

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

Writ Petition No. 8214 of 2024

With

Writ Petition No. 8213 of 2024

With

Writ Petition No. 17296 of 2025

In the matter of:

An application under article 102 of the Constitution of the People's Republic of Bangladesh.

AND

In the matter of:

S. Alam Vegetable Oil Limited

... Petitioner (in the W.P. No. 8214 of 2024)

S. Alam Super Edible Oil Limited

...Petitioner (in the W.P. No. 8213 of 2024)

S. Alam Refined Sugar Industries Limited

...Petitioner (in the W.P. No. 17296 of 2025)

-Versus-

The Commissioner, Customs, Excise & VAT
Commissionerate, Chattogram and others

... Respondents (in all the Writ Petitions)

Mr. Ahsanul Karim, Senior Advocate with

Mr. Aminul Hoque, Advocate

...For the petitioner (in W.P. No. 8213of 2024 and
8213 of 2024)

Mr. Md. Ashik al Jalil, Advocate with

Mr. Akhtar Farhad Zaman, Advocate

...For the petitioner (in W.P. No. 17296 of 2025)

Mr. Md. Abdus Samad Azad, D.A.G. with

Mr. Shadia Afrin Shapla, D.A.G. with

Dr. Mohammad Soeb Mahmud, A.A.G.

Mr. Md. Abul Hassan, A.A.G.

Mr. Sk. Naser Wahed (Shemon), A.A.G.

Mr. Md. Azadul Islam (Azad), A.A.G and

Mr. Md. Tareq Rahman, A.A.G

... For the respondents (in all the writ petitions)

**Heard on: 05.11.2025, 18.11.2025,
19.11.2025, 25.11.2025 and
26.11.2025.**

Judgment on: 15.12.2025

Present:

**Justice Sardar Md. Rashed Jahangir
And
Justice Sheikh Abu Taher**

Sardar Md. Rashed Jahangir, J:

Rules Nisi have been issued on 3(three) applications under article 102 of the Constitution of the People's Republic of Bangladesh in an identical terms, which are as follows:

In Writ Petition No. 8214 of 2024:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the VAT Determination Order contained in Nothi No. ৪৪/এ(১২)১২৫/মুসক অডিট/এস আলম ভেজিটেবল অয়েল লিমিটেড/সংদঃ/২০২০/৩৮৭৭ dated 09.06.2024 issued by the respondent No. 1 purportedly under section 73 of the Value Added Tax and Supplementary Duty Act, 2012 without affording personal hearing to the petitioner as per provisions of section 73(2) read with section 85(4) of the Value Added Tax and Supplementary Duty Act, 2012 (Annexure- ‘A’) should not declared to have been passed without lawful authority and is of no legal effect and as to why the instant matter should not be remanded to the respondent No. 1 with a direction upon him to dispose of the matter is compliance with section 73 read with section 85 of the Value Added Tax and Supplementary Duty Act, 2012 and/or such other or further order or orders passed as to this Court may seem fit and proper.”

In Writ Petition No. 8213 of 2024:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the VAT Determination Order contained in Nothi No. ৪র্থ/এ(১২)১২৬/মুসক অডিট/এস আলম সুপার এডিবল অয়েল লিমিটেড/সংদঃ/২০২০/৩৮৭৮ dated 09.06.2024 issued by the respondent No. 1 purportedly under section 73 of the Value Added Tax and Supplementary Duty Act, 2012 without affording personal hearing to the petitioner as per provisions of section 73(2) read with section 85(4) of the Value Added Tax and Supplementary Duty Act, 2012 (Annexure- ‘A’) should not declared to have been passed without lawful authority and is of no legal effect and as to why the instant matter should not be remanded to the respondent No. 1 with a direction upon him to dispose of the matter in compliance with section 73 read with section 85 of the Value Added Tax and Supplementary Duty Act, 2012 and/or such other or further order or orders passed as to this Court may seem fit and proper.”

