CHAPTER – 19
PENALTY AND APPEAL

LEARNING OBJECTIVES

After studying Chapter 19, you shall be able to understand:

- the penalty provisions for non compliance with different laws of income tax
- ground for appeal
- procedure, form and limitation of appeal
- appeal to appellate tribunal
- reference and decision of the high court division
- appeal to the appellate division

In most of the developing countries of the world, tax evasion is one of the most important obstacles for the revenue authorities to meet the revenue target. Some dishonest taxpayers' always try to evade taxes using many types of mechanisms including the loopholes of the existing tax laws of the country. Unlike other countries, in Bangladesh certain penalty provisions have been incorporated in the Income Tax Ordinance, 1984 in order to tackle the tax evasion practice. An aggrieved assessee also has the right to appeal against the order of any tax officials. "Penalty" is punishment for breach of law. Where a statute requires any person to do a particular thing and he fails to do so, he renders himself liable to penalty. Similarly, when the statute requires any person not to do a particular thing and he does so, he exposes himself to penalty. The nature and quantum of penalty differs from statute to statute and from default to default.

19.1 PENALTY PROVISIONS

If the assessee does not comply with any provisions under the Income Tax Ordinance, 1984 applicable for him/her, then according to the same ordinance he/she is supposed to be penalized for such kind of non-compliance. In the ITO, 1984, Section 123 to 133 explains how much penalty should be imposed upon an assessee for a specific nature of non-compliance.

Sections	Reasons to impose penalty
123	Penalty for not maintaining accounts in the prescribed manner
124	Penalty for failure to file return, etc.
124A	Penalty for using fake Tax-payer's Identification Number
124AA	Penalty for failure to verify TIN
125	Failure to pay advance tax, etc.
126	Penalty for non compliance with notice
127	Failure to pay tax on the basis of return
128	Penalty for concealment of income
129A	Penalty for incorrect or false audit report by chartered accountant
129B	Penalty for furnishing fake audit report
130	Bar to imposition of penalty without hearing
131	Previous approval of Inspecting Joint Commissioner for imposing penalty
132	Orders of Appellate Joint Commissioner, etc., to be sent to DCT
133	Penalty to be without prejudice to other liability

19.1.1 Penalty for not maintaining accounts in the prescribed manner [Section 123]: Where any person not having income from house property, has, without reasonable cause, failed to comply with provisions of any order or rule made in pursuance of, or for the purposes of section 35(2), the DCT may impose upon him a penalty of a sum –

(a) Maximum **1 ½ times** of his/her tax liability payable; and

(b) Where the total income of such person does not exceed the maximum amount on which tax is not chargeable, maximum amount of penalty will be **Tk. 100.**

Under above circumstances, for any person, having income from house property, the penalty will be fifty percent of taxes payable on house property income or Tk. 5,000 whichever is higher.

19.1.2 Penalty for failure to file return, etc. [Section 124]

❖ **Failure to file or furnish a return:** Where any person has, without reasonable cause, failed to file or furnish a return of income required by or under sections 75, 77, 89(2), 91(3), 93(1) and or withholding tax required under section 75A within the time laid down therefore, the DCT shall impose upon such person a penalty amounting to 10% of tax imposed on last assessed income, but such penalty cannot be less than **Tk. 1,000** and in the case of a continuing default a further penalty of **Tk. 50** for every day during which the default continues.

Provided that such penalty shall not exceed-

(a) in case of an assessee, being an individual, whose income was not assessed previously five thousand taka;

(b) in case of an assessee, being an individual, whose income was assessed previously, fifty per cent (50%) of the tax payable on the last assessed income or taka one thousand, whichever is higher.

❖ **Failure to file or furnish or obtain and display of certificate:** On the other hand where any person has, without reasonable cause, failed to file or furnish or obtain and display the followings within the stipulated time period, a penalty will be imposed by the DCT of **Tk. 500** and in case of continuing default a further penalty of **Tk. 250** for every month or fraction thereof during which the default. continues.

(a) any certificate, statement, accounts or information required by or under sections 58, 108, 109, 110; or

(b) the tax-payer's identification number (TIN) certificate under section 184C.

❖ **Failure to furnish information:** In addition to the above measures, it is provided that the Director General, Central Intelligence Cell or the DCT may impose a penalty of **Tk. 25,000** if any person has, without reasonable cause, failed to furnish information as required under Section 113. An additional penalty of **Tk. 500** for each day will be imposed if that default continues.

19.1.3 Penalty for using fake Tax-payer's Identification Number (TIN) [Section 124A]: Where a person has, without reasonable cause, used TIN of another person or used fake TIN on a return of income or any other documents where TIN is required under ITO, 1984, the DCT may impose a penalty not exceeding **Tk. 20,000** on that person.

19.1.4 Penalty for failure to verify TIN [Section 124AA]: Where a person, without reasonable cause, fails to comply with the provision of sub-section (5) or (6) of section 184A, the Deputy Commissioner of Taxes or any other income tax authority authorized by the Board for this purpose may impose upon such person a penalty not exceeding -

(a) Tk. 200,000 in the case of non-compliance with the provision of sub-section (5);
(b) Tk. 50,000 in the case of noncompliance with the provision of sub-section (6)

19.1.5 Failure to pay advance tax, etc. [Section 125]: Where, in the course of any proceeding in connection with the assessment of tax, the Deputy Commissioner of Taxes is satisfied that any person has (i) without reasonable cause, failed to pay advance tax as required by section 64; or (ii) furnished untrue estimate of tax payable under section 67, he may impose upon such person a penalty of not more than the amount by which the tax actually paid by him falls short of the amount that should have been paid.

> **Example:** If someone is supposed to pay advance tax of Tk. 60,000, but has paid only Tk. 30,000. His penalty for such failure can be at best Tk. 30,000 [Tk. 60,000 – Tk. 30,000].

19.1.6 Penalty for non-compliance with notice [Section 126]: Where any person has, without reasonable cause, failed to comply with any notice issued under Sections 79, 80 or under sub-section (1) or (2) of Section 83, the DCT may impose on him a penalty not exceeding the amount of tax chargeable on the total income of such person.

19.1.7 Failure to pay tax on the basis of return [Section 127]: According to Section 127 of the Income Tax Ordinance, 1984, where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes is satisfied that any person has not paid tax as required by Section 74, he may impose upon such person a sum not exceeding 25% of the whole of the tax or as the case may be, of such portion of the tax as has not been paid.

19.1.8 Penalty for concealment of income [Section 128]: According to Section 128 of the ITO, 1984, where, in the course of any proceeding under this Ordinance, the DCT, the Appellate Joint Commissioner, the Commissioner (Appeals) or the Appellate Tribunal is satisfied that any person has, either in the said proceeding or in any earlier proceeding relating to an assessment in respect of the same income year – **(a)** concealed particulars of his income or furnished inaccurate particulars of such income; or **(b)** understated the value of any immovable property in connection with its sale or transfer with a view to evading tax, he or it shall impose upon such person a penalty of **15%** of tax which would have been avoided had the income as returned by such person or as the case may be, the value of the immovable property as stated by him been accepted as correct:

Provided that if the concealment referred to in clause (a) and (b) of this sub-section or subsection (2) is detected after a period of more than one year from the year in which the concealment was first assessable to tax, the amount of penalty shall increase by an additional **15%** for each preceding assessment year. For the purpose of above rule, concealment of or furnishing of inaccurate particulars of income shall include –

(a) the suppression of any item of receipt liable to tax in whole or in part, or
(b) showing any expenditure not actually incurred or claiming any deduction therefore.

19.1.9 Penalty for incorrect or false audit report by chartered accountant [Section 129A]: Where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes, the Appellate Joint Commissioner, the Commissioner of Taxes (Appeals) or the Appellate Tribunal is satisfied beyond reasonable doubt that the audit report –

(a) is not certified by a chartered accountant to the effect that the accounts are maintained and the statements are prepared and reported in accordance with the Bangladesh Accounting Standards (BAS) and the Bangladesh Financial Reporting

Standards (BFRS), and are audited in accordance with the Bangladesh Standards on Auditing (BSA), or

(b) is false or incorrect,

he shall impose upon such chartered accountant a penalty of a sum not less than Tk. 50,000 but not more than Tk. 200,000.

19.1.10 Penalty for furnishing fake audit report [Section 129B]:
Where, in the course of any proceeding under this Ordinance, the DCT, the Appellate Joint Commissioner, the Commissioner (Appeals) or the Appellate Tribunal is satisfied beyond reasonable doubt that any audit report furnished by an assessee along with the return of income or thereafter for any income year is not signed by a chartered accountant or is believed to be false, such authority or the Tribunal, as the case may be, shall impose upon such assessee a penalty of a sum of one lakh taka for that income year.

19.1.11 Bar to imposition of penalty without hearing [Section 130]: No order imposing a penalty under this Chapter or Chapter XIA shall be made on any person unless such person has been heard or has been given a reasonable opportunity of being heard.

19.1.12 Previous approval of Inspecting Joint Commissioner for imposing penalty [Section 131]: According to Section 131 of the ITO, 1984, the DCT shall not impose any penalty under this Chapter without the previous approval of the Inspecting Joint Commissioner except in the cases of penalty for failure to file return, etc. (U/s 124).

19.1.13 Orders of Appellate Joint Commissioner, etc., to be sent to Deputy Commissioner of Taxes [Section 132]: The Appellate Joint Commissioner or the Commissioners (Appeals) or the Appellate Tribunal or any other income tax authority making an order imposing any penalty under this Chapter or Chapter XIA shall forthwith send a copy of the order to the Deputy Commissioner of Taxes, and thereupon all the provisions of this Ordinance relating to the recovery of penalty shall apply as if such order were made by the Deputy Commissioner of Taxes.

19.1.14 Penalty to be without prejudice to other liability [Section 133]: According to Section 133 of the ITO, 1984, the imposition of penalty on any person under this Chapter shall be in addition to any other liability which such person may incur, or may have incurred, under this Ordinance or under any other law for the time being in force.

19.1.15 Revision of penalty based on the revised amount of income [Section 133A]: According to Section 133A, Where a penalty imposed under this Chapter is directly related to the amount of income assessed under the provision of this Ordinance and the amount of income is revised subsequently by an order made under this Ordinance, the Deputy Commissioner of Taxes shall pass an order revising the order of penalty at the time of revising the income. No order of enhancement of penalty shall be made unless the parties affected thereby have been given a reasonable opportunity of being heard.

Where, in the case mentioned in sub-section (1), an order of the revision of penalty is not issued despite the fact that the relevant assessment order has been revised, the parties affected can make an application to the DCT requesting the revision of the penalty amount and if no order has been made by within 180 days from the receipt of such application, the amount of penalty shall be deemed to have been revised according to the revised amount of income and all the provisions of this Ordinance shall have effect accordingly.

SELF REVIEW 19 – 1

Mr. Shafiq Ahmed is a resident assessee and paid Tk. 22,000 income tax for the income year 2015 – 2016. His tax payable income for the income year 2016 – 2017 is Tk. 450,000. Suppose, in this year last date to file return of income was 30th November, 2017 and Mr. Ahmed failed to file return of income till 4th December, 2017. Now as an income tax practitioner informs the penalty provisions applicable for Mr. Ahmed and also the amount of penalty he is supposed to pay for his failure.

19.2 PROVISIONS OF APPEAL

The term "appeal" has been defined in the Law Dictionary by Sweet as "a proceeding taken to rectify an erroneous decision of a court by submitting the question to a higher court or court of appeal". It embraces all proceedings whereby a superior court is called upon to review, revise, affirm, reverse or modify the decision of an inferior court.

There is no inherent right of appeal. If a right of appeal is not given by the statute, no appeal would lie [CIT vs. Garware Nylons 212 ITR 242]. The income tax law has specifically granted the right of appeal. When an assessee is not satisfied with the order of a DCT or any other tax officer, he/she may prefer an appeal to the concerned higher administrative authorities against such order, in accordance with the relevant provisions. The order of the administrative authorities i.e. Commissioner (Appeal) is further appealable. The aggrieved party (i.e. the assessee or the income tax authority) may appeal against such order to the Appellate Tribunal. Thereafter, the appeal lies to High Court Division on a point of law. The order of the High Court is appealable to the Appellate Division of the Supreme Court which is the final authority. The whole subject matter pertaining to appeals as per the provisions of the ITO, 1984, is discussed below:

Section	Subject
153	Ground for appeal
154	Form of appeal and limitation
155	Procedure in appeal
156	Decision in appeal
157	Appeal against order of Tax Recovery Officer
158	Appeal to the Appellate Tribunal
159	Disposal of appeal by the Appellate Tribunal
160	Reference to the High Court Division
161	Decision of the High Court Division
162	Appeal to the Appellate Division

19.2.1 Ground for appeal [Section 153]: An assessee being a company or not being a company may prefer an appeal to the Appellate JCT when they are not satisfied with the order of the DCT. Followings are the ground that permits an assessee to appeal.

❖ **Assessee not being a company:**

Any assessee, not being a company, aggrieved by any order of a DCT may prefer an appeal to the Appellate JCT against such order in respect of the followings [section 153(1)]–

(a) the amount of loss computed under section 37 (i.e., set off losses);

(b) assessment of income, determination of liability to pay, or computation of tax including advance tax;

(c) imposition of an interest under Chapter VII (i.e., interest payable by the assessee on deficiency in payment of advance tax);
(d) imposition of penalty under Chapters XIA, XV and (section 137) of Chapter XVI ; and
(e) refusal to allow a claim to a refund or the determination of the amount of refund admissible under Chapter XVIII.

Against whose orders and **to whom** the assessee and the income tax authority may appeal can be depicted as follows on the basis of the provisions of the ITO, 1984:

Section	Who can file the appeal	Against whose orders appeal can be made/filed	To whom appeal can be made/filed	Time limit to file the appeal	Required fee to apply
153(1)	Any assessee, not being a company	Deputy Commissioner of Taxes	Appellate Joint Commissioner	45 days (extendable in valid grounds)	10% of the tax determined by the DCT & Tk. 200
153(1A)	Company or any assessee	Deputy Commissioner of Taxes; Inspecting Joint Commissioner	Commissioner of Taxes (Appeals)	45 days (extendable in valid grounds)	Tk. 200
157	Assessee	Tax Recovery Officer	Inspecting Joint Commissioner	30 days	N/A
158	Assessee / The DCT	Appellate Joint Commissioner; Commissioner of Taxes (Appeals)	Appellate Tribunal	60 days (extendable in valid grounds)	10% of the differential tax amount & Tk. 1,000
160	Assessee / The Commissioner	Appellate Tribunal	High Court Division	90 days	Tk. 2,000
162	Assessee / The Commissioner	High Court Division	Appellate Division	N/A	N/A

❖ **In case of a company:**

According to Section 153 (1A) of the ITO, 1984, any assessee, being a company aggrieved by any order of a DCT or any assessee aggrieved by any order of an IJCT may prefer an appeal to the Commissioner (Appeals) in respect of the followings –

(a) any matter specified in clauses (a), (b), c) and (f) of sub-section (1);
(b) imposition of penalty under Chapter XV or XIA or section 137;
(c) assessment under section 10 or 120;

Notwithstanding anything contained in any other law for the time being in force, all such appeals pending before an Appellate Joint Commissioner at the time of the commencement of the Finance Act 1990, as are appellable under this section to a Commissioner (Appeals)

shall be heard and disposed of by the Appellate Joint Commissioner as if this section were not amended by the Finance Act 1990 [Sec 153(1B)]. Notwithstanding anything contained in sub-section (1) or (1A), the Board may, on an application or on its own motion, transfer an appeal from an Appellate Joint Commissioner to a Commissioner (Appeals) or from a Commissioner (Appeals) to an Appellate Joint Commissioner [Section 153(1C)].

Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Joint Commissioner against the order of the DCT determining the amount of total income or loss of the firm or the apportionment thereof between several partners but he may not agitate in any such appeal, matters relating to assessment of his own total income [Section 153(2)].

No appeal shall lie against any order of assessment under this section, unless the tax payable on the basis of return under section 74 has been paid [Section 153 (3)]. *Provided that where the tax on the basis of return has been paid by the appellant before filing the appeal and the Appellate Joint Commissioner or the Commissioner (Appeals), as the case may be, is convinced that the appellant was barred by sufficient reason from paying the tax before filing the return, Appellate JC or the Commissioner (Appeals) may allow the appeal for hearing.* No appeal shall lie against any order of assessment under this section, unless the assessee has paid ten percent of the tax as determined by the DCT where return of income was not filed in accordance with the provisions of this Ordinance [Section 153 (4)].

19.2.2 Form of Appeal and Limitation [Section 154]: Every appeal under Section 153 shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of **Tk. 200** [sec. 154(1)]. According to section 154(1A), The Board may, by notification in the official Gazette-

(a) specify the cases in which the appeal shall be filed electronically or in any other machine readable or computer readable media;

(b) specify the form and manner in which such appeal shall be filed.

An appeal shall be presented within **45** days-

(a) if it relates to any assessment or penalty, from the date of service of the notice of demand relating to any assessment or penalty, as the case may be; and

(b) in any other case, from the date on which the intimation of the order to be appealed against is served.

But the Appellate JC or the Commissioner (Appeals) as the case may be, may admit an appeal after the expiration of the period of limitation if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

19.2.3 Procedures in Appeal [Section 155]: When an assessee files an appeal before the Appellate Joint Commissioner (JC) or the Commissioner (Appeals), a day and place shall be fixed for the hearing of the appeal. A notice with these information thereof shall be given to the appellant and the DCT against whose order the appeal has been preferred. The appellant and the DCT shall have the right to be heard at the hearing of the appeal either in person or by a representative. The Appellate JC or the Commissioner (Appeals) may, if necessary, can adjourn the hearing of the appeal from time to time and may, before or at the hearing of an appeal, allow the appellant to go into any ground of appeal not earlier specified in the grounds of appeal already filed if he is satisfied that the omission of that

ground from the form of appeal was not willful or unreasonable. The Appellate JC or the Commissioner (Appeals) may, before disposing of an appeal, make such enquiry as he thinks fit or call for such particulars as he may require respecting the matters arising in appeals or cause further enquiry to be made by the DCT. While hearing an appeal the Appellate JC or the Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before the DCT unless he is satisfied that the appellant was unable to present the documents for valid reasons.

19.2.4 Decision in Appeal [Section 156]: In disposing of an appeal, the Appellate Joint Commissioner or the Commissioner (Appeals) may, in case of

(1) an order of assessment: confirm, reduce, enhance, set aside or cancel the assessment;
(2) an order imposing a penalty: confirm, set aside or cancel such order or vary it so as either to enhance or to reduce the penalty; and
(3) any other case, pass such order as he thinks fit:

Provided that an order of assessment or penalty shall not be set aside except in a case where the Appellate JCT or the Commissioner (Appeals) is satisfied that a notice on the assessee has not been served in accordance with the provisions of section 178. The Appellate JCT or the Commissioner (Appeals) shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction [Section – 156(2)]. The order of the Appellate Joint Commissioner [or the Commissioner (Appeals)] disposing of an appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision [Section – 156(3)]. Where, as a result of an appeal, any change is made in the assessment of a firm or an association of persons, the Appellate JC/the Commissioner (Appeals) may direct the DCT to amend accordingly any assessment made on any partner of the firm or any member of the association [Section – 156(4)].

On the disposal of an appeal, the Appellate Joint Commissioner [or the Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the DCT and the Commissioner within **30** days of the passing of such order [Section – 156(5)]. Notwithstanding anything contained in this Ordinance, an appeal to the Appellate Joint Commissioner or the Commissioner (Appeals) shall be deemed to have been allowed if the Appellate JC or the Commissioner (Appeals) fails to make an order thereon within **150 days from the from the end of the month** on which the appeal was filed [Section – 156(6)].

19.2.5 Appeal against order of Tax Recovery Officer [Section 157]: Any person aggrieved by an order of the Tax Recovery Officer under section 139 may, within **30 days** from the date of service of the order, appeal to the Inspecting Joint Commissioner to whom the Tax Recovery Officer is subordinate, and the decision of the IJCT on such appeal shall be final.

19.2.6 Appeal to the Appellate Tribunal [Section 158]: The provisions regarding the appeal to the Appellate Tribunal are as follows:

Ground and limitation for appeal:

- ***Appeal made by an assessee:*** An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of an Appellate Joint Commissioner or the Commissioner (Appeals) as the case may be, under Section 128 or 156 [section – 158(1)].
- ***Appeal made by the Deputy Commissioner of Taxes:*** The Deputy Commissioner of Taxes may, with the prior approval of the Commissioner of Taxes, prefer an appeal

to the Appellate Tribunal against the order of an Appellate Joint Commissioner, or the Commissioner (Appeals) u/s - 156 [section – 158(2A)].

Procedures in filling an appeal:
Every appeal under sub-section (1) or sub-section (2A) shall be filed within **60 days** of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be [Section – 158(4)]. Provided that the Appellate Tribunal may admit an appeal after the expiry of 60 days if it is satisfied that there was sufficient cause for not presenting the appeal within that period.

But no such appeal shall lie against an order of the Appellate Joint Commissioner or the Commissioner (Appeals), as the case may be, unless the assessee has paid 10% of the amount representing the difference between the tax as determined on the basis of the order of the Appellate Joint Commissioner or the Commissioner (Appeals) as the case may be, and the tax payable under section 74. The Commissioner of Taxes may reduce the payment in reasonable ground against the application of the assessee. An appeal to the Appellate Tribunal shall be in such form and verified in such manner as may be prescribed and shall except in the case of an appeal under sub-section (2A) be accompanied by a fee of **Tk. 1,000.** According to section 158(6), The Board may, by notification in the official Gazette-

(a) specify the cases in which the appeal shall be filed electronically or in any other machine readable or computer readable media;

(b) specify the form and manner in which such appeal shall be filed.

19.2.7 Disposal of appeal by the Appellate Tribunal [Section 159]: The Appellate Tribunal follows the following procedures to dispose of an appeal filed by the aggrieved parties.

(1) The Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders on the appeal as it thinks fit [Section 159 (1)].

(2) Before disposing of any appeal, the Appellate Tribunal may call for such particulars as it may require respecting the matters arising in the appeal or cause further enquiry to be made by the DCT [Section 159(2)].

(3) Where, an appeal results any change in the assessment of a firm or association of persons, or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may direct the DCT to amend accordingly any assessment made on any partner of the firm or any member of the association.

(4) The Appellate Tribunal shall communicate its order on the appeal to the assessee and to the Commissioner within **30** days from the date of such order [Section 159(4)].

(5) Save as hereafter provided in this Chapter, the orders passed by the Appellate Tribunal on appeal shall be final [Section 159(5)].

(6) Notwithstanding anything contained in this Ordinance an appeal filed by an assessee to the Appellate Tribunal (AT) shall be deemed to have been allowed if the AT fails to make an order thereon within a period of **6 months** from the end of the month in which the appeal was filed and where a case is heard by two members and an additional member is appointed for hearing the case because of the difference of decision of the two members, the period shall be 8 months from the end of the month in which the appeal was filed subject to some conditions provided [Sec 159(6)].

19.2.8 Reference to the High Court Division [Section – 160]: According to Section 160 of the ITO, 1984, the assessee or the Commissioner may refer to the High Court Division if

any question of law arises out of the order of the Appellate Tribunal. The provisions regarding the reference to the High Court Division are as follows:

1. The assessee or the Commissioner may, within **90 days** from the date of receipt of the order of the Appellate Tribunal communicated to him under section 159, by application in the prescribed from, accompanied, in the case of an application by the assessee, by a fee of **Tk. 2,000,** refer to the High Court Division any question of law arising out of such order. Before filing the appeal the assessee has to pay 15% of the differential amount specified by the ITO, 1984 where tax demand does not exceed 10 lakh taka. The requirement is 25% where tax demand exceeds Tk. 10 lakh.
2. An application under sub-section (1) shall be in triplicate and shall be accompanied by the following documents, namely:-
   (a) certified copy, in triplicate, of the order of the Appellate Tribunal out of which the question of law has arisen;
   (b) certified copy, in triplicate, of the order of the DCT, the IJCT or the Appellate Joint Commissioner, or the Commissioner (Appeals) as the case may be, which was the subject-matter of appeal before the Appellate Tribunal; and
   (c) certified copy, in triplicate, of any other document the contents of which are relevant to the question of law formulated in the application and which was produced before the DCT, the IJCT, the Appellate Joint Commissioner or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, in the course of any proceedings relating to any order referred to in clause (a) or (b).
3. Where the assessee is the applicant, the Commissioner shall be made a respondent; and where the Commissioner is the applicant the assessee shall be made a respondent. Provided that where an assessee dies or is succeeded by another person or is a company which is being wound up, the application shall not abate and may, if the assessee was the applicant, be continued by, and if he was the respondent, be continued against, the executor, administrator/successor/other legal representative of the assessee, or by or against the liquidator or receiver, as the case may be.
4. On receipt of the notice of the date of hearing of the application, the respondent shall, at least seven days before the date of hearing, submit in writing a reply to the application; and he shall therein specifically admit or deny whether the question of law formulated by the applicant arises out of the order of the Appellate Tribunal.
5. If the question formulated by the applicant is, in the opinion of the respondent, defective, the reply shall state in what particulars the question is defective and what is the exact question of law, if any, which arises out of the said order; and the reply shall be in triplicate and be accompanied by any documents which are relevant to the question of law formulated in the application and which were produced before the DCT, the Inspecting Joint Commissioner, the Appellate Joint Commissioner, the Commissioner (Appeals) or the Appellate Tribunal, as the case may be in the course of any proceedings relating to any order referred to in sub-section (2) (a) or (b).
6. Section 5 of the Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (1).

19.2.9 Decision of the High Court Division (Section – 161): The High Court Division gives its decision regarding the reference sent to it for the clarification of any question of law arises out of the order of the Appellate Tribunal. In this regard the following procedures are followed:

1. Where any case has been referred to the High Court Division under Section 160, it shall be heard by a bench of not less than two judges and the provisions of Section 98 of the Code of Civil Procedure 1908 (V of 1908), shall, so far as may be, apply in respect of such case.
2. The High Court Division shall, upon hearing any case referred to it under Section 160, decide the question of law raised thereby and shall deliver its judgment thereon stating the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with the judgment.
3. The costs in respect of a reference to the High Court Division under Section 160 shall be in the discretion of the Court.
4. Notwithstanding that a reference has been made under Section 160 to the High Court Division, tax shall be payable in accordance with the assessment made in the case unless the recovery thereof has been stayed by the High Court Division.

