TUHIN & PARTNERS
NEXUS OF LAW & BUSINESS

E-NEWSLETTER

Volume: 2, Issue: 8 | August 2026

TUHIN & PARTNERS
NEXUS OF LAW & BUSINESS

TABLE OF CONTENTS

Team Members

Name	Designation
Fouzia Fariha	Research Editor
Md.Kowshik Shahriar	Research Associate
Abdullah Al Motrood Yeasir	Research Intern & Graphics Designer
Tabassum Hasnat	Research Intern
Md Tanvir Ahmed Sarker	Research Intern
Achia Akter	Research Intern
Satirtha Chakma	Research Intern

Legal Consequences of Dishonoured Cheques in Corporate Transactions in Bangladesh

Introduction:

Cheques remain a primary instrument for settling trade credit, loan repayments, and inter-corporate dues in Bangladesh. Where a cheque issued by or on behalf of a company is dishonoured, the consequences are not confined to the drawer company; they extend to the individuals who manage its affairs and trigger criminal and civil consequences in parallel. Chapter XVII of the Negotiable Instruments Act 1881 ("the NI Act") mainly governs this area and remains the principal recourse for corporate creditors.[1]

Key Discussion:

Section 138 deems a person to have committed an offence where a cheque drawn on their account is returned unpaid for insufficiency of funds or because it exceeds an arranged limit, provided three conditions are met: the cheque was presented within six months (or its validity period); the payee issued a written demand notice within thirty days of learning of the dishonour; and the drawer failed to pay within thirty days of that notice.[2] The offence carries imprisonment for up to one year, a fine up to three times the cheque value, or both.[3] Courts have treated the provision as one of near strict liability once these ingredients are proved.[4]

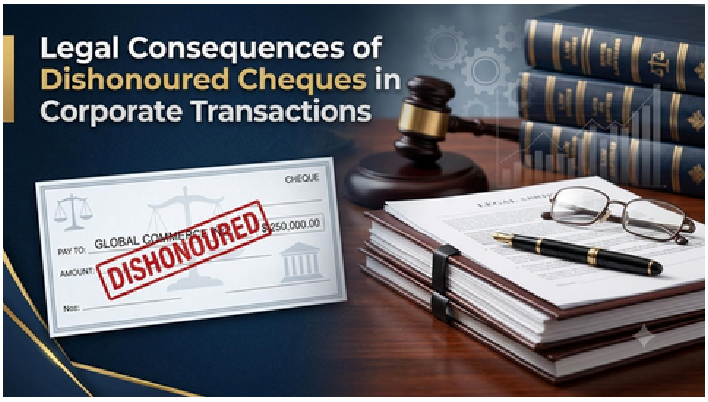
Where the drawer is a company, section 140 extends liability beyond the corporate entity to every person who, at the time of the offence, was in charge of and responsible for the conduct of its business, typically managing directors and executive directors, subject to a due-diligence defence.[5] Bangladeshi courts have accordingly permitted prosecutions against companies, jointly with directors shown to have consented to, connived at, or been negligent in relation to the default, particularly where a director has personally guaranteed the underlying facility.[6]

The demand notice under section 138(1)(b) is a mandatory precondition, not a formality; it may be served personally, by registered post, or, failing that, by publication in a national Bangla daily.[7] Prosecution is initiated by complaint before the Magistrate, with cognizance and limitation governed by section 141. Where the limitation period lapses, creditors have in practice fallen back on general fraud-related provisions of the Penal Code 1860.[8]

The NI Act preserves a dual-track remedy: a section 138 fine may be directed toward the holder up to the cheque's face value, but the holder expressly retains the right to pursue any unrecovered balance through civil proceedings.[9] Corporate creditors, particularly banks and financial institutions, commonly combine a criminal complaint with recovery action under the Artha Rin Adalat Ain 2003 or an ordinary suit under the Code of Civil Procedure 1908, reinforced by personal guarantees obtained from directors at the outset of the transaction.

Concluding Remarks:

The NI Act 1881 gives Bangladeshi corporate creditors a comparatively creditor-friendly dual civil–criminal toolkit for dishonoured cheques, with vicarious liability extending to culpable directors and officers. In practice, however, its deterrent value is often diminished by congestion in our Courts and the evidentiary burden of establishing a director's "in charge and responsible" status. Companies transacting on cheque-backed credit are well advised to pair statutory reliance on Chapter XVII with contractual safeguards such as personal guarantees, post-dated cheque registers, and prompt notice practices to preserve both remedies.



