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

WRIT PETITION NO.2508 OF 2026

IN THE MATTER OF:
An application under Article 102 (1) and (2) of the Constitution of the People's Republic of Bangladesh.
And
IN THE MATTER OF:
Engineer Md. Mohosin
……Petitioner
-Vs-
Commissioner of Taxes, Taxes Zone-1, Chattogram and others
.... Respondents

Mr. M. A Hannan, Senior Advocate with
Mr. Rayhan Kabir, Advocate
........For the Petitioner

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
Mr. Shahinoor Alam (Shahin), A.A.G
.... For the Respondents-Government.

Heard on 21.06.2026, 28.06.2026 & Judgment on 05.07.2026.

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

Dihider Masum Kabir, J:

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 the order No. Revision/Circle-13/Ka:Aa-01 (Chatto:)/2024-2025 dated 19.06.2025 passed by respondent No. 1 rejecting revisional application filed under section 285(1) of the Income-tax Act, 2023 and thereby upholding the assessment orders passed by respondent No. 2 in respect of the assessment years 2016-2017, 2017-2018, 2018-2019, 2019-2020 and 2020-2021 (Annexure- 'G') and Nathi Nos. B-1(Bank Account)/Sa-13(Co.)/Ka:Aa-01(Chatto:)/2025-2026 all dated 22.12.2025 issued by respondent No. 2 upon proforma respondent Nos. 5-17, freezing all the accounts of the petitioner (Annexures 'I' -'I-11') should not be declared to have been passed without lawful authority and is of no legal effect and/or pass such other or further order or orders as may seem fit and proper.

At the time of issuance of the Rule, further operation of the order of respondent No.2 upon proforma respondent Nos.5-17 dated 22.12.2025 passed under Nathi Nos. B-1(Bank Account)/Sa-13(Co.)/Ka:Aa-01 (Chatto:)/2025-2026 was stayed by this Court for a prescribed period.

Being aggrieved by the interim stay order, the Government of the People's Republic of Bangladesh, represented by the Secretary, Ministry of Finance, Internal Resources Division, Bangladesh Secretariat, Ramna, Dhaka and others, preferred Civil Petition for Leave to Appeal No. 1112 of 2026 before the Appellate Division of the Supreme Court of Bangladesh. After hearing the parties, the Appellate Division, vide order dated 10.05.2026, modified the said interim order of stay with a direction to this Bench to hear and dispose of the Rule within the prescribed period.

Facts, relevant for the disposal of the Rule, in short, are that the petitioner is the proprietor of M/S. Master & Brothers and M/S. Janata Syndicate, and is engaged in the business of importing old ships from the international market and selling them in the local market as scrap. The petitioner, being an assessee, filed income tax returns (in short, the return) for the assessment years 2016-2017, 2017-2018, 2018-2019, 2019-2020 and 2020-2021 under the universal self-assessment scheme, showing total income of Tk.4,11,77,078/-, Tk.3,10,19,609/-, Tk.3,80,04,731/-, Tk.5,54,43,981/-, and Tk.1,15,12,994/- respectively. Accordingly, the petitioner paid taxes amounting to Tk.1,47,85,308/-, Tk.1,09,08,855/-, Tk.1,42,31,474/-, Tk.3,13,87,019/-, and Tk.33,67,156/- respectively, which were duly accepted by respondent No. 2, the Deputy Commissioner of Taxes (in short, the DCT), and the assessments were finalized with the issuance of acknowledgement receipts.

Thereafter, respondent No. 2 initiated proceedings under section 93 of the Income Tax Ordinance, 1984 (in short, the Ordinance) for the assessment years 2016-2017,2017-2018,2018-2019,2019-2020 and 2020-2021 and completed the re-assessments under section 82BB(1)/93/84/82C of the Ordinance, read with sections 212/184/163 of the Income Tax Act, 2023 (in short, the Act), determining the total income at Tk.5,74,13,679/-, Tk.4,15,48,439/-, Tk.5,17,70,534/-, Tk.5,58,28,383/-, and Tk.1,15,12,994/- respectively.

