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Investor–State Arbitration Under the Singapore–Bangladesh BIT treaty: The S Alam Group's Claim Over Asset Freezes

Introduction:

Investor–State arbitration has become a critical mechanism for resolving disputes between foreign investors and host states, particularly under bilateral investment treaties (BITs). The Singapore–Bangladesh Bilateral Investment Treaty (BIT), signed in 2004, provides a framework for protecting investments and resolving disputes through arbitration, such as through the International Centre for Settlement of Investment Disputes (ICSID). The S Alam Group, a prominent Bangladeshi conglomerate now leveraging Singaporean citizenship, has initiated a high-profile dispute against the Bangladeshi interim government, claiming that asset freezes and related measures violate protections under the BIT.

Key Discussion:

The Singapore–Bangladesh BIT was established with the explicit intention of fostering economic and industrial cooperation, to create favourable conditions for investments by investors from either party, and to safeguard such investments through equitable treatment and full protection[1]. The treaty defines investments broadly to include movable and immovable property, shares, claims to money or contracts with economic value, intellectual property rights, and business concessions, among others[2]. Investors are afforded equitable treatment and full protection and security regarding their investments[3]. Importantly, the treaty includes a binding mechanism for the settlement of investment disputes through international arbitration, as detailed in Article 7, which allows investors to submit disputes to the International Centre for Settlement of Investment Disputes (ICSID) if amicable settlement fails within six months[4].

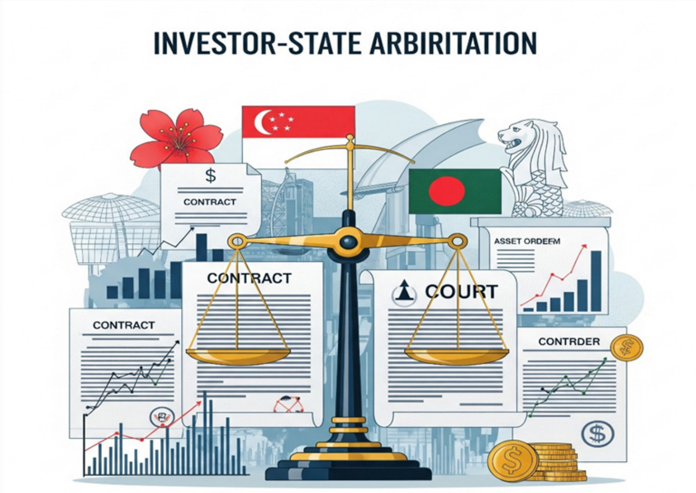
The S Alam group's chairman, Mohammed Saiful Alam, alleges that the actions of the Bangladeshi interim government, specifically freezing 64 bank accounts and multiple insurance policies held by him and his family in Singapore, have effectively destroyed the value of their investments[5]. Notably, the S Alam family formally renounced Bangladeshi citizenship in 2020, acquiring permanent residency in Singapore in 2011 and Singapore citizenship between 2021 and 2023, positioning themselves as Singaporean nationals eligible for protections under the Singapore–Bangladesh BIT[6]. These state measures followed allegations of financial misconduct under the previous government. S Alam contends that these restrictive actions were taken arbitrarily and without due process, violating the protections guaranteed by the BIT, including the clauses on equitable treatment and protection against expropriation without compensation[7].

Article 5(1) prohibits expropriation or measures equivalent to expropriation unless they are for a public purpose, non-discriminatory, in accordance with law, and accompanied by prompt, effective, and freely transferable compensation[8]. The S Alam Group's management changes and asset freezes effectively strip them of control over their investments, which constitutes indirect expropriation.

Article 6(1) guarantees the free transfer of capital and returns in a freely convertible currency without undue delay[9]. The asset freezes, by restricting access to funds, violates this provision, as they prevent the S Alam Group from repatriating profits or proceeds from their investments.

Concluding Remarks:

The S Alam Group's claim under the Singapore–Bangladesh BIT illustrates the complexities of investor–state arbitration, where investor rights intersect with state regulatory powers. The group's reliance on Articles 3, 5, 6, and 7 of the BIT underscores the treaty's robust protections. As the six-month negotiation period unfolds, the outcome will have significant implications for Bangladesh's investment climate and the broader application of BITs in developing economies. This conflict serves as a reminder of the fine line that must be drawn between safeguarding foreign investors and allowing governments to pursue justifiable regulatory goals.