In Writ Petition No. 17296 of 2025:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the unilateral VAT Determination Order dated 17.05.2025 passed by the respondent No. 1 vide Nothi No. 4th/A/(12)364/M:A:/ S.Alam Refine Sugar/S/D/2024/2456, amounting to Tk.755,40,29,985/- purportedly under section 73 of the VAT and SD Act, 2012 (Annexure- ‘E’) without

hearing of the petitioner should not be declared to have been passed without jurisdiction, lawful authority and is of no legal effect and as to why the respondent No. 1 should not be directed to determine the evaded VAT in accordance with the provisions of section 73 of the VAT and SD Act, 2012 and/or such other or further order or orders passed as to this Court may seem fit and proper.”

The Rules have been issued based on similar facts and parties to the judgment are also same, thus, all the writ petitions are heard together and disposed of by this signal judgment.

Relevant facts necessary for effective disposal of those Rules Nisi are that the petitioners are engaged in the business of manufacturing, marketing and selling vegetable oil in crude and refined form in soybean and palm (in Writ Petition No. 8214 of 2024) and engaged in the business as a refinery of edible oil (in Writ Petition No. 8213 of 2024); manufacturing and marketing refine sugar (in Writ Petition No. 17296 of 2025).

The petitioners' business concerned have been registered with the VAT authority under section 15 of the VAT Act, 1991 for the purpose of paying VAT, having Business Identification Numbers 000647 681-0502, 000648243-0502 and 00039968-0502 respectively. It is further stated that the petitioners are paying VAT

regularly and there is no allegation against them of evasion of VAT.

It is stated that the petitioners to their utter shock and surprise received show cause notices issued by the respondent No. 2 under Nothies dated 04.10.2023, 09.06.2024 and by the respondent No. 1 under Nothi dated 01.10.2024 (hereinafter referred to as the show cause notice). From the said show cause notices, it appears that the respondent No. 2 on behalf of the respondent No. 1 initiated a proceeding against the petitioners under sections 73 and 85 of the said Act wherein the respondents claimed that an amount of Tk.(5,63,64,921.41+1346,61,23,432.87+607,52,99,175.23)= Tk. 1959,77,87,529.51 (in writ petition No. 8214 of 2024) is liable to be realized from the petitioner for the financial years, 2019-2020, 2020-2021 and 2021-2022. In writ petition Nos. 8213 of 2024 the respondents claimed an amount of Tk. (1,87,86,337.20+1203,89,29686.00+447,36,68,094.30) = Tk. 1653, 13,84,117.50 for the financial years, 2019-2020, 2020-2021 and 2021-2022.

In writ petition No. 17296 of 2025 the respondents claimed under the show cause notice an amount of Tk. 755,40,29,985.00 as evaded VAT.

After issuance of the said show cause notices dated 04.10.2023 and 01.10.2024, the authorized representative of

petitioners appeared before the respondent No. 1 and vide its letter dated 30.10.2023 and 14.10.2024. Under Memo dated 30.10.2023, the petitioners informed the respondent No. 1 that there are discrepancies between the amounts shown/claimed in the said show cause notice dated 04.10.2023 and the real accounts maintained by the petitioner. Under Memo dated 14.10.2024 (of writ petition No. 17296 of 2025) petitioner denied the demand and prayed for time to submit detail reply and for hearing. In the letter dated 30.10.2023, the respondent No. 1 was requested to review the figures of amount mentioned in the notices. In response to the letter of the petitioner dated 30.10.2023, the office of the respondent No. 1 vide Memo No. ৪র্থ/এ(১২)১২৫/মুসক অডিট/এস আলম ভেজিটেবল অয়েল লিমিটেড/সংদঃ/২০২০/৮৯০৪ dated 07.11.2023 directed the petitioner to submit their replies to the show cause notice along with explanation and evidence within 7(seven) days (in writ petition Nos. 8214 and 8213 of 2024).

Thereafter the petitioners vide letter dated 08.11.2023 requested the respondent No. 1 to allow 2(two) months time to facilitate the petitioners for collecting all necessary documents in order to make a proper reply to the show cause notice dated 04.10.2023.

