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

WRIT PETITION NO. 2364 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:

Sadrul Hasan, son of Aiyub, Proprietor, S2 Imports of House No. 61/B, Flat-5/B, Road-6/A, Dhanmondi R/A, Post Office-Jigatola-1209, Police Station-Dhanmondi, Dhaka and others.

… Petitioners

-Versus-

The Commissioner of Taxes, Income Tax Intelligence and Investigation Unit, National Board of Revenue, Dak Bhaban (11^{th} floor), Sher-E-Bangla Nagar, Agargaon, Dhaka-1207

… Respondent

Mr. Sheikh Mohammad Zakir Hossain, Senior 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

Heard on: 17.06.2026 and 01.07.2026
Judgment on: 08.07.2026.

Present:

Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Rezaul Karim

Rezaul Karim, 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 Memo bearing reference No. Nothi No.-08.01.2622.000.31.1210.25/523 dated 17.12.2025 issued by the respondent No. 4 (Annexure-'B' to the writ petition), under section 200 of the Income Tax Act, 2023, so far as it relates to demanding banking account including savings details belonging to the petitioner No. 1 including his family members, from all the scheduled banks/financial institutions, should not be declared to have been done without any lawful authority and is of no legal effect and also as to why Memos contained under Nothi No.-08.01.2622.000.31.1210.25/525 and Nothi No.-08.01.2622.000.31.1210.25/560 dated 17.12.2025 and 30.12.2025 respectively, both issued under section 223 of the Income Tax Act, 2023 by the respondent No. 4 (Annexure-'C' and 'C-1' to the writ petition), having the petitioners' FDR accounts being freezed, should not be declared to have been done without any lawful authority and 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 the issuance of the Rule operation of the impugned Memos contained under Annexure-'C' and 'C-1' was stayed for a period of 2(two) months from the date of issuance of the Rule.

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

The petitioner No. 1, Sadrul Hasan, is the proprietor of a concern named ‘S2 Imports’ and has been a registered tax-payer since the year 2013, regularly filing his yearly income tax returns, the last of which he filed the refresh for the assessment year 2024-2025. The petitioner No. 2, Urmee Hasan, is the wife of the petitioner No. 1 and the petitioner Nos. 3 and 4, Parisa Hasan and Raisa Hasan, are their daughters, all being registered tax-payers holding respective TINs with the National Board of Revenue (NBR). It has been stated that on 17.12.2025, the respondent No. 4, i.e., the Additional Assistant Commissioner of Taxes, Income Tax Intelligence and Investigation Unit (ITIIU), issued a memo under section 200 of the Income Tax Act, 2023 (Annexure-‘B’) directing the Managing Director and Chief Executive Officer of all scheduled banks and financial institutions, including Mobile Financial Services (MFS), to supply all banking account details including savings details belonging to the petitioner No. 1 and his family members and associate concerns/entities, for the period commencing from 1st July, 2018 up to date, within 7(seven) working days, failing which financial penalty and criminal prosecution was threatened.

It has further been stated that on the very same date, *i.e.*, 17.12.2025, the respondent No. 4 also issued another memo (Annexure-‘C’) under section 223 of the Income Tax Act, 2023, directing the said banks and financial institutions to restrict cash withdrawal/transfer and/or freeze the FDR accounts, initially in respect of 3(three) taxpayers including their family members (the petitioner No. 1 being one of the enlisted taxpayers), and subsequently, by a further memo dated 30.12.2025 (Annexure-‘C-1’), the very same direction of freezing was extended specifically against the petitioner Nos. 2 to 4. Pursuant to the said memos, the proforma-respondent banks, namely, Southeast Bank PLC, Modhumoti Bank PLC and United Commercial Bank PLC, froze the FDR accounts of the petitioners, communicating such freezing to the petitioners under memos dated 22.12.2025, 29.01.2026 and 29.01.2026 respectively and hence the above Rule.

