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

WRIT PETITION NOS.1671 and 1672 OF 2021

IN THE MATTER OF:
An application under Article 102 of the Constitution of the People's Republic of Bangladesh.

And

IN THE MATTER OF:
BSRM Steels Limited.

...............Petitioner
(In both the petitions)

-Vs-

Commissioner of Taxes, Large Taxpayer's Unit (LTU), Dhaka & another

.... Respondents
(In both the petitions)

Mr. Mosharaf Hossain, Advocate

......For the Petitioner
(In both the petitions)

Mr. Akhtar Farhad Zaman, D.A.G. with
Mr. Md. Obaidur Rahman Tarek, D.A.G.with
Ms. Shadia Afrin Shapla, D.A.G with
Mr. Sovan Mahmud, A.A.G. with
Mr. Md. Faridul Islam, A.A.G. with
Mr. Md. Sarwar Alam Chowdhury, A.A.G and
Mr. Shahinoor Alam (Shahin), A.A.Gs

.... For the Respondents-Government.

Heard on 27.04.2026, 07.06.2026 &
Judgment on 29.07.2026

Present:
Mr. Justice S.M. Maniruzzaman
&
Mr. Justice Dihider Masum Kabir

Dihider Masum Kabir, J:

Since the parties are identical and the questions of law and fact involved in the aforesaid two writ petitions are substantially similar despite the differing assessment years, these petitions have been taken up together for hearing and are being disposed of by this single judgment.

In this Rule Nisi, issued in writ petition No.1671 of 2021 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 the impugned order dated 13.09.2020 passed in the Review application being Nothi No.আ-২/(রিভিই)/বৃকইউ/২০২০-২০২১ under section 121A of the Income Tax Ordinance, 1984 for the assessment year 2017-2018 by the Commissioner of Taxes, Large Taxpayers Unit (LTU), Dhaka arising out of an assessment order passed under sections 82BB(1)/82BB(7)/83(2)/82C of the Income Tax Ordinance, 1984 for the assessment year 2017-2018 by the Deputy Commissioner of Taxes (LTU) (Chattogram Branch) along with the Demand Notice dated 09.12.2020 under section 135 of the Income Tax Ordinance, 1984 for Tk.19,82,34,813/- issued by the Deputy Commissioner of Taxes, Large Taxpayer Unit (LTU) (Chattogram Branch), (Annexure-C), shall not be declared to have been passed without lawful authority and is of no legal effect and or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, the operation of the Demand Notice dated 09.12.2020 issued under section 135 of the Income Tax Ordinance, 1984 for Tk.19,82,34,813/- was stayed by this Court for a prescribed period.

Facts, relevant for the disposal of the Rule in writ petition No.1671 of 2021, in short, are that the petitioner is one of the biggest steel manufacturing industries in Bangladesh which derives its income from the sales/supplies of mild steel products in the market. The petitioner, being an assessee, filed income tax return (in short, the return) for the assessment year 2017-2018 under the universal self-assessment scheme, disclosing a total income of Tk.254,73,15,854/- and accordingly paid taxes amounting to Tk.63,52,57,683/- which was duly accepted by respondent No. 2, the Deputy Commissioner of Taxes, Large Taxpayer Unit (LTU), Dhaka (Chattogram Branch) (in short, the DCT) and the assessment was finalized with the issuance of acknowledgement receipt.

Thereafter, the return was selected for audit and respondent No. 2, the DCT completed the re-assessment under sections 82BB(1), 82BB(7), 83(2) and 82C of the Income Tax Ordinance, 1984 (in short, the Ordinance) determining the total income at Tk.259,89,12,620/-.

Aggrieved by the said assessment order dated 14.06.2020 passed by respondent No. 2, the petitioner filed revisional application under section 121A of the Ordinance before respondent No. 1, the Commissioner of Taxes, Large Taxpayers Unit (LTU), Dhaka (in short, the CT). The CT in presence of the petitioner concluded hearing and the application was disposed on 13.09.2020.

After the lapse of a considerable period, the petitioner received a demand notice issued by the DCT on 09.12.2020 for demanding taxes of Tk.19,82,34,813/-.

Being aggrieved by and dissatisfied with the revisional order dated 13.09.2020 passed by respondent No. 1, the CT and the demand notice issued by the DCT on 09.12.2020, the petitioner moved this Court and obtained the instant Rule Nisi.

Respondent No.1, the CT contests the Rule by filing an affidavit-in-opposition contending, *inter alia,* that the DCT completed the re-assessment under sections 82BB(1), 82BB(7), 83(2) and 82C of the Ordinance determining total income at Tk.259,89,12,620/- instead of disclosed total income of Tk.254,73,15,854/- and imposing tax (excluding interest) of Tk.83,06,92,741/- instead of tax paid with return of Tk.63,52,57,683/-. In the assessment order, the DCT disallowed various heads of claimed expenses from the manufacturing, trading and profit and loss accounts due to the lack of verifiable evidence and for the failure to deduct tax at source at the time of payment against the expenses under chapter VII of the Ordinance.

The CT also states that, in the audited statement of accounts, the petitioner disclosed total sales/supplies of Tk.3,268,35,71,946/- without any classification of business as well as business income. The DCT, in his assessment order, properly and lawfully classified the sales based on tax deducted at source (in short, TDS) to determine the business income and rightly imposed tax pursuant to sections 82C and 83(2) of the Ordinance. The DCT completed the assessment order legally, without any arbitrary exercise of power or *mala fide* intention. There is no merit in the contentions of the petitioner. Per contra, the petitioner raised irrelevant and unnecessary contentions in the instant writ petition, which lack merit. As such, the writ petition is not maintainable.

Mr. Mosharaf Hossain, the learned Counsel appearing on behalf of the petitioner in both the writ petitions submits that the DCT disallowed the legitimate administrative, selling, distribution, and factory overhead expenses through a *mala fide* mechanism designed solely to artificially inflate the petitioner's taxable income to "absorb" the massive advance income tax (in short, AIT) already collected at the pre-assessment stage. The petitioner fully maintained its books of accounts under BAS and BFRS accounting standard, audited by a central-bank-cleared firm, and produced all required banking transaction records during the hearing. The DCT failed to identify any statutory non-compliance or offer cogent reasoning within the scope of sections 29 and 30A of the Ordinance to justify rejecting these expenses. In the instant case, he submits that the DCT violated these statutory provisions while disallowing the business expenditures; unfortunately, the revisional authority namely the CT mechanically endorsed this action while discharging his statutory duties.

