

THE FINANCE ORDINANCE, 1978

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'THE FINANCE ORDINANCE, 1978

ORDINANCE NO. XXI OF 1978

[30th June, 1978]**An Ordinance to give effect to the financial proposals of the Government and to amend certain laws.**

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Government and to amend certain laws for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975, and the 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title and commencement

1. (1) This Ordinance may be called the Finance Ordinance, 1978.

(2) Except as otherwise provided in this Ordinance, this section and clause (16) of section 2, section 4 and section 6 shall come into force at once, clause (15) of section 2 shall come into force on the first day of July, 1979, and all other sections shall come into force on the first day of July, 1978.

Amendments of Act XI of 1922

2. The following amendments shall be made in the Income-tax Act, 1922 (XI of 1922), namely:-

(1) in section 2,-

(a) in clause (6AA), *after* the words “registered firm”, the words, brackets, letter and figures “or a firm treated as registered under clause (b) of sub-section (5) of section 23” shall be *inserted*;

(b) in clause (6C), the words, commas and brackets “and, in the case of a company having its registered office in taxable territories, the amount representing the face value of any bonus shares or the amount of any bonus declared, issued or paid to its shareholders with a view to increasing the paid up capital” shall be *omitted*;

¹ The Ordinance was declared void and non est by the Appellate Division of the Supreme Court of Bangladesh in Civil Petition for leave to Appeal Numbers 1044 and 1045 of 2009 and subsequently the Ordinance has been made effective as an Act of Parliament by section 4 and Schedule of ১৯৭৫ সালের ১৫ আগস্ট হইতে ১৯৭৯ সালের ৯ এপ্রিল তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৬ নং আইন)।

- (2) in section 4,-
- (a) in sub-section (1),-
- (i) in the second proviso, the words “or unless they are brought into or received in taxable territories by him during such year” shall be *omitted*; and
- (ii) Explanation 4 shall be *omitted*;
- (b) in sub-section (2), *after* clause (xviii), the following new clause (xix) shall be *added*, namely:-
- “(xix) any capital gain received by an individual from sale of shares of public limited companies listed in a Stock Exchange, to the extent such gains do not exceed ten thousand taka.”;
- (3) in section 4A, in clause (a), *after* sub-clause (iii), the following new Explanation shall be *added*, namely:-
- “**Explanation.-** In the case of an individual, being a citizen of Bangladesh who is serving outside Bangladesh and who is or has been in Bangladesh on leave or vacation in the previous year, the provisions of sub-clauses (ii) and (iii) shall apply in relation to that year as if for the words “any time in that year” and “any time in that year otherwise than on an occasional or casual visit” respectively occurring in the said sub-clauses, the words “ninety days” were *substituted*.”;
- (4) in section 7, in sub-section (1), the second proviso shall be *omitted*;
- (5) in section 10, in sub-section (2), *after* clause (vib), the following new clause (vibb) shall be *inserted*, namely:-
- “(vibb) in respect of depreciation of such passenger vessels plying on inland waters and fishing trawlers registered in Bangladesh and brought into use in Bangladesh for the first time on any day between the first day of July, 1978 and the thirtieth day of June, 1983, being the property of the assessee, a sum equivalent to 40 per cent, 30 per cent and 30 per cent for the first, second and third year respectively on the original cost to the assessee, notwithstanding anything contrary contained in clause (vi):

Provided that-

- (a) the passenger vessel plying on the inland waters or the fishing trawler in respect of which the depreciation is claimed, fulfils such specifications as may be specified in this behalf by the Government by notification in the *official Gazette*;
- (b) the prescribed particulars have been duly furnished;
- (c) where the full effect cannot be given to such allowance in any year owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of clause (b) of the proviso to sub-section (2) of section 24, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be the part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year and so on for succeeding years; and
- (d) the aggregate of all such allowances made under this Act shall, in no case, exceed the original cost to the assessee of the passenger vessel or the fishing trawler, as the case may be; and:

Provided further that the passenger vessel plying on the inland waters or the fishing trawler to which the depreciation at 40%, 30%, and 30% has been allowed shall not be entitled to the allowances as referred to in clause (vi);”;

(6) in section 14A,-

- (a) in sub-section (2B), in clause (a), in sub-clause (ii), the words “and not more than ten crores taka” shall be *omitted*;
- (b) in sub-section (2D), in clause (a), in sub-clause (ii), the words “and not more than ten crores taka” shall be *omitted*;