Mr. Shaikh Mohammad Zakir Hossain, learned Senior Advocate appearing for the petitioners, upon taking us through the writ petition and the annexure thereto, at the very outset submits that the impugned memo dated 17.12.2025 (Annexure-‘C’) purporting to freeze the FDR accounts of the petitioners was issued under section 223 of the Income Tax Act, 2023 and on the self-same date the respondent No. 4, by a separate memo (Annexure-‘B’), sought to collect banking information of the petitioners from the same banks and financial institutions, allowing them 7(seven) working days to furnish such information, which, according to the learned counsel, demonstrates that the respondent No. 4 could not possibly have possessed any ‘specific information’ with regard to concealment of income or investment by the petitioners at the point of time of issuing the impugned freezing order, inasmuch as the very information said to constitute the basis of such concealment was, on the respondents’ own showing, yet to be collected.

The learned counsel further submits that section 223 of the Income Tax Act, 2023 in an unambiguous term requires the Director General (Central Intelligence Cell) or the Commissioner, as the case may be, to possess 'সুনির্দিষ্ট তথ্য' (specific information) to the effect that a person has concealed information relating to his income or investment before an order freezing his assets can lawfully be made, and this pre-condition is a *sine qua non* for invocation of the said provision absence of such information, action taken under section 223 is rendered without jurisdiction and of no legal effect.

It is next contended that even accepting, without admitting, the respondents' case that a discrepancy was earlier noticed between two sets of returns submitted for the assessment year 2024-2025 in respect of the petitioner No. 1, such discovery, at best, could form the basis for initiating an inquiry, but could not, by itself, constitute 'specific information' as to concealment of income or investment spanning the assessment years 2019-2020 to 2024-2025, since the quantification of such alleged concealment, by the respondents' own admission, was derived only from the bank statements sought to be collected under Annexure-'B', the very information-gathering exercise that had been given 7(seven) working days to succeed.

The learned counsel further submits that the impugned memo dated 17.12.2025 (Annexure-'C') directed freezing of the FDR accounts has not only done of the petitioner No. 1 but also of 'his family members' generally, without disclosing any individualised satisfaction as against the petitioner Nos. 2 to 4, and it is only by the subsequent memo dated 30.12.2025 (Annexure-‘C-1’) the petitioner Nos. 2 to 4 were named individually, which, according to the learned counsel, renders the action taken against the petitioner Nos. 2 to 4 coram non judice, section 223 of the Act contemplating action against a specific person in respect of whom definite information of concealment exists, and not a blanket sweep of unnamed family members.

The learned counsel lastly submits that freezing a person’s assets on no real basis, and without any hearing, cannot be treated as a reasonable restriction under Article 42 of the Constitution. He then draws attention to the hardship suffered by the petitioner No. 3, Parisa Hasan, whose admission to Trinity College Dublin is now at risk on account of the continued freezing of the family’s FDR accounts, and prays that the Rule be made absolute.

By contrast, Mr. Abdus Samad Azad, learned Deputy Attorney General appearing for the respondents, upon filing an affidavit-in-opposition on behalf of the respondent No. 2, at the very outset submits that section 200 and section 223 of the Income Tax Act, 2023 operate in distinct fields; whereas section 197 of the Act, titled ‘কর নির্ধারণে সময়ের সীমা□দ্ধতা’, prescribes the time-frame for completing an assessment once reopened under sections 181, 182, 212, 213 or 235 of the Act, section 200 is a free-standing power to collect information ‘□া চলমান কার্□ক্রমের জন্য প্রয়োজনীয় □া প্রাসঙ্গিক’ for carrying out functions under the Act and is not governed or curtailed by the limitation prescribed under section

197; hence, the demand for information dating back to 1st July, 2018 under Annexure-'B' suffers from no illegality.

The learned Deputy Attorney General further submits that the ITIIU, being an intelligence unit of the NBR, prior to issuance of the impugned memos, gathered covert/secret information to the effect that the petitioner No. 1 had, in collusion with a Notice Server of the concerned tax circle, caused two contradictory sets of returns to be entered for the assessment year 2024-2025 one genuine, reflecting a net asset of Tk. 6,16,000/-, and another forged, reflecting a net asset in excess of Tk. 15 crore and upon a preliminary inquiry, the said Notice Server admitted his complicity in writing, which, according to the learned Deputy Attorney General, itself constitutes 'সুনির্দিষ্ট তথ্য' within the meaning of section 223 of the Act, and thereafter, information gathered from the banks on the same date, *i.e.*, 17.12.2025, was immediately tallied with the returns already on record, upon which the respondent No. 4, being satisfied, without any delay, for protection of revenue, passed the freezing order on the self-same day.

