

Chapter-21

Assessment of Corporation and Company

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21.1: Introduction

Company has its own separate entity from its shareholders. This entity is recognised by the law. It is recognised by the Income Tax Act also. Company, by its own name, pays tax. So it has a separate taxable entity. Income Tax Ordinance, 1984 defines Company in a more extensive way than what is generally understood in Companies Act, 1994. Section 2(20) of ITO, 1984 gives the definition of a Company as follows :

(1) A company within the meaning of the Companies Act, 1994 : Any company established or constituted and registered by or under Section 2(d) of Companies Act, 1994. The registered Companies are divided into two groups, viz., Public Ltd. Company and Private Ltd. Company. Both the Companies are included under the above section. According to this Act, Private Ltd. Company means the company which will :

- a) restrict on the transfer of rights of share.
- b) limit the number of members openly excluding those employed in the Company.
- c) restrict the selling of shares and debentures to the public.

However, if two or more persons jointly are the holders of one or more shares of a company then they will be considered as one member for that organisation.

According to the Section 2(j) of Companies Act, 1994 Public Ltd. Company means the company which is registered under the said act and which is not a private ltd. co. That is, it is such a company of which shares can be transferred easily and there will be no

restriction of selling shares and debentures in the market and there will be no limitation of maximum shareholders.

(2) Other Organizations deemed to be Company : In addition to the above stated companies, the following organisations are also considered as companies as per Section 2(20) of Income Tax Ordinance, 1984 :

- a) Any body corporate established or constituted by the Parliament or under any law for the time being in force.
- b) Bank, Financial Institutions, Insurance Companies or any other Industrial Organisations which have been nationalised.
- c) Any association or body incorporated by or under the laws of a country outside Bangladesh and any foreign association not incorporated by or under any law.
- d) An association or combination of persons, called by whatever name, if any of such person is a company as defined in the Companies Act, 1994 (SRO-7/91).
- e) Any association working in Bangladesh but registered or incorporated in the foreign country (SRO-7/91).

Explanation of Different Companies under Income Tax Ordinance:

1. Bangladeshi Company:

According to Section 2(11) of ITO, 1984, Bangladeshi Company means a company within the meaning of the then Companies Act, 1913 and the Current Companies Act, 1994. A body corporate established or constituted by or under any law for the time being in force is also to be included in the meaning of Bangladeshi Company. Under both the cases the registered office of the companies should be situated in Bangladesh.

2. Banking Company:

According to Section 2(12) of ITO, 1984, Banking Company means a company within the meaning of the then Banking Companies Act, 1962 and the present Banking Companies Act, 1991. Any corporate body established or constituted by or under any law for the time being in force and engaged in the banking business is also to be considered as Banking Company.

3. Publicly Traded Company:

Publicly traded company will mean a company registered under companies Act, 1913 or companies Act, 1994 and that in the income year its shares have been registered in the stock Exchange operating in Bangladesh.

4. Industrial Company:

The definition of Industrial Company given as per Schedule 4 of Finance Act, 1998 is still in force in the country. According to that definition, Industrial Company means a company which is engaged in :

- i) Production or processing of goods.
- ii) Production of plants, machineries and all types of parts & equipments,

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- iii) Construction of Ship or Motor Vehicles,
- iv) Investigation and collection/procurement of Gas, oil or any other mineral resources;

On condition that the income, profit or gain received from one or more sources stated as above should not be less than two-third of the total income of the Income Year.

21.2: Determining Residential Status of Corporation and Company

From the residential status point of view, Corporations and Companies may be divided into two groups : i) Resident & ii) Non-Resident. The corporations and companies are treated as resident if :

- i) They are registered under Companies Act, 1913 or 1994 or established by the recognition of the Parliament and their registered offices are situated in Bangladesh and
- ii) The control and management of their affairs are situated wholly in Bangladesh.

Any corporation or company which does not fulfil the above two conditions would be treated as non-resident.

21.3: Assessment of Corporation and Company

The Company has its own entity from its shareholders or members. As a separate entity the corporation or the company pays tax on its total income i. e. the Corporation and the Company pay tax on their total income from their own behalf and not on behalf of the Shareholders or Members. As a result, the distributed dividend of the company among the shareholders is added with the total income of the individual shareholders and the shareholders pay tax on such income individually.

A) Some Important Issues relevant to the Determining Tax of the Corporation and the Company :

Determination of Tax Liability of the Corporation and the Company is different to some extent from other assesseees in the following ways :

- 1) There is no minimum taxable income limit for the Corporation and the Company i. e. they are to pay tax on their total income whatever may be the amount.
- 2) Proportionate tax rate is applicable on total income of the Corporation and the Company. Such proportionate tax rate is 30% to 45% applicable on the basis of nature of the company. According to Finance Act, 2004 tax rates are as follows :
 - a) 30% tax rate for Publicly Traded Company.
 - b) 37.5% tax rate for Not Publicly Traded Company and

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- c) 45% tax rate for Banking and Financing Companies, Local Authority and Other such Companies.
- (3) The tax rate on the Capital Gains of the Company is 15%.
- (4) There is no directly deductible non-taxable income from the total income of the Company.
- (5) It is stated earlier that the Company and the Corporation pay tax individually from their own behalf and not on behalf of the shareholders, so dividend received by the shareholders would be added with their own total income on which they are to pay tax. It is to be noted here that dividend from Publicly Traded Co. and dividend from Public Ltd. Co. enlisted in the Stock Exchange is exempted in full.
- (6) According to Sections 45 and 46 of ITO, 1984, Dividend from the company or the corporation under Tax Holiday Scheme is exempted in full.
- (7) The account audited by the Chartered Accountants are to be submitted with the Income Tax Return of the Company assessee.

(B) Tax free Income incase of the Company and the Corporation :

The Company and the Corporation are entitled to enjoy the tax rebate at an average rate on the following tax-free income :

Dividend Received from the Company under Tax Holiday Scheme.

In addition to the above tax-free income, no tax is imposed on the following income as per ITO, 1984 :

Issue of Bonus Shares : Original value or amount of bonus issued by the Company or Corporation among the shareholders to increase the amount of paid up capital.

21.4: Rate of Tax and Rebate

Types of Companies	Tax Rate 2004-2005 and 2005-2006	Tax Rate 2006-2007
* On Total Income excluding Dividend Income received from the Company the registered office of which is situated in Bangladesh :		
a) In the case of Publicly Traded Company	30%	30%
b) In the case of Industrial Company which is not a Publicly Traded Company	37.5%	40%
c) In the cases of Bank, Financing Institutions, Local Authorities and other Companies	45%	45%

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d) In the case of a person not being a company who is not resident in Bangladesh	25%	25%
* On Dividend Income		15%

It is to be noted here that a rebate @ 10% on the tax shall be allowed to a Public Limited Company who will declare 20% or more dividend. However, such rebate will not be applicable in case of Bank, Insurance, Leasing Companies and other Financing Institutions. However if such company declares dividend less than 10% it will be taxed @ 37.5%. This changed rules will be applicable for the assessment year 2004-2005 & 2005-2006. For the year 2006-2007 instead of 37.5%, it will be 40%.

A rebate @ 10% of the tax shall be allowed to a company registered in Bangladesh under the Companies Act, 1994 (the then 1913) on so much of its profits, income and gains accruing, arising outside Bangladesh as are brought by it into Bangladesh. It is also to be noted here that according to Finance Act, 1993 if any assessee in Bangladesh brings his income earned outside Bangladesh through official channel and invest directly to the new industries or any auctioned industry of the Government or purchases stock, shares, Govt. bond and securities then such income will be fully exempted from tax.

A further rebate to a company incorporated under the companies Act, 1994 (the then 1913) if engaged in the production of goods, shall be allowed at the following rates :

	Particulars	Rebate Amount
1. i)	Where the production in volume of the relevant year exceeds 15% but does not exceed 25% of the production volume of the preceding year	2.5% of the Income Tax attributable to such income.
ii)	Where the production in volume of the relevant year exceeds 25% of that of the preceding year	5% of the Income Tax attributable to such income.
iii)	Where the total income includes income received from Life Assurance Business	12.5% would be reduced from such income.
2.	On the amount of Dividend received from a Company registered in Bangladesh under the companies Act or a body corporate formed in pursuance of an Act of Jatio Sangsad	15%

Tax Rebate in case of Export Income:

a) Where the Total Income of an assessee other than a Company not registered in Bangladesh, includes any profits and gains derived from the export of goods out of Bangladesh, income tax payable in respect of such profits and gains shall be reduced by 50% on the condition that :

Sale of locally manufactured machinery, equipment and other finished products within the country to any agency against its procurement programme in foreign exchange qualify for this rebate.

Supply of locally manufactured raw materials and other inputs against Back to Back Letter of Credit to export oriented industries are also treated as export sales.

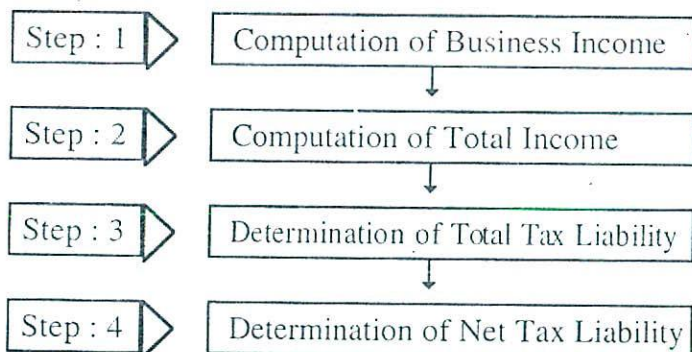
b) The above exemption, however, will not apply in respect of the following goods or classes of goods, namely :

- i) Tea
- ii) Raw Jute
- iii) Jute Manufactures
- iv) Raw hides and skins and wet blue leather
- v) Other goods declared by the NBR through Gazette Notification.

c) The National Board of Revenue can prepare the rules and regulations for calculating income from export business, tax determination and taking necessary steps towards that end.

21.5: Procedure of Assessment

Generally the following steps are followed in case of Assessment of the Company and the Corporation :



- 1) According to Sections 28,29 and 30 of ITO, 1984 Income from Business is to be calculated after considering admissible and inadmissible expenses to this end.
- 2) Total Income of the Company is to be calculated by adding other income with income from business.
- 3) Total Tax liability is to be determined by applying prescribed tax rate.
- 4) Net Tax liability is to be ascertained by deducting the following tax rebate from Total Tax liability :
 - a) 10% tax rebate on Foreign income.
 - b) Tax rebate on increased production in case of industrial co., if applicable.
 - c) Tax rebate on export income (at rate applicable)
 - d) Tax rebate at average rate on tax-free income.

21.6: General Format of Assessment

Name of the Company :
 Address :
 Residential Status
 Income year
 Assessment year

Determination of Total Income and Tax Liability

Particulars		Taka	Taka
1.	Determination of Business Income :		
	Net Profit as per Profit and Loss Account		**
	Add : Inadmissible Expenses :		
	a) Bad Debt	**	
	b) Income Tax and Super tax	**	
	c) Depreciation shown in the A/cs	**	
	d) Other inadmissible Expenses	**	**
	Less : Admissible Expenses not shown in the Accounts :		**
	a) Depreciation as per Income Tax Rules	**	
	b) Any other items	**	**
	Less : Non-business Income :		**
	a) Dividend	**	
	b) Interest, etc.	**	**
2.	Total Income		**
3.	Determination of Tax Liability :		
	a) On Total Income excluding Dividend and Capital Gain	**	
	b) On Dividend Income	**	
	c) On Capital Gains	**	**
	Less : Tax Rebate		**
4.	Net Tax Liability		**

21.7. Illustrations

Illustration 1:

You are given the following Profit and Loss Account of Natun Kuti Company for the year ended 31st March, 2005:

Dr.

Particulars		Taka	Particulars		Taka
To	Cost of Goods Sold	35,00,000	By	Sales	49,80,000
"	Salaries & Allowances	2,50,000	"	Dividend	20,000
"	Rent & Electricity	1,90,000	"	Interest on Bank Deposit	12,000
"	Telephone & Postage	30,000	"	Profit on Sale of Machineries	30,000
"	Interest on Loan	35,000	"	Interest on Tax-free Govt. Securities	10,000
"	Conveyance Allowance	25,000	"	Sundry Income	5,000
"	Legal Expenses	14,000	"	Refund of Income Tax	30,000
"	Advertisement	31,000	"	Interest Received from Investment Outside Bangladesh	20,000
"	Charity	10,000			
"	Audit fees	25,000			
"	Income Tax Paid in Advance	2,00,000			
"	Fines paid to the Custom Authority	20,000			
"	Contribution to Provident Fund	20,000			
"	Sundry Expenses	4,000			
"	Depreciation	1,80,000			
"	Net Profit	5,73,000			
		51,07,000			51,07,000

Investigation disclosed the following information :

- 1) Depreciation allowed by Income Tax Authority Tk. 1,15,000.
- 2) Salaries & Expenses include Tk. 50,000 from which taxes are not deducted at source.
- 3) Excess Perquisites over allowable income tax rate paid Tk. 20,000 instead of Salary of Tk. 1,72,000.
- 4) Legal Expenses include Tk. 10,000 paid for Income Tax Appeal.
- 5) Conveyance allowance includes Tk. 20,000 paid to the General Manager for overseas travelling as the representative of the Chamber of Commerce.
- 6) The sold machine was purchased six years ago and its book value was Tk. 40,000 but its book value as per Income Tax Rule was zero. The cost price of the machine was Tk. 60,000.

Determine the Tax Liability of the Company assuming it to be a public Ltd. company.

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Solution :

Assessee : Natun Kuri Company

Status : Resident (Assumed)

Income Year : 2004-2005

Assessment Year : 2005-2006

Determination of Total Income & Tax Liability

Particulars		Taka	Taka
1.	Business Income :		
	Net Profit as per Profit & Loss A/C.		5,73,000
	Add : Inadmissible Expenses		
a)	Salaries & Allowances for which Taxes are not deducted at source	50,000	
b)	Perquisites paid in excess of Income Tax Rule	20,000	
c)	Overseas travelling expenses of General Manager	20,000	
d)	Legal Expenses paid for Income Tax Appeal	10,000	
e)	Income Tax Paid in-Advance	2,00,000	
f)	Fines paid to the Custom Authority	20,000	
g)	Depreciation (As per Accounts	1,80,000	
h)	Charity	10,000	5,10,000
			10,83,000
	Less : Non Business Income :		
a)	Dividend	20,000	
b)	Profit on Sales of Machineries	30,000	
c)	Interest on Tax-free Govt. Securities	10,000	
d)	Income Tax Refund	30,000	
e)	Interest on Foreign Investment	20,000	1,10,000
			9,73,000
	Less : Admissible Expenses :		
a)	Depreciation as per Income Tax Rule		1,15,000
			8,58,000
Add :	Revenue Profit on Sale of Machineries (Note : 9)		60,000
	* Business Income :		9,18,000
2.	Non-Business Income :		
a)	Dividend Income	20,000	
b)	Capital Gain on Sale of Machineries (Tk. 70,000-60,000)	10,000	
c)	Interest on Foreign Investment	20,000	50,000
	* Total Income		9,68,000

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Determination of Tax Liability:

a)	On Total Income excluding Capital Gain and Dividend Income (Tk. 9,68,000 – 3,000) × 30% = Tk. 9,65,000 × 30%	=	Tk. 2,89,500
b)	On Capital Gain Tk. 10,000 = 10,000 × 15%	=	1,500
c)	On Dividend Income Tk. 20,000 = 20,000 × 15%	=	3,000
	1) Total Tax	=	<u>2,94,000</u>
2)	Tax Rebate : On Foreign Income Tk. 2,000 @ 10% = 2,000 × 10%	=	<u>Tk. 2,000</u>
3)	Net Tax Liability (1–2)	=	Tk. 2,92,000
4)	Advance Tax Payment	=	<u>Tk. 2,00,000</u>
5)	Net Tax Payable (3 – 4)	=	<u><u>Tk. 92,000</u></u>

Notes :

- 1) Salaries and Allowances are inadmissible if taxes are not deducted at source.
- 2) Admissible perquisites in excess of limit would be treated as inadmissible expenses.
- 3) Overseas travelling expenses would be admissible only in case of Govt., organised team or deligation member.
- 4) Sundry expense and sundry income have been assumed as business expense and income.
- 5) If advance payment of tax is less than that of actual tax liability then 10% interest is payable on the deficit amount. Here such interest would be applicable on Tk. 1,30,800.
- 6) Interest on Tax-free Govt., Securities is exempted from Tax.
- 7) Charity has been considered inadmissible since 1992.
- 8) It is assumed that the Co. is not a Publicly Traded Co.
- 9) Capital Gain on Sale of Machine =

Sales Value =	Tk. 70,000
Original Cost =	<u>60,000</u>
∴ Capital Gain =	<u>10,000</u>

Revenue Gain :

Sales Value =	Tk. 70,000
– Book Value =	<u>Nil</u>
∴ Total Gain =	Tk. 70,000
– Capital Gain =	<u>10,000</u>
∴ Revenue Gain =	<u>60,000</u>

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Illustration-2:

The Profit & Loss Account for the Year ended 30th June, 2005 of ABC Company was as follows :

Dr.		Cr.	
To Salaries	68,000	By Gross Profit	1,97,500
" General Expenses	22,500	" Interest on Less tax	750
" Fines	1,500	" Govt. Securities	
" Bad Debt	13,700	" Other Income	13,000
" Subscription to the Chamber of Commerce	13,000		
" Contribution to the Recognised Provident Fund	7,500		
" Legal Expenses	11,500		
" Insurance Premium	3,750		
" Purchase of Machineries	11,250		
" Embezzlement of Fund	1,800		
" Loss on Sale of Govt. Securities	750		
" Net Profit	56,000		
	2,11,250		2,11,250

Additional Information :

- a) Insurance Premium included Tk. 750 premium paid for the Life Insurance of Machineman.
- b) General Expenses included Tk. 11,250 paid for the travelling expenses of Manager who travelled Japan for taking training on New Machineries.
- c) A fund of Tk. 1,500 was embezzled due to creating obstacle in sending bill of exchange.
- d) Bad debt included Tk. 7,500 receivable from the deceased manager.
- e) The Company was enlisted in the Stock Exchange.

Determine the Total Income and Tax Liability of the Company.

