

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION**

(SPECIAL STATUTORY JURISDICTION)

Income Tax Reference Application No. 563 of 2019

In the matter of:

An application under Section 160(1) of the Income Tax Ordinance, 1984

-And-

In the matter of :

Commissioner of Taxes, Taxes Zone-15, Dhaka
.....Applicant

-Versus-

Jamuna Electronics & Automobiles Limited, Dhaka.
.....Respondent

Ms. Nasima K. Hakim, Deputy Attorney General with
Mr. Elin Imon Saha, Md. Hafizur Rahman and Mr. Ziaul
Hakim, Assistant Attorney Generals
.....For the Applicant

Mr. M.A. Hannan, Advocate
....For the Respondent

Judgment on: 17.12.2023

Present:

Mr. Md. Iqbal Kabir
and
Mr. Justice S.M. Maniruzzaman

S.M. Maniruzzaman, J:

Today, the matter is appeared in the list for order.

The respondent Income Tax Authority as applicant filed the instant reference application challenging the order of the Taxes Appellate Tribunal, Division Bench-1, Dhaka in Income Tax Appeal No. 1108 of 2018-2019

(Assessment Year 2016-2017) dated 19.11.2018 arising out of the assessment order dated 20.12.2017 passed by the Deputy Commissioner of Taxes, Circle -310 (Companies), Taxes Zone-15, Dhaka (DCT).

The respondent-assessee by filing Vokalatnama appeared in the instant application and at the instance of the learned Advocate for the assessee-respondent this matter is appeared in the today's list for order.

The learned Advocate for the respondent-assessee drawing attention before this Court submits that the instant application filed under Section 160(1) of the Ordinance, 1984 on 26.11.2023 causing delay of 43 days but did not file any application for condonation of delay in filing application.

The learned Assistant Attorney General by filing (swearing affidavit on 13.12.2023) an application for condonation of delay submits that the delay was unintentional and bonafide on the part of the applicant tax department and the applicant has no negligence to prefer the reference application and the delay has been caused due to some formalities of the official which was beyond the control of the applicant. Moreover there is cogent reason to win the present application by the applicant if the delay is condoned and as such the delay of 43 days for filing application may kindly be condoned, otherwise the applicant will face heavy financial loss and injury.

Heard the learned Assistant Attorney General for the applicant tax authority and the learned Advocate for the respondent, it, however, appears from record that the instant income tax reference application was filed on 26.11.2019 after causing delay of 43 days but the learned Assistant Attorney General filed application for condonation of delay on 13.12.2023.

In view of the above, we think that the respondent tax authority has no interest in the instant reference application. Moreover, the statements so made in the application for condonation of delay are not satisfactory. Further the questions formulated in the instant application for answering which has already been settled by our apex Court in the case of *Commissioner of Taxes-Vs-Conference and Exhibition Management Service Ltd.* reported in **25 BLC (AD) 14**.

In view of the above, we are not inclined to allow the application for condonation of delay.

Accordingly, the application is rejected as barred by limitation.

Communicate the order at once.

Md. Iqbal Kabir, J:

I agree.