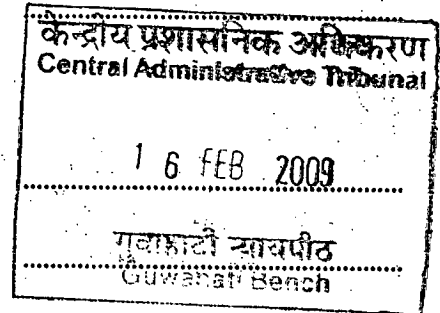
पदनाम
Designation

तारीख
Date

ATTESTED
ADVOCATE

भाग IV-आयुक्त (अपील) द्वारा भरा जाए
PART IV-To be filled in by Commissioner (Appeals)

1. जिस अधिकारी की बाबत यह रिपोर्ट है उसका नाम
Name of the Officer reported upon
2. उसका पदनाम
His designation
3. उसकी वर्तमान तैनाती
His present posting
4. *वर्तमान रिपोर्ट की अवधि
*Period covered by the Present report
5. कर-निर्धारण और छुपाई गई आय पर जुर्माना संबंधी उसके आदेशों की संख्या जिनके विरुद्ध उपर्युक्त अवधि के दौरान अपील की सुनवाई हुई और उस पर निर्णय लिया गया था।
Number of his orders of assessment and concealment penalty against which appeal was heard and decided during the above period.
6. जुर्माना संबंधी आदेशों की संख्या
Number of penalty orders:
 - (क) पुष्टिकृत
(a) Confirmed
 - (ख) रद्द किए गए
(b) Cancelled
 - (ग) विविध
(c) Varied
7. कर-निर्धारण आदेशों की संख्या जिनमें प्रमुख वृद्धियां थी :
Number of assessment orders in which major additions were :
 - (क) पुष्टिकृत
(a) Confirmed
 - (ख) हटाई गई
(b) deleted
 - (ग) कम की गई
(c) reduced
 - (घ) वृद्धि किए गए
(d) enhanced
8. रद्द किए गए आदेशों की संख्या
Number of orders set aside
9. उसके कार्य की गुणवत्ता पर विशेष विचार:
Special comments on quality of his work:
 - (क) क्या वाद विषयों को सही ढंग से समझते हैं?
(a) whether issues are properly indentified?
 - (ख) क्या तथ्यों का पता लगाने के निष्कर्ष पर पहुंचने के लिए साक्ष्य व्यवस्थित रूप से रखते हैं?
(b) whether evidence is properly marshalled for arriving at findings of fact?



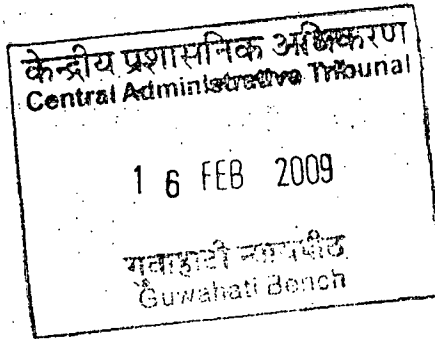
*यहां अवधि से तात्पर्य है वह अवधि जिसके दौरान आयुक्त (अपील) ने अपीलों पर निर्णय लिया।
*Period here means the period during which CIT (A) decided the appeals.

ATTESTED

ADVOCATE E

- (ग) क्या संगत सांविधिक और निर्णय विधि लागू किए?
 (c) whether relevant statutory and caselaw applied?
 (घ) क्या बोर्ड के अनुदेशों का अनुपालन किया गया?
 (d) whether Board's instructions followed?
 (ङ) क्या आदेशों के प्रारूप विषयों, साक्ष्य, तथ्य और कानून को व्यक्त करते हुए समुचित रूप से तैयार किए और आख्यात्मक आदेश जारी किया?
 (e) whether orders properly drafted bringing out issues, evidence, facts and law and speaking order is passed?

10. अधिकारी द्वारा किए गए कर-निर्धारण की गुणवत्ता के संबंध में साधारण विचार
 General observations regarding the quality of assessments made by the officer



हस्ताक्षर आयुक्त (अपील)
 Signature of the Commissioner
 (Appeals)

नाम (स्पष्ट अक्षरों में)
 Name (Block letters)

पदनाम
 Designation

दिनांक
 Date

भाग V-पुनर्विलोकन अधिकारी द्वारा भरा जाए
 PART V-To be filled in by Reviewing Officer

1. वर्ष के दौरान पुनर्विलोकन अधिकारी के अधीन सेवा की अवधि
 Length of service under the Reviewing Officer during the year
2. क्या पुनर्विलोकन अधिकारी रिपोर्टिंग अधिकारी द्वारा दी गई अभिवृत्तियों से सहमत हैं, यदि नहीं, तो असहमति के कारण व किस हद तक आप सहमत हैं, संक्षेप में बताएं
 Does the Reviewing Officer agree with the remarks of the Reporting Officer? If not, the reasons for disagreement may be mentioned in brief.
3. सामान्य मूल्यांकन
 General Assessment

हस्ताक्षर
 Signature

नाम (स्पष्ट अक्षरों में)
 Name (Block letters)

पदनाम
 Designation

दिनांक
 Date

ATTESTED

ADVOCATE

- 33 -

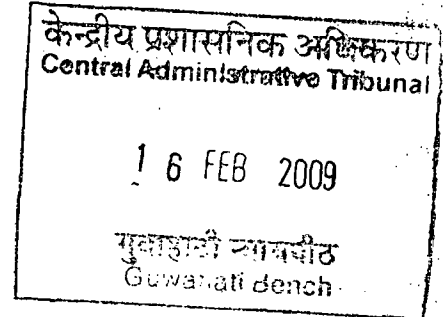
49

आयकर कोन.-2
I.T. Con.-2

आयकर आयुक्त के कार्यालय में पहुंचन की तारीख
Due date in CIT's Office

बोर्ड के कार्यालय में पहुंचने की तारीख
Due date in Board's office

आयकर अधिकारियों की गोपनीय रिपोर्ट
CONFIDENTIAL REPORT OF INCOME-TAX OFFICERS



से तक की अवधि के लिए
For the period 01.04.2006 to 31.03.2007

भाग I-प्रशासनिक अनुभाग द्वारा भरा जाए
PART I-To be filled in by the Administrative section

1. अधिकारी का पूरा नाम (स्पष्ट अक्षरों में)
Name of the officer in full (Capital letters)

SYED BASIT DOLEY

2. जन्म तिथि
Date of Birth

01-10-1956

3. शैक्षणिक योग्यताएं
Educational Qualifications

B.Sc. (Distinction)

4. क्या अनुसूचित जाति या अनुसूचित जनजाति के हैं?
Whether belongs to Scheduled Caste/Scheduled Tribe?

Scheduled Tribe

5. वर्तमान ग्रेड (समूह "क"/समूह "ख") और उसमें निरन्तर तैनात होने की तारीख
Present grade (Group "A"/Group "B") and the date of continuous appointment to it

Group 'B'

6. 31 मार्च को वेतन और अगली वेतन वृद्धि की तारीख
Pay as on 31st March and the date of next increment

Rs. 9950/- present -
Increment Rs. 01-04-2007

7. रिपोर्ट की अवधि के दौरान जिन पदों पर काम किया है उनके नाम, अवधि और मुख्यालय
Post held during the period under report with date and headquarters

(i) TR-2 Gauhati

(ii)

(iii)

8. अनुपस्थिति की अवधि
Period of absence on

(क) छुट्टी (छुट्टी के प्रकार का उल्लेख कीजिए)
(a) Leave (specify kind of leave)

EL. for 24 days as of 23-8-2006 to 15-9-2006 -

(ख) प्रशिक्षण
(b) Training

nil

(ग) प्रतिनिधित्व
(c) Deputation

nil

9. वर्ष के दौरान दिया गया दंड यदि कोई हो
Penalties, if any, imposed during the year

nil

plc

ATTESTED
ADVOCATE

भाग II-अध्यापक की बाबत यह रिपोर्ट है उसके द्वारा भरी जाए
PART II- To be filled in by the officer reported upon.

