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

INCOME TAX REFERENCE APPLICATION NO. 258 OF 2015

In the matter of:
An application under section 160 of the Income Tax Ordinance, 1984.

In the matter of:
Alltex Industries Limited.
…….Applicant
-V E R S U S -

The Commissioner of Taxes, Large Taxpayers Unit (LTU), Dhaka
.......Respondent.

Mr. Sarder Jinnat Ali, Advocate with
Mr. Md. Delowar Hossain, Advocate
.... For the Applicant

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 and
Mr. Shahinoor Alam, A.A.G
……..... For the Respondent.

Heard on 21.05. 2026, 02.07.2026 &
Judgment on 16.07.2026

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

Dihider Masum Kabir J:

This reference application, under section 160(1) of the Income Tax Ordinance, 1984 (in short, the Ordinance), is filed at the instance of the assessee-applicant against the order of the Taxes Appellate Tribunal, Division Bench-1, Dhaka (in short, the Tribunal) passed in I. T. A. No. 1022 of 2014-2015 (Assessment year 2012-2013) dated 29.01.2015 and communicated to the applicant on 16.02.2015 arising out of the order in First Appeal No.781 of 2013-2021 passed on 31.05.2014 by the Commissioner of Taxes (Appeals), Taxes Appeal Zone-2, Dhaka [in short, the CT(A)] which had affirmed the assessment order dated 28.11.2012 passed by the Deputy Commissioner of Taxes, Audit Wing, Large Taxpayers Unit (LTU), Dhaka (in short, the DCT).

Facts, relevant for the disposal of the reference application, in short, are that the applicant is a public limited company listed with Stock Exchanges and engaged in the production of cloth for back to back export. The applicant filed its income tax return (in short, return) alongside an audited statement of accounts showing a total loss of Tk.11,89,307/- which was assessed by the DCT under section 83(2), following the issuance of statutory notices under sections 83(1) and 79 of the Ordinance, assessing total income Tk.10,89,07,322/- and determining tax @ 15% amounting to Tk.1,63,36,098/-. After adjusting for tax deducted at source of Tk.1,61,60,614/-, the DCT issued a demand notice for remaining tax due of Tk.1,75,484/-.

Challenging the assessment order of the DCT, the applicant preferred an appeal before the CT(A) which was recorded as Income Tax Appeal No.781 of 2013-2014. By an order dated 31.05.2014, the CT(A) affirmed the order of the DCT.

Aggrieved by the appellate order dated 31.05.2014, the applicant preferred a second appeal being I.T.A. No.1022 of 2014-2015 before the Tribunal. After hearing both the parties, the Tribunal passed an order dated 29.01.2015 setting aside the orders of the DCT and CT(A) regarding the disallowances under the heads of “Agent commission of

Tk.66,73,647/- on export sales" and "Accounts payable of Tk.6,60,00,000/-'' and directed the DCT to re-examine the mater after giving the applicant an opportunity of being heard and also directed to record the proceedings in writing in the assessment order. However, the Tribunal did not interfere with the remaining issues, upholding the rest of the CT(A)'s order.

Under the facts and circumstances of the case, the assessee-applicant filed the instant reference application before this Court under section 160(1) of the Ordinance for answering four questions. However, at the time of hearing, the learned Counsel on behalf of the applicant submits that question Nos. (II) and (III) are pressed for our determination, while the remaining are not pressed.

Consequently, the following questions are formulated for answering:

II. Whether, in the facts and on the circumstances of the case, the Tribunal under section 159(2)/35(3)/35(4)(c)/83(2) of the Ordinance was justified in maintaining excess trading addition without any basis, that had been done by applying excess rate of gross profit on conjecture and surmise in ignorance of books of accounts and in violation of section 35(3) and 35(4) of the Ordinance and without finding defects in the books of account and in the method of accounting employed by the applicant regularly?