Source: Ai Generated

1. Negotiable Instruments Act 1881 (Bangladesh), Chapter XVII, s 138–141.
2. Ibid, s138(1).
3. Ibid.
4. 'A Guide to Cheque Dishonour Case in Bangladesh: Section 138 of the Negotiable Instruments Act, 1881' (BD Law Post, 12 December 2024) http://www.bdlawpost.com/2022/09/a-guide-to-cheque-dishonour-case-in.html accessed 9 August 2026; Faridul Alam v State 16 BLT (AD) 2008.
5. Negotiable Instruments Act 1881 (Bangladesh), s 140.
6. National Finance Ltd v Ibrahim Raihana Industries Ltd, Criminal Miscellaneous Case No 63389 of 2018 (High Court Division, Supreme Court of Bangladesh) https://supremecourt.gov.bd/resources/documents/1486566_Cril_Misc.Case_No.63389of2018.pdf accessed 9 August 2026.
7. Negotiable Instruments Act 1881 (Bangladesh), s 138(1A).
8. Penal Code 1860 (Bangladesh), s 406, 420; Mahbub & Company, 'Dishonour of Cheque Law in Bangladesh' (Mahbub & Company) https://mahbub-law.com/dishonour-of-cheque-law-in-bangladesh/ accessed 9 August 2026.
9. Negotiable Instruments Act 1881 (Bangladesh), s 138(2)–(3).

Letters of Credit in Corporate Transactions: Legal Risks for Banks and Businesses

Introduction:

Letters of credit (LCs) remain the principal instrument securing international trade obligations in Bangladesh, given the country's heavy reliance on import-export financing. An LC substitutes a bank's creditworthiness for that of the buyer, creating an autonomous payment undertaking independent of the underlying sale contract.[1] This independence, while commercially essential, generates distinct legal risks for issuing banks, correspondent banks, and corporate parties.

Key Discussion:

The Bangladeshi LC regime operates through a layered framework: domestic legislation supplies regulatory scaffolding, while the Uniform Customs and Practice for Documentary Credits (UCP 600), incorporated by contractual reference, governs operational mechanics.[2] The Foreign Exchange Regulation Act 1947 and Bangladesh Bank's Guidelines for Foreign Exchange Transactions (GFET) impose exchange-control conditions on LC issuance, while the Import Policy Order regulates permissible trade categories.[3] Banks assume obligations under the doctrine of strict compliance, payment is due only where tendered documents conform strictly to LC terms, irrespective of the underlying goods' actual condition, per UCP 600 Articles 14-16 on document examination standards.[4] Corporate applicants bear reimbursement obligations to issuing banks regardless of disputes with the beneficiary, an indemnity relationship rooted in the Contract Act 1872, sections 124-147.[5]

Two risk categories dominate application of this framework. First, documentary compliance disputes arise where banks reject documents on discrepancy grounds, exposing them to wrongful dishonour claims, or conversely honour non-compliant documents, exposing them to liability toward applicants; Bangladeshi courts have generally followed the strict compliance standard established in Equitable Trust Co of New York v Dawson Partners Ltd, though inconsistent application creates commercial uncertainty.[6] Second, the fraud exception, permitting refusal of payment where fraud vitiates the documents remains narrowly construed, requiring clear and convincing evidence of beneficiary fraud.[7] Import-export transactions further face risks from forged shipping documents and over-invoicing, engaging obligations under the Money Laundering Prevention Act 2012, sections 2 and 4, which criminalise trade-based laundering.[8] Banks issuing LCs without adequate KYC diligence risk regulatory penalties under the Bank Companies Act 1991 alongside civil liability to applicants.

These provisions interact to produce a structurally cautious regime: strict compliance protects banks from adjudicating commercial disputes, while the narrow fraud exception preserves LC autonomy at the cost of leaving corporate applicants with limited recourse against fraudulent beneficiaries. The absence of extensive domestic precedent means Bangladeshi courts continue to import English common law reasoning, creating interpretive unpredictability for practitioners advising on discrepancy handling or fraud allegations. Regulatory overlap between exchange control, anti-money laundering, and banking supervision further multiplies compliance touch points, raising transaction costs particularly for smaller trading houses.

Concluding Remarks:

Bangladesh's LC framework balances international commercial norms against domestic regulatory control, but gaps in judicial precedent on fraud and discrepancy standards leave banks and corporates exposed to interpretive risk. Strengthening domestic jurisprudence and regulatory clarity would materially reduce transactional uncertainty in cross-border trade financing.

