

এসজিএক মসিয়ারবি 102 অভ্যুত` অভ্যুত চিইভে`খমি এবেতি 15-2-2009 জিইল ইবিজিএল Rule NISI Rvix Ktib t

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the insertion of the word “পরিচালনা পরিষদ, `স`পরিচালনা পরিষদ` Ges চ`জ`RK`vj j`ve`iUiX” inside the bracket of para 2(K) of 2nd schedule of VAT Act 1991. should not be declared void and illegal as being obstruction to the improvement of public health as well as beyond the scope of Fundamental Principles of State Policy of the Constitution and/or pass such other or further order or orders as to this Court may seem and proper.

The Rule is made returnable within 2(two) weeks from date. The matter is fixed for hearing on 9.3.2009

Requisites to be put in at once.”

4bs চিইভে`খ চ`জ 28-04-2009 জিইল নজদকজ GKU Gid`WifU `Wlj Kizt iXU tgvKigvq চিইভে`সজি Ktib |

Rbve gbiRj tgvit`m, G`Wf`f`v`KU, `iLv`KvixMY চ`জ e³e` Dc`vcb Ktib, Aci `K Rbve gyv`dv Rvgib Bmjvg, tWcyA`vUYx tRb`ij 4 bs চিইভে`খ চ`জ e³e` Dc`vcb Ktib |

Rbve gbiRj tgvit`m, `iLv`Kvix চ`জ eA`G`Wf`f`v`KU g`nv`q `bte`b Ktib th msiwar`bi i0Zxq f`v`M ivó ciiPijbvi g`jb`Z mgr`eYbv Kiv nBqf`v`Q | D<sup>3</sup> f`v`M Ae`Z 18 অভ্যুত` এসজিএক RbM`Yi `v`i`i DbiZ mvab`K ivó`i Ab`Zg cv`gK `v`qZ I KZe` e`jqv tNvIbv K`iqv`Q | Kv`RB ivó tKvb Ae`v`ZB Ggb tKvb AvBb K`i`Z cv`i bv hvn AvZ gvbeZv`K A`aKZi Kó`o c`ZZ Ktib | `Zib AvI `bte`b Ktib th এসজিএক`i`i`i f`v`M g`v`yB `i`i` mxgvi `b`P emevm Ktib | Zv`v`i`i Rb`v`f`v`eK R`xb avibB A`bK mgq `j`mva` n`q c`o, t`m`j`i`i c`v`e`i`i`i t`Kn Amy` n`q c`o`j, mgM c`v`e`i`i`i GKU `ech`qi g`j c`o Ges Zv`v`i`i চ`জ A`bK mg`qB `PiKrmv Li`Pi Dci g`j` ms`hvRb Kvi Av`ivc 18 অভ্যুত`i`i cKZ.ggeVYxi m`nZ m`v`N`IK |

Acii`K, Rbve gyv`dv Rvgib Bmjvg, eA`G`WcyA`vUYx tRb`ij g`nv`q `bte`b Ktib th এসজিএক GKU AbjZ `শ, ইহার উন্নয়ন কার্যক্রম পরিচালনার জন্যই মূল্য mshvRb Kiv Av`iv`ci c`qvRbxqZv t`Lv `q`v`Q | Zv`v`Q`v, t`h`nZ`PiKrmv চিইভে, `s`পরিচালনা পরিষদ` Ges চ`জ`RK`vj j`ve`iUiX Zv`v`i`i `PiKrmv I `PiKrmv m`U`xq t`mev c`v`bi `ecix`Z `e`bgq g`j` c`vb Ktib `eavq D³ g`j`i`i Dci g`j` ms`hvRb Ki Av`ivcZ nq | `Zib e`jb`th, `PiKrmv t`mev `v`Ze` `f`i`E`Z ev `ebvg`j` c`vb m`e`bq, Zvi চ`i`i Dc`iv³ `eavb e`v`Z`i`K m`aviY `PiKrmv Lv`Z`K g`j` ms`hvRb Ki e`v`f`Z ivLv nBq`v`Q |

