IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(ADMIRALTY JURISDICTION)

Present:

Justice Sikder Mahmudur Razi

Admiralty Suit No. 20 of 2021

IN THE MATTER OF:

Nautical Bulk Carriers S.A. and another
.... Plaintiff.

VERSUS

M.V. PROSPERITY, (IMO No. 8400531,
Flag: Panama and others.
... Defendants

Mr. M. Belayet Hossain, Sr. Advocate with
Mr. M. Mahmudul Hasan, Adv.
...For the Plaintiff.

With

Admiralty Suit No. 37 of 2020

IN THE MATTER OF:

Shapoorji Pallonji Forbes Shipping Limited
.... Plaintiff.

VERSUS

Ministry of Fisheries and Livestock and others.
... Defendants

Mr. Mohiuddin Abdul Kadir, Advocate with
Ms. Zinia Amin, Advocate with
Mr. Noor Mohammad Majumder, Advocate
…For the plaintiff.

The 2nd August, 2026

1. These 2 (two) Admiralty Suits, being Admiralty Suit Nos. 20 of 2021 and 37 of 2020, have been placed before this Court by the Original Side Section for passing necessary orders, as the parties as well as the Marshal of this Court are presently facing difficulties in returning/remitting certain amounts to foreign parties/entities pursuant to orders passed by this Court on earlier occasions. Since the material facts necessary for determination of the issues arising in both the suits are substantially similar, the relevant facts of

the two suits are narrated consecutively for the sake of brevity and convenience.

2. In respect of Admiralty Suit No. 20 of 2021, it appears that the suit was decreed on compromise by a judgment and decree dated 02.09.2025. In the said compromise judgment and decree, it has been categorically stated that the first plaintiff, Nautical Bulk Carriers S.A., shall receive BDT 1,08,42,824.21; Mr. Tahseen Muktar Nishan, as the Second Party Beneficiary, shall receive BDT 10,00,000.00; the 4th defendant, Bramco Shipping Ltd., shall receive BDT 97,05,384.21; and Assurance Maritime Bangladesh Limited, which is identified in the "Settlement Agreement" as the First Party Beneficiary, shall receive BDT 21,37,440.00.

Subsequently, by an order dated 03.11.2025, a further direction was issued to the Marshal to disburse the aforesaid amounts in the manner specified therein. From the said order, it appears that the amounts payable to the first plaintiff, namely, Nautical Bulk Carriers S.A., and the 4th defendant, Bramco Shipping Ltd., under the compromise judgment and decree are to be remitted in USD to their respective bank accounts maintained outside Bangladesh. Accordingly, by the said order, this Court directed Bangladesh Bank to render necessary assistance and cooperation for transferring the said amounts in USD in favour of the first plaintiff, Nautical Bulk Carriers S.A., and the 4th defendant, Bramco Shipping Ltd.

3. On the other hand, Admiralty Suit No. 37 of 2020 was also decreed on compromise by a judgment and decree dated 17.12.2025. In the said judgment and decree, the Marshal of this Court was directed to return the BDT 69,59,986.46 to the account of the plaintiff's insurer, namely, The Britannia Steam Ship Insurance Association Europe USD, by way of

remittance upon obtaining necessary permission from Bangladesh Bank. Pursuant to the said order, the Marshal of this Court took steps to transfer/remit the said amount to the respective account of the beneficiary. However, despite such steps, the said amount has not yet been remitted or transferred to the respective account as directed by this Court, owing to certain issues raised by Bangladesh Bank.

4. Upon perusal of the administrative files, it appears that, when the matters were forwarded to Bangladesh Bank for its approval, Bangladesh Bank accorded its sanction/permission subject to deduction of VAT, tax and AIT at the applicable rates in accordance with the existing laws of the land. The said decision of Bangladesh Bank was communicated to the Marshal by separate letters. Accordingly, the Marshal has placed both the matters before this Court for passing necessary orders and/or directions.

5. Mr. M. Belayet Hossain, learned Senior Advocate, has appeared in Admiralty Suit No. 20 of 2021, while Mr. Mohiuddin Abdul Kadir, learned Advocate, has appeared in Admiralty Suit No. 37 of 2020. The submissions made by the learned Advocates are substantially similar and may be summarized as follows;

i. That when a decree is passed in a money suit or in a suit of a similar nature, the amount decreed by this Court, whatever may be the character of the original claim, assumes the character of a judgment debt. Once such amount assumes the character of a judgment debt, the decree passed by the Court is required to be executed subject only to such deductions and adjustments as are permissible under the Code of Civil Procedure, 1908.