Aggrieved by the said assessment orders dated 21.08.2023 passed by respondent No. 2, the petitioner filed revisional applications on 25.05.2025 under section 285 of the Act before respondent No. 1, the Commissioner of Taxes, Taxes Zone-1, Chattogram (in short, the CT). The said revisional applications were registered as Revision Case Nos. 36, 37, 38, 39, and 40 of 2024–2025.

After the lapse of a considerable period, the petitioner came to learn that the date of hearing had been fixed for 02.06.2025 by respondent No. 1, vide Nathi No. revision No. 36, 37, 38, 39, 40/Cir-13(Co.)/Ka:A:-1/2024-2025/5535(12) dated 26.05.2025. The said notice, however, was never received by the petitioner. Subsequently, upon an *ex-parte* hearing, respondent No. 1 passed an order dated 19.06.2025, disposing of the revisional applications filed by the petitioner under section 285(1) of the Act.

Subsequently, respondent No. 2 issued a demand notice to the petitioner on 16.11.2025, vide Nathi No. bokeya/Cir-13(Co.)/KaA-1Ch/2025-2026, requesting payment of the alleged arrear tax totaling Tk. 6,90,05,421.00 for the assessment years 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021. Thereafter, on 22.12.2025, vide Nathi No. B-1 (Bank Attachment)/Sa-13(Co.)/Ka:Aa-01 (Chatto:)/2025-2026, respondent No. 2 issued an order to scheduled banks (proforma respondent Nos. 5 to 17), directing them to freeze all bank accounts maintained by the petitioner, exercising powers under section 221 of the Act. The petitioner came to learn of the bank attachment from the respective banks upon visiting them for ordinary business transactions, and subsequently collected photocopies of the freezing orders.

Being aggrieved by and dissatisfied with the revisional order dated 19.06.2025 passed by respondent No. 1, the demand reminder letter dated 16.11.2025 for arrear taxes of Tk. 6,90,05,421/-, and the bank account freezing notice dated 22.12.2025 issued by respondent No. 2, the petitioner moved this Court and obtained the instant Rule Nisi.

Respondent No.1, the CT contests the Rule by filing affidavit-in-opposition contending inter alia that on 26.05.2025, the DCT (Technical) placed the revisional applications before the CT, whereupon the CT fixed 02.06.2025 as the date for hearing and directed the DCT (Technical) to issue the hearing notice. Accordingly, the hearing notice was duly issued on 26.05.2025 and dispatched through registered post under registered slip No. 011 dated 27.05.2025 to the address furnished by the petitioner. Despite the issuance of the notice, neither the petitioner nor any authorized representative appeared before the revisional authority. The CT recorded such non-appearance in the revisional orders dated 19.06.2025 and disposed of the revisional applications after examining the relevant documents, assessment records, and the grounds taken in the revisional applications; therefore, the impugned orders are valid and lawful in the eye of law.

Mr. M.A. Hannan, the learned Senior Counsel appearing on behalf of the petitioner, submits that since the petitioner waived his right of appeal before the Commissioner of Taxes (Appeals) or the Taxes Appellate Tribunal and instead filed a revision application under section 285(1) of the Act before respondent No. 1, the petitioner has no other forum under the Act to challenge the said order or prefer an appeal. As such, there is no other equally efficacious remedy available against the order passed by the CT, and consequently, this writ petition is maintainable.

The learned Senior Counsel also submits that the petitioner did not receive any notice from respondent No. 1 regarding the date of hearing and was completely unaware of the proceedings initiated against him.

Consequently, the petitioner was deprived of the opportunity to appear before respondent No. 1 to explain with relevant documents and supporting evidence and to place materials on record to refute the illegal and arbitrary determination of tax, imposition of penalty, and other disallowances made by respondent No. 2. The impugned order passed by respondent No. 1, having been made *ex parte* without affording the petitioner a reasonable opportunity of being heard, violates the fundamental principles of natural justice, particularly the rule of *audi alteram partem*.