SELF REVIEW 19 – 2

Identify in what points appeal to the Appellate Joint Commissioner of taxes are similar to appeal to the Appellate Tribunal. Also state how these two appeal procedure differs.

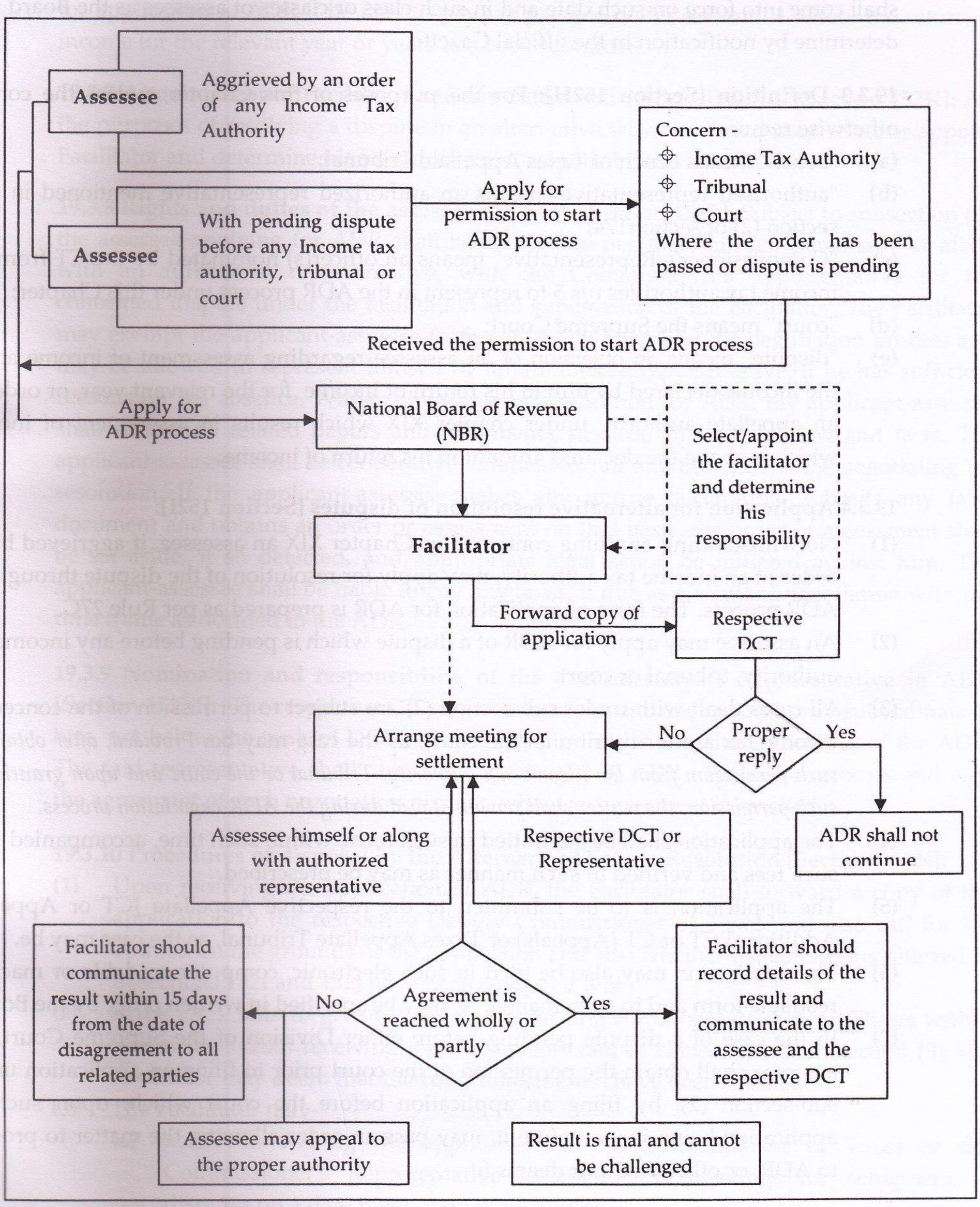
19.2.10 Appeal to the Appellate Division [Section 162]: According to Section 162 of the ITO, 1984, an appeal can be filed against the judgment of the High Court Division, subject to the following provisions:

1. An appeal shall lie to the appellate division from any judgment of the High Court Division delivered under Section 161 in any case which the High Court Division certifies to be a fit one for appeal to the Appellate Division.
2. The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to appeals to the Appellate Division shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of the High Court Division. Provided that nothing in this sub-section shall be deemed to affect the provision of Section 161 (2) or (4). Provided further that the High Court Division may, on petition made for the execution of the order of the Appellate Division in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court Division.
3. Where the judgment of the High Court Division is varied or reversed in appeal under this section, effect shall be given to the order of the Appellate Division in the manner provided in section 161 (2) and (4) regarding such judgment.
4. The provisions of sub-section (3) and sub-section (4) of section 161 relating to costs and payment of tax shall apply in the case of an appeal to the Appellate Division as they apply to a reference to the High Court Division u/s - 160.

19.3 ALTERNATIVE DISPUTE RESOLUTION [SECTION 152F]

Finance Act 2011 introduced a new chapter titled Chapter XVIIIB Alternative Dispute Resolution to resolve any dispute of an assessee lying with any income tax authority, Taxes Appellate Tribunal or Court. The provisions are as follows:

ADR Process Flowchart



19.3.1 Alternative Dispute Resolution [Section 152F]: Notwithstanding anything contained in Chapter XIX (Appeal and Reference) any dispute of an assessee lying with any income tax authority, Taxes Appellate Tribunal or Court may be resolved through Alternative Dispute Resolution (hereinafter referred to as ADR) in the manner described in the following sections of this Chapter and rules made thereunder. Board may, by notification in the official Gazette, specify the class or classes of assessees eligible for ADR or extend the area or areas in which these provisions may be applied.

19.3.2 Commencement of ADR [Section 152G]: The ADR as mentioned in this Chapter shall come into force on such date and in such class or classes of assesses as the Board may determine by notification in the official Gazette.

19.3.3 Definition [Section 152H]: For the purposes of this Chapter, unless the context otherwise requires

(a) "bench" means bench of Taxes Appellate Tribunal;

(b) "authorised representative" means an authorized representative mentioned in sub-section (2) of section174;

(c) "Commissioner's Representative" means an officer(s) nominated by the CT from the income tax authorities u/s 3 to represent in the ADR process under this Chapter;

(d) "court" means the Supreme Court;

(e) "dispute" means an objection of an assessee regarding assessment of income above the income declared by him in his return of income for the relevant year, or order of an appellate authority under chapter XIX which results in assessment of income which is above the declared amount in his return of income;

19.3.4 Application for alternative resolution of disputes [Section 152I]:

(1) Notwithstanding anything contained in Chapter XIX an assessee, if aggrieved by an order of an income tax authority, may apply for resolution of the dispute through the ADR process. The form of application for ADR is prepared as per Rule 27C.

(2) An assessee may apply for ADR of a dispute which is pending before any income-tax authority, tribunal or court.

(3) All cases dealt with under sub-section (2) are subject to permission of the concerned income tax authority/tribunal/the court, as the case may be. *Provided, after obtaining such permission from the income tax authority, Tribunal or the court and upon granting of such permission, the matter shall remain stayed during the ADR negotiation process.*

(4) The application shall be submitted in such form, within such time, accompanied with such fees and verified in such manner as may be prescribed.

(5) The application is to be submitted to the respective Appellate JCT or Appellate Additional CT or CT (Appeals) or Taxes Appellate Tribunal, as the case may be.

(6) The application may also be filed in such electronic, computer readable or machine readable form and in such manner as may be specified in written order by the Board.

(7) In the case of a dispute pending before either Division of the Supreme Court, the assessee shall obtain the permission of the court prior to filing an application under sub-section (2), by filing an application before the court which, upon such an application being made before it, may pass an order allowing the matter to proceed to ADR, or otherwise as it deems fit.

19.3.5 Stay of proceeding in case of pending appeal or reference at Appellate Tribunal or High Court Division [Section 152II]: Where an assessee has filed an application for ADR for any income year and for the same income year, the DCT has filed an appeal before the Appellate Tribunal or the Commissioner has made a reference before the High Court Division and no decision has been made in that respect by the Appellate Tribunal or High Court Division as the case may be, the proceeding of such appeal or reference shall remain stayed till disposal of the application for ADR.

19.3.6 Eligibility for application for ADR [Section 152J]: An assessee shall not be eligible for application to ADR if he fails to pay tax payable under section 74 where the return of income for the relevant year or years has been submitted.

19.3.7 Appointment of Facilitator and his duties and responsibilities [Section 152K]: For the purposes of resolving a dispute in an alternative way, the Board may select or appoint Facilitator and determine his fees, duties and responsibilities by rules.

19.3.8 Rights and duties of the assessee for ADR [Section 152L]: Subject to subsection (2), the assessee applying for ADR shall be allowed to negotiate himself personally or along with an authorized representative, with the Commissioner's Representative for the concerned dispute under the facilitation and supervision of the Facilitator. The Facilitator may exempt the applicant-assessee from personally attending the negotiation process and may be allowed to represent himself by an authorized representative, if he has sufficient reasons for his absence. While submitting an application for ADR, the applicant-assessee shall submit all related papers and documents, disclose all issues of law and facts. The applicant-assessee shall be cooperative, interactive, fair and bonafide while negotiating for resolution. If the applicant-assessee makes any untrue declaration, submits any false document and obtains an order or assessment on that basis, the order or assessment shall be set aside, if so detected, and appropriate legal action be initiated against him. The applicant-assessee shall be liable to pay any taxes, if due as a result of negotiation with the time frame as decided in the ADR.

19.3.9 Nomination and responsibility of the Commissioner's Representative in ADR [Section 152M]: The respective CT may nominate any income tax authority subordinate to him, not below the rank of DCT to represent him in the negotiation process of the ADR. The said representative shall attend the meeting(s) of ADR negotiation process and sign the agreement of such negotiation process, where an agreement is reached.

19.3.10 Procedures of disposal by the Alternative Dispute Resolution [Section 152N]:

(1) Upon receiving the application of ADR, the Facilitator shall forward a copy of the application to the respective Deputy Commissioner of Taxes and also call for his opinion on the grounds of the application and also whether the conditions referred to in sections 152I and 152J have been complied with.

(2) If the DCT fails to give his opinion regarding fulfillment of the conditions within fifteen days from receiving the copy mentioned in clause (c) of sub-section (3), the Facilitator may deem that the conditions thereto have been fulfilled.

(3) The Facilitator may-

- (a) notify in writing the applicant and the Commissioner of Taxes or the Commissioner's Representative to attend the meetings for settlement of disputes on a date mentioned in the notice;
- (b) if he considers it necessary to do so, adjourn the meeting from time to time;
- (c) call for records or evidences from the DCT or from the applicant before or at the meeting, with a view to settle the dispute; and
- (d) before disposing of the application, cause to make such enquiry by any income-tax authority as he thinks fit.

(4) The Facilitator will assist the applicant and the Commissioner's Representative to agree on resolving the dispute(s) through consultations and meetings.

19.3.11 Decision of the ADR [Section 152O]:

(1) A dispute, which is subject to this Ordinance, may be resolved by an Agreement either wholly or in part where both the parties of the dispute accept the points for determination of the facts or laws applicable in the dispute.

(2) Where an agreement is reached, either wholly or in part, between the assessee and the Commissioner's Representative, the Facilitator shall record, in writing, the details of the agreement in the manner as may be prescribed.

(3) The recording of every such agreement shall describe the terms of the agreement including any tax payable or refundable and any other necessary and appropriate matter, and the manner in which any sums due under the agreement shall be paid and such other matters as the Facilitator may think fit to confirm effectiveness.

(4) The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation of facts.

(5) The agreement shall be signed by the assessee and the Commissioner's Representative and the facilitator.

(6) Where no agreement, whether wholly or in part, is reached or the dispute resolution is ended in disagreement between the applicant-assessee and the concerned Commissioner's Representative for noncooperation of either of the parties, the Facilitator shall communicate it, in writing recording reasons thereof, within fifteen days from the date of disagreement, to the applicant and the Board, the concerned court, Tribunal, appellate authority and income tax authority, as the case may be, about such unsuccessful dispute resolution.

(7) Where the agreement is reached, recorded and signed accordingly containing time and mode of payment of payable dues or refund, as the case may be, the Facilitator shall communicate the same to the assessee and the concerned DCT for compliance with the agreement as per provisions of this Ordinance.

(8) No agreement shall be deemed have been reached if the Facilitator fails to make an agreement within two months from the end of the application filling month.

(9) Where there is a successful agreement, the Facilitator shall communicate the copy of the agreement to all the parties mentioned in sub-section (6) within fifteen days from the date on which the Facilitator and the parties have signed the agreement.

19.3.12 Effect of agreement [Section 152P]:

(1) Notwithstanding anything contained in any provision of this Ordinance, where an agreement is reached, under sub-section (9) of section 152O, it shall be binding on both the parties and it cannot be challenged in any authority, Tribunal or court either by the assessee or any other income tax authority.

(2) Every agreement, concluded under section 152O shall be conclusive as to the matters stated therein and no matter covered by such agreement shall, save as otherwise provided in this Ordinance, be reopened in any proceeding under this Ordinance.

19.3.13 Limitation for appeal where agreement is not concluded [Section 152Q]:

(1) Notwithstanding anything contained in any provision of this Ordinance, where an agreement is not reached under this Chapter, wholly or in part, the assessee may prefer an appeal -

(a) to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals), as the case may be, where the dispute arises out of an order of a DCT;

(b) to the Taxes Appellate Tribunal where the dispute arises out of an order of the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals), as the case may be; and

(c) to the respective appellate authority or court from where the assessee-applicant has got permission to apply for ADR.

(2) In computing the period of limitations for filing appeal, the time elapsed between the filing of the application and the decision or order of the ADR shall be excluded.

***Explanation**: For the purpose of this section, "prefer an appeal" means the revival of the appeal with an intimation in writing to the respective appellate authority.*

19.3.14 Post verification of the agreement [Section 152R]:
The Board may monitor the progress of disposal of the application for ADR in the manner as may be prescribed and ensure necessary support and coordination services. Copies of all agreement or matter of disagreement shall be sent by the Facilitator to the respective Commissioner and Board for verification and ascertainment of whether the agreement is legally and factually correct. After receiving the copy of agreement or matter of disagreement, if it appears to the Board that the alleged agreement is obtained by fraud, misrepresentation or concealment of fact causing loss of revenue, then such agreement shall be treated as void and the matter shall be communicated to the concerned authorities, Tribunal or court for taking necessary action.

19.3.15 Bar on suit or prosecution [Section 152S]: No civil or criminal action shall lie against any person involved in the ADR process before any court, tribunal or authority for any action taken or agreement reached in good faith.

KEY POINTS

1. Penalty is imposed for non-compliance with the provisions relating to income tax as per the Income Tax Ordinance, 1984.
2. Penalty is in addition to any other liability.
3. No one can be penalized unless he/she has been heard or has been given a reasonable opportunity of being heard.
4. The Deputy Commissioner of Taxes shall not impose any penalty without prior approval of the Inspecting Joint Commissioner of Taxes except in case of failure to file return.
5. An assessee may prefer an appeal to the Appellate Joint Commissioner of Taxes against the order of the Deputy Commissioner of Taxes in specific grounds.
6. Appeal to the Appellate Joint Commissioner of Taxes should be made in prescribed manner, within specific period (generally 45 days) and with a fee of Tk. 200.
7. Any appeal against the order of the Tax Recovery shall be filed within 30 days from the date of service of the order.
8. An assessee or the DCT can appeal against the order of AJCT or Commissioner (appeal).
9. Appeal to the Appellate Tribunal should be filed in prescribed manner, within specific period (generally 60 days) and with a fee of Tk. 1,000.
10. To resolve any question of law the assessee or the commissioner may apply to the High Court Division in prescribed manner, within 90 days and with a fee of Tk. 2,000.

Summary Table

Section	Subject	Penalty Provision
123(a)	Not maintaining accounts in the prescribed manner: **(a)** If the assessee has no income from house property	Maximum 1.5 times of tax liability. Tk. 100 if the total income of the assessee does not exceed the maximum amount on which tax is not chargeable.
123(b)	**(b)** If the assessee has income from house property	50% of taxes payable on house property income or Tk. 50,000, whichever is higher
124(1)	Failure to file return	10% of tax imposed on last assessed income subject to a minimum of Tk. 1,000 *Continuing default:* additional penalty Tk. 50 per day during which the default continues. *Penalty shall not exceed:* ⇒ *For individual whose income was not assessed previously - Tk. 5,000* ⇒ *For individual whose income was assessed previously - higher of 50% of the tax payable on the last assessed income or Tk. 1,000*
124(2)	Failure to furnish certificate	Penalty of Tk. 500 *Continuing default:* additional penalty Tk. 250 for every month of fraction during which the default continues.
124A	Use of fake TIN	Not exceeding Tk. 20,000
124AA	Penalty for failure to verify TIN	Not exceeding Tk. 200,000 and Tk. 50,000 as the case may be.
125	Failure to pay advance tax or furnish untrue estimates of tax	Maximum penalty = Amount of advance tax – Actual tax paid
126	Non compliance with notice	Maximum = tax liability on total income
127	Failure to pay tax on the basis of return	Maximum = 25% of unpaid tax liability
128(1)	Concealment of income or understate value of any immovable property to evade tax	15% of avoided tax amount or as the case may be, the value of the immovable property as stated by him been accepted as correct. *Provided that, if the concealment is detected after one year of actual assessment year, additional 15% for each preceeding assessment year.*
129A	Penalty for incorrect or false audit report by chartered accountant	Not less than Tk. 50,000 but not more than Tk.200,000
129B	Penalty for furnishing fake audit report	Tk. 100,000 for that income year

Multiple choice questions:

1. Generally who has the authority to impose penalty –
   (a) High Court Division
   (b) Appellate Tribunal
   (c) Deputy Commissioner of Taxes
   (d) Tax Recovery Officer
2. Penalty shall not be imposed without the previous approval of the Inspecting Joint Commissioner except in the cases of –
   (a) not maintaining accounts in prescribed manner
   (b) failure to file return
   (c) failure to furnish certificate
   (d) non compliance with notice
3. Where the assessment of tax was made by the assessee himself and it was accepted by the DCT as correct although the assessee conceal income, the maximum penalty would be –
   (a) 2.5 times of tax, assessee has been avoided
   (b) 3 times of tax, assessee has been avoided
   (c) 4 times of tax, assessee has been avoided
   (d) 10% of tax, assessee has been avoided
4. Where any person has, without reasonable cause, failed to comply with any notice issued to produce accounts and documents, a penalty may impose not exceeding the amount of –
   (a) 2.5 times of tax liability
   (b) 1.5 times of tax liability
   (c) tax liability on total income
   (d) none of the above
5. Penalty is 25% of unpaid tax liability when the assessee –
   (a) does not maintaining accounts in prescribed manner
   (b) fail to pay tax on the basis of return
   (c) fail to furnish certificate
   (d) does not comply with notice
6. When the assessee is not satisfied with the order of the Deputy Commissioner of Taxes, he/she may prefer an appeal to the –
   (a) Appellate Joint Commissioner of Taxes
   (b) High Court Division
   (c) Appellate Tribunal
   (d) Appellate Division
7. A company can appeal against the order of the Deputy Commissioner of Taxes in the following grounds except –
   (a) the amount of loss computed under section 37
   (b) imposition of interest under section 73
   (c) refusal to allow a claim to a refund
   (d) imposing of penalty for failure to file return
8. Every appeal to Appellate Joint Commissioner shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of –
   (a) Tk. 500
   (b) Tk. 400
   (c) Tk. 300
   (d) Tk. 200

9. Any appeal against the order of the Tax Recovery Officer shall be file within –
   (a) 60 days from the date of service of the order
   (b) 30 days from the date of service of the order
   (c) 80 days from the date of service of the order
   (d) 90 days from the date of service of the order
10. An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of –
   (a) an Appellate Joint Commissioner or the Commissioner (Appeals)
   (b) the Deputy Commissioner of Taxes
   (c) Appellate Division
   (d) High Court Division

Identify the following statements as True (T) or False (F):

1. Penalty substitute tax liability.	T	F
2. No penalty can be imposed without hearing.	T	F
3. Like an assessee, the Deputy Commissioner of Taxes can also appeal to the Appellate Tribunal.	T	F
4. An appeal to the Appellate Tribunal should be made within 90 days from the date when the order is communicated with the assessee.	T	F
5. A bench is formed in the High Court Division for hearing with not more than two judges.	T	F

Discussion Questions:

Question 19 – 1: State the grounds for which an assessee may penalize according to Income Tax Ordinance, 1984.

Question 19 – 2: Followings are the statements relating to imposition of penalty. Identify each of them as either true or false. If the statement is false, state the correct answer according to Income Tax Ordinance, 1984.

(a) Where any person has, without reasonable cause, *failed to comply with any notice* issued by the DCT, a penalty will impose on him by an amount of Tk. 2,500.

(b) DCT can impose penalty to any assessee *without prior approval* from anybody else.

(c) Where any person has, without reasonable cause, *failed to pay advance tax or furnish untrue estimate of tax liability*, a penalty may impose upon him a sum not exceeding 25% of the whole of the tax.

(d) Where any person has, without reasonable cause, *failed to file a return of income*, the DCT may impose upon such person a penalty not exceeding Tk. 100 and if the default continues Tk. 250 per month or fraction.

Question 19 – 3: State under what circumstances an assessee prefer an appeal to the Appellate Joint Commissioner of Taxes, if the assessee –

(a) is not a company

(b) is a company

Question 19 – 4: Describe how an assessee file his/her appeal and how the Appellate Joint Commissioner of Taxes undertake appeal procedure.

Question 19 – 5: Describe the provisions relating to appeal to the Appellate Tribunal.

Question 19 – 6: Miss Afroza Rahman is a regular tax payer who is aggrieved by an order placed by the Deputy Commissioner of Taxes where she was penalized Tk. 9,750 for not maintaining accounts in the prescribed manner and Tk. 22,000 for concealment of income. Miss Rahman likes to appeal against such orders and asked for your help. Answer the followings questions asked by Miss Rahman.

(a) Under what circumstances can an assessee other than a company prefer an appeal?
(b) To whom Miss Rahman should place the appeal?
(c) When and how should she place the appleal?
(d) What penalty provision is applicable for Miss Rahman's offences?

Question 19 – 7: **"Penalty to be without prejudice to other liability"** – explain.

Question 19 – 8: Write short note on:

(a) Penalty for non compliance with notice
(b) Penalty for failure to file return
(c) Appeal to Appellate Division
(d) Reference to the High Court Division

Answers:

Multiple choice questions				True/False
1.	c	6.	a	1. F
2.	b	7.	d	2. T
3.	d	8.	d	3. T
4.	c	9.	b	4. F
5.	b	10.	a	5. F

Self-review 19 – 1:

Mr. Ahmed will be penalized according to Section 124(1) of the Income Tax Ordinance, 1984 and the amount of penalty will be Tk. 2,950 in the said year because of his failure to file return.

Calculation of penalty: 10% of Tk. 22,000 = Tk. 2,200 or minimum Tk. 1,000= Tk. 2,200
Plus (50 × 4) = Tk. 200 for default period = Tk. 200
Total = Tk. 2,400

Self review 19 – 2:

Similarities:

1. In both cases appeal should made in prescribed form and verified in prescribed manner.
2. Both the appeal shall file within 60 days from the date of order against which the appeal sought to be made. But if the authority is satisfied that there was sufficient cause for not presenting the appeal within that period then may admit an appeal after expiry of 60 days.

Dissimilarities:

In case of appeal to the Appellate Joint Commission of taxes a fee of Tk. 200 and in case of appeal to the Appellate Tribunal Tk. 1,000 need to be accompanies with the application of appeal. To file an appeal to the Appellate Tribunal the assessee should pay 10 % of (tax based on return – tax determined by the Appellate Joint Commissioner of taxes). On the other hand no such requirement is there to file an appeal to the Appellate Joint Commissioner of taxes.

CHAPTER – 20
MISCELLANEOUS

LEARNING OBJECTIVES

After studying Chapter 20, you shall be able to understand:

- the concept of:
  - → tax holiday scheme
  - → recovery of tax
  - → tax refund
  - → offences and prosecution
  - → tax planning
- the criteria to entitle these benefits
- different modes and conditions of these benefits Bangladesh

20.1 TAX HOLIDAY SCHEME

It is one kind of special scheme taken by NBR to enhance rapid industrialization in Bangladesh. Under this, some specific newly established industrial undertakings are given exemption from payment of income tax upto a certain period of time subject to the fulfillment of some conditions. As per section 15(b) of the ITO, 1922, Tax Holiday Scheme was first introduced in Pakistan in 1959. After the independence of Bangladesh, this scheme was repealed in 1972 by an ordinance. But again, to boost up rapid industrialization in the country, this scheme has again been re-introduced in 1974 introducing Sec. 14(a) in the ITO, 1922. In the ITO, 1984, the government has retained the scheme as per section 45, 46 and 47. The main objectives of this scheme are to encourage formation of domestic capital as well as attracting FDI to enhance the rapid industrialization of the country.

