

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

**Writ Petition No. 443 of 2026**

In the matter of:

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

AND

In the matter of:

Navana Pharmaceuticals PLC  
... Petitioner

-Versus-

Government of Bangladesh and others  
... Respondents

Mr. A M Masum, Senior Advocate with  
Ms. Kaniz Fatima Tunazzina, Advocate  
... For the petitioner

Mr. Tanim Khan, D.A.G. with  
Mr. Md. Abdus Samad Azad, D.A.G.  
Md. Abdul Jabbar Joel, A.A.G.  
Mr. Sk. Naser Wahed (Shemon), A.A.G.  
Mr. Ariful Alam, A.A.G and  
Mr. Md. Fuad Hasan, A.A.G.

... For the respondents

Order dated: 17.02.2026

Present:

Justice Sardar Md. Rashed Jahangir  
and  
Justice Kazi Waliul Islam

Sardar Md. Rashed Jahangir, J:

This is an application under article 102 of the Constitution  
of the People's Republic of Bangladesh. Learned Advocate  
appearing for the petitioner sought for a Rule Nisi in the following  
terms:

“Issue a Rule Nisi calling upon the respondents to show cause as to why inaction of the respondents in conducting special audit of the petitioner regarding VAT issue by an independent auditor(s) for the tax periods from July 2021 to June 2023 under section 94 of the Value Added Tax and Supplementary Duty Act, 2012 should not be declared to have been done without lawful authority and is of no legal effect and as to why a direction should not be given upon the respondents to dispose of the petitioner’s application dated 29.12.2025 regarding VAT issue for the tax periods from July 2021 to June, 2023”

Mr. A M Masum, learned Senior Advocate appearing for the petitioner submits that the respondent No. 5 issued a demand-cum-show cause notice on 12.05.2024 asking the petitioner to show cause within 15(fifteen) days of service of the notice as to why a demand of VAT of Tk. 139,45,27,597.72 shall not be made final.

The petitioner company on 27.05.2024 submitted a written reply. Upon considering the reply the respondent No. 2 formed an audit committee for the purpose of auditing the claim of VAT and the reply of the petitioner at length and on 05.09.2024 the committee submitted its report. The petitioner company on 15.09.2024 by an objection prayed for cancellation of the second audit report dated 05.09.2024. Thereafter, upon taking into consideration the objection a Third Audit Committee was formed on 07.12.2025 headed by an Additional Commissioner of Customs and VAT. Thereafter, on 13.01.2026 the said audit committee of the Large Taxpayers Unit, VAT, Dhaka submitted a report reviewing the earlier audit report.

Mr. Masum further submits that in the report the respondents claimed an amount of Tk.124,37,95,374.68 deriving from the calculation of payable VAT between the difference on Mushak 6.2 and Mushak 9.1.

He next submits that the respondents without properly considering the evidences and materials placed by the petitioner (elaborately calculated/assessed) claimed the aforesaid amount, which should be reviewed upon proper consideration of the evidences.

He further submits that under various tenders the petitioner in the financial year, 2021-2022 actually supplied/sold goods/medicine/chemical (under tender/contract) amounting to Tk. 49,45,19,980/- , but in the report dated 13.01.2026 on wrong calculation without considering the materials or evidences, the VAT Officials claimed that the sold value/base value of the sold goods is at Tk. 101,25,76,441/-

He next referring to Annexure-‘V’ to the supplementary affidavit submits that, the licensing authority i.e. Director General of Drug Administration issued license in favour of the petitioner allowing to produce Navatrim Suspension 60ml. by using 0.800gm. of Trimethoprim and other raw materials and the petitioner duly produced the said product observing due process; but the respondents upon misconception of the facts and law held that the petitioner in producing his product using lesser Trimethoprim as raw materials and that is why they have wrongly

calculated a fictitious large numbers of product which was not actually produced using the purchased/collected/ imported raw materials and resultantly an illegal amount of VAT has been calculated to be imposed upon the sold Navatrim Suspension.

He again submits that even after repeated requests the respondents did not consider the produced materials and evidences in holding audit and as such, he prayed for holding a special audit for ascertaining the actual payable VAT.

He also submits that the petitioner in due course taken rebate on various occasion but the respondents without considering the proper evidences and materials held that the petitioner has taken unauthorized and illegal rebate of Tk. 42,28,416.50.