The learned Counsel further submits that the DCT acted without lawful authority by artificially splitting the petitioner's unified manufacturing sale proceeds into "supply sales under section 82C and local sales outside section 82C of the Ordinance". Business income is a single head of income among the seven heads of income provided under section 20 of the Ordinance. However, the DCT arbitrary classified this business income under three distinct streams. The petitioner, being a primary manufacturer that sells its own products rather than acting as a trading contractor/supplier, finds its revenue falling strictly under general corporate assessment rules. By applying section 82C (Minimum Tax) to manufacturing receipts, the DCT effectively taxed the same revenue stream multiple times under different heads. This directly violates sections 16(1), 17(2), and 20 of the Ordinance and the Finance Act, 2018 which caps corporate net income tax at 25%, and Article 83 of the Constitution, which forbids the arbitrary imposition of tax without express legislative authority.

The learned Counsel fortifies his submission by reference to the decision in the case of Commissioner of Income Tax, Karachi -vs- Mst. Khatija Begum, reported in 17 DLR (SC) (1965) 415, where it was held:

> "It is a well established principle that the provisions relating to imposition of tax are to be construed strictly and that if two interpretations are possible, the one that favours the tax-payer must be adopted."

Mr. Hossain finally submits that the CT, without applying his judicial mind, rejected this ground in its order dated 13.09.2020 which is liable to be declared to have been made without lawful authority and to be of no legal effect. The petitioner now seeks constitutional refuge regarding the principles of natural justice in the fair dispensation of law, which cannot be denied by the respondents. To fortify this position, he submits that with the evolution of jurisprudence, the principles of natural justice now form the core framework to ensure fairness. The learned Counsel lastly contends that the petitioner seeks the protection of these principles, particularly within fiscal law as integrated with Article 83 of the Constitution of the People's Republic of Bangladesh, to the extent that fiscal statutes intersect with the fundamental rights and basic obligations of a citizen to pay taxes. Without considering the facts and circumstances of the case, the CT mechanically passed the revisional order by merely reducing the disallowance of claimed expenses under a few heads while affirming the remaining heads, which are likewise liable to be declared to have been made without lawful authority and to be of no legal effect.

Countering the contentions advanced by the petitioner-assessee, Ms. Shadia Afrin Shapla, the learned Deputy Attorney General appearing on behalf of respondent No. 1, submits that the CT disposed of the revisional application lawfully in accordance with the provisions of section 121A of the Ordinance, without any *mala fide* intention. Consequently, she contends that while discharging his statutory duties, the CT acted legally, without any jurisdictional error, violation of statutory provisions, or infringement of any fundamental rights that would warrant interference under Article 102 of the Constitution.

The leaned DAG further submits that the CT affirmed the order of the DCT as the DCT lawfully classified the business income under three streams for imposing tax under section 82C of the Ordinance. The CT in his revisional order reduced the disallowance of claimed expenses under some heads while affirmed the remaining heads due to the failure of the petitioner to produce the evidence regarding TDS. Furthermore, the learned DAG argues that the writ petition involves disputed question of fact, particularly regarding the disallowance of claimed expenses due to lack of verifiable evidence.

The learned DAG fortifies her submissions by referencing the decision reported in 58 DLR (HCD) 531, wherein it was held:

> "Accounts audited by a firm of Chartered Accountants cannot be said to be sacrosanct. When the tax authority indicates that any claims are disallowed on account of lack of verifiable evidence, it is incumbent upon the assessee to

> satisfy the tax authority by providing necessary supporting evidence."

The learned DAG finally urges that the grounds set forth in the writ petition are defective, misleading, and misconceived, and are entirely untenable in the eye of law. Consequently, she contends that the Rule obtained by the petitioner is liable to be discharged with costs.

We have heard the learned Counsel for the petitioner and the learned Deputy Attorney General for the respondent-Government, have perused the writ petition, affidavit-in-opposition, relevant materials on record appended thereto and consulted the relevant provisions of law.

Before entering into the merit we would like to examine the scope and purpose of 'Writ of Certiorari'. The jurisdiction conferred upon the High Court Division, under 'Writ of Certiorari', for the purpose of exercising superintending control over the inferior authority including inferior court or tribunal.

In the case of Hosne Ara Begum -vs- Court of Settlement, reported in 46 DLR (AD) 9, our Apex Court held that:

> "article 102(2)(a)(ii) empowers the High Court Division to interfere when the inferior authority (Court of Settlement) committed an error going to jurisdiction, i.e. when the act done or proceeding taken vitiated by lack of jurisdiction or being in excess of jurisdiction; and mere unsatisfactory disposal of a case is not a ground for interference in writ of certiorari."

In the case of Hari Vishnu Kamath -vs- Ahmed Ishaque and others, reported in AIR 1955 SC 233, the Indian Supreme Court while dealing with the scope of writ of certiorari and the conditions under which it could be issued, held as under:

> "The following propositions may be taken as established (1) 'Certiorari' will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) 'Certiorari' will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice. (3) The Court issuing a writ of 'certiorari' acts in exercise of a supervisory and not appellate jurisdiction. One, consequence of this is that the Court will not review findings of fact reached by the inferior Court or Tribunal, even if they be erroneous. This is on the principle that a Court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the Legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior Court were to re-hear the case on the evidence, and substitute its own findings in 'certiorari."

A plain reading indicates that the High Court Division may interfere with the decision of an inferior authority when that authority has committed a jurisdictional error. Furthermore, a writ of *certiorari* is available to quash a decision for an error of law, provided that the error is patent or apparent on the face of the record. However, a writ of *certiorari* cannot be used as a cloak for an appeal in disguise; it does not lie to bring an order or decision before this Court for a mere rehearing of the issues already raised in the underlying proceedings.

In light of the context above, we may now examine the issues raised by the petitioner through the prayers reflected in the Rule Nisi, as well as through their oral and written contentions. The moot question that requires determination in the instant writ petition is whether respondent No. 1, the CT, lawfully disposed of the revisional application vide impugned order dated 13.09.2020.

Since, the revisional application is disposed of in the presence of the petitioner, the petitioner afforded an opportunity of being heard and there was no violation of the fundamental principles of natural justice, particularly the rule of *audi alteram partem*.

In the assessment order, the DCT disallowed various heads of claimed expenses from the manufacturing, trading and profit and loss accounts due to the lack of verifiable evidence and for the failure to deduct tax at source at the time of payment against the expenses under chapter VII of the Ordinance. The petitioner also failed to produce such evidence before the CT. Consequently, the CT considering the facts and legal point of the case, rightly reduced the disallowance from some heads, whereas affirmed the remaining heads where no tax has been deducted pursuant to the provisions of chapter VII of the Ordinance.