Source: Illustrated

1. Bangladesh - Singapore BIT (2004), Preamble
2. Bangladesh - Singapore BIT (2004), Art 1(1)(a)
3. Bangladesh - Singapore BIT (2004), Art 3(2)
4. Bangladesh - Singapore BIT (2004), Art 7
5. "New Age BD, Freeze 64 Accounts, Assets of S Alam in Singapore: Court" (July 11, 2025) <https://www.newagebd.net/post/country/269717/freeze-64-accounts-assets-of-s-alam-in-singapore-court> (accessed on 19 July 2025)
6. The Daily Star, "S Alam Threatens Int'l Legal Action against Govt: FT" The Daily Star (December 23, 2024) <https://www.thedailystar.net/news/bangladesh/news/s-alam-threatens-intl-legal-action-against-govt- ft-3782831> (accessed on 19 July 2025)
7. Ibid
8. Bangladesh - Singapore BIT (2004), Art 5
9. Bangladesh - Singapore BIT (2004), Art 6

Splitting the National Board of Revenue: Legal Implications for Regulatory Predictability and FDI Attraction

Introduction
The National Board of Revenue (NBR) of Bangladesh plays a pivotal role in the administration of tax policies, collection of revenue, and regulation of fiscal laws. With the growing complexity of the tax ecosystem and the increasing demand for foreign direct investment (FDI), there have been calls for structural reforms, including the potential split of the NBR into separate wings or entities for direct and indirect taxes[1]. The rationale behind this move is to ensure efficiency, reduce administrative burden, and increase regulatory predictability—factors critical to improving the investment climate.

Key Discussion
The decision to bifurcate the NBR stems from the recognition that a single entity managing both tax policy formulation and its enforcement inherently creates conflicts of interest[2]. Critics have long argued that this dual mandate often led to policies prioritising short-term revenue collection targets over broader economic development, fairness, and long-term planning. By separating these functions, the government intends for the Revenue Policy Division to focus on strategic matters such as drafting tax laws, setting rates, and managing international tax treaties, while the Revenue Management Division will concentrate on operational aspects like enforcement, audits, and compliance. This specialization is expected to foster greater accountability and professionalism within each division, ultimately aiming to curb irregularities and improve the integrity of the tax system.
However, the legal implications for regulatory predictability are considerable. Any major restructuring of a key regulatory body inevitably introduces a period of uncertainty. For businesses, particularly foreign investors, a stable and predictable regulatory environment is a cornerstone for investment decisions. The transition from a unified NBR to two distinct divisions necessitates the development of new internal rules, procedures, and potentially amendments to existing tax laws. The protests by NBR officials, which reportedly caused disruptions in revenue collection and port operations, highlighted the potential for instability during this phase. Such administrative and operational disruptions can erode investor confidence by signalling a lack of regulatory stability, potentially deferring new investments and prompting existing ones to reconsider their position in the market. The government's acknowledgement of "flaws" in the initial ordinance and the establishment of an advisory committee to address them, while a positive step, also indicates the initial legal and practical complexities that arose from the rapid implementation of the reform.

Relevant Provisions
- The Revenue Policy and Revenue Management Ordinance, 2025: This is the foundational legal instrument. Its clarity, comprehensiveness, and the subsequent amendments based on recommendations from the advisory committee are crucial for establishing the new regulatory landscape[3]. Any ambiguities could lead to protracted legal interpretations and business uncertainty.
- The Income Tax Ordinance, 1984 (Ordinance No. XXXVI of 1984) and Income Tax Rules, 1984: These fundamental tax laws will need to be meticulously harmonised with the new organisational structure[4]. The delineation of powers and responsibilities between the two new divisions concerning the application and enforcement of these existing laws is critical to avoid confusion for taxpayers.
- The Foreign Private Investment (Promotion & Protection) Act, 1980: This Act provides crucial legal safeguards for foreign investments, guaranteeing protection against nationalisation and ensuring non-discriminatory treatment and repatriation of capital and returns[5]. The government's consistent adherence to the spirit and letter of this Act, especially amidst a major tax administration reform, will be vital for reassuring foreign investors.

Concluding Remarks
The splitting of the National Board of Revenue represents a transformative reform aimed at enhancing the efficiency and integrity of Bangladesh's tax administration. By addressing long-standing issues of conflict of interest and promoting specialisation, the government seeks to foster a more predictable and investor-friendly environment in the long run.