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Solution:

Determination of Total Income and Tax Liability of

ABC Company

Income Year : 2004-2005

Assessment Year : 2005-2006

Particulars	Tk.	Tk.
1. Business Income :		
Net Profit as per Profit & Loss Account		56,000
Add : Inadmissible Expenses :		
i) Fines (Assuming for breaking rules)	1,500	
ii) Bad Debt (Receivable from Deceased Manager)	7,500	
iii) Purchase of Machine (Capital Exp.)	11,250	
iv) Embezzlement of Fund (For creating obstacle in sending Bill of Exchange)	1,500	
v) General Expenses (Travelling Expenses of Managers)	11,250	
vi) Loss on Sale of Govt. Securities	750	
		33,750
Less : Non-business Income :		
i) Interest on Less Tax Govt. Securities		750
∴ Business Income		89,000
2. Total Income :		
a) Business Income		89,000
b) Interest on Less tax Govt. Securities		1,071
Tk. $750 \times \frac{100}{(100-30)}$		
∴ Total Income		90,079
3. Tax Liability = 30% on Total Income		27,021

Notes :

- 1) Other Income has been assumed as Business Income.
- 2) Life Assurance Premium of Machineman and other Premium have been considered as the Premium of the Insurance Policy on Company's asset.
- 3) Travelling Expenses of Manager in Japan have been considered as capital expenditure.
- 4) Rest of the embezzlement of Fund has been considered admissible assuming that such fund was embezzled by the employees on duty.

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- 5) Bad debt of Tk. 7,500 receivable from deceased manager is inadmissible.
- 6) The Company has been assumed as Public Ltd. Co. and as such 30% tax on total income has been imposed.

Illustration-3:

The Profit and Loss Account of Suphal Co. for the year ended 30-06-2005 was as follows :

Dr.		Tk.	Cr.		Tk.
To	Salaries and Bonus	70,000	By	Gross Profit	2,80,000
"	House Rent of Office	15,000	"	Profit on Sale of Shares	12,500
"	Fire Insurance Premium	15,000	"	Interest on Tax-free	5,000
"	Stationery	22,000		Govt. Securities	
"	General Expenses	20,000			
"	Depreciation Provision	12,500			
"	Income Tax	25,000			
"	Income Tax Provision	45,000			
"	Net Profit	73,000			
		2,97,500			2,97,500

Determine the Total Income and Tax Liability of the Company after considering the following items :

- 1) General Expenses included: Advertisement Tk. 3,000, Charity Tk. 5,000, Payment to the Motor Company for exchanging an old car with a new one Tk. 4,000.
- 2) Depreciation as per Income Tax Rules Tk. 8,000.
- 3) The Company purchased the shares in 2005 and it was not the original business of the Company.
- 4) The Co. is a Public Ltd. Co.

[D. U. B. Com. (Modified)]

Solution:

**Determination of Total Income and Tax Liability of
Suphal Company**

Assessment Year : 2005-2006

Income Year : 2004-2005

Particulars	Tk.	Tk.
1. Business Income :		
Net Profit as per Profit and Loss A/C		73,000
Add : Inadmissible Expenses :		
i) Charity	5,000	
ii) Payment to Motor Company	4,000	
iii) Depreciation Provision	12,500	
iv) Income Tax	25,000	
v) Income Tax Provision	45,000	91,500
		1,64,500
Less : Non-Business Income :		
i) Profit on Sale of Shares	12,500	
ii) Interest on Tax-free Govt. Security	5,000	17,500
		1,47,000
Less : Admissible Depreciation		8,000
∴ Business Income		1,39,000
2. Total Income :		
Business Income		1,39,000
Capital Gain		12,500
		1,51,500
3. Tax Liability :		
i) On Business Income @ 30% : $1,39,000 \times 30\%$		41,700
ii) On Capital Gain @ 15% : $12,500 \times 15\%$		1,875
Total Tax Liability		43,575

Notes :

- i) Profit on Sale of Shares is a Capital Gain and as such tax has been calculated according to Section 31 & 32.
- ii) Income Tax & Provision are inadmissible (Section-29).

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Illustration-4:

The Profit and Loss A/C for the year ended 31st Dec. 2004 of Eastern Traders Ltd., was as follows :

Dr.			Cr.		
Particulars		Taka	Particulars	Taka	
To	Office Expenses	75,000	By	Gross Profit	8,65,000
"	Salaries	1,27,000	"	Profit on Reissue of shares	6,000
"	Travelling Expenses	33,000	"	Profit on Sale of Machinaries	24,000
"	Audit fees	25,000	"	Share Premium	15,000
"	Legal Expenses for Income Tax Return	12,000	"	Interest on Tax-free Govt. Securities	15,000
"	Repairs for residential houses of Employees	16,500	"	Sundry Income	45,000
"	Compensation to the families of the Staff	15,500			
"	Robbery of Cash	23,000			
"	Bad Debt Provision	25,000			
"	Commission	13,000			
"	Renewal charges for Trade Mark Registration	10,000			
"	Bonus to Staff :				
	Cash 40000				
	Bonus Share <u>30000</u>	70,000			
"	Managing Agent's Commission	50,000			
"	Net Profit	4,60,000			
		<u>9,70,000</u>			<u>9,70,000</u>

Investigation disclosed the following information :

- Salaries included Tk. 20,000 paid to the Retired Manager for house rent and Tk. 30,000 contribution to the Pension Fund.
- Compensation to the families of the Staff included Tk. 5,000 paid for a peon who died in a road accident while bringing breakfast for the Manager & Tk. 2,000 paid for the termination of a certain employee.
- Bad Debt Tk. 4,000 and Tk. 3,000 provision for the last year were written off.
- Commission paid to a certain Staff Tk. 3,000.

Determine the Taxable Income of the Company.

[D. U. B. Com (Hons.) Modified]

Solution:

**Determination of Taxable Income of
Eastern Traders Ltd.**

Assessment Year : 2005-2006

Income Year : 2004-2005

Particulars	Taka	Taka
1. Determination of Business Income :		
Net Profit as per Profit & Loss A/C		4,60,000
Add : Inadmissible Expenses		
a) Bad Debt Provision (Actual Balance)	28,000	
(Tk. 25000 + 3000)		
b) Robbery of Cash	23,000	51,000
		5,11,000
Less : Admissible Expenses :		
a) Bad Debt Written off		3,000
		5,08,000
Less : Non-business Income :		
a) Profit on Reissue of Shares	6,000	
b) Share Premium	15,000	21,000
∴ Business Income		4,87,000
2. Determination of Total Income		
a) Business Income		4,87,000
3. Interest on Tax-free Govt. Security (Fully Exempted)		---
∴ Total Income		4,87,000

Explanations:

- 1) House Rent paid to the Retired Manager and Contribution to the Pension Fund are admissible expenses for the Company.
- 2) Compensation paid for the deceased peon and termination of a certain employee is admissible expense.
- 3) Commission paid to a certain staff is considered as business expense and as such it is admissible.
- 4) All other expenses debited to the P/L A/c have been assumed as business expenses.
- 5) Robbery of cash has been assumed as done by the stranger during the office period and as such it is inadmissible.
- 6) Profit on Sale of Machineries has been considered as business Profit.

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Illustration-5:

The Revenue A/C of North-South Company for the year ended 30th June, 2005 was as follows :

Trading A/C, Profit & Loss A/C & Profit & Loss Appropriation A/C.

Dr. Cr.

Particulars	Taka	Particulars	Taka
To Opening Stock	3,00,000	By Sales	5,00,000
" Purchases	4,00,000	Less Provision for Sales Commission	1,50,000
" Wages	50,000		3,50,000
" Gross Profit C/d	4,00,000	" Closing Stock	8,00,000
	<u>11,50,000</u>		<u>11,50,000</u>
To Salaries & Wages	50,000	By Gross Profit b/d	4,00,000
" Establishment Charges	30,000	" Share Premium	20,000
" Advertisement (For 5 years)	10,000	" Bad Debt Recovered (Previously Written off)	+2,000
" Interest on Debenture	50,000	" Refund of Income Tax	7,000
" Legal Expenses	10,000	" Dividend Income	20,000
" Audit Fees	10,000	" Interest on Taxable Securities	41,000
" Income Tax	20,000		
" Bad Debt & Bad Debt Provision	30,000		
" Sales Tax	10,000		
" Charity	20,000		
" Loss on Sale of Investment	10,000		
" Loss on Stock destroyed by Fire	20,000		
" Loss on Revaluation (Machinery)	25,000		
" Depreciation	75,000		
" Fines as per Custom Act	15,000		
" Net Profit c/d	1,45,000		
	<u>5,30,000</u>		<u>5,30,000</u>
To Commission :		By Net Profit b/d	1,45,000
Managing Agency	15,000		
" Bonus to Staff :			
Cash & Shares	55,000		
" Provision For Taxation	40,000		
" Balance c/d	35,000		
	<u>1,45,000</u>		<u>1,45,000</u>

Income Tax-340

Additional Information :

- 1) Actual Sales Commission during the year was Tk. 50,000.
 - 2) Establishment charges included Tk. 25,000 subscription paid to the Association for avoiding competition.
 - 3) Advertisement expenses were paid for 5 years ending 30th June, 2006.
 - 4) The Co. purchased it's own 6% Debenture worth (Original Cost) Tk. 6,00,000 on which interest was not credited to Profit & Loss A/C.
 - 5) Legal charges for keeping Patent rights intact have been shown as Legal Expenses.
 - 6) Charity included Tk. 1,500 donated to the Relief Fund.
 - 7) Allowable Depreciation was Tk. 40,000.
 - 8) Actual Bad Debt written off during the year was Tk. 10,000.
 - 9) The Co. is a manufacturing Public Ltd. Co. & it is enlisted in the Stock Exchange.
- Determine the Tax Liability of the Company.

[R. U. B. Com (Hons) 1980 Slightly changed]

Solution:

Assessee : North-South Ltd.

Income Year : 2004-2005

Assessment Year : 2005-2006

Determination of Total Income & Tax Liability

Particulars :	Taka	Taka
Net Profit as per Profit & Loss A/c		35,000
Add : Inadmissible Expenses :		
Provision For Sales Commission	1,50,000	
Subscription paid to the Association	25,000	
Advertisement (For 4 years)	8,000	
Loss on Sale of Investment	10,000	
Income Tax	20,000	
Bad Debt & Bad Debt Provision	30,000	
Loss on Stock destroyed by Fire	20,000	
Charity	20,000	
Loss on Revaluation	25,000	
Depreciation	75,000	
Fines as per Custom Act	15,000	
Commission : Managing Agency	15,000	
Provision for Taxation	40,000	4,53,000
		4,88,000
Less : Admissible Expenses :		
Commission	50,000	
Depreciation	40,000	
Bad Debt Written off	10,000	1,00,000

Assessment of Corporation and Company-341

Less : Non-business Income :			
Share Premium		20,000	
Income Tax Refund		7,000	
Dividend		20,000	
Interest on Taxable Govt. Security		41,000	88,000
Business Income			3,00,000
Add : Non-Business Income			
Dividend		20,000	
Interest on Taxable Govt. Sec.		41,000	61,000
Total Income			3,61,000
Tax Liability :			
On Business Income Tk. 3,41,000 @ 30%			1,02,300
On Dividend Income Tk. 20,000 @ 15%			3,000
Total Tax Liability			1,05,300

Notes :

- 1) Sales Commission Provision is inadmissible but Sales Commission is admissible.
- 2) Subscription paid for avoidance of competition is inadmissible.
- 3) Advertisement paid for advance 4 years has been considered as deferred revenue expenditure.
- 4) Loss on Sale of Investment is a capital loss and it is not admissible.
- 5) Bad debt provision is inadmissible.
- 6) It is assumed that loss on stock destroyed by fire would be recovered from Insurance Co. So, it is inadmissible.
- 7) Loss on Revaluation of Asset is Capital Loss and it is inadmissible.
- 8) Fines as per Custom Act is inadmissible.
- 9) Bonus shares to the staff is admissible.
- 10) Interest on Debenture was not received in cash. So, interest on Debenture Tk. 36,000 has not been considered as income.
- 11) Charity is not admissible now.

Illustration-6:

From the following Profit and Loss Account for the year ended 30th June, 2005 of X Ltd. determine Total Income and Tax Liability :

Profit & Loss Account

Dr.

Cr.

Particulars	Taka	Particulars	Taka
To Directors Remuneration	46,000	By Gross Profit	3,75,000
" Salaries & Wages	1,00,052	" Dividend Income	30,000
" Contribution to Provident Fund	8,800	" Share Premium	30,000
" Rent & Taxes	24,500	" Sundry Income	13,000
" Repairs & Operating Expenses	27,300		
" Electricity	17,500		
" Insurance	8,000		
" Legal Expenses	14,500		
" Audit fees	5,800		
" Printing, Stationery & Postages	14,600		
" Compensation for Termination of a staff	10,000		
" Typewriter	5,948		
" Advertisement	14,200		
" Entertainment	7,500		
" Bad Debt Provision	4,400		
" Depreciation	46,600		
" Net Profit	92,300		
	4,48,000		4,48,000

Other Information :

- 1) Rent & Taxes included Value Added Tax (VAT) Tk. 4,200 which was paid for importing a Machine and it was not used during the relevant year.
- 2) Legal expenses included a sum of Tk. 10,000 spent for Income Tax Appeal.
- 3) The Company is a Trading Company.
- 4) Provident Fund is recognised by the Income Tax Authority.
- 5) Bad debt written off previously was recovered during the year Tk. 2,000.
- 6) Allowable Depreciation Tk. 58,400.
- 7) Repairs & Operating Expenses included Tk. 6,000 spent for the installation of a Second hand Air Conditioner in the Flat of M. D.
- 8) Entertainment Expenses included a sum of Tk. 2,000 for which no clear explanation was available.

The company is not registered in stock exchange.

[I. C. M. A. 1980 (June), Slightly Changed]

Assessment of Corporation and Company-343

Solution :

**Determination of Total
Income & Tax Liability of X Ltd.**

Income Year : 2004-2005

Assessment Year : 2005-2006

Particulars	Taka	Taka
Net Profit as per Profit & Loss Account		92,300
Add : Inadmissible Expenses :		
a) Rent & Taxes : VAT paid for unused Machine during the Income year	4,200	
b) Typewriter : Capital Expenditure	5,948	
c) Bad Debt Provision	4,400	
d) Repairs & Operating Expenses :		
Installation charges of an Old A. C. in the Flat of M. D.	6,000	
e) Entertainment Expenses unexplainable	2,000	
f) Entertainment Expenses (Note-8)	5,276	27,824
Less : Admissible Depreciation (58,400-46,600)		1,20,124
		11,800
Add : Bad Debt Recovered not shown in P/L A/c		1,08,324
		2,000
Less : Non-business Income :		1,10,324
Dividend Income	30,000	
Share Premium	30,000	60,000
∴ Business Income		50,324
Add : Non-Business Income		
Dividend		30,000
∴ Total Income		80,324

Tax Liability :

Particulars	Total Income Tk.	Tax Rate Tk.	Total Tax Tk.	Net Tax Tk.
a) On Total Income excluding Dividend (Tk. 80,324-30,000)	50,324	37.5%	18,872	
b) On Dividend Income	30,000	15%	4,500	23,372

Notes :

- 1) A 37.5% tax rate has been imposed as the Co. is not a publicly traded Ltd. Company.
- 2) VAT paid for Imported Machine is a Capital Expenditure and it is inadmissible.
- 3) Compensation For Termination of staff is an admissible expense.
- 4) Contribution to Recognised Provident Fund is admissible.
- 5) Repairs for installing an old A. C. in the Flat of M. D. is a capital expenditure. So, it is inadmissible.
- 6) Purchase of Typewriter is a capital expenditure. So, it is inadmissible.
- 7) Legal expenses spent for Income Tax Appeal is an admissible expense.

Income Tax-344

8) Determination of Admissible & Inadmissible Entertainment Expenses :
Taka

Income from Business & Profession excluding Entertainment Allowances (Tk. 92,300 + 7,500)		99,800
+ Inadmissible Expenses		25,600
		1,25,400
+ Bad Debt Recovered		2,000
		1,27,400
- Allowable Adjusted Depreciation (58,400 - 46,600)		11,800
		1,15,600
- Non-Business Income		60,000
		55,600
- Adjusted Business Income Excluding Entertainment Exp.		55,600

∴ Admissible Entertainment Allowance = Tk. 55,600 x 4% = Tk. 2,224
Thus Inadmissible = 7,500 - 2,224 = Tk. 5,276

Illustration-7:

The following is the Profit & Loss account of XYZ Company Limited, for the year ended 31st March, 2005. Find out the taxable income of the Company adding notes where ever necessary :

Dr.	Tk.	Cr.	Tk.
Salaries and wages	5,000	Gross Profit	2,00,000
Printing and stationery	4,000	Premium on issue of share	20,000
Rent	12,000	Dividend income Pvt. Ltd. Co.	10,000
Office expenses	2,700		
Motor lorry expenses	14,000		
Reserve for doubtful debts	6,000		
Directors fees	9,000		
Audit fees	2500		
Legal charges	900		
Fines and penalties	2000		
Brokerage on loans obtained	4000		
Income-tax	13,000		
Underwriting commission	3,000		
Cost of issue of debentures	1,500		
Interest on debentures	12,000		
Donations	7,000		
Workmen compensation insurance	900		
Loss by embezzlement	9,000		
Provident fund contributions	3,500		
Depreciation	12,000		
Net profit	60,000		
	2,30,000		2,30,000

Assessment of Corporation and Company-345

Notes :

- (1) Donations were given to institutions which are approved under Income Tax Department.
- (2) The Provident Fund is recognized by the Tax Department.
- (3) The allowable tax depreciation amounts to Tk. 17,000.
- (4) It should be assumed that the trading version is acceptable to the Tax Department.

Solution :

(The problem has been solved with reference to Finance Act, 2005)

XYZ Company Limited

Income Tax Assessment : 2005-2006

Income for the year ended 31st March, 2005

Particulars	Tk.	Tk.
Net Profit as per Profit & Loss Account		60,000
Add : Reserve for doubtful debts (Reserve of any kind is disallowed)	6,000	
Fines and penalties	2,000	
Brokerage on Loan (It is a capital expenditure in nature)	4,000	
Income-tax	13,000	
Underwriting commission (This is considered like preliminary expenses being capital in nature and is disallowed)	3,000	
Cost of issue of debentures (Disallowed on the same ground as underwriting commission)	1,500	
Donations	7,000	
Loss by embezzlement (it is allowed on the assumption that it is in the course of company's business)	12,000	48,500
		1,08,500
Less : Non Business Income :		
Dividend Income	10,000	
Premium on issue of shares	20,000	
Less : Other exemption :		
Allowable tax depreciation	17,000	47,000
Business Income =		61,500
+ Dividend Income		10,000
∴ Total Income =		71,500

Income Tax-346

Illustration-8:

The Trading and Profit and Loss Account of FARDEN Company, a Publicly Traded Company, for the year ended on 30.6.2005 is as follows :

Dr.

Cr.

