

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

**INCOME TAX REFERENCE APPLICATION NO. 520 OF 2015**  
**INCOME TAX REFERENCE APPLICATION NO. 521 OF 2015**  
**INCOME TAX REFERENCE APPLICATION NO. 522 OF 2015**  
**and**  
**INCOME TAX REFERENCE APPLICATION NO. 523 OF 2015**

**In the matter of:**

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

**In the matter of:**

Salauddin Ahmed.

....Applicant (all applications)

-V E R S U S -

The Commissioner of Taxes, Taxes Zone-4,  
Dhaka.

.....Respondent (all applications)

Mr. Ahsanul Karim, Senior Advocate with  
Mr. Md. Anisul Hassan, Advocate with  
Mr. Syeed Mohammad Abrar, Advocate with  
Mr. Hossain Mohammad Shahidul, Advocate with  
Mr. Md. Mustafizur Rahman, Advocate with  
Mr. Mohammen Hossain Arnob, Advocate(s)

.... For the Applicant (all applications)

Mr. Akhtar Farhad Zaman, Deputy Attorney General  
with Ms. Sadia Afrin Shapla, Deputy Attorney  
General with Mr. Arif Khan, Deputy Attorney General  
with Mr. Sovan Mahmud, Md. Md. Faridul Islam and  
Mr. Md. Nazmul Haque, Assistant Attorney Generals  
.....For the Respondent-Government(all applicants).

**Heard on 30.04.2026, 07.05.2026, 14.05.2026 &  
Judgment on 21.05.2026**

**Present:**

Mr. Justice S.M. Maniruzzaman

&

Mr. Justice Dihider Masum Kabir

**S.M. Maniruzzaman:**

Identical questions of law and fact are involved in four (4) Income Tax Reference Applications and the parties in all the applications are the

same. Accordingly, all these Reference Applications have been heard together and are being disposed of by this single judgment.

These four (4) Reference Applications under section 160(1) of the Income Tax Ordinance, 1984 (in short, the Ordinance) are directed against the order of the Taxes Appellate Tribunal, Division Bench-2, Dhaka (in short, the Tribunal) passed in Income Tax Appeal Nos. 1207 of 2013-2014 (Assessment Year 2003-2004), 1208 of 2013-2014 (Assessment Year 2004-2005), 1209 of 2013-2014 (Assessment Year 2005-2006), 1210 of 2013-2014 (Assessment Year 2006-2007) all dated 24.03.2014 disallowing the appeals against the order dated 22.09.2013 passed by the Appellate Additional Commissioner of Taxes, Appellate Range-2, Taxes Appeal Zone-4, Dhaka (in short, the AACT) in the First Appeal Nos. 01,02,03,04/Circle-77/Ko: AO; 4/2012-2013 arising from the assessment order passed by the Deputy Commissioner of Taxes (in short, the DCT), Contractor Circle-7, Tax Zone-4, Dhaka.

Facts, relevant for the disposal of reference applications, in short, are that the applicant is a citizen of Bangladesh and hails from a respectable Muslim family and has a good reputation in society. He is a regular taxpayer and an individual assessee bearing Tax Identification Number (TIN) 110-103-9259.

The applicant submitted Income Tax Returns for the assessment years 2003-2004, 2004-2005, 2005-2006 and 2006-2007 respectively. In support of those returns, the applicant submitted all the relevant documents.

On the basis of such returns, the tax authority computed the applicants income at Tk. 35,000/-, Tk. 75,000/-, Tk. 1,47,697/- and Tk. 1,34,129/- respectively and disposed of the matters on 11.11.2003, 19.12.2004, 19.06.2006 and 03.10.2006 respectively.

Subsequently, the Central Intelligence Cell (CIC) selected the applicant's assessments for investigation and, upon conclusion of the investigation, submitted a report before the concerned DCT for taking necessary steps under the Ordinance. Pursuant to the said investigation report, the concerned DCT initiated proceedings obtaining prior approval from Inspecting Additional Commissioner of Taxes under section 93 of the Ordinance on 18.05.2009 against the applicant by issuing notices.

It is further stated that during investigation the assessee applicant submitted revised returns before the DCT in respective assessment years and which was not accepted by the DCT due to SRO No. 98-Ain/2007 dated 04.06.2007 (in short, the SRO 98 of 2007).