10. वर्ष के दौरान शैक्षिक और व्यावसायिक उपलब्धियां, प्रकाशित पुस्तकें, लेख, प्रशिक्षण पाठ्यक्रम में सम्मिलित होना आदि का प्रकाश न लाए।
Academic & professional achievements during the year.
books/articles published, training courses attended etc.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 FEB 2009

11. लक्ष्य
Targets

उपलब्धियां
Achievements

स्पष्टीकरण यदि कोई हो
Clarifications, if any.

94.96 lacs

I.T. only.

During the period 2006-2008, I functioned as TR-2, Gaudhati. I issued various reminder and recovery notices to defaulters, fixed hearing with relation to recovery, made various correspondences with other offices and institutions like bank etc in connection with recovery matters. Pursued collection by deputing TR and staff and even over phone.

12. किए गए किसी विशेष/उत्कृष्ट कार्य का संक्षिप्त विवरण.
Brief resume of any special/outstanding work done

ATTESTED

ADVOCATE

13. पारित किए गए आदेशों का स्वरूप और संख्या तथा वर्ष के दौरान उसके आदेश के विरुद्ध दायर की गई अपीलें की संख्या
Nature and number of orders passed and number of appeals filed during the year against his order

पारित किए गए आदेश
Orders passed

(i) कर-निर्धारण आदेश
Tax Assessment orders

(क) सक्षिप्त
(a) Summary

(ख) संवीक्षा
(b) Scrutiny

(ii) छुपाई गई आय पर अर्थ दंड संबंधी आदेश
Concealment Penalty Orders

(iii) अन्य आदेश
Other orders

14. कृपया बताएं पूर्ववर्ती कलेंडर वर्ष के लिए अचल संपत्ति की वार्षिक दिवरणी को विहित तिथि के भीतर अर्थात् इस कलेंडर वर्ष की 31 जनवरी तक दाखिल किया गया है। यदि नहीं तो दिवरणी को दाखिल करने की तिथि दी जानी चाहिए।
"Please state whether the annual return on immovable property for the preceding calendar year was filed within the prescribed date i.e. 31st January of the year following the calendar year. If not, the date of filing the return should be given".

There were, no
appeals filed against his orders.

दायर की गई अपीलें
Appeals filed

nil

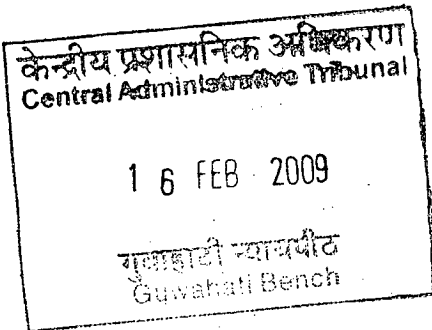
nil

nil

nil

nil

Yes, filed in Jt.



ATTESTED
(M)
ADVOCATE

हस्ताक्षर

Signature

तारीख

Date

22.05.2009

CS-02 (Deputy)

TR-2, Cont.

22.05.2009

भाग III-रिपोर्टिंग अधिकारी द्वारा भरा जाए
PART III-To be filled in by the Reporting Officer

टिप्पणी:-नीचे कालम 16 से 18 के सामने मूल्यांकन को चार में से एक कोटि-उत्कृष्ट, बहुत अच्छा, अच्छा और अपर्याप्त-कोई इंगित कर उपयुक्त कोटि लिखें। यदि वर्ष के दौरान कोई निरीक्षण किया गया हो तो उस आधार पर विचार दें।
NOTE : The Assessment against columns 16 to 18 below should be made in one of the four categories-Outstanding, Very Good, Good and Inadequate-to be indicated by writing the appropriate category. If any inspection has been carried on during the year, comments may be based on that.

15. मद 11 पर रिपोर्टिंग अधिकारी के विचार
Comments of the Reporting Officer on item 11.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal
16 FEB 2009
गुवाहाटी न्यायपीठ Guwahati Bench

16. मद सं. 12 और 13 पर विचार
Comments on Columns 12 and 13

ATTESTED

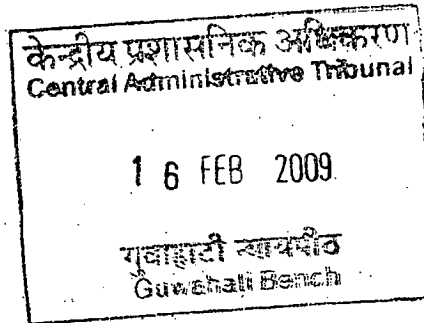
ADVOCATE

17. तकनीकी योग्यता:
Technical ability:
यदि रिपोर्टिंग अधिकारी ने वर्ष के दौरान अधिकारी के कार्य का निरीक्षण किया है तो उक्त निरीक्षण परिणाम के आधार पर निम्नलिखित के बारे में अपने विचार दें
If the Reporting Officer has carried out inspection of the work of the officer during the year, on the basis of results of inspection he should comment on that

- (क) लेखाओं का ज्ञान
(a) Knowledge of Accounts
(ख) पद्धति का ज्ञान
(b) Knowledge of Procedure

18. निम्नलिखित से संबंध
Relations with:-

- (क) वरिष्ठ
(a) Superiors
(ख) सह-कर्मचारियों
(b) Colleagues
(ग) अधीनस्थों
(c) Subordinates
(घ) जनता
(d) Public



19. निम्नलिखित की बाबत अन्य योग्यताएं:
Other qualities:

- (1) निर्णय लेना
Decision making
(क) गति
(a) Speed
(ख) विवेकशीलता
(b) Soundness
(2) कर्मचारियों का मार्गदर्शन
Guidance of Staff
(3) कर्मचारियों का नियंत्रण
Control of Staff
(4) जांच करने की क्षमता
Investigating Capability
(5) काम की अधिकता को संभालने की क्षमता
Capacity to handle pressure of work
(6) अपीलीय प्राधिकारियों के समक्ष मामले प्रस्तुत/बहस करने की क्षमता
Capacity to present/argue cases before Appellate Authorities

20. सत्यनिष्ठा
Integrity

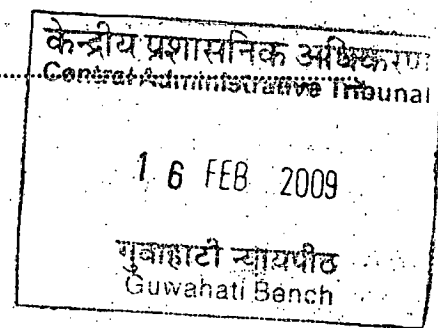
ATTESTED
ADVOCATE

21. कार्य पर लगाए जाने की प्रकृति जिसके लिए अधिकारी योग्य है।
Nature of placement for which the officer is suited

1. विभाग के अन्तर्गत (जैसे जांच, न्यायिक, लेखापरीक्षा, प्रशासन से संबंधित कार्य, न्यायाधिकरण या किसी अन्य के समक्ष प्रतिनिधित्व देना),
कृपया विनिर्दिष्ट करें
Inside the department (e.g. work relating to investigation, judicial audit, administration, representation before Tribunal or any other)
Please specify

2. विभाग के बाहर (सचिवालय में किसी पद, किसी सार्वजनिक क्षेत्र के उपक्रम में प्रतिनियुक्ति आदि के लिए)
Outside the department (post in the Secretariat, Dputation to Public Sector Undertaking etc.)