III. Whether, in the facts and on the circumstances of the case, the Tribunal under section 159(2)/35(3)/28(1)(c) of the Ordinance was justified in maintaining duty drawback as an income under section 28(1)(c) while it was/is an adjustment of duty paid and received on import and export respectively given reflection in the cost of goods sold accounts?

The respondent, the Commissioner of Taxes, Large Taxpayer Unit, Dhaka (in short, the CT) contests this reference application by filing an affidavit-in-reply. The CT contends, inter alia, that the DCT added the duty drawback of Tk.4,51,46,498/- to the cost of goods sold (in short, the COGS) for calculating the actual gross profit of the applicant, and ultimately assessed the duty drawback amount as income in accordance with section 28(1)(c) of the Ordinance. As such, the respondent argues that the claim of the applicant is entirely misconceived. The CT further states that the DCT logically and legally exercised statutory powers in making disallowances from manufacturing and trading account as well as estimating gross profits upon verifying the documents produced by the applicant. The CT(A) and the Tribunal by applying a judicious mind, concurrently affirmed the order of the DCT in this regard. Consequently, the respondent contends that the impugned order is valid and lawful.

Mr. Sarder Jinnat Ali, the learned Counsel appearing on behalf of the applicant, took us through the order passed by the income tax authorities. In this regard Mr. Ali submits that the Tribunal erred in law in treating duty drawback amount as income under section 28(1)(c) of the Ordinance while it was an adjustment of duty paid and subsequently received on import and export respectively given reflection in the COGS accounts. The applicant, in its audited financial statements, disclosed the COGS of Tk.188,49,46,874/-. During the relevant income year, the applicant received duty drawback amounting to Tk.4,51,46,498/- against export of goods and adjusted it by deducting this amount from the total COGS. Consequently, the net COGS stood at Tk.183,98,00,376/-. This adjustment is explicitly reflected in note No. 25 of the audited financial statements.

Mr. Ali further submits that since the duty paid on imported raw materials was subsequently received back, the entire transaction stood completely neutralized in the accounts. The accounting treatment adopted by the applicant conforms to accept accounting principles and accurately reflects the true trading results of the business. Based on these audited accounts, the applicant filed its return declaring a net loss of Tk.11,89,307/-. However, during the assessment proceedings, the DCT erroneously deducted the amount of duty drawback amount from the returned loss, which wrongly increased the business loss to Tk.4,63,35,805/-.

Mr. Ali further submits that however, while dealing with the trading account, in the same assessment order, the DCT added the identical amount of duty drawback to the COGS, increased the COGS to Tk.188,49,46,874/- and reduced the trading results. Accordingly, the initial error stood adjusted within the assessment itself.

The learned Counsel finally submits that the duty drawback had no further application in the assessment proceeding because it did not alter the trading version of the business. Despite such neutralization, the DCT proceeded to assess the very same duty drawback as an independent taxable income under section 28(1)(c) of the Ordinance. He contends that this treatment constitutes a clear duplication of the same amount, as the duty drawback had already been adjusted through the COGS in the trading account. The same receipt cannot, in law or in accounting principles, be brought to tax twice under two different computations.

Countering the contentions advanced by the applicant-assessee, Ms. Shadia Afrin Shapla, the learned Deputy Attorney General appearing on behalf of the respondent-Government, submits that the Tribunal disposed of the appeal. Regarding the treatment of the duty draw back amount, it upheld the order of the CT(A), who had affirmed the assessment order of the DCT in accordance with the provisions of the Ordinance. The learned DAG argues that when filing the appeal before the Tribunal, the applicant raised no ground objecting to the narrative of duty back amount within the trading account. Ground No. (b) of the memorandum of appeal was submitted as *"For that the ld. Commissioner of Taxes (Appeal) was not justified in confirming the trading addition of Tk.2,21,66,155/- which is deletable"*. This issue was confined to the disallowance of expenses from manufacturing and trading accounts based on the past record of the case, leading to an addition of Tk.2,21,66,155/- due to a lack of verifiable evidence.