Source: Ai Generated

1. Monica Raje, 'Role of letters of credit in international trade' (2021) 7(3) International Journal of Law < https://www.lawjournals.org/assets/archives/2021/vol7issue3/7-3-12-827.pdf > accessed 6 August 2026.
2. International Chamber of Commerce, Uniform Customs and Practice for Documentary Credits (UCP 600, ICC Publication No 600, 2007).
3. Foreign Exchange Regulation Act 1947 (Bangladesh); Ministry of Commerce, Import Policy Order 2021–2024.
4. UCP 600, arts 14-16.
5. Bangladesh Contract Act 1872, s124-147.
6. Equitable Trust Co of New York v Dawson Partners Ltd (1927) 27 Ll L Rep 49 (HL).
7. United City Merchants (Investments) Ltd v Royal Bank of Canada [1983] 1 AC 168 (HL)
8. Money Laundering Prevention Act 2012 (Bangladesh), s 2, 4.

Invest Bangladesh Act, 2026

(Act No. 104 of 2026)

Introduction:

The Invest Bangladesh Act, 2026 was enacted and came into force on 16 July 2026 with the objective of accelerating Bangladesh's socio-economic development by establishing Invest Bangladesh as the country's apex investment promotion agency. Repealing several existing investment-related laws, the Act consolidates the institutional framework governing investment facilitation into a single statutory regime. It seeks to create a more investor-friendly and efficient business environment by streamlining investment services, attracting domestic and foreign investment, promoting public-private partnerships (PPP), and ensuring the timely delivery of essential services to investors. Through this unified framework, the Act aims to strengthen Bangladesh's competitiveness while supporting industrialisation, infrastructure development, employment generation, and sustainable economic growth.

Key Discussion:

The Act establishes the Invest Bangladesh Authority (IBA) as a statutory body corporate with perpetual succession, a common seal, and the legal capacity to acquire, hold, and dispose of property. Serving as Bangladesh's central investment promotion agency, the Authority is governed by a high-level Governing Board chaired by the Prime Minister or a nominee, reflecting the Government's commitment to coordinated investment facilitation.

A notable feature of the Act is its emphasis on a unified and investor-friendly regulatory framework. Section 3 gives the Act overriding effect over inconsistent provisions of other laws, ensuring legal certainty and reducing regulatory conflicts in investment administration. This strengthens the Authority's ability to implement investment policies under a single statutory framework.

To modernise service delivery, section 50 mandates the establishment of a Single Digital Platform through which investors can obtain regulatory approvals and services. It requires all existing One Stop Service (OSS) portals to be integrated into a single digital interface within the prescribed timeframe and prohibits government agencies from operating separate investment portals thereafter. This integration is expected to enhance transparency, minimise procedural delays, and simplify regulatory compliance.

The Act also adopts a strategic approach to industrial development. Under section 13, the Authority may establish specialised industrial zones, including Export Processing Areas, Domestic Processing Areas, Renewable Energy and Green Industrial Areas, and Blue Economy and Coastal Industrial Areas. This sector-specific zoning framework is intended to encourage targeted investment and promote sustainable industrialisation.

Recognising the importance of private sector participation, section 30 provides a comprehensive legal framework for implementing Public-Private Partnership (PPP) projects. It expressly permits Unsolicited Proposals from private investors, subject to evaluation in accordance with government policies and prescribed procedures, thereby encouraging innovation and expanding investment opportunities.

Pros

The Act significantly improves administrative efficiency by consolidating BIDA, BEZA, and the PPP Authority into a single institution, thereby reducing bureaucratic overlap and creating a unified "single window" for investors. It also strengthens the investment regime by providing customs facilities, fiscal benefits, and other incentives for enterprises operating within designated industrial zones. Furthermore, by recognising emerging sectors such as the Green Economy and Blue Economy, the Act adopts a forward-looking approach that supports sustainable development and enhances Bangladesh's attractiveness to environmentally responsible and innovation-driven investments.

Cons

Despite its progressive objectives, the Act has attracted several criticisms. The governance structure centralises significant authority in a Board chaired by the Prime Minister or a nominee, potentially raising concerns regarding executive influence over investment decisions. Section 26 empowers the Government to exempt developers and operators from the application of several existing laws, including the Stamp Act and the Foreign Exchange Regulation Act, which may create concerns regarding regulatory oversight and transparency. Additionally, section 52 authorises the Authority to suspend industrial operations during labour unrest without liability for compensation, a provision that may be criticised for weakening labour protections and workers' rights.

Concluding Remarks:

The Invest Bangladesh Act, 2026 marks a significant reform of Bangladesh's investment regime by establishing a unified statutory authority for investment promotion and facilitation. Its success, however, will depend on effective implementation, transparent governance, and strong inter-agency coordination. If properly implemented, the Act can significantly enhance Bangladesh's attractiveness as a competitive investment destination.

