



# National Board of Revenue

## Government of the People's Republic of Bangladesh

### NBR is going to introduce Alternative Dispute Resolution (ADR) to resolve disputes over Customs, Income Tax and VAT

The ADR will be implemented experimentally for a certain class of importers and taxpayers. Later, it will be implemented phase-wise for all importers and taxpayers.

#### Advantages of ADR

- This is cost effective/saving.
- Disputes will be resolved in shortest possible time.
- Formalities are also less than other existing systems.
- Legal and procedural complexities are minimum.
- The disputes will be resolved in consultation with the taxpayer and the authority concerned.
- The process gives scope to both taxpayer and the authority to know each other's position on the dispute.

#### Who can apply for an ADR?

- A taxpayer, both individual and company, who is grieved over his/its tax assessment.

#### Process to follow for ADR application

- Shall apply in a prescribed form.
- Disagreed person/firm on his/its tax assessment/reassessment.
- A person, firm or company can avail ADR by postponing Appeal at Tribunal or in the Supreme Court.
- Permission is required for a dispute under Appeal/Tribunal/Court.
- In case a dispute is under trial, it will remain postponed until a resolution is made under ADR process.

#### Who can be Facilitators for ADR?

For the purpose of resolving a dispute under ADR system, the authority concerned will make lists of Facilitators. The panel will be selected from officers of judicial services, experienced chartered accountants, lawyers and retired officers and nominated representatives of the Federation of Bangladesh Chambers of Commerce and Industry (FBCCI).

Disputes under Income Tax, VAT and Customs will be resolved under the ADR.

ADR is optional. Taxpayer or importer can avail either conventional appeal or the ADR.

New disputes can also be resolved under the ADR.

## Special News

### ADR for Customs related Disputes

#### Are you an importer?

#### If so, do you know?

If you have any Dispute with Customs authorities at the time of customs assessment of your imported consignments, then for the resolution or settlement of that Dispute, National Board of Revenue is going to introduce, in January 2012 in Chittagong Custom House, Alternative Dispute Resolution system as an additional or alternative system to the existing adjudication at appeal system, provided in the Custom Act, 1969. Later on, gradually this system will be implemented in other Custom Houses or Stations.

With the above end in view, necessary legal provisions have already been made in the Custom Act 1969 through the Finance Act 2011. According to the provisions:

- The following types of Disputes can be resolved/settled through Alternative Dispute Resolution System :
  - Disputes on Custom value or PSI Agents' certified value (CRF Value)
  - Any other Dispute created on matters other than mis-declaration, duty and tax evasion, violation of law, fraud etc.
  - Disputes centering on imposition of fine on PSI agent.
- It is an additional or alternative and optional system. If you are aggrieved on any one of the disputes you can avail this alternative dispute resolution system to address that grievance. If you do not, the dispute would be resolved as per the existing system.
- Disputes/cases pending with custom, appellate authorities, Supreme Court and newly created cases --- Both these type of disputes can be settled under this ADR system.
- In order to resolve any dispute under this procedure, application is to be made i) to custom authorities for disputes pending with customs. ii) to appellate authorities for cases pending with them and iii) to the custom or appellate authorities as directed by the Supreme Court for cases pending with it.
- Application is to be made i) within 30 days for cases newly created or pending with customs ii) Within 60 days for cases pending with appeal/appellate authorities or Supreme Court. If disputes are not resolved within this period, it would then be settled under the existing system.
- Under this system, the importer himself will sit face to face with customs authorities on his dispute under the stewardship and guidance of a neutral Facilitator appointed from the panel of Facilitators to be selected jointly by NBR and FBCCI.
- If agreement is reached between the two contending parties through discussions and on the basis of facts, genuine documents and true declaration then implementation of such agreement is binding for both parties. However, if agreement is taken on the basis of false documents and information, then such agreement is liable to be set aside.
- Agreement reached between the parties through consensus can not be appealed against by the aggrieved party.
- This new system is very cost effective for you. Under this system you need to pay a very small amount of fee for getting the facility. In it, disputes can be resolved in the shortest possible time with the fewest possible formalities and through mutual trust and co-operation. Availing of it would reduce your business cost and your business would be competitive.

### ADR for Value Added Tax (VAT) related Disputes

#### Are you a registered Tax payer under the Value Added Tax Act 1991?

#### If so, do you know?

If you have any dispute with VAT authorities on the determination of taxable value of any taxable goods then for the resolution or settlement of that dispute, National Board of revenue is going to introduce, in January 2012 in VAT commissionerate, Dhaka South, Alternative Dispute Resolution system as an additional or alternative system to the existing adjudication and appeal system, provides in the VAT Act, 1991. Later on, gradually this system will be implemented in other VAT commissionerate.