`iLv`, ms`hvRZ KvMR`, 28-04-2009 জিইল নজদকজ.Gid`WifW Bb A`c`v`Rkv Ges Dfq চ`জ i e<sup>3</sup>e` keb Kiv nBj |

cZxqgvb nq th, 12-06-1991 জিইল 1991-92 evrm`iK e`v`RU e<sup>3</sup>Zvq Z`wb`sb A\_ I c`i`K`ibv g`sx 1jv RyvB 1991 জিইল t`K g`j` ms`hvRb Ki Av`ivc m`U`me c_g B`h`Z c`vb Ktib | `Zib e`jb`th ১লা জুলাই হতে বিভিন্ন হারের বিক্রয় কর বিলোপ করিয়া একটি অভিন্ন হারে মূল্য সংযোজিত Kiv ceZb Kiv nB`Z`Q |

c`g g`j` ms`hvRb Ki Aa`v`k, 1991 (Aa`v`k bs 26, 1991) Rvix Kiv nq | AZtci, g`j` ms`hvRb Ki AvBb, 1991 (1991 m`bi 22 bs AvBb), 10 RyvB 1991 জিইল এসজিএক t`M`R`U cK`kZ nq | D³ AvB`bi 3 aviv g`j` ms`hvRb Ki ceZb K`iqv`Q | 3 avivi (1) Dc-aviv `bgij`c t

(3) g`j` ms`hvRb Ki Av`ivc | -(1) c_g Zd`m`j D`ij`LZ c`Y`mgr`e`Z`Z এসজিএক Avg`v`b`KZ.mKj c`Y` I D³ Zd`m`j D`ij`LZ c`Y`mgr`e`v`Z`Z mKj c`Y`i m`ev`i`ni Dci Ges i0Zxq Zd`m`j D`ij`LZ mKj t`mev mgr`e`Z`Z এসজিএক c`E` mKj t`mev Dci aviv 5 G e`v`YZ g`j`vi `f`i`E`Z c`bi kZ`vsk n`vi g`j` ms`hvRb Ki avh I c`q`nBte |

(2) -----

Dc#iv³ Dcavivq `p cKvi gj" ms#hvRb Ki Av#ivc Kiv nBqv#Q| c_gZt D#j#LZ c_g Zdmx#j gj" ms#hvRb Ki nB#Z Ae"vniZ cvB cY" mg#ni eYbv Kiv nBqv#Q| D³ cY" mg# e"vniZ#i#K mKj cY" Ki Av#ivc thvM" | #ZxqZt #Zxq Zdmx#j D³ Ki Av#ivc thvM" tmev mg# eYbv Kiv nBqv#Q A_vr D³ #Zxq Zdmx#j e#YZ tmev mg#ni Dci #bawiz nvi gj" ms#hvRb Ki Av#ivcZ nB#e|

cieZ#Z Dc#iv³ #Zxq cKv#i tmev mg#ni Dci Av#ivcZ Ki c#Z c#ieZb Avbqb Kiv nq| A_AvBb, 2000(2000 m#bi 15 bs AvBb) Gi 106 aviv e#j #Zxq Zdmx#jU bZb Kivq c#Z"vcZ nq| gj" #Zxq Zdmx#j gj" ms#hvRb Ki Av#ivc thvM" tmev mg#ni eYbv Kiv nBqv#Q| #K# c#Z"vcZ #Zxq Zdmx#j gj" ms#hvRb Ki nB#Z Ae"vniZ cvB tmev mg#ni eYbv c`vb Kiv nBqv#Q| Brvi m#nZ #gj i#Lqv Dc#iv³ AvB#bi 86(K) aviv Ab#v#i 3 avivq #Zxq Zdmx#j D#j#LZ kã, #ji ci tmev mg# e"vniZ kã, #ji m#b#e#kZ Kiv nBqv#Q| djK "vZ#Z #Zxq Zdmx#j Ae"vniZ cvB tmev mg# e"vniZ#i#K Ab" mKj tmev Dci gj" ms#hvRb Ki Av#ivcZ nB#e|