20.1.1 Tax holiday for Industrial Undertakings [Section – 46B]: As per Section 46B of the ITO, 1984, for the purpose of the tax holiday "Industrial undertaking" means an industry engaged in the production of active pharmaceuticals ingredient industry and radio pharmaceuticals industry, automobile manufacturing industry, barrier contraceptive and rubber latex, basic chemicals or dyes and chemicals, basic ingredients of electronic industry (e.g. resistance, capacitor, transistor, integrator circuit), bi-cycle manufacturing industry, bio-fertilizer, biotechnology, boilers, brick made of automatic Hybrid Hoffmann Kiln or Tunnel Kiln technology, compressors, computer hardware, energy efficient appliances, insecticide or pesticide, petrochemicals, pharmaceuticals, processing of locally produced fruits and vegetables, radio-active (diffusion) application industry (e.g. developing quality or decaying polymer or preservation of food or disinfecting medicinal equipment, textile machinery, tissue grafting, tire manufacturing industry or any other category of industrial undertaking as the Government may by notification in the official Gazette specify. But for the purpose of this section industrial undertaking shall not include expansion of such an existing undertaking. As per Section 46B, the income, profits or gains of an industrial undertaking set up in Bangladesh between specified periods are eligible for tax holiday subject to fulfillment of specified conditions. Industrial Undertakings specified for Tax Holiday option presently available:

Section 46B: The income, profits or gains of an industrial undertaking set up in Bangladesh between 1st July, 2011 to 30th June, 2019 (both days inclusive) will be exempted from tax for the period beginning with the commencement of its commercial service specified below:

Specified Areas	Total period of exemption	Period of Exemption	Rate of Exemption
Dhaka, Mymensingh and Chittagong divisions (excluding Dhaka, Narayanganj, Gazipur, Chittagong, Rangamati, Bandarban and Khagrachari)	5 years	For the first 2 years (1st and 2nd year)	100% of income
		For the 3rd year	60% of income
		For the 4th year	40% of income
		For the 5th year	20% of income
Rajshahi, Khulna, Sylhet, Barisal and Rangpur divisions (Excluding City Corporation Area) and Rangamati, Bandarban and Khagrachari	10 years	For the first 2 years (1st & 2nd year)	100% of income
		For the 3rd year	70% of income
		For the 4th year	55% of income
		For the 5th year	40% of income
		For the 6th year	25% of income
		For the 7th to 10th year	20% of income

Provided that any industry is engaged in the production of bio-fertilizer or petro-chemicals, they shall be entitled for exemption from tax under this section even it is set up in the districts of Dhaka, Gazipur, Narayanganj or Chittagong.

20.1.2 Tax holiday for Physical Infrastructure Facility [Section 46C]: As per Section 46C of the ITO, 1984, for the purpose of the tax holiday "Physical Infrastructure Facility" means deep sea port, elevated expressway, export processing zone, flyover, gas pipe line, Hi-tech park, Information and Communication Technology (ICT) village or software technology zone, Information Technology (IT) park, large water treatment plant and supply through pipeline, Liquefied Natural Gas (LNG) terminal and transmission line, mono-rail, rapid transit, renewable energy (e.g. energy saving bulb, solar energy plant, windmill), sea or river port, toll road or bridge, underground rail, waste treatment plant or any other category of physical infrastructure facility as the Government may by notification in the official Gazette specify. As per Section 46C, the income, profits or gains of an industrial undertaking set up in Bangladesh between specified periods are eligible for tax holiday subject to fulfillment of specified conditions.

Physical Infrastructure Facility specified for Tax Holiday option presently available:
Section 46C: The income, profits or gains of a Physical Infrastructure Facility set up in Bangladesh between 1st July, 2011 to 30th June, 2019 (both days inclusive) will be exempted from tax for ten years beginning with the commencement of its commercial service specified below:

Period of Exemption:	Rate of Exemption
For the first 2 years (1st & 2nd year)	100% of income
For the 3rd year	80% of income
For the 4th year	70% of income
For the 5th year	60% of income
For the 6th ear	50% of income
For the 7th year	40% of income
For the 8th year	30% of income
For the 9th year	20% of income
For the 10th year	10% of income

SELF REVIEW 20 – 1

State the period of tax holiday applicable for followings industries set up in Dhaka between 1st July, 2011 to 30th June, 2019: **(a)** Industrial undertaking **(b)** Physical infrastructure facility.

20.1.3 Conditions for approval of Tax Holiday for Industrial Undertakings, Tourism Industry and Physical Infrastructure Facility: The period covering tax holiday facilities for industrial undertakings and tourism industry under section 45(1), 45(2A), 46(1), 46A and 46(2A) have already been expired. Now as per section 46B the conditions to avail tax holiday facility for an industrial undertakings or physical infrastructure facility are:

(1) That the industry is owned and managed by-

- **i)** a body corporate established by or under an Act of Parliament with its head office in Bangladesh.
- **ii)** A company as defined in the Companies Act, 1913 or 1994 with its registered office in Bangladesh and having a subscribed and paid up capital of not less than twenty lakh taka (under Section 46B and 46C) on the date of commencement of commercial production or operation.

(2) That 30% of the exempted income is invested during the period or within one year from the end of the exemption period, in the same undertaking or in the new industrial undertaking. In addition to that 10% of the exempted income is invested in each year before the expiry of 3 months from the end of the income year in the purchase of shares of a company listed with any stock exchange.

(3) That the said undertaking is not formed by splitting up or by reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in business which was being carried on in Bangladesh at any time before the commencement of the new business.

(4) That the said undertaking is approved by the NBR.

(5) An application in the prescribed form for approval of the undertaking should be filed to the Board within six months from the end of the month of commencement of commercial production or operation. For industrial undertaking and physical infrastructure facility the format mentioned in Rule 59A and Rule 59AA respectively will be followed.

(6) That the said undertaking obtained a clearance certificate for the relevant income year from the Directorate of Environment.

(7) That the said undertaking maintains books of accounts on a regular basis and submits return of its income as per Section 75 of the ITO.

20.1.4 Approval procedure of Tax Holiday by the Board [Section 46C]: The NBR shall give its decision within 45 days from the date of receipt of the application failing which the undertaking shall be deemed to have been approved for tax holiday. Provided that, the Board shall not reject an application without giving the applicant a reasonable opportunity of being heard. If any person is aggrieved by the Board's decision, an application may be made within four months from the date of receipt of the Board's decision for revision of its previous decision/order. The Board may pass such order in relation thereto as it thinks fit.

20.1.5 Determination of Income of an industry enjoying Tax Holiday [Section 46C (6), (7) & (8)]: The profits and gains of the industries enjoying tax holiday will be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession". In this regard the following factors should be considered:

(i) The profits/gains of the said undertaking shall be computed separately from other income, profits and gains of the assessee. And any loss shall be carried forward to set off against income from same undertaking in the following year or years but loss shall not be carried forward beyond tax-holiday period.

(ii) In respect of depreciation, only the allowances for normal depreciation specified in paragraph 3 of the Third schedule shall be allowed.

(iii) Any dividend distributed by a tax-holiday company to its shareholders out of its exempted profit shall not be exempt from tax.

(iv) Capital gains earned by a tax-holiday undertaking shall not be exempt from tax.

(v) Any income of the said undertaking resulting from disallowance made u/s - 30.

20.1.6 Withdrawal and Cancellation of Exemptions [Section 46C (9, 10, 11) & 46B (11, 12, 13)]: As per section 46C, for the following reasons the tax exemption facility can be withdrawn or cancelled by the NBR:

(i) Where any exemption is allowed u/s-46C and in the course of making assessment, the DCT is satisfied that any of the conditions specified in this section are not fulfilled or any individual not being a Bangladeshi citizen is employed or allowed to work without prior approval of the Board of Investment or any competent authority of the Government, as the case may be, for this purpose, the exemption will stand withdrawn for the relevant assessment year and the DCT shall determine the tax payable for such year.

(ii) An approved undertaking may apply in writing not later than one year from the date of approval, for cancellation of the approval.

(iii) The Board in the public interest may cancel or suspend fully or partially any exemption allowed under this section.

20.1.8 Exemption of Income of Co-operative Societies [Section – 47]: Tax shall not be payable by a co-operative society in respect of –

(a) the entire income from business carried on by it, if it is engaged in:-

- **(i)** agricultural or rural credit;
- **(ii)** cottage industry;
- **(iii)** marketing of agricultural produce of its members;
- **(iv)** purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members;
- **(v)** such processing, not being the performance of any manufacturing operation with the aid of power, of the agricultural produce of its members as is

ordinarily employed by a cultivator to render marketable the agricultural produce raised by him; and

(b) any income derived from the letting of go downs or warehouses for the purpose of storage, processing or facilitating the marketing of commodities belonging or meant for sale to its members.

20.1.9 Tax Holiday at Export Processing Zone (EPZ): To enhance the economic development and industrialization in the country, Bangladesh government has passed the Bangladesh Export Processing Zones Authority Act in 1980. As per section 10 of this act, the government can declare a specific area which is set to establish industries as Export Processing Zone (EPZ). Income of any industry set up in any EPZ will enjoy tax exemption facilities at specified rates for a number of years from the date of commencement of commercial production of the said industry. The concessions have been granted to the industries set up in any EPZ under the notifications issued by the Internal Resources Division of the Ministry of Finance through various S.R.Os. The special facilities for establishment of Industry in EPZ are as follows:

(1) Exemption of income of any industry set up in any Export Processing Zone [S.R.O. No. 219-LAW/IT/2012 dated 27th June, 2012]: Income of any industry set up in any EPZ declared u/s 10 of BEPZA Act, 1980 has been exempted u/s 44(4)(b) for a period of 5 to 7 years from the date of commencement of commercial production of the said industry as follows:

Specified Areas	Total period of exemption	Period of Exemption	Rate of Exemption
Dhaka & Chittagong divisions (excluding Rangamati, Bandarban and Khagrachari)	5 years	For the first 2 years (1st and 2nd year)	100% of income
		For the next 2 years (3rd and 4th year)	50% of income
		For the last 1 year (5th year)	25% of income
Other divisions and Rangamati, Bandarban and Khagrachari districts	7 years	For the first 3 years (1st , 2nd & 3rd year)	100% of income
		For the next 3 years (4th , 5th and 6th year)	50% of income
		For the last 1 year (7th year)	25% of income

These organizations have to maintain proper accounts and submit income tax return as per section 75 within stipulated time. This facility will be applicable from 1st January, 2012.

(2) Accelerated depreciation upto 100% for plant or machinery used in specified hi-tech electronic industry [S.R.O. No. 269-L86 dated 1st July, 1986]: Machinery or Plant other than office appliances and road transport vehicles (not having been previously used in Bangladesh) used in the specified hi-tech electronic industry set up in any of the EPZs shall be allowed to enjoy Accelerated depreciation upto 100% of the cost within the tax exemption period subject to submission of the application for such facility to the NBR within four months of the installation of machinery or plant.

SELF REVIEW 20 – 2

State any two conditions relating to tax holiday benefit for the industrial undertakings.

20.2 RECOVERY OF TAX

The procedure regarding recovery of income tax has been explained under the sections 134 to 143 of the ITO, 1984. As per Section 134, for the purposes of recovery, "tax" includes any sum imposed, levied or otherwise payable under this Ordinance as penalty, fine, interest, fee or otherwise; and the provisions of this chapter shall accordingly apply to the recovery of any such sum. The details of other provisions are enumerated below:

20.2.1 Notice of Demand [Section – 135]:

1) Where any tax is payable in consequence of any assessment made or any order passed under or in pursuance of this Ordinance, the DCT shall serve upon the assessee a notice of demand in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable, together with a copy of an assessment order.
2) Where the assessee upon whom a notice of demand has been issued under sub-section (1) makes an application in this behalf before the expiry of the date of payment specified in the notice, the DCT may extend the time for payment or allow payment by installments subject to such conditions, including payment of interest on the amount payable, as he may think fit in the situation of the case.
3) If the sum payable is not paid within the stipulated time under sub-section (1) or (2), the assessee shall be deemed to be in default; provided, if there is an appeal, the DCT will treat the assessee as not being in default till the appeal is not disposed of.
4) If, in a case where payment by installment has been allowed under sub-section (2), the assessee commits default in paying any one of the installments within the time fixed therefore, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other installment or installments shall be deemed to have been due on the same date as the installment in respect of which default has actually been committed was due for payment.
5) Where an assessee has been assessed in respect of income arising outside Bangladesh in a country the laws of which prohibit or restrict the remittance of money to Bangladesh, the DCT shall not treat the assessee as in default in respect of that part of the tax which is due in respect of such amount of income as cannot, by reason of the prohibition or restriction, be brought into Bangladesh, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

20.2.2 Penalty for Default in Payment of Tax [Section – 137]:

Where an assessee is in default or is deemed to be in default in making payment of tax, the DCT may direct that, in addition to the amount of tax in arrears, a sum not exceeding that amount shall be recovered from the assessee as penalty. Where, as a result of any final order, the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

20.2.3 Certificate for Recovery of Tax [Section – 138]: When an assessee is in default or is deemed to be in default in making payment of tax, the DCT may forward to the Tax

Recovery Officer a certificate for recovery of the tax, under his signature specifying the amount of arrears due from the assessee; and such certificate may be issued notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

20.2.4 Various Modes of Recovery of Tax:

20.2.4.1 Recovery of Tax by the Tax Recovery Officer [Section – 139]:

1) In the case of default in payment of tax by an assessee, the DCT may forward the case to the concerned Tax Recovery Officer (TRO) to recover the arrear tax specified in the certificate by one or more of the following modes, namely:-
   a) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
   b) arrest of the assessee and his detention in prison;
   c) appointment of a receiver for the management of the movable and immovable properties of the assessee.
2) While recovering the arrear tax under sub-section (1), the Tax Recovery Officer may also recover in the same manner from the assessee in default, in addition to such amount, any cost and charges, including expenses of the service of any notice or warrant, incurred in the proceedings for the recovery of the tax in arrears.
3) The TRO may also forward the certificate of recovery to other TROs, if necessary.

20.2.4.2. Recovery of Tax through Collector of District [Section – 142]:

1) The DCT may forward the case of default by an assessee, to the collector of district in which the office of the DCT is situate or the district in which the assessee resides or owns property or carries on business or profession, a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipts of such certificate, shall proceed to recover, from such assessee the amount specified therein as if it were an arrear of land revenue.
2) For the purposes of recovery of the default tax, the Collector of District may also exercise the power of a Civil Court.
3) The DCT, at any time, recall the certificate back from the Collector of District under reasonable circumstances.

20.2.4.3. Recovery of Tax through Special Magistrates [Section – 142A]:

1) Without prejudice to the provisions of section 142, the DCT may forward to a, Magistrate of the First Class, specially empowered in this behalf by the Government, a certificate for recovery of tax and the Magistrate shall, on receipt of such certificate, proceed to recover from the assessee the amount specified therein as if it were an arrear of land revenue and the Special Magistrate were a Collector of District.
2) For the purposes of recovery of the default tax, the Special Magistrate may also exercise the power of a Civil Court.
3) The DCT, at any time, recall the certificate back from the Special Magistrate under reasonable circumstances.

20.2.4.4. Other Modes of Recovery [Section – 143]: In addition to the approaches mentioned above, the DCT may also recover the tax in the following manners:

(a) For the purpose of recovery of tax payable by an assessee which is not disputed in appeal to any appellate forum, the DCT may, with the previous approval of the Commissioner, after giving the assessee an opportunity of being heard, stop movement of any goods and services from the business premises of such assessee

and also shutdown such business premises till the recovery of the tax referred to above or any satisfactory arrangement has been made for the recovery of such tax.

(b) Here, the DCT may also issue a notice to any person from whom any money or goods is due or may become due to the assessee, or who holds, or controls the receipt or disposal of, or may subsequently hold, or control the receipt or disposal of, any money or goods belonging to, or on account of, the assessee, to pay to the DCT the sum specified in the notice on or before the date specified therein for such payment;

(c) The DCT may issue notice to the employers of the assessee to deduct the taxes in arrears from the salaries of those persons as specified in the notice and pay the same so deducted to the credit of the government.

(d) In any area for which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipa1 tax or local rate imposed under any enactment for the time being in force in any part of Bangladesh, the DCT may proceed to recover the amount due by such process.

(e) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under the above sub-section.

SELF REVIEW 20 – 3

(a) State the modes of tax recovery by TRO from an assessee in default.

(b) State the procedure regarding recovery of tax through Special Magistrates.

20.3 REFUNDS

The provisions regarding refund of taxes are as follows:

20.3.1 Entitlement to Refund [Section – 146]: A person, who satisfies the income tax authority that he has paid more amount as tax than as it actually would be chargeable under the Ordinance, shall be entitled to a refund of any such excess. Where the income of the person is included under any provision of this Ordinance in the total income of any other person, such other person alone shall be entitled to a refund under this chapter in respect of such income.

20.3.2 Claim of Refund for Deceased or Disabled Persons [Section – 147]: Where through death, incapacity, insolvency, liquidation or other cause, a person, is unable to claim or receive any refund due to him, his legal representative, or the trustee, guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

20.3.3 Refund on the Basis of Orders in Appeal [Section – 149]: Where, as a result of any order passed in appeal or other proceeding under this Ordinance, refund of any amount becomes due to an assessee, the DCT shall, refund the amount, unless set off against tax or treated as payment of tax as per provisions of section 152, to the assessee, within thirty days from the date on which the refund has become due without his having to make any claim in that behalf.

20.3.4 Form of Claim for Refund and Limitation [Section – 150]: Every claim for refund under sections 146 and 147 shall be made in such form and verified in such manner as may be prescribed.

20.3.5 Interest on Delayed Refund [Section – 151]: Where a refund due to an assessee is not paid within two months of the date of claim for refund or refund becoming due consequent upon any appellate order or of other proceedings under this Ordinance, simple interest at the rate of 7.5% per annum shall be payable to the assessee on the amount of refund from the month following the said two months to the date of actual refund.

20.3.6 Adjustment of Refund against Tax [Section – 152]: Where under any provision of this Ordinance or of the Gift-tax Act, 1963 or the Wealth-tax Act, 1963 a refund is due, the DCT may, in lieu of payment of refund, set off the amount in full or part against the sum, if any, payable under this Ordinance, by the person but at the option of that person in writing.

20.4 OFFENCES AND PROSECUTION

As per chapter XXI of the ITO, 1984, the offences and prosecutions are as follows:

20.4.1 Punishment for Non-Compliance of Certain Obligations [Section – 164]:

A person is guilty of an offence punishable with imprisonment for a term which may extend to one year, or with fine, or with both, if he, without reasonable cause,-

(a) fails to deduct or collect and pay any tax as required under the provisions of Chapter VII except advance payment of tax or fails to deduct and pay tax as required under section 143(2);

(b) fails to produce, or cause to be produced, on or before the date mentioned in any notice under Chapter VIII, or under section 83, such accounts, documents or statements as are referred to in such notice;

(c) fails to furnish, in due time, the return of income which he is required to furnish under section 75, or by notice given under section 77 or 93;

(d) refuses to furnish such information as may be necessary under section 113.

(e) refuses to permit inspection or to allow copies to be taken in accordance with the provisions of section 114;

(f) fails to afford necessary facilities or to furnish the required information to an income tax authority exercising powers under section 115;

(g) fails to comply with the requirement under section 116(1);

(h) fails to comply with the order made under section 116A(1); or

(i) refuses to permit or in any manner obstructs the exercise of powers under section 117 by an income tax authority.

20.4.2 Punishment for False Statement in Verification [Section – 165]: A person is guilty of an offence punishable with imprisonment for a term, which may extend to three years, but shall not be less than three months, or with fine, or with both, if he makes a false statement in any return or any other documents.

20.4.3 Punishment for improper use of tax-payer's Identification Number [Section – 165A]: A person is guilty of an offence punishable with imprisonment for a term which may extend to three years or with fine up to Tk. 50,000 or both, if he deliberately uses or used a fake TIN or a TIN of another person.

20.4.4 Punishment for furnishing fake audit report [Section – 165AA]: A person is guilty of an offence punishable with imprisonment for a term which may extend to three years, but shall not be less than three months, or with fine upto taka one lakh, or both, if he

furnishes along with the return of income or thereafter any audited statement of accounts which is false or does not conform with signature of a chartered accountant purported to be signatory to such statement.

20.4.5 Punishment for obstructing an income tax authority [Section – 165B]: A person who obstructs an income tax authority in discharge of functions under this ordinance shall commit an offence punishable with imprisonment for a term not exceeding one year, or with a fine, or with both.

20.4.6 Punishment for unauthorized employment [Section – 165C]: A person is guilty of an offence punishable with imprisonment for a term which may extend to three years, but shall not be less than three months, or with fine up to taka five lakh, or both, if he employs or allows to work any individual not being a Bangladeshi citizen without prior approval from Board of Investment or any competent authority of the government as the case may be.

20.4.7 Punishment for Concealment of Income [Section – 166]: A person is guilty of an offence punishable with imprisonment which may extend to five years, but shall not be less than three months, or with fine, or with both, if he conceals the particulars, or deliberately furnishes inaccurate particulars, of his income.

20.4.8 Punishment for Disposal of Property to Prevent Attachment [Section – 167]: The owner of any property, or a person acting on his behalf or claiming under him, is guilty of an offence punishable with imprisonment for a term which may extend to five years, or with fine, or with both, if he sells, mortgages, charges, leases or otherwise so deals with the property after the receipt of a notice from the Tax Recovery Officer as to prevent its attachment by that Officer.

20.4.9 Punishment for Disclosure of Protected Information [Section – 168]: A public servant, or any person assisting, or engaged, by any person acting in the execution of this Ordinance, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine, if he discloses any particulars or information in contravention of the provisions of section 163.

20.4.10 Sanction for Prosecution [Section – 169]: No prosecution for an offence punishable under any provisions of this Chapter shall be instituted except with the previous sanction of the Board.

20.4.11 Power to Compound Offences [Section – 170]: The Commissioner may, either before or after the institution of any proceedings or prosecution for an offence punishable under this Chapter, compound such offence.

20.4.12 Trial by Special Judge [Section – 171]

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, an offence punishable under this Chapter, other than an offence under section 168, shall be tried by a Special Judge appointed under the Criminal Law Amendment Act, 1958 (XL of 1958), as if such offence were an offence specified in the Schedule to that Act.

(2) A Special Judge shall take cognizance of, and have jurisdiction to try, an offence trialable by him under sub-section (1) only upon a complaint in writing made, after obtaining the sanction under 169, by the Deputy Commissioner of Taxes-

(a) who is competent to make assessment under this Ordinance in the case to which the offence alleged to have been committed relates, and

(b) whose office is situated within the territorial limits of the jurisdiction of the Special Judge.

20.5 TAX PLANNING: CONCEPT AND MEANING

As we know that, tax is a compulsory payment to the state by the people of the country who come under the orbit of tax laws. But most of the assessee generally tries to minimize his tax payment through evasion as well as avoidance. Unfortunately, the terms "tax evasion" and "tax avoidance" are often used interchangeably. **Tax avoidance** is the legal utilization of the tax regime to one's own advantage, in order to reduce the amount of tax that is payable by means that are within the law. By contrast **tax evasion** is the general term for efforts to not pay taxes by *illegal* means. On the other hand, **tax planning** is a strategy of minimizing tax liability for an individual or company by analyzing the tax implications of various options throughout a tax year. Tax planning involves choosing a filing status, figuring out the most advantageous time to realize capital gains and losses, knowing when to accelerate deductions and postpone income or vice versa, setting up a proper investment plan to avail the maximum amount of tax rebate and reduce income taxes, and other legitimate tax-saving moves. Tax planning involves conceiving of and implementing various strategies in order to minimize the amount of taxes paid for a given period. For an assessee, minimizing the tax liability can provide more money for expenses, investment, or growth. Tax knowledge has powerful profit potential. Knowing what the tax law has to offer can give an assessee a far better bottom line than his competitors who don't bother to learn. It emphasizes mainly on tax relief related activities with a view to minimizing the tax liability.

20.5.1 General Principles of Tax Planning: There are several general principles of tax planning that apply to all sorts of assessee. These areas include the choice of accounting and inventory-valuation methods, the timing of equipment purchases, the spreading of business income among family members, and the selection of tax-favored benefit plans and investments. There are also some areas of tax planning that are specific to certain business forms—i.e., sole proprietorships, partnerships, corporations, and individual assessee. Some of the general principles of planning are: **(1)** Tax planning strategy should be taken on the basis of existing provisions of the tax laws to achieve short-term as well as long-term benefits. **(2)** Tax planning strategy should not exceed the legal boundary i.e. it may be used as a tool of avoiding tax, not to evade since evasion is illegal. **(3)** Alternative investment opportunities should be critically analyzed to ensure maximum benefit in terms of investment, savings, growth and tax advantage. **(4)** Time value of money should be given proper importance while establishing the tax planning strategies.

20.5.2 Merits and Demerits of Tax Planning:

Any Income Tax Act is seldom drafted with perfection and often are there scopes for enjoying the maximum benefits by avoiding the hardship of levy within the legal framework. The law allows various deductions, exemptions, rebates, reliefs etc. Advantage may be taken for all these by the assessee. Moreover, it may have some demerits also.

Merits: (1) Effective tax planning reduces the tendency of tax evasion by the assessees. **(2)** It helps the assessee to minimize the tax liability. **(3)** It helps the assessee to enhance savings which in turn also acts as a mechanism of domestic resource mobilization. **(4)** It helps to build up an effective and efficient relationship between the taxpayer and tax authority. **(5)** Effective tax planning improves the tax compliance behavior of an assessee.

Demerits: **(1)** Frequent changes in tax law sometimes make some tax planning motive ineffective. **(2)** Effective tax planning has a negative impact in fulfilling the revenue target of the tax authority. **(3)** Inflation may hamper the tax planning benefits. **(4)** Long-term tax planning strategy may not be effective due to various changes in tax laws as well as economic conditions of the country.

