

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)**

WRIT PETITION NO. 22265 OF 2025

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. Sirajul Islam, son of late Haji Abdul Karim, of House-27, Nanda Kumar Dutta Road, Post Office: Posta, Police Station: Lalbagh, Dhaka-1211 and another.

... Petitioners

-Versus-

National Board of Revenue represented by its Chairman, Rajashwa Bhaban, Plot- F1/A, Agargaon, Sher-E-Bangla Nagar, Dhaka-1207 and others

... Respondents

Mr. Mohammad Osman, Advocate

...For the petitioners

Mr. Md. Abdus Samad Azad, D.A.G with

Mr. Md. Ahsan Habib, D.A.G,

Mr. Mohammad Alam Khan, A.A.G,

Mr. Mohammad Delawar Hosain, A.A.G,

Ms. Sabikun Nahar, A.A.G and

Mr. Md. Arifur Rahman, A.A.G

...For the respondent no. 2

Heard on 11.03.2026 and 23.04.2026.

Judgment on 23.04.2026.

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Rezaul Karim

Md. Mozibur Rahman Miah, J.

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the illegal and malafide action of the respondents in freezing/attaching all bank accounts of the petitioners and of their family members and business enterprises as evident from *Nathi* (file) No. 08.01.2622.000.31.1187.25.493 dated 11.12.2025 and *Nathi* No. 08.01.2622.000.31.1187.25.531 dated 18.12.2025 both issued under the signature of respondent No. 3 (Annexure-‘G’ and ‘G-1’ to the writ petition) should not be declared to have been done without lawful authority and is of no legal effect and also why the respondents should not be directed to re-open all the bank accounts of the petitioners and of their family members and business enterprises that were frozen/attached pursuant to said *Nathi* No. 08.01.2622.000.31.1187.25.493 dated 11.12.2025 and *Nathi* No. 08.01.2622.000.31.1187.25.531 dated 18.12.2025 both issued under the signature of respondent No. 3 and/or such other or further order or orders passed as to this Court may seem fit and proper.

The salient facts leading to issuance of the instant rule are:

The petitioner No. 1 paid taxes of Tk. 2,18,78,741/- in the latest assessment year 2024-2025. The petitioner No. 2 also paid taxes amounting to taka 28,07,315/- in the said assessment year and their first son, Kamrul Islam paid taxes at taka 90,88,897/- in the same assessment year when their second son, Aminul Islam paid taxes amounting to taka 33,75,096/- in the year 2024-2025. The returns of the petitioners and those of their sons have duly been accepted by the authority by issuing acknowledgment receipts and

respective income tax certificates were also issued and those returns have neither been processed under section 181 of the Income Tax Act, 2023 by the Deputy Commissioner of Taxes nor those have been selected for audit under section 182 of the said Act by the National Board of Revenue and they never claimed any amount of taxes as arrears. It has further been stated that the petitioners also run various industries, open L/Cs for their business purposes, pay salaries, wages etc. for the officers and employees that require day to day banking transaction. However, all of a sudden, on 14.12.2025 when the petitioner no. 1 wanted to open an L/C from his bank account, the respective authority of the bank informed him that the bank accounts, credit cards, FDRs, loan, investment, savings bonds, account etc. maintained by him and of his family members' and their business enterprises' have been frozen/attached by the income tax authority namely, Income Tax Intelligence and Investigation Unit (shortly, ITIIU). It has further been stated that, the petitioners have never received any notice of freezing/attachment of their accounts, and through desperate attempts, they somehow managed to obtain photocopies of concerned *nathi* sent to all the banks and financial institutions operated by them and became sure that the income tax authority attached all the bank accounts of the petitioners and their family members and business enterprises under section 223 of Income Tax Act, 2023. It has also been stated that, though the respondent no. 3 on 11.12.2025 issued another notice under section 200 of the Income Tax Act, 2023 aimed to gathering information by asking the banks and financial institutions to submit information in regard to income and various sorts of savings instruments since July, 2018 in prescribed form within 7 days from the date

of receipt of the said notice, yet without waiting for getting any such information, the said respondent most illegally and arbitrarily issued impugned notices under section 223 of the Act freezing/attaching (স্বগিতকরণ/অবরুদ্ধকরণ) the FDRs stands in the name of the petitioners and their business concerns. However, the notice furnishing for information was issued by the Additional Assistant Commissioner of Taxes of ITIU (respondent No. 3) though sub-section (2) of section 200 of the said Act categorically provides for issuing such notice by income tax authority not below the rank of Deputy Commissioner of Taxes.