The learned Deputy Attorney General next submits that the very purpose of section 223 of the Act would stand frustrated if a prior show-cause notice were required to be issued before freezing, inasmuch as, on the practical experience of the tax department, an assessee, once forewarned, would withdraw the concealed funds or launder the same beyond the reach of the NBR, and the Legislature, being conscious of this mischief, has deliberately not provided for any prior notice under section 223 of the Act.

By a written submission filed later on behalf of the respondent No. 2, it is further contended that the petitioner No. 1 does not come to this Court with clean hands, having caused a fabricated return to be entered in the departmental record, and that this alone should disentitle the petitioners to any relief.

The learned Deputy Attorney General also refers to the detailed tables annexed to the affidavit-in-opposition demonstrating, year-wise, the concealment of FDR investment, FDR/bank interest income, and tax deducted at source by each of the petitioners for the assessment years 2019-2020 to 2024-2025, and submits that upon such data, the respondents were fully justified, and had ample definite information, to freeze the FDR accounts of the petitioners, and prays for discharging the Rule.

We have heard the learned counsel for the petitioners and the learned Deputy Attorney General for the respondents at length, and have also gone through the writ petition together with the annexures thereto, in particular, Annexure-‘B’, ‘C’ and ‘C-1’, as well as the affidavit-in-opposition filed on behalf of the respondent No. 2 together with the annexure annexed thereto.

In order to appreciate the rival contentions, it is necessary to reproduce sections 223 and 200 of the Income Tax Act, 2023, which run as follows:

“২২৩। (১) এই আইনের অধীন কার্□সম্পাদনকালে, □ইক্ষেত্রে মহাপরিচালক (কেন্দ্রীয় গোয়েন্দা সেল) □া কমিশনারের নিকট এই মর্মে সুনির্দিষ্ট তথ্য থাকে □, কোনো □্যক্তি তাহার আয় □া □িনিয়োগ সংক্রান্ত তথ্যাদি গোপন করিয়াছেন [এই আইনের ধারা ২১২ এ উল্লিখিত কোনো অঙ্কের পরিশোধ এড়াইয়া গিয়াছেন], সেইক্ষেত্রে তিনি, লিখিত আদেশ দ্বারা, কোনো □্যক্তি, □াহার অধিকারে এই মুহূর্তে কোনো অর্থ, □ুলিয়ান, অলংকার, আর্থিক দলিল, আর্থিক পরিসম্পদ, মূল্য□ান দ্র□্য □া অন্য কোনো সম্পত্তি রহিয়াছে তাহাকে আদেশ প্রদানকারী কর্তৃপক্ষের পূর্□ানুমতি □্যতিরেকে তাহা অপসারণ, হস্তান্তর □া অন্য কোনোভা□ে □িলি□্য□স্থা না করি□ার নির্দেশ প্রদান করিতে পারি□েন।

(২) উপ-ধারা (১) এর অধীন আদেশ প্রদানের তারিখ হইতে এক □ৎসর উত্তীর্ণ হই□ার পর এইরূপ আদেশের কোনো কার্□কারিতা থাকি□ে না।

(৩) উপ-ধারা (১) এ উল্লিখিত আয়কর কর্তৃপক্ষ □োর্□ের অনুমোদন সাপেক্ষে, উক্ত মেয়াদ □ৃদ্ধি করিতে পারি□ে:

ত□ে শর্ত থাকে □, মেয়াদ □ৃদ্ধির সময় কোনোক্রমেই সাকুল্যে ১ (এক) □ৎসরের অধিক হই□ে না।