20.5.3 Techniques and Methods of Tax Planning: Bangladesh Perspective: The Income Tax Ordinance, 1984, provides sufficient rooms for the assessee to minimize their tax through establishing several techniques. Many aspects of tax planning are specific to certain nature of taxpayer or business forms; some of these are:

20.5.3.1 Tax planning techniques used by an Individual Assessee: Under the umbrella of the provisions of the ITO, 1984, an individual assessee can minimize his payment of tax considering the following strategies in course of his tax planning:

1. **Investment in Tax free Securities:** An individual may invest his money in several types of tax-free government securities, as the interest income from such securities are fully exempted from tax. So the investment in government securities will allow the taxpayer to increase the amount of income without any obligation of tax payment for such income.
2. **Investment in Zero Coupon Bond:** An individual may invest his money in approved zero-coupon bonds issued by various institutions, as the interest incomes from such bonds are fully exempted from tax. This is also one of the most unique tools to maximize income without any obligation of tax payment.
3. **Investment in stock market:** An individual assessee may invest his fund in various shares. Up to Tk. 25,000 of dividend income is exempted for mutual fund shares and also Tk. 25,000 for other shares and moreover such investment is also considered as a part of investment allowance on which tax rebate is allowed.
4. **Investment in Businesses, income from which is non-assessable:** An individual assessee may start such business where the income is fully non-assessable. Such as, income from poultry, handicrafts business etc.
5. **Use of loan in investment in capital assets:** An individual assessee may use loan to acquire capital assets for the business. In such a case he will not only charge depreciation as allowable expense as well as the interest on such loan.
6. **Submission of separate return by the family members:** In a joint family, even in case of husband and wife, if they submit separate tax return they can avail maximum advantage of minimum non-assessable income limit which is (Tk. 250,000 + Tk. 300,000) = Tk. 550,000 in the assessment year 2016-17. Moreover, income from family property / joint owned property should be divided among the family members. This will reduce the tax burden for an individual.
7. **Taking the opportunity of full tax credit:** An individual assessee should predict his / her total income for the next income year to determine the maximum limit of his investment allowance. In the assessment year 2017-18, the maximum limit is 25% of Total income or Tk. 15,000,000; whichever is lower. Then, the assessee should invest in such a manner so that he can make his investment allowance more or less up to the maximum limit. The assessee will get 10% to 15% tax rebate for the investment.

20.5.3.2 Tax Planning techniques used by a Business:

Under the umbrella of the provisions of the ITO, 1984, a business organization, being an assessee, can minimize its payment of tax considering the following strategies in course of its tax planning:

1. **Forms of Business:** Partnership firms and the companies need to pay tax separately, whereas profit of the sole-tradership business is included in the income of its owner. Some business organization can avail tax holiday scheme, and some sectors enjoy special tax rates. So before starting the business, the entrepreneurs should consider the tax policy for a particular business.
2. **Setting up recognized funds:** An organization can create recognized provident fund, group insurance scheme, benevolent fund, superannuation fund etc. which is a mechanism to avail tax advantage.
3. **Availing investing opportunity having tax advantage:** An organization can invest in those areas where it can avail some tax advantage.
4. **Use of debt capital:** Use of debt capital in the capital structure of an organization may be advantageous for a company as interest expense is tax deductible.
5. **Investment in Business having Tax Holiday Scheme:** Money can be invested in those organizations where tax holiday facility can be availed.

So, it can be said that an effective and efficient tax planning is possible if the assessee has a proper knowledge about the tax law of a country. Careful planning may provide the assessee with maximum tax advantage.

KEY POINTS

1. Tax Holiday Scheme is one kind of special scheme taken by NBR to enhance rapid industrialization in Bangladesh for specific newly established industrial undertakings.
2. The main objectives of Tax Holiday Scheme are to encourage formation of domestic capital as well as attracting FDI to enhance the rapid industrialization of the country.
3. To continue tax holiday benefit 30% of the exempted income should be invested within one year from the end of the exemption period, in the same undertaking/new undertaking.
4. To continue tax holiday benefit 10% of the exempted income should be invested in each year before the expiry of 3 months from the end of the income year in the purchase of shares of a company listed with any stock exchange.
5. The NBR shall give its decision regarding approval of tax holiday of an undertaking within forty-five days from the date of receipt of the application.
6. Income of any industry set up in any EPZ will enjoy exemption at different rates from tax for 5 to 7 years from the date of commencement of commercial production of the industry.
7. The DCT may forward to the Tax Recovery Officer a certificate for recovery of the tax from an assessee who is an assessee in default.
8. A person, who has paid more amount as tax than as it actually would be chargeable under the ITO, 1984, shall be entitled to a refund of any such excess.
9. If a person makes false statements in any return or any other documents he is guilty of an offence punishable with imprisonment for a term, which may extend to three years, but shall not be less than three months, or with fine, or with both.
10. Tax planning is an effective tool to minimize tax burden of a taxpayer.

Multiple choice questions:

1. An industrial undertaking set up in Dhaka between 1st July, 2011 to 30th June, 2019 will be exempted from tax for the period of –
   (a) 4 years
   (b) 5 years
   (c) 7 years
   (d) 12 years
2. An industrial undertaking set up in Sylhet between 1st July, 2011 to 30th June, 2019 will be exempted from tax for the period of –
   (a) 5 years
   (b) 7 years
   (c) 10 years
   (d) 12 years
3. A Physical Infrastructure Facility set up in Dhaka between 1st July, 2011 to 30th June, 2019 will be exempted from tax for the period of –
   (a) 4 years
   (b) 6 years
   (c) 7 years
   (d) 10 years
4. If NBR rejects any application to sanction tax holiday, the applicant can apply for reconsideration within what period from the date of receipt of the Board's decision –
   (a) 1 month
   (b) 2 months
   (c) 3 months
   (d) 4 months
5. The NBR shall give its decision within how many days from the date of receipt of the application regarding approval for tax holiday –
   (a) Twenty one days
   (b) Thirty days
   (c) Forty five days
   (d) Sixty days
6. An industry set up in Dhaka EPZ will get 100% tax exemption facilities for-
   (a) First 1 year
   (b) First 2 years
   (c) First 5 years
   (d) First 7 years
7. To recover arrear tax from assessee in default the TRO can follow following modes, except –
   (a) attachment and sale of any movable or immovable property of the assessee
   (b) sale without attachment, of any movable or immovable property of the assessee
   (c) arrest of the assessee and his detention in prison
   (d) none of the above
8. Where a refund due to an assessee is not paid within two months of the date of claim for refund, a simple interest will be payable to assessee at a simple interest rate of –
   (a) 5%
   (b) 7.5%
   (c) 10%
   (d) 12.5%

9. How much is the minimum penalty for concealment of income –
   (a) Imprisonment of 3 months
   (b) Imprisonment of 1 months
   (c) Imprisonment of 21 days
   (d) Imprisonment of 2 months
10. Punishment for disclosure of protected information may extent imprisonment to –
   (a) one month
   (b) three months
   (c) six months
   (d) twelve months

Identify the following statements as True (T) or False (F):

1. Tax holiday period is same for all industrial undertaking set up in Bangladesh within stipulated time frame.	T	F
2. The Board can reject an application for tax holiday without giving the applicant a reasonable opportunity of being heard.	T	F
3. TRO recovers all arrear taxes from an assessee in default.	T	F
4. No one is entitled to get refund of tax	T	F
5. A public servant who discloses any protected information shall be punishable with imprisonment for a term which may extend to three months, or with fine	T	F

Discussion Questions:

Question 20 – 1: What is Tax Holiday Scheme? What are the rules of tax holiday for Industrial Undertakings?

Question 20 – 2: **"For approval of Tax Holiday for Industrial Undertakings, Tourism Industry and Physical Infrastructure Facility some conditions need to be fulfilled"** – explain.

Question 20 – 3: Explain the approval procedure of tax holiday by the board.

Question 20 – 4: Explain the tax holiday scheme applicable for export processing zone.

Question 20 – 5: Explain various modes relating to recovery of tax.

Question 20 – 6: **"A person who paid more amount as tax than as it actually would be entitled to a refund of any such excess"** – explain.

Question 20 – 7: Explain rules regarding followings offences:
   (a) Punishment for False Statement in Verification
   (b) Punishment for Concealment of Income
   (c) Punishment for Disclosure of Protected Information

Question 20 – 8: Write short note on:
   (a) Tax holiday scheme
   (b) Recovery of tax
   (c) Refund of tax
   (d) Offences and prosecution
   (e) Tax planning

Answers:

Multiple choice questions		True/False
1. b	6. b	1. F
2. c	7. d	2. F
3. d	8. b	3. T
4. d	9. a	4. T
5. c	10. c	5. F

Self review 20 – 1:

Industrial undertaking: 5 years and Physical Infrastructure Facility: 10 years.

Self review 20 – 2:

Industrial undertakings:

1. That the industry is owned and managed by –
   (i) a body corporate established by or under an Act of Parliament with its head office in Bangladesh.
   (ii) A company with its registered office in Bangladesh and having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of commercial production or operation.
2. That thirty percent of the exempted income is invested during the period or within one year from the end of the exemption period, in the same undertaking or in the new industrial undertaking.

Self review 20 – 3:

By TRO:

1. attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
2. arrest of the assessee and his detention in prison;
3. appointment of a receiver for the management of the movable and immovable properties of the assessee.

By Special Magistrates:

1. The DCT may forward to a, Magistrate of the First Class, specially empowered in this behalf by the Government to recover arrear taxes.
2. For the purposes of recovery of the default tax, the Special Magistrate may also exercise the power of a Civil Court.
3. The DCT, at any time, recall the certificate back from the Special Magistrate under reasonable circumstance.

CHAPTER – 21
VALUE ADDED TAX

LEARNING OBJECTIVES

After studying Chapter 21 you shall be able to understand:

- the concept of value added tax
- the advantages and disadvantages of VAT
- contribution of VAT in Bangladesh
- VAT mechanism
- charge of value added tax
- time and mode of the payment of VAT
- registration for VAT
- turnover tax and supplementary duty
- VAT authority
- Offences and penalties

21.1 INTRODUCTION

Value Added Tax is one of the most important sources of tax revenues in Bangladesh. Since its introduction in 1991, VAT is one of the most effective and efficient tools in resource mobilization. Value Added Tax has emerged as a principal instrument of taxing domestic consumption worldwide during last four decades. Its importance is also increasing in the developing countries because of its effectiveness in mobilizing local resources. The basic advantages of Value Added Tax can be stated as its neutrality, transparency, certainty and self policing mechanism.

21.2 HISTORY OF VAT

The origin of Value Added Tax (VAT) can be traced as far back as the writings of F Von Siemens, who proposed it in 1918 as a substitute for the then newly established German turnover tax. Since then numerous economists have recommended it in different contexts. However, it was not until 1953 that the value-added tax system was put in place in the United States or Europe. France was the first country to begin using value-added tax to partially replace its own turnover tax system in 1954.

In 1967 the Council of European Economic Community (EEC) issued directives for widespread adoption of value-added tax to replace existing turnover taxes and link EEC members with a common tax system. After the directive, countries outside the EEC such as Austria, Sweden, Brazil, Greece, and Peru also adopted some variation of the VAT, either in addition to or as a replacement for their own national tax structures.

From 1987 to 1997, value-added tax was introduced in many eastern European countries, the former Soviet republics, and Asia. China, Thailand, the Philippines, and Bangladesh all implemented the policy during the mid-1990s. By the early 2000s, VAT had become the a key component of the tax systems in more than 120 countries, with tax rates varying from 5 to 25 percent. Writing in *Finance and Development*, Liam Ebrill claimed that "the rapid rise of the value-added tax was the most dramatic-and probably most important-development in taxation in the latter part of the twentieth century, and it still continues."

21.3 EVOLUTION OF VAT IN BANGLADESH

In April 1979, the Taxation Enquiry Commission (TEC) officially took up the issue of introducing VAT in Bangladesh as an alternate to sales tax. Until 1982, sales tax was being collected under the Sales Tax Act 1951, which was replaced by the Sales Tax Ordinance 1982 with effect from 1 July 1982. The World Bank played the pioneering role in introduction of VAT in Bangladesh. A World Bank Mission visited Bangladesh for preparing an agenda for tax reform in Bangladesh in December 1986. The mission submitted its final report on 15 October 1989. The report recommended the introduction of a manufacturing-cum-import stage VAT at a single standard rate within three years. Thereafter, a Bangladesh Tax Mission visited India, Indonesia, the Philippines and Thailand during 13 November - 04 December 1989. The Mission submitted its report in January 1990. The government discussed the issues relating to introduction of VAT with all related private and public agencies including the various leading Chambers of Commerce and Industry from time to time. The government prepared the Value Added Tax Act 1990 (Draft) in June 1990.

Final version of the Value Added Tax Act was promulgated 31 May 1991 as a Presidential Ordinance with eight sections (relating to registration under VAT system and the appointment and powers of VAT authorities). It was made effective from 2 June 1991. The Value Added Tax Bill 1991 was introduced in the Parliament on 1 July 1991 and the Parliament passed it on 9 July 1991. With the Presidential assent to the bill on the next day it came into effect as The Value Added Tax Act 1991. The VAT Act 1991 replaced the Business Turnover Tax Ordinance 1982 and the Sales Tax Ordinance 1982 with effect from 1 July 1991.

The VAT Act 1991 is in vogue in Bangladesh for the last 22 years. During this period, a number of distortions gradually have crept into the system; namely: cascading effect, tariff value, truncated value base, Maximum Retail Price-based value, price declaration, Advance Trade VAT (ATV) at import stage, definition of services, deduction of VAT at source etc. In conformity with the sixth five-year plan (2012-16) of the government, NBR adopted a modernization plan in 2011, a component of which was reviewing of the taxation laws to eliminate these distortions and to establish standard taxation system in Bangladesh. In that process, drafting of a new VAT law started. It took more than two years to finalize the draft VAT Act. The VAT and Supplementary Duty Act, 2012 had been passed by the Parliament and which is expected to go in full implementation in 2017.

21.4 DEFINITION OF VALUE ADDED TAX

VAT is a tax, which is charged on the 'increase in value' of goods and services at each stage of production and circulation. It is levied on the added value that results from each exchange. It is also chargeable on the value of all imported goods. It differs from a sales tax because a sales tax is levied on the total value of the exchange. VAT is a simplified and transparent system of tax in which tax is levied on the value additions, at each stage in the production-distribution with provision of set-off of tax paid on earlier stage.

21.5 CHARACTERISTICS OF VALUE ADDED TAX

The basic characteristics of VAT are as follows:

- VAT is a general tax that applies on goods and services both.
- It is collected at every point of sale and the tax already paid by the dealer at the time of purchase of goods (input tax) will be deducted from the amount of tax paid at the next sale (output tax).

- It is a consumption tax because it is borne ultimately by the final consumer. It is not a charge on businesses.
- It is charged as a percentage of price, which means that the actual tax burden is visible at each stage in the production and distribution chain.
- VAT is paid to the revenue authorities by the seller of the goods, who is the "taxable person", but it is actually paid by the buyer to the seller as part of the price. It is thus an indirect tax.
- It is transparent and easier.

21.6 ADVANTAGES OF VAT

Value Added tax is becoming popular throughout the world because of its following advantages:

- One of the best reasons for instituting a value-added tax is that the system encourages personal savings and investment—principal elements of a healthy economy—by taxing only consumption.
- VAT has more revenue potential than other alternative indirect taxes.
- VAT system acts as a supplementary tax that can help make up for revenue lost due to income tax evasion. It is generally more broad-based and entails a trail of invoices that helps improve tax compliance and enforcement.
- Since VAT is carried through the retail level, it offers all the economic advantages of a tax that includes the entire retail price within its scope, at the same time the direct payment of the tax is spread out and over a large number of firms instead of being concentrated on particular groups, such as wholesalers or retailers.
- One particular advantage is that of the widening of the tax base by bringing all transactions into the tax net. Specifically, VAT gives the government the opportunity to bring back into the tax system all those persons and entities who were given tax exemptions in one form or another by the previous regime.
- A significant advantage of the value added form in any country is the cross-audit feature. Tax charged by one firm is reported as a deduction by the firms buying from it. Only on the final sale to the consumer is there no possibility of cross audit.
- VAT may be selectively applied to specific goods or business entities as a control mechanism. It may also effectively be used to protect local industries.
- It is more equitable and transparent.

21.7 DISADVANTAGES OF VAT

The main disadvantages which have been identified in connection with the Value Added Tax are:

- The "value added tax" has been criticized as the burden of it relies on personal end-consumers of products and is therefore a regressive tax (the poor pay more, in comparison, than the rich).
- Revenues from a value added tax are frequently lower than expected because they are difficult and costly to administer and collect.
- VAT increases inflation. In developing countries, some businessmen seize almost any opportunity to raise prices, and the introduction of VAT certainly offers such an opportunity.
- It is also argued that VAT places a heavy direct impact of tax on the labor-intensive firm compared to the capital- intensive competitor, since the ratio of value added to selling price is greater for the former. This is a real problem for labor-intensive economies and industries.

- Certain industries (small-scale services, for example) tend to have more VAT avoidance, particularly where cash transactions predominate, and VAT may be criticized for encouraging this.

21.8 RATIONALES BEHIND INTRODUCING VAT IN BANGLADESH

Generation of appropriate resources for the government is essential for economic substance of any country. It is even more so important for the developing countries like Bangladesh on account of the wide gap between public revenue and expenditure. Taxation is one of the major sources of public revenue to meet a country's revenue and development expenditure. Bangladesh is one of the countries having a very poor Tax-GDP ratio. In this context, the objectives behind introducing VAT in Bangladesh were as follows:

1. Since VAT requires computerized records it provides for greater simplicity, transparency and authenticity in the current taxation system;
2. To increase the competitiveness of Bangladeshi industry by removing the cascading effect of the traditional sale tax system;
3. To consolidate the tax administration through proper integration among various tax collecting activities;
4. To activate the overall economy by mobilizing more internal resources which helps in encouraging personal savings and investment; and
5. To bring revenue neutrality in the long run under VAT regime that brings a consistent improvement in the tax-GDP ratio.
6. To encourage and result in a better- administered tax system that deters tax evasion.
7. To avoid the problem of under valuing, as all stages of production and distribution are subject to a tax.
8. To encourage the taxpayers by the input tax credit method ensuring better tax compliance;
9. To help in fiscal consolidation for the country in bringing a steady source of revenue reducing the debt burden.

Industry experts argue that the VAT system, if enforced properly, forms part of the fiscal consolidation strategy in Bangladesh. It could, in fact, help address the fiscal deficit problem and the revenues estimated to be collected could actually mean lowering of the fiscal deficit burden for the government. Further any globally accepted tax administrative system will only help Bangladesh integrate better in the World Trade Organization regime.

21.9 CONTRIBUTION OF VAT IN BANGLADESH

The concept of Value Added Tax (VAT) has been introduced in Bangladesh in 1991 replacing the outdated excise and sales tax regime. This shift was motivated by the argument that VAT (relative to sales tax) had a higher revenue potential, and that its collection and administration are more economic, efficient and expedient. Despite having various limitations in the adoption process, VAT has become the single largest source of government revenue exceeding customs. The following table will show a clear picture of VAT's contribution in Bangladesh economy:

	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Tax-GDP ratio	7.9	8.0	8.6	9.1	9.7	9.7	9.9	9.0	10.8
Total Revenue (Crore Tk.)	69,180	79,484	95,187	114,885	139,670	156,671	163,371	177,400	242,752
Total Tax Revenue (Cr. Tk.)	55,526	63,956	79,052	96,285	116,824	130,178	140,677	155,400	210,402
Value Added Tax (Cr. Tk.)	20,116	22,795	28,274	34,304	40,466	45,877	49,573	53,913	72,764

	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
% of VAT to Tax Revenue	36.23	35.64	35.77	35.63	34.64	35.24	35.24	34.69	34.58
Customs Duty (Crore Tk.)	9,570	10,430	10,915	12,664	14,568	13,474	15,134	17,153	22,494
% of Cust. Duty to Tax rev	17.24	16.31	13.81	13.15	12.47	10.35	10.76	11.04	10.69
Income Tax (Crore Tk.)	13,538	16,560	22,105	28,061	35,300	44,370	48,614	51,796	71,940
% of Income tax to Tax rev	24.38	25.89	27.96	29.14	30.22	34.08	34.56	33.33	34.19

[Source: Bangladesh Economic Review, 2017]

21.10 SCOPE OF BANGLADESH VALUE ADDED TAX LAW

Rules and regulations enacted in the following laws are taken into consideration to impose value Added tax on goods and services:

1. **Value Added Tax Act, 1991:** The Value Added Tax Act, 1991 (22 No. Act of 1991) came into force on 1st July, 1991. It has 73 sections, numerous sub-sections and three schedules containing necessary provisions for the purpose of imposing value Added tax.
2. **Value Added Tax Rules, 1991:** The National Board of Revenue prepared relevant rules under the name "Value Added Tax Rules, 1991" in accordance with the power authorized under Section 72 of Value Added Tax Act, 1991. The rules are followed in the administration of the VAT Act.
3. **Finance Act:** To give effect to the various proposals in the annual budget covering the areas of direct and indirect taxes, Finance Act is issued. It contains various applicable tax rates and amendments to the Value Added Tax Act and Rules, 1991.
4. **SRO (Statutory Regulatory Orders):** According to the Section 21 of the Value Added Tax Act, 1991; NBR can issue certain circulars as and when necessary. The provisions of these SROs are also to be considered at the time of imposing VAT.
5. **VAT Case Law:** In the course of assessment proceedings, the judgments given by the courts regarding the interpretations of any provisions of the VAT Act may also act as guidance to the assessing officers and the assessee in similar relevant circumstances.

21.11 SOME IMPORTANT FEATURES OF VAT IN BANGLADESH

The main features of VAT in Bangladesh are as follows:

1. VAT is imposed on goods and services at import stage, manufacturing, wholesale and retails levels;
2. A single stage VAT is applicable for both imports cum manufacturing.
3. A uniform rate of 15 per cent is applicable for both goods & services.
4. VAT is compulsory for whole sellers / retailers (for selected items).
5. VAT is applicable for all items (except some of the unprocessed agricultural products) & forty six listed services.
6. Exports are zero rated.
7. VAT is payable at the time of supply of goods and services.
8. Turnover tax @ 3 per cent is leviable where turnover amount is less than Tk. 80 lac.
9. Some industries like Agro-based, Cottage industries are exempt from VAT.
10. Tax paid on inputs is creditable against output tax.
11. Tax returns are to be submitted on monthly or quarterly or half yearly basis as notified by the Government.
12. Luxurious and socially undesirable goods are subject to supplementary duties at different rates ranging from 10 per cent to 500 per cent.

SELF REVIEW 21 – 1

What are the rates applicable for: **(i)** VAT **(ii)** Turnover tax and **(iii)** Supplementary dury?

21.12A THE VAT MECHANISM

1. **The value added: how to measure it:** The VAT, by definition, is the tax on the value added at each stage of a production-distribution chain. The value added, in turn, can be defined in two alternative ways. First, value added is equivalent to the sum of wages to labor and profits to owners of the production factors including land and capital. Second, value added is simply measured as the difference between the value of output and the cost of inputs. The two ways of definition of value added give rise to three major alternatives for computing the VAT liability as described below:
2. **Three alternatives in VAT computation:** Whatever is the method of computing the tax-base or VAT payable, final result of VAT-liability under all the following computing methods shall be equal:
   - i) **The Addition Method:** The value added is computed by adding all the payments that is payable to the factors of production (viz., wages, salaries, interest payments etc). If t_1 and t_2 are the rates on wages and profits respectively, then the tax liability will be the sum of (t_1 × wages) and (t_2 × profits).
   - ii) **The Subtraction Method:** The tax liability at any stage is equal to the tax rate multiplied by the tax base or value added measured as the difference between the values of outputs and inputs.
   - iii) **Tax Credit Method:** This is the most common method of the VAT computation. Under the tax credit method, a firm at any stage of the production-distribution chain charges its customers the VAT on its output, submits the tax to the treasury, and then claims for the VAT already paid on its input purchase. Let t1 and t2 be the tax rates on output and inputs respectively, then the tax liability is the difference between (t1 × output) and (t2 × inputs).
3. **Three Types of VAT Base:** There are 3 types of VAT used around the world, each different in the ways those taxes on investment (capital) expenditures are handled. The most common is the *consumption method,* which allows businesses to immediately deduct the full value of taxes paid on capital purchases. The second is the *net income method,* which allows gradual deduction of VAT paid on capital purchases over a number of years, much like depreciation. The third type, *gross national product method* of VAT, provides no allowance for taxes paid on capital purchases. The name of this type of tax is derived from the fact that the tax base is approximately equal to private GNP. The consumption method is most favored among general populations because it most equally taxes income from labor and capital and promotes capital formation.
4. **VAT calculation Procedure: An Illustration[1] -** The VAT calculation procedure is shown considering 15% VAT rate in the following table with explanation. In this regard, we assume one importer will import some goods, which will be supplied to a producer. The producer will produce goods by using the imported goods and the produced goods will be supplied to a wholesaler. The wholesaler will supply the

[1] Courtesy: Dr. Md. Abdur Rouf, NBR.

goods to a retailer who will sell it to an ultimate consumer. It is also assumed that the whole distribution-process will be an unbroken one.

Stages	Raw Material/ Input Value	Conversion cost	Profit	Value Added	Output Value / Selling Price	Input VAT	Output VAT	Net VAT Payable
1. Importer – [Import of RM]	800	-	-	800	800	-	120	120
2. Importer – [Sale of RM to the Producer]	800	100	100	200	1000	120	150	30
3. Producer	1000	800	200	1000	2000	150	300	150
4. Wholesaler	2000	150	50	200	2200	300	330	30
5. Retailer	2200	50	50	100	2300	330	345	15
6. Consumer	2300	-	-	-	-	345	N/A	-
Total (Tk.)		**1100**	**400**	**2300**	**2300**			**345**

Note: *Conversion cost* refers to the cost incurred to convert raw materials into finished goods excluding profit.

Stage – 1: The importer imported some goods at Taka 800 (ex-VAT), on which he paid Taka 120 as VAT at 15 percent rate.

Stage – 2: The importer employed Taka 100 as conversion cost and Taka 100 as profit to sell the imported goods to a producer at Taka 1,000 (ex-VAT) and the importer collected Taka 150 from the producer as output-VAT. The value added at import-stage before further sale, was Taka 800 and then at the stage of further sale Taka 200 (= conversion cost Taka 100 + profit Taka 100). The importer paid Taka 120 (= 15 per cent of Taka 800) at import stage and Taka 30 at supply-stage to producer [= (output VAT Taka 150 collected from the producer – input VAT Taka 120 paid at import-stage) or (value added Taka 200 at supply-stage multiplied by 15 percent rate of VAT)] i.e. total Taka 150 is paid to the national exchequer.