(7) in section 15,-

- (a) in sub-section (3), *for* the word “twenty” the word “thirty” shall be *substituted*;
 - (b) sub-section (4) and the Explanation thereto shall be *omitted*;
- (8) in section 15A, in the first proviso, *for* the words and commas “twenty five per cent of such earned income chargeable under the head “salaries” up to twenty thousand taka *plus* twenty per cent of the balance, if any, of the said earned income but not exceeding, in any case, six thousand taka” the words and commas “thirty per cent of such earned income chargeable under the head “salaries” up to twenty thousand taka *plus* twenty-five per cent of the balance, if any, of the said earned income, but not exceeding, in any case, eight thousand taka” shall be *substituted*;
- (9) in section 16, in sub-section (3), the following new proviso shall be *added*, namely:-
- “Provided that nothing contained in sub-clauses (iii) and (iv) of clause (a) and clause (b) shall apply to any income from an asset transferred by an assessee by way of gift.”;
- (10) in section 18A,-
- (a) *for* the words “additional amount of tax” or “additional tax” wherever occurring the words “simple interest” shall be *substituted*;
 - (b) *for* sub-sections (5), (5A) and (6) the following shall be *substituted*, namely:-
 - “(5) The Government shall pay simple interest at ten per cent *per annum* on the amount by which the aggregate sum of advance tax paid under sub-sections (1), (2), (3) and (7) exceeds the amount of the tax determined under section 23 from the first day of April in the year in which the tax was paid up to the date of assessment under section 23 or a period of two years from the first day of April in which the tax was paid, whichever is earlier.

- (6) Where in any year an assessee has paid tax under sub-section (2) or sub-section (3) on the basis of his own estimate and the tax so paid is less than seventy-five per cent of the tax determined on the basis of the assessment under section 23, hereinafter called the regular assessment, and calculated in the manner laid down in sub-section (1) so far as such tax relates to income to which the provisions of sub-sections (2), (2A) and (2B) of section 18 do not apply simple interest at the rate of one and a half per cent *per mensem* from the first day of April in the year in which the tax was paid up to the date of regular assessment or for a period of two years from the first day of April in which the tax was paid, whichever is earlier, shall be payable by the assessee upon the amount by which tax so paid falls short of the said seventy-five per cent:

Provided that-

- (a) where tax is paid under section 22A, or
- (b) where a provisional assessment under section 23B has been made but regular assessment has not been made,

the simple interest shall be calculated in accordance with the foregoing provisions-

- (i) up to the date on which tax under section 22A or as provisionally assessed was paid; and
- (ii) thereafter such simple interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid, in so far as it relates to income to which the provisions of sub-sections (2), (2A) and (2B) of section 18 do not apply, falls short of the said seventy-five per cent:

Provided further that, where, as a result of an appeal under section 31 or section 33 or of a revision under section 33A or of a reference to the High Court Division under section 66, the amount on which simple interest was payable under this sub-section has been reduced, the simple interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable:

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the year following that in which it is set up, the simple interest payable shall be computed from the first day of July of the said year.”;

- (11) in section 22, in sub-section (1A), *for* clause (ii) the following shall be *substituted*, namely:-

“(ii) in all other cases, by the fifteenth day of September next following.”;

- (12) in section 23, *for* sub-section (5) the following shall be *substituted*, namely:-

“(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be,-

- (a) in the case of a registered firm, tax payable by the firm itself shall be determined and the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall also be determined:

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24:

Provided further that when any of such partner is a person not resident in taxable territories his share of the income, profits and gains in the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm;

- (b) in the case of an unregistered firm, the Deputy Commissioner of Taxes may proceed in the manner laid down in clause (a) as applicable to a registered firm, if, in his opinion, the aggregate amount of the tax including super-tax, if any, payable under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm.”;

(13) section 23A shall be *omitted*;

(14) in section 24,-

(a) in sub-section (1), *for* the second proviso the following proviso shall be *substituted*, namely:-

“Provided further that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm; and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section.”;

(b) in sub-section (2),-

(i) in the proviso, *for* clauses (b) and (c) the following shall be *substituted*, namely:-

“(b) where depreciation allowance is, under clause (b) of the proviso to clause (vi) or clause (b) of the proviso to clause (vibb) of sub-section (2) of section 10, also to be carried forward, effect shall first be given to this sub-section;

(c) nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, to have carried forward and set off against his own income any loss sustained by the firm;

(cc) where an unregistered firm is assessed as a registered firm under clause (b) of sub-section (5) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm.”;

(ii) in Explanation 2, *for* paragraph (a) the following shall be *substituted*, namely:-

“(a) no loss of an unregistered firm shall be carried forward and set off under this section, under any circumstances, against its income, profits and gains of the subsequent year if it is registered in that year under section 26A or is treated as a registered firm in such year under clause (b) of sub-section (5) of section 23; and”;

(15) in section 26A, sub-section (6) shall be *omitted*;

(16) in section 34, in sub-section (2), in the proviso, in clause (i),-

(a) in sub-clause (e), the word “and” at the end shall be *omitted*;

(b) *after* sub-clause (e) amended as aforesaid, the following new sub-clause (ee) shall be *inserted*, namely:-

“(ee) in relation to the income, profits or gains which were first assessable in the year 1973-74, the words “five years” were *substituted*; and”;

(c) in sub-clause (f), *for* the figure “1974-75” the figure “1975-76” shall be *substituted* and shall be deemed to have been so substituted on and from the first day of July, 1977;

(17) in section 44A, the comma and words “unless the Deputy Commissioner of Taxes is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act” shall be *omitted*;

(18) in section 44B, in sub-section (3), *for* the words “tax thereon at the rate for the time being applicable to the total income of a company” the words and figure “income-tax at the rate of 30 per cent” shall be *substituted*;

(19) in section 51, in sub-section (3), *for* the figure and letter “38A” the figure and letters “38AA” shall be *substituted*;

(20) in section 66, *for* the words “High Court” and “Supreme Court” wherever occurring the words “High Court Division” and “Appellate Division” shall, respectively, be *substituted*;

(21) in section 66A, for the words “High Court” and “Supreme Court” wherever occurring the words “High Court Division” and “Appellate Division” shall, respectively, be *substituted*.