(৪) উপ-ধারা (২) ও (৩) এ উল্লিখিত মেয়াদ হিসা□ করি□ার ক্ষেত্রে, উপ-ধারা (১) এর অধীন প্রদত্ত আদেশ আদালত কোনো মেয়াদের জন্য স্থগিত করিলে উক্ত মেয়াদ, □দি থাকে, গণনা হইতে □াদ □াই□ে।

“২০০। উপকর কমিশনারের নিম্নে নহে এইরূপ কোনো তদন্তকারী আয়কর কর্তৃপক্ষ এই আইনের অধীন কোনো তদন্ত সম্পর্কিত □া চলমান কোনো কার্□ক্রমের জন্য প্রয়োজনীয় □া প্রাসঙ্গিক হইতে পারে এইরূপ তথ্য কোনো □্যক্তির নিকট হইতে লিখিত নোটিশ দ্বারা অথ□া ইলেক্ট্রনিক পদ্ধতিতে এ□ং নোটিশে □র্ণিত পদ্ধতি ও মাধ্যমে, এ□ং নোটিশে উল্লিখিত সময়ের মধ্যে, তল□ করিতে পারি□েঃ ত□ে শর্ত থাকে □, কর কমিশনারের অনুমোদন □্যতিরেকে কর কমিশনারের অধস্তন কোনো আয়কর কর্তৃপক্ষ কোনো □্যাংক □া ফাইনান্স কোম্পানির নিকট হইতে কোনো তথ্য তল□ করিতে পারি□ে না।”

A plain reading of section 223 of the Income Tax Act, 2023 makes it abundantly clear that the pre-condition for its invocation is that the Director General (Central Intelligence Cell) or the Commissioner, as the case may be, must, at the time of issuing the order, will have to possess ‘সুনির্দিষ্ট তথ্য’ (specific/definite information) to the effect that a person has concealed information relating to his income or investment. Section 200, on the other hand, is a general power to collect information for the purpose of carrying out functions under the Act, and does not, by itself, furnish the ‘specific information’ contemplated under section 223; rather, it is the very mechanism through which such information may, in due course, come to be gathered.

This distinction was considered by this Court in Writ Petition No. 22265 of 2025 (Md. Sirajul Islam and another Vs. National Board of Revenue and others), decided on 23.04.2026. In that case too, notices under sections 200 and 223 of the Act were issued on the same day, and it later came out that the bank had, in fact, supplied the information sought only eleven days after the freezing order. This Court held that the authority had no information at all, let alone definite information, when it ordered the freeze, and that acting first and finding the justification afterwards could not be reconciled with section 223, nor with the basic principle of *audi alteram partem*. The Rule in that case was made absolute.

Applying the self-same test to the case in hand, we find that the impugned memo dated 17.12.2025 (Annexure-‘C’), directing freezing of the FDR accounts of the petitioner No. 1 and his family members, was issued on the very same date on which the respondent No. 4, by a separate memo (Annexure-‘B’), called upon the self-same banks and financial institutions to furnish banking information of the petitioners for the period from 1st July, 2018 onwards allowing them up to 7(seven) working days to comply. If, as the respondents’ own case would have it, the information necessary to confirm the alleged concealment was still to be collected from the banks under Annexure-‘B’ with a compliance window of 7(seven) working days, it is difficult, if not impossible, to accept that the self-same information had also, within hours of issuing that very demand, been received, examined, and tallied by the respondent No. 4 so as to found the ‘specific information’ requisite for freezing the FDR accounts on the identical date. No document has been annexed to the affidavit-in-opposition – such as a dated forwarding letter or covering letter from any of the proforma-respondent banks, of the kind that was produced. The tables of alleged concealment annexed to the affidavit-in-opposition are, on their face, computations prepared by the ITIIU for the purpose of these proceedings and are undated; they do not, by themselves, establish that such quantified information was already in the possession of the respondent No. 4 at the time the impugned memo dated 17.12.2025 was issued.