Subsequently, the petitioners company vide letter dated 27.12.2023 submitted a partial reply to the show cause notice dated

04.10.2023 denying all the allegations brought against the petitioner under the show cause notice. On 28.12.2023, the office of the respondent No. 1 received the said reply dated 27.12.2023. In the said reply dated 27.12.2023, the petitioner company in clear terms stated that the allegations made in the said show cause notice are totally baseless and the same has been issued without properly scrutinizing the documents of the petitioner company. In the said reply, the petitioner informed the respondent No. 1 that the petitioner requires more time to submit further explanation to the show cause notice upon collecting the necessary documents.

Thereafter, the Additional Commissioner concerned vide memos dated 05.03.2024 instructed the petitioners company to submit necessary documents in support of the replies within 3(three) working days. The petitioner company received the said Memo on 14.03.2024. Having received the said Memo dated 05.03.2024, the petitioner on 18.03.2024 submitted explanations in support of their replies dated 27.12.2023. In the said explanation dated 18.03.2024, the petitioners sought for the opportunity of personal hearing.

The Assistant Commissioner on behalf of the respondent No. 1 vide Memo No. *৪র্থ/এ(১২)১২৫/মুসক অডিট/এস আলম ভেজিটেবল অয়েল লিমিটেড/২০২০/২৩৩৫* dated 17.04.2024 fixed a date on 08.05.2024 for conducting hearing to be held at the office of the respondent No. 1.

The petitioner vide letter dated 06.05.2023 informed the respondent No. 1 that Mr. Ahsanul Karim, learned Senior Advocate, Supreme Court of Bangladesh will conduct hearing before the respondent No. 1 on behalf of the petitioner company and requested the respondent No. 1 to fix a date either on 21.05.2024 or 23.05.2024 for hearing. However, the assistant Commissioner on behalf of the respondent No. 1 vide Memo No. ৪র্থ/এ(১২)১২৫/মুসক আডিট/এস আলম ভেজিটেবল অয়েল লিমিটেড/২০২০/৩১৭৭ dated 13.05.2024 informed the petitioner that the hearing on the said show cause notice is shifted on 05.06.2024 at 11.00 a.m before the respondent No. 1.

The petitioners filed application before the respondent No. 1 on 04.06.2024 praying for fixing a new date of hearing citing the personal difficulty of learned Senior Counsel of the petitioner. In the said application dated 04.06.2024, the petitioner informed the respondent No. 1 that the presence of their learned Senior Counsel in the hearing is necessary for giving explanation on some critical points of law.

The petitioners filed letter of appraisal before the respondent No. 1 on 06.06.2024 enclosing the letter dated 03.06.2024 issued by learned Senior Counsel, engaged by the petitioners informing that due to his engagement in several cases before the Hon'ble Appellate Division as well as the Hon'ble High Court Division of the Supreme Court of Bangladesh on 05.06.2024, it is not possible

for him to attend personally in the hearing before the respondent No. 1 on 05.06.2024 and requesting the petitioners to pray for time due to his personal difficulty.

When the petitioners were waiting for a new date of hearing, suddenly without considering the applications of the petitioners and without affording opportunity of hearing on the said show cause notice to the petitioners, the respondent No. 1 issued the VAT Determination Orders contained in Nothi Nos. ৪র্থ/এ(১২)১২৫/মুসক অডিট/এস আলম সুপার এডিবল অয়েল লিমিটেড/সংদঃ/২০২০/৩৮৭৭ and ৪র্থ/এ(১২)১২৬/মুসক অডিট/এস আলম সুপার এডিবল অয়েল লিমিটেড/সংদঃ/২০২০/৩৮৭৮ dated 09.06.2024 issued by the respondent No. 1 purportedly under section 73 of the Value Added Tax and Supplementary Duty Act, 2012 demanding unpaid VAT of Tk. 1917,39,29,447.20 (one thousand nine hundred seventeen crore thirty nine lac twenty nine thousand four hundred forty seven point two zero) and imposing penalty of Tk. 1911,76,64,525.87 (one thousand nine hundred eleven crore seventy six lac sixty four thousand five hundred twenty five point eighty seven) and also demanding unpaid/evaded VAT of Tk. 1621,92,67,739.00 (taka one thousand and six hundred twenty one crore ninty two lac sixty seven thousands seven hundred thirty nine) and imposing penalty of Tk. 1620,05,81,402.00 (one thousand six hundred twenty crore five lac eighty one thousands four hundred and two) under section 85 of