Particulars	Taka	Particulars	Taka
Opening Stock	8,00,000	Sales	22,50,000
Manufacturing exp.	5,00,000	Closing Stock	6,50,000
Gross profit	37,50,000		
	50,50,000		50,50,000
Salaries and Allowances	2,15,000	Gross profit	37,50,000
General expenses	1,85,000	Sale of old machine	1,50,000
Income tax	1,00,000	Dividend	70,000
Sales tax	30,000		
Interest on loan	20,000		
Bonus to employees	55,000		
Depreciation	40,000		
Net profit	33,25,000		
	39,70,000		39,70,000

Investigation disclosed the following :

- i) Closing stock has been over-valued by Taka 50,000.
 - ii) General expenses composed of as follows :
 - a) Employees welfare Tk. 30,000; b) Office establishment Tk. 60,000; c) Legal expenses for VAT Tk. 20,000 & for income tax Tk. 30,000; d) Employees club construction Tk. 45,000.
 - iii) Cost price of machine sold was Tk. 1,00,000, and W. D. V. Tk. 70,000.
 - iv) The company paid advance tax Tk. 9,00,000 for the year and the regular assessment was finalized on 31st Oct., 2005.
 - v) Depreciation allowance as per Income Tax Rules Tk. 30,000.
- Determine tax liability of the Company.

Assessment of Corporation and Company-347

Solution:

Farden Company Ltd.

Assessment Year : 2005-2006

Income Year : 2004-2005

Computation of Total Taxable Income and Tax thereon :

Particulars		Tk.	Tk.
	Net Profit as per Trading and P/L A/C		33,25,000
Add :	Non-allowable expenses :		
i)	Income Tax	1,00,000	
ii)	Depreciation	40,000	
iii)	Business profit on sale of machine	30,000	
iv)	Legal exp. for income tax	30,000	
v)	Construction of club	45,000	2,45,000
			35,70,000
Less :	Allowable Expenses :		
i)	Depreciation as per I/T Rule		30,000
			35,40,000
Less :	Closing stock over-valued		50,000
			34,90,000
Less :	Non Business income		
i)	Sale of machine	1,50,000	
ii)	Dividend	70,000	2,20,000
	Business income =		32,70,000
	Total Income :		
i)	Business income	32,70,000	
ii)	Capital gain	50,000	
iii)	Dividend income	70,000	
	Total (taxable) Income =		33,90,000
	Tax Liability :		
i)	On Capital gain @ 15% on Tk. 50,000		7,500
ii)	On Dividend income @ 15% on Tk. 70,000		10,500
iii)	On Balance of Profit @ 30% on Tk. 32,70,000		9,81,000
			9,99,000

∴ Total Tax Liability =	Tk. 9,99,000
Less : Advance tax paid	= Tk. <u>9,00,000</u>
Present tax liability (without interest)	= Tk. <u>99,000</u>

Notes :

- (i) As advance tax payment falls shorter than actual tax liability by Tk. 99,000, interest on this @ 12% from last date of advance payment to date of filing returns.
- (ii) Computation of business profit and capital gain from sale of machine :
- | | | |
|--------------------------------------|---|-------------------|
| Sale price of Machine | = | Tk. 1,50,000 |
| W. D. V. | = | Tk. <u>70,000</u> |
| Total Profit | = | Tk. <u>80,000</u> |
| Capital Profit Tk. 1,50,000-1,00,000 | = | Tk. <u>50,000</u> |
| Business Profit | = | <u>30,000</u> |
- (iii) Legal expense for income tax is not allowable but such expense for VAT is allowable.
- (iv) Construction of club is capital expenditure.
- (v) If production exceeds by 15% to 25% over last year, rebate @ 2.5% of the relevant income is allowed.

Questions

- 1) What is meant by a Company under Income Tax Act? What are the tax free income of a Company? State the procedure of assessment of a Company and its tax rates.
- 2) State the factors that are to be considered in determining tax of a Company. Discuss about tax rate and tax rebates of a Company.
[C. U. B. Com (Hons.) 1977]
- 3) Discuss the procedure of determining tax and tax liability of a Company.
[C. U. B. Com (Hons.) 1991]
- 4) a) Define Company under Income Tax Ordinance, 1984.
b) How would you determine residential status of a Company?
- 5) a) Discuss about the tax free incomes that a Company can claim.
b) What are the special features that are to be considered in determine tax of a Company?
c) Cite different tax rates applicable to different types of Companies under Finance Act, 2004.

Exercises

Ex.-1:

The Profit & Loss Account for the year ended 31st Dec., 2004 of Western Traders Ltd. was as follows :

Dr.			Cr.		
Particulars		Taka	Particulars	Taka	
To	Salaries	97,000	By	Gross Profit	7,70,000
"	Office Expenses	75,000	"	Share Transfer fee	6,000
"	Conveyance Expenses	13,000	"	Profit on Sale of Machineries	14,000
"	Audit fees	5,000	"	Share Premium	10,000
"	Legal Expenses for Income Tax Return	2,000			
"	Compensation for dissolution of Agency	15,000			
"	Repairs of the Apartments for the Employees	16,500			
"	Embezzlement to Fund	13,000			
"	Bad Debt Reserve	10,000			
"	Commission	8,000			
"	Bonus to the Staff	50,000			
"	Commission of M. D.	20,000			
"	Net Profit	4,75,500			
		<u>8,00,000</u>			<u>8,00,000</u>

Investigation disclosed the following information :

- Salaries include Tk. 10,000 pension paid to the retired manager and Tk. 10,000 transferred to the Retirement Fund.
 - Bad Debt Reserve includes current year's bad debt of Tk. 2,000 and last year's bad debt of Tk. 4,000.
 - Commission includes Tk. 3,000 commission paid to an employee.
- Determine the Tax Liability of the Company.

Income Tax-350

Ex.-2

Tripti and Co. Ltd. is a Publicly Traded Bangladeshi Company engaged in the production of education materials. The Profit and Loss Account for the year ended 30th June, 2005 of the Company was as follows :

Dr.		Taka	Cr.		Taka
Particulars			Particulars		
To	Salaries	35,200	By	Gross Profit	3,63,100
"	Office Rent	26,600	"	Dividend	15,000
"	General Expenses	8,500	"	Interest on Tax-free Govt. Security	4,000
"	Commission	36,400	"	Other Income	2,500
"	Charity	6,000			
"	Interest on Debenture	18,000			
"	Directors' Fees	6,000			
"	Bad Debt	20,000			
"	Trade Mark Registration fees	3,000			
"	Audit fees	700			
"	Legal Expenses	4,000			
"	Depreciation	60,000			
"	Embezzlement to Fund	2,800			
"	Net Profit	1,57,400			
		3,84,600			3,84,600

Other Information :

- (1) Salaries include contribution to Recognised Provident Fund Tk. 5,000.
 - (2) Charity includes Tk. 5,000 donation to the President's Relief Fund.
 - (3) Bad Debt includes Tk. 5,000 receivable from the deceased General Manager.
 - (4) General Expenses include Tk. 2,500 paid for the insurance premium on the lives of the workers of the Company.
 - (5) Directors' Fees include Tk. 2,000 incurred for travelling into Japan as a Representative of the Govt. Trade Team.
 - (6) Depreciation allowable by the Tax Authority Tk. 50,000.
- Determine the Total Income and Tax Liability of the Company.

[C. U. B. Com. (Hons) 1977, Modified]

Assessment of Corporation and Company-351

Ex.-3:

The Profit & Loss Account of Padma Ltd. for the year ended 31st December, 2004 was as follows :

Dr.

Cr.

Particulars	Taka	Particulars	Taka
To Salaries and Allowance	56,000	By Gross Profit	1,63,500
" Fine	7,500	" Interest on Govt. Security	2,250
" Bad Debt Provision	4,500	" Interest on Commercial Security	11,000
" Depreciation	11,000	" Dividend	14,000
" Contribution to Recognized Provident Fund	2,500		
" Conveyance Allowance	10,250		
" General Expenses	30,400		
" Entertainment Premium	2,600		
" Insurance Premium	3,250		
" Legal Expenses	4,500		
" Purchase of Plant	3,700		
" Embezzlement to Fund	2,600		
" Loss on Sale of Govt. Security	2,250		
" Net Profit	49,700		
	1,90,750		1,90,750

The following further information was also available :

- 1) General Expenses include Tk. 8,000, paid to the Zakat Fund.
 - 2) The fine was paid for a road accident occurred by the Motor Car Driver of the Company.
 - 3) Insurance Premium was paid for the Managing Director of the Company.
 - 4) Actual Bad Debt written off in the books of accounts was Tk. 6,500.
 - 5) The Company has a Term Deposit of Tk. 1,00,000. The Interest on such deposit @ 15% p. a. for 6 months was not recorded in the books of accounts.
 - 6) The debit balance (Loss) of P/L A/c was Tk. 10,560 as on 31-12-2003 which included Tk. 2,180 loss carried forward from 2002 in which depreciation was Tk. 290.
 - 7) Depreciation allowable by the Tax Authority Tk. 9,000.
- Determine the Taxable Income of The Company.

[I. C. M. A-1980 (June) Slightly Changed]

Income Tax-352

Ex.-4:

From the following Profit and Loss Account of Triratna Trading Company Ltd. for the year ended 31st March, 2005 find out the taxable income of the company and tax to be paid thereon :

Dr.		Taka	Cr.		
	Particulars		Particulars.		
To	Wages and salaries	68,000	By	Gross profit	1,73,000
"	Rent, rates and taxes	53,900	"	Casual income	26,400
"	Directors fees	14,900	"	Miscellaneous receipts	600
"	Trade expenses	3,100	"	Interest from securities	15,000
"	Legal charges	2,650	"	Dividend Income	20,000
"	Charity	1,430			
"	Fire insurance premium	1,100			
"	Travelling expenses	2,000			
"	Bad debts	900			
"	Reserve for doubtful debts	10,000			
"	Loss on sale of furniture	600			
"	Pension & P. F. contribution	1,600			
"	Accounting depreciation	10,800			
"	Net profit	64,020			
		2,35,000			2,35,000

The following further information is provided :

- 1) Rent, rates and taxes include a sum of Tk. 11,000 representing sales-tax paid against import of machinery not put to use during the year.
- 2) Legal charges include an amount to Tk. 2,200 paid to an Income Tax Practitioner for contesting an appeal before the Appellate Tribunal.
- 3) Bad debt recovered Tk. 2,500 has not been accounted for.
- 4) A sum of Tk. 2,600 in respect of travelling expenses is not supported with details and is not properly verifiable.
- 5) Allowable tax depreciation amounts to Tk. 9,600.

Compute the taxable income and tax to be paid giving reason for non allowability of items and tax rate applicable for the income.

Assessment of Corporation and Company-353

Ex.-5:

The Profit and Loss Account of A, B and C Company for the year ended on 30-6-2005 was as follows :

Dr.			Cr.	
Particulars	Taka	Particulars	Taka	
To Salaries	78,000	By Gross Profit	2,20,000	
" General expenses	32,500	" Interest on Securities	14,000	
" Bad debt	15,200	" Dividend	18,000	
" Contribution to trade association	13,000	" Share premium	5,700	
" Contribution to P. F.	17,500			
" Legal expenses	24,500			
" Insurance premium	13,750			
" Electricity installation expenses	11,250			
" Embezzlement to fund	5,000			
" Loss on sale of Securities	12,000			
" Depreciation	15,000			
" Income tax and Sales tax	20,000			
" Net profit	75,000			
	2,57,700		2,57,700	

Investigation disclosed :

- i) Legal expenses include a sum of Tk. 8,000 spent for Income Tax appeal;
 - ii) Depreciation allowable under Income Tax is Tk. 13,000;
 - iii) Insurance premium includes Tk. 5,000 paid as a premium on the life of the technician;
 - iv) Bad debt includes Tk. 4,500 receivable from the deceased manager;
 - v) Ratio of Income Tax and Sales Tax is 2 : 3.
- Compute Tax liability of the Company.

[C. U. B. B. A. 3rd year, 1994]

Ex.-6:

Following is the Profit and Loss Account of M/S. Aslam & Sons Ltd. for the year ended on 30-6-2005 :

Dr.			Cr.	
Particulars	Taka	Particulars	Taka	
To Salaries	62,000	By Gross Profit	3,50,000	
" General Expens	38,000	" Share Transfer Fee	10,500	
" Brokerage	11,000	" Interest on Govt. Securities	26,000	

Income Tax-354

" VAT	22,000	" Dividend	44,500
" Fines	2,500	" Mis. income	10,000
" Interest on loan	15,000		
" Managing agents Commission	24,000		
" Fire insurance premium	25,000		
" General Reserve	15,000		
" Depreciation	25,000		
" Provision for dividend	20,000		
" Commission for realisation of interest	500		
" Net Profit	1,81,000		
	4,41,000		4,41,000

Other Information :

1. To arrive at the figure of gross profit both opening stock and closing stock were valued at 10% less than market price.
2. Salaries included Tk. 15,000 contributed to Provident Fund.
3. General expenses included Tk. 8,000 for advertisement and Tk. 15,000 for construction of workers' canteen.
4. Interest on loan was paid to a non-resident.
5. Depreciation as per Income Tax Rules amounts to Tk. 20,000.

Compute taxable income and tax liability of the Company.

[3rd year B. B. A. C. U. 1997]

Ex.-7:

From the following information relating to Dhaka Trading Co. Ltd., Compute Total Income and Tax Liability for the Assessment Year 2005-2006 :

Profit and Loss Account
For the year ended 31st Dec. 2003

	Dr.		Cr.		
	Particulars	Taka	Particulars	Taka	
To	Salaries	30,50,000	By	Gross Profit	1,95,00,000
"	Interest on Debenture	6,70,000	"	Share Premium	4,50,000
"	Bad Debt Reserve	15,00,000	"	Interest on Tax-free Security	4,10,000
"	Rent and Taxes	6,10,000	"	Interest on Tax-free Savings Account	30,000
"	Cost of Construction of School Building	10,00,000	"	Dividend	60,000

Assessment of Corporation and Company-355

"	Bad Debt	7,00,000	"	Bad Debt Recovered	10,000
"	Subscription and Donation	50,000	"	Unclaimed Dividend	10,000
"	Legal Expenses	4,40,000	"	Profit on Sale of Furniture	90,000
"	Preliminary Expenses	3,40,000			
"	Building Development Expenses	8,00,000			
"	Remuneration to Retired Employee	3,60,000			
"	Depreciation	13,00,000			
"	Income Tax Provision	9,60,000			
"	Advertisement	12,60,000			
"	Tr. to Dividend Equalisation Fund	4,00,000			
"	Contribution to Recognised Provident Fund	3,50,000			
"	Net Profit	6770000			
		<u>2,05,6000</u>			<u>2,05,6000</u>

Other Information :

- Salaries include the following salary and allowances paid to Managing Director :

Basic Salary	Tk. 1,20,000
Bonus	20,000
House Rent for Rent free Accommodation	1,20,000
Wages to Servant	<u>12,000</u>
	<u>2,72,000</u>
- Subscription and Donation include Tk. 5,000 donated to Dhaka Club.
- Legal Expenses include a sum of Tk. 40,000 spent for Income Tax appeal.
- Advertisement include a sum of Tk. 10,00,000 spent for the introduction of a new product in the market.
- Depreciation allowable under Income Tax Rules amounts to Tk. 11,50,000.

Ex.-8:

[I. C. M. A. 1983. Modified]

The Profit and Loss Statement of Farden Ltd. for the year ended 31st December, 2004 was as follows :

Income	Tk. in Laes
Agency commission	150.00
Interest on bank deposit-net	15.50
Dividend from a Publicly Traded Company (registered in Bangladesh) net	7.50
Expenditure	173.00

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Salaries and allowances	60.30
Provision for gratuity	12.50
Travelling	8.00
Entertainment	7.50
Advertisement	4.90
Bad debts	6.50
Depreciation	<u>11.10</u>
	<u>110.80</u>
Profit before tax	<u>62.20</u>

The DCT revealed the following facts :

- a) The basis salary of Managing Director is Tk. 25,000.
- b) The company has a Recognised Gratuity Fund. Actual gratuity paid to retired employees was Tk. 9.50 lacs.
- c) Travelling includes Tk. 3,00,000 paid to Managing Director for overseas holiday passage.
- d) Bad Debts include Tk. 3.50 lacs written off and a further provision of Tk. 3.00 lacs.
- e) Depreciation includes Tk. 35,000 being full year's depreciation on a motor car purchased on 01-03-2004.
- f) Interest on deposits and dividend income have been accounted for net of taxes deducted at source.

Compute the Total Income of the Company and ascertain the tax liability. The Company has already paid advance Tax of Tk. 15 lacs based on past assessment.

[I. C. M. A. 1997 (Jan), year changed]

Ex.-9:

Given below is the Profit and Loss Account of the Ishrak Co. Ltd. for the financial year ending on 30th June, 2005 :

			Cr.
Dr.	Taka	Particulars	Taka
Salaries and Wages	30,000	Gross profit	1,21,300
Office expenses	16,000	Profit on sale of investment	2,000
Directors fees	1,400	Transfer fees	1,000
Preliminary expenses	5,000	Dividend received	15,000
Audit fee	500	Bank interest	500
Under writing commission	2,500		
Contribution to staff providend fund [Recognised]	3,000		
Research expenses	8,000		
Repairs of machinery	6,000		
Travelling expenses	4,000		
Donation to Dhaka University	5,000		
Fire insurance premium	500		

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Debenture interest	500	
Debenture Redemption	2,000	
Managing Agent's Commission	5,000	
Loss on sale of shares	400	
Net profit	50,000	
	<u>1,39,800</u>	<u>1,39,800</u>

Allowable depreciation is Tk. 5,000. Managing agent's commission is paid as a percentage on net profit. Find out the total income of the Company.

Ex.-10:

[D. U. B. Com (Hons) 1981]

From the following Profit and Loss Account of Kanta Ltd. for the year ended on 30-6-2005 calculate its taxable income :-

Dr.

Cr.

Particulars	Taka	Particulars	Taka
Salaries and Wages	85,200	Gross Profit	6,93,000
Office rent	35,900	Dividend Received	23,000
General expenses	7,200	Interest on tax-free	
Commission	28,350	Govt. securities	9,000
Donation	17,000	Other income	11,000
Interest on loan	30,000		
Director's fees	15,000		
Bad debt	16,000		
Trade mark registration expenses	6,000		
Fines	1,500		
Audit fees	5,000		
Legal expenses	7,950		
Depreciation	92,000		
Theft of cash	500		
Income tax	16,000		
Net profit	3,72,400		
	<u>7,36,000</u>		<u>7,36,000</u>

Additional Information :

- Salaries include Tk. 16,000 contributed to an Unrecognised Provident Fund;
- Salaries also include Tk. 20,000 on which income tax has not been deducted at source;
- Donation includes Tk. 6,000 to a charitable institution approved by the National Board of Revenue;
- Bad debt includes Tk. 6,000 receivable from the deceased manager;
- Depreciation allowable under Income Tax Regulations amount to Tk. 52,000;
- The Company issued bonus shares to the extent of Tk. 60,000 during the year.