Source: Ai Created

1. Staff Correspondent, 'Tax authority split in major overhaul' (The Daily Star, 14 May 2025)
2. Tribune Report, 'Why has interim govt split NBR?' (Dhaka Tribune, 13 May 2025)
3. The Revenue Policy and Revenue Management Ordinance, 2025
4. The Income Tax Ordinance, 1984
5. The Foreign Private Investment (Promotion & Protection) Act, 1980

Finance Ordinance and Finance (Amendment) Ordinance 2025: An Overview

Introduction

The Finance Ordinance 2025 and the Finance (Amendment) Ordinance 2025 were promulgated by the Interim Government of Bangladesh under the authority of Article 93(1) of the Constitution, which allows the President to enact ordinances when Parliament is not in session[1]. As part of the annual fiscal cycle, the Finance Ordinance plays a vital role in setting the government's economic priorities by amending existing tax laws, introducing new fiscal measures, and adjusting revenue strategies. The Amendment Ordinance further refines and modifies provisions based on immediate economic needs or stakeholder feedback. These legal instruments are significant not only for their budgetary implications but also for their broader legal and administrative consequences, particularly in a post-pandemic recovery phase.

Discussion

The Finance Ordinance 2025 was issued to implement the fiscal proposals for the financial year 2025–26, addressing key areas such as income tax thresholds, VAT reforms, customs duty adjustments, and digital tax enforcement. One of the most notable changes was the adjustment of the personal income tax threshold from BDT 3,00,000 to BDT 3,50,000, intended to provide relief to low- and middle-income earners amidst rising inflation[2]. Additionally, the ordinance brought certain digital services under the VAT net, in line with global trends to tax the digital economy, which is expanding rapidly in Bangladesh.

The Finance (Amendment) Ordinance 2025 followed shortly after, correcting ambiguities and addressing legal gaps found in the original ordinance. For instance, the Amendment Ordinance provides an individual may store tax-related documents, accounts, and other records on a server with appropriate security using Enterprise Resource Planning (ERP) software or VAT software prescribed by the National Board of Revenue (NBR)[3]. The amendment also fine-tuned customs regulations to facilitate trade under the new Regional Comprehensive Economic Partnership (RCEP) framework, to which Bangladesh is a party-in-progress.

Legally, both ordinances amend various statutory frameworks, including the Income Tax Ordinance 1984, the Value Added Tax and Supplementary Duty Act 2012, and the Customs Act 1969. These changes impact both compliance requirements and administrative interpretations, making them subject to judicial scrutiny if not properly enacted into parliamentary law within the constitutional timeframe. It is worth noting that ordinances are temporary in nature and must be placed before the Jatiya Sangsad in the next session for ratification, failing which they lapse automatically after 120 days from promulgation as per Article 93(2) of the Constitution.

Pros and Cons

The Finance Ordinance 2025 and its Amendment have several strengths. Firstly, the upward revision of the income tax threshold demonstrates a commitment to easing the financial burden on individual taxpayers, especially in a period marked by global inflationary pressures. Secondly, the inclusion of digital services under the tax regime modernizes the country's fiscal landscape and aligns it with international practices as recommended by the OECD's digital economy taxation guidelines[4]. Thirdly, the Amendment Ordinance's refinement of vague provisions shows responsiveness to legal and business community concerns, promoting clarity and regulatory predictability.

However, there are notable drawbacks. The promulgation of such critical fiscal instruments by ordinance raises constitutional concerns regarding democratic oversight. The frequent reliance on ordinances in fiscal matters, bypassing parliamentary debate, can undermine legislative scrutiny and transparency, which are essential in a democratic fiscal policy framework. Moreover, the expansion of the tax net into the digital space without a fully operational digital infrastructure and proper regulatory guidelines may lead to confusion and over-compliance burdens, particularly for small and medium digital entrepreneurs. Additionally, abrupt changes in VAT and customs regulations without sufficient transition periods can disrupt supply chains and impact the business environment negatively.

Conclusion

The Finance Ordinance 2025 and the Finance (Amendment) Ordinance 2025 represent important legal instruments aimed at fiscal modernization, tax fairness, and post-pandemic recovery. It introduces progressive reforms such as increased tax thresholds, digital economy taxation, which could collectively enhance revenue generation and improve compliance. Nonetheless, their issuance through ordinances, rather than parliamentary enactments, highlights concern about democratic accountability and legal continuity. To ensure long-term credibility and stability, such fiscal measures must undergo rigorous legislative scrutiny and be integrated into a coherent statutory framework through formal enactment.