the VAT and SD Act, for the financial years, 2019-2020, 2020-2021 and 2021-2022 respectively. In writ petition No. 17296 of 2025 the respondent No. 1 by his order dated 17.05.2025 finalized the demand purportedly under section 73 of the VAT Act, 2012 directing the petitioner to make payment of Tk. 755,40,29,985.00 as unpaid VAT, for the financial years, 2019-2020, 2020-2021 and 2021-2022 respectively.

Challenging the adjudication orders, contained under 3(three) different Nothis, the present petitioners filed the writ petitions and obtained the Rules Nisi.

The respondent No. 1 of all the writ petitions contested the Rule by filing affidavits-in-opposition.

It is stated in the affidavit (of writ petition Nos. 8214 of 2024, 8213 of 2024) that the demand-cum-show cause notice dated 04.10.2023 (Annexure-‘I’ to the affidavit-in-opposition) was served providing opportunity of being heard and thereafter hearing was held on 30.10.2023, wherein the VAT, Customs Bond Manager of the petitioner, namely, Mr. Mouhammad Didarul Rashid appeared claiming that the demand is not consistent with their accounts and thereby sought for review of the demand notice (Annexure-‘II’ to the affidavit-in-opposition) and the prayer is allowed. Accordingly on 07.11.2023 the petitioners were requested to submit their set of record and explanations for the purpose of review (Annexure-‘III’

to the affidavit-in-opposition). In response, on 08.11.2023 the petitioner sought for accommodation for 2(two) months more for collecting the necessary documents and evidence (Annexure-‘IV’) and thereafter, 15(fifteen) days adjournment was granted from the office of the respondent No. 1 on 22.11.2023 (Annexure- ‘V’). The petitioner failed to comply the request/direction, in spite of that in order to ensure fair trial they were given opportunity under memo dated 18.12.2023 granting 7(seven) working days more to enable them to comply the earlier direction. Thereafter, on 27.12.2023 the petitioner submitted an extensive reply supplementing to their earlier objection dated 30.10.2023. Thereafter the respondent No. 1 considering the prayer of the petitioners by an order constituted a 6(six) members review committee headed by an Additional Commissioner, it was further mentioned that one of them (of committee) was the representative of the petitioner and under the said memo the petitioners were requested to nominate the representative.

It is further stated that on behalf of the review committee another letter/requisition was issued on 05.03.2024 requesting the petitioners to submit their documents and evidences within the next 3(three) working days. The review committee finally submitted it’s report on 21.03.2024. Upon receiving the report of the review committee, the petitioners were again asked to appear 08.05.2024

for hearing by memo dated 17.04.2024. In response, the petitioners filed application on 06.05.2024 requesting to reschedule the hearing on 21.05.2024 or 23.05.2024 in order to enable the appointed Senior Advocate to conduct the hearing. Upon receiving the aforesaid application, the respondent No. 1 shifted the date fixing the date for hearing to be held on 05.06.2024.

It is further stated that since the petitioners again filed an application on 04.06.2025 seeking another date on or after 10.07.2024. The respondent No. 1 had no option but to dispose of the matter and thereafter, passed the final adjudication orders on 09.06.2024.

In Writ Petition No. 17296 of 2025, it is stated that the demand-cum-show cause notice issued on 01.10.2024 asking the petitioner to make payment of the evaded VAT of Tk.755,40,29,985/-, with a further direction to submit the reply.