22. साधारण टिप्पणियां—
(यहां अधिकारी की वर्तमान/भविष्य की नियुक्ति से संगत किसी विशेष योग्यता, विशेषता या कार्य निष्पादन का उल्लेख करें)
General observations—
(Here mention any special ability, traits or performance relevant to future assignments)



रिपोर्टिंग अधिकारी के हस्ताक्षर
Signature of the Reporting
Officer

नाम (स्पष्ट अक्षरों में)
Name (Block letters)

पदनाम
Designation

तारीख
Date

ATTESTED
(M)
ADVOCATE

भाग IV-आयुक्त (अपील) द्वारा भरा जाए
PART IV-To be filled in by Commissioner (Appeals)

1. जिस अधिकारी की बाबत यह रिपोर्ट है उसका नाम
Name of the Officer reported upon
2. उसका पदनाम
His designation
3. उसकी वर्तमान तैनाती
His present posting
4. *वर्तमान रिपोर्ट की अवधि
*Period covered by the Present report
5. कर-निर्धारण और छुपाई गई आय पर जुर्माना संबंधी उसके आदेशों की संख्या जिनके विरुद्ध उपर्युक्त अवधि के दौरान अपील की सुनवाई हुई और उस पर निर्णय लिया गया था।
Number of his orders of assessment and concealment penalty against which appeal was heard and decided during the above period.
6. जुर्माना संबंधी आदेशों की संख्या
Number of penalty orders:
 (क) पुष्टिकृत
(a) Confirmed
 (ख) रद्द किए गए
(b) Cancelled
 (ग) विविध
(c) Varied

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 FEB 2009

गुवाहाटी न्यायपीठ
Guwahati Bench
7. कर-निर्धारण आदेशों की संख्या जिनमें प्रमुख वृद्धियां थीं :
Number of assessment orders in which major additions were :
 (क) पुष्टिकृत
(a) Confirmed
 (ख) हटाई गई
(b) deleted
 (ग) कम की गई
(c) reduced
 (घ) वृद्धि किए गए
(d) enhanced
8. रद्द किए गए आदेशों की संख्या
Number of orders set aside
9. उसके कार्य की गुणवत्ता पर विशेष विचार:
Special comments on quality of his work:
 (क) क्या वाद विषयों को सही ढंग से समझते हैं?
(a) whether issues are properly indentified?
 (ख) क्या तथ्यों का पता लगाने के निष्कर्ष पर पहुंचने के लिए साक्ष्य व्यवस्थित रूप से रखते हैं?
(b) whether evidence is properly marshalled for arriving at findings of fact?

*यहां अवधि से तात्पर्य है वह अवधि जिसके दौरान आयुक्त (अपील) ने अपीलों पर निर्णय लिया।

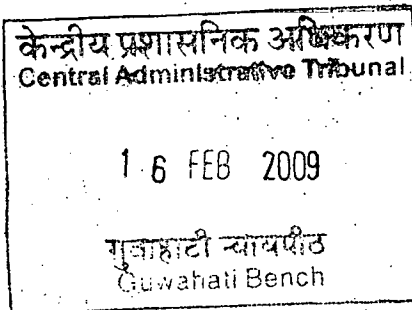
*Period here means the period during which CIT (A) decided the appeals.

ATTESTED

ADVOCATE

- (ग) क्या संगत सांविधिक और निर्णय विधि लागू किए?
 (c) whether relevant statutory and caselaw applied?
 (घ) क्या बोर्ड के अनुदेशों का अनुपालन किया गया?
 (d) whether Board's instructions followed?
 (ङ) क्या आदेशों के प्रारूप विषयों, साक्ष्य, तथ्य और कानून को व्यक्त करते हुए समुचित रूप से तैयार किए और आख्यात्मक आदेश जारी किया?
 (e) whether orders properly drafted bringing out issues, evidence, facts and law and speaking order is passed?

10. अधिकारी द्वारा किए गए कर-निर्धारण की गुणवत्ता के संबंध में साधारण विचार
 General observations regarding the quality of assessments made by the officer



हस्ताक्षर आयुक्त (अपील)
 Signature of the Commissioner
 (Appeals)

नाम (स्पष्ट अक्षरों में)
 Name (Block letters)

पदनाम
 Designation

दिनांक
 Date

भाग V-पुनर्विलोकन अधिकारी द्वारा भरा जाए
 PART V-To be filled in by Reviewing Officer

1. वर्ष के दौरान पुनर्विलोकन अधिकारी के अधीन सेवा की अवधि
 Length of service under the Reviewing Officer during the year
2. क्या पुनर्विलोकन अधिकारी रिपोर्टिंग अधिकारी द्वारा दी गई अभिवृत्तियों से सहमत हैं, यदि नहीं, तो असहमति के कारण व किस हद तक आप सहमत हैं, संक्षेप में बताएं
 Does the Reviewing Officer agree with the remarks of the Reporting Officer? If not, the reasons for disagreement may be mentioned in brief.
3. सामान्य मूल्यांकन
 General Assessment

हस्ताक्षर
 Signature

नाम (स्पष्ट अक्षरों में)
 Name (Block letters)

पदनाम
 Designation

दिनांक
 Date



-41-

ANNEXURE-- 3

भारत सरकार
वित्त मंत्रालय, राजस्व विभाग
आयकर आयुक्त, गुवाहाटी-I का कार्यालय
सैकिया कमर्शियल कॉम्प्लेक्स, श्रीनगर, जी. एस. रोड, गुवाहाटी - 781 005

GOVERNMENT OF INDIA

Ministry of Finance, Department of Revenue

OFFICE OF THE COMMISSIONER OF INCOME-TAX, GUWAHATI-I

Saikia Commercial Complex, Sreenagar, G.S. Road, Guwahati-781 005

दुरभाष / Phone : 2345117, Fax : 2345111 EPABX : 2269733 (Ext. 104)

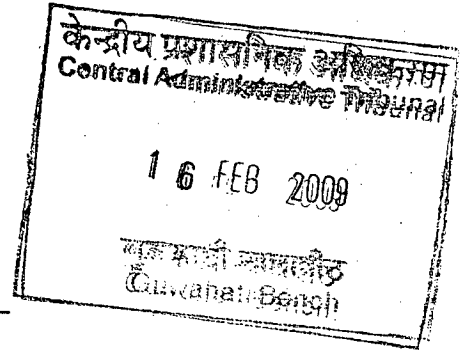
CONFIDENTIAL

F. No.ACR/SBD/(AP)/06-07/CIT/GHY-I/2007-08/ 3111

Date : 06-09-2007.

To
Shri S. B. Doley,
Income-tax Officer (erstwhile TRO-2, Guwahati),
O/o. the Commissioner of Income-tax (Audit),
Guwahati.

Sub: ACR for the year 2006-07 –
(period 01-04-2006 to 31-03-2007) –
Communication of entry – regarding –
.....



Please refer to your representation dated 08-08-2007 on the above-mentioned subject.

On a consideration of the entire matter, the comments of the Reporting Officer against Column No. 15 & 17(b) have been confirmed while the comments against Column No. 16 have been expunged. The overall categorization is "inadequate".

(P. K. Ray)

Commissioner of Income-tax, Guwahati-I
Guwahati

ATTESTED

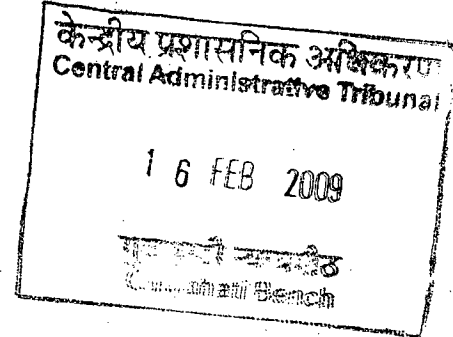
ADVOCATE

F. No. Per/E-15/ITO,Hqrs/CIT(Audit)GHY/2007-2008/11
OFFICE OF THE COMMISSIONER OF INCOME-TAX.(AUDIT),
GUWAHATI, SAIKIA COMMERCIAL COMPLEX,
SREENAGAR, G.S. ROAD, GUWAHATI-5
DATED GUWAHATI, THE 10TH SEPTEMBER' 2007.

