

**Income Tax Ordinance, 1984**  
**Chapter XVIII B**  
**Resolution of Cases**

**152F. Definitions:**

In this Chapter, unless there is anything repugnant in the subject or context,

- (a) "Bench" means a Bench of the Resolution Commission;
- (b) "Case" means any proceedings for assessment of income tax under this Ordinance, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under section 152L of this Ordinance is made:

Provided that when any case or matter is sent back in any appeal or revision or reference by the Appellate Tribunal or the High Court Division or any other authority under the Ordinance, to an Assessing Officer for a fresh assessment, reassessment or re-computation, as the case may be, such case shall not be deemed to be pending within the meaning of this clause.

- (c) "Chairman" means the Chairman of the Resolution Commission;
- (d) "Commissioner (Investigation)" means the Commissioner of Taxes appointed as such to conduct inquiry or investigation for the purposes of this Chapter;
- (e) "Member" means a Member of the Resolution Commission and includes the Chairman and the Vice-Chairman thereof;
- (f) "Resolution Commission" means the Income Tax Resolution Commission appointed under section 152G;
- (g) "Vice-Chairman" means a Vice-Chairman of the Resolution Commission.

**152G. Resolution Commission:**

- (1) The Government shall appoint a Commission to be called the Income Tax Resolution Commission which shall exercise such powers conferred upon and discharge such functions assigned to it under this Chapter.
- (2) The Resolution Commission shall consist of a Chairman and as many Vice-Chairmen and Members as may be determined by the Government from time to time.
- (3) The Chairman, Vice-Chairman and other Members of the Commission shall be appointed by the Government from amongst persons of

integrity and outstanding ability having special knowledge of, and, experience in, matters relating to direct taxes, accounts and business.

- (4) The Government may appoint a retired judge of the High Court Division to be the Chairman of the Commission.
- (5) A person shall not be appointed as a Vice-Chairman or Member of the Commission unless-
  - (i) he was or is a member of the Board or holds the current charge of a member of the Board; or
  - (ii) he was or is a District Judge for at least three years; or
  - (iii) he is an advocate practicing in the Supreme Court of Bangladesh for a period of not less than ten years; or
  - (iv) he is a chartered accountant practicing for a period not less than ten years; or
  - (v) he is an income tax practitioner within the meaning of section 174(2)(f) and practiced for not less than twenty years:

Provided that, where a member of the Board is appointed as the Chairman, Vice Chairman or as a Member of the Resolution Commission, he shall cease to be a member of the said Board.

**152H. Jurisdiction and powers of Resolution Commission:**

- (1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Resolution Commission may be exercised by benches thereof.
- (2) Subject to the other provisions of this section, a bench shall be presided over by the Chairman or a Vice-Chairman and consist of two other Members.
- (3) The bench of which the Chairman is the presiding officer shall be the principal bench and the other benches shall be known as additional benches.
- (4) Notwithstanding anything contained in subsection (1) and subsection (2), the Chairman may authorize the Vice-Chairman or any other Member appointed to one bench to also discharge the functions of the Vice-Chairman or Members, as the case may be, of another bench.
- (5) The principal bench shall sit at Dhaka and the Government may, by notification in the Official Gazette, establish additional benches at such places as it considers necessary.

- (6) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a bench (whether such person be the presiding officer or other Member of the bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the bench and if the presiding officer of the Bench is not one of the remaining Members, one of the remaining Members shall act as the presiding officer of the Bench as may be authorized by the Chairman:

Provided that if at any stage of the hearing of any case or matter, it appears to the presiding officer that the case or matter is of such a nature that it ought to be heard by a bench consisting of three Members, the case or matter may be referred by the presiding officer of such bench to the Chairman for transfer to such bench as the Chairman may deem fit.

- (7) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a special bench consisting of more than three Members.
- (8) Subject to the other provisions of this Chapter, the special bench shall sit at a place to be fixed by the Chairman.

**152I. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances:**

- (1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Government may, by notification in the Official Gazette, authorize in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.
- (2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Government may, by notification in the Official Gazette, authorize in this behalf, shall

discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

**152J. Power of Chairman to transfer cases from one bench to another:**

On the application of the assessee or the Commissioner of Taxes and after giving notice to them, and hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one bench to another Bench for disposal.

**152K. Decision to be by majority:**

If the Members of a bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Resolution Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Resolution Commission who have heard the case, including those who first heard it.