[D. U. B Com (Hons.) 1990, Modified]

Chapter-22

Appeal and Revision

Chapter Synopsis/Contents:

- 22.01 : Appeal
 - 22.02 : Appeal to the Appellate Joint Commissioner of Taxes
 - 22.03 : Appeal to the Commissioner of Taxes (Appeals)
 - 22.04 : Appeal to the Appellate Tribunal
 - 22.05 : Reference to the High Court Division of the Supreme Court
 - 22.06 : Appeal to the Appellate Division of the Supreme Court
 - 22.07 : Revision
- Questions**

22.01: Appeal

According to section 153 of Income Tax Ordinance (ITO), 1984, an assessee aggrieved by any order of a Deputy Commissioner of Taxes may prefer an appeal to the Appellate Additional or Joint Commissioner of Taxes against such order. If the assessee or Deputy Commissioner of Taxes or both are not satisfied by the orders of the Appellate Additional or Joint Commissioner of Taxes then they can appeal to the Appellate Tribunal by virtue of section 158 of ITO, 1984. This is not a birth right, rather such right has been given by the Income Tax Ordinance to the assessee and the tax-authority. Against whose orders and to whom the assessee and the tax-authority may appeal have been depicted in the following Table :

	Against Whose orders Appeal may be made/filed	To Whom Appeal may be made/filed
1.	Deputy Commissioner of Taxes (Excluding Company)	Appellate Additional or Joint Commissioner of Taxes to decide on interpretation of facts and law.
2.	Deputy Commissioner or Inspecting Joint Commissioner of Taxes (Company)	Commissioner of Taxes (Appeal) to revise the order on the basis of interpretation of law and facts and application of the assessee.
3.	Appellate Additional or Joint Commissioner or Commissioner of Taxes	Appellate Tribunal to decide on interpretation of facts and law.
4.	Appellate Tribunal or Commissioner of Taxes	High Court Division of Supreme Court only for the interpretation of law.

Procedures of Appeal before the Appellate Additional/Joint commissioner of Taxes and the Appellate Tribunal and the rules and regulations relating to the disposal of Appeal have been discussed in the following sections.

22.02: Appeal to the Appellate Joint Commissioner of Taxes

By virtue of Section 153 of ITO, 1984, any assessee, not being a company, aggrieved by any order of a Deputy Commissioner of Taxes in respect of the following may prefer an appeal to the Appellate Joint Commissioner of Taxes against such orders, namely :

- (a) The amount of loss computed under Section 37,
- (b) Imposition of interest under Section 73 wherein interest has been imposed on the shortfall between assessed and advance amount paid.
- (c) Refusal to register a firm under Sec. 84 or cancellation of registration of a firm under Sec. 111.
- (d) Imposition of penalty under Sec. 124, 125, 126, 127 or 137
- (e) Determination of Total Income under Sec. 43.
- (f) Refund of Tax under Sec. 146 and Sec. 149.
- (g) Assessment of Income, determination of liability to pay, or computation of tax including advance tax.
- (h) Relief not given for double taxation.
- (i) Order given by the DCT about the determination and allocation of profit of a firm among the partners.
- (j) Order given by the DCT about the determination of tax liability of the Hindu Undivided Family.
- (k) Penalty imposed by the DCT for not submitting return by the assessee within the statutory period.
- (l) Imposition of penalty for late payment of tax.
- (m) Refusal to allow a claim to a refund or the determination of refund admissible.

Conditions and Procedures of Appeal :

A) Conditions (Section 154) :

The conditions to be fulfilled for filing the appeal are as follows :

- i) Every appeal under Section 153 shall be filed in prescribed form and verified in the prescribed manner.
- ii) The appeal shall be filed within 60 days from the date of service of the notice of demand if it relates to any assessment or penalty and in any other case from the date of which the intimation of the order to be appealed against is served.

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- iii) Full tax payable on the basis of the return shall be paid before filing the appeal.
- iv) The appeal shall be filed together with a fee of Tk. 200.

It may be mentioned here that the appeal may be admitted even after the period of 60 days referred to above, if the Appellate Joint Commissioner of Taxes is satisfied that the appellant has been prevented by sufficient cause from presenting the appeal within the stated time period.

B) Procedures to be followed in appeal (Section 155) :

The following procedures are to be followed while conducting the appeal :

- i) The Appellate Joint Commissioner of Taxes shall fix a date and place for hearing and give notice to the appellant and the concerned Deputy Commissioner of Taxes.
- ii) The Appellant and the DCT shall be allowed to be heard at the hearing either in person or by a representative.
- iii) The hearing of the appeal may be adjourned from time to time.
- iv) The Appellate Joint Commissioner of Taxes (AJCT) may, before or at the hearing, allow the appellant to go into any ground of appeal not earlier specified, if he is satisfied that the commission of the ground earlier was not wilful or unreasonable.
- v) The AJCT may, before disposing of an appeal, make such enquiry as he thinks fit or call for further particulars or cause further enquiry to be made by DCT
- vi) At the time of hearing an appeal the AJCT shall not admit any documentary material or evidence not produced to DCT unless he is satisfied that the appellant has sufficient ground for not producing these to DCT.

C) Decision in Appeal (Section 156) :

The AJCT shall hear the statements/sayings of the appellant and the DCT, analyse the documents and give decision. The order on appeal should be made in writing and shall state the points of determination, the decision thereon and the reasons of decisions. In disposing of an appeal the AJCT may :

- a) in the case of an order of assessment : confirm, reduce, enhance, set aside or annul the assessment;
- b) in the case of an order imposing penalty : confirm, set aside or cancel such order or vary it so as to enhance or to reduce the penalty; and
- c) in any other case : pass such order as he thinks fit.

It is to be noted here that :

- i) An order of assessment or penalty shall not be set aside except in a case where the AJCT is satisfied that a notice on the appellant has not been in accordance with the provisions of Section : 178, and

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- ii) no enhancement of an assessment or a penalty or reduction of a refund shall be made unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction.

Further, it may be stated here that the order should be made within one year from the end of the month in which the appeal was filed, otherwise, the appeal would be deemed to have been allowed.

22.03: Appeal to the Commissioner of Taxes (Appeals)

By virtue of Section 153 of ITO 1984, an assessee, being a company, aggrieved by any order of a Deputy Commissioner of Taxes or any assessee aggrieved by any order of an Inspecting Additional/Joint Commissioner of Taxes may file appeal to the commissioner of Taxes (Appeals).

The appeal should be made in prescribed form and verified in prescribed manner and be accompanied by appeal fee of Tk. 200. In disposing of an appeal, the Commissioner shall examine the documents, hear both the parties involved and give decision as he thinks fit.

22.04: Appeal to the Appellate Tribunal

According to Section 158 of ITO, 1984, the Assessee and the Deputy Commissioner of Taxes may appeal to the Appellate Tribunal for their own dissatisfaction. The types of Appellant and grounds/reasons for filing appeal to the Appellate Tribunal have been highlighted in the following Table :

A) Grounds for Appeal :

Appellant	Reasons/Grounds of Appeal
I. Assessee	
a) Against the decision given by Appellate Joint Commissioner of Taxes.	a) As per Section 128, if the assessee is not satisfied with the decision given by Appellate Joint Commissioner of Taxes, imposing penalty for concealment of income.
b) Against the decision given by Inspecting Joint Commissioner of Taxes.	b) As per Section 156, if the assessee is not satisfied with the decision given by AJCT imposing penalty for understatement of value of immovable property for sale or transfer by assessee.
	c) It the assessee is not satisfied with the decision given by an Inspecting Joint Commissioner of Taxes exercising the powers of a DCT under Section 10.

	d) If the assessee is not satisfied with the decision given by the Inspecting Joint Commissioner of Taxes under Section 120 revising the order of DCT.
2. Tax Authority (Deputy Commissioner of Taxes)	If the Tax Authority is not satisfied with the decision given by the Appellate Joint Commissioner of Taxes and if the Commissioner of Taxes directs the DCT to do so under Section 158 (5). According to the Finance Act, 1995 in the case of filing appeal from the side of the Tax Authority, the Commissioner of Taxes shall discuss the issue with the DCT, observe the reaction and if he thinks that it would be wise to file an appeal then he will direct the DCT to do so taking permission from the National Board of Revenue.

B) Conditions to be satisfied for Filing an Appeal (Section 158) :

According to Sec. 158 of ITO 1984, the following conditions are to be satisfied for filing an appeal to the Appellate Tribunal :

- i) 15% of the tax representing the difference between the tax payable on the basis of the order of the Appellate Joint Commissioner or of the Commissioner (Appeals), as the case may be, and the tax payable on the basis of return under Sec. 74 should be paid by the assessee.
- ii) The appeal should be made in prescribed form and verified in prescribed manner.
- iii) The appeal form should be accompanied by appeal fee of Tk. 500.
- iv) The appeal should 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 DCT, as the case may be. However, the Appellate Tribunal may admit an appeal after the expiry of 60 days, if it is satisfied that there has been sufficient cause/reason for not submitting/presenting the appeal within such time.

C) Procedures to be followed (Section 159) :

The following procedures are followed by the Appellate Tribunal while conducting an appeal :

- i) The Appellate Tribunal shall fix a date and place for hearing and give notice to the assessee and the concerned DCT.

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- ii) The parties involved in the appeal shall be allowed to be heard at the hearing either in person or by a representative.
- iii) The hearing of the appeal may be adjourned from time to time.
- iv) The Appellate Tribunal shall examine the documents and statements submitted and may also permit the parties involved to present further necessary documents if it thinks so.
- v) The Appellate Tribunal shall issue notice to the DCT for further investigation if it thinks necessary to do so.
- vi) The Appellate Tribunal may allow the parties involved to present new ground of appeal if it thinks necessary to do so.

D) Decision in Appeal (Section 159) :

The Appellate Tribunal shall examine the documents, hear the sayings of the parties involved in the appeal and give decision. The order of the appeal should be made in writing and shall state the points of determination, the decision thereon and the reasons of decisions. In disposing of an appeal the Appellate Tribunal may :

- i) Increase/decrease the amount of income and penalty;
- ii) Uphold the decision of AJCT or change the decision of AJCT;
- iii) Cancel the assessment; and
- iv) Pass any other order if it thinks fit.

The order of the Appellate Tribunal should be communicated to the parties involved in the appeal within 120 days from the date of such order. An appeal filed by an assessee shall be deemed to have been allowed if no order is passed on the same within a period of two years from the end of the month in which the appeal was filed.

It is to be mentioned here that the Appellate Tribunal is the supreme authority to settle any tax related dispute. However any suggestion or explanation on law-arising question may be solicited from the High Court Division of the Supreme Court.

22.05: Reference to the High Court Division of the Supreme Court

According to Section 160 of ITO 1984, the assessee or the Commissioner may within 90 days of the date of the order of Appellate Tribunal refer the case by application in the prescribed form and manner with a fee of Tk. 2000 to the High Court Division of the Supreme Court on any question of law arising out of such order. Here the issue-'question of law arising out of such order' is to be clarified. The issue may be settled with the help of the following guidelines :

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- a) If any legal issue is not presented before the Appellate Tribunal on behalf of the appellant and the Tribunal also does not consider such issue, then any question of law arising out of the order can not be referred to the High Court Division. (C. I. T. Vs. Shivanath, 1970).
- b) If any legal issue has been presented before the Appellate Tribunal but the Tribunal has not considered such issue, in that case, any question of law arising out of the order can be referred to the High Court Division for explanation and settlement. (Estate of Karuppan Choteyar Vs. C. I. T., 1969).
- c) If any legal issue has not been presented before the Appellate Tribunal but the Tribunal thinks that such legal issue should be taken into consideration, than the Tribunal can approach the High Court Division about the particular issue and seek explanations and opinions. (East India Industries Ltd. Vs. C. I. T. 1969).

It is to be mentioned here that the Appellate Tribunal is the Supreme Authority to give any decision regarding appeals. The High Court Division has got no right about the matters involved. But if any decision is taken by the Appellate Tribunal without considering any documents and evidences, in that case only, the issue may be presented before the High Court Division and the High Court Division will, after hearing the case, decide on the question of law arising and deliver its judgement. (Subbil Das, Tribhuban Das, Saha Vs. C. I. T. 1969).

Under the above circumstances, if any case referred to the High Court Division is accepted, then a Bench will be formed with not less than two Judges who shall fix a date for hearing. That Bench of the High Court Division, shall upon hearing, decide the question of law raised thereby and shall deliver its Judgement thereon and stating the grounds of such decision and shall send a copy of such judgement under the seal of the court and the signature of the Registrar to the Appellate Tribunal which shall pass such order as are necessary to dispose of the case in conformity with the judgement.

22.06: Appeal to the Appellate Division of the Supreme Court

According to Section 162 of ITO 1984, an appeal can be preferred to the Appellate Division of the Supreme Court against the judgement of the High Court Division in any case, which the High Court Division certifies to be fit for appeal to the Appellate Division. If the case is accepted, then the Appellate Division of the Supreme Court will give decision on hearing. Actually, the Appellate Division is the supreme authority to give judgement regarding any legal question i. e., any question of law arising out of the order.

22.07: Revision

The scope of revision of the assessment has been provided in the Income Tax Ordinance, 1984. According to Section 120, the Inspecting Joint Commissioner of Taxes and according to Section 121, the Commissioner of Taxes may on their own accord revise the order of any authority sub-ordinate to them in accordance with the provision of law. The revision activities of the said authorities have been discussed as follows :

- (1) **Inspecting Joint Commissioner of Taxes :** According to Section 120 of ITO 1984, the Inspecting Joint Commissioner of Taxes may on his own accord revise the order given by Joint Commissioner of Taxes and Deputy Commissioner of Taxes. In this case he may re-examine the documents relating to the assessment and may investigate the total issue and finally may keep the decision uphold or may cancel the order or revise it as per his judgement. However, the assessee should be given every right to submit his statements and the order shall not be prejudicial to the assessee. Such revision is to be done within the 4-years period of the main order.
- (2) **Commissioner of Taxes :** According to Sec. 121 of ITO 1984, an assessee can make application to the Commissioner of Taxes for revision of an order passed by any authority sub-ordinate to the Commissioner. The application should be made in a prescribed manner within 90 days of the said order along with a fee of Tk. 200. The undisputed portion of the tax should be paid and the assessee must waive his right of further appeal.

The Commissioner may extend the time of filing the application for revision on being satisfied that the assessee was prevented by sufficient reasons from making the application within the period of 90 days as stated earlier. The Commissioner may at his own motion proceed to revise an order of any authority sub-ordinate to him within one year from the date of passing the order by that authority.

It is to be mentioned here that where an appeal is pending before the AJCT or the Appellate Tribunal or time for such appeal has not yet expired the Commissioner can not exercise his revision powers unless the assessee has waived his right of appeal. The Commissioner can not pass any order prejudicial to the assessee. If no order is passed within one year of the application for revision, the same will be deemed to have been allowed.

- (3) **Commissioner of Taxes (Appeals) :** This authority may also revise any order given by the DCT after examining and investigating the total issue thoroughly.

Questions

1. Who are the Appellate Authorities under I. T. Ordinance, 1984? Cite the provisions relevant to appeal.
[D. U. B. Com. (Pass) 1982]
2. Under what circumstances and how appeal can be filed to the Appellate Tribunal?
[C. U. B. Com. (Hons) 1989]
3. Discuss what remedial measures can be taken by an assessee if he is not satisfied with the decision of Deputy Commissioner of Taxes.
[C. U. B. Com. (Hons) 1978, 1981]
4. Under what circumstances can an assessee file appeal to the Appellate Commissioner of Taxes? Discuss in detail different aspect of this appeal.
[C. U. B. Com. (Pass) Modified]
5. Under what circumstances can an assessee file appeal against the decision of D. C. T. and Appellate Joint Commissioner of Taxes? Discuss the rules and procedures for filing such appeals.
[C. U. B. Com. (Hons) 1976, 1990]
6. Discuss the formation and functions of Appellate Tribunal. When and under what circumstances can an appeal be filed to the higher courts?
[C. U. B. Com. (Hons) 1978, BBA-1995]
7. Under what circumstances and how can appeal be filed to the Appellate Tribunal? Discuss the constitution and functions of Appellate Tribunal. Explain the role of High Court as to income tax cases.
[N. U. B. Com. (Hons) 1999]

Chapter-23

Assessment of Insurance Company

Chapter Synopsis/Contents:

7.1 : Introduction

A : Life Insurance Business

23.2 : Computation of Profits & Gains of life Insurance Business

B : General Insurance

23.3 : Assessment of General Insurance Business

23.4 : Non-resident Insurance Business

23.5 : Illustration

Questions

Exercises

23.1: Introduction

Profits of insurance companies are computed separately than profits of other types of business. Under the provisions made in the Fourth schedule of Income Tax Ordinance 1984, such profits and losses are computed for tax purpose. Further profits of Life Assurance business and other types of business are also computed under different methods. As such we shall deal with both types of insurance business separately.

A : Life Insurance Business

23.2: Computation of Profits & Gains of life Insurance Business

Under section 2 of the Fourth schedule the profits of life insurance business (other than pension and annuity) shall be determined under two bases:

(A) Total Gross External Earning;

(B) Actuarial Surplus.

The greater of the two will be taken as the basis for charging income tax.

(A) Total Gross Earning

This will mean to include the following items of income:

(i) Interest

(ii) Dividend

- (iii) Charge for reversion or renewal
- (iv) Income from sale or purchase of annuity
- (v) Re-insurance commission
- (vi) Income from property
- (vii) Income from other sources.

Total Gross earning thus computed will be subject to deduction of management expenses. But management expenses will not exceed the limit as set below:

- (a) 7.5% of the premium received during the income year in respect of single premium life insurance,
- (b) 7.5% of the 1st year's premium in respect of other life insurance premium for which number of premium is less than 12 or which number of year is less than 12.
- (c) 90% of premiums for other types of life insurance received during the year.

Further following expenses will not be allowed:

- (i) Bonus given to policy holders,
- (ii) Loss on realisation of properties and securities,
- (iii) Expenses not allowed under Income tax
- (iv) Depreciation charged on securities and assets.

Moreover following income will also not come under gross external earning:

- (a) Premium received on Insurance policy
- (b) Interest or dividend received on annuity
- (c) Profit on realization of securities or properties

(B) Actuarial Surplus

It is not feasible to determine profit or loss of life insurance business every year. Because policies are issued throughout the year and it is difficult to exactly determine the portion of claims that may arise for policies issued during a particular year. Thus profit & loss account is not prepared each year; rather a revenue account is prepared. But as per Insurance Act profit is to be determined after 3-5 years interval based on actuarial valuation. Under actuarial valuation, from the value of securities and other properties, net liability is deducted to arrive at Life Fund. Here net liability means the balance of the present value of all remaining policies minus present value of future premium of those remaining policies. This actuarial valuation is subject to the following adjustments:

(i) If there was any deficit in earlier inter-Valuation, that will be added and if there was any surplus that would be deducted.

