

South Asian Economies Moving to Re-emergence in Export Markets

Export figures from South-Asian nations are showing signs of a gradual recovery from the upsetting effects of the Covid-19 pandemic, with global retailers beginning to receive canceled or held orders as lockdowns are slowly being eased in the West.

Though economists have pointed out that success in retaining the recovery, however, will depend on how the countries in the region undertake measures to halt the spread of the virus and reset economic policies to revive their struggling economies under a new global perspective

Exports of Selected South Asian Countries - April to June <i>Figures in billion USD</i>			
Country	April	May	June
Bangladesh	0.52	1.46	2.71
India	10.36	19.05	21.91
Pakistan	0.96	1.39	1.59
Sri-Lanka	0.25	0.60	0.95

Since the outbreak of Covid-19 in March, exports from such South Asian nations like Bangladesh, India, Sri Lanka and Pakistan have been facing a big jolt with the pandemic badly disrupting the global supply chain.

In June, export earnings recovered from a sharp fall of the previous months, although negative growth trends are still stalking this region. Bangladesh, the second largest exporter of apparel goods after China, went through a severe impact of the pandemic in March, with an 18.2% fall which worsened in April by a 82.85% slump to \$520 million.

In May, earnings started recovering and improved to \$1.46 billion, but still with a 61.57% fall month-over-month. Exports recovered largely in June, posting a 2.5% decline to \$2.71 billion in proceeds, against \$2.78 billion bagged in the same month of last year. Exporters and economists have opined that the better performance in June has been due to shipments of canceled or held orders.

According to India's Ministry of Commerce and Industry, exports in June amounted to \$21.91 billion, compared to \$25.01 billion in June last year. Indian exports in May shrank 36.47% to \$19.05 billion. It had contracted by 60.28% to \$10.36 billion in April, caused by a cancellation of orders.

On the other hand, according to the Pakistan Bureau of Statistics (PBS), exports in June 2020 witnessed a decline of 6.11% to \$1.59 billion, showing signs of recovery after the historic plunge of 54% in April. However, its exports registered a 14.54% rise in June compared to May, when they raked in \$1.39 billion. After experiencing a sharp decline in March and April, Sri Lanka's exports rebounded to \$950 million in June. The figure had been \$250 million in April 2020.

The sustainability of exports and economic recovery of the region will depend on how these countries control the spread of the virus. China, South Korea and Vietnam have had the maximum possibilities of sustaining the comeback as they were able to address the reasons behind the fall of their exports. In June, China's exports rose by 0.5% to \$213.6 billion, thus showing signs of recovery.



Legislative Update

- Unofficial Translation

Bangladesh National Parliament

Dhaka, 09 July, 2020

The following law passed by the Parliament has been approved by the Honorable President on 9th July 2020, and hereby the law is being made public: -

Act No. 11 of 2020

An Act enacted to empower the courts to use information technology to ensure the virtual presence of the parties during the delivery of judgments, Judicial trials, judicial inquiry, or hearing of application or appeal, or taking evidence, or arguments or delivering an order or judgment

Whereas it is expedient and necessary to make provision for empowering the court to use the information technology to ensure the virtual presence of the parties in the trial, judicial inquiry, or hearing of the application or appeal, or taking evidence, or taking arguments, or delivering an order or judgment;

Since it is hereby enacted as follows: -

1. Short title and introduction-

- (1) This Act shall be called the Use of Information Technology by the Court Act, 2020.
- (2) It will take effect immediately.

2. Definition- (1) In this Act, unless there is anything repugnant in the subject or context-

- a) "**Law**" means "law" as defined in Article 152 of the Constitution of the People's Republic of Bangladesh;

b) "**Court**" means Appellate Division and the High Court Division of the Supreme Court including all subordinate courts or tribunals;

c) "**Civil Procedure**" means Code of Civil Procedure 1908 (Act No. V of 1908);

d) "**Criminal Procedure**" means Code of Criminal Procedure, 1898 (Act No. V of 1898);

e) "**Virtual Presence**" means the presence or participation of a person in the judicial proceedings of a court through audio-video or any other similar electronic means.