**152L. Application for resolution of cases:**

- (1) Notwithstanding anything contained in this Ordinance, an assessee may make an application to the Resolution Commission if he is aggrieved by an order of
  - (a) the Deputy Commissioner of Taxes under Chapter IX of this Ordinance; or
  - (b) an Inspecting Joint Commissioner of Taxes under section 10 or under section 120 of this Ordinance; or
  - (c) an Appellate Joint Commissioner of Taxes or Commissioner of Taxes (Appeal); or
  - (d) the Taxes Appellate Tribunal under section 159 of this Ordinance.
- (2) An assessee may make, on the coming into force of this Chapter, an application to the Resolution Commission at any stage of the proceedings pending before the Appellate Joint Commissioner of Taxes or the Commissioner of Taxes (Appeals) and the Taxes Appellate Tribunal or before the High Court Division under this Ordinance or under Article 102 of the Constitution of Bangladesh, upon withdrawal of such proceedings from the respective appellate authority or the Court.

- (3) Upon such withdrawal, the proceeding shall, for the purposes of this chapter, be deemed to be a proceeding pending before the Deputy Commissioner of Taxes.
- (4) An application to the Resolution Commission shall be made within a period of thirty days from the date of such withdrawal.
- (5) Where an application made to the Resolution Commission under this section is not entertained by such Commission, then, the appeal, reference or writ petition shall, as case may be, be deemed to have been revived before the aforesaid Appellate authority or the Court and the provisions contained in section 156 or section 159 or section 161 shall, so far as may be, apply accordingly.
- (6) Notwithstanding anything contained in the previous subsections, an application shall not be entertained by the Commission unless,
  - (a) the application is made within sixty days from the date of the order by which the applicant is aggrieved or the withdrawal under subsection (2);
  - (b) the application is made in the form and verified in the manner and accompanied by such documents as may be prescribed by rules;
  - (c) has paid taxes under section 74;
  - (d) has paid a fee of taka two thousand; and
  - (e) the additional amount of income tax payable on the income disclosed in the application made under subsection (1) which is not less than taka two lakh has been paid before the application is made before the Resolution Commission.

**152M. Disposal of application by the Commission:**

(1) On receipt of an application under section 152L, the Resolution Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain in writing as to why the application should be allowed to be proceeded with and after taking into consideration of such explanation, the Resolution Commission shall, within a period of fifteen days from the date of the notice issued, by an order, allow the application to be proceeded with or reject the application, as the case may be, and upon rejection of the application the proceedings before the Resolution Commission shall abate on the date of rejection:

Provided that an application shall not be rejected under this subsection, unless the assessee has been given an opportunity of being heard.

Provided further that where no notice has been issued or no order has been passed within the aforesaid period by the Resolution Commission, the application shall be deemed to have been allowed to be proceeded with.

- (2) A copy of every order under subsection (1), shall be sent to the assessee and to the Commissioner of Customs having jurisdiction.
- (3) Where an application is allowed to be proceeded with under subsection (1), the Resolution Commission may forward the application to the concerned Commissioner of Taxes, Appellate Joint Commissioner of Appeals or the Commissioner of Taxes (Appeals), as the case may be, and call for a report along with relevant records from the Commissioner of Taxes having jurisdiction who shall furnish a report within a period of thirty days from the date of communication from the Resolution Commission.
- (4) When an application is allowed to be proceeded with under subsection (1), all proceedings and orders against which the application was made before the Resolution Commission shall be kept in abeyance until the application is disposed of by the Resolution Commission.
- (5) After examination of such records, if the Resolution Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner (Investigation) to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.
- (6) After examination of the records and the report of the Commissioner of Taxes received under sub-section (3), and the report, if any, of the Commissioner (Investigation) of the Commission under subsection (5), and after giving an opportunity to the applicant and to the Commissioner of Taxes having jurisdiction, as the case may be, to be heard, either in person or through a representative duly authorised in this behalf, and after examining and considering such further evidence as may be placed before it or obtained by it, the Commission may, in

accordance with the provisions of this Ordinance, pass such order as it thinks fit.