(ii) Addition of those expenses that were deducted in actuarial valuation for not being allowed under sections 29 and 30 of I T ordinance, 1984.

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(iii) Deduction of bonus or any such amount upto $\frac{3}{4}$ th of the amount kept for policy holders.

(iv) Addition of that portion of depreciation that was shown much to reduce value of security at times of actuarial valuation of properties and securities.

From computation so made, average surplus years can be computed by dividing that value with number of yearly intervals for which value has been computed. For example, if after 3 yearly intervals actuarial valuation is made, the value will be divided by 3 and the yearly surplus can be computed.

This annual average is further subject to the following adjustment for taking in to consideration as tax base:

(i) If for actuarial valuation, depreciation of assets has not been considered and loss on security also not considered, these, are to be deducted.

(ii) Interest on tax-free Govt. security be added. However, tax rebate will be allowed on it.

The greater of the two i. e. gross external earning and adjusted actuarial value will be the basis of income tax charge and tax will be paid thereof.

B : General Insurance

23.3: Assessment of General Insurance Business

All types of insurance other than life insurance fall in the category of general insurance. The profit of general insurance is looked differently than life insurance as profit & loss account of such business is prepared every year. However, the profit shown in the profit & loss account need to be adjusted for tax purpose. The adjustment procedure is shown below:

(i) Expenditure not allowed u/s 29 and 30 of I. T. ordinance but deducted in P/L Account need to be added.

(ii) 10% of the profit of income year can be set aside to meet exceptional loss. Amount exceeding 10% need to be added back. However, the amount set aside shall not exceed the premium income of that year or the average premium income of three years immediately preceding the income year whichever is higher.

(iii) Loss on realisation of asset or securities can be deducted from revenue income. But if for the purpose of showing lower income, depreciation or loss is shown to a greater extent, this with the consultation made with Comptroller of Insurance can be added to profit shown in P/L account.

(iv) As insurance can be taken at any time of the year, a portion of such premium for unexpired period can be kept as reserve. This however, vary from 30-40 percent. such reserve can be allowed if kept in consistent with other previous years.

The adjusted profit such arrived at shall be the basis of charging income tax.

23.4: Non-resident Insurance Business

There may be foreign insurance companies carrying on business in Bangladesh through its branches. Here the portion of Bangladeshi income will be computed as follows:

(i) The portion of premium arising from Bangladesh bears to the total premium of the world income of the company, be determined first.

(ii) Then, according to such ratio the income of Bangladeshi branches be computed out of its total world income.

(iii) In case the income is determined on the basis of actuarial valuation, such adjustment as need to be made for Bangladeshi companies as to actual valuation be equally applied for non-resident insurance companies.

23.5: Illustration

Illustration-1: (Life Assurance Business)

The surplus of 3 yearly actuarial valuation of Sonar Bangla Insurance Company as on 31-12-2004 was Tk. 10,00,000. Earlier actuarial valuation revealed deficiency of Tk. 2,00,000. Deduction of tax at source during inter valuation period was Tk. 1,50,000 of which Tk. 60,000 was for current year. The income of the company for the year ended on 31-12-2004 revealed the following:

	Taka
Insurance premium	4,50,000
Interest on less tax Com. securities	50,000
Interest on Govt. securities	40,000
Dividend	2,00,000
Fees and Fines	30,000
Profit on annuity & reversion	80,000

Management expenses for the year was Tk. 2,30,000. Loss on value of securities held by the company estimated at Tk. 50,000.

Compute taxable income & tax thereon.

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Solution:

Sonar Bangla Insurance Company

Income year: 2004 - 2005

Assessment year: 2005 - 2006

Computation of Tax able Income and Tax thereon

	Taka	Taka
(A) Surplus as per Actuarial Valuation:		
Actuarial Surplus (31-12-2004)	10,00,000	
Add: Last valuation Deficiency	2,00,000	
Add: Tax deducted at source	12,00,000	
	<u>1,50,000</u>	
Adjusted surplus	<u>13,50,000</u>	
∴ yearly average surplus	4,50,000	
Less: Loss an value of securities	50,000	
Adjusted yearly surplus	<u>4,00,000</u>	
(B) External Gross Earnings:		
(i) Int. on Com. Securities = 50,000		
Grossed up $\frac{50,000 \times 100}{(100-45) 55}$	90,909	
(ii) Int. on Govt. Securities	40,000	
(iii) Dividend	2,00,000	
(iv) Fees & Fines	30,000	
(v) Profit on annuity & reversions	80,000	
	<u>4,40,909</u>	
Less: Management Expenses (assumed within limit)	<u>2,30,000</u>	
Net Income	<u>2,10,909</u>	
Taxble Income = Higher of A & B		<u>4,00,000</u>

Computation of Tax

Tax @ 45% on Tk. 4,00,000 = Tk.	1,80,000
Less: Tax deducted at Source= Tk.	<u>60,000</u>
Net tax payable = Tk.	<u>1,20,000</u>

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Illustration-2: (General Insurance)

From the following revenue and profit & loss account of Southern Insurance co. compute taxable income & tax to be paid by the company for the year ended on 30-06-05.

Revenue A/c

Particulars	Fire	Marine	Particulars	Fire	Marine
	Taka	Taka		Taka	Taka
Claims	1,21,000	93,000	Balance at the beginning:		
Commission	72,000	31,000	Revenue for unexpired risk	270,000	2,50,000
Management Expenses	76,000	88,000	Premium	3,81,000	2,95,000
Profit	1,76,400	28,000	Commission on re-insurance	23,000	
Reserve for unexpired risk	1,52,400	2,95,000			
Additional Reserve	76,200	10,000			
	<u>6,74,000</u>	<u>5,45,000</u>		<u>6,74,000</u>	<u>5,45,000</u>

P/L Account

	Taka		Taka
Directors' fees	85,000	Interest & Dividend	73,000
Income tax provision	40,000	Profit on Fire	1,76,400
Loss on Investment	8,000	Profit on Marine	28,000
Profit carried to Balance sheet	1,44,400		
	<u>2,77,400</u>		<u>2,77,400</u>

Assessment of Insurance Company-373

Solution:

Southern Insurance Company

Income year: 2004 - 2005

Assessment year : 2005 - 2006

Computation of taxable Income & Tax

Profit as per P/L A/c		1,44,400
Add non-allowable Exp:		
(i) Excess unexpired risk reserve for marine	10,000	
(ii) Income tax provision	40,000	50,000
		<u>1,94,400</u>
Tax:		
Tax @ 45%		87,480

Notes:

- (i) Assumed that management expenses are within the limit.
- (ii) Exceptional loss for unexpired premium is allowed @ 10% of Premium including additional reserve. Here for marine, 10% of premium is Tk. 2,95,000 but additional Tk. 10,000 is excess thus not allowed. For fire such provision is within limit
- (iii) Income tax & Provision thereof is not allowed u/s 29 & 30 of I. T. Ordinance.

Questions

1. Explain tax assessment procedure of Life Insurance company as per Income Tax Ordinance 1984.
2. State the procedure of tax assessment in respect of General Insurance company as per I. T. Ordinance, 1984.

Exercises

Exercise-1:

Alpha Insurance Co. Provides you the following information. Compute taxable income & tax to be paid by the Co.

- (i) 5 yearly actuarial valuation surplus Tk. 20,00,000.
- (ii) Surplus of earlier valuation Tk. 2,00,000
- (iii) Tax deducted at source during inter valuation period Tk. 2,50,000 of which Tk. 80,000 relates to current year i. e. for the year ended on 30-06-2004.
- (iv) Expenses amounting to Tk. 50,000 not allowed u/s 30 of I. T. ordinance has not been taken into account for actuarial valuation.

Income Tax-374

The income of the company, except premium income which was Tk. 2,00,000, revalued to be as follows:

(i) Interest on securities	Tk. 1,50,000
(ii) Dividend Income	Tk. 80,000
(iii) Fines & fees	Tk. 40,000
(iv) Profit from annuity	Tk. 30,000
(v) Fees for reversion	Tk. 20,000

Management expenses amounted to Tk. 1,80,000. Depreciation on assets charged at Tk. 30,000 & loss on investment in shares estimated at Tk. 50,000.

Exercise-2:

The P/L A/C of General Insurance Company revealed a profit of Tk. 50,00,000. On Scrutiny it was revealed that exceptional loss was shown Tk. 4,00,000 @ 30% which as per law allowed @ 10% Further expense not allowed under sec. 29 and 30 is revealed at Tk. 1,50,000 which was charged in revenue account. Income tax provision appropriated at Tk. 50,000. Compute tax liability of the company.

Chapter-24

Miscellaneous

Chapter Synopsis/Contents:

24.1 : Assessment of Non-Resident

24.2 : Double Taxation Relief

24.1: Assessment of Non-Resident

An analysis of Sec 17 (1) of Income tax Ordinance 1984 reveals that a non-resident is to pay tax on the following types of income:

- (i) Income received in Bangladesh
- (ii) Income deemed to be received in Bangladesh
- (iii) Income arising/accruing in Bangladesh
- (iv) Income deemed to arising/accruing in Bangladesh.

Thus it is seen that a non-resident need not to pay tax on his foreign income.

Under Sec. 18 following will be treated as income accruing/arisen in Bangladesh.

(a) Any income which falls under the head "salaries" wherever paid if it is earned in Bangladesh or paid by the Govt. or local authorities in Bangladesh.

(b) Any income directly or indirectly accruing or arising through:

- (i) any bussness connection in Bangladesh,
- (ii) any property; or assets rights in Bangladesh

It is to be noted that in case of business, if all the operations are not carried out in Bangladesh, such part of income will be treated as Bangladeshi as could be reasonably attributed to the operations carried out in Bangladesh.

(c) any dividend paid outside Bangladesh by Bangladeshi company,

(d) any income by way of interest paid by Govt. or any resident person. But if such money is taken for Business or Profession to be caried on outside Bangladesh, this provision will not be applicable.

(e) any income by way of technical fee paid by the Govt. or by a resident. But if such activities are carried on outside Bangladesh, this provision will not apply.

(f) any income by way of royalty payable by Govt. or resident But if Property or information used or service utilised for the purpose is outside Bangladesh this provision will not apply.

(g) *Some typical income:*

(i) If a non-resident purchases goods in Bangladesh and sales it outside Bangladesh, the income reasonably accruing through purchase be treated as income arising in Bangladesh.

(ii) If a non-resident purchases goods outside Bangladesh & sells it in Bangladesh that income reasonably attributed to purchase be deducted to compute income arising in Bangladesh

(iii) The above two principles will be applied for manufacturing of products and income produced there of.

(iv) For non-resident firm, income arising in Bangladesh from its branches be subject to tax. In this case DCT can examine not only accounts of Bangladeshi branch but total business. If he is satisfied with Branch accounts and profit revealed there in, he will charge tax there of, otherwise, he can reasonably estimate income of Bangladeshi firm.

Taxable Income & Tax Rate :

Total income of a non-resident will be calculated by aggregating his income from different heads. Alike a resident a non-resident he will also get benefit of minimum taxable income & pay tax as per rate applicable to a resident:

Tax Collection :

A non-resident can be taxed on his own name or on his agent. Under the following circumstances, a person may be taxed as agent of a non-resident:

- (i) Person appointed as agent by a non-resident.
- (ii) A resident who has business connection with a non resident.
- (iii) A person through which a non-resident receive income.

It is to be noted that D. C. T. is to inform the person concerned who is to be treated as agent of non-resident in case of (ii) & (iii). Further, an agent who pays or supposed to pay tax on behalf of the non-resident can deduct tax so paid from the income of non-resident and pay the balance to him.

24.2: Double Taxation Relief

A Person may have income in different countries If he has to pay tax in his own coulmn as resident and also need to pay on different countries for his income in those countries, than he shall have to pay tax on same sources of income more than one time. To avoid this difficulties, provision of double taxation relief has been introduced. But for such facilities double taxation relief agreement between Government of different Countries are to be made.

Agreement to avoid Double taxation :

The Government one country may enter into an agreement with Govt. of any other contry for avoidance of double taxtion for its citizens and organizations & to prevent fiscal

evasion in respect of tax on income. The agreement need to be notified in official gazette for implementation. Bangladesh has such agreement with Britain, United states of America, Japan, Singapore, Sweden, South Korea, Belgium, India etc.

Section 144 of I. T. Ordinance 1984 of Bangladesh provides necessary points on which such agreement shall address. These are as follows:

(i) Relief from tax payable under I. T. Ordinate.

(ii) Determining the income accruing or arising & deemed to accrue or arise to non-resident from sources within Bangladesh.

(iii) Where all operations of Business & Profession are not carried out in Bangladesh, determine the income attributable to operations carried out in Bangladesh and outside Bangladesh as bases of profit sharing.

(iv) Determine the income attributable to a person resident in Bangladesh having special relations with non-resident.

(v) Determine Procedure of tax computation.

(vi) Determine mode of recover of tax.

(vii) Exchange information for the prevention of fiscal evasion or avoidance of tax.

Taxable income :

Under this types of agreement total and taxable income of an assessee is determined with reference to taxing Acts of relevant countries Here, there may be some income which are non-assessable in one country & assessable in another country. In such a case the incomes which are non-assessable in one country cannot come under the orbit of double taxation relief. The taxable income so computed come under taxation & double tax relief. How these relief is to be provided need to be mentioned in the agreement.

Relief :

Mode of relief & rebate is to be clearly mentioned in the agreement. In general relief is provided on average rate. If there is income tax & supertax, relief is provided by combining the two and finding out average rate thereof.

Questions

1. Describe the procedure of assessment of non-resident. How such tax is paid?
2. Who is a non-resident? state the procedure of assessing a non-resident & recovery tax thereof.
3. What is meant by Double Taxation Relief. Explain relevant provisions as to agreement and relief.
4. write short notes on:
 - (i) Assessment of resident
 - (ii) Double taxation relief.

Chapter-25

Gift Tax : Law and Practice

Chapter Synopsis/Contents:

- 25.1 : Introduction
 - 25.2 : Definition of Gift
 - 25.3 : Characteristics of Gift
 - 25.4 : Exemption from Gift Tax
 - 25.5 : Valuation of Gift
 - 25.6 : Assessment of Gift Tax
 - 25.7 : Gift Tax Authorities
 - 25.8 : Appeal
 - 25.9 : Default, Concealment, Fine and Its Recovery
 - 25.10 : Tax Escaped Assessment
 - 25.11 : Rates of Gift Tax
 - 25.12 : Illustrations
- Questions
Exercises

25.01: Introduction

a) **Origin:** The law of Gift Tax was first introduced in the then Pakistan in the year 1963 with effect from 1st July, 1963. After the independence of the country the same law was adopted in Bangladesh with some changes and modifications. Later on the law was repealed in the year 1985 but in the year 1990 it has been re-introduced which is now known as Gift Tax Act, 1990. Now Gift Tax is leviable on the taxable gifts made at the rates prescribed in the Schedule to the Gift Tax Act, 1990. Gift Tax was introduced in 1958 in India and in 1924 in the U. S. A. Basically, the Gift Tax Acts of India, USA and Pakistan influenced the Gift Tax structure of Bangladesh.

Objectives: The main objective of introducing Gift Tax is to earn revenue by the Government. The other objectives are :

- i) To prevent tax evasion with regard to the Estate Duty & Wealth Tax and tax avoidance through gift.
- ii) To reduce the differentiation of wealth between the rich and the poor classes of people.
- iii) To arrange the re-distribution of wealth and income in the society.

NSL *From MPQ*
Basis: Gift tax would be charged on the value of gifts made during the income year by a person. Here 'person' refers to an Individual, Undivided Hindu Family, Joint Stock Companies, Association of Persons, etc. Basically, there are two bases of gift tax stated as follows :

- i) **Value of property:** Value of movable and immovable property transferred by one person to another voluntarily and without consideration of any money or money's worth.
- ii) **Differential value of actual and stated price:** According to Section 4 of Gift Tax Act, 1990, if any movable or immovable property is transferred with an inadequate consideration of money or money's worth then the differential value of actual price and consideration price would be treated as gift.

NSL
Legal Elements: The following legal elements are observed in the Gift Tax Act, 1990:

- i) Transfer of Property i. e. gift must be transferred to the beneficiary.
- ii) The transfer must be an existing property.
- iii) The transfer must be voluntarily and without or with inadequate consideration in money or money's worth.
- iv) Minimum taxable limit of Gift is Tk. 20,000.
- v) Gift Tax is chargeable on gifts made in income year.
- vi) The Deputy Commissioner of Taxes will make assessment and determine tax liability.
- vii) For movable gift, property should be transferred physically but for immovable gift, documentary transfer is effected.

25.2: Definition of Gift

Gift means presentation of something by one person to another without consideration. According to Section 2(8) of the Gift Tax Act, 1990, gift means the transfer by one person to another of any movable or immovable property voluntarily and without consideration of any money or money's worth. The value of gift should be the fair market value of the property transferred as determined by the Deputy Commissioner of Taxes and where such value can not be determined, the rules prescribed in Section 5 of Gift Tax Act, 1990 will be applied.

25.3: Characteristics / Features of Gift *From*

By analysing the definition of Gift, the following features are observed :

- 1) **Transfer of Property** : To be gift there must be a transfer of property. Here property refers to the movable and immovable property. Transfer may also take in the form of release, discharge, surrender, forfeiture or abandonment of a debt, contract, actionable claim or any interest in property in favour of others.
- 2) **Involvement of Two Parties** : Gift must be made by one person to another person. Here person means any Individual, Undivided Hindu Family, Company, Corporation, Association of Persons, etc.
- 3) **Existing Property** : Gift must be made of an existing property-either movable or immovable. Any future proprietorship or expected property can not be included in the list of gift items.
- 4) **Voluntary Transfer** : Gift should be made voluntarily. Transfer of property by force or by any undue influence can not be treated as gift.
- 5) **Without Consideration** : Transfer of property as gift should be made without any consideration. If any consideration is received by the doner from the donee for transfer of property then it can not be treated as gift upto the value of consideration.

25.4: Exemption from Gift Tax *From*

The following gifts are exempted from tax under Section 4 of Gift Tax Act, 1990 :

- 1) Gifts of immovable property situated outside Bangladesh.
- 2) Gifts to Schools, Colleges, Universities, Hospitals, Public Charities, etc., approved under Income Tax Ordinance, 1984.
- 3) Gifts to the Government or any Local Authority.
- 4) Gifts to any dependent relative upto Tk. 20,000 on marriage occasion.
- 5) Gifts by way of payment of policy of Insurance or Annuity for any person other than spouse, dependent upon him/her for support and maintenance upto Tk. 20,000.
- 6) Gifts to any flood or disaster mangement fund established or approved by the Government.
- 7) Gifts made under contemplation of death.
- 8) Gifts under a will.
- 9) Gifts to sons, daughters, father, mother, spouse, own brothers and sisters.