Stage – 3: The producer, with his raw-material cost of Taka 1000 (ex-VAT), employed Taka 800 as conversion cost and Taka 200 as profit to sell the produced goods to a wholesaler at Taka 2,000 (ex-VAT), the producer collected Taka 300 from the wholesaler as output-VAT. The value added at production-stage before sale, was Taka 1000 (= conversion cost Taka 800 + profit Taka 200). The producer paid Taka 150 [= (output VAT Taka 300 collected from the wholesaler – input VAT Taka 150 paid at purchase from importer) or (value added Taka 1000 at production-stage multiplied by 15 percent rate of VAT)] to the Government Treasury.

Stage – 4: The wholesaler, with his goods purchased from the producer at Taka 2000 (ex-VAT), employed Taka 150 as conversion cost and Taka 50 as profit to sell the goods to a retailer at Taka 2200 (ex-VAT), the producer collected Taka 330 from the retailer as output-VAT. The value added at supply to retailer before sale, was Taka 200 (= conversion cost Taka 150 + profit Taka 50). The wholesaler paid Taka 30 [= (output VAT Taka 330 collected from the retailer – input VAT Taka 300 paid at purchase from producer) or (value added Taka 200 at production-stage multiplied by 15 percent rate of VAT)] to the national exchequer.

Stage – 5: The retailer, with his goods purchased from the producer at Taka 2200 (ex-VAT), employed Taka 50 as conversion cost and Taka 50 as profit to sell the goods to a consumer at Taka 2300 (ex-VAT), the producer collected Taka 345 from the consumer as output-VAT. The value added at sale to consumer before sale, was Taka 100 (= conversion cost Taka 50 + profit Taka 50). The retailer paid Taka 15 [= (output VAT Taka 345 collected from the consumer – input VAT Taka 330 paid at purchase from wholesaler) or (value added Taka 100 at production-stage multiplied by 15 percent rate of VAT)] to the Government Treasury.

Stage – 6: Thus, the overall deposit to the Government Treasury is Taka 345 [= Taka 150 by importer + Taka 150 by producer + Taka 30 by wholesaler + Taka 15] paid by the ultimate final consumer.

21.12B SALES TAX VS. VAT

21.12B.1 Difference between Sales tax & VAT:

Sales tax	VAT
1. complex system	1. simplified tax system
2. different slabs of tax	2. only four slabs of tax
3. collected at one point i.e. first or last.	3. charged at each stage
4. no tax levied on value addition on subsequent sales	4. tax on each value addition
5. problems of multiple taxation	5. a set off is given for previous purchases
6. discouragement to disclosure	6. encouragement to disclosure

21.12B.2 Application of Sales Tax:

A manufacturer produces goods worth Rs 100 and on that he has to pay 15% sales tax, which is Tk 15, then its total sale price is Tk 115,

Manufacturer: 100+15 =115

C.P+15%S.T =T.S.P (Total Selling Price)

Wholesaler purchases goods from the manufacturer at Rs 115 and adds Tk. 20 as a profit and 15% sales tax, so his total sale price is Tk. 155.25.

Wholesaler: 115+20 =135+20.25 =155.25

C.P+ Profit = S.P + 15%of S.P =T.S.P.

Retailer purchases the same commodity from the wholesaler at Tk 155.25 and adds Tk 24.75 as a profit which comes to Tk. 180 + 15% sales tax. Now total sale price comes to be Tk. 207.

Retailer: 155.25+24.75=180+27=207

C.P + Profit = S.P + 15%of S.P =T.S.P.

In the whole procedure total collection by the government in the form of sales tax is Tk. 40.

Government's total tax collection =15+20.25+27= 62.25.

21.12B.3 Application of VAT:

Manufacturer= 100+15 =115

C.P+VAT=T.S.P

Wholesaler: 115+20 = 135, but he has to pay tax on 135 ⊙115 = 20 @15% ie. Tk. 3.

C.P+ Profit =S.P

135+3 =138

S.P+VAT=T.S.P

Retailer: 138+24.75 = 162.75 + 3.71=166.46

C.P+ Profit =S.P+VAT =T.S.P

Government's total tax collection =15+3+3.71 =21.71

From the above illustration, it is clear that if sales tax and VAT are imposed on the goods whose cost price is same and same rate of taxes are imposed, in case of sales tax, Government collects Tk. 62.25 but in the case of VAT the total collection by the Government is only Tk.21.71

21.13 RELEVANT STATUTORY DEFINITIONS & IMPORTANT CONCEPTS RELATING TO VALUE ADDED TAX

Section 2 of the VAT Act - 1991 represents the definitions of some important terms, like:

1. **Exempted [Section 2(a)]:** means goods and services exempt from payment of value added tax under this Act;
2. **Output Tax [Section 2(b)]:** means value added tax imposed under this Act;
3. **Input [Section 2(c)]:** means-
   - **(i)** except labour, land, building, office equipment and transport, all raw materials (any gas and any material used as fuels), packaging materials, service, machinery and spare parts;
   - **(ii)** in the case of trading, goods imported, purchased, acquired or otherwise procured in any way for sale, exchange or transfer in any other manner;
4. **Input Tax [Section 2(d)]:** means value added tax paid on inputs imported by registered person or purchased by him from any other registered person and will also include vat deducted at source on goods at import stage;
5. **Tax Period [Section 2(e)]:** means a period of one month or such period as the government by notification in the official Gazette, fix in this behalf;
6. **Taxable Goods [Section 2(f)]:** means goods not included in the First Schedule;
7. **Taxable Service [Section 2(g)]:** means ay service not included in the Second Schedule;
8. **Account Current [Section 2(i)]:** means an account maintained with the Commissioner by a registered person in a specified form in which details of purchases, sales, treasury deposits, payable and creditable value added tax and, where applicable, other taxes shall be entered;
9. **Turnover [Section 2(k)]:** means all money received or receivable by any person from supply of taxable goods produced or manufactured by him or rendering of taxable service for a particular period;
10. **Documents [Section 2(m)]:** means anything expressed or stated with the help of a letter, number, symbol or sign on paper or on any other material and shall include any kind of electronic data, computer program, computer tape, computer disk or any kind of media that holds any data;
11. **Specified Date [Section 2(o)]:** means, in the case of submission of a return, the 10th day of the month following the tax period;
12. **Consideration [Section (oo)]:** means all money or value measurable in terms of money received or receivable against supply of goods or rendering of service;
13. **Goods [Section 2(p)]:** means all kinds of movable property, excluding shares, stocks, coins, securities and recoverable claims;

14. **"Producer" or "manufacturer" [Section 2(q)]:** shall include any person engaged in any of the following activities, namely:-
   - **(i)** transforming or reshaping any matter by processing exclusively or by changing, transforming or reshaping such matter in combination with any other matter, material or component of production into a different specific matter or goods so that the said matter becomes useable differently or specifically;
   - **(ii)** any incidental or complimentary process to complete the manufacture of goods;
   - **(iii)** printing, publication, lithography or enameling process;
   - **(iv)** adding, mixing, cutting, liquefying, bottling, packaging, or repackaging;
   - **(v)** work of an assignee or trustee, liquidator, executor or superintendent, in case of bankruptcy of any manufacturer or producer, and work of any such person who disposes of the assets of such manufacturer or producer in his capacity as an entrusted person;
   - **(vi)** manufacturing or producing for monetary consideration any goods in his own plant, machinery or equipment using raw material or input owned by any other person;

15. **Commercial Importer [Section 2(qq)]:** means a person who imports goods, other than those specified in the First Schedule, and sells or transfers in any way without changing its shape, features, characteristics or quality to any other person in exchange of consideration;

16. **Commercial Documents [Section 2(qqq)]:** means book of accounts, files, documents or papers maintained by a person to record his commercial transaction showing financial condition of his business, namely :- debit voucher, credit voucher, cash memo, daily purchase and sale accounts, cash book, primary or journal book, bank account and accounts or documents related thereto, trial balance, ledger, financial statement and analyses, profit and loss account, profit and loss appropriation account, bank account reconciliation and balance sheet and all related documents including audit report;

17. **Trader [Section 2(qqqq)]:** means a person who sells or otherwise transfers to any other person in exchange of consideration any goods imported, purchased or otherwise acquired by him without changing its shape, feature, characteristics or quality;

18. **Person [Section 2(t)]:** includes any business organization, group of persons and association;

19. **Zero Rated Taxable Goods or Services [Section 2(v)]:** means goods or services exported or deemed to have been exported or any food or any material described in sub section (2) of section 3 on which value added tax or, where applicable, supplementary duty shall not be imposed and all other taxes and duties (excluding advance income tax and supplementary duty paid on such inputs, used for manufacturing producing export such goods as may be specified in this behalf by the Government by notification in the official Gazette) shall be refunded;

20. **Concerned Officer [Section 2(w)]:** means any value added tax officer authorized by the Board, by notification in the official Gazette, to perform certain duties under this Act;

21. **Total Receipts [Section 2(x)]:** means the total amount of money including commission or charge, except value added tax or advance income tax, received or receivable by a provider of taxable service in exchange of service rendered;

22. **Supply [Section 2(y)]:** means sale, transfer, lease or disposal in any manner, for a consideration, of goods manufactured or produced by a manufacturer or producer or of goods imported, purchased, acquired or otherwise procured by a trader and shall include the following activities, namely:-
   - **(i)** use for personal, commercial or non-commercial purpose of goods acquired, produced or manufactured during the operation of a business;
   - **(ii)** auction or disposal of any goods in order to repay the debt of any person;
   - **(iii)** possession of any taxable goods by a person immediately before the cancellation of his registration;
   - **(iv)** clearance or removal of goods from the place of manufacture;
   - **(v)** any other such transaction, as may be specified by the government by notification;

23. **Local Value Added Tax Office [Section 2(z)]:** means the office of a superintendent of value added tax, any branch *under the control of a superintendent under* value added tax LTU and any other office specified by the Board by notification in the official Gazette;

24. **Divisional Officer [Section 2(zz)]:** means value added tax officer in-charge of a value added tax division office and any other officer, not below the rank of an Assistant Commissioner, of Large Taxpayers Unit of value added tax assigned to perform any of the duties of a division officer.

21.14 TYPES OF VALUE ADDED TAX

According to the provisions of the Value Added Tax Act, 1991, three different types of taxes are charged:

1. **Value Added Tax:** Importers, manufacturers and service providers, having minimum annual turnover of Tk. 80 lac, have to pay 15% tax on their value addition under Section 3 of the VAT Act.
2. **Turnover Tax:** Turnover tax @ 3 per cent is leviable on those persons and organizations whose turnover amount is not more than than Tk. 80 lac under Section 8 and Section 4 of the VAT Act and the VAT Rules respectively.
3. **Supplementary Duty:** Luxurious, non essential and socially undesirable goods are subject to supplementary duties at different rates ranging from 10 per cent to 500 per cent under Section 7 of the VAT Act.

21.15 GOODS AND SERVICES CHARGEABLE UNDER THE VALUE ADDED TAX ACT [SECTION 3(1)]

According to the Section 3(1) of the Value Added Tax Act, 1991, **15%** VAT is imposed on following goods and services:

- **(a)** All goods imported in Bangladesh and supplied, except those stated in the First Schedule of the VAT Act;
- **(b)** All services provided or imported in Bangladesh, except those stated in the Second Schedule of the VAT Act;

Notwithstanding contained in Section 3(1), **zero rate tax** shall be imposed on following goods and services: **(a)** any goods or services exported or deemed to have been exported from Bangladesh; **(b)** food and other things supplied in accordance with section 24 of the Customs Act, 1969 to any transport leaving Bangladesh, for consumption in the transport outside Bangladesh.

Provided that provisions of zero rate tax shall not be applicable in the following cases, namely:-

(a) any goods intended to be re-imported into Bangladesh;
(b) such goods as have been presented for export in accordance with section 131 of the Customs Act but not exported, within thirty days of submission of the bill of export or extended time, if any, allowed by the Commissioner.

21.16 WHO WILL PAY THE VALUE ADDED TAX? [SECTION 3(3)]

According to Section 3(3) of the Value Added Tax Act, 1991, value added tax shall be paid by:

(a) in the case of imported goods, the importer of the goods imported at import stage;
(b) in the case of goods manufactured or produced in Bangladesh, the supplier at production or manufacture stage;
(c) in the case of service, the provider of service;
(d) In the case of service providing from outside the territory of Bangladesh, Service receiver; and
(e) in other cases, the supplier and the receiver of service.

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Who will pay value added tax?

21.17 APPLICATION OF THE VALUE ADDED TAX RATE [SECTION 4]:

According to Section 4 of the Value Added Tax Act, 1991, the following provisions have to be followed in application of VAT rate:

(1) Rate of VAT for the supply of taxable goods or services shall be the rate applicable to the goods or services at that time as per Section 6, sub-section (2) or (3), as the case may be.
(2) In case of imported goods, value added tax shall be charged at the rate in force on the date of submission of bill of entry under section 30 of the Customs Act;
(3) In case of imported service that are taxable, value added tax shall be charged at the rate in force at the time of payment for the service.

21.17.1 Zero-rated goods: Zero-rate means the particular supplies of goods and services are treated as taxable, but the rate of tax is zero, or nil All exports and deemed exports of goods and services are zero-rated. Goods produced or manufactured in Bangladesh and required as provisions and stores on any transport leaving Bangladesh for consumption/sales in the transport outside Bangladesh are also zero-rated.

21.17.2 Difference between exemption and zero-rating: Exemption and zero-rating are significantly different. Businesses supplying only exempt goods or services are not required to fulfill any VAT formalities. They do not charge VAT on their outputs, nor are they able to take credit for any input tax. On the other hand, those dealing with zero-rated transactions have to be registered and fulfill all the VAT formalities. No tax is chargeable on their zero rated goods and services, but they can take credit for the input tax they have paid which relates to their zero rated supplies. This means that while zero-rated transactions are fully relieved from the burden of VAT, the cost to the consumer of tax-exempt goods and services includes the VAT levied on inputs although VAT is not levied on the sales.

21.17.3 Presumptive / Fixed VAT for small Traders and Retailers: Small traders and retailers, who have been taken the registration willingly, are required pay a flat rate VAT, which is

known as presumptive / Fixed VAT. The actual rate depends upon the location. The following rates are applicable in this regard:

Area	Highest amount of annual value addition	Rate of VAT	Minimum amount of VAT payable
Dhaka North Dhaka South & Chittagong City Corporation	Tk. 1,86,687/-	15%	Tk. 28,000
Other city corporation area	Tk. 1,33,334/-	15%	Tk. 20,000
Pourashava under district HQ	Tk. 93,334/-	15%	Tk. 14,000
Other areas of the country	Tk. 46,667/-	15%	Tk. 7,000

21.18 DETERMINATION OF VALUE FOR CHARGING OF VALUE ADDED TAX

According to Section 5 of the Value Added Tax Act, 1991, the value for charge of VAT would be determined as per the following provisions:

1. In the case of imported goods, the value would be the transaction value as determined under Section 25 or 25A of the Customs Act plus the amount of import duty, supplementary duty and all other duties and taxes, (if any), except advance income tax payable [Section 5(1)].
2. In the case of supply of goods, the value would be the price receivable by the producer or manufacturer or by the business person from the buyer which includes the cost of raw material, all cost of manufacture or production and, where applicable, any commission, charge, fee, all other duties and taxes including supplementary duty (except value added tax) and profit [Section 5(2)].
3. The Board may in case of production by a registered manufacturer of branded goods of another registered manufacturer, determine procedure for assessment of price of the said goods [Section 5(2A)].
4. The Government through official Gazette, can determine the price of goods upon which VAT shall be payable based on retail price which the manufacturer or the producer shall fix up with approval of the Government officer and which shall include all expense, commission, charges, duties and taxes. The goods shall be sold to the general consumers at such price (which shall be printed on the body of the goods or on each of its packages, sacks, sachets or cells distinctly, conspicuously and indelibly) after adding the specific brand or mark to such goods [Section 5(3)].
5. For rendering service, VAT shall be imposed on the total receipts. However, in the case of rendering any specific service, the Board may, by order, determine the amount of VAT on the basis of actual value addition or on the basis of specific rate of value addition fixed by it by notification in the official Gazette [Section 5(4)].
6. In the case of supply of goods by a registered or registerable trader, value added tax may be imposed, on the basis of total price received or deemed to have been received by the trader, to be determined in accordance with the rule, for his supply in any particular tax period [Section 5(4A)].
7. Goods on which trade discount is allowed, value added tax will be charged on the value of the goods after deduction of trade discount. Provided that the value after deduction of trade discount shall be shown in the invoice (challan patra) and the quantity of trade discount allowed shall be consistent with normal trade practice [Section 5(5)].

8. Notwithstanding anything contained in this Section 5, considering public interest and when satisfied after due investigation, the Board can determine the tariff value of any taxable goods or service through official Gazette notification in order to charge VAT and Supplementary duty [Section 5(7)].

21.18.1 Tax Base for VAT:

Import stage [U/S - 5(1)]	Customs Assessable Value + Customs duty + Supplementary duty
Domestic / Local stage [U/S – 5(2)]	Goods (manufacturing): [Production cost + Profit and Commission (if any) + Supplementary duty and all other taxes (except VAT) (if any) Services: [Total receipts excluding VAT but including Supplementary duty (if any).

Where, it is difficult to calculate the value, truncated base i.e. fixed value added i.e. 10%, 25%, 30% and 60% is used and net VAT is calculated using net VAT rate on value additions i.e. @ 1.5%, 2.25%, 4.5% and 9%.

21.18.2 Price declaration procedure for charging VAT or VAT & SD, as the case may be [Rule 3]:

Producers of taxable goods are required to submit information relating to the price of their products in accordance with VAT Rule 3 in Form "Mushak – 1". This is considered as price declaration, which shall have to be submitted by any manufacturer or businessman to concerned Divisional Officer. The following information should be included at the time of price declaration:

(a) description of goods;
(b) value of inputs and where applicable, duties and taxes (other than VAT) paid on the inputs;
(c) all direct and indirect expenses of the organization (other than income tax);
(d) commission, charges, fees paid;
(e) profit;
(f) item wise value addition;
(g) sales price including duties and taxes

Decision in the price declaration shall be made within 15 working days of its submission of application failing which the declared price shall be deemed to be accepted. When declared price is to be changed new declaration in Form "Mushak – 1" shall be submitted to the concerned divisional office before 7 working days of such change. Maximum 15% trade discount may be allowed for a period of 30 days notifying the concerned officer timely.

21.19 TIME AND MODE OF PAYMENT OF THE VALUE ADDED TAX

According to Section 6 of the Value Added Tax Act, 1991, the provisions with regard to time and mode of payment of the VAT are as follows:

21.19.1 Provisions with regard to time of payment of the VAT:

1. VAT on imported goods shall be paid at the same time and in the same manner as import duty is paid in accordance with the provisions of the Customs Act.
2. VAT will be payable upon goods manufactured or produced for carrying out or for expansion of business or on goods imported, purchased, acquired or procured in any

manner by a registered or registerable person at the time of one of the following events whichever occurs first:

a) when the goods are delivered or supplied;
b) when an invoice relating to supply of the goods is issued;
c) when any goods are used personally or supplied for use of any other person;
d) when part or full payment is received.

3. Value added tax shall be payable when a taxable service is rendered by a registered or registerable person during the operation or expansion of his business at the time of any of the following activities, whichever occurs first, namely:-
   a) when the service is rendered;
   b) when an invoice relating to the service is issued;
   c) when part or full payment is received.
4. In case of imported service that are taxable, value added tax shall be charged at the rate in force at the time of payment for the service.

21.19.2 Provisions with regard to mode of payment of the VAT:

1. Notwithstanding anything contained in this section, the Board, in accordance to the rules, can make provisions for advance payment, including fixation of time and procedure of payment of the VAT and SD, as the case may be [Section 6(4)].
2. Notwithstanding anything contained in sub-section (4), the Board may direct through official gazette to use stamp or banderole or special sign or mark on the body of the package or container or pot of the goods, for the purpose of realizing value added tax or SD [Section 6(4A)].
3. Notwithstanding anything contained in the above sections, the Government may direct the service providers or receivers to collect or deduct VAT at source and deposit the same to the treasury through defined procedure of directives set by the Board [Section 6(4AA)]. Provided that, where service provider being under foreign aided project have already paid all above mentioned VAT properly to the govt treasury, VAT cannot be deducted at source again from such parties.
4. The person collecting or deducting VAT at source under subsection (4AA) must issue a certificate to the related service provider regarding the deduction or collection in a manner prescribed by the Board stating the following particulars [Section 6(4B)]:
   a) the registration number of the value added taxpayer;
   b) the total price or commission paid for the service rendered;
   c) value of value added taxable service or commission;
   d) the amount of value added tax collected or deducted; and
   e) any other information required under the rules.
5. The party responsible to deduct VAT at source, will deduct 3% VAT on payable price at source subject to some condition [Section 6(4D)].
6. Both the supplier or service provider and the party that deducts TDS will be responsible for the deducted VAT amount [Section 6(4E)];
7. The supplier or service provider will not be released from the payment of the rest of the amount of VAT where a part of the total VAT has been deducted at source [Section 6(4F)]
8. If the service provider or the commission payer failed to deduct and deposit the VAT amount, then it will be collected from the service provider or commission payer including 2% interest on the due amount [Section 6(4G)]

9. Value added tax payable on goods supplied or service rendered as per methods prescribed by the rules [Section 6(5)]
   a) At import stage, with import duty;
   b) At manufacturing or trading stage through current account and return;
   c) In case of other goods and service, through return.

21.20 IMPOSITION OF SUPPLEMENTARY DUTY [SECTION 7]

According to the Section 7 of the Value Added Tax Act, 1991, luxurious, non essential and socially undesirable goods are subject to supplementary duties at different rates specified in the Third Schedule ranging from 10 per cent to 500 per cent. Supplementary duty shall be payable at same time and in same manner as are applicable for the payment of value added tax.

Determining the value of the goods or services for imposition of SD:

For the purpose of imposition of supplementary duty, the value of the goods or services shall be -

(a) In the case of imported goods, the value as determined under Section 25 or 25A of the Customs Act, for the purpose of imposition of import duty;

(b) in case of goods produced or manufactured in Bangladesh and in the case of other taxable goods, the price charged to the buyer in which value added tax or supplementary duty is not included;

(c) in the case of service rendered in Bangladesh, the total amount received in which supplementary duty and value added tax is not included;

(d) in the case of goods on which value added tax is imposed on the basis of the retail price, the retail price stated in section 5(3) of this Act, shall be considered to be the price of the goods for the purpose of imposing supplementary duty.

21.21 IMPOSITION OF TURNOVER TAX [SECTION 8]

If the annual turnover of any taxable goods supplier or service provider is not more than an amount of Tk. 80 lacs and who is not required to be registered under section 15, he shall pay turnover tax @ 3% on the annual turnover. In this regard, the turnover tax compliance related matters shall be governed by the VAT rules. Considering the public interest and after proper inquiry, the Board can exempt any goods or service from turnover tax or can direct any specified goods, class of goods or service provider to be under section 15 and shall pay value added tax, irrespective of annual turnover.

Turnover Tax Payment Procedure:

According to the Rule 4 of the Value Added Tax Rules, 1991, the following provisions are taken into consideration at the time of paying turnover tax:

1. If the annual turnover of any taxable goods supplier or service provider is not more than Tk. 80 lacs, he shall pay turnover tax @ 3% on the annual turnover [Rule 4(1)].
2. The person liable to pay turnover tax shall have to apply to the Superintendent for the enlistment of his name. If the superintendent is satisfied about the annual turnover of the applicant, he shall enlist the applicant providing BIN (Business Identification Number) within seven working days of the receipt of the application and shall issue him a certificate in this respect in Form "Musak-8". [Rule 4(2)].
3. A declaration mentioned projected turnover of the year and the manner of tax payment shall have to be made to the superintendent in form 'Mushak -2B' within 30

days of every succeeding years. If the information given on the declaration is considered to be acceptable to the superintendent, he shall after according approval to it, send a copy to enlisted person: Provided that, in certain cases the superintendent has the right to determine the amount of turnover after hearing.

4. An enlisted person shall have to pay turnover tax from the date immediately after enlistment [Rule 4(3)].

5. A enlisted person can pay annual turnover tax at a time. In this case, the turnover due shall have to be deposited in the Government treasury within 30 days after the enlistment, under the head 1/1133/Code of Concerned Commissionarate/0313 along with relevant documents [Rule 4(4)].

6. Registered person may also pay his turnover tax 'if he wishes' in monthly or quarterly basis. In such a case, the enlisted person shall have to pay, within 30 days from the date of enlistment, on monthly or quarterly basis one-twelfth and one-fourth, respectively, of the turn over tax in the manner laid down in sub- rule (4). The remainder of the turn over tax shall have to he paid, in the case of payment on monthly basis, within 15 days of the next month and in the case of payment on quarterly basis, within 15 days of the expiry of every three months along with relevant documents, in the manner laid down in sub-rule (4) [Rule 4(5)].

If the enlisted person fails to pay the turnover tax fixed by the superintendent, in the manner laid down in sub-rule (4) or (5), the superintendent may impose on him an additional tax at the rate of 2% per month on the unpaid amount, in addition to a fine not exceeding Tk. 5,000.

21.22 REBATE OF TAXES / TAX CREDIT ON INPUT TAX [SECTION – 9]

According to Section 9 of the VAT Act, 1991, the provisions with regard to rebate of taxes are:

1. A supplier or trader of taxable goods or provider of taxable service may, in every tax period, take credit on input tax against output tax payable on goods supplied or service rendered by him, except in the following cases, namely

   (a) value added tax paid on inputs used in the production of exempted goods or for providing serevices;

   (b) turn over tax paid on inputs procured from taxpayer falling within the scope of turnover tax;

   (c) supplementary duty paid on input used in the production of goods or rendering of service;

   (d) VAT paid on package reusable at any other time except for the first time;

   (e) the VAT paid on such goods and service as are related to the construction, balancing, modernization, replacement, expansion, renovation and repair of any building or structure or establishment; purchase or repair of all kinds of furniture, stationary, air-conditioner, fan, lighting equipment, generator etc; architectural plan and design, vehicle rental or lease though directly related to production of taxable goods or service;

   (f) various goods and services specified by rules, related to production or supply of taxable goods or rendering of taxable service, and value added tax in excess of the rate of value added tax paid on such goods and service;

   (g) value added tax paid against expenditure on travel, entertainment, staff welfare and development activity;

(h) in the case of value added tax paid against inputs not included in taxable value base of goods mentioned in sub-section (2) of section 5;

(i) in the case of input tax paid on inputs purchased by traders mentioned in the second proviso to subsection (2)of section 5;

(j) the value added tax paid on inputs purchased by the provider of any specified service renderer as per provisions of sub-section (4) of section 5;

(k) input tax paid by traders mentioned in sub-section (4A) of Section 5;

(l) VAT paid on inputs purchased by a supplier who supplies goods or services at tariff value fixed as per provision of sub-section (7) of section 5;

(m) input tax paid and mentioned in invoice (Challan Patra) or bill of entry with registration number other than the registration number of the supplier or trader of goods or renderer of service;

(n) value added tax paid on goods under custody, or possession or occupancy of any other person.