The learned DAG correctly submits that the disallowance of expenses for the lack of verifiable evidence is a purely factual matter involving no question of law. Consequently, this point is not amenable to a writ jurisdiction. In support of her submissions, she rightly relied upon the decisions reported in 58 DLR (HCD) 531. We find substantial merit in the contentions of the learned DAG.

In the case of *Commissioner of Taxes -vs- Conference and Exhibition Management Service Ltd.*, reported in 25 BLC (AD) 15, the Appellate Division held:

> "When the tax authority indicates that any claims are disallowed on account of lack of verifiable evidence, it is incumbent upon the assessee to satisfy the tax authority by providing necessary supporting evidence. The provision in section 35(3) of the Ordinance does not exonerate the assessee from supplying evidence in support of the claims for allowances/deductions."

The same view has been consistently maintained by this Court in *Hatil Complex Limited, Dhaka -vs- The Commissioner of Taxes* (ITRA No.48 of 2018, judgment dated 22.06.2026), *The Commissioner of Taxes -vs- Confidence Cement Ltd.* (ITRA No.123 of 2019, judgment dated 20.05.2026), *BBC Bangladesh Limited -vs- The Commissioner of Taxes*, (ITRA No.316 of 2018, judgment dated 11.06.2026), in which we were parties to the judgments.

It is our considered view that while section 35(3) of the Ordinance directs the petitioner company to furnish a trading account, a profit and loss account, and a balance sheet certified by a Chartered Accountant, such certification does not dispense with the statutory requirement to produce primary, verifiable evidence in support of the specific financial claims made therein.

For the reasons and discussions set forth above, and upon considering the relevant legal provisions and binding judicial precedents regarding the disallowance of expenses, we find no merit in the petitioner's contentions.

The petitioner also challenges the classification of its business income into distinct streams based on the deduction of tax at source.

Specifically, tax is deducted or collected from the petitioner's business under three distinct operational streams during the assessment year:

1. Import Stage: Raw materials imported for its own consumption, with tax collected at source at the import stage under section 53 of the Ordinance;
2. Domestic Supply: Supply of mild steel products in the domestic market, from which tax is deducted at source under section 52, read with rule 16 of the Rules; and
3. Export Stage: Export of mild steel products, from which tax is deducted at source under section 53BBBB of the Ordinance.

Conversely, no tax is deducted at source from direct local sales where no withholding agent is involved.

The petitioner argues that its total business income was determined by the DCT at Tk.260,48,06,063/-, which includes income from export sales amounting to Tk.7,13,71,686/-. Pursuant to Paragraph 28 of Part A of the Sixth Schedule to the Ordinance, 50% of the income derived from export sales amounting to Tk.3,56,85,843/- (7,13,71,686 X 50%) is exempt from tax liability. Consequently, the petitioner asserts that its total taxable income is determined at Tk.256,91,20,220/- (260,48,06,063 - 3,56,85,843), on which tax at the applicable corporate rate of 25% should be imposed at Tk.64,22,80,055/-, rather than the higher figure of Tk. 82,32,44,641/- was imposed assessed by the DCT.

In respect of domestic supplies, the petitioner contends that tax on the income from supplies/sales amounting to Tk. 35,29,97,118/-, from which tax was deducted at source under section 52 read with rule 16, should be calculated at Tk. 8,82,49,280/- by applying the regular 25% corporate rate, instead of treating the full TDS amount of Tk.26,92,13,867/- as a final/minimum tax. Under the petitioner's proposed computation, the excess TDS amount of Tk.18,09,64,587/- (26,92,13,867 - 8,82,49,280) ought to be set off against the regular tax liability of Tk. 53,64,32,301/- imposed on its local sales.

The learned Counsel for the petitioner argued that the petitioner is a primary manufacturer whose sales of self-manufactured goods do not constitute a commercial "supply." Thus, he contended that section 82C of the Ordinance is inapplicable to these sales receipts, placing deducted taxes outside its scope. We find no merit in this contention. The DCT did not treat the import-stage AIT under section 53 as a minimum or final tax under section 82C; rather, section 82C(2) was applied solely to sales where the tax was actually deducted under section 52 of the Ordinance read with rule-16 of the Rules.

However, the National Board of Revenue (NBR), vide its clarification Nothi No.জারাবো/কর-৭/আঃ আঃ বিঃ/০৫/২০০২ dated 26.09.2002, has addressed this precise issue as follows:

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
জাতীয় রাজস্ব বোর্ড
রাজস্ব ভবন
সেগুন বাগিচা, ঢাকা।

নথি নং- জারাবো/কর-৭/আঃ আঃ বিঃ/০৫/২০০২ তারিখঃ ২৬/০৯/২০০২

বিষয় ঃ উৎপাদনকারী/ঠিকাদারের ক্ষেত্রে আয়কর অধ্যাদেশ, ১৯৮৪ এর 82C ধারার প্রযোজ্যতা সম্পর্কে।

উপযুক্ত বিষয় ও সূত্রের প্রতি আপনার দৃষ্টি আকর্ষণ করা যাচ্ছে।

০২। আপনার পত্রে উত্থাপিত বিষয়টি জাতীয় রাজস্ব বোর্ড পরীক্ষা করেছে। এ বিষয়ে আদিষ্ট হয়ে জানানো যাচ্ছে যে, আয়কর অধ্যাদেশ, ১৯৮৪ এর 52 ধারায় সরবরাহ ও ঠিকাদারী ব্যবসার অর্থ প্রদানকালে নির্ধারিত হারে উৎসে আয়কর কর্তন করতে হবে। অধ্যাদেশের 82C ধারায় এরূপ কর্তনকৃত কর চুড়ান্ত করদায় হিসেবে গণ্য হবে। উক্ত ঠিকাদারী বা সরবরাহকারী **নিজে উৎপাদনকারী (manufacturer) হলেও** তার কর্তিত করের সংশ্লিষ্ট আয়ের ক্ষেত্রেও 82C ধারার বিধান প্রযোজ্য হবে।

তাহমিদ হাসনাত খান
দ্বিতীয় সচিব
(আয়কর আইন ও বিধি)

On a plain reading of the statutory provision, the aforementioned NBR clarification, and the facts and circumstances of the case, the TDS from the petitioner under section 52 of the Ordinance read with rule 16 of the Rules against the sales/supplies of mild steel products properly falls under the minimum tax criteria of section 82C of the Ordinance.