(2) All words or expressions used in this Act which are not defined herein, shall be prescribed the meaning which has been used in the Civil Procedure Code or the Criminal Procedure Code.

3. Power to conduct judicial proceedings through the use of information technology by the Courts-

(1) Without prejudice to the provisions relating to the concerned matter in the Criminal Procedure or Civil Procedure Code, any Court, subject to publishing practice directions (special or general) issued under section 5 of this Act, may use audio-video or any other electronic means to ensure the virtual presence of the parties or their lawyer or other persons or of witnesses for conducting trial, judicial inquiry, or hearing of an application or appeal or the taking of evidence, or the taking of arguments, or the delivering an order or judgment in any case.

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Legislative Update

(2) under sub-section (1), matters other than ensuring the virtual presence of the parties or their lawyer or any other person or witness of case via audio video or any other electronic means, shall be as per the Criminal Procedure or, or Civil Procedure Code

4. Virtual presence being considered as physical presence in court- Confirmation of a person's virtual presence under section 3 shall be deemed to have fulfilled the condition of his physical obligation to the court under criminal procedure or civil procedure codes or any other law.

5. Ability to issue practice directions- For the purposes of Sections 3 and 4, the Appellate Division of the Supreme Court or, as the case may be, the High Court Division may, from time to time, issue practice directions (special or general) as required.

6. Repeal and custody-

(1) The use of Information Technology Ordinance by the Court, 2020 (Ordinance No. 1 of 2020) is hereby repealed.

(2) Notwithstanding the repeal under sub-section 1, the activities and/or the action taken under the repealed ordinance shall be deemed to have been done or taken under this Act.

In Other News

One-page tax return form launched

The National Board of Revenue (NBR) has launched a single-page income tax return form for small taxpayers in an attempt to simplify submission. The form has recently been introduced by issuing a gazette to make the return filing easier.

Many people having income below the taxable range of Tk 0.3 million will have to submit tax returns from this fiscal year as the tax authority has made the return filing mandatory for all TIN holders in the budget.

Individual taxpayers having taxable income and gross wealth not exceeding Tk 0.4 million and Tk 4.0 million respectively are eligible to file tax return in one-page return form from in line with the income tax ordinance-1984. But taxpayers exceeding the threshold would have to submit tax returns in a regular form with required information and statements.

In the form, an individual taxpayer will have to furnish the information of his or her total taxable income, gross wealth, amount of tax, name of bank and challan number, source of income, among other general information including name, present and permanent addresses, TIN, assessment year and name and circle of tax zone.

The taxpayer will have to make a voluntary declaration that they are eligible for the one page return form and they do not have motor car and investment in house property or in apartment in city corporation area.

CASE LAW UPDATE

Md. Shamsujjaman and others vs Bangladesh, represented by the Secretary, Ministry of Education, Ramna, Dhaka and others - 13 SCOB[2020] HCD 65

By an application under Article 102 of the Constitution of the People's Republic of Bangladesh, the petitioners, being 10 in numbers, have challenged the order of their expulsion from the Shahjalal University of Science and Technology, Sylhet on account of an incident where some miscreants attacked the teachers and students forming human chain.

An inquiry committee was formed. After conducting the inquiry, the committee submitted its report to the Proctor, being the Member Secretary of the committee, recommending action against certain students of the University, including the petitioners. In pursuance of the report and recommendation of the committee, the University Authority issued show cause letters, all dated 02.02.2014, upon the petitioners, asking them to submit reply within 15 days of receiving the said notice.

Earlier on 26.12.2013, the Inquiry Committee issued letters to petitioner nos. 1 and 2 only, asking them to appear before the committee on 30.12.2013. However, the petitioners refrained from appearing before the committee.

Subsequent thereto, on 27.02.2014, at its 183rd Meeting, the Syndicate of the University took a decision approving the temporary suspension order of the petitioners. However, on the very same day, the Syndicate also passed the order of expulsion of the petitioners.