(o) VAT paid on goods not recorded as per the rules prescribed methods.

(p) In case of goods cleared against Bank Guarantee, VAT included in the Bank Guarantee until settled;

(q) Goods or services valued more than Tk. 1 lac and if fully or partly paid other than through banking or electronic channel, VAT included thereon.

(r) Provided that if the taxpayer, in spite of having documents relating to input in his possession fails, for any reasonable ground, to enter, in the same tax period, all of his inputs into his premises of production, supply or service, he may, subject to completion of entry of such input into such premises, receive credit on such input on any date during the next two tax periods;

2. Where any person without having legal right to take inputs tax credit in the cases mentioned in subsection (1) takes such credit, the concerned officer may, notwithstanding anything contained in section 37, direct for necessary adjustment in the account current by or the return canceling the credit on input tax taken. Moreover, any person aggrieved by any order of the concerned officer under sub-section (2), may raise a written objection against the said order to any officer of value added tax senior to the concerned officer. The said officer shall, after giving to the aggrieved person a reasonable opportunity of being heard, within fifteen working days will provide the decision which shall be considered as final.

3. A supplier of taxable goods or renderer of taxable service who also supplies goods or renders service on which value added tax is not chargeable, may take, in the manner laid down by rules, credit of input tax against output tax in proportion to the total quantity of inputs used in the manufacture or production of the goods or service on which value added tax is payable.

4. If tax-paid input is damaged or destroyed while preserved or stored in the place of production or place of rendering service or trading by the supplier of taxable goods or renderer of taxable service or trader, the input tax on the said destroyed or damaged goods shall be disposed of in the manner laid down by rules.

21.23 PROCEDURES OF INPUT TAX CREDIT IN RESPECT OF GOODS AND SERVICES [RULE – 19]

According to Rule 19 of the Value Added Tax Rules, 1991, the procedures with regard to rebate of taxes / input tax credit in respect of goods and services are as follows:

1. Any registered person can take rebate of VAT under Section 9 and as case may be VAT and other taxes, duties under Section 13 in the tax period against output tax payable by him in the same tax period for supply of goods and services [Rule 19(1)].
2. Notwithstanding anything contained in sub-rule (1), credit may be taken for the following payments in respect of a place, establishment or premises connected with the production or supply of goods or rendering of taxable service, namely:-
   (a) **eighty per cent** of the VAT paid on the use of insurance, and distribution of gas and electricity; and
   (b) **sixty per cent** of the VAT paid on the use of Telephone, Teleprinter, Fax, Internet, Freight Forwarders, Clearing and Forwarding agent, WASA, Audit and Accounting firm, Surveyer, Security Service, Legal Advisor, Transport Contractor and Letter of Credit [Rule 19(1a).
3. In case of supply of taxable goods, the registered person shall write down input tax paid on inputs in "Credit" column shown in the Current account in the Form Mushak 18 after entering the whole amount of inputs into the production or business place including the bill of entry or Chalan containing the input purchased, the registration [Rule 19(2)].
4. Input tax under the sub-rule (2) can be adjusted after recording in the current account against output tax of the tax period in which tax payers' goods enter into the place of production, manufacture or business. Input tax where exceeds output tax, the excess shall be shown as a balance in the current account which can be adjusted against output tax of subsequent tax periods [Rule 19(2a)].
5. The registered person, who supplies both taxable and tax exempted goods, will take input tax rebate of the input tax on the purchased input by recording and adjusting in "Credit" column of the current account. At the end of the related tax period, the input tax paid on the input used for tax exempted goods will be shown in the "Payable" column of the current account [Rule 19(3)].
6. Registered person supplying taxable goods and export goods using inputs in the manufacture or production after paying VAT including other taxes and duties can obtain rebate of value added tax paid on inputs bought after their entrance into his place of manufacture or production against output tax payable on the supply of taxable goods, recording in the column "Treasury deposit and rebate" of the current account. He can obtain rebate on supplementary duty, excise duty and other duties and taxes (except advance income tax) paid on the inputs used in the manufacture or production of the goods exported during the said tax period, by recording in writing in column "credit" in the account current and he shall show it in the returns of the said tax period [Rule 19(4)].
7. A registered person rendering taxable services, may obtain credit for the input tax paid on the inputs used in the service rendered by him during the tax period and after taking credit, if the tax payable is more than the input tax paid, the excess payable tax shall be deposited in the government treasury; and if the input tax paid is more than the tax payable, the excess amount of the input tax shall be shown in the subsequent tax period in column "carried forward" in the account current and shall be adjustable successively against payable tax [Rule 19(5)].
8. Where a registered person renders both taxable and exempted service, the said person may take credit only for the input tax paid on the inputs used in the rendering of taxable service [Rule 19(5a)].

9. Registered person, supplying taxable services and exporting such services where inputs have been used after payment of VAT and other duties and taxes can obtain rebate of the amount of taxes and duties except advance tax paid on the inputs of zero rated exports after the end of the tax period as per Section 13 against tax payable on the supply of taxable services in the tax period and shall show this in the concerned return [Rule 19(5b)].
10. A person who is a beneficiary under cottage industry, turnover taxpayer and producer of exempted goods shall not take credit on value added tax paid on inputs used in the production of his goods [Rule 19(6)].
11. A contract manufacturer of goods may take credit of VAT paid on inputs, used for production of goods other than the inputs supplied by the proprietor, on fulfilling the provisions of sec 9 provided the input is shown in the value declaration [R-19(7)].

21.24 CORRECTION OF ACCOUNTS AFTER PAYMENT OF OUTPUT TAX

Accounting to section – 10, if goods sold by a registered person are subsequently cancelled or returned, the VAT and Supplementary duty paid, as the case may be, relating to the said goods can be adjusted through the next return and the current account.

21.25 SETTLEMENT OF EXCESS INPUT TAX [SECTION 11]

Where, during any tax period, the input tax due becomes more than the output tax payable, the surplus input tax shall be brought forward by the registered person in the account current for next tax period and this will be treated as input tax in the later tax period.

21.26 EXEMPTION FROM VALUE ADDED TAX [SECTION – 14]

According to Section 14 of the Value Added Tax Act, 1991, the provisions with regard to the exemption from value added tax are as follows:

1. The Government may, by notification in the official Gazette, exempt importation or supply of any goods or class of goods or rendering of any service from VAT or supplementary duty imposable under this Act, subject to any limitation or condition specified in the notification [Section 14(1)].
2. The Board may, by special order, exempt importation or taking delivery of any goods and receiving of any service for implementation, on reciprocal basis, of any international/bilateral agreement, from VAT/supplementary duty imposable under this Act, subject to any limitation and condition specified in the order [Sec 14(1a)].
3. The Board may, by special order exempt specifying therein the reason in each case, import or supply of any goods or rendering of any service from value added tax or, where applicable, supplementary duty imposable under this Act [Section 14(2)].

21.26.1 List of Goods and Services Exempted from VAT: According to the **Schedule One** of the VAT Act, 1991, following goods have been exempted from VAT:

1. All Goods as listed in the Second Schedule of the Narcotics Control Act, 1990 (Act No. 20 of 1990), in case of production and manufacturing thereof in Bangladesh. Some of the examples are native liquor, Methyle alcohol, Rectified spirit, Foreign liquor produced in Bangladesh, Denatured spirit etc.
2. Goods listed against some specific Headings in the First Schedule of the Customs Act, 1969 under Harmonized Commodity Description and Coding System (H.S. Code). Some of the examples are live animals and meats thereof, Live fish (excluding

ornamental fishes), natural honey, live tree plants and seeds, vegetables, fruits, Ivory, tortoise shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, etc. subject to certain conditions. Besides this, different circulars and SROs are issued from time to time declaring names of new goods exempted from VAT and SD.

21.26.2 Services Exempted from VAT: According to the **Schedule 2** of the VAT Act, 1991, certain services classified under 7 heads have been exempted from VAT under 7 categories:

1. Basic services essential to life;
2. Social Welfare Services;
3. Culture Oriented Services;
4. Finance and Finance Related Services;
5. Transport Service;
6. Personal Services;
7. Other Services.

The detail of the list is updated year to year through Finance Act and different SROs. The updated list can be found from the website of the NBR [www.nbr-bd.org]

21.27 REGISTRATION FOR VALUE ADDED TAX [SECTION – 15]

According to the Section 15 of the Value Added Tax Act, 1991, certain provisions are mentioned regarding the registration for value added tax:

1. Suppliers of taxable goods and services, importers of any goods and exporters of goods and services shall have to be registered with the concerned office as per methods prescribed in the Rule [Section 15(1)].
2. If any person supplies such goods or renders such service or carries on import and export trade from two or more places, he shall have to be registered separately for each place. Provided that where aforesaid business is conducted from two or more places and maintain the accounts and records centrally, the person may take the registration centrally through regular procedure as per the law [Section 15(2)].
3. If the concerned officer is satisfied that the application for registration is in order in all respects, he shall register the applicant and shall give him a registration certificate mentioning therein his business identification number [Section 15(3)].
4. If a registerable person fails to submit an application for registration and the proper officer, after due investigation, is satisfied that the person is under obligation to be registered under this section, the officer shall register the person and inform him and the person shall be treated as registered with effect from the date on which the registration became obligatory [Section 15(4)].
5. Notwithstanding anything contained in subsections (1), (2), (3) and (4) each registered person may be given unified registration number of VAT and Income Tax. Provided the Board may be a notification published in the official Gazette, determine the time and procedure of giving this unified registration number [Section 15(5)].

21.27.1 Procedure of Registration for Value Added Tax [Rule 9 & 11]: According to Rule 9 and 11 of the VAT Rules, 1991, the procedures to registration for VAT are:

1. If the annual turnover of the supplier of taxable goods or taxable service is not more than **taka seventy lacs**, he shall have to submit an application directly or through online for registration in Form 'Musak-6' to a Divisional officer or to an officer, not being below the rank of Assistant Commissioner specified by an order by the Board in this behalf [Rule 9(1)].

2. If the turnover of any person exempted from registration under Section 16, exceeds Tk. 70 lacs during the continuous period of twelve months, in that case concerned person shall apply for registration to the above authority within thirty days of the expiry of such period [Rule 9(2)].
3. A person who intends to start the business of supplying taxable goods or rendering taxable service shall, before starting the business, apply to the concerned authority, if the annual turnover of the business is estimated to be at least taka 70 lakhs [R. 9(3)].
4. Where more than one taxable goods or service are supplied or rendered or import or exports are made from the same place of manufacture or rendering of service or import or export, only one registration shall be required [Rule 9(4)].
5. A person required to be registered shall, along with the application for registration submitted in Form Musak-7 a declaration containing particulars of premises, plant, capital machineries and fittings and goods to be produced or purchased and sold or stocked and major inputs thereof [Rule 9(5)].
6. A person who imports or exports any goods shall apply for registration under sub-rule (1) to the divisional office or to such officer of value added tax, not below the rank of Assistant Commissioner, as may be specified by order by the Board in this behalf [Rule 9(6)].

If the application for registration is considered to be acceptable by the concerned officer, he shall issue a registration certificate to the applicant in Form "Musak-8" within two working days of the receipt of the application. Moreover, for providing untrue information in the application he may also cancel the registration under the provision of Section 19 of the Act after giving the person reasonable opportunity of being heard [Rule 11).

21.27.2 Exemption / Relief from Registration [Section 16]: According to the Section 16 of the Value Added Tax Act, 1991, under the following circumstances the exemption or relief from registration will be applicable:

1. The Government may, by general or special order, exempt any person or class of persons from the requirement of registration under section 15, on the basis of the annual turnover to be received or received from his or their supply of taxable goods or rendering of taxable service. Provided that the exemption under this section shall be applicable only in the case of a person or class of persons whose amount of annual turnover as received or to be received does not exceed the amount fixed, from time to time, by the Government by notification.
2. The Board may, by general or special order, exempt any importer or exporter from the requirement of registration.

21.27.3 Self Registration [Section 17 and Rule 10]: Following provisions are to be followed for self registration [Section 17 of the VAT Act, 1991, and Rule 10 of the VAT Rules, 1991]:

1. Any person exempted from registration under section 16 may apply in the form and manner specified by rules, to the proper officer for voluntary registration, and being satisfied in all respects, the proper officer shall register the applicant and give him a registration certificate mentioning therein his business ID number [Section 17(1)].
2. Without prejudice to anything contrary contained in this Act, any seller, transferor or lessor of any goods manufactured, produced or imported into Bangladesh or any service provider specified in the Second Schedule, who is a person outside the scope of Section 15(1), may apply, in the form and manner specified by rules, to the concerned officer for voluntary registration as a supplier of taxable goods or renderer

of taxable service. Being satisfied in all respects, the concerned officer shall register the applicant and give him a registration certificate mentioning therein his business identification number and the person so registered shall be treated as a taxpayer under this Act and all provisions relating to tax assessment and payment under this Act shall apply to him [Section 17(2)].

3. The person intended to be registered voluntarily, shall submit an application to the local value added tax office **thirty days** before the commencement of the tax period in which he intends to be registered. The voluntarily registered person shall be required to pay value added tax or, where applicable, supplementary duty from the first day of the tax period subsequent to the date of registration [Rule 10].

21.27.4 Change of Information Relating to Registration [Section 18]: If a registered person intends to change the name, address or any other information given in the application for registration, he shall inform the concerned officer of such change at least **fourteen days** before the date of such change.

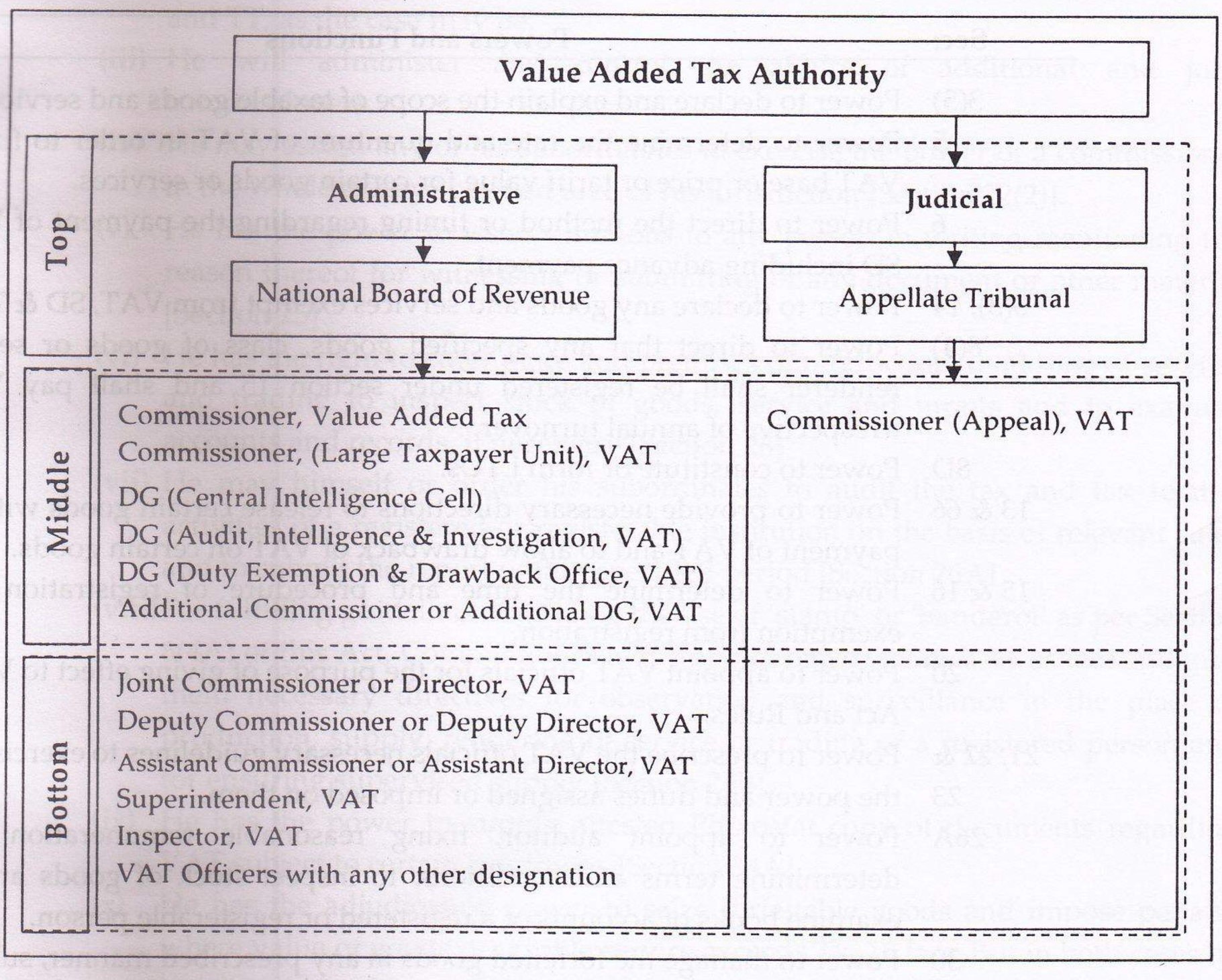
21.27.5 Cancellation of Registration [Section 19]: According to the Section 19 of the VAT Act, 1991, and Rule 15 of the VAT Rules, 1991, under the following circumstances the registration for VAT can be cancelled:

1. If any person registered or listed under Section 15 wishes to cancel his registration on the ground that his business is discontinued, he has to apply within 14 days of such discontinuation. The officer will cancel his registration or delist him in the prescribed manner mentioned in the rule if he is satisfied that he has no unsettled liability for VAT or SD [Section 19(1)].
2. If the concerned officer is satisfied on investigation that the registered person has obtained the registration by furnishing untrue information, after giving him reasonable opportunity of being heard, he may cancel the registration of the person after resolving the tax liability regarding VAT and SD [Section 19(1a)].
3. The concerned officer can cancel any registration, effective from the date specified by him, on an application made by a registered person whose turnover falls below the minimum level [Tk. 40 lacs] as per Section 16 and the applicant has no obligation to be registered under Section 15 [Section 19(2)].
4. A registered or listed person may also apply in order to cancel his registration under following circumstances [Rule 15(1)]:
   - **(a)** to be declared any goods or service exempt
   - **(b)** the annual turnover of a registered person voluntarily registered under section 17 of the Act being less than taka twenty four lakhs during the period of twelve months next following his registration;
   - **(c)** to be failure, after being registered, to start the business of manufacturing or producing or supplying of taxable goods or rendering taxable service;
5. The Divisional Officer of value added tax, if satisfied, on the recommendation of the superintendent given after necessary investigation, that the applicant is no more required under the law to remain registered and that he has no un-disposed of liability, he may cancel the registration of such person [Rule 15(2)].
6. Registration of a person if cancelled and their remains input tax rebate or current account balance from the date of cancellation, the person shall be entitled to refund in prescribed manner but conditions stated in Section 67(1) for refund claim within 6 months shall not be applicable [Section 19(3)].

21.28 VALUE ADDED TAX AUTHORITIES

According to Section 20 of the Value Added Tax, 1991, the Board appoints certain officials for the purpose of effective application of the VAT law and rules. These officials as a whole are known as Value Added Tax authorities. They hold the sole responsibility to execute the provisions of laws relating to VAT, TT and SD applicable in Bangladesh and to run various departments formed for streamlining the functions like identification of assesses, computation and collection of VAT and other relevant taxes, receiving application in this regard and appeal, settling the appeals, imposition of fines and penalties for offences etc.; even doing necessary adjustments in VAT law, as and when necessary.

21.28.1 Types of VAT Authorities: VAT authorities may be classified into two major groups depending on their functions and powers, namely



1. **Administrative Authorities:** To look after the total administration of VAT wing starting from identification of assessees to the collection of VAT, TT and SD from the assessees. They are also responsible to maintain an effective co-ordination in administration, management and control among various VAT offices of the country.
2. **Judicial Authorities:** To hear the claims of the assessees and settle the claims through providing verdict as early as possible.

These two authorities with office bearers are depicted in the chart in order of their respective power, authorities and responsibilities.

21.28.2 Administrative Authorities: Powers, Functions and Responsibilities: It has already been discussed that the VAT officials as a whole are known as Value Added Tax authorities. VAT authorities may be classified into two major groups depending on their

functions and powers, namely (1) Administrative authorities; and (2) Judicial Authorities. In this section, the powers, functions and responsibilities of administrative authorities are discussed:

A. National Board of Revenue: National Board of Revenue (NBR) is constituted under the National Board of Revenue Order, 1972 [U/s 2(13)] and is given the highest executive authority under the Ministry of Finance. The NBR is empowered to make necessary rules concerning value added tax matters in Bangladesh. It is a body consisting of a chairman, members, officers and secretaries. The chairman and members are appointed by the Government and work under the direct control of the Ministry of Finance. The major powers and functions of the NBR in respect of the Value Added Tax Act, 1991 are as follows:

Sec:	Powers and Functions
3(5)	Power to declare and explain the scope of taxable goods and services.
5	Power to determine the rate and quantum of VAT in order to fix the VAT base or price or tariff value for certain goods or services.
6	Power to direct the method or timing regarding the payment of VAT, SD including advance payment.
8(3), 14	Power to declare any goods and services exempt from VAT, SD & TT.
8(4)	Power to direct that any specified goods, class of goods or service renderer shall be registered under section 15 and shall pay VAT, irrespective of annual turnover.
8D	Power to constitute or form LTUs.
13 & 66	Power to provide necessary directions to release certain goods without payment of VAT and to allow drawback of VAT on certain goods.
15 & 16	Power to determine the time and procedure of registration and exemption from registration.
20	Power to appoint VAT officials for the purpose of giving effect to VAT Act and Rules,
21, 22 & 23	Power to prescribe the VAT officials necessary guidelines to exercise the power and duties assigned or imposed on them.
26A	Power to appoint auditor, fixing reasonable remuneration and determining terms and conditions, to inspect stock of goods and to examine books of accounts of a registered or registerable person.
30	Power to manage the forfeited goods in any prescribed manner, subject to rules.
31	Power to specify the methods and procedures of account maintenance by a registered taxpayer.
43	Power to call for the relevant records and initiate proceedings.
44 & 71	Power to rectify any apparent error or incorrectness from the record of any order passed under the provisions of VAT Act.
46	Power to give license to any person to act as VAT consultant, subject to the conditions and procedures specified by rules.
71AA	Power to reward certain persons successful in detection of VAT evasion and non-compliance of VAT law
72	Power to make rules for fulfilling the object of the VAT Act.

B. Commissioner, Value Added Tax: The Commissioner, Value Added Tax is appointed by the National Board of Revenue. The term "Collector" has been renamed by the term "Commissioner" through the Finance Act, 1995. He is responsible to exercise the authority conferred on him by the VAT Act, 1991 and also can also exercise full authority while controlling the sub-ordinates within his jurisdiction and territory.

Powers & Functions of the Commissioner, Value Added Tax:

(i) To exercise the powers conferred upon him by or under VAT Act and to perform the duty assigned to him. He may also exercise all powers conferred upon and perform all duties assigned to any of his subordinates [Section 21(1)].

(ii) To exercise the activities relating to the determination and collection of VAT, SD and TT, as the case may be.

(iii) He will administer and control the affairs of additional and joint commissioners.

(iv) He may assign any of his subordinates to exercise the power of a commissioner in the whole or any specified area of his jurisdiction [Section 22(2)].

(v) He has the power to issue summons to any person in writing mentioning the reason thereof for witnessing or submitting of any document or other material [Section 25]

(vi) He has the right to enter place and premises of production, rendering of service, and trading to inspect stock of goods, service and inputs and to examine accounts and records, if necessary [Section 26]

(vii) He may himself or order his subordinates to audit the tax and tax related activities of a registered or registerable institution on the basis of relevant rules and to submit the report within specified period [Section 26A]

(viii) For fulfilling guidelines regarding the use of 'stamp' or 'banderol' as per Section 6(4A) of this Act, Commissioner may appoint one or more VAT officer and give them necessary directives for observation and surveillance in the place of production, supply, rendering of service or trading of a registered person and for ensuring supervised supply [Section 26B].

(ix) He has the power to supply attested Photostat copy of documents regarding VAT subject to certain conditions [Section 34A]

(x) He has the adjudication power to seize forfeitable goods and impose penalty where value of goods or taxable service exceeds Tk. 15 lacs. But in both cases he has to serve show cause notice to the owner of the seized goods within prescribed periods [Section 27 & 40].

C. Deputy Commissioner or Deputy Director, VAT: The term 'Deputy Collector' has been replaced by the term 'Deputy Commissioner or Deputy Director' through the Finance Act, 1995. They are appointed by the NBR and works under the direct supervision of the Commissioner, Additional Commissioner or Joint Commissioner. He may control and assign duties of the Assistant Commissioner and other VAT officers below his rank.

Powers & Functions of the Deputy Commissioner, VAT:

(i) To exercise the activities relating to the determination and collection of VAT, SD and TT, as the case may be.

(ii) To exercise the powers conferred upon him by or under VAT Act and to perform the duty assigned to him. He may also exercise all powers conferred upon and perform all duties assigned to any of his subordinates [Section 21(1)].

(iii) He will administer and control the affairs of the assistant commissioners.

(iv) He has the power to issue summons to any person in writing mentioning the reason thereof for witnessing or submitting of any document or other material [Section 25]

(v) He has the right to enter place and premises of production, rendering of service, and trading to inspect stock of goods, service and inputs and to examine accounts and records, if necessary [Section 26]

(vi) He has the adjudication power to seize forfeitable goods and impose penalty where value of goods or taxable service is not more than Tk. 5 lacs. But in both cases he has to serve show cause notice to the owner of the seized goods within prescribed periods [Section 27 & 40].