Upon receiving the demand-cum-show cause notice, the petitioner on 14.10.2024 upon raising objection to the demand prayed for 2(two) months time for enabling the petitioner to substantiate its objection. On 23.10.2024 considering the prayer of the petitioner the next date of hearing was fixed on 27.11.2024.

It is further stated that on 25.11.2024, the petitioner by filing an application sought for an analogous hearing of the claim of VAT against it's 7(seven) sister concerns and respondent No. 1 allowed

time for 1(one) month 5(five) days fixing the date of analogous hearing on 06.01.2025. Thereafter, the respondent No. 1 on its own motion shifted the date of hearing on 16.01.2025 and informed the petitioner by a memo dated 26.12.2024; just before the scheduled date of hearing, the petitioner filed another application on 15.01.2024 sought for 2(two) months time more and the respondent No. 1 again allowed 1(one) month and 3(three) days time and fixing the schedule date of hearing on 03.03.2025. On the scheduled date the petitioner did not appear before the authority concerned, but sought for adjournment by filing an application and the respondent No. 1 allowed time and fixing the date of hearing on 08.04.2025. The petitioner appeared on 08.04.2025 and again sought for 2(two) months time for enabling it's to submit a detail written reply and the respondent No. 1 upon disallowing the aforesaid prayer passed the adjudication order on 17.05.2025.

Mr. Ahsanul Karim, learned Senior Advocate appearing for the petitioners submits that the adjudication order dated 09.06.2024 passed by the respondent No. 1 did not disclose anything about the prayer filed on behalf of the petitioner on 04.06.2024 for adjournment by fixing a new date of hearing due to the personal difficulty of learned Senior Counsel of the petitioner and also did not mention regarding the subsequent letter dated 06.06.2024 filed by the petitioner praying for fixing a new date of hearing on

10.07.2024 or any day thereafter. Rather, in the impugned order dated 09.06.2024, the respondent No. 1 stated that no representative of the petitioner company appeared before the respondent No. 1 for attending the hearing on 05.06.2024. In the impugned order dated 09.06.2024, the respondent No. 1 totally suppressed the fact that the petitioner filed application on 04.06.2024 for allowing time for hearing i.e. before the date of hearing i.e. 05.06.2024, thereafter the petitioner filed another application on the next day i.e. 06.06.2024 praying for fixing a new date of hearing.

He further submits that the impugned order dated 09.06.2024 has been issued in clear violation of the principle of natural justice, since the petitioner company was not given an opportunity to conduct personal hearing upon the said show cause notice. He next submits that Section 73(2) of the VAT and Supplementary Duty Act, 2012 provides that when any person submits written objection against the show cause notice issued under section 73(1) of the VAT and supplementary Act, 2012, he has to be given an opportunity of hearing before passing any final order against him, which is a mandatory requirement of law. In the instant case, the petitioner company submitted written reply to the said show cause notice on 28.12.2023 and thereafter, submitted an explanation to the reply on 18.03.2024. As per section 73(2) of the VAT and SD Act, 2012, the respondent No. 1 was under obligation

to afford an opportunity of hearing to the petitioner company on the reply and explanation submitted by it against the said show cause notice. The respondent No. 1 acted in serious violation of section 73(2) of the VAT and SD Act, 2012 in passing the impugned order dated 09.06.2024 without affording an opportunity of hearing to the petitioner.

He further submits that the petitioner company filed an application on 04.06.2024 before the respondent No. 1 for allowing time for hearing due to the personal difficulty of learned Senior Counsel of the petitioner, the respondent No. 1 issued the impugned order dated 09.06.2024 without allowing any opportunity of hearing to the petitioner and thereby, the petitioner was seriously prejudiced in defending itself against the allegations raised against it in the said show cause notice.

He again submits that the respondents claimed that they formed a 6(six) member review committee for evaluation of the objection filed by the petitioner on 28.12.2023. the said review committee submitted its report on 21.03.2024 which was relied upon by the respondent No. 1 in the final determination order dated 09.06.2024. However, the said review committee report dated 21.03.2024 was never supplied to the petitioner which is another serious violation of the principle of natural justice.