Therefore, there is no scope for deduction of tax at source or imposition of VAT upon the decreetal amount.

ii. That section 2(13) of the Income Tax Act, 2023 defines the term "income", and a decreetal amount does not fall within the definition of "income" as provided therein.

iii. That section 66 of the said Act also sets out the categories of income of an assessee that may be classified as "income from other sources", and the amount payable under a decree does not fall within any such category as well.

Based on the aforesaid submissions, the learned Advocates appearing in the respective Admiralty Suits pray for an order of this Court clarifying the matter and for a direction upon the concerned authority to take all necessary steps for immediate transfer/remittance of the said amounts.

6. Now, upon perusal of the judgments and decrees passed in the respective suits, as well as the series of correspondences placed before this Court by the Original Side Section, it appears that the material facts involved in both the suits are undisputed. Both the suits culminated in judgments and decrees passed upon compromise between the respective parties, and this Court specifically directed that the decretal amounts be transferred/remitted to the concerned foreign parties/entities through the proper channel. Bangladesh Bank, being the regulatory authority of the banking and financial sectors of the country, was also directed to extend necessary cooperation in facilitating such remittance.

6.1 However, the issue subsequently raised by Bangladesh Bank regarding deduction of Tax, VAT and AIT from the said decretal amounts at the applicable rates has given rise to a question requiring clarification and interpretation by this Court.

6.2 The learned Advocates appearing for the respective parties, in support of their submissions, have not merely relied upon the relevant statutory provisions but have also cited a number of decisions of this Court as well as decisions from the Indian jurisdiction. Although the decisions from the Indian jurisdiction are of persuasive value, they may nevertheless serve as useful aids in shedding light on and resolving the issues that have arisen for determination before this Court.

6.3 Let us now have a brief review of the decisions cited by the learned Advocates;

In the case of *Sunny Fish Agency and Trading Vs. Bangladesh Catfish Ltd., and others*, reported in 34 BLD 231 an almost similar type of questions were raised in that particular case when the Joint District Judge, 1st Court, Khulna deducted an amount as VAT and Income Tax from decree finally passed in Money Suit No. 16 of 2004. It was held in the said case as follows;

> *10. On a reading of these two laws upon which learned Advocate Mr. Ramzan Ali Sikder give much emphasis, we are of the view that these laws relating to the assessee who pay the assessed amount himself, these two laws have no implication or nexus with the payment of money decreed which is between two individuals. Such deduction of amount can be made before filing of the suit or during continuation of the suit, even after judgment but before decree being finally drawn up, not after signed and scaled. Even the defendant could pray for set off instead on paying the defendant amount himself. Learned Judge*

> *of the 1st appellate court failed to consider that such deduction amount from the decree finally passed is in gross violation of order XX Rule 3 of the Code of Civil Procedure. In the case of Motilal, Banker Vs. Maharaj Kumar Mahmood Hasan Khan, AIR 1968 SC 1087 it is held "Order 20 Rule 3 of the Code of Civil Procedure does not affect the executing court to record and enforce the compromise. Order 20 Rule 3 provides that a judgment once signed cannot afterwards be amended or altered save as provided by section 152 or on review. The parties cannot by an agreement confer upon the court the power to amend the decree in contravention of Order 20 Rule 3, or the power to enforce the amended shows that after the passing of the decree the court may order that payment of such terms as to payment of interest as it thinks fit. The two provisions read together show that a direction for postponement of payment of the decretal amount upon the term that the judgment-debtor should pay a reasonable rate of interest is not an alteration of, or addition to the decree.*
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> *11. Decree is divine sacred and holy which cannot be altered, varied, modified and amended by the same court at the eish of any one.*

In the case of *All India Reporter Ltd., Nagpur Vs. Ramachandra Dhondo Datar*, reported in AIR 1961 SC 943:MANU/SC/0125/1960 an employee filed a suit against his employer challenging wrongful termination of employment, arrears of salary and interest. The said suit was ultimately decreed in favor of the employee. Subsequently, the Income Tax Officer served a notice under section 46 of the Indian Income Tax Act upon the employee and also gave intimation to the District Judge, Nagpur that the company be permitted to deduct at source and to pay into the government treasury a certain amount of money out of the amount awarded to the employee. The following passage from the said judgment is of seminal importance in deciding the issue at hand:

