

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)

**Writ Petition No. 17606 of 2017**

**with**

**Writ Petition No. 13909 of 2018**

In the matter of:

An application under article 102 of the  
Constitution of the People's Republic of  
Bangladesh.

AND

In the matter of:

W.P. No. 17606 of 2017

Sk. Hasan Ali

... Petitioner

-Versus-

The Government and others

...Respondents

W.P. No. 13909 of 2018

Md. Amir Hossain Sardar and others

...Petitioners

-Versus-

The Government and others

...Respondents

Mr. Sk. Hasan Ali (In person)

(In W.P. No. 17606 of 2017)

Mr. Hasnat Quaiyum, Advocate

...For the petitioners (In W.P. No. 13909 of 2018)

Mr. Md. Nazmul Haque, Advocate

...For the respondent No. 2 (In both the writ petitions)

**Heard on: 09.05.2024 and 16.05.2024**

**Judgment on: 23.05.2024**

Present:

Justice Zafar Ahmed

and

Justice Sardar Md. Rashed Jahangir

Sardar Md. Rashed Jahangir, J:

Both the writ petitions involve identical questions of law, based on similar facts and as such both of them are heard together and disposed of by this single judgment.

In Writ Petition No. 17606 of 2017, Rule Nisi was issued in the following terms:

*“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Memo No. 46-207-000-27-37-2743-2017 dated 06.11.2017, ascertaining annual value of Holding No. 487 Paikpara, Mirpur, Dhaka belonging to the petitioner of Tk.91,800/- instead of Tk.1,08,000/- and accordingly determining Tk.2,754/- as tri-monthly holding tax instead of Tk.3,240/- to be effective from 01.01.1990, issued by respondent No. 4, as evidenced by Annexure-P and the inaction to dispose of the petitioner’s applications dated 14.06.2016 and 27.06.2016 (Annexure-I-1 & K) submitted before the respondent No. 2 shall not be declared to have been made without any lawful authority and to be of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”*

And in Writ Petition No. 13909 of 2018, Rule Nisi was issued in the following terms:

*“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Review of assessment done by the ‘Assessment Review Board’ on 28.09.2017 (Annexure-J) and decision communicated and direction given to the petitioners by the respondent No. 4 (Annexure-F) should not be declared to be without lawful authority and is of no legal effect, and as to why the respondents should not be directed to allow the rebates to the petitioners in accordance with the Rule (20)(30)(b) of the City Corporation (Taxation) Rules, 1986 and/or such other or further order or orders be passed as to this Court may seem fit and proper”*

In Writ Petition No. 17606 of 2017, it is stated that the petitioner is the owner of a multi-storied building, annual valuation of which as far as 1985 was assessed earlier at Tk.45,718.33 and quarterly holding tax was imposed at Tk.1371.55. In the year 1985-86, the annual

valuation was re-assessed at Tk.38,000/- and quarterly holding tax was re-fixed at Tk.1,140/- by the Dhaka City Corporation and the petitioner made payment of the said holding tax accordingly up to 2008-2009. It is further stated that thereafter the petitioner went to the concern office of City Corporation for making payment of his holding tax but for an unknown reason concern office of the City Corporation refused to accept the holding tax. On 22.03.2012, respondent No. 4 issued a demand notice asking the petitioner to make payment of Tk.89,424.00 as holding tax from 2006-07 to 2011-12 within a stipulated period mentioned in the notice. Thereafter, petitioner made several representations before the Dhaka North City Corporation and ultimately, he filed an objection in 'Form-P' under Rule 7(1) of the City Corporation (Taxation) Rules, 1986 for re-consideration of the imposed holding tax and after hearing the Assessment Review Board of Dhaka North City Corporation re-assessed and re-fixed the annual valuation at Tk.91,800/- as well as the quarterly payable holding tax at Tk.2,754/- together with a demand of Tk.2,31,646/- including the arrear and communicated the same on 06.11.2017 (Annexure-'P'). Soon after getting the said demand notice upon re-assessment under Rule 7(8) of the City Corporation (Taxation) Rules, 1986, the petitioner filed an application before the respondent No. 4 requesting him to supply certified copies of the order dated 01.11.2017 together with the objection/application for re-consideration in 'Form-P' and the order of fixation of annual valuation as well as quarterly tax for enabling him to file an appeal under Rule 7(13) of the City Corporation (Taxation) Rules, 1986 and since the respondents did not pay any heed to his

representation the petitioner was constrained to rush to this Court and obtained the Rule Nisi.