1. The Constitution of the People's Republic of Bangladesh 1972, art 93
2. Finance Ordinance 2025, s 136
3. Finance Ordinance 2025, s 19
4. OECD, Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint: Inclusive Framework on BEPS (OECD Publishing 2020)

Mr. Maksufur Rahman vs The State and another

Criminal Miscellaneous Case No. 58578 of 2018
Before: Hon'ble Mr. Justice Md. Iqbal Kabir and Hon'ble Mr. Justice Md. Riaz Uddin Khan
Date of Judgment: 19 March 2025

Summary:
This case arises from an application under section 561A of the Code of Criminal Procedure, seeking to quash proceedings of C.R. Case No. 516 of 2018 under sections 138 and 140 of the Negotiable Instruments Act, 1881. The case involved dishonour of a cheque issued for repayment of a loan taken by a company, where the accused petitioner, Mr. Maksufur Rahman, was one of the Directors. The High Court Division, after careful consideration of the arguments, found no merit in the application and discharged the Rule, allowing the lower court to proceed with the trial.

The Fact of the Case:
The accused petitioner, Mr. Maksufur Rahman, was a Director of a company that took a loan from a bank (Opposite Party No. 2). To repay the outstanding loan, the company issued cheque no. 6219735 dated 30.06.2017 in favor of the bank. However, the cheque was dishonoured due to insufficient funds on 20.12.2017. Following the dishonour, the bank sent a legal notice to the company and the accused petitioner on 10.01.2018, which was received on 14.01.2018. Despite receiving the notice, no payment was made within the stipulated time. Consequently, the bank filed a complaint under sections 138 and 140 of the Negotiable Instruments Act on 14.03.2018 before the learned Chief Metropolitan Magistrate, Chittagong.
The petitioner later moved the High Court under section 561A CrPC to quash the case, arguing that the complaint was filed after the expiration of the legally prescribed limitation period and that he, as a mere Director, had no responsibility in the issuance of the cheque.

Issues:
1. Whether the complaint under sections 138 and 140 of the Negotiable Instruments Act, 1881, was filed within the prescribed limitation period.
2. Whether the accused petitioner, being a Director and not the cheque issuer, can be held liable for the offence.
3. Whether the continuation of the criminal proceedings amounts to abuse of the process of the court and should be quashed.

Relevant Provisions:
- Section 561A, Code of Criminal Procedure – Inherent power of the High Court to prevent abuse of process and secure ends of justice.
- Section 138, Negotiable Instruments Act, 1881 – Penalty for dishonour of cheque for insufficiency of funds.
- Section 140, Negotiable Instruments Act, 1881 – Offences by companies and liability of officers.

Judgment:
After carefully considering the arguments and materials on record, the High Court Division concluded that the application filed under section 561A of the Code of Criminal Procedure had no merit. The Court found that the complaint under sections 138 and 140 of the Negotiable Instruments Act, 1881, was indeed filed within the legally prescribed limitation period. It held that the legal notice was received by the accused on 14 January 2018, and therefore the thirty-day period to make payment expired on 13 February 2018. The cause of action arose on 14 February 2018 and remained valid till 15 March 2018. Since the complaint was filed on 14 March 2018, it was within time.
Additionally, the Court noted that although the cheque was issued by the Managing Director of the company, the petitioner, as a Director, had given his consent regarding the issuance of the cheque. This made him liable under section 140(2) of the Act. The Court relied on previous decisions such as 11 BLC 625, which clarified that if an offence is committed with the consent or connivance of a company director, that director is deemed guilty. It also rejected the argument that a pending civil case barred the continuation of criminal proceedings. Referring to 49 DLR (AD) 132, the Court reaffirmed that criminal and civil proceedings can run concurrently, even if they arise from the same facts.
As such, the Court discharged the Rule, vacated the earlier order of stay, and directed the trial court to proceed with C.R. Case No. 516 of 2018 without delay and in accordance with the law. The petitioner was advised to present his defence during the trial through proper evidence and legal argument. No order as to costs was passed.

Significance of the Judgment
This judgment carries significant implications for both corporate accountability and the procedural enforcement of financial obligations under the Negotiable Instruments Act. It reiterates the principle that Directors of a company cannot escape liability simply by claiming they did not personally issue the dishonoured cheque. If there is evidence of their consent or involvement, they can be held criminally liable under section 140 of the Act. This interpretation reinforces responsible corporate governance and deters evasion of legal obligations by hiding behind corporate structures.

Concluding Remarks:
The case reaffirms the legal position that the dishonour of cheques for repayment of loans cannot be avoided merely on technical or procedural grounds, particularly when the company officials, including directors, have consented to the issuance. The High Court rightly emphasized that disputes over facts, like the role of a Director or the timing of a complaint, should be resolved at trial.

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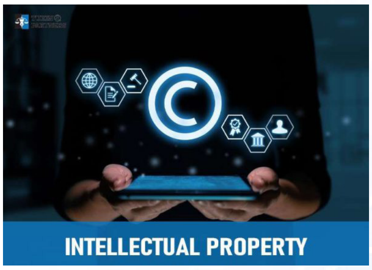

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