In addition to the above gifts there is a basic exemption of Tk. 20,000.

The Government may also exempt any gift or person from the payment of Tax by way of Gazette Notification.

25.5: Valuation of Gift

According to Section 5 of Gift Tax Act, 1990, the Valuation of Gift for tax purpose is done in the following ways :

- 1) The value of the property for gift tax purpose would be the value that the property is likely to fetch, if sold in the open market.
- 2) If the gifted property is not saleable, its value would be as determined according to the rules prescribed, such as :
 - a) Insurance policy = Surrendered cash value at times of gift.
 - b) Share in the pvt. company = Intrinsic value attributable to share holding.
 - c) Share value/proportionate value of partnership. It will be ascertained as follows:
 - i) Excess of market value of the assets over liabilities of the firm is to be ascertained.
 - ii) Such excess/surplus value is to be allocated among the partners according to profit sharing ratio.
 - iii) Share of above surplus plus capital provided by the partner would be the value of Interest of each partner.
 - d) Value determined by the National Board of Revenue for any other gifts which are not saleable in the open market.

25.6: Assessment of Gift Tax

Deputy Commissioner of Taxes is the authority for the determination of Gift Taxes. Usually, the following steps are followed in the assessment of Gift Taxes :

- 1) **Submission of Return (Section 7) :** A person is to submit the return of gift if his/her total gifts exceed minimum taxable limit of gift Tk. 20,000 during the particular income year. The return should be submitted in the prescribed form and in the prescribed manner to the DCT on or before 15th September of each year. If any body fails to submit return and the DCT thinks that the person has taxable gift then he may be served notice that person has to submit the return within 30 days from the date of the notice. However, according to Section 7(3), the DCT may extend such time if he is satisfied that there has been sufficient cause for not submitting the return within such time.
- 2) **Payment of Tax (Section 8) :** The assessee shall pay tax on the basis of the submitted return as per section 7.

3) **Assessment of Tax (Section 10) :** Assessments are of three types :

- a) **Assessment on correct return basis :** If the DCT is satisfied without requiring the presence of the assessee or the production of any document by him of any evidence and the DCT thinks that the return is correct and complete, he will accept the return and the tax paid by assessee as correct.
- b) **Assessment after hearing :** If the DCT is not satisfied with return submitted by the assessee, he will serve notice on the assessee either to attend in person or to produce evidence, on the basis of which the return has been submitted. The DCT after hearing and examination of the documents and evidences may pass an order determining the value of taxable gifts and tax payable.
- c) **Best Judgement Assessment :** If any person fails to submit the return, the DCT may assess the value of taxable gifts and determine the tax payable to the best of his judgement.

25.7: Gift Tax Authorities

The Income Tax Authorities would be correspondingly acting as the Gift Tax Authorities i. e. there is no separate authority for dealing with gift tax activities. Normally, Commissioner of Taxes, Appellate Joint Commissioner of Taxes, Joint Commissioner of Taxes, Deputy Commissioner of Taxes & Tax Recovery Officers having jurisdiction as such under the Income Tax Ordinance, 1984, are the concerned authorities.

25.8: Appeal (Section 12)

- 1) According to Section 12 of Gift Tax Act, 1990, any person aggrieved by a gift tax order may file appeal to the Income Tax Authority.
- 2) Under this section, for filing appeal, all the rules and regulations relating to the Appeals, Revisions and References as per Income Tax Ordinance are to be followed.
- 3) As per Section 18 of Gift Tax Act, 1990, no case may be filed to the any other court or authority.
- 4) According to Section 19 of the said Act, the Appellant shall have the right to be heard at the hearing either in persons or by a representative.

25.9: Default, Concealment, Fine & Its Recovery (Section 11-14)

- a) **Default and Concealment:** If any person deliberately submits any wrong information or fails to submit return even after receiving notice, he may be imposed a penalty for not exceeding 50% of the original gift tax chargeable. Such penalty would be collected together with gift tax.

- b) **Demand Notice (Sec. 13)** : Demand Notice relating to Gift Tax would be served on the assessee as the demand of income tax is required to be sent and served.
- c) **Collection of Tax and Penalty (Sec. 14)** : The demand notice served must be honoured by the assessee by paying the tax within the time mentioned therein; failing which penalty can be levied on the assessee. If the assessee files an appeal before the Appellate Authorities, he would not be considered as a defaulting assessee for imposition of penalty.

25.10: Tax Escaped Assessment

In the Gift Tax Act, 1990, the system of gift tax escaped assessment has also been provided. The Deputy Commissioner of Taxes usually estimates the value of taxable gifts and determines the tax payable for tax escaped gifts.

If for any reason any gift chargeable to tax for any assessment year has been escaped or has been under assessed or assessed at too low at a rate or has been the subject of excessive exemption, the Deputy Commissioner of Taxes may issue a notice to the assessee containing the particulars required and may proceed to assess or determine by an order in writing, the total gift or the tax payable by the assessee.

The tax shall be charged at the rate/rates applicable to the assessment year for which the assessment is made.

25.11: Rates of Gift Tax

The rates of Gift Tax are as follows :

Amount of Gift	Rate of Tax
(a) On First Tk. 20,000	Nil
(b) On Next Tk. 5,00,000	5%
(c) On Next Tk. 10,00,000	10%
(d) On Next Tk. 20,00,000	15%
(e) On Next Balance Amount	20%

23.12: Illustrations

Illustration-1:

Examine, whether the following transactions would be treated as Gift as per Gift Tax Act, 1990 and if so, ascertain the amount of taxable gift :

- a) Mr. Salam gifted a piece of property to his son-in-law Mr. Jabbar on condition that Mr. Jabbar would have been paying Tk. 10,000 per year for 5 years to his father-in-law. The value of the property was Tk. 10,000.

- b) Father opened a joint account with his son in Agrani Bank and deposited Tk. 1,50,000 from his own fund. Later on the son drew Tk. 70,000 from this joint account for his marriage ceremony.
- c) Mr. Amir Hossain donated to his sister Tk. 70,000 on her marriage ceremony. The sister was dependent on him.

Solution:

- a) It is a gift but the amount of gift would be as follows :

Value of the gifted property	=	Tk. 10,00,000
Less Amount Receivable from the Son-in-law :	=	<u>50,000</u>
(Tk. 10,000 x 5 years)		
∴ Taxable Gift	=	Tk. <u>9,50,000</u>

(Ref. : Bishwanath Vs. C. I. T. : Calcutta High Court)

- b) Any amount withdrawn from the Joint property by the person other than the investor would be treated as Gift.

Here, amount withdrawn by the son Tk. 70,000 is a gift made by the father to his son but such gift is fully exempted under section 4 of Gift Tax Act, 1990.

- c) Amount donated by Mr. Amir Hossain to his sister Tk. 70,000 on her marriage occasion would be treated as Gift but gift to sister on her marriage ceremony is exempted upto Tk. 20,000 as per Section 4 of Gift Tax Act, 1990. So Taxable Gift, in this case, would be Tk. (70,000-20,000) = Tk. 50,000.

Illustration-2:

Mr. Afjal made the following gifts during the Income Year 2004-2005 :

- 1) Gift to dependent sister for maintenance Tk. 40,000.
- 2) Gift to brother a piece of land in contemplation of death Tk. 2,00,000.
- 3) Donation to the eldest son for starting a new business Tk. 1,00,000.
- 4) Donation to :
 - a) President's Relief Fund Tk. 10,000.
 - b) Chittagong Medical College Hospital Tk. 5,000.
 - c) Mosque Tk. 3,000.
- 5) Gift to brother on marriage occasion Tk. 20,000.
- 6) Gift to a friend in his financial crisis Tk. 20,000.
- 7) Gift to son-in-law a Bungalow situated in the U. K. including Furniture worth Tk. 2,00,000 = Tk. 10,00,000.

Investigation disclosed the following facts :

- a) He donated a house at Nasirabad to his wife valued Tk. 1,50,000.
- b) Loan given to a friend Tk. 15,000 was written off as bad.

Gift Tax : Law and Practice-385

- c) House Property was transferred by Registration at Tk. 80,000 but such consideration was not actually passed.
Determine the Gift Tax of Mr. Afjal.

[C. U. M. Com. 1979 Modified]

Solution :

Determination of Gift Tax

Assessee : Mr. Afjal

Status : Individual & Resident

Income Year : 2004-2005

Assessment Year : 2005-2006

Particulars		Taka	Taka
1.	Value of Immovable Gifts Outside Bangladesh :		
	Gift to Son-in-Law : A Bungalow in UK.	8,00,000	
	Less exempted in full (u/s-4)	8,00,000	—
2.	Value of Movable and Immovable Gifts within Bangladesh :		
	a) Gift to brother in contemplation of Death	2,00,000	
	Less exempted in full (u/s-4)	2,00,000	—
	b) Donation to the eldest son for starting business		1,00,000
	c) Donation to the President's Relief Fund	10,000	
	Less exempted in full (u/s-4)	10,000	
	d) Donation to Chittagong Medical College Hospital	5,000	
	Less exempted in full (u/s-4)	5,000	—
	e) Donation to Mosque		3,000
	f) Gift to Brother on marriage occasion	20,000	
	Less exempted upto Tk. 20,000 (u/s-4)	20,000	
	g) Gift to Friend		20,000
	h) Loan (w/off as bad) to friend	15,000	
	Less exempted (u/s-4)	15,000	—
	i) Transfer of Property without passing consideration		80,000
	j) Gift to Wife (House Property)		1,50,000
3.	Value of Movable Gifts outside Bangladesh :		
	Furniture in U. K. Bungalow		2,00,000
	Total Value of Taxable Gift		5,53,000
	Less Statutory Deduction		20,000
	Net Value of Taxable Gift		5,33,000

Computation of Gift Tax :

On 1st Tk. 5,00,000 @ 5% = Tk. 500000 x 5% =	Tk.	25,000
On Next Tk. 33000 @ 10% = Tk. 33000 x 10% =	Tk.	3,300
Total Gift Tax =	Tk.	<u>28,300</u>

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Notes :

- 1) It is assumed that the eldest son is not dependent because he has separate business.
- 2) Donation to the Mosque has already been considered under Income Tax Act. So, here it has not been considered.
- 3) Loan given to friend has been assumed as business loan and bad debt regarding this loan is a business loss.
- 4) Gift to wife Tk. 1,50,000 (House Property) has not been considered under exemption.

Illustration-3:

Mr. Alep Bapari, a resident of Bangladesh made the following gifts for the income year 2004-2005 :

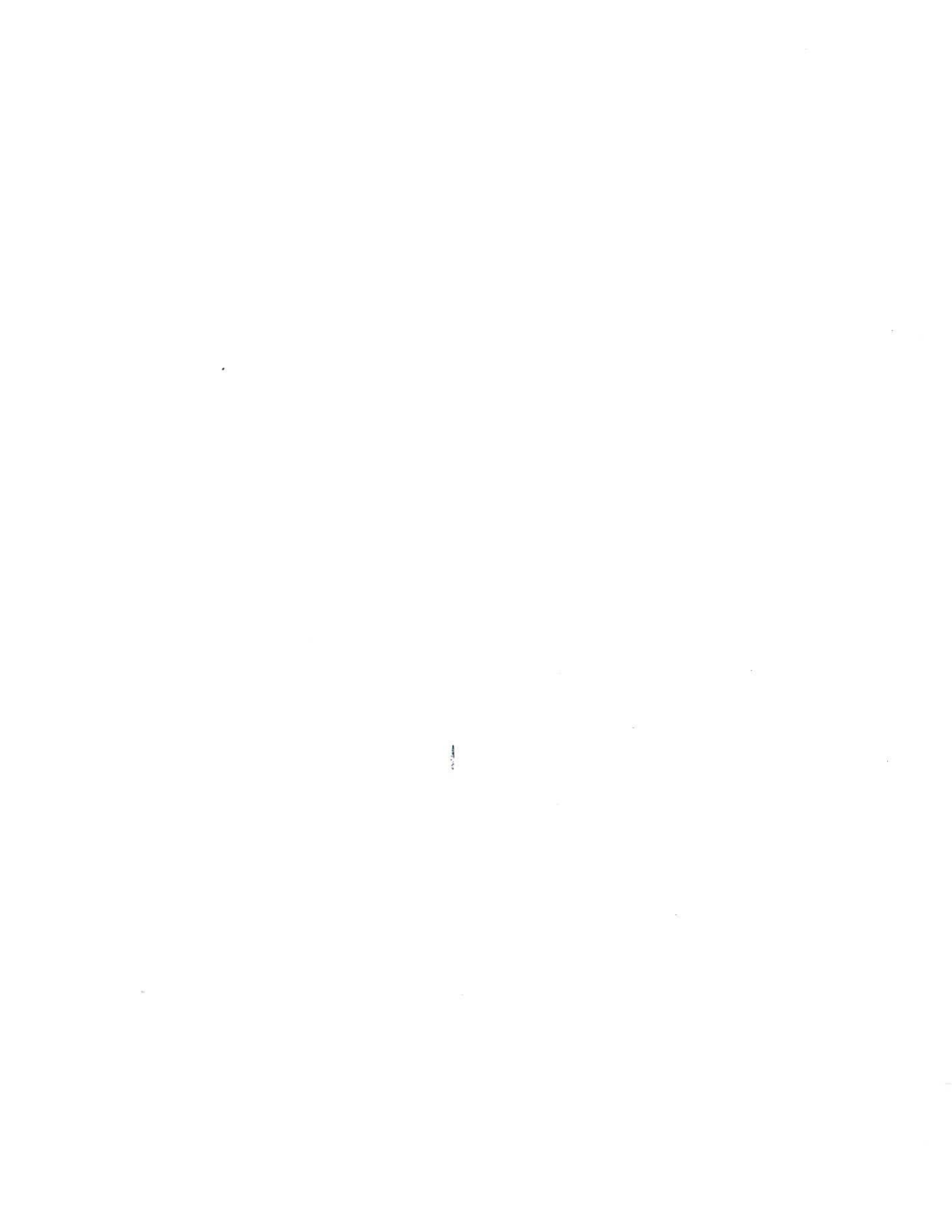
Particulars	Taka	Taka
a) Donation to a charitable institution		50,000
b) Donation to Relatives :		
Sisters ↓	10,000	
Brothers	5,000	
Uncle	8,000	
Nephew	3,000	26,000
c) Gift to 2 wives @ Tk. 1,50,000 each		3,00,000
d) Gift to 2 daughters & a son @ Tk. 10,000 each		30,000
e) Gifts to widowed daughter in the expectation of death		2,00,000
f) Gifts to niece on the occasion of her marriage		25,000
g) Cash donation to his brother-in-law on the occasion of his marriage		20,000
h) Charity to a Mosque		5,000
i) Donation to a political party		5,000
j) Donation to Govt. Zakat Fund		10,000
k) Gift to a house situated in London to his brother		5,00,000
l) Cash gift to his nephew out of Bank balance in Swiss Bank		9,00,000

Investigation disclosed that the house has been under valued to the extent of Tk. 2,00,000.

Compute taxable gifts and gift tax to be paid by Mr. Alep Bapari.

[C. U. M. Com (F) 1980; year changed]





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Solution :

Assessment year 2005-2006

Income year 2004-2005

Gift Tax Assessment of Mr. Alep Bapari

S/O.

Address

Status : Individual and Resident

Particulars	Taka	Taka
1. Computation of Taxable Gifts :		
Value of Gifts Outside Bangladesh :		
a) Gift of a house to his brother situated in London (At Market Value)	7,00,000	
Less exempted in full (U/S-4)	7,00,000	
2. Value of Movable & Immovable : Gifts within Bangladesh :		
a) Donation to :		
i) Charitable institution	50,000	
ii) Govt. Zakat Fund	10,000	
	60,000	
Less exempted in full (U/S-4)	60,000	—
b) Donation to Relatives :		
Sisters	10,000	
Brother	5,000	
Uncle	8,000	
Nephew	3,000	26,000
c) Gifts to :		
i) 2 wives @ Tk. 1,50,000 each	3,00,000	
ii) 2 Daughter and a Son @ 10,000/ each	30,000	3,30,000
d) Gift to widowed daughter in the expectation of death	2,00,000	
Less exempted (U/S-4)	2,00,000	
e) Gifts to niece on marriage	25,000	
Less exempted upto 20,000 (U/S-4)	20,000	5,000
f) Cash donation to his brother in law		20,000
g) Charity to mosque		5,000
h) Donation to a political party		5,000
3. Value of movable Gifts outside Bangladesh :		
a) Cash gifts to his nephew out of bank balance of Swiss Bank		9,00,000
Gross value of Taxable Gift		12,91,000
Less Statutory Deduction		20,000
Net Taxable Gift		12,71,000

Gift Tax :	Tk.
a) On 1st Tk. 5,00,000 @ 5% =	25,000
b) On next 7,71,000 @ 10% =	<u>77,100</u>
Total =	1,02,100

Notes :

- 1) The value of gift of the house to his brother situated in London has been exempted in full (U/S-4)
- 2) Gift to widow daughter in the expectation of death of the assessee is exempted under Section 4 of the Act.
- 3) Gifts to niece on the occasion of her marriage has been exempted upto Tk. 20,000 assuming that she was fully dependent on the donor.
- 4) Cash donation to brother-in-law on the occasion of his marriage has not been exempted assuming that he was not depended on the donor.
- 5) Cash gift to nephew out of Bank balance at Swiss bank has not been exempted since the gift relates to movable property situated outside Bangladesh.

Questions

1.
 - a) State the Objectives of charging gift tax.
 - b) What are the legal elements of charging gift tax?
 - c) What are the basis of gift tax?
2. Define gift and state its characteristics. State the gifts that are exempted from Gift tax under Gift Tax Act, 1990.

[C. U. M. Com. 1981]
3.
 - a) What do you mean by gift tax?
 - b) Explain how gifts are valued.
 - c) Explain how escaped gifts are valued.

[C. U. M. Com. 1982]
4. How under Gift tax Act, 1990 following gifts are valued :
 - a) Life Insurance Policy [C. U. BBA 1995]
 - b) Interest in Partnership firm. [C. U. M. Com. 1976]
 - c) Shares in Private Company?
5. State the procedure of gift tax assessment. Discuss the provision relevant to gift escaped from tax.
6. Discuss the features of gift. State the gifts that are exempted from Gift Tax Act, 1990.

[C. U. B. B. A 1998]

Exercises

Ex.-1:

Abu and Habu, two brothers received building worth Taka 5,00,000 under a will from their father. They without dividing the property gifted the same to their sister Motia.

Discuss whether the total value of the building be chargeable in the hands of two brothers jointly as association of persons or not.

Ex.-2:

Mamun has no issue of his first wife. He, therefore, adopted a child and brought him up as his own son.

After the death of first wife he again married and was blessed with 2 sons and a daughter. He made a gift of Tk. 2,00,000 to be divided between four sons and a daughter equally. Will the gift be chargeable to Gift tax Act, 1990?