For clarity and a better understanding of the matter, the relevant portion of the assessment regarding the classification of business and business income made by the DCT is quoted below for ready reference:

বাদঃ রপ্তানিজনিত রেয়াতঃ

করদাতা কোম্পানী বিবেচ্য করবর্ষে রপ্তানি পর্যায়ে মোট ৮৯,৬৪,৮৫,৮৩৬/- টাকা বিক্রয় প্রদর্শন করেছেন। আয়কর অধ্যাদেশ, ১৯৮৪ এর ৬ষ্ঠ তফসিল পার্ট এ প্যারা-২৮ মোতাবেক রপ্তানি বিক্রয়ের উপর ৫০% রেয়াত প্রাপ্য।

মোট প্রদর্শিত বিক্রয় = ৩২৬৮,৩৫,৭১,৯৪৬/-

প্রদর্শিত রপ্তানি বিক্রয় = ৮৯,৬৪,৮৫,৮৩৬/-

সুতরাং রপ্তানি বিক্রয় আসে মোট বিক্রয়ের ২.৭৪%।

ফলশ্রুত ব্যবসা আয় ঃ- ২৬০,৪৮,০৬,০৬৩/- টাকা।

রপ্তানি আয় ফলশ্রুত ব্যবসা আয় ২৬০,৪৮,০৬,০৬৩/- টাকা এর ২.৭৪% হারে আসে = ৭,১৩,৭১,৬৮৬/-। সুতরাং আয়কর অধ্যাদেশ ১৯৮৪ এর ৬ষ্ঠ তফসিল পার্ট-এ এর প্যারা-২৮ অনুযায়ী রপ্তানি আয় ৭,১৩,৭১,৬৮৬/- এর ৫০% = ৩,৫৬,৮৫,৮৪৩/- টাকা রপ্তানি রেয়াত অনুমোদন করা হলোঃ = ৩,৫৬,৮৫,৮৪৩/-

ব্যবসা আয় = ২৫৬,৯১,২০,২২০/-

ব্যবসা বিক্রয় ও আয়ের বিভাজন

করদাতা কোম্পানী মোট বিক্রয় প্রদর্শন করেছে ৩২৬৮,৩৫,৭১,৯৪৬/- টাকা। যার মধ্যে করদাতার সরবরাহ বিক্রয়, রপ্তানি বিক্রয় ও স্থানীয় বিক্রয় অন্তর্ভুক্ত রয়েছে। কিন্তু করদাতা অডিট রিপোর্টে উক্ত বিক্রয়কে আলাদাভাবে প্রদর্শন করেননি। এক্ষেত্রে করদাতা যেহেতু বিক্রয়কে আলাদাভাবে বিভাজন করেননি সেহেতু উৎসে করের ভিত্তিতে বিক্রয়কে নিম্নোক্তভাবে আলাদা করা হলোঃ

করদাতার বিক্রয়ের মধ্যে তিন ধরনের বিক্রয় এবং আয় আছে।

(১) সরবরাহ বিক্রয় (৫২ ধারায় উৎস কর কর্তন করা আছে)

(২) রপ্তানী বিক্রির (৫৩বিবিবিবি ধারায় উৎস কর কর্তন করা আছে) এবং

(৩) স্থানীয় বিক্রয়। প্রথম দু ধরনের বিক্রয়/আয় ২০১৬ সনের অর্থ আইনের মাধ্যমে নতুন প্রবর্তিত ৮২সি ধারায় ২(বি) উপ-ধারায় আওতাভুক্ত। সুতরাং ৮২সি ধারার বাধ্যবাধকতার কারণে প্রদর্শিত বিক্রয়/আয় বিভাজন করতে হবে।

উৎসে করযুক্ত সরবরাহ বিক্রয়ের পরিমাণঃ

করদাতা কোম্পানী আয়কর রিটার্নের সাথে উৎসে কর কর্তনের একটি সিডিউল "জে" দাখিল করেন। দাখিলকৃত সিডিউল হতে দেখা যায় যে, আয়কর অধ্যাদেশ ১৯৮৪ এর ৫২ ধারায় বিক্রয়ের উপর উৎস পর্যায়ে ২৬,৯২,১৩,৮৬৭/- টাকা কর পরিশোধ করা হয়েছে। উৎসে কর কর্তনের ভিত্তিতে ৮২সি ধারার আয় নির্ণয়ে তথ্য-প্রমাণ ভিত্তিক সিদ্ধান্তে উপনীত হওয়ার জন্য শুনানীকালে করদাতার প্রতিনিধিকে সরবরাহ বিক্রয় হিসাব বহি, প্রমাণাদি দাখিলের

অনুরোধ করা হয়। করদাতা কোম্পানী প্রমাণাদি উপস্থাপন/দাখিলে ব্যর্থ হওয়ায় বিক্রয়ের উপর আয়কর বিধিমালা, ১৯৮৪ এর বিধি-১৬ অনুযায়ী ৫% হারে উৎসে কর কর্তন করা হয়েছে বলে গণ্য করা হলো।

উৎসে কর কর্তনযুক্ত সরবরাহ বিক্রয় আসে

(২৬,৯২,১৩,৮৬৭/- × ১০০)/৫ = টাঃ ৫৩৮,৪২,৭৭,৩৪০/-

নিরীক্ষিত হিসাবে প্রদর্শিত বিক্রয়ের পরিমাণঃ টাঃ ৩২৬৮,৩৫,৭১,৯৪৬/-

বাদঃ ৮২সি ধারার সরবরাহ বিক্রয় ঃ টাঃ ৫৩৮,৪২,৭৭,৩৪০/-

সুতরাং সরবরাহ ব্যতীত রপ্তানি ও স্থানীয় বিক্রয় আসে ঃ টাঃ ২৭২৯,৯২,৯৪,৬০৬/-

উৎসে করযুক্ত রপ্তানী বিক্রয়ের পরিমাণঃ

করদাতা বিবেচ্য করবর্ষে রপ্তানি বিক্রয় প্রদর্শন করেছেন ৮৯,৬৪,৮৫,৫৩৬/- টাকা। করদাতা কোম্পানী আলোচ্য করবর্ষে রপ্তানী বিক্রয়ের উপর ৫৩বিবিবিবি ধারায় ৯১,০২,০৭৬/- টাকা উৎসে কর কর্তন করেছেন।

ফলশ্রুত ব্যবসা আয় ২৫৬,৯১,২০,২২০/- টাকার মধ্যে সরবরাহ (উৎসে করযুক্ত), রপ্তানি (উৎসে করযুক্ত) ও স্থানীয় বিক্রয়ের অনুপাতে আয়ের বিভাজন নিম্নরূপঃ