Mr. Mohammad Osman, learned counsel appearing for the petitioners upon taking us to the writ petition at the very outset submits that though the impugned action issuing notices were served to the CEO/MD of all the banks and financial institutions in relation to the petitioner Nos. 1 and 2 on 11.12.2025 under section 223 of the Income Tax Act, 2023 vide Annexure-‘G’ and ‘G-1’ to the writ petition yet on the same date, the same authority has also issued a letter upon the banks and financial institutions for supplying informations with regard to all banking transaction and allied information with regard to bank accounts, loan accounts, investment accounts, credit card and so on to have maintained since 1st July, 2018 within 7 days from the date of issuance of the said notice which clearly construes that the authority who issued the notices vide Annexure-‘G’, ‘G-1’ and ‘H’ to the writ petition had no definite information about the concealment of any fund or information with regard to any investment on the date of issuance of impugned notices meant for freezing FDRs of the petitioners though the provision of section 223 of the Income Tax Act very

explicitly stipulates the phrase “এই আইনের অধীন কার্যসম্পাদনকালে, যেইক্ষেত্রে মহাপরিচালক (কেন্দ্রীয় গোয়েন্দা সেল) বা কমিশনারের নিকট এই মর্মে সুনির্দিষ্ট তথ্য থাকে যে, কোন ব্যক্তি তাহার আয় বা বিনিয়োগ সংক্রান্ত তথ্যাদি গোপন করিয়াছেন” and so, the impugned notices issued under section 223 of the Act freezing the FDRs of the petitioners is totally illegal and beyond the capacity of the said provision of law.

The learned counsel further contends that nowhere in the four corner of the impugned action, Annexure-‘G’ and ‘G-1’ to the writ petition, there levels any allegation or having specific information against the petitioners to the effect that, they or their sons have concealed any information relating to their income or investment as quoted above which is *sine quo non* for issuing any notice under section 223 of the said Act and therefore, the impugned action taken against the petitioners is *ex facie* illegal, malafide, arbitrary and without any jurisdiction of the authority concern.

The learned counsel further contends that the petitioners have to run various business establishments and to open L/Cs for that purpose and to pay salaries and wages to the officers and employees of their business concerns which calls for day to day banking transaction through their bankers but by way of attaching FDR, the petitioners are now under severe stain in paying salaries and wages to their employees which is causing serious unrest in their business concerns and it is not possible for the petitioners to open L/C, gather work order vis-à-vis to make smooth functioning of their businesses for freezing all bank accounts run by the petitioners in the respective banks and financial institutions on the back of issuance notices under section 200 of the Act.

The learned counsel also contends that there are certain provisions in Income Tax Act, 2023 as envisages in sections 181, 182 and 212 of the Act where it stipulates that if the authority assumes that any assessee has evaded taxes, the respective authority of tax then can invoke the avenue as postulated in those sections by taking appropriate steps but without doing so, the respondents issued impugned notices under section 223 of the Act when it is admitted position that at that point of time, there had been no definite information to the respondents about concealment of any income of the petitioners. With those submissions, the learned counsel finally prays for make the rule absolute by setting aside the impugned notices.

By contrast, Mr. Md. Abdus Samad Azad, learned Deputy Attorney General by filing an affidavit-in-opposition very vehemently opposes the contention taken by the learned counsel for the petitioners and at the very outset by taking us to section 8(3) of the Income Tax Act, contends that absolute authority has been vested upon the Director General, Central Intelligence Cell (CIC) and by assuming such authority, the respondent no. 3 has taken the impugned action issuing ad-interim order as it had definite information of concealment of income or asset by the petitioners and upon gathering information it is the duty of the CIC to report of such concealment to the respective department under National Board of Revenue for taking necessary action which has rightly been done by the said CIC.

The learned Deputy Attorney General by taking us to paragraph no. 4 to the affidavit-in-opposition also contends that moment after issuance of the impugned notices on 11.12.2025, the respondents have gathered information about the concealment of several investment in particular of having several

FDRs in Bank Asia and as soon as the respondent collected information, it on the same date that is, on 11.12.2025 issued impugned notices of freezing FDRs having no illegality in it.

The learned Deputy Attorney General by taking us to paragraph no. 4 together with Annexure-‘3’ to the affidavit-in-opposition (relating to bank statements of the petitioners) also contends that from that very bank statement, it also demonstrates that a serious concealment with regard to having FDR of huge amount of money has been made by the petitioners in the tax return submitted to the tax authority and therefore, it cannot be said that under section 223 of the Act, there has been no definite information to the respondents about the concealment of income as well as investment of the petitioners.