Proshika Manobik Unnayan Kendra v. Commissioner of Taxes, Dhaka

Income Tax Reference Application No. 383 of 2004 (decided on 6 July 2015).
Case Citation: 69 DLR (2017) 218
Court: High Court Division, Supreme Court of Bangladesh.
Bench: A.F.M. Abdur Rahman and Md. Shohrowardi, JJ.

Overview of the Case:

The High Court Division held that the omission of the "Explanation" from paragraph 1(1) of Part A of the Sixth Schedule to the Income Tax Ordinance, 1984 by the Finance Act, 1999 did not make the income of a charitable institution taxable where its income continued to be applied wholly for charitable purposes. The Court further clarified that unresolved questions of law remain justiciable before the High Court even after parties resort to Alternative Dispute Resolution (ADR), as ADR cannot finally determine questions of law. Consequently, the Reference Application was allowed in favour of the assessee.

Facts of the Case:

Proshika Manobik Unnayan Kendra is a charitable NGO established in 1976 and registered under the Societies Registration Act, 1860 as well as with the NGO Affairs Bureau. It derives income from foreign donations and various income-generating projects, all of which are applied exclusively for charitable purposes. Until the assessment year 1998-1999, the organisation consistently enjoyed tax exemption under section 44(1) read with paragraph 1(1) of Part A of the Sixth Schedule to the Income Tax Ordinance, 1984.

For the assessment year 2001-2002, however, the Income Tax Authority assessed Proshika's income as taxable business income, relying upon the Finance Act, 1999, which had omitted the "Explanation" to paragraph 1(1). The Assessing Officer also treated bank interest earned from donated funds as taxable income. The first appellate authority and the Taxes Appellate Tribunal affirmed the assessment. During the pendency of the Reference Application, the parties participated in ADR and settled factual disputes but failed to resolve the legal issue concerning the interpretation of section 44(1). Accordingly, the legal question was placed before the High Court for determination.

Issues:

- Whether the omission of the "Explanation" from paragraph 1(1) of Part A of the Sixth Schedule by the Finance Act, 1999 rendered the income of a charitable institution taxable under section 44(1) of the Income Tax Ordinance, 1984.
- Whether unresolved questions of law can be adjudicated by the High Court after the parties have partially settled their dispute through the ADR mechanism under Chapter XVIII-B of the Income Tax Ordinance, 1984.

Relevant Provisions

The case primarily concerned the interpretation and application of section 44(1) read with Paragraph 1(1) of Part A of the Sixth Schedule of the Income Tax Ordinance, 1984, which provides tax exemption to income applied wholly for charitable purposes. The Court also examined the statutory framework governing Alternative Dispute Resolution (ADR) under sections 152F–152S, particularly sections 152I, 152II, 152O (6), and 152Q, to determine whether unresolved questions of law could be adjudicated by the High Court following ADR proceedings. The Reference Application itself was filed under section 160(1) of the Income Tax Ordinance, 1984. In addition, the Court considered the effect of the Finance Act, 1999, which omitted the "Explanation" to Paragraph 1(1) of Part A of the Sixth Schedule, and held that such omission did not withdraw the tax exemption available to charitable institutions. The judgment also referred to Article 103(3) of the Constitution of the People's Republic of Bangladesh while discussing the appellate mechanism in relation to unresolved issues arising after ADR.

Judgment

The High Court Division rejected the Tax Department's argument that the Reference Application had become infructuous because the parties had entered into ADR. The Court held that ADR is designed to resolve factual disputes through mutual agreement and cannot determine questions of law. Consequently, unresolved legal issues remain within the exclusive jurisdiction of the Court, and the Reference Application could validly be revived after ADR proceedings concluded.

On the substantive issue, the Court found that the tax authorities had wrongly interpreted the omission of the "Explanation" from paragraph 1(1) as automatically withdrawing the tax exemption available to charitable organisations. The Court reaffirmed that a charitable institution whose income is wholly applied for charitable purposes continues to enjoy exemption under section 44(1).

Our Services

To read our e-newsletter please visit https://tnp.legal/enewsletter/ or Scan

Corporate Office:

Flat G2 (6th Floor), House # 94,
Road # 10,Block # D, Niketan,
Gulshan-1, Dhaka-1212

Registered Office

Office No. 305 (2nd floor),
3/B, Purana Paltan, Dhaka-1000

TUHIN& PARTNERS
NEXUS OF LAW & BUSINESS

E-mail Address:

hello@tnp.legal

Website:

www.tnp.legal