Accordingly, in pursuance of the decision of the Syndicate, the impugned letters dated 16.03.2014 were issued to all the petitioners, communicating the orders of their expulsion from the University.

The petitioners filed applications before the Vice-Chancellor of the University with a prayer for cancelling the suspension order. However, there was no response from the other end. The petitioners issued a Notice Demanding Justice requesting the concerned respondents to cancel the expulsion order. However, no steps were taken by the respondents in that regard. Being constrained, the petitioners moved this Court and obtained the Rule.

The age old principle to ensure fair procedure while deliberating a decision that affects rights of a citizen has been upheld by Mr. Justice Zubayer Rahman Chowdhury in paragraph nos. 23, 24, 25, 44 and 45 of the judgment while examining the violations of natural justice as alleged by the petitioners in the following terms:

23. This concept of "administrative fairness" requires that an Authority, while taking a decision which affects a person's right prejudicially, must act fairly and in accordance with law. We note, albeit with utmost regret and disappointment, that in the instant case, there has been a gross violation of the well-settled principles of natural justice, and that too by the Syndicate. In our view, failure to comply with the principles of natural justice leads to arbitrariness, which in turn, vitiates the impugned order.

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24. From a plain reading of the show cause notice, it appears that the show cause notice merely states that an incident took place at the University Campus), without mentioning the exact place of the occurrence. Moreover, the said notice reveals that an attack took place on some teachers and students and some motorcycles and bicycles were burnt. However, there is no mention of the time of the incident nor is there any details or names of the teachers and students, who were alleged to have been injured, nor is there any mention of the extent and nature of the injuries sustained by them. There is also no mention of the number of motorcycle and bicycle that were alleged to have been burnt on that day at the place of occurrence. It is on the basis of such vague, unspecific and indefinite allegations that the show cause notices were issued upon the petitioners.

25. Furthermore, the show cause notice clearly states that an Inquiry Committee conducted the inquiry and submitted a report and thereafter, pursuant to the recommendations of the Committee, the decision to issue the impugned orders of expulsion was taken by the Syndicate. Admittedly, no such report was either annexed with the show cause notice itself nor was it served upon the petitioners to a later stage, thereby preventing them from giving a proper reply to the allegations brought against them, in the show cause notice.

44. We are conscious of the fact that the image of the University and the sanctity of the University premises cannot be allowed to be vandalized and perpetrators of such action

must be dealt with sternly, without showing any lenience, even if such perpetrators are the students of the University. However, in doing so, the Authorities must follow the principles of natural justice and conduct the proceeding in accordance with law and only in accordance with law.

45. The University, more particularly the Syndicate, being in a position of “loco parentis”, is obliged not only to observe the well-established principle of natural justice, but it must also act in accordance with law. Regrettably, in the instant case, not only did the University Authority fail to observe the due process of law, as guaranteed by our Constitution, but the impugned orders of expulsion were passed in gross violation of the principles of natural justice, which is manifested in the show cause notice itself.”

The Rule was made absolute mainly on the ground of breach of natural justice and the impugned order of expulsion was declared without lawful authority.

Landlord vs Tenant in view of the Premises Rent Control Act, 1991



Introduction:

It is a common phenomenon to have queries on the rights and obligations of property owner and Tenant generally and against each other, especially during or post Covid-19 economic recession. From both front, common queries are mainly on the rights of a Landlord to increase rent and eviction of a Tenant. The law in Bangladesh that governs the rights of Landlord and Tenant is an archaic one stipulated in 1991 namely the Premises Rent Control Act, 1991 ("the Act").

The main features of the Act are as follows:

- i. Annual rent should be equal to 15% of the market value of the premises (section 15 of the Act)
- ii. Owners cannot claim advance rent for more than 1 month without Rent Controllers permission (section 10 of the Act)
- iii. Signed receipt of rent is to be issued by Landlord (section 13 of the Act)
- iv. Owners cannot charge any rent in excess of standard rent determined by law (section 7 of the Act)
- v. Tenants cannot be evicted or threatened as long they pay standard rent and do not violate law (section 18 of the Act)

Rights and obligations of the parties:

For the best interest of the parties, it is advisable to execute a rental agreement on Tk. 300 stamp stipulating critical terms and conditions which includes but not limited to the tenure of agreement, addresses of the parties, monthly rent and when it is payable, charges applicable in excess of rent i.e. electricity, water, adjustment of advance.

