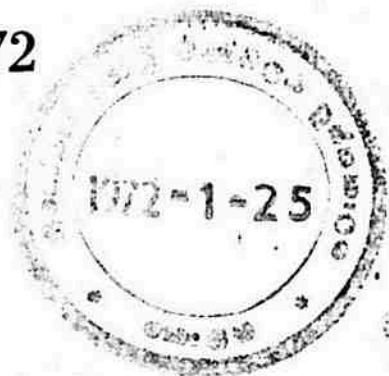


PARLIAMENT OF CEYLON

2nd Session 1971-72



Finance (Amendment) Act, No. 55 of 1971

Date of Assent : December 28, 1971

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AN ACT TO AMEND THE FINANCE ACT, No. 11 OF 1963.

[Date of Assent: December 28, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Finance (Amendment) Act, No. 55 of 1971. Short title.

2. Section 120 of the Finance Act, No. 11 of 1963, (hereinafter referred to as the "principal Act"), as amended by Act No. 50 of 1968 and by Act No. 35 of 1969, is hereby further amended as follows:— Amendment of section 120 of the Finance Act, No. 11 of 1963.

(1) in sub-section (1) of that section—

(a) in paragraph (a) of that sub-section, by the substitution in sub-paragraph (ii) of that paragraph, for the words "sixty-five, and", of the word "sixty-five";

(b) in paragraph (b) of that sub-section—

(i) by the substitution, for the words and figures "for any year of assessment commencing on or after October 1, 1969, if," of the words and figures "for the year of assessment commencing on October 1, 1969, and for the next subsequent year of assessment if,";

(ii) by the substitution, for the full-stop at the end of that paragraph, of a comma;

(c) by the insertion, immediately after paragraph (b), of the following new paragraph:—

"(c) for each quarter in any year of assessment commencing on or after October 1, 1971, if—

(i) in the case where that business is carried on by that person during the entirety of that quarter, the turnover of that business for that quarter is not

less than eighteen thousand seven hundred and fifty rupees, or

- (ii) in the case where that business is carried on by him for only a part of that quarter, the turnover of that business for that part of the quarter is not less than a sum which bears to eighteen thousand seven hundred and fifty rupees the same proportion as the number of days in that part of the quarter bears to ninety-one.

For the purposes of this paragraph, the sum realized by any person carrying on a business from the sale of any article declared to be an excepted article under section 121 shall form part of the turnover of that business"; and

(2) in sub-section (3) of that section—

- (a) by the substitution, in paragraph (b) of that sub-section, for the words and figures "to any year of assessment commencing on or after October 1, 1968, includes", of the words and figures "to the year of assessment commencing on October 1, 1968, and the next two subsequent years of assessment includes"; and

(b) by the addition, at the end of that sub-section, of the following new paragraph:—

(c) For the purposes of this Part of this Act "business" in relation to any year of assessment commencing on or after October 1, 1971, includes any trade, profession, vocation, or the business of any person taking commissions or fees in respect of any transactions or services rendered, or the business of an independent contractor but does not include—

- (i) any undertaking for the production of unmanufactured or unprocessed agricultural or animal produce;

- (ii) any undertaking for the purpose of rearing livestock or poultry;
- (iii) any undertaking for the manufacture of copra, desiccated coconut, coconut fibre, crepe rubber, sheet rubber or tea (other than an undertaking for the blending of tea);
- (iv) any undertaking for the export of any manufactured or processed article;
- (v) the business of a banker;
- (vi) any insurance business;
- (vii) the business of carrying on an educational establishment or school being an educational establishment or school to which grants from State funds are paid or to which such grants were earlier paid but at present are not paid;
- (viii) the business of selling to tourists for payment made in foreign currency gems within the meaning of the State Gem Corporation Act, No. 13 of 1971, if such business is carried on by any person under the authority of an Order made under section 16 of that Act;
- (ix) the business of selling gems within the meaning of the State Gem Corporation Act, No. 13 of 1971, to the Corporation established under that Act;
- (x) the business of the State Gem Corporation established by the State Gem Corporation Act, No. 13 of 1971; and
- (xi) any other business the turnover from which may be exempted from the business turnover tax by Order made by the Minister,

approved by the House of Representatives and published in the *Gazette*.’.

Amendment of section 121 of the principal Act.

3. Section 121 of the principal Act is hereby amended in sub-section (2) of that section, by the substitution, for all the words from “the sum realized” to the end of that sub-section, of the following:—

“no business turnover tax shall be payable in respect of the sum realized by the sale of such article.”.

Amendment of section 123 of the principal Act.

4. Section 123 of the principal Act is hereby amended by the substitution, for all the words from “Every person” to “for that quarter.”, of the following:—

“Every person who carries on any business in Ceylon shall—

(a) if such business is carried on by him during the entirety of any quarter in a year of assessment and the turnover of that business for that quarter is not less than eighteen thousand seven hundred and fifty rupees; or

(b) if such business is carried on by him during a part of a quarter in a year of assessment and the turnover of that business for that part of the quarter is not less than a sum which bears to eighteen thousand seven hundred and fifty rupees the same proportion as the number of days in that part of the quarter bears to ninety-one,

furnish to the Commissioner, not later than fifteen days after the expiry of that quarter, a return setting out the turnover of that business for that quarter.”.