The learned DAG fortifies her submissions by referencing the decision reported in 58 DLR (HCD) 531, wherein it was held that

> "Accounts audited by a firm of Chartered Accountants cannot be said to be sacrosanct. When the tax authority indicates that any claims are disallowed on account of lack of verifiable evidence, it is incumbent upon the assessee to satisfy the tax authority by providing necessary supporting evidence."

The learned DAG also relies on the decision in Civil Appeal No.279 of 2002, where the Hon'ble Appellate Division of the Supreme Court of Bangladesh held:

> "The determination of gross profit is a question of fact and no question of law arises in the estimation of gross profit. As there is no question of law involved in the case of the applicant, the questions are liable to be rejected in the eye of law"

In the assessment order, the DCT categorically stated that ten heads of manufacturing and trading accounts were not fully vouched or supported by detailed evidence. The applicant failed to produce such evidence before the CT(A) or the Tribunal. Consequently, the CT(A) and the Tribunal rightly upheld the order of the DCT in this regard. A matter which was not properly agitated as a ground before the Tribunal cannot be claimed afresh in a reference application before this Court.

The learned DAG further submits that the applicant raised ground No (d) in the appeal memorandum before the Tribunal regarding the treatment of the duty drawback amount as income under section 28(1)(c) of the Ordinance. In the assessment order, the DCT did not add the drawback amount as an additional item of income; rather the DCT first deducted the duty drawback amount from the disclosed total income [Income (-) 11,89,307] and subsequently added it back to the total income, resulting in a completely neutralized position. There is no scope to argue that the amount was double-taxed or actually added to the total income to the detriment of the assessee.

The learned DAG next submits that on 28.11.2012, the DCT assessed total income at Tk.10,89,07,322/- under section 83(2) of the

Ordinance, where the duty drawback amount was mathematically neutralized, and issued a demand notice for Tk.1,75,484/- (after adjusting of TDS of Tk.1,61,60,614/-). Pursuant to the direction in the Tribunal's order dated 29.01.2015, the DCT subsequently revised the assessment order on 17.01.2016. This revised order determined the total income at Tk.3,62,33,675/- under sections 83(2)/156/159/120/159/156 of the Ordinance, completely omitting the duty drawback amount, and issued a revised demand notice for tax amounting to Tk.62,50,309/- (without adjusting the TDS of Tk.1,61,60,614/-).

The learned DAG finally urges that the grounds set forth in the reference application are defective, misleading, and entirely untenable in the eye of law. Consequently, she contends that the questions raised in the reference application are liable to be answered in the affirmative that is, against the applicant-assessee and in favour of the respondent.

We have considered the submissions of the learned Counsel for the applicant and the learned Deputy Attorney General for the respondent-Government, and have minutely perused the reference application, the affidavit-in-reply, and all other materials available on record.

The main thrust of the argument on behalf of the applicant before this Court is whether the Tribunal was justified in maintaining the duty drawback amount as income under section 28(1)(c) of the Ordinance, while the applicant claims it was a neutralized adjustment of duty paid and received, given reflection in the cost of goods sold accounts.

For clarity and a proper understanding of the matter, the relevant accounting portion of the assessment order regarding the duty drawback amount is quoted below for ready reference:

আয়ের উৎস ঃ ১। ব্যবসা (কাপড় উৎপাদন ও রপ্তানী বিক্রয় হইতে আয়)।

নিরীক্ষিত হিসাব বিবরণীর লাভ-লোকসান হিসাব অনুযায়ী কর পূর্ব

প্রদর্শিত নীট লোকসান	টাঃ (১১,৮৯,৩০৭)
বাদঃ রিকভারীজ (ডিউটি ড্র-ব্যাক) পৃথকভাবে বিবেচনার জন্য	টাঃ (৪,৫১,৪৬,৪৯৮)
ব্যবসায়িক লোকসান	টাঃ (৪,৬৩,৩৫,৮০৫)