Amendment of
the Ben. Act I
of 1932

3. In the Motor Vehicles Tax Act, 1932 (Ben. Act I of 1932), for the First Schedule the following shall be *substituted*, namely:-

“THE FIRST SCHEDULE

(See section 4)

Description of motor vehicles and rate of tax

Rate of tax payable for the year

I— Bi-cycles propelled by mechanical power-

- | | |
|---|--------------------|
| (i) not exceeding two hundred pounds in weight. | Taka twenty-five. |
| (ii) exceeding two hundred pounds | Taka seventy-five. |

II— Vehicles for carrying passengers not plying for hire-

- | | |
|--|-------------------------------|
| (a) Seating not more than one passenger | Taka one hundred. |
| (b) Seating not more than three passengers | Taka two hundred. |
| (c) Seating not more than four passengers | Taka three hundred and sixty. |
| (d) Every additional passenger that can be seated. | Taka sixty. |

III— Vehicle for carrying passengers plying for hire-

- | | |
|--|--|
| (a) Tri-cycles propelled by mechanical power- | |
| (i) Motor cab Rickshaw seating not more than two passengers. | Taka one hundred and fifty. |
| (ii) Other tri-cycles seating more than two passengers. | Taka one hundred and fifty and additional Taka forty for each additional passenger above two passengers. |

- (b) Other vehicles (Taxis and Buses)-

- (i) Seating not more than four passengers. Taka five hundred.
- (ii) Seating more than four passengers but not more than six passengers. Taka six hundred.
- (iii) Seating more than six passengers. Taka six hundred and additional Taka thirty for each additional passenger above six passengers.

IV- Vehicles for transport of goods-

- (a) not exceeding 5,000 pounds in weight laden, Taka five hundred.
- (b) exceeding 5,000 pounds but not exceeding 20,000 pounds, Taka five hundred and additional Taka fifty for every additional thousand pounds or fraction thereof exceeding five thousand pounds.
- (c) exceeding 20,000 pounds Taka one thousand two hundred and fifty and additional Taka one hundred for every thousand pounds or fraction thereof exceeding twenty thousand pounds.”.

4. The amendments set out in the First Schedule to this Ordinance shall be made in the Tariff Act, 1934 (XXXII of 1934).

Amendments of Act XXXII of 1934

5. In the Motor Vehicles Act, 1939 (IV of 1939),-

Amendments of Act IV of 1939

- (1) in section 11, in sub-section (3), for the words “three Taka” the words “eight Taka” shall be *substituted*; and
- (2) in section 20, in sub-section (3), for the words “five Taka” the words “fifteen Taka” shall be *substituted*.

6. The following amendments shall be made in the Excises and Salt Act, 1944 (I of 1944), namely:-

Amendments of Act I of 1944

- (1) in section 4, in sub-section (3), *for* clause (b) the following shall be *substituted*, namely:-

“(b) the amount with reference to which the duty shall be levied shall be the total amount charged for all services, facilities, utilities, catering, supplies and merchandise provided or rendered, inclusive of the duty, which the recipient pays or would have to pay but for any special relationship between the parties in question.”;

- (2) *for* section 9 the following shall be *substituted*, namely:-

“9. Offences and penalties- Whoever commits any of the following offences, namely:-

- (a) contravenes any of the provisions of a notification issued under section 6 or section 8;
- (b) evades in any manner the payment of any duty payable under this Act;
- (c) removes any excisable goods in contravention of any provision of this Act or any rule made thereunder or in any way concerns himself with such removal;
- (d) acquires possession of, or in any way concerns himself in transporting, depositing, keeping, concealing, selling or purchasing or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or any rule made thereunder;
- (e) fails to supply any information which he is required by rules made under this Act to supply, or unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true, supplies false information;
- (f) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section;

- (g) makes or attempts to make a deduction in the duty payable under sub-section (4) of section 3 on account of removal of goods for export, or to a licensed warehouse or a licensed factory, otherwise than in accordance with the provisions of the appropriate notification under the said sub-section (4), shall, for every such offence, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to Taka five thousand or ten times the amount of duty involved, if any, whichever is greater, or with both.

9A. Certain offences to be non-cognisable.- Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) offences under section 9 shall be deemed to be non-cognizable within the meaning of that Code.

9B. Presumption of culpable mental state.- (1) In any prosecution for an offence under this Act or the rules made thereunder which requires a culpable mental state on the part of accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.- In this sub-section, "culpable mental state" includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.

