

LEGAL INSIGHTS

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Bangladesh is Now a \$409 Billion Economy:

- GDP Size Up, as New Base Year Takes Effect

GDP SIZE IN FY21

OLD BASE YEAR:

\$354b

NEW BASE YEAR:

\$409b



PER CAPITA INCOME

OLD BASE YEAR:

\$2,227

NEW BASE YEAR:

\$2,554

Economic growth rates posted in the recent years were revised downwards, though on the positive side the size of the economy expanded thanks to a new base year adopted by the Bangladesh Bureau of Statistics (BBS). Bangladesh's gross domestic product (GDP) grew at a pace of 8.15% in fiscal 2018-19, the highest on record, as per the base year 2005-06. But the growth rate fell to 7.88% as per the new base year of 2015-16.

A **Base Year** is a benchmark with reference to which national account figures such as GDP, gross domestic saving and gross capital formation are calculated. According to the new base year, Bangladesh was an economy of Tk 34,840 billion in current prices in FY21, up 15.7% from Tk 30,111 billion as per the previous base year. In constant prices, it stood at Tk 27,939 billion in FY21 as per the new base year, up from Tk 12,072 billion as per the old base year, according to BBS.

In terms of dollars, the GDP size stood at \$409 billion in the last fiscal year if Tk 85 per USD exchange rate is taken into account. Per capita income rose to \$2,554 in FY21 as per the new calculation, which was \$2,227 as per the old one. With the finalization of the new series, Bangladesh will be ahead of all other SAARC countries in terms of the recency of the national account's base year. Only the Maldives (2014) and India (2011-12) come close, while Pakistan (2005-06) and Sri Lanka (2010) are well behind.

The size of the agriculture, industry and services sectors has expanded as per the new base year. The new base year uses data on about 144 crops while computing the contribution of the agriculture sector to the GDP, which was 124 crops in the previous base year. As per BBS data, the gross value addition by the agriculture sector rose to Tk 4,061 billion in current prices in the last fiscal year, up from Tk 3,846 billion in the old estimate. The industrial sector saw the addition of the data on the outputs of Ashuganj Power Station Company, North-West Power Generation Company, Rural Power Company, cold storage for food preservation, Rajshahi Wasa, and the ship-breaking industry. In the new base year, the gross value addition of the sector stood at Tk 11,362 billion in FY21 while it was Tk 8,944 billion as per the old base year.

The data about growing ride-sharing services, privately run motor vehicles, national flag carrier Biman, private carriers US-Bangla and Novoair, private helicopter services, Bangladesh Submarine Cable Company, motion pictures, cinema halls, new banks, mobile financial services, agent banking, and private healthcare services were included. The sector's value addition increased to Tk 18,098 billion in FY21 compared to Tk 16,144 billion from the old base year. In a positive development, the investment-GDP ratio rose to 30.76% in the last fiscal year compared to 29.92% in the old base year of 2005-06.

CASE LAW UPDATE

Belayet Hossain -VS- Anti-Corruption Commission and Others

Background Facts:

Mr. Belayet Hossain was the owner of land which was acquired in 2018-2019 and obtained compensation amounting to Tk. 1,08,50,514.08 by two cheques. Thereafter, he purchased some other land with that money and made a FDR of Tk 50 lac in a Bank. When he wanted to withdraw his fixed deposit from the bank and close his account, the Bank officials cited a letter issued by an Anti-Corruption Commission (hereinafter referred to as ACC) official that led to freezing his account but did not produce the letter to Mr. Belayet. Challenging such act by the ACC official, Mr. Belayet filed a writ petition before the Honorable High Court Division of Bangladesh which was heard on 23.06.2021 and finally Judgement was delivered on 27.06.2021

Issues before the Court:

1. Whether the ACC has the authority to freeze or attach any asset?

Reasoning of the court:

The Court perused the Affidavit-in-opposition of the respondent ACC however it did not state whether it had given any instruction to the ACC official issuing such letter to the Bank. The court looked into the relevant provision of Anti-Corruption Commission Act, 2004 and Anti-Corruption Rules, 2007. Rule 18 of the Anti-Corruption Commission Rules, 2007 deals with attach and freeze of the 'crime acquired property' by the Commission. Rule 18 clearly lays down the procedure for freezing or attachment of a property belonging to persons alleged to have illegally acquired any property. In such case, the commission has to apply for freezing or attachment to the concerned court of Senior Special Judge or the trial Judge, as the case may be.

The Court observed that it was crystal clear that without the permission of the Court concerned, no one even the Commission has got no power to pass any order of freezing or attachment or to impose any restriction with regard to a property of a citizen of the country to have been inquired by illegal means i.e. "crime acquired property". The rules do not provide any power to an inquiry or investigating officer or any other officer of the ACC for freezing or attachment of a 'crime acquired property' or otherwise imposing any restriction to enjoy the same at his whim.