D. Superintendent, VAT: They are also appointed by the NBR and generally work under the supervision of Assistant commissioner, VAT. They are mainly engaged in activities like VAT assessment, recovery and other relevant activities in a local VAT office or circle.

Powers & Functions of the Superintendent, VAT:

(i) To exercise the powers conferred upon him by or under VAT Act and to perform the duty assigned to him. He may also exercise all powers conferred upon and perform all duties assigned to any of his subordinates [Section 21(1)].

(ii) To exercise the activities relating to the determination and collection of VAT, SD and TT, as the case may be.

(iii) He will administer and control the affairs of the VAT Inspectors and other officers below that rank.

(iv) He has the power to issue summons to any person in writing mentioning the reason thereof for witnessing or submitting of any document or other material [Section 25]

(v) He has the right to enter place and premises of production, rendering of service, and trading to inspect stock of goods, service and inputs and to examine accounts and records, if necessary [Section 26]

(vi) He has the adjudication power to seize forfeitable goods and impose penalty where value of goods or taxable service is not more than Tk. 1 lac. But in both cases he has to serve show cause notice to the owner of the seized goods within prescribed periods [Section 27 & 40].

21.28.3 Judicial Authorities: Powers, Functions and Responsibilities: If an assessee is not satisfied with the decisions of the administrative authority, he can move for appeal to the appropriate judicial authority. The main task of these authorities is to settle the appeal through proper investigation and hearing as per the provisions of the VAT law and rules, 1991. In this section, the powers, functions and responsibilities of judicial authorities are discussed:

- **Appellate Tribunal:** The Customs, Excise and Value Added Tax Appellate Tribunal is formed under Section 196 of the Customs Act, 1969. Appellate Tribunal is the

highest judicial authority and the members of this are appointed by the government. The aggrieved assessees have the right to file an appeal to the Tribunal against any order/decision of the Commissioner, the Commissioner (Appeal) or any VAT Officer of equivalent rank. After proper investigation and hearing with the aggrieved party, the Appellate Tribunal issues the order/decision which is to be considered as final.

Formation of the Appellate Tribunal: According to the Section 196(1) of the Customs Act, 1969, the Government shall constitute an Appellate Tribunal to be called the Customs, Excise and Value Added Tax Appellate Tribunal which shall consist of as many technical and judicial members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act. The Government shall appoint one of the members of the Appellate Tribunal to be the President thereof.

Qualification of the members of the Appellate Tribunal: As per Section 196(2) & (3) of the Customs Act, 1969, sufficient numbers of technical and judicial members are appointed to form the Appellate Tribunal. The qualifications to be a member of the Appellate Tribunal are as follows:

(a) **Qualifications to be a Technical Member:** A technical member shall be a person who has held [or is holding] the post of Member of the Board or has held [or is holding] the post of Commissioner of Customs and Excise or any equivalent post for at least two years.

(b) **Qualifications to be a Judicial Member:** A judicial member shall be a person who has for at least ten years held a judicial office in the capacity of a District and Sessions Judge in the territory of Bangladesh or who has been a member of Bangladesh Civil Service (Judicial) and has held a judicial post for at least three years having earned pay in the selection grade of the scale of pay, or who has been an advocate for at least ten years in a court, not lower than that of a Court of District and Sessions Judge.

Powers and Functions of the Appellate Tribunal: Some important powers and functions of the Appellate Tribunal are as follows:

(i) According to the Section 196C of the Customs Act, 1969, the powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members thereof.

(ii) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order made earlier.

(iii) The order of the Appellate Tribunal is considered as to be the final order.

(iv) The Appellate Tribunal has power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(v) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it and shall make such amendments if the mistake is brought to its notice by the concerned officer or the other party to the appeal.

(vi) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely-

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) compelling the production of books of account and other documents;

(d) issuing commissions.

❖ **Commissioner (Appeal), VAT:** They are appointed by the NBR and work under the direct control of the Board. They are directed by the Board to perform their judicial functions in respect of specified areas, persons or classes of persons as the case may be. The aggrieved assessee may appeal to them against the decisions of the Additional Commissioner or any VAT officer below that rank.

21.29 OFFENCES AND PENALTIES REGARDING VAT [SECTION 37]

According to Section 37 of the VAT Act, 1991, and Rule 4 & 35 of the VAT Rules, 1991, an assessee may be penalized for the following offences:

Offences	Penalties
1. As per Section 37(1), if any person:	
(a) fails to apply for registration under this ACT even when it is necessary for him to apply.	Fine of Tk. 10,000 to Tk. 20,000.
(b) fails to submit a return within specified date;	Fine of Tk. 10,000 to Tk. 20,000.
(c) fails to inform the VAT officer about any change of information related to registration;	Fine of Tk. 5,000 to Tk. 10,000.
(d) fails to comply with the direction of any summons under section 25;	Fine of Tk. 10,000 to Tk. 30,000.
(e) fails to maintain information in ECR, POS and computer;	Fine of Tk. 20,000 to Tk. 50,000.
(f) violates any other provision of this Act,	Fine of Tk. 10,000 to Tk. 30,000.
2. As per Section 37(2), if any person:	**i)** a fine of an amount not less than equivalent amount and not more than 0.5 times of the amount of tax (VAT & SD) payable upon the goods or service;
(a) fails to submit return or submits false return;	
(b) receives goods or services without tax invoice, despite being registered	
(c) does not pay tax even and fails to submit return within the specified time though notice has been served twice on him;	
(d) submits return incorrect on substantive grounds;	
(e) evade or attempts to evade VAT through exclusion of sales information in sales accounts book and vat payable amount in vat current account;	**ii)** a fine of at least Tk. 20,000 and not more than Tk. 50,000 in the case of other irregularities other than tax evasion.
(f) evade or attempts to evade VAT through exclusion of purchase information in purchase accounts book;	
(g) evade or attempts to evade VAT through submission of forged documents to VAT officer;	

	(h) fails to submit documents specified by VAT officer against two orders. (i) does not keep proper records, cash register or POS software accounts in accordance with this law or destroy/alter/ mutilate the records or make it false; (j) makes consciously a false statement or declaration (k) obstructs or prevents the access of tax officer to inspect or seize the records, books or other documents in relation to VAT; (l) involves in transaction of or acquires goods even knowing that the tax has been evaded thereon; (m) takes a credit of input-tax through forged or fake invoice; (n) evades or attempts to evade value added tax or supplementary duty by any other means; (o) issues challans stating therein the amount of VAT even without being a registered person; (p) does not perform anything as required or perform something as not required under Section 6(4a). (q) releases goods without maintaining the balance in the current account for paying output tax or adjusting against the deposit of money and input tax rebate, required under this Act or the Rules. (r) does or abates in doing anything specified in the abovementioned clauses.	
3.	As per Section 37(3), if any registered service provider or VAT deducting authority fails to deposit tax or fine or other dues to the government treasury within prescribed time	Shall have to pay the unpaid tax liability together with 2% per month as additional interest. *[This provision shall not prejudice the function of any penal provisions regarding offence under the VAT Act and Rules.*
4.	If amount of VAT deducted at source is not deposited to government treasury in due time by the deducting party	i) Amount including interest will be collected from the party as if he was the supplier; ii) Maximum fine Tk. 25,000
5.	As per Section 37(4), notwithstanding anything contained in any other provision of this Act, if a registered person fails to pay VAT (including SD) within 3 months after notice has been served twice or does any offense twice within 12 months under Section 38(2) or fails to register himself within 1 month from the date of the receipt of the notice under Section 15(4), then	i) if he is a registered person, his business premises may be locked up and his registration may also be cancelled; and ii) if he is a registrable person, his business premises may be locked up.

6. As per Rule 4(13a), if a registered person fails to pay the turnover tax determined by the Superintendent as per the rules	He may be fined in maximum rate of Tk. 5,000 including excess 2% tax per month on unpaid amount.
7. As per Rule 35, if a registered person fails to comply with any provisions of the VAT Rules, 1991 shall be liable to	a penalty of an amount, being not less than 20%, and not more than 75%.of the amount of value added tax (including SD) and the goods or service (where applicable) related to such contravention shall be forfeited to the Government

Except in the case of punishment order given by a Special Judge Court, no penalty can be imposed of or business premises can be locked up under this section without giving the person concerned a reasonable opportunity of being heard, either in person or by his legal representative. A guilty person may be penalized by 3 months to 2 years jail or fined by the amount equal to VAT amount including supplementary duty or maximum 0.5 times fine or both [Section 37(6)].

21.30 CONFISCATION / FORFEITURE RELATING TO VAT

The provisions regarding forfeiture relating to VAT are as follows [Section – 38 and 39]:

21.30.1 Reasons of forfeiture [Section-38]:

1. If a registerable person manufactures or produces or deals in any taxable goods before registration, those goods shall be liable to forfeiture; or
2. If a registered person-
   - **(a)** removes any taxable goods from the place of business without an invoice;or
   - **(b)** supplies goods or renders service without paying the tax mentioned in the invoice or the tax applicable to concerned goods or service; or
   - **(c)** removes such taxable goods from the business premises with invoice which does not accompany the goods up to its destination;
   - **(d)** fails to comply with the provisions of 6(4a),

Those goods shall be liable to forfeiture and the said registered person, his representative or any person involved with the said activities shall be liable to a fine of an equivalent amount and not more than 0.5 times of the amount of the value added tax (including SD).

21.30.2 Scope of Forfeiture [Section 39]:

1. Forfeiture under this Act shall mean the package/container including goods therein.
2. Vehicle used in the transportation of forfeitable goods shall also be liable for forfeiture under this Act. *Provided that the officers stated in the Rules can allow interim release the seized vehicle carrying the goods during the period of pending adjudication.*
3. Forfeiture in the case of a vessel shall include its tackle, appliances and furniture.

21.30.3 Management of the Forfeited Goods [Section 30, Rule 36 & 37]:

1. The goods forfeited under the Act or these rules shall vest in the government forthwith and the officer giving the order of such forfeiture shall receive the forfeited goods and take them into his possession [Rule 36].

2. The goods forfeited and the goods in respect of which the opportunity of payment of fine in lieu of forfeiture has not been availed of within three months from the date of forfeiture may be disposed of by the Commissioner through an open auction or tender or in any other manner as the Board may direct [Rule 37].

21.30.4 Seizure of Forfeitable Goods [Section - 27]: The provisions relating to the seizure of forfeitable goods are as follows:

1. Any authorized VAT officer, not below the rank of an Assistant Commissioner or Assistant Director, may seize any forfeitable goods and, where it is not possible to seize such goods, he may order the owner of the goods or the person under whose possession or supervision the goods remain not to remove, transfer or otherwise dispose of the goods without prior permission. *Provided that the case of seizure of goods of any registered person under this subsection, the officer may release the goods as per procedure and conditions prescribed by rules.*
2. Show cause notice has to be issued to the owner of the goods seized within **2 months** from the seizure. The notice will mention the reasons for seizure. An opportunity will be provided to defend against the charge brought or hearing through him or his legal representatives:
   - ❖ Provided that the Commissioner, recording the reasons, can extend the above two months period, for a period not exceeding another two months.
   - ❖ Provided further that the provisions of this sub-section shall not apply to a case where order of forfeiture of goods or imposition of fine is passed considering the written confessional application of the owner of the goods or related person and where such person consents in writing to abide by the order, without prejudice to right of appeal against the said order given without show cause notice.
3. If no show cause notice is issued within two months from the date of seizure or, as the case may be, the time extended by the Commissioner, the goods shall be returned to the person from whose possession it was seized.

21.31 TAX CHALLAN / INVOICE [SECTION 32]

Every registered person shall, at the time of supply of taxable goods or rendering of taxable service or export of goods or service or sale of taxable imported goods, issue challan (invoice) with consecutive serial number, in the form and manner prescribed by rules or in any other form and manner approved by the Board. Provided that:

1. not more than one challan (invoice) shall be issued for a single supply of taxable goods or sale of taxable imported goods or rendering of taxable service, or export of goods or service;
2. in a case where any person claims that original challan has been lost, the concerned supplier of goods or renderer of service may issue to him a duplicate copy of challan marked distinctly "Duplicate Only".

21.32 VAT RETURN AND ITS SUBMISSION [SECTION 35 & RULE 24, 25 & 26]

Generally VAT Return is considered as a regular report of sales and services subject to VAT which is required to be submitted by the firms registered for VAT. In the return the amount of tax liability will be mentioned.

21.32.1 Submission of VAT Return [Rule 24]: A manufacturer or produce or trader of taxable goods or renderer of taxable service shall submit a return to the concerned officer in the form and in the manner prescribed by rules for every tax period, showing therein all of his tax liabilities under this Act, within the specified date. According to Rule 24, following procedures are to be followed while submitting the VAT return:

1. Every manufacturer or producer or businessman of taxable goods or renderer of taxable service shall have to deposit in the local value added tax office two copies of a return in Form "Musak-19" for each tax period within 10 (ten) working days of the month next after the tax period. Provided that in the case of an Insurance company, for each tax period two copies of the return shall have to be submitted to the local value added tax office within 20 working days of the month next after the tax period.
2. A person, who supplies or exports goods after preparing or manufacturing, shall have to attach, along with the return, the following documents, namely:-
   (a) original copy of the current account; and
   (b) any other documents claimed by the Commissioner.
3. A person, who renders or exports taxable service, shall submit, along with the return, the following documents, namely:-
   (a) original and duplicate copy of the treasury challan as a proof of payment of the tax payable during the tax period (where applicable), and
   (b) any other documents claimed by the Commissioner.

21.32.2 Examination of Return [Section 36 & Rule 25]: As per Section 36 & Rule 24, the procedures relating to the examination of return are as follows:

1. The concerned officer shall examine according to the procedure prescribed by rules, the return submitted by a person under section 35 as soon as possible and, on examination, if it is proved that VAT/SD paid by him is less than the actual applicable amount, the said officer shall direct the person, by order, to pay the unpaid amount within seven days of the receipt of the order [Section 36(1)].
2. If more amounts are given, the concerned officer will give the taxpayer the opportunity to adjust the extra amount with the next year's VAT payable amount.
3. If the information and the documents attached in the return are found to be proper after examination by the inspector in-charge of the concerned revenue area and the Superintendent of the local value added tax office, both of them shall certify to that effect by putting their signature and affixing their seals separately and the concerned Superintendent shall return to the registered person a copy of the return so certified within not more than 60 (sixty) days and shall send the original copy to the Commissioner.
4. The Commissioner shall, on the basis of the return mentioned in sub-rule (1), take necessary step to ascertain as to whether the person who submitted the return has, during the relevant tax period, properly paid the output tax and taken input credit.
5. If a manufacturer or producer of taxable goods or service renderer exports 100 percent of the goods manufactured or produced or service rendered by him or suppliers or renders it partly, but the amount of tax eligible for credit on input paid by him in every tax period is more than the amount of output tax payable, the Commissioner shall, within 30 (thirty) days, send the original copy of the return submitted by the said taxpayer to the Directorate of Duty Exemption and Drawback office, for taking necessary action.

6. If a registered person required to submit return, does not submit it on time for any tax period, the inspector in-charge of the concerned revenue area shall, within seven days of the expiry of the tax period, inform the Divisional Officer, through the concerned Superintendent, for taking necessary action against the said registered person.

21.32.3 Submission of Final Return [Rule 26]: If a registered person applies under rule 15 for cancellation of his registration, the Divisional Officer shall, after determining his liabilities, if any, relating to value added tax or supplementary duty, direct the applicant to submit within fourteen days a final return.

21.33 APPEAL [SECTION – 42]

According to Section 42 of the VAT Act, 1991 certain provisions have been incorporated regarding appeal by the aggrieved parties. They are as follows:

21.33.1 When and to whom can an aggrieved party appeal?

Any VAT officer or any person aggrieved by any decision or order given by a VAT officer under this Act or the rules, may appeal against such order, except against an order of seizure or sale given under section 56 in case of supply of goods or rendering of service or an order under section 98 or section 82 of the Customs Act in the case of import of goods, within ninety days of giving such decision or order as per the following procedures [Section 42(1)]:

Appeal against whose Decision / Order	Appeal to Whom
Additional Commissioner or any VAT officer below that rank.	The Commissioner (Appeal)
The Commissioner, the Commissioner (Appeal) or any value added tax officer of equivalent rank.	The Customs, Excise and Value Added Tax Appellate Tribunal formed under section 196 of the Customs Act

21.33.2 Settlement of Appeal: After receipt of an appeal the following steps are to be followed to settle the appeal:

1. If the appeal is preferred to the Commissioner (Appeal), he may make necessary enquiry or collect information and may uphold or amend or reject the earlier decision or give such new decision or order as he deems fit, after giving to the appellant reasonable opportunity of being heard. Provided that if the Commissioner (Appeal) is satisfied that the appellant could not prefer the appeal within the said ninety days time due to sufficient reason, he may permit the appellant to prefer an appeal within sixty days next following the said period [Section 42(1a)(a)].
2. If the appeal is preferred to the Appellate Tribunal, the Appellate Tribunal, shall, notwithstanding anything in this Act, dispose off the appeal following, as far as practicable, the provisions of the Customs Act regarding the said tribunal [Section 42(1a)(b)].
3. If any person intends to prefer an appeal under Section 42(1) against a decision or order relating to a demand of value added tax payable on any goods or service or to fine imposed under this Act, he shall have to the following amount of the fine imposed or tax demanded in the Government treasury or to a VAT officer authorized by the Government in this behalf., at the time of preferred his appeal [Section 42(2)]:

(a) 10% of tax demanded or 10% of the fine imposed if the tax cannot be paid or; in the case of an appeal preferred to the Commissioner (Appeal),

(b) 10% of tax demanded or 10% of the fine imposed if the tax cannot be paid; in the case of an appeal preferred to Appellate Tribunal against an order given by Commissioner or any VAT officer of his equivalent rank,

(c) 10% of tax demanded or 10% of the fine imposed if the tax cannot be paid; in the case of an appeal preferred to the Appellate Tribunal against an order of the Commissioner (Appeal).

But, if any appeal is made against the order of the Commissioner (Appeal) as mentioned in (a), no amount is required to pay.

4. No appeal under sub-section (1) can be made when the Board has started proceedings with regard to any decision or order under section 43 [sec - 42(3)].

5. Notwithstanding anything contained in this Act, if the appellate authority fails to give any decision on the appeal within **nine months** from the date of its receipt, the appeal shall be deemed to have been granted by the appellate authority [Section 42(4)].

6. Any unsettled appeal or appeal at the implementation stage which is preferred before 1st October, 1995 will be transferred to the Appellate Tribunal on the mentioned date and will be settled as far as possible under Section 196 of the Customs Act [Section 42(5)].

21.34 REFUND OF EXCESS VAT [SECTION 67]

The tax payer can claim a refund of excess VAT or SD or TT paid due to negligence, mistake or wrong explanation and the above tax will be refunded in accordance with the procedure prescribed by rules. Provided that, the claim has to be made within **six months** of such payment otherwise no claim will be accepted. The aforesaid 6 (Six) months shall commence from the date of adjustment after final assessment in accordance with Section 81 of the Customs ACT.

Refund Procedures [Rules 34(a)]: According to Rule 34a of the VAT Rules, the following procedures are to be followed to claim refund:

1. In the case of claim for refund under section 67 of the VAT Act, the applicant shall have to submit to the concerned Divisional Officer or Commissioner of the Custom House or any officer, not below the rank of Assistant Commissioner, authorized by him in this behalf, the refund claim in Form "TR-31", in triplicate, within **six months** of the payment of the tax. *Provided that if Form "TR-31" is not readily available, the application may be submitted in plain paper instead of the said Form and must get it regularized through filling & submitting within 15 days of the submission of the application.*

2. The Divisional Officer or the officer-in-charge of the Custom House can approve the refund claim made under Section 67(1) upon verification of its reasonableness and making sure about the authenticity of deposit of the money demanded in the treasury actually. The officer approving the refund then shall send the refund bill to the Commissioner or officer-in-charge of the Custom House for pre-audit. If, on pre-audit, the bill is considered to be correct, the concerned officer shall, after countersigning it, preserve one copy of the bill for office record and send one copy to the concerned district accounts officer or to the chief accounts officer and one copy to the concerned Divisional Officer. *Provided that it shall have to be disposed of within 90 (ninety) days of the receipt of the application for refund claim.*

3. The concerned branch under the control of the approving officer shall maintain a register for the purpose of maintaining the proper accounting records.
4. Notwithstanding anything contained in this rule, refund so claimed shall not be approved in a case where, at the local level, there is a provision and scope for adjustment of the money claimed as refund against the concerned registered person's input tax rebate.
5. In the case of processing of refund claim under this rule the relevant rules of the Bangladesh Treasury Rules shall apply.

21.35 KEEPING OF ACCOUNTS/DOCUMENTS RELATING TO VAT [S 31 & R 22]:

Any registered person shall have to duly maintain and preserve the following books in his place of manufacture or production or business or in the place of rendering service:

1. **Purchase Accounts Register:** In this register, information relating to purchase of taxable and tax-exempted goods or purchase of service shall be recorded in writing in Form "Musak-16";
2. **Sales Accounts Register:** In this register, information relating to supply of taxable and tax-exempted goods or rendering of service or export of such goods or service shall be recorded in writing in Form "Musak-17";
3. **Invoice Register:** Invoices printed according to Form "Musak-11" and, where applicable, in Form "Musak-11A" shall have to be so maintained in the bound book form that any page of it cannot be removed without tearing and in the invoices numbers shall have to be printed serially; and
4. **Current Account Register:** In this register, the description of transactions, the amount of payable output tax, output tax deposited in the treasury and output tax on which credit may be taken and information relating thereto shall be recorded in writing in accordance with Form "Musak-18". It will help to determine the net vat payable.
5. Statement of money deposited into the treasury through challans or to any bank approved by the government for this purpose.
6. The statement of stock of inputs and finished goods
7. The commercial documents of taxable and exempted goods and services
8. Any other books and records prescribed by rules

The Board through Government Gazette notification reserves the right to determine the methods and kinds of books and records to be preserved by any registered person.

Points to be remembered in keeping accounts:

(a) The Commissioner may, on the basis of the application of a registered person, allow him to keep the above accounts through computer subject to certain conditions.

(b) Moreover, a contract manufacturer should maintain separate records for goods manufactured under contract and for his own goods.

(c) A registered person shall maintain the relevant accounts in such a manner as they may be easily audited.

21.35.1 Time limit for Preservation of Records [Section 33]: A registered person who has obligation to preserve the above records under section 31 shall have to preserve the records in Bangladesh for at least **four years** following completion of the tax period to which it relates. But if any case under this Act is pending against the registered person, the records for the relevant tax period shall have to be preserved until the final disposal of the case.

21.36 ALTERNATIVE DISPUTE RESOLUTION [SECTION 41A – SECTION 41K]

Through the Finance Act 2011, Alternative Dispute Resolution has been introduced to reduce the hassle in the settlement of pending VAT related disputes. The basic issues under this arrangement are as follows:

1. Notwithstanding anything contained in any provisions of the VAT Act, any dispute of an assessee lying with any VAT authority or VAT/Customs Appellate Authority may be resolved through Alternative Dispute Resolution (hereinafter referred to as ADR) in prescribed manner [Section 41A].
2. Board may, by notification in the official Gazette, specify the date and procedures to settle the disputes through ADR [Section 41B].
3. Any dispute of an assessee lying with any VAT Authority, Taxes Appellate Tribunal or Court may be considered as fit to resolve through ADR. Any VAT evasion or criminal offence related cases cannot be settled through ADR [Section 41C].
4. For the purposes of resolving a dispute in an alternative way, the Board may select or appoint Facilitator and determine his duties and responsibilities by rules [Section 41D].
5. An aggrieved assessee may apply for ADR of a dispute which is pending before any VAT Authority, tribunal or court in prescribed manner as per Section 41E.
6. The application of the aggrieved assessee will be processed and resolved by specified rules [Section 41F].
7. The application relating to disputes pending in any VAT Commissionarate must be resolved within 30 days and in case of issues pending in Commissioner (Appeal), Appellate Tribunal and Court within 50 days [Section 41G].
8. A dispute may be resolved by an Agreement either wholly or in part where both the parties of the dispute accept the points for determination of the facts or laws applicable in the dispute. The Facilitator shall record, in writing, the details of the agreement and terms of agreement regarding tax payment, fine or refund and notify the matter to the assessee, Commissioner and Board within 7 days. The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation. Where no agreement is reached, the facilitator shall communicate the matter to the applicant and the Board, the concerned court, Tribunal, commissioner as soon as possible [Section 41H].
9. Where an agreement is reached, it shall be binding on both the parties and it cannot be challenged in any authority, Tribunal or court either by the assessee or any other tax authority. If the assessee fails to pay the agreed amount within stipulated time, it can be collected as per the provisions of Section 56 of the VAT Act, 1991. In case of delay payment, 3% interest will be imposed on a monthly basis [Section 41I].
10. Where an agreement is not reached, the assessee may prefer an appeal to the respective appellate authority or court. In computing the period of limitations for filing appeal, the time elapsed between filing of the application and the decision or order of the ADR shall be excluded [Section 41J].
11. No civil or criminal action shall lie against any person involved in the ADR process before any court, tribunal or authority for any action taken or agreement reached in good faith [Section 41K].

21.37 VAT CALCULATION

Illustration 21 – 1:

If 'A' purchases goods worth Tk. 20,000 from the manufacturer and adds value of Tk. 5,000, calculate the total sale price of the product, if VAT levied @ 15%.

Solution 21 – 1:

Cost price	= Tk. 20,000	
Value added	= Tk. 5000	
VAT (15%)	= Tk. 5,000 × (15 ÷ 100)	= Tk. 750
Total Sales Price	= Tk. 20,000 + Tk. 5,000 + Tk. 750	= Tk. 25,750

Illustration 21 – 2:

Ms. R purchases cotton fiber @ Tk. 50 per kg and 1 kg of fiber produces 2 meters of cloth. She again sold this cloth in the market @ Tk. 42.25 per meters, VAT levied on the cloth is 15%. Calculate the total VAT collected by the govt. in this whole transaction?