With the above end in view, necessary legal provisions have already been made in the VAT act 1991 through the Finance act 2011. According to the provisions:

- The following types of disputes can be resolved/ settled through Alternative Dispute Resolution system:
  - Disputes created on determination of taxable value of goods
  - Any other dispute created on alterations other than mis-declaration, duty and tax evasion, violation of law, fraud etc.
- It is an additional or alternative and optional system. If you are aggrieved on any one of the above disputes, you can avail this alternative dispute resolution system to address that grievance. If you do not want, the dispute would be resolve as per the existing system.
- Disputes/cases pending with VAT appellate authorities, supreme court and newly created cases- both these types of disputes can be settled under this ADR system.
- In order to resolve any dispute under this procedure, Application is to be made (i) to VAT authorities for disputes pending with VAT authorities (ii) to appellate authorities for cases pending with them and (iii) To the VAT or appellate authorities as directed by the Supreme Court for cases pending with it.
- Application is to be made (i) Within 30 days for cases newly created or pending with VAT authorities (ii) within 60 days for cases pending with appeal/appellate authorities or Supreme Court. If disputes are not resolved within this period, it would then be settled under the existing system.
- Under this system, the importer himself will sit face to face with VAT authorities on his dispute under the stewardship and guidance of a neutral Facilitator appointed from the panel of Facilitators to be selected jointly by NBR and FBCCI.
- If agreement is reached between the two contending parties through discussions and on the basis of facts, genuine documents and true declaration then implementation of such agreement is binding for both parties. However, if agreement is taken on the basis of false documents and information, then such agreement is liable to be set aside.
- Agreement reached between the parties through consensus can not be appealed against by the aggrieved party.
- This new system is very cost effective for you. Under this system you need to pay a very small amount of fee for getting the facility. In it, disputes can be resolved in the shortest possible time with the fewest possible formalities and through mutual trust and co-operation. Availing of it would reduce your business cost and your business would be competitive.

### ADR for Income Tax related Disputes

A chapter – 18B (XVIII B) – has been added to the Income Tax Ordinance 1984 to resolve disputes related to income tax. Already, the National Board of Revenue has made rules for Alternative Dispute Resolution (ADR).

- ADR will be introduced at Tax Zone-1 from January 2012. Taxpayers, both individuals and companies under the zone, may avail ADR.
- A taxpayer who has appealed to the division concerned or filed a case in the Tribunal or the Supreme Court against his tax assessment made by the Deputy Commissioner may also avail ADR.
- Permission is required for a dispute under trial with the Appeal/Tribunal/Court. In case a dispute is under appeal, it will remain postponed until a resolution is made under ADR.
- There is no condition to pay disputed tax or a part of it for availing ADR.
- Deadline to submit application under ADR

(a) Taxpayer shall apply within 30 days of his tax assessment or reassessment.

(b) In case it is under trial with the Appeal/Tribunal or Supreme Court, the application shall be submitted within 30 days of the concerned Court's approval.

- Shall apply in a prescribed form.

#### Where to apply for ADR?

If a taxpayer is grieved with his tax assessment/reassessment, he has to apply to the Joint Commissioner (Appellate), Additional Commissioner (Appellate) or Commissioner (Appellate) concerned for ADR.

If the dispute is under trial with Joint Commissioner (Appellate), Additional Commissioner (Appellate) or Commissioner (Appellate), the taxpayer has to apply to the above officers with whom the dispute remains pending.

If the dispute is under trial with the Income Tax Appellate Tribunal, the taxpayer has to apply to Register/Deputy Register/Assistant Register of that Appellate Tribunal Bench.

If the case is under trial with the High Court or Appellate Division of the Supreme Court, the application has to be submitted to the Register of Income Tax Appellate Tribunal.

#### The way a dispute is to be resolved:

- The Facilitator will try to minimize the gap between the taxpayer and the authority on the dispute raised. He shall inform both parties, in writing, the venue and time for ADR negotiation.
- If the ADR negotiation is successful, the Facilitator, applicant and the representative of the Income Tax Commissioner shall sign the decisions in agreement.
- Agreement may be partial or complete.
- No party shall appeal against the agreement, but the issues that remain unresolved are appeal-able.

#### Selection of Facilitator for Income Tax ADR:

- District Judge or equivalent officer of judicial services.
  - Chartered Accountant having at least 8 years of experience.
  - Cost and Management Accountant having at least 10 years of experience.
  - Lawyer having at least 20 years of experience
  - Retired Income Tax officer not less than Joint Commissioner rank.
- The dispute shall be resolved within 30 days of application.

RESOLVE YOUR CUSTOMS, VAT AND TAX DISPUTES FASTER!