যোগ-পরবর্তীতে বিবেচনার জন্যঃ

(ক) অবচয় ভাতা ঃ	টাঃ ৭,২১,২০,৯৪৪	
(খ) আপ্যায়ন খরচ-অফিস টি এন্ড রিফ্রেশমেন্ট	টাঃ ৬,৫৮,৫০৭	
(গ) স্যাম্পল খরচ	টাঃ ২৫,১৮,৬৩৭	
মোট		টাঃ ৭,৫২,৯৮,০৮৮
আয়		টাঃ ২,৮৯,৬২,২৮৩

যোগ-অননুমোদনযোগ্য খরচ সমূহ ঃ

লাভ-ক্ষতি হিসাবে বেতন ও ভাতাদি সহ মোট ১৫ টি খাতে মোট

অগ্রাহ্যকৃত অংক	**টাঃ ২,৯৫,৬৩,০৭৭**
আগত আয়	**টাঃ ৫৮,৫২৫,৩৬০**

উৎপাদন ও বাণিজ্যিক হিসাব ঃ

প্রদর্শিত মুনাফার হার ১৫.২৯%

করদাতা কোম্পানীর প্রদর্শিত মোট বিক্রয় সম্পূর্ণই রপ্তানী যাহা রপ্তানীর কাগজপত্র, ইনভয়েস ও ব্যাংক বিবরণী দ্বারা সমর্থিত ও যাচাইযোগ্য বিধায় গ্রহণ করা হইল।

করদাতা কোম্পানী কস্ট অব গুডস সোল্ড খাতে খরচ দাবী করিয়াছেন ১৮৩,৯৮,০০,৩৭৬/- টাকা যাহা বিবরণী ও প্রমাণাদি দ্বারা সম্পূর্ণরূপে সমর্থিত ও যাচাইযোগ্য নহে।

উপরন্তু করদাতা কোম্পানীর প্রদর্শিত জিপি হার প্রকৃত জিপি হার নহে, কেননা করদাতা কোম্পানী কস্ট অব গুডস সোল্ড খাতে রিকভারীজ (ডিউটি-ড্র ব্যাক) বাবদ প্রাপ্ত অংক ৪,৫১,৪৬,৪৯৮/= টাকা যাহা ২৮(১)(সি) ধারায় ব্যবসায়িক আয় হিসাবে গণ্য সমন্বয় করিয়াছেন। উক্ত সমন্বয় বাদ দিলে করদাতার পুনর্গঠিত প্রকৃত জিপি হার দাঁড়ায় নিম্নরূপঃ ১৩.২১%

করদাতা কোম্পানী কস্ট অব গুডস সোল্ড খাতে খরচ দাবী করিয়াছেন ১৮৩,৯৮,০০,৩৭৬/- টাকা যাহার সমর্থনে বিবরণী দাখিল করা হইয়াছে। দাবীর মধ্যে গ্যাস বিল ৩,৬২,৯৩,৩৪৪/- টাকা হইতে উৎসে কর ২০,১৪,৩৩৫/- টাকা উৎসে কর কর্তন করিয়া সরকারী কোষাগারে জমা প্রদান করা হইয়াছে।

করদাতা কোম্পানী সরাসরি ক্রয়, সরবরাহ বা সেবার বিপরীতে সর্বমোট ১৭৯,৪০,৪৬,৮০৫/- টাকা খরচ দাবী করিয়াছেন।

করদাতা কোম্পানীর উপরোক্ত ব্যয় দাবীসমূহ বিস্তারিত বিবরণী ও প্রমাণাদি দ্বারা সম্পূর্ণরুপে সমর্থিত ও যাচাইযোগ্য নহে। এইক্ষেত্রে অযাচাইযোগ্য ও স্ফীতাংকের খরচ দাবী করা হইয়াছে বলিয়া প্রতীয়মান হয়।