Before freezing or attachment of any property, the Commission prima-facie has to be satisfied first that the alleged property has been acquired by illegal means and then, the Commission should have authorized its officer to apply before the Senior Special Judge or the trial Judge, as the case may be for freezing or attachment of such property. And thereafter, the authorized officer, should have filed an application before the Court concerned stating the reasons for attachment or freezing the property, as the case may be with sufficient materials. Finally, the Court concerned may pass an order of attachment or freezing the property after being prima-facie satisfied that said property has been acquired by the concerned person by illegal means.

Decision:

The court held that the letter by the ACC official to the Bank requesting the Bank to not allow Mr. Belayet to withdraw the money from his account is devoid of any authority, illegal, arbitrary, without jurisdiction and colorable exercise of power and is of no legal effect. A rule was issued in this regard and made absolute. However, the Court held that this judgement will not debar the Commission to take any action with regard to the property in question in accordance with the law if prima facie it has been found that same is the 'crime acquired property'.



Legislative Updates

Summary of the Product Packaging Rules, 2021

The Ministry of Industries recently published the Product Packaging Rules, 2021 (the "Rules") by repealing the Bangladesh Standard Weights and Measures (Materials) Packaging Rules, 2006 under the powers conferred upon the ministry through section 24 & 72 of the Weight and Measurement Standards Act, 2018. The new Rules is comprised of Nine (9) Chapters and ten (10) schedules. The Rules defined Package as, "Any case, box, cartoon, packet or sack pack, container, container paper, wrapper, folding paper box, vessel, canister, bottle, can, bundle, gait, packing, label tickets, reels, frames, cones, capsules, caps etc." The first chapter of the Rules fairly lay down the definitions and to understand and have an outlook on the overview structure of the Rules, the following has been summarized for clarity:

Chapter 2:

This chapter outlines the provision of packaging product manufactured for retail purposes and retail packaging and further sets out in detail the (a) Provisions for sale of packaged goods, (b) Wrapping and selling products in specific quantities or numbers and in standard packaging, (c) Giving declaration on the packaging, (d) General provisions for declaration of quantity, (e) The shape and letter of the numeric number of the declaration regarding the weight or quantity of the product in the main exhibition panel etc., (f) Announcement regarding names and addresses of manufacturers, etc., (g) Place to display announcements, (h) Procurement procedure, (i) Product based quantity declaration method, (j) A description of a unit of weight or quantity, (k) Provide additional declaration in case of attached packaging, (l) Provide additional declaration in case of attached packaging in the case of integrated

packaging, (m) Declaration regarding the volume of the product concerned, (n) Declaration of product size and weight on the packaging in some cases, (o) Provide declaration regarding number of sheets to be used, (p) Procedure for declaration of product nature of container nature.

Chapter 3:

The chapter sets out the provisions regarding misleading the consumer through false and misleading information about the packaging and imposes prohibition on presenting false and misleading information about packaging sizer, shape, color and product.

Chapter 4:

This chapter talks about wholesaler & retail dealers & related vegetarian or non-vegetarian food products, also, provisions relating to wholesaler dealer and retailers; further specifies special terms for labeling packaged vegetarian or non-vegetarian foods.

Chapter 5:

This broadly described regarding defect detection and inspection method of wrapping and wrapping products including but not limited to (a) procedure for testing and error detection of packaging products under the jurisdiction of manufacturers, packaging and importers, (b) wrapping products under the jurisdiction of the manufacturer and packaging manufacturer, (c) what to do in case of tested wrappers under the jurisdiction of wholesaler or retailer, (d) considerations in the quantity of packaging products and in the diagnosis of packaging defects, (e) defective wrapper re-wrapping or confiscation in failure.

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Legislative Updates

In addition to that, **Chapter 6** of the Rules states that necessary announcement to be made for wholesale marketable packaging products.

Chapter 7 states the provisions as to export and import of wrapped goods or products including the announcement in case of export wrapped products, compliance with the laws of the country to which the export wrapped product will be exported, prohibition on sale of packaged goods or product in Bangladesh for export and other provisions applicable to packaged goods or products imported into Bangladesh.

Chapter 8 further stipulates the registration requirement for product packaging and provision as to registration at permanent address, payment of fees, preparation and supply of inventory or packaging list and exemption for certain packaging. After being pursued and properly applied to the relevant authority which is the BSTI (Bangladesh Standard and Testing Institution) for registration, thereafter, the relevant authority shall issue a certificate in the name of the applicant for the relevant product and the certificate receiver shall be bound to abide by the terms and conditions contained in the certificate (which has been provided hereunder):

In Other News

Mobile Data Users to Double by 2030

Bangladesh's telecom sector is expected to thrive in the current decade on the back of a spike in demand for mobile data.