He next submits that the respondent No. 1 acted serious malafide against the petitioner in passing the impugned order dated 09.06.2024 which is apparent on the face of the record. The petitioner filed an application before the respondent No. 1 on 04.06.2024 for allowing time to conduct the hearing against the said show notice by the Senior Counsel engaged by it. However, the respondent No. 1 in the impugned order dated 09.06.2024 totally suppressed this fact that the petitioner filed an application before the respondent No. 1 on 04.06.2024 praying for time for hearing fixed on 05.06.2024. On the contrary, the respondent No. 1 by suppressing the fact of filling of time petition by the petitioner, stated in the impugned order dated 09.06.2024 that no representative of the petitioner company came to attend the hearing on 05.06.2024. Therefore, the respondent No. 1 acted seriously malafide in the passing the impugned order dated 09.06.2024 against the petitioner. It is the settled principle of law that an order tainted with malafide is fraud on the Statute and a malafide act is an act without jurisdiction.

He finally submits that since the petitioners were not given adequate opportunity of fair hearing with a malafide intention, thus, the impugned adjudication orders cannot be sustainable in any manner.

Mr. Ashik Al Jalal, learned Advocate appearing for the petitioner in writ petition No. 17296 of 2025 adopted the submissions of Mr. Karim.

On the other hand, Ms. Shadia Afrin Shapla, learned Deputy Attorney General appearing for respondent No. 1 submits that it is settled by consistent judgments of this Court as well as the Apex Court that no writ petition is maintainable against any adjudication order.

She next submits that the petitioners were given ample opportunities providing as many as 9(nine) to 10(ten) time adjournments for enabling the petitioners to defend themselves against demands/allegations leveled under the show cause notices, but the petitioners without conducting the hearing or filing any supporting documents took adjournments days after days upon filing applications only to delay the realization of unpaid/evaded VAT with a malafide intention, which cannot be termed as fair dealing and as such, the respondent No. 1 finding no other way made the demand final. Since the petitioners were given ample opportunities to defend, there is no question of violation of natural justice at all.

Both the parties relied on the judgment of the case of the Commissioner of Customs, Excise and VAT Commissionerate,

Dhaka and others Vs. Syed Nurul Arefeen and another, reported in 29 BLC(AD) 136.

Referring to the aforesaid judgment, the petitioners contended that their Lordships of the Appellate Division under paragraph No. 17, referring to the judgment of Harbanslal Sahnia Vs. Indian Oil Corp. Ltd. (2003) 2 SCC 107 held that the High Court may exercise its writ jurisdiction in at least three contingencies: (i) Where writ petition seeks enforcement of any fundamental rights; (ii) Where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged.

On the other hand, learned Deputy Attorney General on behalf of the respondent No. 1 submits that since the petitioners has been given ample opportunity to defend themselves, thus, the principle of natural justice has not been violated in any manner and even in view of the aforesaid judgment of the Appellate Division, the writ petitions are not maintainable.

Heard learned Advocates of both the parties, perused the writ petitions, affidavits-of-opposition, supplementary affidavit-in-opposition, written submission submitted on behalf of the petitioners and relevant provisions of law.

The only contention of the petitioners is that VAT determination order/ adjudication order having been passed under

section 73 of the VAT and SD Act, 2012 in violation of the principle of Natural Justice, in particular, without affording the petitioners the opportunity of being heard, which is mandatory requirement of making the demand final under section 73(2) of the VAT and SD Act, 2012.

The most essential elements of the 'Rule of Law' are procedural safe-guards, safeguarding that the substantive laws are being applied impartially and fairly. One of the aforesaid principles (safeguard) is a man can not be condemned unheard. The contents of the 'Principles of Natural Justice' may vary in different circumstances, therefore the Court is to decide appropriate mood of Natural Justice. In all the judicial and quasi-judicial proceedings the principles of natural justice are to be observed in strict sense, i.e. if result of the proceeding affecting the property of any person or the person or his right substantially, the authority concerned having legal authority to determine question affecting the right of the person, having the duty to act judicially. Meaning thereby, determining authority or adjudicating authority should have to act fairly upon providing adequate opportunity to defend the subject. The basic principle of fair procedure is that before adjudicating (herein finally determining) the person, the authority has to give him notice of the allegation and demand, affording him fair

opportunity to answer the notice and the demand and to put his own case.

