



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**DEFENCE LEVY
ACT, No. 52 OF 1991**

[Certified on 21st December. 1991]

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L.D.—O. 63/91

AN ACT TO PROVIDE FOR THE IMPOSITION OF A DEFENCE LEVY FOR THE YEAR COMMENCING ON JANUARY 1, 1992 ; TO PROVIDE FOR THE APPLICATION OF THE PROVISIONS OF THE TURNOVER TAX ACT, NO. 69 OF 1981 FOR THE RECOVERY THEREOF ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Shri Lanka as follows :—

1. This Act may be cited as the Defence Levy Act No. 52 of 1991.

Short title.

2. (1) This Act shall apply to every person who—

Persons to whom this Act applies.

- (a) carries on the business of manufacturer of any article ; or
- (b) imports any article manufactured outside Shri Lanka ; or
- (c) carries on the business of insurance or banking or finance.

(2) Every person referred to in subsection (1) shall, hereafter in this Act be referred to as a “person to whom this Act applies”.

3. (1) Subject to the succeeding provisions of this Act, there shall be charged from every person to whom this Act applies, for every quarter of the year commencing on January 1, 1992, (hereinafter in this Act referred to as a “relevant quarter”), a defence levy (hereinafter in this Act referred to as the “levy” equivalent to one per centum of the turnover, within the meaning of section 5 of the Turnover Tax Act, of that person for that quarter.

Imposition of the defence levy.

(2) Notwithstanding the preceding provisions of this section, turnover of a person to whom this Act applies shall, for the purposes of this Act, be deemed not to include—

- (a) the proceeds from the export by such person of any article manufactured by him ;
- (b) the value of any article not being plant, machinery or fixtures imported by such person exclusively for use in the manufacture by such person of any article for export ; and
- (c) the proceeds from the sale of any article manufactured outside Shri Lanka by the person importing such article.

Payment of
the levy.

4. Subject to the provisions of sections 5 and 6, every person to whom this Act applies shall, notwithstanding that no assessment has been made on him, pay to the Commissioner-General the amount of the levy payable by him for any relevant quarter in three instalments, in the following manner—

- (a) an amount equivalent to one *per centum* of the turnover of that person for the first month of that quarter, on or before the fifteenth day of the second month of that quarter ;
- (b) an amount equivalent to one *per centum* of the turnover of that person for the second month of that quarter, on or before the fifteenth day of the third month of that quarter ; and
- (c) the amount of the levy payable by such person for that quarter reduced by the aggregate of the amounts paid by him in accordance with the provisions of paragraph (a) and of paragraph (b), on or before the fifteenth day of the month immediately succeeding the end of that quarter.

Banks to
collect the
levy in
advance from
importers.

5. (1) Every bank shall—

(a) at the time at which it opens any letter of credit, in any month in a relevant quarter, on an application in that behalf by any person to whom this Act applies, being an importer of an article, collect from such person, an amount equal to one *per centum* of the value of that letter of credit ; and

(b) remit the amount so collected to the Commissioner-General, on or before the fifteenth day of the month immediately succeeding the month in which the amount was collected together with a declaration in such form and containing such particulars as may be specified by the Commissioner-General.

(2) Every bank which collects any amount in accordance with the provisions of subsection (1), shall make an endorsement on the import invoice relating to the letter of credit with reference to which such amount was collected specifying the amount so collected.

(3) Any amount collected by any bank from any person to whom this Act applies, in accordance with the provisions of subsection (1), shall be deemed to have been paid to the Commissioner-General by such person on the date on which such bank collected such amount, and shall be set off against the levy payable by such person for the relevant quarter in which such amount was deemed to have been paid by him.

(4) Notwithstanding anything in any other law, any amount collected by any bank under the preceding provisions of this section and held by such bank for remittance to the Commissioner-General shall be deemed not to be such property of such bank as is liable to execution or administration in the event of the bankruptcy, liquidation or dissolution of such bank or to assignment for the benefit of creditors and such amount shall remain apart from, and form no part of, the estate in bankruptcy, liquidation or assignment of such bank.

(5) Where any bank fails to collect, from any person to whom this Act applies, any amount required to be collected from such person under this section, or where any bank has collected such amount and has not remitted the amount so collected to the Commissioner-General on or before the fifteenth day of the month immediately succeeding the month in which such amount was collected, such bank shall be liable to the amount it was required to collect under the provisions of this section but has not collected, or as the case may be, for the amount or part thereof collected and not remitted to the Commissioner-General and such amount not collected or collected and not remitted, as the case may be, shall be deemed to be in default from the day following the day on which such amount was required to have been remitted to the Commissioner-General and such bank shall be deemed to be a defaulter, with effect from such date, and such amount may be recovered from such bank in the manner provided in this Act.