When we pose a question to the learned Deputy Attorney General with regard to the date of obtaining that statement from the bank, the learned Deputy Attorney General at the outset could not show us the said date of gathering such bank statements when the learned counsel for the petitioners, Mr. Mohammad Osman then took us to page no. 58 of Annexure-‘3’ of the said affidavit-in-opposition and shows us that, in pursuance of the notice issued by the respondent no. 3 on 11.12.2025 Annexure-‘H’ to the writ petition, the bank has supplied the said information on 22.12.2025 titled ‘বিষয়ঃ আয়কর আইন, ২০২৩ এর ২০০ ধারার হিসাব বিবরণী সরবরাহ’ even mentioning reference number of the notice issued vide Annexure-‘H’ to the writ petition and then the learned counsel for the petitioners contends that, that very letter alternatively denotes that the impugned notices (Annexure-‘G’ and ‘G-1’ to

the writ petition) were issued without having any definite information which is *sine quo non* in issuing the same under section 223 of the Act.

The learned Deputy Attorney General wrapped up his submission by citing a decision reported in 20 ALR (HCD) 89 and took us to paragraph no. 12 thereof and submits that the finding arrived at by the Hon'ble court in respect of Writ Petition Nos. 14937 and 14938 of 2016 in the said cited decision would equally be applicable in the instant writ petition and eventually prays for discharging the rule.

However, the learned counsel for the petitioners to counter the said decision, then refers to paragraph no. 12 where 3(three) writ petitions were heard and disposed of together and out of those three writ petitions, rule in regard to Writ Petition Nos. 14937 and 14938 of 2016 was discharged but by referring to the said paragraph to the said decision, the learned counsel contends that, in plain reading of that very paragraph, it clearly shows that, the respondents in those 2 (two) writ petitions have got definite information with regard to concealment of the information and then issued notice and for that obvious reason, the rule on those two writ petitions was discharged but the case in hand, it is totally different even if, this Hon'ble court takes into account of the bank statement as has been stated hereinabove which palpably proves that on the date of issuance of notice, no definite information was available to the respondent no. 3.

We have considered the submission so placed by the learned counsel for the petitioners and that of the learned Deputy Attorney General for the respondents. Together, we have also very meticulously gone through the writ petition in particular, Annexure-'G', 'G-1' and 'H' thereof and those of

the documents so have been annexed with the affidavit-in-opposition in particular, Annexure-‘2’ and ‘3’ thereof.

To have a clear idea with regard to the legal implication of the provision of sections 223 and 200 of the Income Tax Act, 2023, on the impugned action, we feel it expedient to reproduce those 2(two) sections here which runs as follows:

“২২৩। (১) এই আইনের অধীন কার্যসম্পাদনকালে, যেইক্ষেত্রে মহাপরিচালক (কেন্দ্রীয় গোয়েন্দা সেল) বা কমিশনারের নিকট এই মর্মে সুনির্দিষ্ট তথ্য থাকে যে, কোনো ব্যক্তি তাহার আয় বা বিনিয়োগ সংক্রান্ত তথ্যাদি গোপন করিয়াছেন [বা এই আইনের ধারা ২১২ এ উল্লিখিত কোনো অঙ্কের পরিশোধ এড়াইয়া গিয়াছেন], সেইক্ষেত্রে তিনি, লিখিত আদেশ দ্বারা, কোনো ব্যক্তি, যাহার অধিকারে এই মুহূর্তে কোনো অর্থ, বুলিয়ান, অলংকার, আর্থিক দলিল, আর্থিক পরিসম্পদ, মূল্যবান দ্রব্য বা অন্য কোনো সম্পত্তি রহিয়াছে তাহাকে আদেশ প্রদানকারী কর্তৃপক্ষের পূর্বানুমতি ব্যতিরেকে তাহা অপসারণ, হস্তান্তর বা অন্য কোনোভাবে বিলিব্যবস্থা না করিবার নির্দেশ প্রদান করিতে পারিবেন।

(২) উপ-ধারা (১) এর অধীন আদেশ প্রদানের তারিখ হইতে এক বৎসর উত্তীর্ণ হইবার পর এইরূপ আদেশের কোনো কার্যকারিতা থাকিবে না।

(৩) উপ-ধারা (১) এ উল্লিখিত আয়কর কর্তৃপক্ষ বোর্ডের অনুমোদন সাপেক্ষে, উক্ত মেয়াদ বৃদ্ধি করিতে পারিবে:

তবে শর্ত থাকে যে, মেয়াদ বৃদ্ধির সময় কোনোক্রমেই সাকুল্যে ১ (এক) বৎসরের অধিক হইবে না।

(৪) উপ-ধারা (২) ও (৩) এ উল্লিখিত মেয়াদ হিসাব করিবার ক্ষেত্রে, উপ-ধারা (১) এর অধীন প্রদত্ত আদেশ আদালত কোনো মেয়াদের জন্য স্থগিত করিলে উক্ত মেয়াদ, যদি থাকে, গণনা হইতে বাদ যাইবে।