To
The Chief Commissioner of Income-Tax, (By name),
Guwahati.

Through,
The Commissioner of Income-tax, (Audit),
Gauhati.

Hon'ble Sir,



Sub: Appeal for expunging the bias adverse entries from my ACR of March'2007.

With humble submission, I beg to pray and submit as under:

1. That sir, the Commissioner of Income-tax, Gauhati-I, communicated me the bias adverse entries in my ACR of March'2007 vide his letter dated 06.08.2007 (copy enclosed) and I replied the same vide my letter dated 08.08.2007 (copy enclosed) and he confirmed two adverse entries vide his letter dated 06.09.2007 (copy enclosed).

2. That sir, I quote below the performance figures of TRO-2 and TRO-3.

	<u>TRO-2</u>	<u>TRO-3.</u>
Cash collection Rs.	1,01,955/-	Rs. 40,000/-
Reduction Rs.	93,93,343/-	Rs. 29,63,000/-
Total	Rs. 94,95,298/-	Rs. 30,03,000/-

Certificates disposed	39	5
-----------------------	----	---

If the performance of TRO-2 could be remarked as 'inadequate', the performance of TRO-3 could also be remarked as 'inadequate'.

I also stated in my letter of 08.08.2007 that there are TROs whose disposal and collections are almost nil, but still in their cases no adverse remarks.

3. That sir, during 2006-2007, I was not given any warning or specific cautioning or counseling by any superiors pointing out my defects or deficiencies and all on a sudden the reporting officer has given the adverse remarks with a bias and narrow mind otherwise my performance of March'2007 is better than that of March'2006 and 2005 under the same reporting officer and there were no adverse remarks.

4. That sir, confirming of the bias adverse remarks of the reporting officer by the Commissioner of Income-tax, Gauhati-I, I feel, was not in accordance with the
Contd to pp - 2 -

ATTESTED
(Signature)
ADVOCATE

principles of equity and justice as the data shown in 1 above clearly shows that my performance is not 'inadequate'. Moreover, his confirmation is not based on any concrete findings or materials.

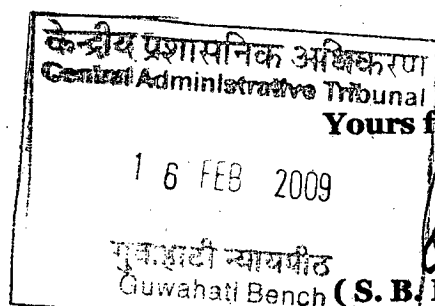
5. That sir, I could not be in peace and smooth atmosphere of works in my family as well as official life since 1999 (vigilance proceedings pending since 1999) because of the harassment and vigilance correspondence and now I have already suffered and lost 3 years of my promotion for the partisan and forcefully imposed vigilance proceedings and now if such bias adverse remarks are thrust upon me, it is really inhuman and unbearable for a simple and innocent person like me.

6. That sir, there were some unnecessary remarks on items 12 and 13 by the reporting officer. These unnecessary remarks of the reporting officer are sufficient to prove him his narrow and bias attitude. These unnecessary remarks have been expunged by the reviewing officer.

7. That sir, in view of the above facts and the papers enclosed herewith, I earnestly pray your generous authority to expunge the bias adverse remarks for which act of your generosity, I shall ever be remaining indebted to you.

Enclo:

1. CIT's letter of 06.08.2007.
2. My reply letter of 08.08.2007.
3. ACR copy of 2004-2005.
4. ACR copy of 2005-2006.
5. ACR copy of 2006-2007.
6. CIT's letter of 06.09.2007.



Yours faithfully,

[Handwritten signature]

(S. B. Doley)
Income-tax Officer, Hqrs,
O/o the Commissioner of Income-tax, (Audit),
Gauhati.

Copy to: The Commissioner of Income-tax, Gauhati-I, for favour of his kind information.

[Handwritten signature]

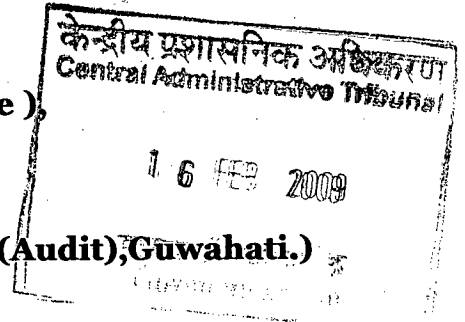
(S. B. Doley)
Income-tax Officer, Hqrs,
O/o the Commissioner of Income-tax, (Audit),
Gauhati.

ATTESTED

[Handwritten signature]
ADVOCATE

F.No.Per/E-15/Per/ITO(Hq.)/CIT(Audit)/Ghy/07-08/22
OFFICE OF THE COMMISSIONER OF INCOME TAX (AUDIT)
SAIKIA COMMERCIAL COMPLEX, G.S. ROAD, GUWAHATI-5.
DATED GUWAHATI, THE 7TH JANUARY, 2008.

To
The Chief Commissioner of Income-tax, (By name),
Saikia Commercial Complex, G.S.Road,
Guwahati-781 005.(By-Name).



(Through the Commissioner of Income-tax(Audit),Guwahati.)

Sir,

Subject: Appeal for expunging the bias adverse entries ferom my ACR of March 2007.

Most respectfully I would like to refer to my appeal vide my letter F.No.Per/E-15/Per/ITO(Hq.)/CIT(Audit)/Ghy/07-08/11 dated 10th September, 2007 against the adverse remarks in my ACR for the financial year 2006-2007.

That Sir, it is normally 3 months for disposal of an appeal in such case and in my case it is more than 3 months but I have not yet received any communication in this regards.

That Sir, on perusal of my appeal papers enclosed with the above referred letter dt. 10-09-2007, it would be crystal clear that the adverse remarks made are based on no genuine facts but entirely made in a bias manner.

That Sir, I earnestly pray your benevolent authority to expunge the adverse remarks at your earliest possible for which act of your generosity I shall ever be remaining grateful to you.

Yours faithfully,

(S.B.Doley)

Income-tax Officer(Hqrs)
O/o the CIT(Audit), Guwahati

Advance copy to:-

The Chief Commissioner of Income-tax(CCA),Guwahati for
favour of his kind information and early necessary action.

(S.B.Doley)

Income-tax Officer(Hqrs)
O/o the CIT(Audit), Guwahati

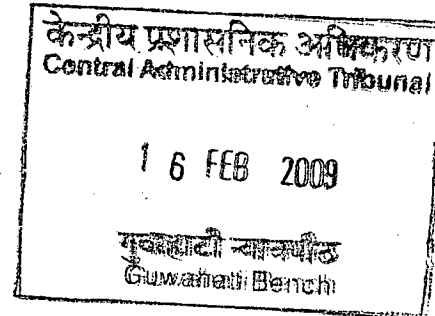
ATTESTED
ADVOCATE

F.No.C-5/ACR/GO/CIT(Audit)/Ghy//2007-2008/ 812
OFFICE OF THE COMMISSIONER OF INCOME TAX (AUDIT),
SAIKIA COMMERCIAL COMPLEX, SREENAGAR,
G.S. ROAD, GAUHATI -781005,

DATED GAUHATI, THE 21ST JANUARY 2008..

To,

✓ The Chief Commissioner of Income-tax, (By name)
Saikia Commercial Complex, Sreenagar,
G.S.Road, Gauhati.




Sir,

Sub: Forwarding of ACR adverse remarks appeal for expunction by S.B.Doley,
ITO,Hqrs.

Kindly enclosed find herewith the letter F.No.Per/E-15/ITO,Hqrs/CIT(Audit)/Ghy/2007-2008/22 dated 7th Jauary 2008 for favour of your kind consideration and doing the needful.