- (2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

9C. Relevancy of statements under certain circumstances.- (1) A statement made and signed by a person before any Excise Officer not below the rank of Superintendent during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains-

- (a) when the person who made the statement is dead or cannot be found or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expenses which, under the circumstances of the case, the Court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceedings under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.

9D. Power of Court to publish name, place of business, etc., of persons convicted under the Act.- (1) Where any person is convicted under this Act for contravention of any of the provisions thereof, the Court convicting the person shall be competent to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars as the Court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person, in such newspapers or in such other manner as the Court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(3) The expenses of any publication under sub-section (1) shall be recoverable from the convicted person as if it were a fine imposed by the Court.”;

(3) in section 34, *for* the word “shall” the word “may” shall be *substituted*;

(4) *after* section 35A, the following new section 35B shall be *inserted*, namely:-

“35B. Power of the National Board of Revenue to rectify mistakes.- (1) The National Board of Revenue may rectify any mistake which is apparent from the record in any order passed by it under any of the provisions of this Act or the rules made thereunder on its own motion or on an application made by a person affected by the order within one year of the passing of such order:

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person

affected by the proposed rectification has been given an opportunity of being heard.

- (2) No order under this section shall be passed after the expiry of three years from the date of passing of the order which is sought to be rectified.
- (3) No proceedings under sub-section (1) shall be initiated in a case where an application under section 36 has been made, and, where any such application is pending, the proceeding so initiated shall abate.”;
- (5) in section 36, *after* the figure “35A” the word and figure “or 35B” shall be *inserted*;
- (6) *after* section 36A, the following new section 36B shall be *inserted* namely:-

“36B. Power of the Government to rectify mistakes.- (1)

The Government may rectify any mistake which is apparent from the record in any order passed by it under any of the provisions of this Act or the rules made thereunder on its own motion or on an application made by a person affected by the order within one year of the passing of such order:

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by the proposed rectification has been given an opportunity of being heard.

- (2) No order under this section shall be passed after the expiry of three years from the date of the passing of the order which is sought to be rectified,”; and
- (7) the First Schedule shall be amended in the manner set out in the SECOND SCHEDULE to this Ordinance.

7. The following amendments shall be made in the Estate Duty Act, 1950 (X of 1950), namely:-

Amendments of Act X of 1950

- (1) in section 58BB, *for* the words “High Court” the words “High Court Division” shall be *substituted*;
- (2) in section 59A, *for* the words “High Court” wherever occurring the words “High Court Division” shall be *substituted*;
- (3) in section 59B, *for* the words “High Court” and “Supreme Court” wherever occurring the words “High Court Division” and “Appellate Division” shall, respectively, be *substituted*.

Amendments of
Act III of 1951

8. The following amendments shall be made in the Sales Tax Act, 1951 (III of 1951), namely:-

(1) in section 8, *after* sub-section (2), the following new sub-section (2A) shall be *inserted*, namely:-

“(2A) An application for licence under sub-section (1) or sub-section (2) shall be made by the fifteenth day of September of each year, or, where the business has commenced after the said date, within thirty days of the commencement of the business:

Provided that the Deputy Commissioner of Taxes may, on sufficient cause being shown, extend the date for submission of application for such licence in the case of any applicant:

Provided further that no such extension of time for a period or periods exceeding three months in the aggregate shall be allowed except with the approval of the Inspecting Joint Commissioner or the Commissioner.”;

(2) in section 13, in sub-section (2), *for* the words “any part of the Province” the word “Bangladesh” shall be *substituted*;

(3) in section 13A, in sub-section (IA), clause (a) shall be *omitted*;

(4) in section 17, *for* the words “High Court” and “Supreme Court” wherever occurring the words “High Court Division” and “Appellate Division” shall, respectively, be *substituted*;

(5) in section 18, *for* the words “High Court” the words “High Court Division” shall be *substituted*;

(6) in section 23, *after* sub-section (IA), the following new sub-section (IB) shall be *inserted*, namely:-

“(IB) If any manufacturer or producer fails to submit within the time or extended time laid down in sub-section (2A) of section 8 an application for licence as required by that section, the Deputy Commissioner of Taxes may direct that such person shall pay by way of penalty a sum not exceeding one thousand Taka, and in the case of a continuing default, a further sum not exceeding fifty Taka for every day during which the default continues.”.

9. The following amendments shall be made in the Gift-tax Act, 1963 (XIV of 1963), namely:-

Amendment of Act XIV of 1963

- (1) in section 4, *after* clause (b) the following new clause (bb) shall be *inserted*, namely:-

“(bb) where property is transferred otherwise than for adequate consideration, the amount by which the market value of the property at the date of the transfer exceeds the value of the consideration shall be deemed to be a gift made by the transferor;”;

- (2) in section 5,-

- (a) in sub-section (1),-

(i) in clause (vi), *for* the words “fifty thousand” the words “one lakh” shall be *substituted*;

(ii) in the proviso, *for* the word “five” occurring twice the word “twenty” shall be *substituted* in both the places;

- (b) in sub-section (2), *for* the word “five” the word “twenty” shall be *substituted*;

- (3) in section 26, *for* the words “High Court” and “Supreme Court” wherever occurring the words “High Court Division” and “Appellate Division” shall, respectively, be *substituted*;

- (4) in section 27, *for* the words “High Court” wherever occurring the words “High Court Division” shall be *substituted*;

- (5) in section 28, *for* the words “Supreme Court” and “High Court” wherever occurring the words “Appellate Division” and “High Court Division” shall, respectively, be *substituted*.