পূর্ববর্তী করবর্ষে গৃহীত জিপি হার ১৪.২৩%

এমতাবস্থায়, ১৪.২৩% হারে জিপি গৃহীত হইল।

পার্থক্য ট্রেডিং এডিশন হিসাবে আয়ের সহিত যোগ করা হইল		টাঃ ২২,১৬৬,১৫৫
	আয়	টাঃ ৮০,৬৯১,৫১৫
বাদঃ অবচয় ভাতাঃ সংযুক্ত তালিকা অনুযায়ী অনুমোদন করা হইল		টাঃ ৮০,৪১২,০৫৪
	আয়	টাঃ ২৭৯,৪৬১
বাদঃ স্যাম্পল খরচঃ দাবী আয়কর বিধি -৬৫ অনুযায়ী অনুমোদন করা হইল		টাঃ ২৫,১৮,৬৩৭
	আয়	টাঃ (২,২৩৯,১৭৬)
যোগ: রিকভারীজ/ডিউটি ড্র ব্যাকঃ		টাঃ ৪,৫১,৪৬,৪৯৮
	আয়	টাঃ ৪,২৯,০৭,৩২২
যোগ: স্থিতিপত্র পর্যালোচনায় ১৯(১)/৩৩ ধারার ঃ		টাঃ ৬,৬০,০০,০০০
	মোট আয়	টাঃ ১০,৮৯,০৭,৩২২

Thereafter the CT(A), in his appellate order dated 31.05.2014, disallowed (নাকচ) the ground against the trading addition of Tk.2,21,66,155/- and upheld the assessment order of the DCT which is quoted below for ready reference:

"**৩নং দাবী-** বাণিজ্যিক হিসাবে ২,২১,৬৬,১৫৫/- টাকা আয় হিসাবে যোগ করার বিরুদ্ধে।

নথি পরীক্ষায় দেখা যায় যে, করদাতা কোম্পানী কাপড় উৎপাদন ও রপ্তানী করিয়া আয় প্রাপ্ত হয়। প্রদর্শিত রপ্তানী বিক্রয় ২১৭,১৮,৩২,৪৮১/- টাকা এবং গ্রস মুনাফা

৩২,২০,৩২,১০৫/- টাকা যাহা মোট বিক্রয়ের ১৫.২৯%। প্রদর্শিত রপ্তানী বিক্রয় প্রমাণ দ্বারা সমর্থিত হওয়ায় মানিয়া নেওয়া হইয়াছে। কস্ট অব গুডস সোল্ড ১৮৩,৯৮,০০,৩৭৬/- টাকা প্রমাণ দ্বারা যাচাইযোগ্য নহে। করদাতার প্রদর্শিত জি,পি প্রকৃত জি,পি নহে। কারণ কস্ট অব গুডস সোল্ড খাতে ডিউটি ড্র ব্যাক ৪,৫১,৪৬,৪৯৮/- টাকা ব্যবসায়িক আয় হিসাবে সমন্বয় করিয়াছে। উক্ত সমন্বয়ের কারণে সঠিক জি পি এর হার কম হইয়াছে। Cost of goods sold এর সহিত ডিউটি-ড্র ব্যাক ৪,৫১,৪৬,৪৯৮/- টাকা যোগ করিলে প্রকৃত জি,পি এর হার আসে ১৩.২১%। অথচ ডিউটি-ড্র ব্যাক সমন্বয়ের কারণে জি,পি হার প্রদর্শিত ১৫.২৯%। অন্যদিকে ২০১১-২০১২ কর বৎসরে ট্রাইবুনাল কর্তৃক নির্দেশিত জি,পি এর হার ১৪.২৩% যাহা আপীলাধীন বৎসরে প্রয়োগ পূর্বক বাণিজ্যিক হিসাবে ২,২১,৬৬,১৫৫/-টাকা আয় হিসাবে যোগ করা হইয়াছে। উপকর কমিশনার কর্তৃক গৃহীত কার্যক্রম প্রমাণ ভিত্তিক ও অতীত রেকর্ডে উচ্চতর আদালতের নির্দেশিত হারে জি,পি প্রয়োগকৃত বিধায় করদাতার আপত্তি নাকচ করা হইল।