Mr. Hannan further submits that respondent No.1 acted without jurisdiction or excess of his jurisdiction in passing the impugned order on 19.06.2025 without giving any opportunity of hearing and submission of the documents and explanation by the petitioner and also without any finding of fact on issuance and service of the notice of hearing dated 02.06.2025 and passed the order prejudicial to the interest of the assessee in as much as the same having been passed within 24 (twenty four) days of filing though there is a statutory period of 60 (sixty) days under section 285(6) of the Act for disposal of the revisional application, the order is passed just in mechanical way stating that the petitioner neither appear in hearing nor filed any explanation or evidences in this regard and in respect of all the assessment years separate revisional applications have been filed with separate grounds but all of the same having been disposed of in one order on similar findings none of which at all on merit in terms of finding of facts and law, discussion thereon on application of mind and correct and lawful decision on each ground, and therefore, the impugned orders as of Annexure-G and order of freezing the bank account by the respondent No.2

as of Annexure-I to I (11) are liable to be declared to have been passed without lawful authority and is of no legal effect.

Mr. Hannan finally submits that, in the absence of due service of notice, the petitioner was effectively deprived of his lawful right to appear before respondent No. 1 and present his case on the merits. Therefore, the fundamental rights of the petitioner as guaranteed under Articles 31, 40, and 42 of the Constitution have been grossly violated. For these reasons, the impugned order under Annexure-G and the subsequent directions to freeze the accounts under Annexures-I to I (11) are 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 applications in good faith, within his jurisdiction, and in accordance with the provisions of section 285 of the Act, without any *mala fide* intention. 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. She further submits that the impugned bank attachment communications dated 22.12.2025 was issued lawfully as part of recovery proceedings pursuant to the provisions of section 221(3) of the Act. Furthermore, the learned DAG argues that the writ petition involves disputed questions of fact, particularly regarding the actual service of notice, which cannot conveniently be adjudicated within the writ jurisdiction.

The learned DAG also submits that section 285 of the Act does not impose any mandatory obligation to afford an opportunity of being heard. She adds that section 285(6) of the Act merely prescribes the maximum period for the disposal of a revisional application and does not prohibit its disposal before the expiry of sixty days. She highlights that the petitioner has neither challenged the genuineness of the order sheet dated 26.05.2025 nor that of the registered slip No. 011, and maintains that the revisional orders were passed without violating the principles of natural justice or the rule of *audi alteram partem*.

The learned DAG further submits that the petitioner cannot take advantage of his own omission, negligence, or failure to respond to a hearing notice that was duly issued by the authority. Moreover, section 335 of the Act does not require proof of actual receipt by the assessee in every case, provided that the notice has been duly issued and dispatched in the prescribed manner.

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 Senior 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 the 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 applications vide the impugned order dated 19.06.2025, after having issued a notice on 26.05.2025 fixing the date of hearing for 02.06.2025.

The petitioner filed the revisional applications under section 285 of the Act on 25.05.2025 before respondent No. 1, challenging the assessment orders passed by respondent No. 2, the DCT for the assessment years 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021. To gain a clear understanding of the legal implications of section 285 of the Act on the impugned actions, we deem it expedient to reproduce the said section hereunder for ready reference, which reads as follows:

285| Kwgkbv‡ii wiwfk‡bi ÿgZv|-

(1) Kwgkbvi Ki`vZvi Av‡e`‡bi ‡cÖw¶‡Z, GB AvB‡bi Aaxb Zvnvi Aax‡¶Îvaxb Aa¯Íb †Kv‡bv KZ©…c¶ KZ©…K †Kv‡bv Kvh©µ‡gi ‡cÖw¶‡Z cÖ`Ë Av‡`‡ki †iKW©cÎ Zje Kwi‡Z cvwi‡eb Ges †hBiƒc c«‡qvRbxq we‡ePbv Kwi‡eb †mBiƒc AbymÜvb Kwiqv ev Kwievi e¨e¯’v M«n‡Yi ci GB AvB‡bi weavbvewj mv‡c‡¶, Zrm¤ú‡K© †hBiƒc Dchy³ we‡ePbv Kwi‡eb †mBiƒc Av‡`k Rvwi Kwi‡Z cvwi‡eb, Z‡e Ki`vZvi ¯^v‡_©i nvwbKi †Kv‡bv Av‡`k Rvwi Kiv hvB‡e bv|