Ex.-3:

Sheikh Abdul Hamid made the following gifts during the year 2004-2005. Compute gift tax to be payable by him.

	Taka
a) Gift to Mrs. Sheikh on her birth day	40,000
b) Gift to a relation not dependent on him	20,000
c) Gift to Chittagong Medical College	10,000
d) Gift to his brother made on 30-5-2004 in contemplation of death	25,000
e) On 5-04-2004 he made a gift to his son-in-law a house property at Burma valued Taka 1,00,000 including furniture and fixture worth taka 20,000.	
f) He transferred an amount of Taka 30,000 from his bank account in U. K. to his daughter's account.	
g) Payment to the widow of one of his employe who died in an accident Tk. 25,000.	

Investigation disclosed that he has waived of his claim against his brother for Taka 10,000 who took it as loan. Brother is not an insolvent. He also transferred a piece of land to his brother's wife at Taka 50,000 market value of which estimated at Taka 1,30,000.

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Ex.-4:

Mr. Rajan Chowdhury, a resident of Bangladesh made the following gifts for the year ended on 30-06-2005 :

	Taka
a) Donation to a Hospital	20,000
b) Gifts made to his relatives :	
i) To a sister @ Tk. 800 p. m.	
ii) To his wife a piece of land	2,50,000
iii) To his son-in-law Tk. 5,000 to defray educational expenses.	
c) Cash gift to a near relative who is not dependent on the marriage of relative's son.	35,000
d) A sum of Taka 25,000 given as loan to his son from his business. He wrote off the loan in the books of business.	
e) He made a gift under will to his two sons and one daughter properties valued Taka 30,000 to each son and Tk. 15,000 to daughter.	
f) Gift of immovable property made to his near relative, a house in London	20,00,000
g) He also made a gift to one of his friend a life policy after maturity, estimated realised value of Taka	25,000
h) Gift to President's Flood relief fund	15,000
i) Gift to son-in-law a house in Dhaka	10,00,000

Ex.-5:

Ronald Willam, a resident of Bangladesh gives the following particulars of gifts for the assessment year 2005-2006 :

	Taka
a) Donation to Dhaka University	50,000
b) Gift to Govt. of Bangladesh to be used for eradicating illiteracy	30,000
c) Gift of his property of U. S. A. to his son :	
House property	2,60,000
House hold effects	80,000
Gift to his wife upto 30-6-2004	60,000
e) Gift to his nephew who is studying in abroad	2,00,000

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- f) Gift to his son living in Bangladesh on the occasion of his birth day 5,000
g) Gift to his daughter on the occasion of her marriage day 8,000

Investigation disclosed that he has transferred a building by registered deed for Taka 80,000 but actually the consideration did not pass till to date. Compute tax liability of Mr. William.

Investigation further disclosed the following :

- i) A sum of Taka 30,000 was written off as bad debt out of his credit sale but DCT approved only Taka 12,000 as bonafide.
- ii) He made a further gift to his wife as a payment of dower money a house situated at Nasirabad, Chittagong valued Taka 7,50,000 (His dower money at the time of marriage was only Taka 2,00,000)
- iii) He waived of his claim worth Taka 10,000 against his younger brother who took it as loan.
- iv) He also transferred a piece of land to his eldest brother's wife worth Taka 50,000 whose market value is estimated to be Taka 2,00,000.

Ex.-6:

Mr. A made the following gifts during the Income Year 2004-2005 :

- i) Gift to Mrs. A on her birthday Tk. 50,000;
- ii) Gift to a relative not dependent on him Tk. 30,000;
- iii) Gift to Chittagong Medical College Tk. 20,000;
- iv) Gift to his brother made in contemplation of death Tk. 35,000;
- v) Gift to his son-in-law a house property at Canada valued at Tk. 2,00,000 including furniture and fixture worth Tk. 40,000;
- vi) He transferred an amount of Tk. 60,000 from his bank A/C in U. K. to his daughter's A/C;
- viii) Payment to the widow of one of his employee Tk. 35,000 who died in an accident.

Investigation disclosed that he had waived off his claim against his brother for Taka 20,000 who took it as loan. He also transferred a piece of land to his brother's wife at Tk. 60,000 market value of which estimated at Tk. 1,50,000.

Compute gift tax to be paid by Mr. A.

[C. U, B. B. A (Hons.) 1998, Modified]

Chapter-26

Value Added Tax

Chapter Synopsis/Contents:

- 26.1 : Introduction
 - 26.2 : Historical Perspective of VAT
 - 26.3 : Reasons For Introducing VAT in Bangladesh
 - 26.4 : What is VAT ?
 - 26.5 : Arguments for and Against VAT
 - 26.6 : Computation of VAT
 - 26.7 : Some Important Features of VAT in Bangladesh
 - 26.8 : Tax Base of VAT in Bangladesh
 - 26.9 : Goods and Services Subject to VAT in Bangladesh
 - 26.10 : Goods and Services Exempted from VAT
 - 26.11 : VAT Rate and VAT Assessee
 - 26.12 : Registration/Enlistment under the Value Added Tax in Bangladesh
 - 26.13 : VAT Administration
 - 26.14 : Duties and Responsibilities of VAT Assessee
 - 26.15 : Books of Accounts under VAT Act and Rules
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 - 26.17 : Appeal
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26.1: Introduction

Value Added Tax (VAT) is imposed on value added by a manufacturer of a firm or distributors. "Value added" for a firm is nothing but its gross receipts from sales minus all expenditure on goods and services purchased from other firms. In the production and distribution process a firm buys materials from other firms. These materials may include principal raw materials, auxiliary raw materials, chemical, electricity and capital goods such as machinery, equipment, buildings, furniture, vehicles, etc. The firm adds value to these purchased materials by processing or handling them with the help of its own factors of

production such as labour, land, capital, etc. Such increase in the value of outputs over inputs is the value added by the firm. Since the VAT is mostly introduced as a consumption type, it is usually considered as an indirect tax. In general, value added tax is an alternative form of 'sales tax' and in its usual form, it is a multi-stage consumption tax imposed on goods and/or services, which is collected at every stage of production and distribution rather than at the retail stage alone.

26.2: Historical Perspective of VAT

As an indirect tax VAT belongs to the group of sales tax which include turnover tax and sales tax at different levels of production and distribution. In such a case, the oldest tax of this type, a turnover tax was first introduced in Spain in 1342. The manufactures sales tax was introduced in Canada in 1923, the wholesale sales tax was introduced in Australia in 1930, the retail sales tax was introduced in USA at sale level in Mississippi in 1932. VAT is seen as the outcome of effort to refinement of multipoint sales tax. In such a situation VAT in its present multi-stage form was first introduced in Japan in 1950 at a local Govt level. There after it was introduced in France in 1954, Denmark and Brazil in 1967, Netherland in 1969, Luxemburg in 1970, Belgium in 1971, etc. Now-a-days it is found in about 90 countries of the world including our neighbouring countries India and Pakistan.

The VAT was introduced in Bangladesh on 01 July, 1991 at its initial form is a sort of consumption tax, extending its coverage up to the level of import, production or manufacture and service-rendering but not to export (which is zero-rated), wholesale or retail level (vide Section 3 of the VAT Act, 1991). But since the financial year 1996-97, VAT in Bangladesh has been a broad-based consumption expenditure tax by covering the wholesale and retail levels. A brief history of introducing VAT in Bangladesh now follows:

Govt. of Bangladesh in 1976 formed a nine member Taxation Enquiry Commission which in its report discussed different aspects of VAT including its advantages & limitations. But Commission in this regard concluded that time has not yet come for its introduction. But this brought the concept in discussion latter on since 1979. In 1986, a World Bank Mission visited Bangladesh and among others it recommended introduction of VAT. Based on this recommendation a Tax Mission from Bangladesh visited many countries in 1989 and in 1990. They recommended adoption of VAT thereafter based on a series of discussion with relevant parties, chambers, etc. The VAT Ordinance was promulgated on 31st May, 1991 which combined Excise Duty and Sales Tax to a large extent subsequently. The Value Added Tax Bill 1991 was introduced in the Jatiya Sangsad (National Assembly/Parliament) on 1st June, 1991 (i. e., after 30 days of the promulgation of the VAT Ordinance). The then Finance Minister in his statement of objects and reasons for bringing the VAT Bill said that it was being considered proper and necessary to

introduce VAT in place of present Sales Tax at the import level and Exercise Duty at the local production and service level in order to remove inconsistency and defects of the current indirect taxation system in the country. The Opposition protested the introduction of the VAT Bill. However as a routine process of the Parliament, the Value Added Tax Bill, 1991 was passed by the Parliament as the 22nd Act of 1991 on 09 July, 1991.

26.3: Reasons For Introducing VAT in Bangladesh

Accepting the recommendations of the Bangladesh Tax Mission, the Government set forth the following goals for the VAT :

- i) To do away with the cascading effects that happens because of taxation of inputs.
- ii) To generate more internal resources than that Excise Duties and Sales Tax used to provide.
- iii) To introduce VAT as the main vehicle for resource mobilization.
- iv) To adopt a flat rate of taxation on a broader base, covering a wide range of goods excepting the primary agricultural products.

Further the National Board of Revenue pointed out that the objectives behind introducing the value added taxation were : bringing transparency in the taxation system, prohibiting cascading taxation at different stages of production, thoroughly integrating the tax administration, above all activating the overall economy by mobilizing more internal resources, and also bringing the consistency in the Tax-GDP (gross domestic product) ratio.

Moreover, it is argued by tax officials that the objectives of introducing VAT are also as follows :

- i) It would augment tax revenue earning of the Government.
- ii) It will abolish tax on tax.
- iii) It will ensure more simplification
- iv) It would facilitate improvement of equitable and efficient distribution of reserves.
- v) It would facilitate broadening of tax base.

26.4: What is VAT ?

Value added tax refers to the tax applied on value added as per prescribed rate. In fact, it is a multi-stage indirect tax imposed on the value added at different stages starting from production to distribution process. In this connection let us refer to the definitions advanced by different authorities and authors :

- i) **The Oxford Dictionary of Current English** : Value Added Tax means "a tax on the amount by which the value of an article has been increased at each stage of its production",
- ii) **D. K. Stout** : Value added tax 'is a multiple tax imposed at a flat rate upon the annual sales proceeds of a company less all its purchases from other business (i. e., excluding direct imports).
- iii) **B. H. Bhatia** : "VAT is a tax not on the total value of the goods being sold, but only on the value added to it by the last seller. The seller, therefore, is liable to pay a tax not on its gross value, but on net value, that is the gross value minus the value of inputs".
- iv) **Canadian Royal Commission on Taxation (CRCT)** : 'A tax on value-added might best be described as a sophisticated turnover tax, where the cumulative tax factor is removed by taxing each transaction only in respect of the addition to sale value which has occurred in the stage immediately prior to the transaction in question'.

26.5: Arguments For & Against VAT

Proponents of VAT give a number of arguments as to the merits of VAT. For example Evans, Taylor & Hozman listed the merits of VAT. Some of the important points are as follows :

- i) It increases the cost of consumption, thus stimulating savings and investment.
- ii) The Government gets its money earlier, it doesn't have to wait until after the final sale.
- iii) It is used to stimulate exports, the exporter gets a rebate for the tax paid.
- iv) Importers pay the VAT based on the prices of their imports. The tax is paid on goods purchased, whether manufactured domestically or imported. Thus imported goods are not given an advantage over locally manufactured products.
- v) It catches service companies, which historically have been exempted from sales taxes. A service company has to charge the tax to its customers in order to recover the tax paid on its purchase of supplies and equipment.

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Further different authors and concerned authorities provide the following arguments in favour of VAT :

- vi) It opens up avenues for collection of more revenue for socio-economic development of a country.
- vii) Its scope is wider and resists distortion in production and consumption.
- viii) It provides a good system of rebate and refund which prevents tax on tax i. e., recurring tax.
- ix) It provides a psychological advantage to the tax payers in that the tax payers pay out in instalment.
- x) It helps avoidance of cascading effects across different levels of production, harmonization of tax burden and administrative ease.

VAT has several disadvantages from the view of raising price, administrative difficulties resulting from number of collecting points, complex recording, etc. In such a context the demerits of VAT have been pointed out by various authors. For example, Evans, Taylor and Holzman pointed out a number of disadvantages, some of which are as follows :

- i) It is a regressive tax, like sales taxes, its impact on the tax payer decreases as income increases and the portion of income spent in consumption decreases.
- ii) It may be administratively difficult to enforce, particularly when a large number of classes of tax payers are given exemption from the tax.
- iii) It is also difficult to administer in applying it to large numbers of small tax payers, who are usually themselves administratively ill-equipped to comply with the tax.
- iv) It is unpopular with Local Governments, since it competes with sales taxes as a consumption tax, and sales taxes are an important source of Local Government revenues.
- v) An additional tax may reduce a country's rate of capital formation, leading to a relatively decreased competitiveness of the economy and a reduction in exports.

Further different authors have pointed out some other difficulties & disadvantages such as :

- vi) An uniform rate in VAT implies a proportionate tax on expenditure and from social point of view this is unacceptable and devoid of logical consideration.
- vii) It can be referred to as money making machine to the Govt. and thus objectionable by the consumers and business community.

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- viii) To receive the input tax credit under the VAT system, it would be necessary for each tax payer to keep full records in respect of both purchases and sales in order to substantiate the credit. For creating a tax refund, the tax administration would have to process tax refund. All these cause a heavy compliance and administrative costs both from the parts of the tax payers and the tax administration.
- ix) Producers of goods and services, in the pretext of VAT increases prices more than proportionately and thus consumers become the sufferer.

26.6: Computation of VAT

There are different procedures of computing VAT depending on situation and methods. The important formulae for computation depending on situation are shown below :

Formulae for Calculating VAT Under Different Methods

i)	Under Tax Credit Method :	VAT payable = Output VAT – Input VAT, where, Output VAT = Output Value exclusive of VAT x VAT Rate, Input VAT = Input Value exclusive of VAT x VAT Rate.
ii)	On the basis of Value Added :	VAT Payable = VAT Rate x Value Added, where, Value Added = Output Value exclusive of VAT – Input Value exclusive of VAT
iii)	In case of Service with truncated rate of value addition :	VAT Payable = Output Value exclusive of VAT x Rate of Value Addition x VAT Rate

In this connection, it may be noted that in Bangladesh for computing VAT liability of a tax-payer, the tax credit method is followed. In Bangladesh now VAT is imposed at import level, producers level, wholesale level and Retail level.

Thus VAT has now been converted into a comprehensive form and includes the chain from the importer of inputs to the retailer. At each stage, one business unit is assumed with an unbroken flow of goods and a forward-shifting of the tax burden. The ultimate bearer of the tax burden is the consumer who pays the tax to the retailer, and the Government collects the tax at installments from the business units registered at each stage of the production and distribution. Chart below shows VAT computation at different stages with an example :

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Computation of Value Added Tax at Different Stages

	Computation Stages	Importer	Producer	Wholesaler	Retailer
	(1)	(2)	(3)	(4)	(5)
A.	Value of goods imported [column (2)] or produced [column (3), whole sale [column (4) and Retail [column (5)]	Tk. 300**	Tk. 600***	Tk. 800*	Tk. 1000
B.	Gross VAT @ 15%	Tk. 45	Tk. 90	Tk. 120	Tk. 150
C.	Tax Credit [tax paid at preceding stage]	Tk. 0	Tk. 45	Tk. 90	Tk. 135
D.	Net VAT payable [B-C]	Tk. 45	Tk. 45	Tk. 30	Tk. 15
E.	Billing inclusive of VAT [A+B]	Tk. 345	Tk. 690	Tk. 920	Tk. 1,150
F.	Government Revenue [Row D Shows VAT Total Taka 135, which is borne by the consumer]				

* Import duty leviable value plus Import duty plus Supplementary duty, if any.

*** Inclusive of profit margin.

26.7: Some Important Features of VAT in Bangladesh

An analysis of VAT Act and Rules reveals the following features :

- i) It has been framed by incorporating sales tax on imported goods and excise duty on domestic produced goods.
- ii) It is charged at flat rate of 15% on taxable goods. But for certain sectors and goods and for annual turnover lower than Tk. 15 lakh turnover tax and supplementary duties at some other rates instead of VAT is charged.
- iii) Some goods and services have been exempted from VAT such as :
 - a) Agricultural products of the country.
 - b) Utensils from aluminium and materials produced from cotton and synthetics.
 - c) Ball pen produces, Books binding enterprises.
 - d) Cottage industry where investment in machinery, factory and other related items donot exceed Tk. 3 lakh.
 - e) Small restaurant, Sweet shop and Decorators of upazilla level.

- f) Leasing company engaged in renting factory of capital goods.
- g) Scientific instruments imported by educational institutions.
- h) Cold storage.
- iv) For all export VAT is Zero i. e. exempted.
- v) VAT assessee need to be registered as per provision of the Act.

26.8: Tax Base of VAT in Bangladesh

Tax base means the object with reference to which tax is charged and payable. In the Value Added Tax, 1991 the base of VAT is the output value addition of the assessee for concerned item. Here however input tax is to be credited or adjusted. Input tax means value added tax paid by a registered assessee on inputs imported or purchased by him.

26.9: Goods & Services Subject to VAT in Bangladesh

According to the Section 3 of the VAT Act, VAT is imposed on the following goods and services:

- a) all goods imported in Bangladesh except those mentioned in the First Schedule of the VAT Act;
- b) all goods supplied except those goods mentioned in the First Schedule of the VAT Act;
- c) all services provided in Bangladesh except those services mentioned in the Second Schedule of the VAT Act [vide Section 3 (1) of the VAT Act].

Under Section 3 of VAT following services come within the orbit of VAT :

- i) Hotel and Resturant - big and medium ones situated in metropolitan city or District head quarters.
- ii) Decorators - situated in metropolitan city or District head quarters.
- iii) Motor garrage workshop.
- iv) Construction firm.
- v) Godown serving on commercial basis.
- vi) Advertising firm.
- vii) Telephone, Telex and Fax - serving on commercial basis.
- viii) Mechanized Laundry.
- ix) Indenting firm.
- x) Printing firm except where tax exemption is given for printing educational materials and journals.
- xi) Auction firm.

- xii) Land Development firm.
- xiii) Video-cassette shops.
- xiv) Travel Agency.
- xv) Community centre.
- xvi) Cinema, Studio and Colour Photo Manufacturer
- xvii) Sweet Shops - big and medium situated in Metropolitan City and District Head Quarters, etc.

