

**THE TAXATION TRIBUNAL (UNDISCLOSED WEALTH)
ACT, 1953**

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**THE TAXATION TRIBUNAL (UNDISCLOSED WEALTH)
ACT, 1953**

ACT NO. XVI OF 1953

[20th April, 1953]

An Act to provide for the setting up of a Tribunal to enquire into the tax liability of undisclosed wealth. **

WHEREAS it is expedient to set up a Tribunal to enquire into the liability of undisclosed wealth to taxation and to determine the extent of such liability;

It is hereby enacted as follows:-

Short title,
extent and
commencement

1. (1) This Act may be called the Taxation Tribunal (Undisclosed Wealth) Act, 1953.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,

(1) "previous year" means-

(a) in relation to any assessment to tax under the Income-tax Ordinance, 1984 (XXXVI of 1984), any period which is or has been determined as the previous year for the purpose of that Act;

(b) in relation to any assessment to tax under the Excess Profits Tax Act, 1940, the chargeable accounting period as defined in that Act; and

* Throughout this Act, the words "Bangladesh" and "Government" were substituted for the words "Pakistan" and "Central Government" respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

^ Throughout this Act the words, comma, figures and brackets "Income-tax Ordinance, 1984 (XXXVI of 1984)" were substituted for the words, comma, figures and brackets "Income-tax Act, 1922 (XI of 1922)" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(c) in relation to any assessment under the Business Profits Tax Act, 1947, the accounting period as defined in that Act; and

(2) “tax” means any tax chargeable under the Income-tax Ordinance, 1984 (XXXVI of 1984), the Excess Profits Tax Act, 1940 and the Business Profits Tax Act, 1947.

3. The Government may constitute a Tribunal to be called the Taxation Tribunal (hereinafter referred to as the Tribunal) to exercise the functions conferred on the Tribunal by this Act.

Constitution and functions of the Tribunal

4. (1) The Tribunal shall consist of a President (being a person who is or has been a Judge of ¹[the High Court Division]) and one other member, being an income-tax expert, as hereinafter defined.

Composition of the Tribunal

(2) The income-tax expert shall be a person who in the opinion of the Government possesses such knowledge of the law of income-tax and has had experience of such a character as render him suitable for appointment to the Tribunal.

(3) The Government may appoint a Registrar to the Tribunal and such other staff as may be necessary.

5. (1) On or before a date to be notified by the Government, any person (hereinafter called an assessee) may submit a declaration to the Tribunal of his assets which were not in his opinion liable at any time to tax and assets which have not previously been disclosed in any of the accounts or returns submitted by him, or on his behalf, to the Income-tax Officer or otherwise brought to the notice of the Income-tax Officer.

Declaration of assets

(2) The declaration shall be in such form as may be prescribed and shall be verified in the prescribed manner.

6. (1) On receipt of the declaration referred to in section 5, or as soon afterwards as may be, the Tribunal shall examine the material submitted by the assessee or call for such particulars, accounts, documents or evidence as it may require or make such further enquiries as it may consider necessary.

Examination of declaration and other evidence

¹ The words “the High Court Division” were substituted for the words “a High Court” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(2) The Tribunal shall give an opportunity to the assessee of being heard.

(3) Notwithstanding anything to the contrary contained in sub-section (1), the Tribunal may direct the Registrar to examine any accounts or documents or to interrogate any person or obtain any statements from any person as it may consider necessary and the Registrar shall act accordingly.

(4) The Registrar shall, when he acts under sub-section (3) and subject to any direction of the Tribunal in this behalf, have the same powers as the Tribunal under section 14 and any person having charge or custody of accounts or documents required to be examined shall, notwithstanding anything in any law to the contrary, be bound to produce them before the Registrar, and to give him such information in respect thereof as he may require and any person interrogated by the Registrar or called upon by him to make or prepare a statement or furnish information shall, notwithstanding anything in any law to the contrary be bound to comply with his directions and answer all questions relating to the case put to him by the Registrar.

(5) If any person whose case is being examined by the Tribunal refuses or fails to attend in person in compliance with a notice in that behalf duly served upon him or to give any evidence or to answer questions or to produce documents or to prepare and furnish statements when called upon to do so, the Tribunal may, if satisfied that the refusal or failure was wilful, close the examination of the case and make an order to the best of its judgment.

(6) If in any proceeding before the Registrar any person whose case or the points in whose case is or are being examined by the Registrar refuses or fails to attend in person or to produce or cause to be produced accounts or documents or to answer questions or to prepare statements or to furnish information when called upon to do so the Registrar shall report such refusal or failure to the Tribunal and thereupon the provisions of sub-section (5) shall apply as if the refusal or failure took place in the course of the examination by the Tribunal itself.

(7) The members of the Tribunal and the Registrar shall be deemed to be public servants within the meaning of section 21 of the ¹[* * *] Penal Code, and the Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898, references in the said Chapter to the presiding officer of a Court being deemed to include the President of the Tribunal.