	বিক্রয়	**বিক্রয়ের আনুপাতিক হার**	**আয়**
সরবরাহ বিক্রয় (৮২সি)	৫৩৮,৪২,৭৭,৩৪০/-	১৩.৭৪%	৩৫,২৯,৯৭,১১৮/-
রপ্তানি বিক্রয় (৮২সি)	৮৯,৬৪,৮৫,৮৩৬/-	২.৭৪%	৭,০৩,৯৩,৮৯৪/-
স্থানীয় বিক্রয় (৮২সি ব্যতীত)	২৭২৯,৯২,৯৪,৬০৬/-	৮৩.৫২%	২১৪,৫৭,২৯,২০৭/-

ন্যূনতম করের প্রযোজ্যতা নির্ণয় (ধারা ৮২সি)ঃ

(ক) ব্যবসায় ক্ষেত্রে [৮২সি(৫)]

রপ্তানি ও সরবরাহ আয় (৫২ ও ৫৩ বিবিবিবি ধারা)

২০১৬ সালের অর্থ আইনে প্রবর্তিত ৮২সি ধারায় বিধান মোতাবেক এই আয় ও উৎসে কর্তিত কর ৮২সি(৫) ধারায় ন্যূনতম করের পর্যায়ভুক্ত।

(১) রপ্তানি বিক্রয় ও আয়ঃ

করদাতা কোম্পানী বিবেচ্য করবর্ষে রপ্তানি বিক্রয়ের বিপরীতে আয়কর অধ্যাদেশ, ১৯৮৪ এর ৫৩বিবিবিবি ধারায় উৎসে কর কর্তন করেছে ৯১,০২,০৭৬/- টাকা।

রপ্তানি বিক্রয়ের টার্নওভারঃ

রপ্তানি বিক্রয়ের টার্নওভার	টাঃ	৮৯,৬৪,৮৫,৮৩৬/-
মোট টার্নওভার @৮৯,৬৪,৮৫,৮৩৬/- *.৬০%=	টাঃ	৫৩,৭৮,৯১৫/-

রপ্তানি বিক্রয় ব্যবসার ক্ষেত্রে মুনাফা ৭,০৩,৯৩,৮৯৪/- টাকার উপরে ২৫% হিসেবে আয়কর আসে ১,৭৫,৯৮,৪৭৩/- টাকা। কিন্তু টার্নওভারের ক্ষেত্রে আয়কর আসে ৫৩,৭৮,৯১৫/- টাকা এবং ৫৩বিবিবিবি ধারায় উৎসে কর কর্তন করা হয়েছে ৯১,০২,০৭৬/- টাকা। উক্ত করের মধ্যে যেটি বেশি সে অংক হবে বিবেচ্য করবর্ষের জন্য করদাতা কোম্পানীর ন্যূনতম করদায়।

সুতরাং বিবেচ্য করবর্ষের জন্য ন্যূনতম করদায় হলোঃ টাঃ ১,৭৫,৯৮,৪৭৩/-

(১) সরবরাহ বিক্রয় ও আয়ঃ

করদাতা কোম্পানী বিবেচ্য করবর্ষে সরবরাহ বিক্রয়ের বিপরীতে আয়কর অধ্যাদেশ, ১৯৮৪ এর ৫২ ধারায় উৎসে কর কর্তন করেছে ২৬,৯২,১৩,৮৬৭/- টাকা।

সরবরাহ বিক্রয়ে টার্নওভারঃ

সরবরাহ বিক্রয়ের টার্নওভার	টাঃ	৫৩৮,৪২,৭৭,৩৪০/-
মোট টার্নওভার @ ৫৩৮,৪২,৭৭,৩৪০/- * ০.৬% হারে=	টাঃ	৩,২৩,০৫,৬৬৪/-

সরবরাহ বিক্রয় ব্যবসার ক্ষেত্রে মুনাফা ৩৫,২৯,৯৭,১১৮/- টাকার উপরে ২৫% হিসেবে আয়কর আসে ৮,৮২,৪৯,২৭৯/- টাকা। কিন্তু টার্নওভারের ক্ষেত্রে আয়কর আসে ৩,২৩,০৫,৬৬৪/- টাকা এবং ৫২ ধারায় উৎসে কর কর্তন করা হয়েছে

২৬,৯২,১৩,৮৬৭/- টাকা। উক্ত করের মধ্যে যেটি বেশি সে অংক হবে বিবেচ্য কর বর্ষের জন্য করদাতা কোম্পানীর ন্যূনতম করদায়।

<u>সুতরাং বিবেচ্য কর বর্ষের জন্য ন্যূনতম করদায় হলোঃ টাঃ ২৬,৯২,১৩,৮৬৭/-</u>

<u>স্থানীয় বিক্রয় ও আয়</u>

<u>স্থানীয় বিক্রয়ের টার্নওভার</u>

স্থানীয় বিক্রয়ের টার্নওভার	টাঃ	২৭২৯,৯২,৯৪,৬০৬/-
মোট টার্নওভার @২৭২৯,৯২,৯৪,৬০৬/- * ০.৬%=	টাঃ	১৬,৩৭,৯৫,৭৬৭/-

স্থানীয় বিক্রয় ব্যবসার ক্ষেত্রে মুনাফা ২১৪,৫৭,২৯,২০৭/- টাকার উপরে ২৫% হিসেবে আয়কর আসে ৫৩,৬৪,৩২,৩০১/- টাকা। কিন্তু টার্নওভারের ক্ষেত্রে আয়কর আসে ১৬,৩৭,৯৫,৭৬৭/- টাকা । উক্ত করের মধ্যে যেটি বেশি সে অংক হবে বিবেচ্য কর বর্ষের জন্য করদাতা কোম্পানীর ন্যূনতম করদায়।