Yours faithfully,



(K.T. Zimik)

Commissioner of Income-tax(Audit),
Gauhati

✓ Copy to: Shri S.B.Doley, ITO, Hqrs, O/o the Commissioner of Income-tax(Audit),
Gauhati for information.


(K. T. Zimik)

Commissioner of Income-tax(Audit),
Gauhati

ATTESTED

ADVOCATE

- 46 -

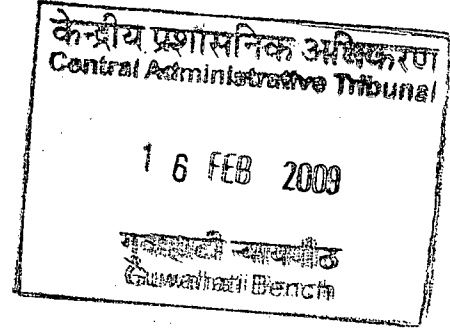
ANNEXURE-- 7

F.No. Per-1/ITO/(Hqrs)/CIT(Audit)/GHY/2008-09/02

Dated 03-12-2008

To
The Chief Commissioner of Income-tax (By Name)
Guwahati.

Most Revered Sir,



Sub:- Appeal for expunging the biased adverse remarks from my
ACR of March, 2007

Kindly refer to my appeal filed vide letter F.No. E-
15/ITO(Hqrs)/CIT(Audit)/GHY/2007-08/11 dated 10th September, 2007.

With humble submission, I beg to state that the appeal
mentioned above is pending for the last 1 year and 3 months.

Therefore, Sir, I earnestly pray your benevolent authority to
intervene and initiate disposal of the appeal at the earliest possible.

With warmest regards,

Yours faithfully,

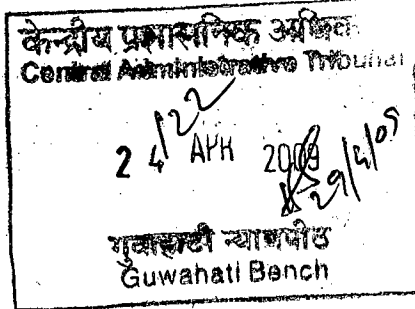
(S.B. Doley)

Income-tax Officer (Hqrs)

O/O The Commissioner of Income-tax (Audit)
Guwahati

ATTESTED

ADVOCATE



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. NO. 36 OF 2009

Syed Basit Doley alias

Budheswar Doley

...Applicant

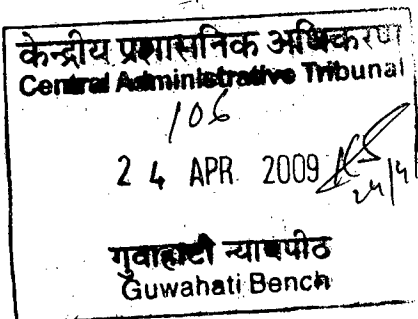
-Versus-

Union of India & Ors.

....Respondents

INDEX OF THE WRITTEN STATEMENT

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1.	Written Statement	1 - 13
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3.	Annexure-A (Copy of the letter No.F No. R-46/JCIT/Range-2/GHY/2007- 08/1137 dtd.9/10.7.2007)	15
4.	Annexure-B (Copy of the letter No.F.No. Con-1/JCIT/Range-2/2007-08 GHY/1766 dtd. 5.8.2007)	16-17
5.	Annexure-C (Copy of letter dt. 6.9.2007)	18-19



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 36 OF 2009

Syed Basit Doley alias
Budheswar Doley

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The written statement on behalf of
the Respondents above named-

MOST RESPECTFULLY SHEWETH:

1. That a copy of the original application has been served upon the respondents, the respondents after going through the same has understood the content thereof.

That before dealing specifically with the paragraphs in the said O.A. the answering respondent at the outset begs to state that there is no real cause for grievance at this stage since the appeal filed by the

applicant for expunge of adverse remarks in the ACR for the For Year 2006-07, is under the consideration pending for disposal.

2. That the respondents beg to state that the statements which are not specifically admitted by the respondents are deem to be denied by same.

Contd...P/-

67
filed by
Joint Commissioner of Income Tax
O/o. Chief Commissioner of Income Tax
संयुक्त आयकर आयुक्त
मुख्य आयकर आयुक्त का
ग्राम्पुत्र प्रमोद शर्मा 30/6/09
24/4/09
through

24 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[2]

3. That with regard to the statement made in paragraphs 2 and 3 of the original application, the respondents beg to state that those are within the specific knowledge of the applicant and the respondents can not admit or denied the same.

4. That with regard to the statement made in paragraphs 4.1 and 4.5 of the original application, the respondents beg to state that those are matter of records and the respondents do not admit anything which is contrary to the record.

5. That with regard to the statement made in paragraph 4.3 of the original application, the respondents beg to state that the adverse entries in the ACR of the applicant was communicated vide communication dated 6.8.2007 and thereupon in the said communication, it was also provided if the applicant has any grievance against the adverse entry he may represent against the same.

6. That with regard to the statement made in paragraphs 4.4 and 4.5 of the original application, the respondents beg to state that it is admitted that the applicant has filed a written representation against the adverse entries in his ACR, on 8.8.2007, and the same was replied by the respondent vide communication dated

Contd...P/-

Indrakeo Jaimin

Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati

संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

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गुवाहाटी बेंच
Guwahati Bench

[3]

6.9.2007; wherein the respondent has intimated the applicant that, after verifying the comments of the reporting officer against column No 15 and 17B have been confirmed. While the comments against column 16 was expunge by the authorities.

7. That with regard to the statement made in paragraph 4.6 of the original application, the respondents beg to state that though the applicant filed his appeal on 10.9.2007 before the CIT (Audit), Guwahati vide his letter F.No. ACR/CIT(Audit)/07-08/440 dated 08.10.2007 and thereafter process has been initiated to dispose the same as per the rules.

8. That with regard to the statement made in paragraph 4.7 of the original application, the respondents beg to state that these are matters of record, save and except what appears therefrom, everything beyond the same is denied.

9. That with regard to the statement made in paragraph 4.8 of the original application, the respondents beg to state that the appeal filed by the applicant was under due consideration. The said appeal filed by the applicant for expunge of adverse remarks of the ACR for the year 2006-07 is under due consideration and is pending for disposal. Since there is no regular Chief Commissioner of Income Tax Posted in Guwahati and further, after the retirement of last incumbent on 31.12.08

Contd...P/-

Inakoba Jaimin
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

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Guwahati Bench

[4]

on superannuation there was no such competent authority to dispose the appeal till joining of the regular Chief Commissioner on 8.4.2009

10. That with regard to the statement made in paragraph 4.9 of the original application, the respondents beg to state that those are untrue, false and devoid of any materials and the respondent denied the same. It is denied that the respondents are resorting the colourable exercise of power to deprive the applicant from his legitimate right.

11. That with regard to the statement made in paragraphs 4.10 & 4.11 of the original application, the respondents beg to state that those are imaginary, false and devoid of any truth and the respondent denied the same. It is denied that there is any arbitrary, mala-fide, illegal, improper and whimsical action on the part of the respondent for non disposal of the appeal of the applicant. It is to be stated that the appeal dated

10.9.2007 filed by the applicant was received by the appellate authority on 9.10.2007. That on perusal of the applicant's appeal, on 30.11.2007, the appellate authority directed his office to prepare a detailed note chronologically under "Adverse Remarks" as well as vigilance proceedings pending against the applicant (For Year wise) and also to make a note if there was any past similar history of the officer. Thereafter, on perusal of the

Contd...P/-

Insuksha Jaria

Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati

संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[5]

detailed note regarding the remarks in the ACR file of the applicant from 1989-90 to 2005-06, on 31.01.2008, the appellate authority vide letter F.No. Comp-5/BD/CC/VIG/2007-08/3250 dated 01.02.08 requested the applicant to intimate as to the decision taken on the representation against the "Adverse Remarks" by the Reporting Officer in his ACR for the year 1996-97. On the same date i.e. 01.02.2008 the Disciplinary Authority i.e. CIT (Audit) was also requested to inform the status of the imposition of minor penalty in the case of the applicant which was pending for disposal at his end. Thereafter, the Disciplinary Authority (i.e. CIT (Audit) submitted the status report of the departmental proceedings initiated against the applicant stating that a minor penalty has been imposed vide order dated 14.2.2008. A reply dated 4.2.2008 of the applicant in response to above referred letter was also received.

