

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

***WRIT PETITION NO. 12872 of 2022***

IN THE MATTER OF:

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

And

IN THE MATTER OF:

***Md. Syed Hossain***

..... *Petitioner*

-vs-

***Customs, Excise and VAT Appellate Tribunal,  
represented by its President, 4<sup>th</sup> Floor, Jiban  
Bima Bhaban, 10, Dilkusha Commercial Area ,  
Dhaka-1000.***

.....*Respondents.*

And

Mr. Mohammad Abdullah, Advocate

..... For the Petitioner.

Mr. Samarendra Nath Biswas, D.A.G. with  
Mr. Md. Abul Kalam Khan (Daud), A.A.G. and  
Mr. Md. Modersher Ali Khan (Dipu), A.A.G.

....For the Respondents-government.

***Heard and judgment on:30.01.2024***

***Present:***

*Mrs. Justice Farah Mahbub.*

*And*

*Mr. Justice Muhammad Mahbub Ul Islam*

***Farah Mahbub, J:***

This matter has appeared in the list for order.

In this Rule Nisi, issued under Article 102 of the Constitution of the People's Republic of Bangladesh, the respondents have been called upon to show cause as to why a direction should not be given upon the respondent No.1, Customs, Excise and VAT Appellate Tribunal, for accepting the appeal preferred by the petitioner under Section 122 of the Value Added Tax

and Supplementary Duty Ain, 2012 (Annexure-H-1) against the demand so made on 02.05.2021 by the respondent No.4 under Section 73(2) of the said Ain, 2012 under Nothi No.8/মূসক/চ(৫৭২) করফাকি/গোয়েন্দা ও তদন্ত/বিচার/২০২১/৯৭৯ dated 28.09. 2021 (Anneuxre-C).

In view of the statements so made in the writ petition, Mr. Mohammad Abdullah, the learned Advocate appearing for the petitioner submits that the impugned final demand dated 28.09.2021 was issued under Nothi No.8/মূসক/চ(৫৭২) করফাকি/গোয়েন্দা ও তদন্ত/বিচার/২০২১/৯৭৯ dated 28.09. 2021 by the Commissioner concerned (Annexure-C) with direction to pay the evaded amount of VAT to the tune of Tk.7,21,77,884/- with interest for an amount of Tk.1,94,88,029/- along with penalty of Tk.14,43,55,768/- under Section 73(2) of the VAT and Supplementary Duty, 2012. Being aggrieved the petitioner preferred an appeal before the Tribunal concerned upon depositing 20% of the evaded amount of VAT equivalent to the tune of Tk.1,44,35,582/- by treasury challen dated 27.01.2022. Despite the fact that the memo of appeal has filed upon submitting required amount the respondent concerned did not register the same and consequently, the petitioner could not move the said appeal in order to ventilate his respective grievances.

Under the stated circumstances, he submits that upon making the instant Rule absolute require direction be given upon the respondent No.1 to register the appeal for the cause of justice and equity.

Mr. Samarendra Nath Biswas, the learned Deputy Attorney General appearing for the respondent-government submits that it is apparent from the record that the petitioner did not prefer the appeal within the stipulated period as prescribed under the Act, 2012. In the given context, the Rule is liable to be discharged.

Considering the submissions of the learned Advocate for the petitioner and the learned Deputy Attorney General for the respondent-government, we have gone through the writ petition along with impugned order and other annexures so have been appended thereto.

It appears from record that vide adjudication order dated 28.09.2021, the respondent concerned made a final demand upon the petitioner under Nothi No.8/মূসক/৮(৫৭২) করফাকি/গোয়েন্দা ও তদন্ত/বিচার/২০২১/৯৭৯ dated 28.09.2021 for an amount of Tk.7,21,77,884/- as unpaid VAT, with imposition of interest for an amount of Tk.1,94,88,029/- along with penalty for an amount of Tk.14,43,55,768/-, as contained in Annexure-C. It also appears that for challenging the said order the petitioner preferred an appeal before the Tribunal concerned upon depositing 20% of the demanded amount of VAT to the tune of Tk.1,44,35,582/- by treasury challen dated 27.01.2022, as contained in Annexure-D2.

Accordingly, we are opinion that justice will better be served by giving direction upon the respondent No.1 to register the said appeal in due compliance of law within 7(seven) working days of receipt of this judgment and order and to hear on its maintainability.

In view of the above direction, this Rule is accordingly made absolute without any order as to costs.

Communicate the judgment and order to the respondents concerned at once.

**Muhammad Mahbub Ul Islam, J:**

I agree.