সুতরাং বিবেচ্য কর বর্ষের জন্য ন্যূনতম করদায় হলোঃ টাঃ ৫৩,৬৪,৩২,৩০১/-

<u>আয় ও করের একত্রীকরণঃ</u>

	আয়ের খাত সমূহ	**আয়**	**আয়করের হার**	**প্রযোজ্য আয়কর**
১।	**<u>ব্যবসার আয়ঃ</u>**			
	রপ্তানি বিক্রয়ের ক্ষেত্রে	টাঃ ৭,০৩,৯৩,৮৯৪/-	(ন্যূনতম কর)	টাঃ ১,৭৫,৯৮,৪৭৩/-
	সরবরাহ বিক্রয়ের ক্ষেত্রে	টাঃ ৩৫,২৯,৯৭,১১৮/-	(ন্যূনতম কর)	টাঃ ২৬,৯২,১৩,৮৬৭/-
	স্থানীয় বিক্রয়ের ক্ষেত্রে	টাঃ ২১৪,৫৭,২৯,২০৭/-	২৫%	টাঃ ৫৩,৬৪,৩২,৩০১/-
২।	অন্যান্য সূত্রের আয়	টাঃ ২,৯৭,৯২,৪০১/-	২৫%	টাঃ ৭৪,৪৮,১০০/-
	মোট আয়=	**টাঃ২৫৯,৮৯,১২,৬২০/-**	**মোট কর**	**টাঃ ৮৩,০৬,৯২,৭৪১/-**

Thereafter, the petitioner filed revisional application before the CT alleging, inter alia, that “After hearing the parties, allow the application, pass necessary orders upon the respondent to determine the classified & so called artificial “সরবরাহ বিক্রয় ৮২সি" and "স্থানীয় বিক্রয় ৮২ সি ব্যতীত” as receipts from sale proceeds making an assessment order U/S. 83 of the I.T.O to impose 25% income tax considering the entire AIT so deducted or collected by some specified persons as advance payment of income tax in favour of the applicant.” and "It is further stated that the Deputy Commissioner of Taxes determined total income of the applicant Tk. 259,89,12,620/-

(a) Tax @ 25% as prevailing rate as per section 16(1) of the Income Tax ordinance 1984 & the relevant Finance Act comes at including deemed export	Tk.64,97,28,155.00
(b) But the Deputy Commissioner of Taxes imposed tax	Tk.83,06,92,741.00
Excess imposition of tax as per assessment of income made by the DCT.	Tk.18,09,64,586.00

The Deputy Commissioner of Taxes computed and demanded excess tax of Tk.18,09,64,586.00 than the assessment order in question."

Considering the facts and legal points of the case, as well as after hearing the petitioner and elaborately discussing the provisions of section 82C of the Ordinance, the CT in his revisional order affirmed the assessment order of the DCT and rejected the grounds in this regard.

The moot question that requires determination in the instant writ petitions are whether section 82C of the Ordinance is applicable to the instant cases. Section 82C falls under Chapter IX (Assessment) of the Ordinance. As an assessment provision, section 82C applies during the assessment process to determine the minimum tax payable, dealing primarily with income streams where tax has already been deducted or collected at source. The Finance Act, 2016, substituted section 82C with the title "Minimum Tax," which applies to the assessment years 2016–2017, 2017-2018 and 2018-2019; previously, this section was titled "Tax on income of certain persons."

To have a clear idea with regard to the legal implication of the provisions of section 82C of the Ordinance, on the impugned action, we feel it expedient to reproduce the section, applicable for the assessment years 2017-2018 (Finance Act, 2017) and 2018-2019 (Finance Act, 2018) here which runs as follows:

82C. Minimum Tax.-

(1) Notwithstanding anything contained in any other provisions of this Ordinance, minimum tax shall be payable by an assessee in accordance with the provisions of this section.

(2) Minimum tax on income on sources from which tax has been deducted or collected under certain sections shall be the following-

(a) any tax deducted or collected at source under the provisions of sections mentioned in clause (b) shall be the minimum tax on income from the source or sources for which tax has been deducted or collected;

Emphasis given by us

(b) the tax referred to in clause (a) shall be the tax deducted or collected under sections **52**, 52A. 52AAA, 52B, 52C, 52D, 52JJ, 52N, 52O, 52R, **53**, 53AA, 53B, 53BB, 53BBB, **53BBBB**, 53C, 53CCC, 53DDD, 53E, 53EE, 53F, 53FF, 53G, 53GG, 53H, 53M, 53N and 55:

Provided that the tax deducted or collected from the following sources shall not be the minimum tax for the purpose of this sub-section-

(i) tax collected under section 52 from the following persons-

a. a contractor of an oil company or a sub- contractor to the contractor of an oil company as may be prescribed;

b. an oil marketing company and its dealer or agent excluding petrol pump station;

c. any company engaged in oil refinery,

d. any company engaged in gas transmission or gas distribution;

(ii) tax deducted under section 53 from import of goods by an industrial undertaking as raw materials for its own consumption;

(iii) tax deducted under section 53F from a source other than the sources mentioned in clause (c) of sub-section (1) and sub-section (2) of that section;

(c) for the sources of income for which minimum tax is applicable, books of accounts shall be maintained in the regular manner in accordance with the provisions of section 35;

(d) income from any source, for which minimum tax is applicable under this sub-section, shall be determined in regular manner and tax shall be calculated by using applicable rate on such income. If the tax so calculated is higher than the minimum tax under clause (a), the higher amount shall be payable on such income:

Provided that income shall be determined and tax shall be calculated for certain sources in the manner as specified in the following-

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(e) income or loss computed in accordance with clause (d) or the proviso of clause (d) shall not be set off with loss or income, respectively, computed for any regular source.

(3) Where the assessee has income from regular source in addition to the income from source or sources for which minimum tax is applicable under sub-section (2)-

(a) regular tax shall be calculated on the income from regular source;

(b) the tax liability of the assessee shall be the aggregate of the tax as determined under sub-section (2) and the regular tax under clause (a).

(4) Subject to the provisions of sub-section (5), minimum tax for a firm or a company shall be the following-

(a) every firm having gross receipts of more that taka fifty lakh or every company shall, irrespective of its profits or loss in an assessment year, for any reason whatsoever, including the sustaining of a loss, the setting off a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under this Ordinance, be liable to pay minimum tax in respect of an assessment year at the following rate-

Serial No.	Classes of assessee	Rate of minimum tax
1.	Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1% of gross receipts
2.	Mobile phone operator	0.75% of the gross receipts
3.	Any other cases	0.60% of the gross receipts:

Provided ---------------------------------- production.

(b) --------------

(5) Where the provisions of both sub-section (2) and sub- section (4) apply to an assessee, minimum tax payable by the assessee shall be the higher of

(a) the minimum tax under sub-section (2); or

(b) the minimum tax under sub-section (4).

(6) Minimum tax under this section shall not be refunded, nor shall be adjusted against refund due for earlier year or years or refund due for the assessment year from any source.

(7) Where any surcharge, additional interest, additional amount etc. is payable under provisions of this Ordinance, it shall be payable in addition to the minimum tax.

(8) Where the regular tax calculated for any assessment year is higher than the minimum tax under this section, regular tax shall be payable.