Amendment of section 124 of the principal Act.

5. Section 124 of the principal Act is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for all the words and figures from

“ any person chargeable ” to “ an Assessor ”, of the following:—

“ any person—

(a) who in the opinion of the Assessor is chargeable with business turnover tax fails to furnish under section 123 a return for any quarter in a year of assessment and to pay that tax for that quarter; or

(b) who is chargeable with that tax furnishes under section 123 a return in respect of any quarter in a year of assessment but fails to pay that tax for that quarter,

the Assessor ”; and

(2) by the addition, at the end of that section, of the following new sub-sections:—

“ (3) Where, in the opinion of the Assessor, the amount paid as business turnover tax for any quarter of a year of assessment by any person who has failed to furnish under section 123 a return in respect of that quarter is less than the proper amount payable by that person for that quarter, the Assessor shall assess the amount which, in the judgment of the Assessor, ought to have been paid by such person and shall, by notice in writing, require that person to pay on or before a date set out in that notice, the difference between the amount so assessed and the amount paid by that person.

(4) Where an assessment is made under sub-section (3) in respect of any person for any quarter in any year of assessment, the difference between the amount so assessed and the amount paid by that person as business turnover tax for that quarter shall be deemed to be business turnover tax in default for that quarter and accordingly such person shall, from the date on which such person should have paid that tax for that quarter under sub-section (2) of section 122, be liable in respect of that amount to the penalty under sub-section (3) of that section.”

Amendment of
section 138 of
the principal
Act.

6. Section 138 of the principal Act, as amended by Act No. 50 of 1968, is hereby further amended as follows:—

(1) in sub-section (1A) of that section, by the substitution, for the words “assessment appealed against”, of the words “assessment or additional assessment appealed against”; and

(2) by the insertion, immediately after sub-section (1B) of that section, of the following new sub-section:—

“(1C) On receipt of a petition of appeal made in conformity with the provisions of sub-section (1) and sub-section (1A), the Commissioner may cause further inquiry to be made by an Assessor, and, if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, any necessary adjustment of the assessment shall be made and where no agreement is reached, the Assessor shall refer the appeal to the Commissioner for his decision.”.

Amendment of
section 152 of
the principal
Act.

7. Section 152 of the principal Act, as amended by Act No. 50 of 1968, is hereby further amended by the addition, at the end of that section, of the following new sub-section:—

“(3) Where any person carrying on a business has paid the business turnover tax in respect of that business for one or more of the quarters in any year of assessment commencing on or after October 1, 1971, and the turnover of that business for that year of assessment—

(a) in the case where that business was carried on during the entirety of that year of assessment, is less than seventy-five thousand rupees, or

(b) in the case where that business was carried on for only a part of that year of assessment, is less than the sum which bears to seventy-five thousand rupees the same proportion as the number of days in the period during which he carried on that business in that year of assessment bears to three hundred and sixty-five,

such person shall, upon application made within three years after the expiry of that year of assessment, be entitled to a refund of the business turnover tax paid by him in respect of such quarter or quarters."

8. Section 157 of the principal Act is hereby repealed and the following new section is substituted therefor:—

Replacement
of section 157
of the principal
Act.

" Business
turnover tax
to be a
deduction for
income tax
purposes.

157. Where any person chargeable with business turnover tax is liable to income tax under the Inland Revenue Act, No. 4 of 1963, then, for the purposes of ascertaining the profits or income of that person for any period under that Act, the business turnover tax which that person is liable to pay for that period shall be allowed as a deduction under section 10 of the Inland Revenue Act:

Provided that the preceding provisions of this section shall not apply to any assessment which under section 103 of the Inland Revenue Act is final and conclusive."

9. Section 159 of the principal Act, as amended by Act No. 50 of 1968, is hereby further amended as follows:—

Amendment of
section 159 of
the principal
Act.

- (1) in the definition of " body of persons ", by the substitution, for the words " unincorporate, any fraternity," , of the words " unincorporate, any department or undertaking of the Government of Ceylon, any fraternity," ; and
- (2) in the definition of " turnover ", by the substitution, for all the words from " in carrying on that business " to the end of that definition, of the following:—

" in carrying on that business and includes—

- (a) in the case of a financier, money-lender or pawnbroker, the moneys given out by him as loans, the interest received or receivable by him on such loans and the sums received by him as fees or other charges in respect of such loans;

(b) in the case of a commission agent, auctioneer or broker, other than a produce broker or share broker, the total amount paid or payable by the purchaser of any land or goods sold by him or in the sale of which he is instrumental; and

(c) in the case of a person carrying on any educational establishment or school, the total amount, excluding profits from investment of the moneys of the educational establishment or school, received or receivable by him in carrying on such educational establishment or school,

but, unless otherwise expressly stated in this Part of this Act, does not include any amount received or receivable by the sale of capital assets;”