(2) GB AvB‡bi Aaxb Kwgkbv‡ii Aax‡¶Îvaxb Aa¯Íb †Kv‡bv KZ©…c¶ KZ©…K cÖ`Ë Av‡`k wiwfk‡bi Av‡e`b GBiƒc Av‡`k Ki`vZvi AewnZ nBevi 60 (lvU) w`‡bi g‡a¨ A_ev D³ 60 (lvU) w`‡bi g‡a¨ Av‡e`b `vwLj Kwi‡Z bv cvwievi hyw³m½Z KviY wQj g‡g© mš‘ó nBqv Kwgkbvi KZ©…K †Kv‡bv mgq ewa©Z Kiv nB‡j D³iƒc ewa©Z mg‡qi g‡a¨ `vwLj Kwi‡Z nB‡e|

(3) Kwgkbvi Dc-aviv (1) Gi Aaxb Zvnvi ¶gZv wbgœewY©Z †¶‡Î c«‡qvM Kwi‡eb bv,

h_v:-

(K) †hB‡¶‡Î AwZwi³ Ki Kwgkbvi (Avwcj) ev Kwgkbvi (Avwcj) Gi wbKU ev Avwcj U«vBe¨ybv‡j Avwcj Kiv nq Ges hw` GBiƒc Avwc‡ji mgq DËxY© bv nq A_ev Ki`vZv Zvnvi Avwcj Kwievi AwaKvi cwiZ¨vM bv K‡ib; Ges

(L) †hB‡¶‡Î AwZwi³ Ki Kwgkbvi (Avwcj) ev Kwgkbvi (Avwcj) ev Avwcj U«vBe¨ybv‡ji wbKU Avwc‡ji wel‡q Av‡`k A‡c¶gvb|

(4) Dc-aviv (1) Gi Aaxb †Kv‡bv Av‡e`b we‡ewPZ nB‡e bv, hw` bv—

(K) Av‡e`‡bi mwnZ 200 (`yBkZ) UvKv wd c«`vb Kiv nq; Ges

(L) ¯^xK…Z Ki`vq cwi‡kva Kiv nq|

(5) GB avivi D‡Ïk¨c~iYK‡í, Kwgkbvi KZ©…K Am¤§wZ Ávcbm~PK †Kv‡bv Av‡`k Ki`vZvi ¯^v‡_©i nvwbKi wnmv‡e Rvwi Kiv nB‡e bv|

(6) GB AvB‡b hvnv wKQyB _vKyK bv †Kb, Dc-aviv (1) Gi Aaxb †Kv‡bv wiwfk‡bi Av‡e`b Kiv nB‡j hw` Kwgkbvi D³ Av‡e`b `vwL‡ji ZvwiL nB‡Z 60 (lvU) w`‡bi g‡a¨ GZwØl‡q †Kv‡bv Av‡`k c«`v‡b e¨_© nb, Z‡e D³ wiwfkb Aby‡gvw`Z nBqv‡Q g‡g© MY¨ nB‡e|

(7) GB avivi D‡Ïk¨c~iYK‡í, AwZwi³ Ki Kwgkbvi (Avwcj) †mB Ki Kwgkbv‡ii Aa¯Íb KZ©…c¶ wnmv‡e MY¨ nB‡eb hvnvi

Aa¯Íb DcKi Kwgkbvi Øviv cybwe©‡ePbvaxb Avwc‡ji welqe¯‘ Av‡`k cÖ`Ë nBqv‡Q|

A plain reading of the above quoted provisions of law indicates that under section 285 of the Act, the Commissioner vests with the power to call for the records of any proceeding, conduct necessary inquiries, and pass such orders thereon as he deems fit, subject to the provisions of the Act. However, such power must be exercised by applying a sound judicial mind, and the resulting order must not be prejudicial to the assessee.

The revisional power and authority of the Commissioner under section 285 is not a substitute for the appellate jurisdiction conferred upon the Appellate Joint Commissioner or the Commissioner of Taxes (Appeals) under sections 286 to 289 of the Act. Crucially, it must be borne in mind that before invoking jurisdiction under section 285, the Assessee must willingly waive their right to appeal, thereby intentionally relinquishing the procedures and privileges provided under a statutory appeal.