- (7) Every order passed under sub-section (6) shall provide for the terms of resolution including any demand of tax, interest, the manner in which any sum due under the resolution shall be paid and all other matters necessary to make the resolution effective and shall also provide that the resolution shall stand void if it is subsequently found by the Resolution Commission that it has been obtained by fraud or misrepresentation of facts.
- (8) The Commission shall pass its order under this section within six months from the date of the receipt of the application and shall communicate the order to the applicant and the concerned Commissioner of Taxes, as the case may be, within thirty days from the date of passing of such order.
- (9) The Commission may, on the basis of an application by the assessee, extend the period of payment up to three months or make the payment in installments within the time mentioned in sub-section (8).
- (10) Where any tax payable in pursuance of an order passed under subsection (6) is not paid by the assessee within thirty days of receipt of the order by him, then, whether or not the Resolution Commission has extended the time for payment of such taxes or has allowed payment thereof by installments, the assessee shall be liable to pay simple interest at the rate of ten percent per annum or at such other rate as notified by the Board on the amount remaining unpaid from the date of expiry of the period of thirty days aforesaid.

**152N. Power of Commission to grant immunity from prosecution and penalty:**

- (1) The Commission may, if it is satisfied that any person who made the application for resolution under section 152M has cooperated with the Resolution Commission in the proceedings before it and has made a full and true disclosure of his income, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Ordinance and also either wholly or in part the imposition of any penalty, fine and interest under this Ordinance, with respect to the case covered by the resolution:

Provided that no such immunity shall be granted by the Resolution Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 152L.

- (2) An immunity granted to a person under subsection (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the resolution passed under subsection (6) of section 152M within the time specified in such order or within such further time as may be allowed by the Resolution Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Ordinance shall apply as if such immunity had not been granted.
- (3) An immunity granted to a person under subsection (1) may, at any time, be withdrawn by the Resolution Commission, if it is satisfied that such person had, in the course of the resolution proceedings, concealed any particular material to the resolution or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to be guilty in connection with the resolution and shall also become liable to the imposition of any penalty under this Ordinance to which such person would have been liable, had no such immunity been granted.

**1520. Power of Resolution Commission to send a case back to the respective Income Tax Authority:**

- (1) The Resolution Commission may, if it is of the opinion that the assessee who made an application for resolution under section 152L has not cooperated with the Commission in the proceedings before it, send the case back to the appropriate income tax authority, who shall thereupon dispose of the case in accordance with the provisions of this Ordinance as if no application under section 152L had been made.
- (2) For the purpose of subsection (1), the concerned income tax authority, shall be entitled to use all the materials and other information produced by the assessee before the Resolution Commission or the results of the inquiry or investigation held or evidence recorded by the Resolution Commission in the course of the proceedings before it as if such

materials, information, inquiry and evidence had been produced before such income tax authority or held or recorded by him in the course of the proceedings before him.

- (3) For the purpose of counting of time so spent and/or of interest accrued in any case under any section of this Chapter, the period commencing on and from the date of the application made to the Resolution Commission under section 152L and ending with the date of receipt by the Assessing Officer or the Appellate Authority of the final order of the Restitution Commission sending the case back to the Assessing Officer or the Appellate Authority, as the case may be, shall be excluded.

**152P. Order of Resolution to be conclusive:**

Every order of resolution passed under subsection (6) of section 152M shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Ordinance.

**152Q. Recovery of sums due under order of resolution:**

Any sum specified in an order of resolution passed under subsection (6) of section 152M may, subject to such conditions if any, as may be specified therein, be recovered, and any interest for default in making payment of such sum may be imposed and recovered as sums due to the Government in accordance with the provisions under Chapter XVI of this Ordinance by the Deputy Commissioner of Taxes having jurisdiction over the applicant who made the application for resolution under section 152L.

**Section 152R. Bar on subsequent application for resolution in certain cases:**

Where,

- (i) an order of resolution passed under subsection (6) of section 152M provides for imposition of a penalty on the person who made the application under section 152L for resolution, on the ground of concealment of particulars of his income; or
- (ii) after the passing of an order of resolution under the said subsection (6) in relation to a case, such person is convicted of any offence under this Ordinance in relation to that case; or
- (iii) the case of such person is sent back to the Commissioner of Taxes having

jurisdiction by the Resolution Commission under section 1520;  
then, he shall not be entitled to apply for resolution under section 152L in relation  
to any other matter.

**Section 196S. Proceedings before Resolution Commission to be judicial proceedings:** Any proceedings under this Chapter before the Resolution Commission shall be deemed to be a judicial proceeding within the meaning of section ... and ... , and for the purposes of section 196 of the Penal Code (Act 45 of 1860).