7. (1) The Tribunal shall after the examination of the materials furnished by the assessee and after making enquiries as aforesaid make an order declaring whether the assets declared by the assessee, or any part thereof constitutes income, profits or gains which escaped assessment to tax under the Income-tax Ordinance, 1984 (XXXVI of 1984), the Excess Profits Tax Act, 1940, or the Business Profits Tax Act, 1947 and shall also specify the previous year or years in which such income, profits or gains accrued or arose or were received or shall be deemed to have accrued or arisen or to have been received, and where such income, profits or gains have accrued or arisen outside Bangladesh, the previous year or years in which the income, profits or gains accrued or arose or shall be deemed to have accrued or arisen and the previous year or years in which they were brought into, received in or remitted to, or deemed to be brought into, received in or remitted to Bangladesh.

Determination
of liability to
tax

(2) The Tribunal shall further make an order declaring whether any assets declared by the assessee, or any part thereof, did not constitute income, profits or gains and specifying the amount which should not be taxed.

(3) If the members of the Tribunal differ in opinion on any point or points, they shall state the point or points on which they differ and the case shall be referred by the President of the Tribunal to an additional member (being a person who is or has been a Judge of ²[the High Court Division]) to be appointed by the Government for the purpose of deciding the point or points

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

² The words "the High Court Division" were substituted for the words "a High Court" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

on which there is a difference of opinion and the point or points shall be decided according to the opinion of the additional member.

(4) The Tribunal shall communicate its order to the assessee and to the Government.

(5) The Government shall send a copy of the Tribunal's order to the Income-tax Officer having jurisdiction over the assessee.

Assessment

8. (1) The Income-tax Officer shall give effect to the decision of the Tribunal and for that purpose initiate and complete appropriate proceedings under the Income-tax Ordinance, 1984 (XXXVI of 1984), the Excess Profits Tax Act, 1940, or the Business Profits Tax Act, 1947, for the assessment or re-assessment, as the case may be, of the income, profits or gains declared by the Tribunal to have escaped assessment in any year or years notwithstanding any of the restrictions¹ [contained in section 93] of the Income-tax Ordinance, 1984 (XXXVI of 1984), section 15 of the Excess Profits Tax Act, 1940,² [* * *] or any other law for the time being in force and notwithstanding any lapse of time or any decision to a different effect given in any proceeding before an income-tax or excess profits tax authority or the Income-tax Appellate Tribunal.

(2) Notwithstanding anything contained in sub-section (1), no proceedings under³ [section 124, 125, 126, 128 or 165] of the Income-tax Ordinance, 1984 (XXXVI of 1984), section 16, 23 or 24 of the Excess Profits Tax Act, 1940, or section 15, 21 or 22 of the Business Profits Tax Act, 1947, shall be initiated in

¹ The words and figure "contained in section 93" were substituted for the words and figure "contained in section 34" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, figures and commas "section 14 of the Business Profits Tax Act, 1947," were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words, figures and commas "section 124, 125, 126, 128 or 165" were substituted for the words, figures and comma "section 28, 51 or 52" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

respect of any income, profits or gains disclosed by a person to the Tribunal at any stage of the proceedings before the Tribunal.

(3) In all assessment or re-assessment proceedings taken in pursuance of the Tribunal's decision, the findings of the Tribunal on the case or on the point or points raised before it shall, subject to the provisions of sub-sections (4) and (5), be final, but no proceedings taken in pursuance of the Tribunal's decision shall be a bar to the initiation of proceedings under ¹[section 93] of the Income-tax Ordinance, 1984 (XXXVI of 1984).

(4) In respect of any order made in the course of proceedings taken in pursuance of the Tribunal's order the provisions of ²[sections 121, 153, 158, 160, 161 and 162] of the Income-tax Ordinance, 1984 (XXXVI of 1984), and the corresponding provisions of the Excess Profits Tax Act, 1940, and the Business Profits Tax Act, 1947, shall not apply so far as matters declared final by sub-section (3) are concerned.

(5) Notwithstanding anything contained in this section, the Tribunal shall have power, either of its own motion or on an application of the person concerned or of the Income-tax Officer, to correct clerical or arithmetical mistakes in its order or errors therein arising from any accidental slip or omission ³[* * *].

¹ The word and figure "section 93" were substituted for the word and figure "section 34" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, figures and commas "sections 121, 153, 158, 160, 161 and 162" were substituted for the words, figures and commas "section 30, 31, 33, 33A, 66 and 66A" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The commas, words and figures " , and after the Tribunal has ceased to exist, the Commissioner of Income-tax having Jurisdiction over the case may exercise the powers conferred upon him by section 35 of the Income-tax Act, 1922, as if the Tribunal's order was an order passed by him" were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(6) Notwithstanding anything to the contrary contained in this Act, or in any other law for the time being in force, any evidence produced before the Tribunal or the Registrar shall be admissible in evidence in any proceedings taken under sub-section (1).

(7) Save as otherwise provided in this Act, the provisions of ¹[section 168] of the Income-tax Ordinance, 1984 (XXXVI of 1984), shall apply to all statements, returns, accounts, documents, evidence, affidavits, depositions or records made, given, produced or obtained in connection with or in the course of the proceedings before the Tribunal or before the Registrar.