In Writ Petition No. 13909 of 2018, it is stated that petitioners are retired public servants and allottees of flats in a project undertaken by the National Housing Authority on the holding No. 4/A, Block-I, Mirpur-2, Dhaka, popularly known, as 'Government Officers Complex'. The Dhaka North City Corporation, respondent No. 2 issued notices on 06.06.2016 (Annexure-'B' series) under which holding tax has been imposed at a higher rate assessing the annual valuation at Tk.88,000/- of the flats having parking space, fixing the quarterly holding tax at Tk.2,640/- and also assessing the valuation of Tk.81,000/- of the flats having no parking space fixing quarterly holding tax at Tk.2,430/-. Petitioners, being aggrieved by the aforesaid imposition of holding tax and assessment of valuation, filed objection in 'From-P' under Rule 7(1) of the City Corporation (Taxation) Rules, 1986 (Annexure-'C') and the Assessment Review Board of respondent-City Corporation after consideration of aforementioned objections under Rule 7(1), re-assessed the annual valuation of flats of the petitioners and re-fixed the quarterly holding tax at Tk.2,065.00 and Tk.2244.00 as the case may be and thereafter communicated the decisions of the Assessment Review Board on 18.12.2017 and 17.03.2017 respectively (Annexure-'F' series); challenging the aforesaid memos writ petitioners filed this writ petition and obtained the Rule Nisi.

Mr. Sk. Hasan Ali appearing in person in Writ Petition No. 17606 of 2017 and Mr. Hasnat Quaiyum, learned Advocate appearing

for the petitioners in Writ Petition No. 13909 of 2018 and made their submissions on behalf of the writ petitioners.

At the very outset, Mr. Sk. Hasan Ali referring to Annexure-‘Q’ (in Writ Petition No. 17606 of 2017) submits that he could not prefer the statutory appeal due to non-supply of the certified copies which were necessary for enabling him to prefer the appeal and now, he prays for a direction upon the respondents to supply those within a shortest possible time to enable him to prefer appeal under Rule 7(13) of the City Corporation (Taxation) Rules, 1986.

And Mr. Quaiyum also submits that since the petitioners through the writ petition persuaded their cause in a wrong forum without preferring the appeal provided under the Rules, 1986, in such back drop they may be allowed to avail the said forum for ends of justice.

We have heard Mr. Sk. Hasan Ali as well as learned Advocate for the petitioners (in W.P. No. 13909 of 2018) and learned Advocate for respondent-city corporation have gone through the City Corporation (Taxation) Rules, 1986 and the judgment of Civil Petition For Leave to Appeal No. 2344 of 2018 passed by the Hon’ble Appellate Division (cited from the Bar).

Under Rule 7(13) of the City Corporation (Taxation) Rules, 1986, there is an appellate forum created under the Rules for preferring appeal on being aggrieved by the order of ‘Assessment Review Board’ passed under Rule 7(8) of the City Corporation (Taxation) Rules, 1986 and the petitioners could not prefer the appeals for the reasons stated above which appear to be bonafide.

And in view of the judgment of C.P. No. 2344 of 2018 passed by the Hon’ble Appellate Division, we opine that if the writ petitioners

are allowed to prefer the appeals under Rule 7(13) of the City Corporation (Taxation) Rules, 1986 with a direction upon the appellate authority to accept the appeals upon condoning the delay in preferring those, if the same are filed after observing all other required formalities, then justice would be met for now and the appellate authority is also directed to consider the appeals on merit.

The respondent-Dhaka North City Corporation is also directed to supply necessary certified copies to the petitioner according to the application dated 19.11.20198 (Annexure-‘Q’ to the Writ Petition No. 17606 of 2017).

With the above observation and direction, both the Rules are disposed of without any order as to cost.

Communicate the order at once.

**Zafar Ahmed, J:**

I agree.