(9) In this section-

(a) "regular source" means any source for which minimum tax is not applicable under sub-section (2);

(b) "regular tax" means the tax calculated on regular income using the regular manner;

(c) "regular tax rate" means the rate of tax, that would be applicable if the tax exemption or the reduced rate were not granted.

On a plain reading of the provision of sub-section (1), we find that the non-obstante clause *"Notwithstanding anything contained in any other provisions of this Ordinance"* creates a super-priority rule. It means that even if there is a conflict between this section and any other part of the tax law, this section prevails. The use of the word "shall" makes the payment of this minimum tax strictly mandatory. The tax authority has no discretion to waive it, and the assessee has no legal loophole to avoid it if he meets the criteria. The true intent of this provision is to establish a tax floor. The Legislature uses this to ensure that entities or individuals who generate significant gross turnover or receive specific streams of income cannot use accounting deductions, allowances, or carry-forward losses to completely wipe out their tax liability. Essentially, it dictates that if your regular tax calculation results in an amount lower than the prescribed minimum tax or results in a loss, the assessee must still pay this minimum threshold amount.

For the long list of sections mentioned in clause (b) of sub-section (2) which covers supplies, contractor’s work, service providing, export, import, etc., the deducted amount becomes the minimum tax under clause (a) of sub-section (2) of section 82C. Even if the assessee’s business income stands at Tk.100/- and TDS stands at Tk.120/, that TDS amount shall be the payable tax on income of Tk.100/-, the assessee will pay tax applying applicable tax for other business income. For this reason, business income is classified at the time of assessment as well as for the calculation of payable tax, and the state retains the collected tax as final payment on that particular class of income.

The provision transforms withholding tax from a temporary, adjustable collection mechanism into a permanent, final tax liability. Under this framework TDS serves as an advance payment, but it is neither refundable nor adjustable against any other source of income. The transaction that suffered TDS will not face further income tax, provided it generates income that remains within the tax threshold calculated applying the regular tax rate; that is, an assessee may avail itself of the opportunity to show income up to its threshold limit relying on that transaction only. By exempting industrial raw materials and energy infrastructure from the finality of minimum tax, the statute ensures that core working capital is not depleted by a rigid tax floor, thereby balancing revenue collection with economic sustainability.

Clause (c) underscores that a minimum tax regime is not an excuse for sloppy financial record-keeping. Even though the tax floor is predetermined by the TDS, the assessee is strictly mandated to maintain proper books of account under section 35 of the Ordinance. This ensures that the tax authorities can still audit the true financial health of the business and verify whether the claimed expenses comply with the provisions of section 30 of the Ordinance. This is particularly crucial because a specified person bears the legal responsibility of ensuring government revenue collection. Furthermore, it prevents other income streams from being hidden under the guise of minimum-tax sources, thereby checking tax evasion across the rest of the enterprise. The provisions of section 35 of the Ordinance regarding maintaining of books of account for income to which minimum tax is applicable, were inserted by the Finance Act, 2016, and apply to the assessment years 2016-2017, 2017-2018 and 2018-2019 as well.

Clause (d) specifies the procedure for determining the payable tax. In cases where the tax calculated on taxable income using the regular rate is higher than the TDS for that specific income, the higher amount shall be payable. This means that, alongside the TDS, additional tax must be paid. Conversely, if an assessee reflects a taxable income that is fully covered by the TDS, no further tax needs to be paid by that individual.

The provision of clause (e) deals with the segregation of minimum tax sources from regular income sources. Income or loss calculated under a minimum tax source is strictly "ring-fenced. Taxable income or loss computed from the transaction that suffered TDS under clause (b) of sub-section (2) of this section shall not be set off against income or loss computed under any regular source of income.

Under sub-section (3), if an assessee earns income from both regular sources and minimum tax sources in the same assessment year, the total tax liability shall be calculated in two separate parts and added together. First, calculate normal income tax on the income from regular sources using regular tax rates/slabs; second, determine tax under sub-section (2) for minimum tax sources; thereafter, aggregate both regular tax and minimum tax to determine total payable tax.

Sub-section (4) of this section specifies minimum tax provisions based on gross receipts or turnover for a firm (having gross receipts exceeding Tk. 50 lakh) or any company, which is levied irrespective of profit or loss at the prescribed rate. The tax payable shall be the higher amount between the regular tax on profits and the minimum tax on turnover. If the computed taxable income is a negative figure, minimum tax based on gross receipts/turnover shall be payable.

Sub-section (5) serves as the conflict resolution mechanism between the two distinct methods of computing minimum tax. While sub-section (2) establishes minimum tax based on TDS under specific statutory provisions (e.g., imports, supply contracts, professional service fees), sub-section (4) calculates minimum tax by applying a prescribed rate directly to the gross receipts or turnover of an eligible firm or company. When an entity is subject to both withholding tax under sub-section (2) and turnover-based tax under sub-section (4), both provisions apply simultaneously. In such cases, sub-section (5) mandates the taxpayer compares both the figures and pays whichever amount is higher. Consequently, this sub-section sets the tax liability at the highest applicable threshold. For example: If regular tax on net profit is Tk.100/-, TDS under sub-section (2) is Tk.125/-, and turnover tax under sub-section (4) is Tk.75/-, the tax payable shall be Tk. 125/-.

Under sub-section (6), minimum tax assessed under this section is absolute and final. It shall neither be subject to refund nor adjusted against any statutory refund due to the assessee, whether arising from earlier assessment years or from any other source in the current assessment year.

Under sub-section (7), any surcharge, delay interest, or additional statutory penalty payable under the provisions of the Ordinance shall be levied over and above the minimum tax payable. Minimum tax cannot be treated as an inclusive figure to discharge these secondary liabilities.

Under sub-section (8), if the regular tax calculation yields a liability higher than the TDS amount or turnover tax, the excess must be paid under this sub-section of this section. While the primary intent of sub-section (2) and (4) are to enforce a strict minimum tax regime, the legislature has introduced these provisions as an essential safeguard to prevent capital erosion in strategic sectors.

A combined reading of section 82C of the Ordinance, in light of the facts and circumstances of the instant case, demonstrates that sub-section (1) through its non-obstante clause, *"Notwithstanding anything contained in any other provisions of this Ordinance"* exerts an overriding statutory effect over all other conflicting provisions within the tax Ordinance. Furthermore, the deliberate use of the imperative word "shall" renders the payment of minimum tax strictly mandatory. Consequently, the tax authority possesses no statutory discretion to waive this liability, nor can the assessee evade it once the requisite threshold criteria are met.