6. Where any person to whom this Act applies being a person carrying on the business of manufacturer of any article has paid in any relevant quarter, the levy in respect of the import of any article, (other than any plant, machinery or fixture), he shall be entitled to deduct the amount of the levy so paid from the levy payable by him, for that quarter, in respect of such business of manufacturer.

Deduction
from the
levy payable
by the
manufacturer
on imports.

Levy in default and penalty added thereto.

7. (1) Where the levy payable by a person to whom this Act applies for any relevant quarter is not paid on or before the date specified in section 4, for the payment of that Levy, or part thereof, the amount of the levy or part thereof shall be deemed to be in default with effect from that date and the person by whom such amount is payable, or where such amount is payable by more than one person or by a partnership, then each of such persons and each partner of the partnership, shall be deemed to be a defaulter for the purposes of this Act, with effect from such date.

(2) Where any levy or part thereof is in default by reason of the operation of section 5 or this section the defaulter shall, in addition to the levy or part thereof in default, pay as a penalty—

- (a) a sum equivalent to ten *per centum* of the levy or part thereof in default, and
- (b) where any levy or part thereof in default is not paid before the fifteenth day of the month succeeding the month in which such levy has begun to be in default, a further sum equivalent to two *per centum* of the amount in default in respect of each period ending on the fifteenth day of each succeeding month or part of such period during which such amount it is in default:

Provided, however, that the total amount payable as a penalty under this subsection shall in no case exceed fifty *per centum* of the levy or part thereof in default and any such amount may be waived or reduced if the Commissioner-General is satisfied, that by reason of any special circumstances in which the default occurred, a waiver or reduction of such amount would be just and equitable.

Certain provisions of the Turnover Tax Act to apply.

8. The provisions of Chapters V, VIII, IX, X and XII of the Turnover Tax Act relating to the furnishing of returns, assessment, appeals against assessment, finality of assessment and penalty for incorrect return, recovery, and refund of turnover tax, the provisions of Chapters XI, XIII (other than the provisions of sections 44 and 45) and XVI relating to special cases, miscellaneous matters, and penalties and offences, under the Turnover Tax Act, and the provisions of Chapter XVII relating to the administration of the Turnover Tax Act, shall, *mutatis mutandis*, apply to the furnishing of returns, assessment, appeals against assessment, finality of assessment and penalty for incorrect return, recovery, and

refund of the levy, and to special cases, miscellaneous matters, penalties and offences under this Act, and to the administration of this Act, subject to the following modifications :—

- (a) The requirement imposed by this Act, on any person to whom this Act applies, to furnish a return of the turnover in respect of which the levy is payable by such person under this Act, for every relevant quarter, shall apply notwithstanding that his turnover for that quarter is less than twenty five thousand rupees;
- (b) Where an Assessor makes an assessment or an additional assessment on any person to whom this Act applies, of the turnover tax payable by such person under the Turnover Tax Act, for any quarter referred to in paragraph (a), the Assessor may, at the same time and in the same form, make an assessment or additional assessment, as the case may be, of the levy payable by such person under this Act, for that quarter. The assessments or the additional assessments, as the case may be, shall be deemed to be separate assessments issued under the respective Acts :

Provided that an Assessor may, make an assessment or an additional assessment on any person to whom this Act applies, of the levy payable by such person under this Act for any relevant quarter, without at the same time making an assessment or an additional assessment of turnover tax payable, for that quarter, under the Turnover tax Act; and

- (c) Where under Chapter XII of the Turnover Tax Act, a certificate is issued to a Magistrate or a notice, statement or certificate is issued to any person, such notice, statement or certificate, as the case may be, may also include the particulars of the levy, if any, in default under this Act. The notices, statements or the certificates shall be deemed to be separate notices, statements or certificates issued under the respective Acts.

9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala
text to
prevail in
case of
inconsis-
tency.

Interpre-
tation.

10. In this Act, unless the context otherwise requires—

'article,' 'assessor', 'business', 'Commissioner-General', 'person' and 'quarter' shall have the respective meanings assigned to them in the Turnover Tax Act;

'bank' means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988;

'banker' means any company or body of persons carrying on the business of banking;

'importer' has the same meaning as in paragraphs (f) and (g) in the definition of "manufacturer" in the Turnover Tax Act ;

'manufacturer' has the same meaning as in paragraphs (a), (b), (c), (d), and (e) of the definition of manufacturer in the Turnover Tax Act ;

'Turnover Tax Act' means the Turnover Tax Act, No. 69 of 1981.