10. The following amendments shall be made in the Wealth-tax Act, 1963 (XV of 1963), namely:-

Amendments of Act XV of 1963

- (1) in section 27, *for* the words “High Court” and “Supreme Court” wherever occurring the words “High Court Division” and “Appellate Division” shall, respectively, be *substituted*;

- (2) in section 28, *for* the words “High Court” wherever occurring the words “High Court Division” shall be *substituted*;
- (3) in section 29, *for* the words “Supreme Court” and “High Court” wherever occurring the words “Appellate Division” and “High Court Division” shall, respectively, be *substituted*;
- (4) *for* the Schedule the following shall be *substituted*, namely:-

“THE SCHEDULE

[*See* section 3]

Rates of Wealth-tax.

	Rate.
1. On the first taka five lakh of net wealth or where an assessee, being a person owning and occupying a house for purposes of his own residence, exercises the option to have the value of such house being excluded from his assets, on the first taka four lakh of net wealth.	Nil.
2. On the next taka five lakh of net wealth	½ %
3. On the next taka five lakh of net wealth	¾ %
4. On the next taka five lakh of net wealth	1 %
5. On the next taka five lakh of net wealth	1 ¼ %
6. On the next taka five lakh of net wealth	1 ½ %
7. On the next taka five lakh of net wealth	2 %
8. On the balance of net wealth	2½ %.”.

Amendments of
Act IV of 1969

11. The following amendments shall be made in the Customs Act, 1969 (IV of 1969), namely:-

- (1) *after* section 193, the following new section 193A shall be *inserted*, namely:-

“193A. Power of the Board to rectify any mistake, error, etc.

The Board may, on its own motion or on an application made by any person within one year of the passing of an order, rectify any mistake or error which is apparent from the record in any order passed by it under any provision of this Act or the rules made thereunder:

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by such rectification has been given an opportunity of being heard in person or through a counsel or other person duly authorized by him.”;

- (2) in section 196, *after* the word and figure “section 193”, the comma, word and figure, “section 193A” shall be *inserted*;
- (3) in Chapter XIX, *after* section 196A, the following new section 196B shall be *added*, namely:-

“196B. Power of the Government to rectify mistake, error, etc.- The Government may, on its own motion or on an application made by any person within one year of the passing of an order, rectify any mistake or error which is apparent from the record in any order passed by it under any provision of this Act or the rules made thereunder:

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by such rectification has been given an opportunity of being heard in person or through a counsel or other person duly authorized by him.”.

12. In the Finance Ordinance, 1977 (Ord. XXIII of 1977), in the Fourth Schedule, in Part I, in paragraph A, in the proviso, *for* the full-stop at the end a semi-colon shall be *substituted* and thereafter the following shall be *added* and shall be deemed to have been so added on and from the first day of July, 1977, namely:-

Amendment of the Fourth Schedule, Ordinance No. XXIII of 1977

“and the income-tax payable shall in no case exceed (a) the amount by which the total income exceeds Tk.9,000, or (b) the amount representing sixty-five per cent of the total income, whichever amount is the less.”.

13. (1) Subject to the provisions of sub-sections (2), (3), (4) and (5), in making any assessment for the year beginning on the first day of July, 1978,-

Income-tax and Super-tax

- (a) income-tax shall be charged at the rates specified in Part I of the Third Schedule, and

- (b) the rates of super-tax shall, for the purpose of section 55 of the Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Third Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1978,-

- (a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or any income chargeable under the head "Interest on Securities" the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Ordinance, 1977 (XXIII of 1977), on his total income the same proportion as the amount of such inclusion bears to his total income; and
- (b) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion.

(3) In making any assessment for the year beginning on the first day of July, 1978, where the assessee is a co-operative society, the tax shall be payable at the rate specified in paragraph A of Part I, or paragraph B of Part I and paragraph A of Part II of the Third Schedule as if the assessee were a company to which the proviso to sub-paragraph (I) of paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee:

Provided that in calculating for the purposes of this subsection, the amount of income-tax at the rates specified in paragraph A of Part I of the Third Schedule, no deduction in respect of any allowance or sums referred to in the proviso to the said paragraph shall be made.

- (4) (a) In making any assessment for the year beginning on the first day of July, 1978, where the total income of an assessee not being a company to which the proviso to sub-paragraph (1) of paragraph A of Part II of the Third Schedule does not apply, includes any profits and gains derived from the export of goods out of Bangladesh

income-tax and super-tax, if any, payable by him in respect of such profits and gains shall, subject to the provisions of clauses (b) and (c), be reduced by an amount computed in the manner specified hereunder:

Amount.