It is a statutory obligation for the landowner to provide receipt of rent and preserve a copy of the receipt to himself. Penalty is payable for the failure of the landowner to provide such receipt (Section 27 of the Act-fine twice the amount realized). Landlord cannot demand advance rent for more than 1 month without the permission of the Rent Controller. Landlord is legally obliged to repair and maintenance of the premises. Rent Controller can direct Landlord to do repair of the premises. Following the spirit of section 16 of the Act, where it is provided that Rent Controller is to fix standard rent in every 2 years on the basis of application made by Landlord or Tenant, it is generally accepted that rent of premises is not be increased for a period of 2 years from the date when standard rent was determined.

Landlord cannot evict a Tenant if rent is paid as per the terms of the rental agreement. If the rental agreement is silent regarding timing of payment of rent, Landowner cannot evict a Tenant even provided rent is being paid by the 15th day on the month next following that for which rent is payable. However, Landlord can evict a Tenant for justiciable cause by providing 15 days notice in cases of monthly rent. If rental arrangement is in the form of lease or renting of factory, generally notice for a period of 6 months is to be provided. Below are the grounds prescribed by the Act replying on which Landlord can evict a tenant:

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- a. After the expiry of rental agreement
- b. Making structural change to the rented premises without the permission of landlord;
- c. Providing sub-let without permission of the Landlord
- d. Failure to pay rent
- e. Conduct of Tenant is a nuisance or an annoyance to occupiers of adjoining or neighboring premises
- f. Violate terms of the rental agreement
- g. Improper use of the premises
- h. Premises is bona fide required by the Landlord either for purpose of building or rebuilding the premises or for his own occupation or for the occupation of any person whose benefit the premises are held
- i. The Landlord can show any cause which may be deemed satisfactory by the Court.

Landlord is required to serve a notice by his lawyer or on his own to evict a Tenant. Having said that under section 18(2) of the Act, the fact that the period of the lease has expired, or that the interest of the landlord has been transferred shall not of itself be deemed to be a satisfactory cause (item h above), if the Tenant is ready and willing to pay rent to the full extent allowable by this Act. So, evicting a Tenant is tricky at times, even the premises is reality needed by the Landlord, if Tenant is willing and continues to pay standard rent. Landlord will have to wait until disposal of eviction suit brought for any one of combinations of the grounds mentioned above.

In circumstances mentioned in section 19 of the Act, Tenant can deposit rent to the Rent Controller. The common circumstances when rent is being deposited to the Rent -

Controller are refusal by Landlord to accept rent, bona fide dispute as to the person who is entitled to receive rent, where Landlord has left his usual place of residence etc.

Complaint relating to the following is to be brought before the Rent Controller in writing:

- a. Collection of rent in excess of standard rent (section 23 of the Act);
- b. Interfering with easement rights (section 24 of the Act)
- c. Providing wrong information of Landlord (section 25 of the Act);
- d. Failure of Tenant to deliver possession of premises (section 26 of the Act)
- e. Failure to provide rent receipts (section 27 of the Act)

There is a limitation period for bringing the complaints relating to section 23-27 of the Act and it is to be filed within 6 months from the date of commission of the offence.

Unfortunately, the standard area wise rent has not been finalized as of yet. Landlord recovers rent at their will as there is no prescribed standard rent. However, it is encouraging to note that from a report that recently the High Division has issued a Rule in a public interest litigation asking why the relevant section of the Premises Rent Control Act (section 15) that addressed the system to fix house rents should not be declared wrongful and illegal. The Rule also directs concerned government offices to reply why they should not be directed to make a commission to recommend and fix standard house rent. It is to be seen whether any positive outcomes comes for the Tenants after disposal of the Rule.