Upon receipt of the said notices, the applicant did not submit any revised return, following which the concerned DCT issued notices under section 79 of the Ordinance upon the assessee-applicant but no reply was submitted thereon. Subsequently, on 16.06.2011 the assessee-applicant submitted revised returns in response to the notices issued under section 93 of the Ordinance.

Pursuant to the said revised returns, notices were issued under sections 79 and 83(1) of the Ordinance. However, the DCT did not accept the said revised returns holding that the submission of the applicant's revised returns in reliance on the proviso of SRO 98 of 2007 was not acceptable under the provisions of the said SRO.

Accordingly, the DCT completed the assessments under sections 83(2)/93/84 of the Ordinance determining total income at Tk. 20,33,233/-, Tk. 15,62,492/-, Tk. 21,95,641/- and Tk. 49,92,218/- respectively without considering the said revised returns filed under section 93 of the Ordinance. Thereafter, the concerned DCT imposed penalties under section 128 of the Ordinance amounting to Tk. 1,98,099/-, Tk. 1,09,461/-, Tk. 1,07,384/-, and Tk. 1,27,383/- respectively.

Challenging the aforesaid assessment orders, the applicant preferred appeals before the AACT, Appellate Range-2, Taxes Appeal Zone-4, Dhaka being I.T.A. Nos. 11, 13, 15, 17 and 12, 14, 16, 18/Circle-77/KO: AO: 4/11-12 respectively relating to the assessment years 2003-2004, 2004-2005, 2005-2006 and 2006-2007. The AACT heard the appeals on 20.06.2012 and disposed of the same by his order dated 28.06.2012 affirming the order of the DCT.

Being aggrieved by the aforesaid orders of the AACT, the applicant preferred appeals before the Tribunal being I.T.A. Nos. 2274 of 2012-2013, 2278 of 2012-2013 (Assessment Year 2003-2004), 2275 of 2012-2013 and

2297 of 2012-2013 (Assessment Year 2004-2005), 2276 of 2012-2013, 2280 of 2012-2013 (Assessment Year 2005-2006), 2277 of 2012-2013 and 2281 of 2012-2013 (Assessment Year 2006-2007) respectively.

All the appeals were heard together and disposed of by the Tribunal on 30.04.2013. The Tribunal set aside the orders of the AACT dated 28.06.2012 and send the matter to remand for disposal on merit. Upon receipt of the order of the Tribunal, the AACT reheard the appeals being I.T.A Nos. 01, 02, 03 and 04 all of 2012-2013 and again dismissed the same by order dated 22.09.2013 and upheld the assessment orders passed by the DCT.

Being aggrieved by the aforesaid appeal orders dated 22.09.2013, the applicant preferred appeals (2<sup>nd</sup> appeal) before the Tribunal being I.T.A Nos. 1207, 1208, 1209 and 1210 all of 2013-2014 relating to the assessment years 2003-2004, 2004-2005, 2005-2006 and 2006-2007 respectively which were unsuccessful.

Being further aggrieved by the said orders, the applicant filed Miscellaneous Appeal Nos. 46, 47, 48 and 49 all of 2013-2014 relating to the assessment years 2003-2004, 2004-2005, 2005-2006 and 2006-2007 respectively before the Tribunal (same Bench). Upon hearing the parties, the Tribunal dismissed the appeals by its order dated 28.08.2014.

Being aggrieved by and dissatisfied with the orders of the Tribunal dated 28.08.2014, the applicant preferred the present reference applications

formulating, separate questions for answering. During the pendency of the reference applications, the applicant by filing supplementary affidavits formulated the additional question which has been pressed before this Court for answering.

Question of Law:

Whether, in the facts and circumstances of the case, the Taxes Appellate Tribunal was justified in not considering the revised return filed by the applicant under section 93 of the Income Tax Ordinance, 1984 which the Applicant filed earlier pursuant to SRO No. 98/Ain/2007 dated 04.06.2007 which the said Tribunal was obliged to consider under section 78 of the Income Tax Ordinance?