- | | |
|---|---|
| (i) Where the goods exported abroad had not been manufactured by the assessee who exported them: | 30 per cent of the income-tax and super-tax, if any, attributable to export sales. |
| (a) and where the export sales during the relevant year exceed the export sales of the preceding years: | <i>Plus</i> an additional 1 per cent for every increase of 10 per cent in export sales over those of the preceding year, subject to an overall maximum of 40 per cent |
| (b) and where the export sales during the relevant year do not exceed the export sales of the preceding year. | <i>Minus</i> 1 per cent for every decrease of 10 per cent in export sales over those of the preceding year, subject to an overall minimum of 20 per cent |
| (ii) Where the goods exported had been manufactured by the assessee who had exported them: | |
| (a) where the export sales do not exceed 10 per cent of the total sales: | Nil. |
| (b) where the export sales exceed 10 per cent but do not exceed 20 per cent of the total sales: | 30 per cent of the income-tax and super-tax, if any, attributable to export sales. |
| (c) where the export sales exceed 20 per cent but do not exceed 30 per cent of the total sales: | 40 per cent of the income-tax and super-tax, if any, attributable to export sales. |
| (d) where the export sales exceed 30 per cent of the total sales: | 50 per cent of the income-tax and super-tax, if any, attributable to export sales. |

- (b) Nothing contained in clause (a) shall apply in respect of the following goods or class of goods, namely:-
- (i) tea,
 - (ii) raw jute,
 - (iii) jute manufacture,
 - (iv) raw hides and skin and wet-blue leather,
 - (v) such other goods as may be notified by the National Board of Revenue from time to time.
- (c) The National Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.

(5) In cases to which section 17 of the Income –tax Act, 1922 (XI of 1922), applies the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1), and in accordance where applicable, with the provisions of sub-section (2).

(6) For the purposes of making deduction of tax under section 18 of the Income-tax Act, 1922 (XI of 1922), the rates specified in Part I and Part II of the Third Schedule shall apply as respects the year beginning on the first day of July, 1978, and ending on the thirtieth day of June, 1979.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression “total income” means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, 1922 (XI of 1922); and the expression “public company” means a company-

- (i) in which not less than fifty per cent of the shares are held by the Government, or
- (ii) whose shares were the subject of dealings in a registered stock exchange in the taxable territories at any time during the previous year and remained listed on the stock exchange till the close of that year.”

THE FIRST SCHEDULE

(See section 4)

Amendments in the Second Schedule to the Tariff Act, 1934 (XXXII of 1934).

In the Tariff Act, 1934 (XXXII of 1934), in the Second Schedule,-

- (a) *for* Item No. 7 in the first column and the entries relating thereto in the second and third columns the following shall be *substituted*,-

“7. Skins, raw 15 per cent of the amount which would represent the value for export purposes, were no export duty chargeable thereon.”; and

- (b) *for* Item No. 14 in the first column and the entries relating thereto in the second and third columns the following shall be *substituted*, namely:

“14. Wet-blue (semi-finished) leather including wet-blue (semi finished), goat, sheep, lamb and kid skin leather. 15 per cent of the amount which would represent the value for export purposes, were no export duty chargeable thereon.”.

THE SECOND SCHEDULE

(See section 6)

Amendments in the First Schedule to the Excises and Salt Act, 1944 (I of 1944).

(1) In Part I,-

- (a) in SECTION X, *for* Item No. 44 in the first column and the entries relating thereto in the second and third columns the following shall be *substituted*, namely:-

“44. Jute Manufactures ... Such rate, not exceeding Taka four hundred per ton on hessian including sacking and bagging materials and fabrics of all sorts, Taka ten, Taka

five and Taka two per square yard on broad-loom carpets, other carpets and matting respectively, and Taka three hundred on other jute manufactures per ton, as may be fixed by Government by notification in the *official Gazette*, and different rates may be fixed with reference to different conditions and circumstances.”;

(b) in SECTION XI,

(i) *for* the heading the following shall be *substituted*, namely:-

“Glass, Glassware, Chinaware and Porcelain ware”; and

(ii) *after* Item No. 47 in the first column and the entries relating thereto in the second and third columns, the following new Item No. 47A shall be *added*, namely:-

“47A. Chinaware and Ten per cent *ad valorem*.
Porcelain-ware, all
sorts.