It is admittedly, the demand-cum-show cause notices issued and served in due process of law. The Rules of fairness requires that the person going to be effected must know the allegation and the materials to be used against him and given a fair and adequate opportunity to answer or contradict them.

The question to be decided in the present writ petitions that the fair opportunity having been given or not to the petitioners to defend themselves in making a meaningful reply.

The case in hand, the petitioners have been served demand-cum-show cause notices.

Against which the petitioners raised/submitted objections in writ petition Nos. 8214 and 8213 of 2024, the respondent No. 1 upon receiving the submitted objections and considering the contentions thereof took initiative to review the demand by constituting a 6(six) members review committee, wherein the representative of the petitioners has been included, although upon repeated notice/request the petitioner's representative could not appear in the review committee and the petitioners also failed to furnish necessary documents in support of their claim, thereafter in the absence of the representatives of the petitioners, the review committee completed its inquiry and submitted its report.

It is to be mentioned here that even before formation of the review committee the petitioners were given adjournments 5(five) to 6(six) times and after submission of the report of review committee, the petitioners were again notified to appear in personal hearing and the petitioners sought for adjournment and the hearing was adjourned and thereafter, another date was fixed for final hearing. Thereafter the petitioners sought for adjournment on the ground of Senior Advocate Mr. Ahsanul Karim, upon considering the prayer the date of hearing was sifted to 05.06.2024. The petitioner again sought for adjournment by filing another application just before the day of hearing i.e. on 04.06.2024. On earlier occasion considering the ground of inconvenience of learned Senior Advocate the date was shifted and fixed on 05.06.2024. On the fagend i.e. day before of the hearing, the petitioner again filed an application sought for adjournment on or after 10.07.2024. The respondent No. 1 upon refusal of the prayer made the final determination order (adjudication).

The proceedings under section 73 of the VAT and SD Act, 2012 having been initiated after serving show cause notices. The petitioner raised objection against the claim/demand, thereafter, on several occasions adjournments were allowed. Even on the prayer of the petitioners a 6(six) members review committee was formed reserving a member to be appointed from the petitioners-company,

notifying with a request to nominate a person in the review committee. The petitioners opted not to participate in the process of further audit by the review committee. After getting the audit report of review committee, the petitioners were again asked for participation in personal hearing; the petitioners sought for adjournments and those were allowed by the respondent on several occasions and at last the respondent by passing the determination/adjudication orders determined the VAT liability finally.

Considering the facts and circumstances, the granting of adjournments of 8(eight) to 10(ten) times, including the adjournment to facilitate the Senior Advocate to appear before authority concerned.

We are of the view that the petitioners were given ample opportunity to answer/defend itself in personal hearing, but the petitioners for unknown reasons opted to delay the hearing and as such, the respondent No. 1 without allowing further adjournment passed the final determination/adjudication orders. Thus, principles of natural justice has not been violated in any manner.

In writ petition No. 17296 of 2025, the petitioner was allowed 5 (five) to 6 (six) times adjournment to defend itself, but it opted to delay the hearing for unknown reason. Ultimately the demand has been finalized.

It is settled by consistent judgments of this Court that no writ petition under article 102 is maintainable against final demand or adjudication order, because, the statute provides a forum in the form of appeal to ventilate the grievance, if any, which is quite efficacious.

In view of the above and relying on the principle of the case of the Commissioner of Customs, Dhaka and others Vs. Syed Nurul Arefeen [29BLC (AD) 136] we find no merit in the Rules.

Accordingly, the Rules are discharged. No order as to cost.

However, the petitioners are at liberty to prefer appeals, if they are so advised.

Communicate the judgment and order at once.

Sheikh Abu Taher, J:

I agree.