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

Present

Mr. Justice Sardar Md. Rashed Jahangir
And
Mr. Justice S.M. Iftekhar Uddin Mahamud

Income Tax Reference Application No. 61 of 2011

In the matter of:

N. Mohammad Plastic Industries Limited

…. Applicant

-Versus-

Commissioner of Taxes, Taxes Zone- 2, Chattogram.

…. Respondent

Mr. Md. Zakaria Sarker, Advocate

…. For the applicant

Mr. Tanim Khan, D.A.G. and

Mr. Dewan Humaun Kabir(Ripon), D.A.G with

Ms. Fatema Yesmin, A.A.G.

Mr. Mehedi Hasan Ronve, A.A.G.

Ms. Elina Chowdhury, A.A.G. ands

Mr. Sk. Naser Wahed (Shemon), A.A.G.

... For the respondent

Heard on **:** 28.07.2026

Judgment on : 29.07.2026

Sardar Md. Rashed Jahangir, J:

The instant reference application under section 160(1) of the Income-tax Ordinance, 1984 has been filed by the assessee-applicant formulating some questions of law arising out of the judgment and order dated 25.11.2010 passed by the Taxes Appellate Tribunal, Division Bench, Chattogram in Income Tax Appeal No. 4748 of 2009-2010 heard along with counter appeal being Income Tax Appeal No. 4743 of 2009-2010.

The questions of law are as follows:

a. Whether on the facts and in the circumstances of the case, learned Taxes Appellate Tribunal was justified in confirming the rejection of book version of the assessee-applicant in spite of the fact that the assessee-applicant maintained the books of accounts employing regular method of accounting from where true income could be deduced as per provision of sub-sections 2 and 3 of section 35 of Income-tax Ordinance, 1984?

b. Whether on the facts and in the circumstances of the case, learned Taxes Appellate Tribunal was justified in upholding and reducing the disallowances of various heads of expenses as stated in paragraph-6 of this reference application without pinpointing any defect specifically?

c. Whether on the facts and in the circumstances of the case, learned Taxes Appellate Tribunal was justified in reducing the estimate of sales to Tk.6,25,00,000/- instead of directing the D.C.T. to accept the disclosed amount of sales Tk.4,37,75,059/- without assigning any cogent reason in spite of the fact that the books of accounts were maintained employing regular method of accounting?

d. Whether on the facts and in the circumstances of the case, learned Taxes appellate Tribunal was justified in reducing the addition of income in the trading account by way of reducing the estimate of sales of the product on conjecture and surmise instead of deleting the entire amount of trading addition Tk.3,48,02,422/- because, the trading addition was made by the D.C.T. by estimating sales of product and gross profit at much higher rate than that of shown by which there

cause huge disallowances from the direct expenses without pinpointing specifically any defect of the expenses claimed in the trading account?

At the very outset, learned Advocate Mr. Md. Zakaria Sarker appearing for the assessee-applicant submits that the applicant is not pressing the question Nos. ‘a’ and ‘b’ formulating in the reference application.

The question Nos. ‘c’ and ‘d’ are as follows:

c. Whether on the facts and in the circumstances of the case, learned Taxes Appellate Tribunal was justified in reducing the estimate of sales to Tk. 6,25,00,000/- instead of directing the D.C.T. to accept the disclosed amount of sales Tk. 4,37,75,059/- without assigning any cogent reason in spite of the fact that the books of accounts were maintained employing regular method of accounting?

d. Whether on the facts and in the circumstances of the case, learned Taxes appellate Tribunal was justified in reducing the addition of income in the trading account by way of reducing the estimate of sales of the product on conjecture and surmise instead of deleting the entire amount of trading addition Tk. 3,48,02,422/- because, the trading addition was made by the D.C.T. by estimating sales of product and gross profit at much higher rate than that of shown by which there cause huge disallowances from the direct expenses without pinpointing specifically any defect of the expenses claimed in the trading account?

Facts relevant for disposal of the application are that assessee-applicant being a private limited company engaged in the business of manufacturing and selling of plastic products. In course of business it submitted the income tax return for the assessment year, 2008-2009 declaring net income Tk. 17,60,355/-.

The D.C.T. concern upon receiving the return issued notices under sections 79 and 83(1) of the Income-tax Ordinance, 1984 and after hearing the authorized representative of assessee completed the assessment under section 83(2) of the Income-tax Ordinance, 1984. Under the assessment the D.C.T. disallowed some claim of expenditure under several heads and making addition to the income under the trading account estimating the sales afresh at Tk. 12,50,00,000/- upon rejecting the trading account of book version.

It is the contention of the assessee that D.C.T cannot estimate the sales on mere surmise and conjuncture and upon presumption without disclosing any basis or materials whatsoever. Challenging the aforesaid disallowances alongwith estimation the assesee preferred an appeal before the Commissioner of Taxes (Appeal), Appellate Zone, Chattogram C.T. (Appeal) being আয়কর পত্র নং ১৯/কোং-৭/কঃঅঃ-২/২০০৯-২০১০. The C.T. (appeal) after hearing the assessee's representative by his order dated 15.05.2010 modified the disallowances reducing the disallowed amount thereof.

He also modified the estimated sales and thereby directed to estimate the sales at Tk. 7,20,00,000/-

Challenging the modified disallowances and estimation as well as the assessee took an appeal being Income Tax Appeal No. 4748 of 2009-2010 before the Taxes Appellate Tribunal, Chattogram.

On the other hand, Deputy Commissioner of Taxes concerned preferred Income Tax Appeal No. 4743 of 2009-2010. Both the appeals were heard together by the Tribunal and by it's order dated 25.10.2010 allowed the appeal of assessee in part, and dismissed the appeal of the department; against which the assessee filed this reference application formulating the aforesaid questions of law.

Mr. Md. Zakaria Sarker, learned Advocate for the applicant submits that from the order of the Tribunal as well as the DCT, it appears that the estimation of sales has been done on the basis of the past record.

Referring to the order of the Tribunal he submits that according the past record the estimation of sales would be at Tk. 6,25,00,000/- instead of Tk. 6,50,00,000/- and as such he prayed for a direction upon the taxes the authority of lower her to estimate the sales on the basis of the past record.

On the other hand, learned Deputy Attorney General frankly conceded that apart from the past record there was no other materials to estimate the sales.

Considering the submissions of both the parties, we are of the view that justice would be best for now, if the Deputy Commissioner of Tax concern is directed to estimate the sale of assesse-appellant at Tk. 6,25,00,000/-, equibalent to the earlier estimated sales.

However, the adopted rate of G.P. is hereby upheld.

With the aforesaid direction, the reference application is disposed of.

S.M. Iftekhar Uddin Mahamud, J.

I agree.