Explanation.- In this item, “Chinaware and Porcelain ware” includes crockeries and table wares of all sorts, decoration pieces, flower vase and the like but does not include articles used in the transmission of electricity and glazed potteries or traditional earthenware made of 100% ordinary clay.”; and

(2) *for* PART II the following shall be *substituted*, namely:-

“PART II

Item No.	Description of services.	Rate of duty.
1.	Services rendered by hotels and restaurants-	
	(1) Hotels and restaurants which do not serve alcoholic drinks nor exhibit floor shows. All services, facilities and utilities including accommodation, catering, supplies and merchandise provided or rendered by a hotel or a restaurant-	

Item No.	Description of services.	Rate of duty.
(a)	the rents of which per room per day does not exceed Taka five nor the monthly gross sale including rent exceeds Taka six thousand,	Nil.
(b)	the rent of which per room per day exceeds Taka five but does not exceed Taka ten or the monthly gross sale including rent exceeds Taka six thousand but does not exceed Taka ten thousand,	1 per cent of the charges.
(c)	the rent of which per room per day exceeds Taka ten but does not exceed Taka twenty or the monthly gross sale including rent exceeds Taka ten thousand but does not exceed Taka twenty-five thousand,	2 per cent of the charges.
(d)	the rent of which per room per day exceed Taka twenty but does not exceed Taka thirty or the monthly gross sale including rent exceeds Taka twenty-five thousand but does not exceed Taka fifty thousand,	5 per cent of the charges.
(e)	the rent of which per room per day exceeds Taka thirty or the monthly gross sale including rent exceeds Taka fifty thousand,	10 per cent of the charges.
(2)	Hotels, Restaurants or other establishments where alcoholic drinks are served or where cabaret or floor shows of any description are held on any day or night in a year-	

Item No.	Description of services.	Rate of duty.
	(a) all services, facilities and utilities including accommodation, catering, supplies and merchandise provided or rendered by a hotel, restaurant or an establishment,	20 per cent of the charges,
	(b) if the charges in such hotels, restaurants or establishments are realised in Bangladesh currency.	30 per cent of the charges in addition to the duty levied under (a) above.

Explanations.-

1. "Hotels" means an establishment, organisation or place including a club where rooms or suits of rooms or any other types of accommodation for temporary stay are let out on rent, whether or not it has any arrangement for catering or provides any other services, facilities or utilities, by whatever name called, and includes an establishment where floor shows are exhibited.
 2. "Restaurants" means an establishment, organisation on place including a club where food or drinks are sold, whether for consumption on the spot or elsewhere and whether or not it provides any other services, facilities, or utilities, by whatever name shows called, and includes an establishment where floor shows are exhibited.
2. Services rendered by Decorators and Caterers 10 per cent of the charges.

Explanation.- "Decorators and Caterers" mean shops, firms, companies, establishments or persons who render any one or

Item No.	Description of services.	Rate of duty.
	more of the following services for a charge:-	
	(i) decorate premises, grounds, buildings or conveyances with flowers, festoons, buntings, coloured paper, cloth or other materials, electric lights of any kind, ceremonial arches, pandals or 'shamianas'; or	
	(ii) furnish such premises, grounds or buildings with articles of furniture and fixtures; or	
	(iii) supplies linen, crockeries, cutleries or utensils; or	
	(iv) prepare, cater or serve articles of food, drink, refreshments or provide entertainments of any kind.”.	

THE THIRD SCHEDULE

(See section 13)

PART I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, unregistered firms, an association of persons and every artificial juridical person referred to in clause (9) of section 2 of the Income-tax Act, 1922 (XI of 1922), not being a case to which paragraph B of this Part applies.-

Rates.

- | | | |
|-----|--|--|
| (1) | Where the taxable income does not exceed Taka 1,000. | 7½% of the amount. |
| (2) | Where the taxable income exceeds Taka 1,000 but does not exceed Taka, 4,000. | Taka 75 plus 5 per cent of the amount exceeding Taka, 1,000. |

Rates.

- | | | |
|------|--|--|
| (3) | Where the taxable income exceeds Taka 4,000 but does not exceed Taka 6,000. | Taka 225 <i>plus</i> 10 per cent of the amount exceeding Taka 4,000. |
| (4) | Where the taxable income exceeds Taka 6,000 but does not exceed Taka 9,000. | Taka 425 <i>plus</i> 15 per cent of the amount exceeding Taka 6,000. |
| (5) | Where the taxable income exceeds Taka 9,000 but does not exceed Taka 14,000. | Taka 875 <i>plus</i> 20 per cent of the amount exceeding Taka 9,000. |
| (6) | Where the taxable income exceeds Taka 14,000 but does not exceed Taka 20,000. | Taka 1,875 <i>plus</i> 25 per cent of the amount exceeding Taka 14,000. |
| (7) | Where the taxable income exceeds Taka 20,000 but does not exceed Taka 30,000. | Taka 3,375 <i>plus</i> 30 per cent of the amount exceeding Taka 20,000. |
| (8) | Where the taxable income exceeds Taka 30,000 but does not exceed Taka 45,000. | Taka 6,375 <i>plus</i> 35 per cent of the amount exceeding Taka 30,000. |
| (9) | Where the taxable income exceeds Taka 45,000 but does not exceed Taka, 70,000. | Taka 11,625 <i>plus</i> 40 per cent of the amount exceeding Taka 45,000. |
| (10) | Where the taxable income exceeds Taka 70,000 but does not exceed Taka 1,00,000. | Taka 21,625 <i>plus</i> 45 per cent of the amount exceeding Taka 70,000. |
| (11) | Where the taxable income exceeds Taka 1,00,000 but does not exceed Taka, 1,50,000. | Taka 35,125 <i>plus</i> 50 per cent of the amount exceeding Taka 1,00,000. |
| (12) | Where the taxable income exceeds Taka 1,50,000 but does not exceed Taka 2,50,000. | Taka 60,125 <i>plus</i> 55 per cent of the amount exceeding Taka 1,50,000. |
| (13) | Where the taxable income exceeds Taka 2,50,000. | Taka 1,15,125 <i>plus</i> 60 per cent of the amount exceeding Taka 2,50,000; |