Solution 21 – 2:

Cost of cotton fiber = Tk. 50

Selling price of cloth = Tk. 42.25 × 2 = Tk. 84.5

Difference = Tk. 34.5

∴ 34.5 = Value added + VAT

⇨ 34.5 = x + 0.15x (assuming value added = x)

⇨ 34.5 = 1.15x

⇨ x = 34.5/1.15

⇨ x = 30

So, value added amount = Tk. 30 and VAT on it = (Tk. 30 × 15%) = Tk. 4.5

Illustration 21 – 3:

Mr. Sinha purchases 10 computers @ Tk. 17,500 per computer. On each computer he earns Tk. 2000 and pays VAT @ 15%. What will be the total sale price of these 10 computers and how much VAT he has to pay?

Solution 21 – 3:

Cost of one computer	= Tk. 17,500
Value added (profit)	= Tk. 2,000
Total	= Tk. 19,500
VAT (15%)	= Tk. 300
Selling price of one computer	= Tk. 19,800
Total selling price of 10 computers	= Tk. 198,000
Total VAT paid	= Tk. 3,000

Illustration 21 – 4:

A washing machine dealer, purchases 5 washing machines (WM) @Tk. 22,000 per unit and 2 WM @ Tk. 25,000 per unit from the company. After earning profit of Tk. 6,000 on each machine, the dealer sells 5 WM at Tk. 28,900 and 2 WM at Tk. 31,900. How much percentage of VAT he has paid and what is the total amount paid by him to the government as VAT.

Solution 21 – 4:

Cost of 5 Washing Machines	= Tk.5 × 22,000	= Tk. 110,000
Profit earned	= 5 × 6,000	= Tk. 30,000
Total	= Tk. 140,000	
Selling price	= Tk. [5 × 28,900]	= Rs. 144,500
VAT Paid	= Tk. (144,500 – 140,000)	=Tk. 4,500
VAT (%) = (4,500 ÷ 30,000) ×100	= 15%	
Cost of 2 Washing Machines	= Tk. 50,000	
Profit added	= Tk. 12,000	
VAT (15%)	= Tk. 1,800	
Total selling price	= Tk. 63,800	
∴ Total VAT paid	= Tk. (4,500 + 1,800)	= Tk. 6,300

Illustration 21 – 5:

Suppose a computer dealer sells computer at Tk. 12,240 and he purchases the same computer at Tk 8,000. VAT levied on computers is @ 15% but he gets rebate @5%. Calculate how much VAT he has to pay and how much is the total collection of VAT by the government.

Solution 21 – 5:

Cost Price = Tk. 8,000, Selling Price		= Tk. 13,500
∴ Profit + VAT		= Tk. 5,500
VAT (%) = (15 - 5) %		= 10%
∴ 5,500	= profit + 10% of profit	
	⇨ 5,500 = x + 0.1x (assuming profit = x)	
	⇨ 5,500 = 1.1x	
	⇨ x = 5,000	
∴ VAT paid	= Tk. (5,500 – 5,000)	= Tk. 500

Illustration 21 – 6:

A dealer purchases dish washer (DW) at Tk. 15,000 and further sells it at Tk. 20,200. If VAT levied on DW is 4%, calculate profit earned by him and how much VAT he has to pay to the govt. Also calculate the total VAT given to the govt. in this whole transaction.

Solution 21 – 6:

Cost Price of Dish washer		= Tk. 15,000
Selling Price		= Tk. 20,200
∴ Difference		= Tk. 5,200
Let value added		= x
∴ Tk. 5,200	= x + 4% of x	
	⇨ 5,200 = 1.04x	
	⇨ x = 5,000	
∴ Profit earned		= Tk. 5,000
VAT paid		= Tk. 200

Illustration 21 – 7:

Sumon purchases 100 Wall Clocks (WC) @ Tk. 70 per unit and he sold all these WC to Nikhil at Tk. 9,300 where he earns profit of Tk. 2,000. After adding value of Tk. 30 per unit Nikhil sells these WC in the market. If VAT is same on all these clocks, calculate how much VAT Sumon has to pay and at what price Nikhil sells these WC in the market.

Solution 21 – 7:

Price paid by Sumon	= Tk. (100 × 70)	= Tk. 7,000
Profit earned	= Tk. 2,000	
Total	= Tk. 9,000	
Selling price (including VAT)	= Tk. 9,300	
∴ VAT	= Tk. 300	
∴ VAT (%) = (300 ÷ 2000) ×100	= 15%	
Price paid by Nikhil	= Tk. 9,300	
Value added	= Tk. 3,000	
Total	= Tk. 12,300	
∴ VAT	= Tk. 3,000× (15 ÷ 100)	= Tk. 450
Selling Price	= Tk. (12,300 + 450)	= Tk. 12,750

Illustration 21 – 8:

A wholesaler purchases 15 meters of cloth from the manufacturer @ Tk. 80 per meter and sells to the retailer after adding value of Tk. 20 per meter. The retailer sells the cloth and making a profit of Tk. 50 per meter. Calculate how much total tax was paid to the government in the whole transaction, through (i) **VAT and** (ii) **Sales tax method**, considering both taxes were levied @15%.

Solution 21 – 8:

(i)	Wholesaler's Cost Price	= Tk.15 × 80	= Rs.1200
	VAT (15%)	= Tk. 180	
	Total	= Tk.1380	
	Value added	= Tk. 15 × 20	=Tk. 300
	VAT	= Tk. 300 × 15%	= Tk. 45
	Retailer's cost	= Tk.1725	
	Value added by retailer	= Tk.15 × 50	= Tk. 750
	VAT	= Tk. 750 × 15%	= Tk. 112.5
	∴ Net selling price	= Tk. 2587.5	
	Total VAT paid	= Tk. [180 + 45 + 112.5]	= Tk.337.5
(ii)	Wholesaler's Cost Price	= Tk.1200	
	Sales Tax (15%)	= Tk. 180	
	Total	= Tk.1380	
	Value added	= Tk. 300	
	Total	= Tk. 1680	
	Sales Tax	= Tk. 1680 × 15%	= Tk. 252
	Total	= Tk. 1932	
	Value added by retailer	= Tk.15 × 50	= Tk.750
	Total	= Tk. (1932 + 750)	= Tk. 2682
	Sales Tax	= 15% of 2682	= Tk. 402.3
	Net Selling Price	= Tk. 3084.3	
	Total Sales Tax paid	= Tk. [180 + 252 + 402.3]	= Tk. 834.3

Illustration 21 – 9:

A manufacturer sold a TV set @ Tk. 20,000 to the wholesaler. The wholesaler sells it to a retailer @ Tk. 25,500 and the retailer finally sells it to the customer @ Tk. 31,000. If VAT or sales tax whatever is levied is 15% extra at every stage, calculate the total tax collected by the government through (i) VAT and through (ii) **sales tax.**

Solution 21 – 9:

(i)	Wholesaler's cost Price	= Tk. 20,000	
	VAT (15%)	= Tk. 3,000	
	Total	= Tk. 23,000	
	Since, he sells at Tk. 25,500, value added		= Tk. 2,500
	∴ VAT (15%)	= Tk. 375	
	∴ Cost of Retailer	= Tk. 25,875	
	Retailer sells at Tk. 31000. Therefore, Value added		= Tk. 5,125
	∴ VAT (15%)	= Tk. 768.75	
	Hence, total VAT paid	= Tk. [3,000 + 375 + 768.75]	
		= Tk. 4,143.75	
(ii)	When sales tax is paid		
	Sales Tax by Manufactures	= Tk. 3,000	
	Sales Tax by Wholesaler	= Tk. 25,500 ×15% = Tk.3825	
	Sales Tax by retailer	= Tk. 31,000 × 15% = Tk.4650	
	∴ Total Tax	= Tk. [3,000 + 3825 + 4650]	
		= Tk. 11,475	

Illustration 21 – 10:

Math 3: A firm produces 100 units of an item per day and sells all at the rate of Tk. 20 per unit to the wholesaler. If the Wholesaler added Tk. 500 as his profit and sells to retailer who adds Tk. 1,000 while selling, then calculate the total tax collected by the government, through (i) **VAT** and through (ii) **sales tax**, if both taxes are levied @15%.

Solution 21 – 10:

(i)	Cost of wholesaler	= Tk. 20 ×100 = Tk. 2,000
	VAT	= Tk. 300
	Total	= Tk. 2,300
	Value added (by wholesaler)	= Tk. 500
	VAT (15%)	= Tk. 75
	Total	= Tk. 2,875
	Value added by retailer	= Tk. 1,000
	VAT (15%)	= Tk. 150
	Total	= Tk. 4,025
	∴ Total VAT (Tax)	= Tk. [300 + 75 + 150] = Tk. 525
(ii)	If sales tax is paid	
	Cost of Wholesaler	= Tk. 2,000
	Sales Tax	= Tk. 300
	Total	= Tk. 2,300
	Value added (by Wholesaler)	= Tk. 500
	Total	= Tk. 2,800
	∴ Tax	= Tk. 420
	∴ Total	= Tk. 3,220
	Value added by retailer	= Tk. 1,000
	Total	= Tk. 4,220
	Tax	= Tk. 633
	Total	= Tk. 4,853
	Total Tax Paid	= Tk. [300 + 420 + 633] = Tk. 1,353

Illustration 21 – 11:

The following information has been taken from the accounting records of Unilever Bangladesh Limited for the year 2015:

Raw materials inventory, January 1 Tk. 90,000;
Raw materials inventory, December 31 Tk. 60,000;
Work in process inventory, January 1 Tk. 180,000;
Work in process inventory, December 31 Tk. 100,000;
Finished goods inventory, January 1 Tk. 260,000;
Finished goods inventory, December 31 Tk. 210,000;

Purchase of raw materials Tk. 750,000; Direct labor Tk. 150,000; Manufacturing overhead Tk. 640,000; Selling expenses Tk. 140,000; and Administrative expenses Tk. 270,000. The company sells its product by adding 15% profit on cost. Determine the amount of VAT if the rate is 15%.

Solution 21 – 11:

Unilever Bangladesh Limited
Schedule of VAT calculation
For the year ended on December 31, 2015

	Tk.	Tk.
Raw materials, January 1	90,000	
Add, Purchase of raw material	750,000	
Raw materials available for use	840,000	
Less, Raw materials, December 31	60,000	
Raw materials used in the production		780,000
Direct labor		150,000
Manufacturing overhead		640,000
Total manufacturing cost		1,570,000
Add, Work in process, January 1		180,000
		1,750,000
Less, Work in process, December 31		100,000
Cost of goods manufactured		1,650,000
Add, Finished goods inventory, January 1		260,000
Goods available for sale		1,910,000
Less, Finished goods inventory, December 31		210,000
Cost of goods sold		1,700,000
Add, Profit [1,700,000 × 15%]		255,000
Selling price		1,955,000

Value Added Tax:

VAT on output [1,955,000 × 15%] = 293,250
Less, VAT on input i.e. Raw material used [780,000 × 15%] = 117,000
VAT payable = 176,250

VAT can also be calculated in the following alternative way:

Value addition = Output value (Selling price) – Input value (Raw material used)
= 1,955,000 – 780,000 = 1,175,000
VAT payable = 15% on 1,175,000 = 176,250

Illustration 21 – 12:

On January, 2016, Rahman International (Pvt.) Limited imported raw materials of school bags for Tk. 100,000 and sold it to Agfa Limited for Tk. 120,000. Using these materials, Agfa Limited made 150 pieces of school bags and sold it to Yousuf & Sons, a wholesaler, for Tk. 170,000. Yousuf & Sons sold the bags to a retail seller Jaman International for Tk. 200,000.

Jaman International sold all the bags to various customers for Tk. 250,000. In each case and each stage 15% VAT is to be considered.

Required: Compute VAT in each case.

Solution 21 – 12:

Stage	Particulars	Purchase price / input value (Tk.)	Value addition (Tk.)	VAT @ 15% (Tk.)
1	Import of raw materials by Rahman International (Pvt.) Ltd.	100,000	100,000	15,000
2	Sale of raw materials to Agfa Ltd.	120,000	20,000	3,000
3	Sale of school bags to Yousuf & Sons, a wholesaler	170,000	50,000	7,500
4	Sale of school bags to Jaman International, a retailer	200,000	30,000	4,500
5.	Sale of school bags to customers	250,000	50,000	7,500
Total			250,000	37,500

So, the total VAT amount is Tk. 37,500 which is ultimately borne by the final consumer.

Illustration 21 –13:

Mr. Jalil, an importer, imported chocolates of Tk. 100,000 (C&F value determined by the Bangladesh Customs Authority). The insurance charge is 1.5% of the C&F value, borne by the importer. Thereafter, 2% landing charge is applicable on these goods. Customs duty and supplementary duty rate are 15% and 10% respectively.

Required: Calculate the amount of VAT, assuming a rate of 15%.

Solution 21 – 13:

	Amount (Tk.)
C&F value of the imported chocolates	100,000
Add, insurance charge [1.5% of the C&F value i.e. Tk. 1,00,000]	1,500
Total of C&F value and Insurance Charge	101,500
Add, Landing charge [2% of Tk. 1,01,500]	2,030
Assessable value	103,530
Add, customs duty [15% of Tk. 1,03,530]	15,530
Sub-total before considering SD	119,060
Add, Supplementary duty [10% of Tk. 1,19,060]	11,906
Base value for VAT	130,966

So, the required amount of VAT will be = [15% of Tk. 130,966] = Tk. 19,645 (app.)

Illustration 21 – 14

Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for Tk. 120,000 and after adding expenses of Tk. 10,000 and of profit Tk. 15,000 and sold out the same. The rate of VAT on purchases and sales is 15%.

Solution 21 – 14:

Computation of invoice value:

	Tk.
Cost of goods Purchased	120,000
Add: Additional exp.	10,000
Add: Share of profit	15,000
Total invoice value	**145,000**

Computation of Tax payable:

	Tk.
VAT on Invoice Value @ 15%	21,750
Less: Input tax credit – VAT on purchases @ 15% (120,000 × 15%)	18,000
Total invoice value	**3,750**

Illustration 21 – 15:

Hasan Traders, an importer, imported 200 pieces of LED TV at CIF price @ Tk. 100,000 per piece. The clearing and other incidental charges amounted to Tk. 100,000 for the total consignment. He sold 80 pieces of TV to a whole seller at a markup of 10% (exclusive of VAT). The whole seller charged 10% mark up to sell it to retailers. The retailers incurred a cost @ Tk. 2,000 for maintenance and other expenses and added 10% mark up to the price.

Required: Compute VAT assuming that the retailers sold 60 pieces of TV in a trade fair among various customers in the month of June, 2014.

Solution 21 – 15:

Stage – 1: Importer	Tk.	Stage – 2: Whole seller	Tk.
CIF price of imported goods (Tk. 100,000 × 200)	20,000,000	Cost of purchase from importer	10,170,600
Add: Clearing and other charges	100,000	Less: Input VAT recoverable	1,326,600
Total cost of input	20,100,000	Net COGS	8,844,000
Input VAT recoverable	Nil	Add: Profit @ 10%	884,400
Net COGS (for 200 units)	20,100,000	Selling price excluding VAT	9,728,400
Net COGS (80 units)	8,040,000	Add: Output VAT @ 15%	1,459,260
Add: Profit (10%)	804,000	Selling price inclusive of VAT	11,187,660
Selling price excluding VAT	8,844,000		
Add: Output VAT @ 15%	1,326,600		
Selling price inclusive of VAT	10,170,600		

Stage – 3: Retailer	Tk.	Stage – 4: Customer	Tk.
Cost from wholesaler (80 units)	11,187,660	Cost of purchase from Retailers (60 units)	8,381,620
Cost of 60 units	8,390,745		
Less: Input VAT recoverable [14,59,260/80*60]	1,094,445		
Net COGS	7,296,300		
Add: Maintenance and selling costs (2,000 × 60)	120,000		
Total COGS	7,416,300		
Add: Profit 10%	741,630		
Selling price excluding VAT	8,157,930		
Add: Output VAT @ 15%	1,223,690		
Selling price inclusive of VAT	83,81,620		

Workings:

	Importer (200 units)	Wholesaler (80 units)	Retailer (60 units)	Consumer (60 units)
Output VAT	13,26,600	14,59,260	12,23,690	-
Less: Input VAT	--	13,26,600	10,94,445	
Gross VAT Payable	13,26,600	132,660	129,245	
Net VAT Payable	13,26,600*60/80 =994,950	132,660*60/80 = 99,495	129,245	

VAT to be borne by the consumer (for 60 units) = 994,950 + 99,495 + 129,245 = 12,23,690

KEY POINTS

1. Value added tax (VAT), or goods and services tax (GST), is tax on exchanges. It is levied on the added value that results from each exchange.
2. The Value Added Tax Act in Bangladesh has taken into effect from July 1, 1991.
3. VAT is an example if indirect tax, as the burden is ultimately borne by the final consumers.
4. In Bangladesh, the highest amount of tax comes from VAT, which is nearly 35% of the total tax revenue.
5. VAT is imposed on goods and services at import stage, manufacturing, wholesale and retails levels.
6. An uniform rate of 15 per cent VAT is applicable for both goods & services in Bangladesh.
7. VAT is payable at the time of supply of goods and services. Tax paid on inputs are creditable against output tax.
8. Turnover tax @ 3 per cent is leviable where turnover amount is not more than 80 lac taka.
9. Luxurious and socially undesirable goods are subject to supplementary duties at different rates ranging from 10 per cent to 500 per cent.
10. VAT returns are to be submitted on monthly/quarterly/half- yearly basis as notified by the Government.

Chapter – 21: Value Added Tax

Multiple choice questions:

1. Value Added Tax has been introduced in Bangladesh on –
   (a) 1990
   (b) 1991
   (c) 1992
   (d) 1993
2. The rate of VAT in Bangladesh is –
   (a) 5%
   (b) 10%
   (c) 15%
   (d) 20%
3. The rate of turnover tax in Bangladesh is –
   (a) 3%
   (b) 4%
   (c) 10%
   (d) 15%
4. If a registered person fails to submit the VAT return within the specified date, he may be imposed a maximum penalty of -
   (a) Tk. 2,000
   (b) Tk. 5,000
   (c) Tk. 15,000
   (d) Tk. 20,000
5. Importers, manufacturers and service providers, having minimum annual turnover of -------, have to pay 15% tax on their value addition as per the VAT Act
   (a) 15 Lacs
   (b) 24 Lacs
   (c) 70 Lacs
   (d) 80 Lacs
6. Which tax is not imposed as per the provisions of the Value Added Tax Act, 1991?
   (a) Value Added Tax
   (b) Customs Duty
   (c) Turnover Tax
   (d) Supplementary Duty
7. Which form is used for application regarding registration under the VAT Act–
   (a) Mushak 5
   (b) Mushak 6
   (c) Mushak 10
   (d) Mushak 16
8. What is the time limit for preservation of records for a registered person under the VAT Act, 1991?
   (a) 1 year
   (b) 2 years
   (c) 3 years
   (d) 4 years
9. VAT authorities are appointed as per the Section ----- of the VAT Act, 1991:
   (a) 7
   (b) 8
   (c) 15
   (d) 20

10. Which form is related to VAT invoice? –
    (a) Mushak 5
    (b) Mushak 9
    (c) Mushak 11
    (d) Mushak 16

Identify the following statements as True (T) or False (F):

1.	Value Added Tax is a direct tax.	T	F
2.	VAT is payable at the time of supply of goods and services.	T	F
3.	VAT contributes the highest in the tax revenue.	T	F
4.	All importers, manufacturers and service providers are to be registered as per the VAT Act, 1991.	T	F
5.	Export is zero rated.	T	F

Discussion Questions:

Question 21 – 1: Define value added tax? Discuss the advantages and disadvantages of VAT.
Question 21 – 2: Discuss the characteristics of VAT in Bangladesh?
Question 21 – 3: Discuss the scope of Bangladesh value added tax law.
Question 21 – 4: What are the goods and services chargeable under the VAT Act, 1991 in Bangladesh?
Question 21 – 5: Who has to pay VAT?
Question 21 – 6: Explain the procedures of determining the value for charging VAT.
Question 21 – 7: Discuss the time and mode of payment of value added tax.
Question 21 – 8: Discuss the provisions of the imposition of supplementary duty.
Question 21 – 9: Discuss the provisions of the imposition of turnover tax.
Question 21 – 10: What do you mean by tax rebate?
Question 21 – 11: What do you mean by registration for value added tax?
Question 21 – 12: Discuss the procedures of the registration for value added tax.
Question 21 – 13: Discuss the provisions of the cancellation of the registration for value added tax.
Question 21 – 14: Discuss the powers and functions of the Commissioner, VAT.
Question 21 – 15: Discuss the powers and functions of the Deputy Commissioner, VAT.
Question 21 – 16: Discuss the powers and functions of the Superintendent, VAT.
Question 21 – 17: Discuss the VAT Appellate Tribunal with its powers and functions.
Question 21 – 18: Discuss the provisions for offences and penalties as per the VAT Act, 1991.
Question 21 – 19: Discuss the powers and functions of the Commissioner, VAT.
Question 21 – 21: Discuss the powers and functions of the Commissioner, VAT.
Question 21 – 22: What do you mean by tax challan? Discuss the procedures of the delivery of tax challan.
Question 21 – 23: Discuss the Provisions relating to the VAT Return and its submission.
Question 21 – 24: What do you mean by forfeiture relating to VAT?
Question 21 – 25: Discuss the procedures of appeal as per the provisions of the VAT Act?
Question 21 – 26: Discuss the maintenance of documents relating to VAT.
Question 21 – 27: What is ADR? Describe the role of ADR in resolving dispute.

Problem 21 – 1: A wholesaler bought 2 quintals of rice at Rs. 4,000 per quintal on which he added value of Tk. 750 per quintal. If VAT levied is @ 15% then what will be its total sale price?

Problem 21 – 2: A wholesaler purchases wheat @ Tk. 1000 per quintal, and then after converting the wheat into flour he sells it to the retailer @ Tk. 15.20 per kg. If he pays VAT @15%, calculate the total profit earned by the wholesaler.

Problem 21 – 3: Babu a garment merchant purchases garments worth Tk. 50,000. By adding his profit of Tk. 15,000 he sold the whole stuff at Tk. 66,200. Calculate at which rate VAT was levied and total collection of VAT by the govt.

Problem 21 – 4: A manufacturing unit of AC (Air Conditioner) sold an AC to the dealer at certain rate who further sold it to a customer at Tk. 22,800 making a profit of 50%. If VAT is levied @ 4%, calculate the rate at which AC was sold by the manufacturing unit to the dealer.

Problem 21 – 5: Gmart Electronics purchases 50 T.V. sets @Tk.10,000 per set and earns Tk. 5,000 on each set as a profit. If the company pays Tk. 25000 to the govt. as VAT, calculate at what rate VAT is levied on T.V. set.

Problem 21 – 6: Bob Robert purchases 200 electric steam irons @ Tk. 750 each and he earns Tk. 25 on first 50 irons, Tk. 50 on next 50 irons, Tk. 75 on next 50 irons and Tk. 100 on rest 50 irons. If VAT is levied @ 8%, calculate total VAT paid by Bob Robert to the government.

Problem 21 – 7: A wholesaler purchases 15 chairs from the manufacturer @Tk.100 per chair excluding tax and sells them to a retailer after adding value of Tk.50 per chair. Calculate the total tax paid to the government in these transactions by (i) sales tax method, and (ii) by VAT method, if sales tax or VAT is levied @15% at each stage.

Problem 21 – 8: A dealer purchases 30 kgs of wheat @Tk.10 per kg plus VAT and after earning a profit of Tk.5 per kg the dealer sells it to the retailer. The retailer finally sells it to a customer @ Tk.22.55 per kg including VAT. Calculate how much tax is collected by the Government through VAT which is 15% at each stage.

Problem 21 – 9: The following information has been taken from the accounting records of Unilever Bangladesh Limited for the year 2014: Raw materials inventory, January 1 Tk. 45,000; Raw materials inventory, December 31 Tk. 30,000; Work in process inventory, January 1 Tk. 90,000; Work in process inventory, December 31 Tk. 50,000; Finished goods inventory, January 1 Tk. 130,000; Finished goods inventory, December 31 Tk. 105,000; Purchase of raw materials Tk. 375,000; Direct labor Tk. 75,000; Manufacturing overhead Tk. 320,000; Selling expenses Tk. 70,000 and Administrative expenses Tk. 135,000. The company sells its product by adding 20% profit on cost. Determine the amount of VAT if the rate is 15%.

Problem 21 – 10: On January, 2014, REX Limited imported raw materials of readymade garments for Tk. 150,000 and sold it to Vertax Fashions for Tk. 200,000. Using these materials, Vertax Fashions made 250 pieces of shirts and sold it to Naz Fashion House, a wholesaler, for Tk. 250,000. Naz Fashion House sold the shirts to a retail seller Banglar mela for Tk. 300,000. Banglar Mela sold all the shirts to various customers for Tk. 350,000. In each case and each stage 15% VAT is to be considered. Compute VAT in each case.

Problem 21 – 11: Mr. Sumon, an importer, imported chemicals of Tk. 200,000 (C&F value determined by the Bangladesh Customs Authority). The insurance charge is 1% of the C&F value, borne by the importer. Thereafter, 1.5% landing charge is applicable on these goods. Customs duty & supplementary duty rate are 10% & 15% respectively. Calculate VAT, assuming a rate of 15%.

Answers:

Multiple choice questions		True/False
1. b	6. b	1. F
2. c	7. b	2. T
3. a	8. d	3. T
4. d	9. d	4. F
5. d	10. c	5. T

Self – review 21 – 1:

The applicable rates are:

a. VAT – 15%
b. TT – 3%
c. SD – 10% to 500%

Self review 21 – 2:

According to Section 3(3) of the Value Added Tax Act, 1991, value added tax shall be paid by:

1. in the case of imported goods, the importer of the goods imported at import stage;
2. in the case of goods manufactured or produced in Bangladesh, the supplier at production or manufacture stage;
3. in the case of service, the provider of service; and
4. in other cases, the supplier and receiver of service.