The applicant in his above letter has stated quote-
"that I was given as adverse remarks as public relation bad" by the Reporting Officer (then my Range DCIT, Range-I, Guwahati) and the same was communicated by my Reviewing Authority (then CIT, Shillong), if I had anything to represent against my adverse remarks, I represented against the adverse remarks for expunging the same. Subsequently I also sent a reminder for the same. Thereafter no single communication came in this regards and after expiry of the normal three months time

Contd...P/-

Imakuba Tania
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

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गुवाहाटी न्यायापीठ
Guwahati Bench

[6]

of receiving a reply in such matter, I thought and deemed to have expunged the adverse remarks in the ACR of 1996-97".

Thereafter, the appellate authority, on 4.4.2008, gave direction to put up the file along with the penalty order. However, due to other pressing issues in the administrative matters etc. like transfer, holding of meetings of Departmental Promotion Committee for promotion in various cadres and also due to transfer of officers in the headquarters and subsequently shifting of entire CCIT's office and other CIT Offices from Saikia Commercial Complex Building to New Aaykar Bhawan at G.S. Road, Christianbasti, Guwahati the appeal of the applicant could be taken up only in the fag end of the year 2008. Thereafter, to verify the accuracy/veracity of the claims made in the appeal of the applicant vis a vis the stand taken by the Reporting/Reviewing officer, a detailed statistical report for the financial year 2005-06 and 2006-07 during the tenure of the applicant as TRO-2, Guwahati was sought vide letter dated 30.12.2008. Meanwhile, the appellate authority retired on superannuation on 31.12.2008 and till date no regular Chief Commissioner of Income Tax is posted in North East Region. The matter of appeal of the applicant came before the present Appellate Authority only on 19.03.2009. Thereafter, due to the visit of Member (R) and C.D.T. (Admn), New Delhi along with other senior

Contd...P/-

Imokata Jain

Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati

संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

[7]

officers of Delhi and Kolkata from 21.3.2009 to 26.3.2009 the appeal of the applicant could only be discussed. Since the present Appellate Authority is holding substantive charge in Kolkata as CCIT-VIII, Kolkata, he had to leave Guwahati for Kolkata on 26.3.09 itself. However, it is to be stated that the applicant's appeal is under active consideration. Therefore, it can be seen from the above discussion that there has been no procrastination on the part of the appellate authority in disposing the appeal of the applicant. Moreover, the applicant had filed two appeals before the appellate authority regarding expunction of adverse remarks in his ACR for For Year 2006-07 and in the matter of minor penalty imposed on him. Both the appeals were being processed simultaneously. Therefore, due to complexity of the matter and other administrative reasons, the disposal of appeal may have taken more time than anticipated.

Hence, it is denied that the action of the respondents is malafide, arbitrary and motivated. It is also denied that the respondents are resorting to any colourable exercise of power of deprive the applicant from his legitimate rights. Moreover, it is also not illegal, improper, whimsical or against the policy adopted by the Government of India since the appeal filed by the applicant is under due consideration. In view of the above discussion, it is prayed before the Hon'ble Tribunal that the O.A. of the applicant may not be allowed.

Contd...P/-

Inakaba Jain

Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati

संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

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Guwahati Bench

[8]

12. That with regard to the statement made in paragraph 5.1 of the original application, the respondents beg to state that the relief sought for in this paragraph may not be granted in view of what has been stated in the foregoing paragraphs.

13. That with regard to the statement made in paragraph 5.2 of the original application, the respondents beg to deny the same and further reiterates what has been stated in paragraph 5.1. The applicant is misleading the Hon'ble Tribunal by stating that appeal should be disposed off within three months from the date of receipt of the same.

Further, it is to be stated that the time limit mentioned by the applicant in the O.A. is with regard to disposal of representation against adverse remarks. As regards the representation dated 8.8.2007 of the Applicant against his adverse remarks for the year 2006-07, the same has been disposed off by the competent authority i.e. Commissioner of Income Tax, Guwahati-I, Guwahati on 6.9.2007, which is within three months ^{as the} period per administrative instructions.

14. That with regard to the statement made in paragraph 5.3 of the original application, the respondents beg to state that though no target for achievement is fixed for Tax Recovery Officer. However, TRO is

Contd...P/-

Inakuba Jani
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR. 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[9]

Expected to function in accordance with the provision laid down in Chapter XVII of the I.T. Act under the head "Collection and Recovery". Further, the performance of the TRO for the year is inspected by the Range Heads annually. In this regard, it is to be stated that the performance of the applicant for the year 2006-07 was found not up to the mark and his reporting officer i.e. Addl. Commissioner of Income Tax, Range-2, Guwahati had issued one letter vide F.No. R046/JCIT/Range-2/GHY/2007-08/1137 dated 9/10.07.2007 regarding his performance appraisal for the period 2006-07. In the said letter the Reporting Officer has pointed out some mistakes committed by the applicant and to quote:

"Please refer to your letter dated 30.5.2007 on the above. On examination that as per procedure of write off of tax arrears the TRO cannot write off any arrear demand. Arrear demands can be written off only by the concerned assessing officer by following the prescribed procedures. Therefore, the action of write off carried out by you in Sl. No. 1 to 35 is null and void and as such disposal shown by you are not correct."

Similarly, regarding disposals shown by the applicant by way of collection/reduction at l. No. 38 to 46 it is stated that these are not treated as certificates disposed off as only part collections/reductions was achieved in such cases. It is further stated that reduction of Rs.93,82,612/- of ^{assessment} A.Year 1992-93 in the case

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Thaketa Jain

Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati

संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

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Guwahati Bench

[10]

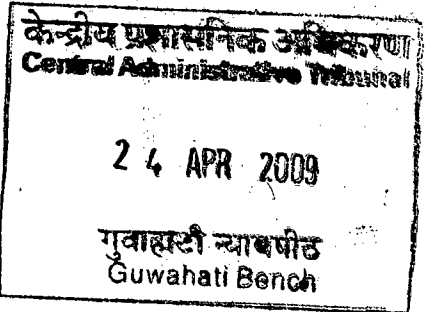
of Smt Indira Borah at Sl. No.41 was actually effected by ACIT, Circle-2, Guwahati vide order u/s 251 dated 24.10.2002. In view of the above, the Reporting Officer has directed the applicant to submit reports in future after effecting necessary corrective steps. so that similar mistakes do not occur. The copy of the letter is also endorsed to the Commissioner of Income Tax. However, there is nothing on record to suggest whether the applicant has taken any corrective steps nor it appears that any reply has been furnished by him in this regard.

Copy of letter No. F.No.R-46/JCIT/Range-2/GHY/2007-08/1137 dated 9/10.07.2007 is annexed herewith as Annexure - A.