2. The Legislature has, it is manifest, imposed upon the employer the duty to deduct tax at the appropriate rate on salary payable to the employee and if he fails to do so, the tax not deducted may be recovered from him. But the liability to deduct arises in law, if the amount is due and payable as salary. In this case, there has been no assessment of tax due by the Income Tax Officer on the amount payable to the respondent. Under section 46(5), any person paying salary to an assessee may be required by the Income Tax Officer to deduct arrears of tax due from the latter and the employer is bound to comply with such a requisition and to pay the amount deducted to the credit of the Government. But this order can only be passed if income-tax has been assessed and has remained unpaid. It is undisputed that at the material time, no tax was assessed against the respondent; the Income Tax Officer had accordingly no authority to issue a notice under section 46(5). Nor could the Income Tax Officer claim to recover tax due by a proceeding in the nature of a garnishee proceeding by applying to the civil court to attach the Judgment-debt payable by the company. The application submitted by the Income Tax Officer must therefore be ignored. Undoubtedly, the employer is by section 18 of the Act liable to deduct from the salary payable by him to his employee the amount of tax at the average rate applicable to the estimated total income; but can it be said that as between the appellant company and the respondent the decretal amount represented salary ? The respondent had filed a suit for a decree for arrears of salary, compensation for wrongful termination of employment and interest. The court having passed a decree on that claim, it became a judgment-debt. It may have been open to the appellant company in the suit to apply to the court for making a provision in the decree for payment of income-tax due by the respondent, but no such provision was made.

> *5. The House of Lords in that case by a majority held that pounds 10,028 awarded under the judgment represented not capital but interest and was liable to tax. In our view, this case had no application to the facts of the present case. In the case before us, there is a decree passed in favour of the respondent; under the scheme of the Civil Procedure Code, that decree has to be executed as it stands, subject to such deductions or adjustments as are permissible under the Code. There was no tax liability which the respondent was assessed to pay in respect of this amount till the date on which the appellant company sought to satisfy the alleged tax liability of the respondent. As between the appellant company and the respondent, the amount did not represent salary; it represented a judgment-debt and for payment of income-tax thereon, no provision was made in the decree. The Civil Procedure Code bars an action of the nature which was filed in Westminster Bank's case (supra). The defence to the execution if any must be raised in the execution proceeding and not by a separate action. The amount payable by the appellant company to the respondent was not salary but a judgment debt, and before paying that debt the appellant company could not claim to deduct at source tax payable by the respondent. Nor could the appellant company seek to justify its plea on the ground that the judgment creditor was indebted to a third person."*

In the case of *Islamic Investment Company Vs. Union of India and others*, reported in 2002(4) BOMCR 685:MANU/MH/0324/2002 the Income Tax Officer served a notice for deduction of income tax, surcharge and super-tax on a certain amount of money that was awarded in favour of the claimant in an arbitration proceeding. In the said judgment it was observed as follows;

9. Having regard to this observation, I am of the view that the argument of the learned Counsel on behalf of the Food Corporation of India that since the amount of Rs. 10,31,344/- has admittedly been paid on account of interest, it retains its character as interest and therefore the Food Corporation of India must be allowed to deduct interest thereon at the rate in force is not tenable. There is no doubt that if the amount is paid as interest to a nonresident in the usual course of business then at the time of credit of such amount to the account of the payee or at the time of payment thereof in cash, or by issue of a cheque or draft the payer would be bound to deduct income tax at the rate in force. However, as observed by the Supreme Court when such amounts becomes part of a judgment debt they lose their original character and assume the character of a Judgment debt. Once such an amount assumes the character of a judgment debt, the decree passed by the Civil Court must be executed subject only to the deductions and adjustments permissible under the Code of Civil Procedure. The learned Counsel for the Food Corporation of India has not been in a position to point out any provision under the Income Tax Act or under Section 195 in particular or under the Code of Civil Procedure where the amount of the interest payable under a decree is deductible from the decretal amount on the ground that it is an interest component on which tax is liable to be deducted at source."