Mr. Ahsanul Karim, the learned Senior Advocate appearing for the applicant in all the reference applications submits that the present assessee-applicant filed revised returns before the DCT at the time of initiation of proceedings under section 93 of the Ordinance, but the DCT refused to accept the said revised returns on the ground of the 2<sup>nd</sup> part of SRO No. 98 of 2007. Such action of the DCT is in clear violation of section 78 of the Ordinance.

In view of the above, the learned Senior Advocate further submits that the said ground was available before the two appellate authorities below but the appellate authorities without considering the aforesaid provision of law dismissed the appeals and thereby affirmed the orders passed by the DCT.

On the other hand Mr. Akhtar Farhad Zaman, the learned Deputy Attorney General appearing for the respondent Income Tax Authority submits that although the assessee-applicant filed revised returns before the DCT but SRO No. 98 of 2007 did not permit the acceptance of such invalid returns. As such, the DCT rightly completed the assessments for the assessment years in question. Considering the same, both the appellate authorities below dismissed the appeals and thereby affirmed the assessment orders passed by the DCT.

We have heard the learned Senior Advocate for the applicant and the learned Deputy Attorney General for the respondent-Government, perused the applications, supplementary affidavits as well as the relevant materials on record so appended thereto and consulted the relevant provisions of law.

It, however appears that the present assessee-applicant filed regular returns before the concerned DCT for the assessment years 2003-2004, 2004-2005, 2005-2006 and 2006-2007 which were duly accepted by the DCT. Subsequently, the CIC investigated the matter and after completion of the investigation, submitted a report to the concerned DCT. During investigation, the assessee-applicant filed revised returns on 04.09.2007 which were not accepted by the DCT considering SRO No. 98/Ain/2007 dated 04.06.2007 issued by the National Board of Revenue (NBR).

Thereafter, it further appears from the records that during pendency of the proceedings under section 93 of the Ordinance, the assessee-

applicant further submitted revised returns on 16.06.2011. However, the DCT without following the provisions of section 78 of the Ordinance disallowed the said revised returns.

The provisions of section 78 of the Ordinance are quoted below for ready reference: -

78. Filing of revised return.-

“Any person who has not filed a return as required by section 75 or 77 or who, having filed return, discovers any omission or incorrect statement therein, may, without prejudice to any liability which he may have incurred on this account, file a return or a revised return, as the case may be, at any time before the assessment is made.”

On a plain reading of the aforesaid provision, it appears that any person who has not filed a return as required under sections 75 and 77 or who having filed return, discover any omission or incorrect statement therein, may file a revised return before the assessment is made by the concerned authority.

In the facts and circumstances of the instant reference applications, we are inclined not to touch on merits of these cases. However, it appears from the records that the DCT committed an error of law in not accepting the revised returns submitted by the assessee-applicant during the pendency of the proceedings under section 93 of the Ordinance and accordingly

proceeded with the assessments. Moreover, both the appellate authorities below also erred in law affirming the orders of the DCT.

Considering the stated circumstances of the cases, we are of the view that at this juncture, justice would be best served if we direct the concerned DCT to accept the revised returns submitted by the applicant during pendency of the proceedings initiated under section 93 of the Ordinance and to conduct the hearing a fresh of the said proceedings in accordance with law.

Accordingly, we find substance in the submissions advanced by the learned Senior Advocate for the assessee-applicant and thus merit in the reference applications.

In the result, the question formulated in the supplementary affidavit for answering are our answered in the negative, in favour of the assessee-applicant and against the tax authority.

The orders dated 24.03.2014 passed by the Taxes Appellate Tribunal, Division Bench-2, Dhaka (Circuit Bench), in Income Tax Appeal Nos. 1207, 1208, 1209 and 1210 all of 2013-2014 affirming those, orders of the AACT dated 28.06.2012 and the assessment orders of the DCT in Assessment Years 2003-2004, 2004-2005, 2005-2006 and 2006-2007 respectively are hereby set aside.

The concerned DCT is hereby directed to accept the revised returns submitted by the assessee-applicant at the time of initiation of the

proceeding under section 93 of the Ordinance and dispose of the said proceedings in accordance with the Ordinance and the Rules framed thereunder. The concerned DCT is further directed to give credit of all payments made earlier in respect of the assessment years in question.

There will be no order as to cost.

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

**Dihider Masum Kabir, J:**

***I agree.***