15. That with regard to the statement made in paragraph 5.4 of the original application, the respondents beg to state that as to no warning or advices to improve the performance of the applicant by the superior authority before giving adverse remark in the ACR is denied. In this regard it is to be stated that before writing the ACR for the year 2006-07, the Reporting officer had issued the above letter dated 9/10.7.2007 regarding his performance appraisal for the period 2006-07 because Reporting Officer found the performance of the applicant for the year 2006-07 not upto the mark. Moreover, the applicant himself in his written submission dated 8th August,2007 (attached as Annexure-A with

Contd...P/-

Shalika Jain
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी



[11]

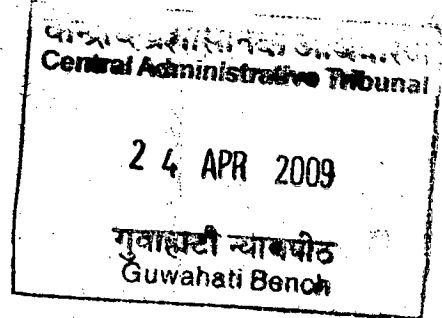
the OA) has made the following submissions against the adverse remarks for 2006-07 addressed to Commissioner of Income Tax, Guwahati-I, Guwahati. In para 2 regarding the comments of the reporting officer on Item 11 the applicant has stated-

"Poor", "Very Poor", Very, Very Poor" remarks in the performance appraisal report and ACR report are quite different. "Poor", "Very Poor", "Very Very Poor" remarks in the performance report are to gear up the officers for better performance but even a "Poor" remark in the ACR is enough to spoil the life and career of an officer. The reporting officer's ACR report... and the nature of the office".

Therefore, an advice was issued to the applicant by the Reporting Officer before writing the ACR for 2006-07. Hence, impugned ACR adverse entry for the year 2006-07 is not liable to be set aside or quashed in view of the above discussion. Further, the Reviewing Authority after taking into consideration the representation of the applicant and the counter comments of the Reporting Officer on the representation of the applicant and after elaborate discussion in his self contained note dated 6.9.2007 has come to the conclusion that the overall performance for the year 2006-07 was "inadequate" in respect of the applicant. In view of the observation made above the applicant's prayer for setting and quashing the adverse remarks for the 2006-07 may not be accepted.

Contd...P/-

Inakata Jatin
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी



[12]

Copy of letter No. F.No.Con-1/JCIT/Range-2/2007-08/GHY/1766 dated 5.9.2007 is annexed herewith as Annexure - B.

16. That with regard to the statement made in paragraph 5.5 of the original application, the respondents beg to state that it is imperative that both in the interest of efficiency of the service and also of the officers, the reports are written with greatest care so that the work, conduct, character and capabilities of the officers reported upon can be judged from the recorded opinion. Further, officers recording remarks must realise the importance of these entries as their own competency will be judged partly from the confidential remarks recorded about officers working under him. Therefore, the judgment of the immediate superior even though completely fair in its intent might sometimes be too narrow and subjective to do justice to the officer reported upon. Hence, to minimize the operation of the subjective human element of conscious and unconscious bias, the ACR of every employee contains the assessment of more than one Officer. The officer superior to Reporting Officer has exercised his power positively and has also given independent judgment on the remarks of the reporting officer and has expressed clearly his agreement or disagreement with those remarks. In the instant case the Reviewing Authority has exercised his power judiciously.

Contd...P/-

Imakaba Jania
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

गुवाहाटी बेंच
Guwahati Bench

[13]

Copy of letter dated 6.9.2007 is annexed
herewith as Annexure - C.

17. That with regard to the statement made in paragraphs 5.6 & 5.8 of the original application, the respondents beg to reiterate what is stated in para 5.5 and denies what has been stated by the applicant. Further the respondents beg to submit that the grounds set forth in the original application are not tenable in law and on facts and are not good grounds and they are liable to be rejected, dismissed in view of the facts and circumstances of the case.

18. That with regard to the statement made in paragraphs 6 & 7 of the original application, the respondents have no comments to offer.

19. That with regard to the statement made in paragraphs 8.1 to 8.3 of the original application, the respondents beg to state that in view of the submissions made in the foregoing paragraphs the relief sought by the applicant may not be granted as the applicant is not entitled to get any relief under the facts and circumstances of the case.

Imkebe Tanin
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[14]

VERIFICATION

I, Shri. Inokaba Tamin.....S/o. Shri. Inokangmesen Tamin
aged about 36 years, R/o h.S. Road, Guwahati
District Kamrup....and working as Tax Commissioner of Income Tax and
has been authorised by the Respondent to verify the
statement on their behalf. I, do hereby verify that the
statement made in paras 1 to 13 and 17
to 19 are true to my knowledge and
those made in paras 14, 15 and 16
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal and I have not suppressed any material facts.

And I sign this verification on this 24th day
of April 2009 at Guwahati.

Inokaba Tamin
Signature

Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

+5-

ANNEXURE 'A'

AB

OFFICE OF THE
JOINT COMMISSIONER OF INCOME TAX, RANGE-2,
SAIKIA CPMmercial COMPLEX, SREENAGAR,
G.S. ROAD, GUWAHATI-781005.

F.No. R-46/JCIT/Range-2/GHY/2007-08/ 1137

9th July, 2007

To

Shri S.B. Doley
TRO-2, Guwahati

Sub : Action Plan Performance Appraisal for the period 2006-07

Please refer to your letter No. MPR-1/TRO-2/Ghy/2007-08/20 dt. 30.05.2007 on the above.

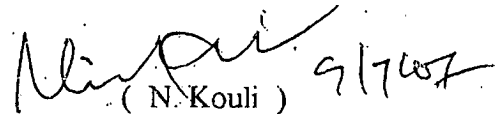
On examination of the list submitted by you and corresponding records, it is observed that the cases shown as disposed off in Sl.no. 1 to 35 of your list are on account of arrear demands written off by you. As per procedure of write off of Tax Arrears the TRO cannot write off any arrear demand. Arrear demands can be written off only by the concerned A.O by following the prescribed procedures. Therefore, the action of write off carried out by you in Sl.no. 1 to 35 are null and void and as such disposal shown by you are not correct.

Similarly, disposals shown by you, by way of collection/ reduction at Sl.no. 38 to 46 cannot be treated as certificate disposed off as only part collections/ reductions have been achieved in these cases. Besides, the reduction of Rs. 93,82,612/- A.Y 1992-93 in the case of Smt. Indira Borah at Sl.no. 41 was actually effected by ACIT Circle-2, Guwahati Vide order U/s 251 dt. 24.10.2002.

Moreover, the collection at Sl.No.36 was actually effected by TRO-1, Guwahati.

On the whole, total collection made by you during the year 2006-07 appears to be 1,01,734/- in Sl.no. 37 to 46 and the number of certificates disposed off is only 1(one) which is in the case of Smt. Kanwari Devi Jain A.Y 1979-80 (Rs. 955/-) at Sl.no. 37. of your list.

You are, therefore, directed to submit the reports in future after effecting necessary corrective steps so that similar mistakes do not occur.


(N. Kouli) 9/7/07

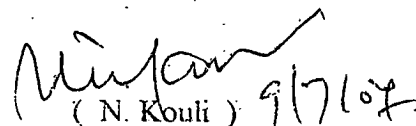
Additional Commissioner of Income Tax,
Range-2, Guwahati.

Memo No : R-46/JCIT/Range-2/GHY/2007-08/ 1138

9th July, 2007

Copy forwarded to: The Commissioner of income-tax, Guwahati- I, Guwahati for favour of kind information.

Certified to be true copy
- Janku Jain
Joint Commissioner of Income Tax (Hqs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी


(N. Kouli) 9/7/07

Additional Commissioner of Income Tax,
Range-2, Guwahati.

24 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

16 -

ANNEXURE "B"

OFFICE OF THE
JOINT COMMISSIONER OF INCOME TAX, RANGE-2,
SAIKIA COMMERCIAL COMPLEX, SREENAGAR, G.S. ROAD, GUWAHATI - 781005.

CONFIDENTIAL

F.No. Con-1/JCIT-2/2007-08/GHY/1744

5th September, 2007.

To
Shri P. K. Ray, IRS [By Name]
Commissioner of Income-tax, Guwahati - 1,
Saikia Commercial Complex,
G.S. Road, Sreenagar,
Guwahati - 781 005.