<u>অতিরিক্ত আপত্তিঃ</u>

ডিউটি ড্র ব্যাক ৪,৫১,৪৬,৪৯৮/- টাকা ২৮(১)সি ধারায় বেনিফিট ও পারকুইজিট হিসাবে মোট আয়ে যোগ করার বিরুদ্ধে।

এই প্রসংগে ৩নং আপত্তিতে রায় প্রদান করা হইয়াছে বিধায় আলোচনা নিস্প্রয়োজন”

On the basis of the second appeal preferred by the applicant, the Tribunal in its order dated 29.01.2015 upheld the order of the CT(A) which is quoted below for ready reference:

“**<u>Ground No.2</u>**

In this ground, the appellant agitates against the order of the learned C.T. (Appeal) in confirming the D.C.T’s trading addition of Tk. 2,21,66,155/-.

We have heard the ld. A.R. & D.R. and perused the record. We have also examined the issue. We hold that the impugned appeal order of the learned C.T. (Appeal) is fair & reasonable as the same is based on past record of the case. Hence, we uphold the order of the learned C.T. (Appeal) in this regard. The ground taken by the assessee-appellant fails.

Ground No.4

In this ground it has been agitated against considering the duty draw back as income u/s 28(1)(c) of the Income Tax Ordinance, 1984.

It appears that the D.C.T treated duty draw back as income u/s 28(1)(c) of the Income Tax Ordinance, 1984. The learned C.T. (Appeal), after discussion upheld it.

We have heard the learned A.R & D.R and gone through the records. We have also examined the issue. The impugned appeal order of the learned C.T. (Appeal) is fair & reasonable. Hence, we uphold the order of the learned C.T. (Appeal) in this regard. The ground taken by the assessee-appellant fails."

We have minutely examined the relevant portions of the assessment order, as well as the final determination of total income, and find that the duty drawback amount was ultimately neither treated as income directly nor integrated with sales. In the assessment order, the duty drawback amount was first deducted from the disclosed income and subsequently added back to the total income. This sequential deduction and addition effectively neutralized the impact of that amount within the assessment order. Consequently, the applicant has raised this question pointlessly and argued it before this Court unnecessarily.

It is crystal clear that the total income of Tk.10,89,07,322/- was determined by the DCT through the following adjustments:

(i) Disallowing Tk.2,95,63,077/- from the profit and loss account and Tk.2,21,66,155/- from the manufacturing and trading account (totaling a disallowance of Tk.5,17,29,232/-);

(ii) Disallowing entertainment expenses of Tk.6,58,507/- pursuant to Rule 65 of the Income Tax Rules, 1984;

(iii) Allowing depreciation of Tk.8,04,12,054/- under the Third Schedule of the Ordinance (whereas the applicant claimed depreciation of Tk.7,21,20,944/-, resulting in an excess allowed amount of Tk. 82,91,110/-); and

(iv) Disallowing disclosed liabilities from the balance sheet, which were treated as income under section 19(1)/33 of the Ordinance, amounting to Tk. 6,60,00,000/-.

The mathematical calculation is straightforward:

Total disallowed amount (5,17,29,232 + 6,58,507) = 5,23,87,739

Less: Excess depreciation allowed (82,91,110) = 4,40,96,629

Less: Disclosed loss (11,89,307) = 4,29,07,322

Add: Income under section 19(1)/33 of the

Ordinance (6,60,00,000) **Total Income = Tk. 10,89,07,322/-**

Upon a plain examination of the assessment order, appellate order, and second appellate order, we are of the view that the duty drawback amount was ultimately not treated as income directly, nor was it integrated with sales. Consequently, the CT(A) and the Tribunal rightly upheld the assessment order of the DCT in this regard. We are of the view that there is no merit in the applicant's contentions.