In the instant case, the revisional applications were registered as case Nos. 36, 37, 38, 39, and 40 of 2024-2025. The CT disposed of the same on 19.06.2025, having issued a notice on 26.05.2025 fixing the date of hearing for 02.06.2025. The relevant portion of the revisional order is extracted below for ready reference:

AvqKi AvBb, 2023 Gi 285(1) avivq wiwfkb Av‡`k|

Ówiwfkb Av‡e`bwU Dc Ki Kwgkbvi, mv‡K©j-13 †Kv¤úvbxR), Ki AÂj-01, PUªMÖvg Gi Ki wba©viYx A‡`‡ki weiæ‡× `v‡qi Kiv nBqv‡Q| wba©vwiZ wd cwi‡kvac~e©K wiwfkb Av‡e`b Kiv n‡q‡Q 25.05.2025

> wLªt Zvwi‡L| Av‡e`‡bi †cÖwÿ‡Z †bvwUk †cÖiY K‡i 02.06.2025 wLªt ïbvbxi w`b avh© Kiv n‡jI Ki`vZv ev Zvi g‡bvbxZ cÖwZwbwa †KD Dcw¯'Z nbwb| bw_i †iKW© ch©v‡jvPbvq wb¤œiæ‡c wiwfkb Av‡e`bwU wb®úwË Kiv n‡jvtÓ

A plain reading of the above-quoted portion, as well as the remaining part of the revisional order, reveals that only May 26, 27, 28, and 29, and June 1 and 2 of 2025, were working days available for issuing the notice, serving it, and participating in the hearing of the case. Crucially, the exact date of issuance and the specific process of service are missing from the record. Moreover, the impugned order was passed in a slipshod manner, without proper application of mind or adherence to due process.

Respondent No. 1, the CT filed an affidavit-in-opposition on 28.06.2026, enclosing Annexure-2 (the order sheet), Annexure-3 (the impugned notice), and another Annexure-3 (the registered postal receipt). The impugned notice indicates that the date of hearing was fixed for 02.06.2025 and was issued on 26.05.2025 by the DCT, Headquarters (Technical), Taxes Zone-1, Chattogram, vide Memo No. bw_ bs-wiwfkb bs- 36, 37, 38, 39, 40/mv-13 †Kvs)/KtAt-1/2024-2025/5535(12) ZvwiLt 26.05.2025 wLªt. Furthermore, the registered postal receipt No. 011 bears only the date 27.05.2025 from the issuing operator but completely lacks the official seal of the post office, which is an essential requirement for validating a postal receipt.

To gain a clear understanding regarding the disposal of the case, we deem it expedient to reproduce the relevant order sheet hereunder, which reads as follows:

285 avivi wiwfD gvgjv

bw_ bs-wiwfkb bs-36,37,38,39,40/mv-13(‡Kvs)/KtAt-01(PÆ)/2023-2024, Zvs-26/05/2025 Bs
Rbve BwÄt †gvt gnwmb, BwUAvBGb-697358951225

DwjøwLZ Ki`vZv KZ©„K `vwLjK…Z wiwfD gvgjvi ïbvbx AvMvgx 02.06.2025 wLª. Zvwi‡L avh© Kiv n‡q‡Q| m`q ¯^vÿ‡ii Rb¨ Dc¯'vcb Kiv n‡jv|

¯^vÿi
26.05.2025
26.05.2025

D.K.K.
m`i

(cÖvt†qvt)

02/06/2025 Ki`vZvi c‡ÿ †KD ïbvbx‡Z AskMÖnY K‡ib bvB| AvqKi †iKW© cixÿv K‡i †`Lv n‡jv| cieZ©x Av‡`‡ki Rb¨ A‡cÿv Kiæb|

¯^vÿi
C.T.

19/06/2025 AvqKi AvBb, 2023 Gi 245(1) avivq wiwfkb Av‡`k cÖYqb Kiv n‡jv| cÖYqbiZ wiwfD Av‡`kmg~n Rvwi wbwðZ Kiæb|

¯^vÿi
19/06/2025

From the documents produced by respondent No. 1, the CT in the affidavit-in-opposition, it is revealed that the notice was issued on 26.05.2025 and served by registered post vide receipt No. 011 dated 27.05.2025, fixing the date of hearing for 02.06.2025 at 11:00 a.m. The hearing was concluded by respondent No. 1, the CT on 02.06.2025 in the absence of the petitioner. Notably, there was no endorsement in the margin of the order sheet regarding the proper service of notice, nor was there any acknowledgement receipt. Furthermore, assuming the notice was delivered, only 3 (three) working days remained for its service; however, there was no postal seal or acknowledgement receipt to verify actual delivery.