c#Z"vcZ #Zxq Zdmx#j #mgvR Kj"vY gjK tmev Lv#Zi Av#Zvq Ae"vniZ cvB #e#fb tmev mg#ni g#a" #P#Krmv I "v" tmev eYbv Kiv nBqv#Q| #K# D³ Ae"vniZ cvB tmev , #j nB#Z K#qK#U #e#lq ev` t`lqv nBqv#Q| D³ Ae"vniZ cvB Lv#ZU #bg#ic t

gj" ms#hvRb Ki nB#Z Ae"vniZ cvB tmevmmg# t

1| -----

2| mgvR Kj"vY gjK tmev

K) #P#Krmv I "v" tmev (#P#Krmv c#Z#b, `S #P#Krmv tK>` Ges c`v\_j#RK"vj j`ve#iUiX, #eD#U cvjvi, #e#k#iÁ Wv³vi Ges tnj_ Kve I #dU#bm tm#Uvi KZK c`E tmev e"vniZ);

L) -----

cZxqgvb nB#Z#Q th Av#vZ `p#Z #P#Krmv I "v" tmev gj" ms#hvRb Ki nB#Z Ae"vniZ c`vb Kiv nB#j I #P#Krmv c#Z#b, `S #P#Krmv tK>`, c`v\_j#RK"vj j`ve#iUiX I #e#iKÁ Wv³vi KZK c`E tmev Dc#iv<sup>3</sup> Ki c`vb nB#Z Ae"vniZ c`vb Kiv nq bvB, eiÁ D<sup>3</sup> tmev c`v#bi Dci Ki Av#ivc Kiv nBqv#Q| djKvZ#Z #P#Krmv I "v" tmev LvZ#K Ki Av#ivc nB#Z Ae"vniZ c`v#bi Rb" ms#kó AvB#bi th A#b#nZ A#fcvq (spirit of the law) Zvni m#nZ mvsN#IK|

ZvniQrov, #eD#U cvjvi, tnj_ Kve I #dU#bm tm#Uvi KZK c`E tmev m#nZ GKB gvb`#U #P#Krmv c#Z#b, `S #P#Krmv tK>`, c`v\_j#RK"vj j`ve#iUiX, #e#k#iÁ Wv³vi KZK c`E tmev AvYqb Kib G#Kev#iB A#h#i³K| #P#Krmv tmev AvZ g#beZvi Rb", gvb#i Rxeb e#B#Bevi Rb" | GB#ic tmev m#nZ #eD#U cvjvi ev tnj_ Kve ev #dU#bm tm#Uvi Gi Z#b#v nvm"Ki|

ms#eavb 32 Ab#YQ` c`E Rxe#bi A#akvi Ges 18 Ab#YQ#` c`E tN#lv th Rb"v#`i D#iZmvab iv#ó#i Ab"Zg cv\_#gK KZe", i#agv#i d#k#v eyj bq| GB, #j mvs#eav#bK #b#`kb#| c_g#U t#g#jK A#akvi | #Zxq#U ivó c#iP#j#bvi Ab"Zg g#b#iZ| tKv#U#B miKvi Ae#njv K#i#Z cv#ib bv| miKvi c#YZ tKvb AvBb t#g#jK A#akvi ev ivó c#iP#j#bvi g#b#iZi m#nZ mvsN#IK nB#Z c#i#e bv| nB#j ms#kó AvB#iU A#ea nB#e|

GB cm#% 32 Ab#YQ#` e"<sup>3</sup> #Rxeb ev life Gi A\_ Ab#v#b Kiv c#q#Rb| #Rxeb# e#j#Z i#j, R#Y, g#b#eZvi Rxeb t#v#v#v nq bvB| Rxeb e#j#Z t#v#v#v GK#U m#Y, mej , m#v#j#j, "v#v#v#v Rxeb| Rxeb m#t#U Wt g#nD#i#b d#v#k e#v#v#v`k 55 #WGjAvi (2003)69 t#v#K#i#g#v #b#v#v³ g#e" Kiv nq t