২০০। উপকর কমিশনারের নিম্নে নহে এইরূপ কোনো তদন্তকারী আয়কর কর্তৃপক্ষ এই আইনের অধীন কোনো তদন্ত সম্পর্কিত বা চলমান কোনো কার্যক্রমের জন্য প্রয়োজনীয় বা প্রাসঙ্গিক হইতে পারে এইরূপ তথ্য কোনো ব্যক্তির নিকট হইতে লিখিত নোটিশ দ্বারা অথবা ইলেক্ট্রনিক পদ্ধতিতে এবং নোটিশে বর্ণিত পদ্ধতি ও মাধ্যমে, এবং নোটিশে উল্লিখিত সময়ের মধ্যে, তলব করিতে পারিবে:

তবে শর্ত থাকে যে, কর কমিশনারের অনুমোদন ব্যতিরেকে কর কমিশনারের অধস্তন কোনো আয়কর কর্তৃপক্ষ কোনো ব্যাংক বা ফাইন্যান্স কোম্পানির নিকট হইতে কোনো তথ্য তলব করিতে পারিবে না।”

Since the petitioners have challenged the propriety of the action taken under section 223 of the Income Tax Act, 2023 through which withdrawing and transfer of money from the FDR accounts of the petitioners being operated with Bank has been frozen/attached. So, we will dwell on the applicability of section 223 of the Act on the petitioners in the first instance. As we have stated hereinabove that before issuance of notice upon all the Banks and financial institutions, the authority who is assigned to issue such

notice must have a definite information with regard to concealment of the income or investment of an assessee. But from the forwarding letter dated 22.12.2025 attached with the bank statement issued by the banker of the petitioners, Bank Asia as has been annexed as of Annexure-‘3’ to the affidavit-in-opposition, it clearly depicts, at the point of time of issuing impugned notices (Annexure-‘G’ and ‘G-1’ to the writ petition) under section 223, the respondent no. 3 visibly has got no information about the income or investment of the petitioners let alone definite one about the alleged concealment. So the basic requirement as delineated in section 223 of the Act of having definite information is absolutely absent failing which the alleged notice is totally devoid of any legal basis.

On top of that, on going through Annexure-‘3’ to the affidavit-in-opposition where there remains a forwarding letter annexed with the statement of bank account issued by Bank Asia, we find that the reply has been given to the same person named, Md. Rehanul Huq, respondent no. 3 who issued the impugned notices as well as notice under section 200 of the Act all dated 11.12.2025 and 18.12.2025 (Annexure-‘G’, ‘G-1’ and ‘H’ to the writ petition) also mentioning the reference used in Annexure-‘H’ through which the banks were asked to supply information about all sorts of accounts and investment made by the petitioners. However, there has been no ambiguity about the authority to issue impugned notice or to take action about freezing FDRs of the petitioners assigned to respondent no. 3 basing on section 8(3) of the Act as has repeatedly been canvassed by the learned Deputy Attorney General. It has also not denied by the petitioners that respondent no. 3 has got no authority to take action under section 223

because section 8(3) of the Act mandates such authority upon respondent no. 3 but clear satisfaction as regards to concealment of information of income and investment of an assessee has to be formed by that authority which is conspicuously absent in the instant case on the face of the materials on record. So the decisions cited by the learned Deputy Attorney General for the respondent no. 2 in particular, the decision passed in respect of Writ Petition No. 10381 of 2016 is partially applicable for the petitioners in the facts and circumstances of the instant case because in the said writ petition subsequent notice under earlier section 113F of earlier Ordinance, corresponding to section 200 of the current Act was issued. But in the case in hand, information with regard to statement of account was subsequently been supplied by the bank to respondent no. 3 who had thus no definite information about the concealment of any fund or investment of the petitioners which is tantamount to put the cart before the horse.

Simply put, there has been ample authority to the respondents to detect the concealment of any account or investment, moment any assessee files his/her return under the Income Tax Act as outlined in the penultimate paragraphs. But only basing on the apprehension that, the assessee might have removed his/her fund if any prior notice is issued, while action taken under section 223 clearly runs counter to the universal proposition '*Audi Alterim Partem*' and civil norms practiced by a civilized nation.

Regard being had to the above facts and circumstances, we don't find any shred of merit and substance in the impugned notice of freezing FDRs of the petitioners which cannot stand in the eye of law.

Accordingly, the rule is made absolute however without any order as to costs.

The impugned action under *Nathi* No. 08.01.2622.000.31.1187.25.493 dated 11.12.2025 and *Nathi* No. 08.01.2622.000.31.1187.25.531 dated 18.12.2025 both issued under the signature of respondent No. 3 (Annexure- 'G' and 'G-1' to the writ petition) stand set aside.

The respondents are hereby directed to take immediate steps reopening all sorts of bank accounts and FDR accounts of the petitioners and their business enterprises within 7(seven) days from the date of receipt of the copy of the order.

Let a copy of this judgment and order be communicated to the respondents forthwith.

Rezaul Karim, J.

I agree.