In *Voith Hydro Ltd and other Vs. NPTC Limited,* reported in 2021: DHC: 1015:MANU/DE/0522/2021 a question also arose as to whether there is any scope for deduction of tax etc. on an award given in an arbitration proceeding. The following passage from the said judgment is of seminal importance in deciding the issue at hand:

36. After referring to the aforesaid decision, this Court observed as under:

I may, however, note that these judgments do enunciate the principle, which is, that once a claim merges into a decree of the Court it transcends into a judgment-debt and, therefore, only those adjustments and deductions can be made which are permissible under the Code of Civil Procedure, 1908. The judgments encapsulate the theme that a decree should be executed according to its tenor unless modified by a statute such as the 1962 Act."

6.4 In addition to that, I have also gone through the definition of income as provided in Section 2(13) of the Income Tax Act, 2023 which runs as follows;

2 (13) *"income" includes—*
(a) any income, receipts, profits or gains, from whatever source derived, which is chargeable to tax under any provision of this Act;
(b) any amount which is subject to collection or deduction of tax at source under any provision of this Act;
(c) any loss of income, profits or gains specified in sub-clause (a);
(d) profits or gains derived from any insurance business carried on by a mutual insurance association computed in accordance with paragraph 8 of the Fourth Schedule;
(e) any sum deemed or considered to be income, or any income accruing or arising or received, or deemed to accrue or arise or be received in Bangladesh under any provision of this Act;
(f) any amount, payment or transaction on which a tax is imposed;
(g) acquisition of any asset, which is not—
(i) natural; (ii) created by any person himself; (iii) foreclosure against liability or mortgage; (iv) acquired by way of inheritance, will, bequest or trust; (v) acquired by way of exchange or purchase;]

This Court has also had the occasion to examine section 66 of the said Act of 2023, which provides as follows:

> *66. Income from other sources.—The following income of an assessee shall be classified and computed under the head "Income from other sources", namely:— (a) royalties, license fees, fees for technical services and income earned by granting the right to use intangible property; (b) cash subsidy provided by Government; (c) any income derived from transfer of any asset (which is natural or created by any person himself) other than mineral deposits and hydrocarbons and goodwill; (d) any donation, grant or gift, called by whatever name; (e) income from any source not classified under any other head specified in section 30.*

6.5 Upon consideration of the decisions cited by the learned Advocates, as well as the provisions of law referred to above, it appears that when a money suit, or a suit of a similar nature, or an arbitration proceeding is ultimately decreed or an award is made, the amount so decreed or awarded assumes the character of a judgment debt and loses its original character. It has consistently been held in the aforesaid decisions that, once an amount assumes the character of a judgment debt, the decree passed by the Civil Court must be executed subject only to such deductions and adjustments as are permissible under the Code of Civil Procedure, 1908. In such circumstances, the provisions of the Income Tax Act relating to the deduction of tax, VAT, etc. are no longer applicable.

6.5 Furthermore, upon consideration of the definition of "income" and the scope of "income from other sources," it appears that a judgment debt or a decretal amount does not fall within the definition of income or income from other sources. Therefore, the conditional permission granted by the Bangladesh Bank has no legal foundation.

6.6 Finally, an attempt may be made to distinguish the decisions cited above from the facts of the present cases on the ground that, in those decisions, the judgments and decrees were passed upon contest, and two of them arose out of contested arbitral awards, whereas the present suits were disposed of on the basis of compromise decrees. Such a distinction, however, does not appear to be legally sustainable.

It needs to be made clear that, whether a judgment and decree is passed *ex parte*, upon contest, or on the basis of a compromise, once it assumes the character of a decree of a competent Court, it remains a decree of the Court and carries the same legal character and enforceability for the purpose of execution. Therefore, merely because the decrees in the present suits were passed upon compromise, no distinction can be drawn between such decrees and decrees passed upon contest for the purpose of imposing or deducting VAT, tax, income tax, AIT, or any other similar levy from the decretal amount.

7. Having reached to the conclusion that there is no scope for deduction of any VAT, Tax, or AIT from the decretal amount, the concerned bank, as well as the Bangladesh Bank, are hereby directed to take the necessary steps to transfer/remit the said funds to the respective accounts of the beneficiaries as originally ordered.

Communicate the order at once.

(Sikder Mahmudur Razi, J:)