Settlement of cases

9. (1) Where any assessee applies to the Tribunal at any time during the course of the proceedings to have the case or any point thereof settled in so far as it relates to him, the Tribunal shall, if it is of opinion that the terms of the settlement contained in the application are such as may be accepted, arrive at a settlement with such person and make an order setting out the terms of the settlement and thereupon all further proceedings in so far as they relate to matters covered by such settlement shall be deemed to be closed.

(2) For the purpose of enforcing the terms of any settlement arrived at in pursuance of sub-section (1), the Tribunal may direct that such proceedings, as may be specified under the Income-tax Ordinance, 1984 (XXXVI of 1984), the Excess Profits Tax Act, 1940, the Business Profits Tax Act, 1947, or any other law, against the person to whom the settlement relates ²[* * *].

¹ The word and figure "section 168" was substituted for the word and figure "section 54" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, commas, figures and brackets "and, in particular, the provisions of the second proviso to clause (a) of sub-section (5) of section 23, section 24B, the proviso to sub-section (2) of section 26 and sections 44 and 46 of the Income-tax Act, 1922 shall be applicable to the recovery of any sum specified in such settlement by the Income-tax Officer having jurisdiction to assess the person by whom such sum is payable as if it were income-tax or an arrear of income-tax within the meaning of those provisions" were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(3) Subject to the provisions of sub-section (5) of section 8, any settlement arrived at under this section shall be conclusive as to the matters stated therein, and no person whose case has been so settled shall be entitled to re-open in any proceeding for the recovery of any sum under this section or in any subsequent assessment or re-assessment proceeding relating to taxation on income or in any other proceeding before any Court or other authority any matter which forms part of such settlement.

(4) Where a settlement has been made by the Tribunal under sub-section (1), no proceeding under ¹[section 93] of the Income-tax Ordinance, 1984 (XXXVI of 1984), or under section 15 of the Excess Profits Tax Act, 1940, or under section 14 of the Business Profits Tax Act, 1947, shall be initiated in respect of the items of income covered by the settlement unless the initiation of such proceeding is expressly allowed by the terms of the settlement.

10. In any proceedings under this Act, the Tribunal may, in its discretion, admit in evidence and act upon any document notwithstanding that it is not duly stamped or registered.

Admission of evidence

11. No person shall be entitled to inspect, call for, or obtain copies of any documents, statements or papers or materials furnished to, obtained by or produced before the Tribunal or the Registrar in any proceedings under this Act save as the Tribunal, and after the Tribunal has ceased to exist such authority as the Government may in this behalf specify, may, in its discretion, allow.

Inspection of records

12. Nothing in sub-section (1) of ²[section 168] of the Income-tax Ordinance, 1984 (XXXVI of 1984), or of that section as applied to excess profits tax by section 21 of the Excess Profits Tax Act, 1940, or business profits tax by section 19 of the Business Profits Tax Act, 1947, shall apply to the

Disclosure of information in assessment records

¹ The word and figure “section 93” were substituted for the word and figure “section 34” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word and figure “section 168” was substituted for the word and figure “section 54” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973) as amended by the Bangladesh Laws (Revision and Declaration) (Second Amendment) Act, 2000 (Act No. XL of 2000).

disclosure of any of the particulars referred to therein in any proceeding before the Tribunal or in any order made by the Tribunal or in any report submitted to the Tribunal by the Registrar.

Appearance by authorised representative

13. Any person who has submitted a declaration under subsection (1) of section 5 may be represented by a pleader, a registered accountant or an employee duly authorised to act on his behalf.

Power to take evidence on oath, etc.

14. (1) The Tribunal shall have power to administer oaths, and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing attendance of any person and examining him on oath or affirmation, compelling the production of documents and issuing commissions for the examination of witnesses, and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 for the purposes of section 196 of the ¹[* * *] Penal Code.

(2) The Tribunal may impound and retain in its custody for such period as it considers fit any books of account or other documents produced before it in any proceeding under this Act.

Bar of suits

15. (1) No act or proceeding of the Tribunal shall be called in question in any manner by any Court, and no suit, prosecution or other legal proceedings shall lie against the Government or any member of the Tribunal or any other person for anything in good faith done, or intended to be done, under this Act.

(2) Save in cases in which the Tribunal may exercise its powers under section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898,-

- (a) no suit, prosecution, or other legal proceeding shall be instituted against any person in any Civil or Criminal Court for any evidence given or produced by him in any proceedings before the Tribunal, and

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

- (b) no evidence so given or produced shall be admissible in evidence against such person in any suit, prosecution or other proceeding before such Court, except with the previous sanction of the Government.

16. The Tribunal shall, subject to the provisions of this Act, have power to regulate its own procedure (including the fixing of places and times of its sittings) and may act notwithstanding a vacancy in the number of its members; and the powers of the Tribunal under section 6 may, subject to such conditions as the Government may impose, be exercised by any one member authorised by the Government in this behalf.

Power to regulate procedure

17. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Act

Power to make rules