To gain a clear understanding of the provisions governing the service of notice under section 335 of the Act in relation to the impugned notice, we deem it expedient to reproduce the relevant part of the section hereunder for ready reference, which reads as follows:

335| †bvwUk Rvwi|—

(1)†Kv‡bv †bvwUk, Ki wba©viY Av‡`k, Ki ev cÖZ¨c©Y cwiMYbvi dig, ev Ab¨ †Kv‡bv `wjj Z‡`vwjøwLZ bvgxq e¨w³‡K †iwR÷vW© WvK‡hv‡M ev ‡cÖi‡Ki Awdwmqvj B‡j±«wbK †gBj nB‡Z D³ e¨w³i wba©vwiZ B‡j±«wbK †gBj G‡W«‡m ev †Kv‡bv Av`vjZ KZ©…K Code of Civil Procedure, 1908 (Act V of 1908) Gi Aaxb mgb Rvwii c×wZ‡Z, Rvwi Kiv hvB‡e|

(2)aviv 327 G DwjøwLZ Aby‡gvw`Z cÖwZwbwa KZ©…K †Kv‡bv †bvwUk, Ki wba©viY Av‡`k, Ki ev cÖZ¨c©Y cwiMYbvi dig, A_ev Ab¨ †Kv‡bv `wjj MÖnY Kiv nB‡j D³ Aby‡gvw`Z cÖwZwbwa KZ©…K GBiƒc MÖnY D³ e¨w³i wbKU ‰ea †c«iY wnmv‡e we‡ewPZ nB‡e|

(3)------------

(4) --------

A plain reading of the provisions of law reveals that a notice may be served on the person named therein by registered post, by transmission from the official electronic mail of the sender to the specified electronic mail address of the person, or in the manner provided under the Code of Civil Procedure, 1908. In the instant case, the notice was served vide registered post on 27.05.2025, fixing the date of hearing for 02.06.2025 at 11:00 a.m.

We now turn to the matter of the issuance and service of summons under the Code of Civil Procedure, 1908. The relevant provisions are quoted below for ready reference:

<u>Order V (Issue and Service of Summons)</u>

6. The day for the appearance of the defendant shall be fixed with reference to the current business of the Court, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

19B. (1) The Court shall, in addition to, and simultaneously with, the issue of summons for service in the manner provided in rules 9 to 19 (both inclusive), also direct the summons to be served by registered post with acknowledgement due addressed to the defendant or his agent empowered to accept the service at the place where the defendant or his agent actually and voluntarily resides or carries on business or personally works for gain:

Provided that nothing in this sub-rule shall require the Court to issue a summons for service by registered post where, in the circumstances of the case, the Court considers it unnecessary.

(2) When an acknowledgement is purporting to be signed by the defendant or his agent is received by the Court or the postal article containing the summons is received back by the Court with an endorsement purporting to have been made by a postal employee to the effect that the defendant or his agent had refused to take delivery of the postal article containing the summons when tendered to him, the Court issuing the summons shall declare that the summons had been duly served on the defendant:

Provided that where the summons was properly addressed, pre-paid and duly sent by registered post with acknowledgement due, the declaration referred to in this sub-rule may be made not-withstanding the fact that the acknowledgement having been lost or mislaid or for any other reason, has not been received by the court within thirty days from the date of issue of the summons.

A plain reading of the above provisions of law reveals that the legislature intends for a person to be given a fair opportunity to defend themselves before any decision is made that negatively impacts their rights, property, or status. The person must be given a genuine opportunity to present their side of the story, submit evidence, and challenge or crossexamine the evidence brought against them. For this reason, the court must fix a date that gives the defendant reasonable and sufficient time to prepare their defense and travel to the court.

Usually, a summons is delivered in person by a court officer. However, Rule 19B states that the court must also simultaneously send the summons vide registered post with acknowledgement due (AD) to the defendant's home or workplace. The law provides clear guidelines on when the court can officially declare that the defendant has received the notice:

(i) The court receives the AD card back with the signature of the defendant or their agent.

(ii) The postman returns the envelope with a note stating that the defendant refused to accept it.