The learned Counsel's reliance on the case of *Commissioner of Income Tax, Karachi -vs- Mst. Khatija Begum*, reported in 17 DLR (SC) (1965) 415 which affirmed that ambiguous taxing provisions must be strictly construed in favour of the taxpayer is misplaced. That doctrine applies solely where two reasonable interpretations exist. Where the statutory language is plain, unambiguous, and absolute, as in section 82C, no ambiguity arises to warrant statutory interpretation or comparison with other provisions of the Ordinance.

In the instant case, the income streams from which tax has been deducted or collected at source under sections 52, 53, and 53BBBB shall be assessed under clause (a) of sub-section (2) of section 82C of the Ordinance as a minimum tax. However, proviso (ii) of clause (b) of sub-section (2) of section 82C provides that tax collected under section 53 from the import of goods by an industrial undertaking as raw materials for its own consumption shall not be assessed under section 82C as a minimum tax. This means that only TDS or tax collected under section 53 of the Ordinance for the import of raw materials shall be excluded from the minimum tax criteria under section 82C, and must instead be assessed as a regular source of income under section 83(2) of the Ordinance and the tax so collected under section 53 at the time of importing raw materials shall be treated as an advance payment of tax under section 62 of the Ordinance, and credit shall be given in Form IT-30 at the time of tax calculation.

In the instant case, the DCT rightly treated the tax amounting to Tk. 8,91,57,694/- collected at source at the import stage under section 53, as an advance payment of tax rather than minimum tax under section 82C of the Ordinance. Consequently, the said tax was duly adjusted against the tax payable on income from local sales, which was assessed under section 83(2) of the Ordinance as a regular source of income.

This exclusion, however, does not imply that the income from the supply of mild steel products from which tax has been deducted or collected at source under section 52, read with rule 16 of the Rules should also be assessed as a regular source of income under section 83(2). On the contrary, it must be assessed under section 82C of the Ordinance as a minimum tax. To summarize section 82C, specific sources of income falling under sub-section (2) of section 82C are classified for assessment based on that section, rather than the status of the person or importer as a whole. TDS is levied on specific transactions, and it is that source which is assessed on a transaction-by-transaction basis under section 82C, rather than through a person-based assessment of the importer "Mr. X" in his individual or corporate capacity.

It is a settled legal principle that the legislature enjoys broad latitude in formulating fiscal and tax policy. Consequently, in exercising the power of judicial review, courts will not ordinarily interfere with policy decisions unless the challenged measure is tainted by *mala fides*, arbitrariness, unreasonableness, or unfairness.

The petitioner also seeks a constitutional remedy in the instant petition. Article 83 prohibits the levy or collection of taxes without parliamentary authority, while Article 26 voids any law inconsistent with fundamental rights. Additionally, Article 27 guarantees equality before the law and equal protection of the law. Because section 82C (Minimum Tax) was introduced through the Finance Act, 2016, a valid Act of Parliament, it satisfies the requirement of Article 83. Furthermore, because section 82C applies equally to all taxpayers within the same class, it is non-discriminatory and complies with Article 27. Enacted to curb tax evasion and promote public welfare, section 82C is neither arbitrary, unreasonable, nor unfair, and fully aligns with both the Ordinance and the Constitution.

The DCT assessed the total income at Tk. 260,48,06,063/-, which includes income from export sales amounting to Tk.7,13,71,686/-.

Pursuant to Paragraph 28 of Part A of the Sixth Schedule to the Ordinance, 50% of the income derived from export sales, amounting to Tk. 3,56,85,843/- (7,13,71,686 X 50%), is exempt from tax liability. Consequently, the DCT assessed the total taxable income at Tk. 256,91,20,220/- (260,48,06,063 - 3,56,85,843) based on total sales of Tk. 3,268,35,71,946/-.

The TDS amounted to Tk.26,92,13,867/- on sales/supplies under section 52, read with Rule 16 of the Rules, constituting minimum tax under sub-section (2) of section 82C of the Ordinance. Although, the petitioner disclosed total sales of Tk.3,268,35,71,946/- without classifying or segregating the specific sales/supplies from which tax was deducted. Given the applicable TDS rate of 5% under rule-16 of the Rules, the TDS amount of Tk. 26,92,13,867/- was generated by sales/supplies amounting to Tk.538,42,77,340/- [(26,92,13,867 X 100) / 5]. The proportionate income derived there from was accordingly determined at Tk. 35,29,97,118/-. As the TDS amount exceeded the tax calculated at the regular rate on the proportionate income of Tk. 35,29,97,118/-, the DCT rightly assessed the TDS amount of Tk.26,92,13,867/- as minimum tax pursuant to clause (a) of sub-section (2) of section 82C of the Ordinance.

In view of the aforesaid facts and circumstances of the case, we are of the view that respondent No.2, the DCT rightly classified the business income and imposed tax as guided by the provisions of section 82C of the Ordinance discussed earlier. There was no legal or procedural error in the assessment order. Upon due consideration of the facts, legal principles, and relevant provisions of section 82C of the Ordinance, respondent No.1, the CT, exercising due care, caution, and a judicial mind, correctly affirmed the assessment order of the DCT.

The same view has been consistently maintained by this Court in *The Commissioner of Taxes -vs- Confidence Cement Ltd.* (ITRA No.123 of 2019, judgment dated 20.05.2026) in which we were parties to the judgment.

Our view is fortified by the decision of the Appellate Division in *S. Alam Beg Manufacturing Mills Ltd. -vs- Government of Bangladesh*, reported in 28 BLC (AD) (2023) 220, wherein it was similarly held,

> "The Court must act within their judicial permissible limitation to uphold the Rule of Law and harness their power in public interest and if the intent and general operation of the impugned tax legislation is to adjust the burden with a fair and reasonable degree of equality, constitutional requirement is satisfied and in this regard a taxation law enacted by the Parliament in accordance with law is not amenable to judicial review. It has been consistently held by this Division that in matters of policy decision of the Government the court requires restraint."

For the reasons and discussions set forth above, and upon considering the relevant legal provisions and binding judicial precedents, we find no merit in the Rules in two writ petitions, namely in writ petition No.1671 of 2021 and writ petition No.1672 of 2021. Moreover, no illegality appears to have been committed in passing the impugned orders.

Accordingly, the Rules in the said two writ petitions are hereby discharged, and the ad-interim orders of stay granted earlier are hereby recalled and vacated.

However, there shall be no order as to costs.

Communicate this judgment and order at once.

*S. M. Maniruzzaman,**J***

I agree.