26.10: Goods and Services Exempted from VAT

In the First Schedule, following goods are mentioned as exempted goods :

1. All goods as specified in the First Schedule of the Excises and Salt Act, 1944 (I of 1944), in case of manufacturing or production thereof in Bangladesh.
2. All goods as mentioned in the Second Schedule of the Narcotics Control Act, 1990 (Act No. 20 of 1990), in case of manufacturing or production thereof in Bangladesh.
3. Goods under Harmonized Commodity Description and Coding System (H. S. Code) Here, according to the First Schedule of the VAT Act, amended by the Finance Act, 2009, goods are listed against 115 Heading Numbers, of which 41 Heading Numbers include "all H. S. Codes" and the remaining 74 Heading Numbers include 359 H. S. Codes.

The above goods are mainly 'primary goods' of the agricultural sector, live animals and meats thereof, fishes, etc. such as : natural honey, vegetables, oil seeds, animal hides, silk, living horse and animals, meats of animals, fish, dry fish, horns of deer, etc. Besides under SRO 204/91/22 & different circulars issued from time to time following goods have been exempted :

- i) Cloths made of cotton and synthetics.
- ii) Malaria, TB, cancer preventive medicine.
- iii) Homoeopathic medicine.
- iv) Family planing items.
- v) Chemical fertilizer and pesticides.
- vi) Books and Periodicals
- vii) Animal feed, etc.

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There were 65 services listed in the Second Schedule for tax exemption till 1999-2000. But in the FY 2000-2001, the Second Schedule has been replaced by a new Schedule in which the list of exempted services were included, by keeping similarity with the First Schedule. In the new Second Schedule, exempted services have been classified into seven categories as follows :

- 1) Fundamental services for livelihood;
- 2) Social welfare services;
- 3) Services relating to culture;
- 4) Services relating to money and finance;
- 5) Transport services;
- 6) Personal services; and
- 7) Other services other than the above.

26.11: VAT Rate & VAT Assessee

There are three types of taxes imposed under the VAT Act, which are as follows :

- 1) Value Added Tax (VAT) under Section 3 of the VAT Act,
- 2) Turnover Tax (TT) under Section 8 of the VAT Act and rule 4 of the VAT Rules, and
- 3) Supplementary Duty (SD) under Section 7 of the VAT Act.
- 4) VAT is paid by all importers and producers and distributors whose annual turnover is above Tk. 20 lakh.
- 5) Turnover Tax is paid by those whose turnover is less than Tk. 20 lakh a year.
- 6) Supplymentary duty an additional tax over VAT payable on some luxurious goods.

The tax rates of the above three types of taxes are currently as follows :

1. **VAT Rate** (under Section 3 of the VAT Act) :
 - a) Standard Rate for import and manufacturing levels : 15% on import and local production and Zero rate on exports.
 - b) Rate for wholesale and retail levels : 2 percent without input VAT credit.
2. **TT Rate** (under rule 4 of the VAT Rules) : 2 percent if annual turnover is below Tk. 20 lakh.
3. **SD Rate** : Multiple rates mentioned in the Third Schedule under Section 7 of the VAT Act (for FY 2001-02) : There are 31 different rates ranging from 10 percent to 25 percent.

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VAT in Bangladesh is a consumption type tax, the ultimate burden is borne by the consumer. It is, however a multi-stage tax payment system where initially tax payers are as follows :

Situation	VAT Payers
(a) Goods imported	Importer
(b) Goods produced or manufactured in Bangladesh	Supplier at production or manufacturing level
(c) Rendering of services	Service-renderer
(d) Other cases	Supplier

26.12: Registration/Enlistment under the Value Added Tax in Bangladesh :

Registration/enlistment under VAT may be obligatory or voluntary. It may take the following three forms :

1. Value Added Tax (VAT) Registration,
2. Enlistment for Turnover Tax (TT).
3. Enlistment as Cottage Industry-except those which are exempted.

a) Compulsory Registration (U/S 15 Rule-9) for VAT

Persons liable to compulsory registration are :

- a) Supplier of taxable goods (if annual turnover is at least Tk. 20 lakh),
- b) Provider of taxable services (if annual turnover is at least Tk. 20 lakh),
- c) Importer of any goods, and
- d) Exporter of any goods or services.

Besides Provider of following eight (8) services also need compulsory registration U/S 15 :

- i) Construction Firm (Code of Service S004.00),
- ii) Clearing and Forwarding Firm (Code of Service S015.20),
- iii) Leaseholder (Code of Service S033.00)
- iv) Procurement Provider (Code of Service S037.00),
- v) Rent-a-Car Service (Code of Service S049.00),
- vi) Board Meeting Participant (Code of Service S053.00),
- vii) Seller of Land (Code of Service S055.00), and
- viii) Provider of Letter of Credit Service (Code of Service S056.00).

b) Voluntary Registration : U/S-17 & Rule 10 for VAT

- i) Any person exempted from compulsory registration U/S 16 (person whose annual turnover is less than Tk. 20 lakh is exempted from compulsory registration) can be registered voluntarily as a supplier of goods or provider of services.
- ii) Any person being a seller, transferor or leaseholder of any goods manufactured/produced or imported in Bangladesh, or the person being a provider of services which are not listed in the Second Schedule can be registered voluntarily as a supplier of goods or provider of services [U/S 17(2)].

For registration concerned person/enterprise needs to apply in VAT Form 6 to the concerned authority with required document as mentioned in Form 7. On receipt & examination, the authority will provide registration in Form 8.

Exemption from Registration (Section 16) :

- a) Exemption from Compulsory Registration on the basis of Annual Turnover through General/Special Order :
Manufacturer/producer of taxable goods or provider of taxable services having annual turnover below Tk. 20 lakh.
- b) Exemption for any Importer/Exporter from Registration through General/Special Order :
 - 1) Passengers bringing goods accompanied/unaccompanied from foreign countries through sea customs port, customs airport and land customs station;
 - 2) All Educational Institutions and all Government offices being importer (but not being a producer);
 - 3) All High Commission or Embassy or United Nation and UN Bodies, Islamic Conference / Organization and other diplomatic privileged organizations, being the importer.

Enlistment For Turnover Tax (Sec. 8 & Rule-4)

If the annual turn over of a person/firm subject to VAT is less than Tk. 20 lakh a year he will have to enlist for turn over tax. The procedure of such registration is similar to VAT registration. In this connection it is to be noted that if the person's annual turnover reaches to Tk. 20 lakh or more since the date of enlistment, he has to apply for canceling the enlistment for TT and has to apply for compulsory registration for VAT U/S 15.

26.13: VAT Administration

Like all other taxes, the apex body of VAT administration is the National Board of Revenue (NBR). It appoints the following required VAT Officers for a specified jurisdiction through Official Gazette Notification :

- i) Commissioner, Value Added Tax;
- ii) Commissioner (Appeal), Value Added Tax;
- iii) Commissioner large unit - VAT
- iv) Director General-Audit & Inspection;
- v) Director Duty Rebate, Drawback-VAT
- vi) Additional Commissioner, Value Added Tax;
- vii) Joint Commissioner, Value Added Tax;
- viii) Deputy Commissioner, Value Added Tax;
- ix) Assistant Commissioner, Value Added Tax;
- x) Superintendent, Value Added Tax;
- xi) Inspector value added tax;
- xii) Other Value Added Tax Officer with any designation which include Inspectors.

The Commissioner performs all the functions relevant to VAT administration and collection with the help of subordinate authorities. However, Commissioner (Appeal) is responsible for judicial functions relevant to tax appeal. NBR decides the function and responsibilities of different authorities.

26.14: Duties & Responsibilities of VAT Assessee

A VAT assessee needs to pay tax, maintains account and document properly. To this end his duties and responsibilities are as follows :

- i) To ascertain tax liability through Current Account at the time of supply of goods and deposit relevant tax to the exchequer.
- ii) To fillup and make entry in current account, purchase and sale account and transfer the relevant items in concerned books and documents periodically.
- iii) To deposit relevant books and accounts to tax authority in due time.
- iv) To keep in safe custody all accounts and books relevant to VAT at least for six years.
- v) To produce relevant books and accounts to tax authority on demand.
- vi) To allow tax officials to enter into his business premise.
- vii) To maintain invoice to ensure refund and rebate of tax.
- viii) To supply invoice to purchaser at the time of supply of goods.

26.15: Books of Accounts under VAT Act & Rules

A) Under section 31 of the VAT Act 1991, following books and records are required to be maintained by the VAT Assessee :

- a) Statement of purchase of taxable or exempted goods or services together with the invoices for the goods or services;
- b) Statement of taxable or exempted goods or services supplied or statement of such goods or services exported and copies of the related invoices;
- c) Current Account;
- d) Statement of money deposited in the treasury or in any approved bank of the Government for this purpose in payment of any Value Added Tax or Supplementary Duty through Chalan;
- e) Statement of stocks of inputs and produced and manufactured goods; and
- f) Such documents as may be required by the VAT Rules.

B) Under Rule 22 of the VAT Rules 1991, following books and records are required to be maintained by the manufacturers :

- a) Purchase Account Book;
- b) Sales Account Book;
- c) Invoice Book;
- d) Current Account Book and
- e) Other Books as determined for this purpose.

In the following paras the proforma and content of important accounts/books are shown:

1) Sales Account and Tax Payable Computation Book :

It is an important book. It records domestic sales, zero rate export, tax-exempted sales separately. The object of such record is to determine actual VAT payable to the exchequer. Following is the proforma of this book :

Sales & VAT Computation Book

Name..... Address

TIN No.

Sl.No.	Invoice No. and Date	Name of the Purchaser and address	Sales excluding tax	Supplementary duty	VAT Sales	Zero Rate Sales	Tax exempted Sales	Tax refund information		
								Tax refund	Suppl. Duty	Volume
1	2	3	4	5	6	7	8	9	10	11

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2. Purchase Account & Rebate Computation Book :

To get tax rebate on input, detail records need to be maintained. This account provides the same.

Purchase Account & Computation of Rebate Book

Sl.	Invoice No. and Date	Name of Supplier and Address	Taxable Good Produced in BTD	Other taxes	VAT	Cost of service purchase	Other tax	VAT	Cost of Imported Good	Other tax	VAT	Cost of Capital Good	Other Tax	VAT	Tax exempted Good & services	Refurd	Other Taxes	VaT
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19

3. Invoice Book :

It will contain name of purchaser, destination, Invoice No., transfer date, etc. At the time of supply of goods an invoice is to be supplied to the purchaser and this book will contain detail of such sale. The proforma of the invoice will be as follows :

Invoice

Name of the Enterprise

Address

TIN Number

Name of the Purchaser	Invoice No.
Address	Date & Time
TIN	Transfer date/supply date
Destination	of goods

Sl. No.	Date of Sale	Name & Quantity	Gross Value except VAT	VAT	Other taxes	Value including all taxes
1	2	3	4	5	6	7

16.15: VAT Return Form

This form is to be filled up by the registered dealer. It is to be submitted to the VAT Officer, within the prescribed time. The dealer should also pay the tax due on the goods sold. The dealer should also pay the tax due on the goods sold.

Name of the purchaser: _____
 Name: _____
 Registered No.: _____
 Name of the dealer: _____
 Date of issue: _____
 of the year: _____

Sl. No.	Invoice No. / Purchase-Sale Book page No.	Description of transaction opening balance	VAT payable	Deposit in Treasury & Rebate	Balance	Receipts	Signature

16.16: Offences under VAT Act

Any person under VAT may be penalized for offences stated in Section 47 & 48 of VAT Act or Section 4 & 35. The offences and penalties are stated in the following chart.

Sl.	Offences	Penalties
1.	a) Failure to apply for registration in spite of being necessary b) Failure to submit any return within the stipulated time c) Failure to inform the VAT officer about any change in the information regarding registration; or d) Failure to comply with the direction of any summon under section 25 e) Violates any other provision of the VAT Act.	Fine up to Tk. 25,000
2.	a) Failure to submit VAT return b) Failure to VAT & Suppl. duty c) Making knowingly a false statement or false declaration; or d) Obstructing at the time of entering or preventing from entering into the place of business any VAT officer authorized under the VAT Act e) Submission of such return which is untrue in respect important facts; or	Fine of two and half times of the amount of VAT, or where applicable, VAT and supplementary duty payable on the goods & Tk. 1 lakh which ever is higher. Further on being

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	<p>f) Evasion of tax or trying to evade tax by submitting any forged or false documents; or</p> <p>g) Not maintaining of records which are required to be maintained according to the VAT Act and the VAT Rules.</p> <p>h) Taking any input tax credit through forged or false invoice; or</p> <p>i) Evading or attempting to evade VAT or supplementary duty by any other means; or</p> <p>j) Giving any tax invoice in which the amount of VAT is mentioned without being a registered person; or</p>	<p>adjudicated by Court - besides fine, imprisonment for maximum one year.</p>
3.	In case of a person liable to be registered, failure to be registered within one month of receiving an order for compulsory registration under section 15(4).	Business premises to be locked.
4.	In case of a person liable to be registered, production or manufacture of taxable goods before being registered.	Confiscation of the goods produced or manufactured.
5.	<p>In case of a registered person.</p> <p>(i) removal of any taxable goods from business premises without invoice; or</p> <p>(ii) removal of any taxable goods from business premises with invoice, but the invoice is not attached with the goods up to the destination.</p>	<p>Goods to be confiscated and a sum of two and half times of the VAT, where applicable, VAT and supplementary duty payable on the good as a fine</p>
6.	Failure to pay TT (turnover tax) duly by a TT enlisted person. (VAT Rule 4(13))	Additional tax @ 2% per month on outstanding TT including a maximum penalty of Tk. 5,000.

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7.	Violation of any provision of the VAT Rules 1991 by a registered person. (VAT Rule 35)	Penalty of two and half times of VAT, or where applicable, two and half times of VAT and SD and the confiscation of goods or services
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24.17: Appeal

Under Section 42 of VAT Act appeal can be made to the Commissioner (Appeal) and to Custom, Excise and VAT Appellate Tribunal by VAT official or any other aggrieved person i. e. VAT assessee. Following chart shows the ground and appellate authority :

Grounds		To Whom
The decision/order has been made by an Additional Commissioner, VAT or any VAT Official not below the rank of the Additional Commissioner which is considered not reasonable.	a)	To Commissioner (Appeal), VAT
The decision/order has been made by a Commissioner, VAT, Commissioner (Appeal), VAT or any VAT Official not below the rank of them which is considered not reasonable.	b)	To Custom, Excise and VAT Appellate Tribunal (established u/s 196 of the Custom Act, 1969)

24.18: Illustrations

Illustration-I:

SOS Company provides the following information about its production & sales :

	Tk.
Purchase of Raw materials	20,00,000
Direct wages	2,50,000
Administrative expenses	70,000
Selling expenses	20,000
Depreciation of Machinery	30,000

The Company sells its products by adding 25% margin on cost. The opening and closing stock of raw materials recorded at Tk. 50,000 and Tk. 40,000 respectively. Determine VAT if the rate is 15% assuming that opening and closing stock of finished goods were Tk. 30,000 and Tk. 20,000 respectively.

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Solution:

SOS Company
Determination of VAT

Particulars	Tk.	Tk.
Opening Stock of R/Materials	50,000	
Purchase of R/Materials	20,00,000	
	20,50,000	
Less closing stock of R/Materials	40,000	20,10,000
Raw materials consumed		2,50,000
Direct Wages		30,000
Depreciation on Machinery		22,90,000
Factory cost		70,000
Administration Expenses		23,60,000
Production Cost		30,000
Add Opening Stock of Finished goods		23,90,000
		20,000
Less closing stock of Finished goods		23,70,000
Cost of good sold		20,000
Selling Expenses		23,90,000
Selling Cost		5,97,500
Add profit @ 25% on cost		29,87,500
Selling price		

Value added = Output Value Tk. 29,87,500
 Less Input of retail Tk. 20,10,000
 Tk. 9,77,500

Tax = 15% on Tk. 9,77,500 = Tk. 1,46,625

Illustration-2:

A manufacturer sold goods worth Tk. 10 lakh to the whole saler by including VAT @ 15%. The whole saler added 10% as markup and sold the goods to the retailer by adding VAT who in turn sold the goods to the consumer by adding markup @ 15%. Compute VAT at each stage and indicate the total VAT paid by the consumer.

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Solution:

Computation of VAT

	Particulars	Manufacturer	Whole saler	Retailer	Consumer
		Tk	Tk.	Tk.	Tk.
a)	Cost of goods		11,50,000	12,65,000	14,54,750
b)	Input VAT Recoverable		1,50,000	1,65,000	
c)	Net cost of goods sold		10,00,000	11,00,000	14,54,750
d)	Markup		1,00,000	1,65,000	
e)	Selling price Net of VAT	10,00,000	11,00,000	12,65,000	
f)	VAT chargeable	1,50,000	1,65,000	1,89,750	
g)	Gross Selling Price	11,50,000	12,65,000	14,54,750	
	Gross VAT Due	1,50,000	1,65,000	1,89,750	
	VAT Recoverable	—	1,50,000	1,65,000	
	Net VAT Payable	1,50,000	15,000	24,750	
VAT borne by the Consumer =					1,89,750

Questions

1. What is meant by Value Added Tax? Trace the history of VAT in Bangladesh. Give arguments in favour and against VAT.
2. Point out the objectives of introducing VAT in Bangladesh. Give list of items chargeable to VAT and those exempted.
3.
 - a) What is VAT? How is it computed?
 - b) State the books of accounts and statements that need to be maintained and submitted to VAT authorities in Bangladesh.
4.
 - a) What is meant by VAT? State its advantages and drawbacks.
 - b) State the features of VAT in Bangladesh.
 - c) How VAT is computed? State with example.

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Exercises

Ex-1:

Jishan Ltd. is a manufacturing company. From the following details for the month of January, 2005 compute VAT to be paid by the company for the goods sold during that month :

	Tk.
a) Raw materials purchased	12,00,000
b) Direct labour	3,00,000
c) Works overhead @ 10% of prime cost —	
d) Administrative overhead	75,000
e) Selling & distribution overhead	30,000

The company sells the product by adding 10% profit on the cost of sales.

Ex-2:

The Production and Sales information relating to Padma Ltd. for the year ended 30th June, 2005 are as follows : Raw-Materials; Opening Stock Tk. 50,000, Purchases Tk. 20,00,000, Closing stock Tk. 20,000.

Direct wages Tk. 2,50,000, Factory O/H Tk. 30,000, Office O/H Tk. 70,000, Selling O/H Tk. 20,000, Finished goods : Opening Stock Tk. 40,000, Closing stock, Tk. 30,000, Profit 20% of Total Cost. Compute the amount of VAT to be paid by the Co.

[C. U, B. B. A (Hons)-1998, Modified]

Ex-3:

An importer imported goods worth Tk. 2,00,000 and paid VAT as per rule and sold goods to a wholeseller by adding 10% profit. The wholeseller sold goods to a retailer by adding 5% margin who in turn sold goods to the consumer by adding 15% of cost as margin. VAT was paid and collected at each stage as per rule and rates. Show the amount of VAT at each stage and indicate the ultimate burden to the consumer.