"Article 32 guarantees right to life. This expression 'life' does not mean merely an elementary life or sub-human life but connotes in this expression the life of the greatest creation of the Lord who has at least a right to a decent and healthy way of life

GB R_xeb†K m_y i_vLevi i_vóxq`wqZ t<sub>e</sub>va nB†ZB 18 Ab†Q`†K i_vó c_wiP_vj_bvi Ab`Zg g†b_xZ n_mv†e
m†Pó_fv†eB MnY Kiv nBq†Q| K†RB 32 Ab†Q†`e<sup>3</sup> ÓR<sub>x</sub>ebó Ges 18 Ab†Q†`e³ Bn†K m_y i_vLevi
c_v_gK`wqZ †e†i<sub>v</sub>a<sub>x</sub> †K<sub>v</sub>b A<sub>v</sub>Bb`ea nB†e b_v|

evs_jv†`k GKU MYZŠK Welfare State i<sub>v</sub>ó Z†e Bn<sub>v</sub> A<sub>x</sub>K<sub>v</sub>i Kiv hvq b<sub>v</sub> th`†i_vbZ`i<sub>v</sub>†`k n_mv†e
m_iK_v†ii A_w_K †gZ_v m_xgZ Ges nq†Z_v m_w`Q<sub>v</sub>\_vK<sub>v</sub>††E<sub>I</sub> mem<sub>v</sub>av<sub>i</sub>†bi Rb`ebvg†j`P_vK_rm_v t_mev
c`vb m_{oe} bq †KŠ th_Lনে জনসাধারণ বিনামূল্যে নয়, নিজ ব্যয়ে চিকিৎসা সেবা ক্রয় করিতেছে, সেখানে তাহার
ক্রয় মূ_j†i Dci Ki A_v†ivc ms_wea_v†bi 32 I 18 Ab†PQ†`i g††PZb_vi পরিপন্থী।

GgZ_ve`vq g†`ms†h_vRb Ki A_vBb, 1991, Gi †ØZ_xq Zdm_x†j e_wYZ g†`ms†h<sub>v</sub>Rb Ki nB†Z Ae`v_niZ c_vß
†m_evmg†ni Z_wjK_v nB†Z †P_vK_rm_v c_wZô_vb, `Š †P<sub>v</sub>K<sub>r</sub>m<sub>v</sub>†K>`, c`v\_j†RK`vj j`ve†iUix, †e†kIÁ W_v³_vi
c`E t_mev বাদ প্রদান অসাংবিধানিক হইয়াছে। এমতাবস্থায় কোন রোগির নিকট হইতে তাহার চিকিৎসা সংক্রান্ত
†K_vb LiP ev e`v†qi Dci g†`ms†h_vRb Ki A_v†ivc Kiv hvB†e b_v|

AZGe, Dc†iv³ †ØZ_xq Zdm_x†ji mg_vR K_j`vY gmK t<sub>m</sub>ev †k†ivb†g A<sub>v</sub>I<sub>v</sub>q (K) `vq †P_vK_rm_v I`v`
†m_ev kã₃†ji c†i e†K†U e³ †P_vK_rm_v c_wZô_vb, `Š †P<sub>v</sub>K<sub>r</sub>m<sub>v</sub>†K>` Ges c`v\_j†RK`vj j`ve†iUix,ó Ges
†e†kIÁ W_v³_vió kã₃†ji Dc†Z A_wea I †eA_vBb††N_vI_bv Kiv nBj| c_wZev`xMY G m_oú†K c†h_vRb_xq
c`††c Z_worMnY K_vi†eb|

AZGe, A_i i_xU †g_vK_i†g_vq R_vi_xKZ.i_yU LiP_v e`wZ†i†K G`vem†jDU Kiv nBj|