As per a recent report by UCB Asset Management, mobile data subscribers are expected to be more than double by 2030, thanks to a change in lifestyle during the coronavirus pandemic, rural inclusion, massive usage of social media, diverse digital content, peoples' higher income level, and so on. As a result, unique mobile data subscribers may go up to 11.8 crore from 4.7 crore in 2030, said the Bangladesh Telecom Sector Outlook in the Fresh Decade.

Over the past few years, increased social media usage has driven the rise in data consumption. The global pandemic has introduced more people to diverse usage of internet than just for building connection and entertainment. According to the report, mobile data usage per smartphone rose to 3.6 gigabytes per month in the first half of 2021, up from 2 GB in 2020. The number of unique mobile internet subscribers has risen by 10.4% annually since 2016. With an expected annual growth of 9.6%, the figure is likely to reach 11.8 crore by 2030.

At present, there are 4.76 crore internet users in Bangladesh, representing 28.8% of the population.

Receiving Donation from Foreign Donors

Non-governmental Organizations (NGOs) and International Non-Governmental Organizations (INGOs) have a pivotal role in the economic development of developing countries like Bangladesh. They also have an important role in the development of the socio-economic culture of the country, by providing services to the society through voluntary and charitable works for community development, assistance in natural disaster and sustainable system development.



Their target groups are mainly the poor and vulnerable ones with hardly any possession. It is the NGOs who are mostly working for the eradication of poverty, removal of illiteracy from the nations, creating public awareness, ensure rights of the deprived people etc.

There are a number of organizations in Bangladesh, who are working in this regard. To conduct their activities and fulfil the target, they need to raise fund by receiving significant amount of fund from the donors and they receive such donation either locally or internationally. Unlike local donation, receiving foreign donation in Bangladesh is a complicated process and a lot of formalities are involved.

In Bangladesh, there is specific law for providing the guideline on the process of receiving foreign donation, which is known as Foreign Donation (Voluntary Activities) Regulation Act, 2016 (the "Act") and the regulatory authority of receiving foreign donation is NGO Affairs Bureau (the "NGOAB").

Any organization, registered under Bangladeshi law or foreign, involved with the voluntary activities i.e. charitable social, religious, cultural, educational activities, rehabilitation and relief etc. shall be eligible to apply to the NGOAB for obtaining foreign donation. However it is pertinent to mention here that before applying to the NGOAB for obtaining foreign donation, it is prior condition that the relevant organization should have registration with the NGOAB, which is also known as the FD-1 registration. Moreover, the relevant organization needs to open a bank account with a scheduled bank, obtain project approval and sanction approval as part of the formalities to get foreign donation.

For the purpose of getting the entity registered with NGOAB, the NGO/INGO in question would have to submit application for registration through the FD-1 form to the Director General of NGOAB along with supporting documents. The government fees for the purpose of registration is BDT. 50,000.00 for Local NGOs and an amount equivalent to USD. 9,000.00 for Foreign NGOs. to complete the whole registration period, it would require a total of 78 days and at the end of that the NGO/INGO would get a registration valid for a period of 10 years.

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A registered entity can then apply for project approval followed by sanction approval after they have obtained a bank account with a scheduled bank. In order to obtain the project approval, an application needs to be made to the Director General of the NGOAB along with the FD-6 and FD-2 Form. No fees are required for this purpose. Within 26 days, the project approval will be obtained. With the project approval in hand, to bring the foreign donation, the next step would be to get the sanction approval. To obtain the sanction approval, FD- 2 and FD- 3 form along with annual activity report, audit report, certificate of local administration has to be submitted to the related project branch of NGOAB. No fee is required for this and the process generally requires 9 days.

Once the entity has registered with NGOAB, opened a bank account with a scheduled bank, obtained project approval and lastly obtained sanction approval, then it shall be eligible to bring foreign donation. However, it varies from project to project depending on the type of the respective project. For Emergency Relief Projects, the FD -7 and FD- 2 along with Donor Commitment Letter needs to be submitted to the Related Project Branch of NGOAB. No fee is required for this and the approval would be made within 24 hours.

And for Rehabilitation Projects and Release Funds, application needs to be made to the NGOAB along with the FD – 6 and FD - 2 form and Donor Commitment Letter. The Application will then be sent to the relevant Ministry for approval. Here, no fees are required as well and the process can take up to 21 days.



It is to be noted that being regulatory authority the NGOAB, shall have the power to monitor, investigate the activities of the organization. And if any irregularities or violation of any provision of the Act found during investigation NGOAB may impose sanction on the relevant organization which may include serving warning letter, cancellation of registration of the organization, withdrawal or cancellation of the voluntary activities, imposing fine which is equivalent to thrice of the donation or less in case of receiving donation without approval of the NGOAB.

Although there is a prescribed time limit to complete the whole process, however, due to the administrative bureaucracy and syndication most of the time it takes bit long time to complete the full process resulted failing to complete the project within the expected time, which sometimes have significant financial implication on the organization. Accordingly, before planning to receive any foreign donation the organization should provision the additional time and take necessary arrangement accordingly.



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