On the other hand, learned Deputy Attorney General submits that a proceeding having been initiated under section 73 of the VAT and Supplementary Duty Act, 2012 upon serving statutory notice on 12.04.2024, and thereafter the petitioner company submitted a reply on 24.05.2024 and upon considering the reply of the petitioner company a review committee has been formed for holding review of the submitted audit report, basing upon which the demand under the notice dated 12.05.2024 has been issued. The review committee report has been submitted on 05.09.2024. Thereafter for further examination and to ascertain the actual payable VAT, considering the objection of the petitioner a further review committee has been formed headed by an

Additional Commissioner on 10.11.2024. Upon receiving the said review report of the committee, the petitioner on 19.10.2025 filed an other objection against it and upon further consideration of the representation of the petitioner company on 04.10.2025 a further committee has been formed to review the earlier reports and the said committee after holding it's examination/audit on 13.01.2024 submitted it's report.

Learned Deputy Attorney General further submits that the proceedings under section 73 of the VAT and SD Act, 2012 is under process wherein statutory notices have been served and considering the petitioner's several objections, again and again the audit report has been reviewed and now the proceeding is at the personal hearing stage waiting to be finalized and if the petitioner would be aggrieved by the final determination order, it has statutory right to appeal to raise his grievance and as such, the instant writ petition is not maintainable.

He also submits that it is not safe to appoint an independent auditor for ascertaining the state revenue.

Heard learned Advocate and learned Deputy Attorney General, perused the writ petition and the supplementary affidavit, the synopsis of about 252 pages submitted by the petitioner.

Form examination, it appears that under the provision of the VAT and Supplementary Duty Act, 2012, the respondent-commissioner has been entrusted to ascertain the less paid/unpaid/payable VAT and for the purpose of such

determination on 12.05.2024 they issued a demand-cum-show cause notice claiming less paid/ unpaid/payable VAT of Tk. 124,37,95,374.68, ascertained upon finding the difference between the statutory Sale Register (Mushak. 6.2) and submitted return of the company (Mushak 9.1). Moreover, it has been alleged that petitioner has taken unauthorizedly a rebate of Tk. 42,28,416.50, which is liable to be cancelled under the provisions of the VAT Act. The petitioner company failed to deduct/deposit proper VAT at Government exchequer for an amount of Tk. 14,65,03,806.54, i.e. the in total claim of VAT is at Tk. 139,54,27,597.72 which is payable as unpaid/ less paid/ unauthorized taken rebate by the petitioner company. We also found that the petitioner-company on several occasions submitted objections including written reply and the proceedings is yet to be finalized upon providing personal hearing to the petitioner.

The contention of the petitioner is that his submitted documents and evidences are not considered by the audit/review committees.

On further examination of the provision of section 73 of the Value Added Tax and Supplementary Duty Act, 2012, it appears that the final tax determination authority is the Commissioner concerned and the Commissioner is not bound by the report of the audit committee, being a quasi judicial authority. He has authority to examine all the grievances including the submitted materials and evidences in arriving at the final tax determination order.

Under the law only restriction has been imposed upon the commissioner is that he is to serve proper show cause notice asking to submit objection and if the objection is submitted/forwarded, then to provided the petitioner an opportunity of being heard.

Under the application in hand, the grievance of the petitioner is that in the audit report submitted evidences has not been considered in respect of determination of the VAT at Tk. 124,37,95,374.68.

Learned Advocate for the petitioner further submits that upon direction of this Court petitioner-company has submitted a detailed reply annexing the concern evidences and documents regarding the aforesaid claim, which the respondents are bound to consider and as such, the petitioner sought for further review of the report based upon the submitted documents and evidences.

Considering the submissions of both the parties, we are of the view that the respondent No. 5, Commissioner, Large Taxpayer Unit, VAT, Dhaka has the authority and competency to meet up all the grievances. The personal hearing is yet to be held.

At this stage, we do not find any reason to interfere into the proceedings.

Accordingly, the application is rejected summarily.

However, the respondent No. 5 is hereby directed to examine the evidences afresh to produced by the petitioner in respect of difference between Mushak 6.2 and 9.1, including the

claimed of sale/supply under tender for the financial year, 2021-2022 and deduction and deposition of VAT at source.

It is further desirable that the question of taken rebate is also be examined taking in the consideration of the objection of the petitioner.

The respondent No. 5 is also directed to collect sample of Navatrim Suspension from the market and to cause holding a chemical examination by the concerned department of Dhaka University to ascertain the actual production of suspension at the cost of the petitioner.

Taking into consideration all the examinations report, it is desirable from the respondent No. 5 to dispose of his proceeding in accordance with the law and the respondent No. 5 is also directed to re examine the audit report in view of the guide line for VAT audit prepared by the National Board of Revenue (NBR) and, taking into consideration ‘the process of the নিরীক্ষা বিধিবিধান under chapter 13’.

**Kazi Waliul Islam, J:**

I agree.