(iii) The summons was correctly addressed and pre-paid, but the receipt card is lost and is not received back by the court within 30 days of its issuance.

This point (iii) relates to what is known as a rebuttable presumption. If the court verifies that the address was correct and the postage was paid, the law presumes the postal department did its job. However, because it is a *presumption*, if a defendant can later prove they were hospitalized, abroad, or that the address was actually wrong, they can challenge this declaration.

A combined reading of the relevant provisions of law, alongside the facts and circumstances of the instant case, reveals that the petitioner filed revisional applications on 25.05.2025 under section 285 of the Act before respondent No. 1. These applications were directed against the assessment orders dated 21.08.2023 passed by respondent No. 2 for the assessment years 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021, with the petitioner explicitly waiving his right of appeal before the Commissioner of Taxes (Appeals) and the Taxes Appellate Tribunal.

Thereafter, respondent No. 1 passed the impugned revisional order dated 19.06.2025, purportedly concluding the hearing on 02.06.2025 in the absence of the petitioner. Given that the notice for the hearing was issued on 26.05.2025 and dispatched vide registered post on 27.05.2025, and considering there were two intervening public holidays, the petitioner was not afforded sufficient time to appear. Consequently, respondent No. 1 flagrantly violated the fundamental principles of natural justice, particularly the rule of *audi alteram partem* (no one can be punished unheard).

Furthermore, the registered postal receipt No. 011 bears only the date 27.05.2025 from the issuing operator and completely lacks the official postal seal, which is an essential requirement to validate a postal receipt. Additionally, the Acknowledgement Due (AD) card is missing from the record. Notably, there is no endorsement in the margin of the order sheet confirming the proper service of notice, nor is there any signed acknowledgment receipt.

Even assuming the notice was delivered, a maximum of only three working days remained for its service and response. However, there is no postal seal or acknowledgment receipt on record to verify the actual date of delivery. While the law presumes that the postal department has duly performed its duty if the address is correct and postage is paid, such a presumption requires a mandatory waiting period of 30 days from the date of issuance to confirm delivery.

Disregarding this requirement, the CT concluded the hearing prematurely on 02.06.2025 and passed the order dated 19.06.2025, despite having a statutory period of 60 days from the filing date 25.05.2025 to dispose of the applications.

Evidently, the CT passed the revisional order hurriedly and in a slipshod manner without considering the facts and legal merits of the case or following the due process of law. Therefore, the instant writ petition is fit for amenable under the writ jurisdiction.

On consideration of the above facts and circumstances of the case along with the materials on record, we are of the view that the ends of justice would be best served if the impugned revisional order dated 19.06.2025, passed by respondent No.1 is declared to have been passed without lawful authority and hence, is of no legal effect and the matter is remanded back to respondent No.1 for re-hearing. This will afford the petitioner a meaningful opportunity to be heard and to adduce further evidence, if any.

In view of the above, we find substance in the instant writ petition, and the Rule Nisi issued in this connection deserves to be made absolute.

In the result, the Rule is made absolute.

However, there shall be no order as to costs.

Accordingly, the impugned order dated 19.06.2025, passed by respondent No. 1 (the Commissioner of Taxes, Taxes Zone-1, Chattogram) in the revisional applications filed under section 285(1) of the Act and thereby upholding the assessment orders dated 21.08.2023 passed by respondent No. 2, (the Deputy Commissioner of Taxes, Circle-13 (Companies), Taxes Zone-1, Chattogram), is hereby declared to have been passed without lawful authority and hence, is of no legal effect. The matter is remanded to respondent No. 1 for a fresh hearing on its merits. Respondent No. 1 is directed to afford the petitioner a proper opportunity of being heard, allow them to submit relevant evidence, and conclude the re-hearing of the matter expeditiously within a period of 45 (forty five) days from the date of receipt of a copy of this judgment in accordance with law.

However, let the operation of the order of respondent No.2 upon proforma respondent Nos.5-17 dated 22.12.2025 passed under Nathi Nos. B-1 (Bank Account)/Sa-13(Co.)/Ka:Aa-01 (Chatto:)/2025-2026, freezing all the accounts of the petitioner (Annexures 'I' -'I-11') be stayed till disposal of the revisional applications.

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

S.M. Maniruzzaman, J

I agree.