Both the CT in his affidavit-in-reply and the applicant were silent regarding the subsequent developments in the case for the assessment year 2012–2013. Specifically, pursuant to the directions in the Tribunal's order dated 29.01.2015, the DCT finally revised the assessment order on 17.01.2016, determining the revised total income of Tk.3,62,33,675/- under sections 83(2)/156/159/120/159/156 of the Ordinance, in place of Tk.10,89,07,322/-. In the revised order, there was no reflection of the duty drawback amount. Consequently, a fresh demand notice was issued for tax amounting to Tk.62,50,309/- (without adjusting for TDS of Tk.1,61,60,614/-), down from the initial demand of Tk.1,63,36,098/-.

Therefore, save for the specific issues currently pending before this Court, the remainder of the matter has still not been effectively finalized, despite the applicant having agitated these issues before various tiers of authorities. On the other hand, the Government has not yet realized any revenue through this assessment process, Moreover, the tax deducted at source remains to be refunded or adjusted against the tax liabilities of other assessment years.

It appears from the record that the DCT added Tk.2,21,66,155/- to the total income by disallowing expenses across ten heads in the manufacturing and trading account due to a lack of verifiable evidence resulting in an adopted gross profit @ 14.23% following the past record of the case. In the instant case duty drawback amount was added with the COGS solely to determine the actual rate of gross profit, which was then compared with the past record of the case under the established principle that “past record is the best record”. When the tax authority indicates that claims are disallowed due to a lack of verifiable evidence, it is incumbent upon the applicant-assessee to satisfy the tax authority by providing necessary supporting evidence. The applicant failed to produce such evidence before the lower authorities or the Tribunal. Consequently, the CT(A) and the Tribunal rightly upheld the order of the DCT in this regard.

The learned DAG correctly submits that the disallowance of expenses from the manufacturing and trading account for the lack of verifiable evidence is a purely factual matter involving no question of law. Consequently, this point is not amenable to a reference application. In support of her submissions, she rightly relied upon the decisions reported in 58 DLR (HCD) 531, Civil Appeal No.279 of 2002 and Civil Appeal No.101 of 2013. We find substantial merit in the contentions of the learned DAG.

In the case of *Commissioner of Taxes -vs- Conference and Exhibition Management Service Ltd.*, reported in 25 BLC (AD) 15, the Appellate Division held:

> ”When the tax authority indicates that any claims are disallowed on account of lack of verifiable evidence, it is incumbent upon the assessee to satisfy the tax authority by providing necessary supporting evidence. The provision in section 35(3) of the Ordinance does not exonerate the assessee from supplying evidence in support of the claims for allowances/deductions.”

The same view has been consistently maintained by this Court in *Hatil Complex Limited, Dhaka -vs- The Commissioner of Taxes* (ITRA No.48 of 2018, judgment dated 22.06.2026), *The Commissioner of Taxes -vs- Confidence Cement Ltd.* (ITRA No.123 of 2019, judgment dated 20.05.2026), *BBC Bangladesh Limited -vs- The Commissioner of Taxes*, (ITRA No.316 of 2018, judgment dated 11.06.2026) (in which we were parties to the judgments).

It is our considered view that while section 35(3) of the Ordinance directs the applicant company to furnish a trading account, a profit and loss account, and a balance sheet certified by a Chartered Accountant, such certification does not dispense with the statutory requirement to produce primary, verifiable evidence in support of the specific financial claims made therein.

For the reasons and discussions set forth above, and upon considering the relevant legal provisions and binding judicial precedents regarding the disallowance of unverifiable expenses and the mathematical neutralization of the duty drawback amount, we find no merit in the applicant's contentions.

Therefore, the questions formulated in the income tax reference application are answered in the affirmative that is, against the assessee-applicant and in favour of the respondent.

Accordingly, the income tax reference application fails.

However, there shall be no order as to costs.

The Registrar of the High Court Division of the Supreme Court of Bangladesh is directed to take necessary statutory steps in accordance with section 161(2) of the Income Tax Ordinance, 1984, read with section 294(2) of the Income Tax Act, 2023.

<u>S.M. Maniruzzaman, J</u>

I agree