**Sub :- Representation against adverse remark in the ACR for the year
2006-07 - Syed Basit Doley, TRO-2, Guwahati- regarding.**

Sir,

Kindly refer to your letter no. ACR/SBD/06-07/CIT/GHY/2007-08/2357 dt. 16.08.2007 on the above matter. My comments on the points contained in the representation of Shri S. B. Doley, TRO-2, Guwahati are as under:

Comments on representation in respect of item no.11: The Comments are made on the basis of facts. The officer has misrepresented the facts in col. no. 11 of his ACR. Actual collection made by him during the entire period was Rs. 1,01,734/- and only 1(one) certificate case was disposed off. The discrepancy was also brought to his knowledge vide this office letter No. R-46/JCIT/R-2/GHY/07/08/1137 dt. 09/10.07.2007 (copy of letter enclosed). As the officer has misrepresented and exaggerated the facts and his performance is found to be unsatisfactory, therefore, the remark was made accordingly.

The officer is wrong in his perception that remarks of performance appraisal should not be considered while writing the ACR. His performance was assessed as "very very poor" by the CIT. The performance appraisal of an officer is made periodically to analyse the progress of his work, so that he can improve upon those areas lagging behind. If the officer fails to improve upon his performance despite the weaknesses pointed out by the CIT, it indicates that the officer has not taken the remark of the CIT seriously. ACR is written to provide guidance to the officer reported upon. Therefore, the comments are being made accordingly in col. No. 15. about the need for improvement in his performance

Comments on representation in respect of col. No. 12 & 13: As per the note on PART III of ACR, the assessment in respect of col. No. 12 & 13 should be made in one of the four categories- outstanding, very good, good and inadequate. Since no special work was done by Shri Doley and no order was passed by him, therefore, the assessment could not have been outstanding or very good or good. In view of the above, his performance was assessed as inadequate.

Contd. P/2

Certified to be True G 13
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

24 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

statement or representation in respect of col. 17(b). During the year, the officer has written off arrear demand of Rs.9,150/- in 35 nos. of cases. As per the procedure for write off tax arrears, arrear demands can be written off only by the concerned A. O. by following prescribed procedure. The TRO can not write off any arrear demand. This was brought to his knowledge vide this office letter no. R-46/JCIT/R-2/GHY/07/08/1137 dt. 09/10.07.2007. This knowledge is most vital and basic requirement for a TRO. In view of the above the assessment has been made as inadequate against 'Knowledge of Procedure' in col. 17(b). ACR is written to provide guidance to the officer reported upon. The remarks and tone of Shri Doley in his representation in respect of col. 17(b) appears to be without due regard to reporting officer. His comments on the reporting officer such as "Bias mind", "It clearly shows that the reporting officer has misused and abused his position" tantamounts to casting aspersions on the reporting officer.

Enclo : As stated.

Yours faithfully,


N. Kouli) 5/9/07

Additional Commissioner of Income-tax
Range - 2 : Guwahati.

Certified to be true copy
Imolaka Jamin
Joint Commissioner of Income Tax (Range)
Old. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (गुवाहाटी)
महान् आयकर आयुक्त कार्यालय, गुवाहाटी

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

24 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE "C"

1. Name of the officer : SHRI S. B. DOLEY
2. Designation : Tax Recovery Officer-2, Guwahati
3. ACR for the period : 01-04-2006 to 31-03-2007

The comments recorded by the Reporting Officer in Column No. 15, 16 & 17(b) of the ACR of Shri S. B. Doley, TRO-2, Guwahati for the period 01-04-2006 to 31-03-2007 were considered adverse and were communicated to the TRO-2 by a letter dated 06-08-2007 so as to enable him to submit his representation, if any, to the undersigned against the adverse remarks.

2. The TRO's representation dated 08-08-2007 was forwarded to the Reporting Officer on 16-08-2007. His counter-comments on the representation were received vide his letter dated 05-09-2007.

3. As regards the comments of the Reporting Officer in Column No. 15, the TRO has alleged bias and contended that achievement included both collection and reduction. According to him, his achievement thus came to Rs.94,95,298/- in a total of 48 cases. The Reporting Officer, on the other hand, maintained that the figures were exaggerated and were in fact misrepresentation of facts. The actual collection made by the TRO for the entire period was only an amount of Rs.1,01,734/-. The TRO had irregularly written off some demand and claimed undue credit for a reduction of Rs.93,82,612/- in a case where appeal effect had been given earlier by the Assessing Officer by an order dated 24-10-2002.

4. I have considered the adverse remarks vis-a-vis the TRO's resume as well as his representation and the Reporting Officer's counter-comments. I do not agree with the TRO that the credit of the reduction of Rs.93,82,612/- could be claimed by him only because there was no information from the Assessing Officer that the latter had already given effect to the appellate order on 24-10-2002. The TRO was trying to take credit for a reduction which was actually effected in FY 2002-03. Moreover, a TRO's achievements are judged with reference to the cash collections made by him through persuasion, attachment and auction. I do not also agree with the TRO's contention that the monthly performance appraisal made by the CIT could not be taken into account by the Reporting Officer while evaluating his annual performance even if there was no improvement in later months. The quantitative output of the TRO was definitely much below the level of expectation. Hence, the Reporting Officer was correct in evaluating his performance in Column No. 15 as "inadequate". I confirm his comments.

Certified to be true
Joint Commissioner of Income Tax (Hqrs.)
O/o. Chief Commissioner of Income Tax, Guwahati
संयुक्त आयकर आयुक्त (मुख्या.)
मुख्य आयकर आयुक्त कार्यालय, गुवाहाटी

P. K. Ray, I.R.S.
Commissioner of Income-Tax
Guwahati-1, Guwahati.

24 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

5. As regards the comments made in Column Nos. 12 & 13, the TRO stated that doing some special or outstanding work was not a mandatory requirement and, as such, there was no need to make an adverse observation if no special or outstanding work was done during the year. The Reporting Officer, on the other hand, was of the view that the evaluation had to be made in one of the four categories provided in the ACR form itself. This para in the ACR is envisaged to evaluate the quality of work and not the quantity of work. Unless there are specific instances of qualitatively poor work, it may not be necessary to enter an adverse entry against this column. I, therefore, expunge the adverse remarks against this column. In view of the fact that no details of special/outstanding work are available, the entry may be read as "no comments".

6. As regards the comments made in column No. 17(b), the TRO again alleged bias and questioned the Reporting Officer's knowledge of procedure. He also stated that the Reporting Officer should have asked for an explanation from the Assessing Officer for not intimating to the TRO the reduction made through appeal effect. The Reporting Officer was of the view that the TRO was ignorant about the procedure of write off and irregularly wrote off a total demand of Rs.9,150/- in 35 cases. I have considered the matter in its entire perspective and find little substance in the TRO's representation. He has used unwarranted language against the Reporting Officer as well. Having fully considered the representation of the TRO as well as the counter-comments of the Reporting officer, I am inclined to confirm the adverse comments made against column No. 17(b).

7. Therefore, my observation on the entire matter may be summed up as under:

COLUMN NO. :

REMARKS :

- | | |
|---|--|
| 15. Comments of the Reporting Officer on Column No. 11. | The adverse comment is confirmed. The performance is considered "inadequate". |
| 16. Comments on Columns No. 12 & 13. | Comments of the Reporting Officer are expunged. The relevant entry may be read as "no comments". |
| 17(b). Knowledge of procedure. | The Reporting Officer's categorization as "inadequate" is confirmed. |

8. The overall performance of the TRO for the year 2006-07 is categorized as "inadequate".

(P. K. Ray)

Commissioner of Income-tax, Guwahati-I
Guwahati

Certified to be true copy
Joint Commissioner of Income Tax (Hqs.)
Ch. Commissioner of Income Tax, Guwahati
संयुक्त आयकर अधिकारी (मुख्या.)
मुख्य आयकर अधिकारी कार्यालय, गुवाहाटी