We are not unmindful of the submission of the learned Deputy Attorney General that the ITIIU had, even prior to 17.12.2025, detected an irregularity in the shape of two contradictory sets of returns filed for the assessment year 2024-2025 in respect of the petitioner No. 1. Even accepting the same, such discovery, at its highest, furnishes a basis to suspect concealment and to commence an inquiry against the petitioner No. 1 for that one assessment year; it does not, without more, constitute ‘specific information’ of concealment of income or investment spanning the assessment years 2019-2020 to 2024-2025 as subsequently tabulated in the affidavit-in-opposition, that exercise having admittedly been carried out only upon collection of the bank statements sought under Annexure-‘B’.

The position is rendered even more untenable in respect of the petitioner Nos. 2 to 4. It is candidly stated in paragraph nos. 6(a) and 9 of the affidavit-in-opposition that the investigation of the ITIIU was ‘initiated initially against the petitioner No.1’ and that it was only ‘in the meanwhile’ that the ITIIU ‘initiated covert actions against the other petitioners (petitioner No.2-4) to gather specific information’. This is a clear admission that, as on 17.12.2025, no specific information existed as against the petitioner Nos. 2 to 4, and yet the impugned memo of that very date (Annexure-‘C’) already directed freezing of the FDR accounts of the petitioner No. 1’s ‘family members’ in general terms, without naming or individualising them. It was only by the subsequent memo dated 30.12.2025 (Annexure-‘C-1’) that the petitioner Nos. 2 to 4 were specifically named, by which time, again, information under section 200 in respect of them is said to have been sought and ‘collected on the same day’ and ‘immediately’ acted upon the identical infirmity that afflicts the memo dated 17.12.2025. Section 223 of the Act, by its plain language, requires individualised satisfaction of concealment as against the specific person whose assets are sought to be frozen; a blanket sweep of unnamed ‘family members’, later sought to be regularised by naming them once a matching computation could be prepared, cannot satisfy that statutory requirement.

So far as ground No. I of the writ petition is concerned, whereby the petitioners have assailed Annexure-‘B’ as being violative of the limitation for assessment prescribed under section 197 read with section 199 of the Income Tax Act, 2023, we find merit in the submission of the learned Deputy Attorney General that section 197 of the Act governs the time-frame for completion of an assessment once reopened under specific provisions of the Act, whereas section 200 is an independent and free-standing power to collect information for the purpose of carrying out functions under the Act generally, and is not, by its terms, circumscribed by the limitation prescribed for assessment. We are, therefore, unable to accept that the demand for information dating back to 1st July, 2018 under Annexure-'B', by itself, renders that memo without lawful authority.

However, that a valid and lawful power exists under section 200 of the Act to collect information is an altogether different proposition from the question whether, on the date of issuing the impugned memos under Section 223 (Annexure-'C' and 'C-1'), the respondent No. 4 already possessed the 'specific information' that the said provision imperatively requires. For the reasons discussed above, and following the ratio laid down by this Court in Writ Petition No. 22265 of 2025, we find that the respondents have failed to demonstrate that such specific information was, in fact, in their possession prior to issuance of the impugned memos dated 17.12.2025 and 30.12.2025, and the sequence of events, on the respondents' own showing, betrays the self-same vice of 'putting the cart before the horse' that this Court had earlier condemned.

Regard being had to the facts and circumstances discussed above, we do not find any shred of merit or substance in the impugned memos dated 17.12.2025 and 30.12.2025 (Annexure-'C' and 'C-1') freezing the FDR accounts of the petitioners, which cannot stand in the eye of law. However, we find no infirmity in the memo dated 17.12.2025 (Annexure-'B') issued under section 200 of the Act, that being a lawful and independent exercise of the information-gathering power vested in the tax authority.

Accordingly, the Rule is made absolute without any order as to costs. The impugned action order Nothi No.-08.01.2622.000.31.1210.25/525 and Nothi No.-08.01.2622.000.31.1210.25/560 dated 17.12.2025 and 30.12.2025 respectively, both issued under section 223 of the Income Tax Act, 2023 by the respondent No. 4 (Annexure-'C' and 'C-1' to the writ petition) stand set aside. The respondents are hereby directed to unfreeze and reopen all sorts of FDR accounts and bank accounts of the petitioners within 7 (seven) days from the date of receipt of this order.

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

Md. Mozibur Raman Miah, J.

I agree.

Mazhar, BO