Provided that no income-tax shall be payable on a total income which before the deduction of the sums, if any, exempted under the first, third and fourth provisos to sub-section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15CC, section 15D, section 15E, section 15F, section 15H and section 58F of the Income tax Act, 1922 (XI of 1922), does not exceed Taka 10,000; and

the income-tax payable shall in no case exceed (a) the amount by which the total income exceeds Taka 10,000, or (b) the amount representing sixty per cent of the total income, whichever amount is the less.

Explanation.-The expression “taxable income”, as used in this paragraph, means-

- (a) in the case of an assessee to which sub-section (3) of section 13 of this Ordinance or clause (a) of sub-section (1) of section 17 of the Income-tax Act, 1922 (XI of 1922), applies, the total income).
- (b) in any other case, the total income of an assessee as diminished by the allowances admissible under the first, third and fourth provisos to sub-section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15CC, section 15D, section 15E, section 15F, section 15H and section 58F of the Income-tax Act, 1922 (XI of 1922).

B. In the case of every company and local authority and in every case in which, under the provisions of the Income-tax Act, 1922 (XI of 1922), income-tax is to be charged at the maximum rate-

Rates.

On the total income excluding such 30 per cent of part thereof as consists of any such income. dividend to which sub-paragraph (2) of paragraph A of Part II applies.

C. In the case of every company

on the part of the total income Nil. consisting of the amount of dividend to which sub-paragraph (2) of paragraph A of Part II applies.

PART II
Rates of Super-tax

A. In the case of a company,-

	Rates.
(1) (a) where the total income excluding income to which paragraph C of Part I applies, does not exceed Taka 1,50,000.	Nil.
(b) where the total income excluding income to which paragraph C of Part I applies, exceeds Taka 1,50,000.	25 per cent of the amount exceeding Taka 1,50,000:

Provided that, where a company, in respect of the profits and gains liable to tax under the Income-tax Act, 1922 (XI of 1922), has made such effective arrangements as may be prescribed by the National Board of Revenue in this behalf for the declaration and payment in the taxable territories of dividends payable out of such profits and gains and for the deduction of tax from such dividends, rebate shall be allowed as follows:-

- (i) a rebate of 5 per cent to such company if it is a public company;
- (ii) a rebate of 15 per cent to such company on so much income, profits and gains accruing or arising outside the taxable territories to which sub-section (4) of section 13 of this Ordinance does not apply as are brought by it into Bangladesh.

(2) On the amount representing income from dividends from a company having its registered office in Bangladesh,-

	Rates.
(a) where such dividends are received by a public company and are declared and paid by a company formed and registered in Bangladesh under the Companies Act, 1913 (VII of 1913), or a body corporate formed in pursuance of an Act of Parliament, in respect of the share issued, subscribed and paid after the fourteenth day of August, 1947.	15 per cent of such amount.
(b) in other cases	20 per cent of such amount.

	Rates.
B. In the case of every local authority-On the whole of the total income.	12.5 per cent of the total income.
C. In the case of every registered firm-	Rates.
(1) Where the total income does not exceed Taka 12,000.	Nil.
(2) Where the total income exceeds Taka 12,000 but does not exceed Taka 18,000.	5 per cent of the amount exceeding Taka 12,000.
(3) Where the total income exceeds Taka 18,000 but does not exceed Taka 30,000.	Taka 300 <i>plus</i> 7.5 per cent of the amount exceeding Taka 18,000.
(4) Where the total income exceeds Taka 30,000 but does not exceed Taka 60,000.	Taka 1,200 <i>plus</i> 12.5 per cent of the amount exceeding Taka 30,000.
(5) Where the total income exceeds Taka 60,000 but does not exceed Taka 90,000.	Taka 4,950 <i>plus</i> 17.5 per cent of the amount exceeding Taka 60,000.
(6) Where the total income exceeds Taka 90,000 but does not exceed Taka 1,20,000.	Taka 10,200 <i>plus</i> 20 per cent of the amount exceeding Taka 90,000.
(7) Where the total income exceeds Taka 1,20,000 but does not exceed Taka 1,50,000.	Taka 16,200 <i>plus</i> 25 per cent of the amount exceeding Taka 1,20,000.
(8) Where the total income exceeds Taka 1,50,000.	Taka 23,700 <i>plus</i> 30 per cent of the amount exceeding Taka 1,50,000.

Explanation.-The term “registered firm” as used in this paragraph, means a firm registered under section 26A of the Income-tax Act, 1922 (XI of 1922), or a firm treated as a registered firm under clause (b) of sub –section (5) of section 23 of the Income-tax Act, 1922 (XI of 1922).
