



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

VALUE ADDED TAX ACT, No. 14 OF 2002

[Certified on 26th July, 2002]

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Value Added Tax Act No. 14 of 2002

[Certified on 26th July, 2002]

L.D.—G. 25/2002.

AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A VALUE ADDED TAX ON GOODS AND SERVICES SUPPLIED IN SRI LANKA OR IMPORTED INTO SRI LANKA ; TO PROVIDE FOR THE ABOLITION OF THE NATIONAL SECURITY LEVY AND THE GOODS AND SERVICES TAX ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

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

1. This Act may be cited as the Value Added Tax Act, No. 14 of 2002 and shall come into operation on August 1, 2002

Short title and date of operation

CHAPTER I

IMPOSITION OF VALUE ADDED TAX

2. (1) Subject to the provisions of this Act, a tax, to be known as the Value Added Tax (hereinafter referred to as "the tax") shall be charged—

Imposition of Value Added Tax

(a) at the time of supply, on every taxable supply of goods or services, made in a taxable period, by a registered person in the course of the carrying on, or carrying out, of a taxable activity by such person in Sri Lanka ;

(b) on the importation of goods into Sri Lanka, by any person,

and on the value of such goods or services supplied or the goods imported, as the case may be, at the following rates :—

(i) *ten per centum* (of which the Tax Fraction is $1/11$) on the value of goods and services referred to in the Second Schedule, which are chargeable with the tax other than zero rated supplies ;

- (ii) twenty per centum (of which the Tax Fraction is 1/6) on the value of all other taxable goods and services which are chargeable with the tax other than zero rated supplies.

The Tax Fraction referred to above shall be applied to ascertain the amount of tax charged in the case of a tax inclusive consideration :

Provided, however the Commissioner-General shall not collect the tax under subsection (1) where the tax is —

- (a) recovered in respect of any garments sold locally, which are referred to in the proviso to subsection (1) of section 22;
- (b) deferred by the Director-General of Customs in respect of supplies referred to in sub-paragraph (iv) of paragraph (a) of the second proviso to subsection (3) of section 2.

(2) Notwithstanding the provisions of subsection (1) the Commissioner-General shall defer the tax due on any tea supplied by any tea manufacturer registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, [No. 14 of] 1975, to any auction conducted by a registered tea broker and if such tea broker has supplied such tea to any tea exporter registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, No. 14 of 1975, until such time the relevant tea broker furnishes the reconciliation on the disposal of such tea as stipulated by the Commissioner-General.

(3) The tax on the importation of goods, shall be charged, levied and collected as if it is a customs duty and as if all goods imported into Sri Lanka are dutiable and liable to customs duty :

Provided however, no tax shall be charged on—

- (a) any goods which entered into a customs bonded area ;

- (b) any fabric imported by any person, for the purpose of manufacture of garments for export, who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No. 4 of 1978 for the manufacture of garments for export under such agreement, and the transfer of such fabric with or without value addition with the approval of the Director-General of Customs or the Board of Investment of Sri Lanka, to any other person for the purposes of such manufacture of garments for export ;
- (c) any fabric imported by any person, who has registered with the Board of Investment of Sri Lanka as a Trading House for the purpose of manufacture of garments for export through other garment manufacturers as approved by the Board of Investment of Sri Lanka and transfer of such fabric with the approval of the Director-General of Customs or the Board of Investment of Sri Lanka to such garment manufacturers for the purposes of manufacture of garments for export ;
- (d) any fibre, yarn, grey cloth, finished cloth, chemicals and dyes used for the manufacture of fabric imported by any Fabric manufacturer who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 for the purpose of such manufacture ;
- (e) any ship ;

Provided further, the Director-General of Customs may, defer the payment of the tax due on—

- (a) (i) any goods imported, including any goods received from a customs bonded area, by a registered person who imports or receives such goods to be used by such person for the purpose of manufacture and export of the goods so manufactured ;

- (ii) any goods imported by any registered person referred to in subsection (6) of section 22 which are project related goods during such project implementation period ;
- (iii) any goods being any plant, or machinery imported for any infrastructure project funded mainly by a foreign government or any regional or multilateral agency including the United Nations Organization and its affiliates, during the implementation period ;
- (iv) any purchase of fabric, manufactured by a person who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law for the manufacture of fabric by another person who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No. 4 of 1978 for the manufacture of garments for export under such agreement and utilizes such fabric for the manufacture of garments for export ;

for a period of sixty days or such other period not exceeding ninety days from the date of importation, receipt or purchase of such goods, as may be determined by the Minister by notification published in the Gazette ;

- (b) any goods being plant, machinery or other equipment of high value temporarily imported into Sri Lanka and re-exported within twelve months, for a period upto the date of such re-export ;

subject to the furnishing of a bank guarantee or a corporate guarantee which covers the amount of the tax due on the goods so imported, received or purchased.

3. Notwithstanding the provisions of section 2, the tax shall not be charged on the wholesale or retail supply of goods, other than on the wholesale or retail supply of goods, by—

Tax not be charged on wholesale or retail supply of goods.

- (a) a manufacturer of such goods ; or
- (b) an importer of such goods ; or
- (c) a supplier who is unable to satisfy the Commissioner-General, as to the source from which the goods supplied by him, were acquired :

Provided however, such tax shall be charged on such wholesale or retail supply of goods, if—

- (a) any registered person makes an application to that effect to the Commissioner-General;
- (b) any other person makes an application to that effect to the Commissioner-General and obtains a registration as provided for in sections 10 or 12.

4. (1) The supply of goods shall be deemed to have taken place at the time of the occurrence of any one of the following whichever, occurs earlier :—

Time of supply.

- (a) the issue of an invoice by the supplier in respect of the goods ; or
- (b) a payment for the goods including any advance payment received by the supplier ; or
- (c) a payment for the goods is due to the supplier in respect of such supply ; or
- (d) the delivery of the goods have been effected.

(2) Notwithstanding the provisions of paragraph (d) of subsection (1), where an invoice is issued in respect of goods delivered, within ten days from the date of delivery of such goods, the time of supply of such goods, shall be deemed to be the time at which the invoice was issued.

(3) The supply of services shall be deemed to have taken place, at the time, of the occurrence of any of the following whichever, occurs earlier :—

- (a) the service was performed ; or
- (b) a payment is received for the services rendered or for future services ; or
- (c) a payment is due for the services rendered or for future services ; or
- (d) an invoice is issued in respect of the services rendered.

(4) Notwithstanding the provisions of paragraph (a) of subsection (3), where an invoice is issued in respect of services supplied, within ten days from the date of performance of such service, the time of supply of such service shall be deemed to be the time at which the invoice was issued.

(5) Notwithstanding the provisions of subsections (1) and (3), a supply shall be deemed to take place—

- (a) where a supply is made under an agreement entered into, on or after April 1, 1998, other than a hire purchase agreement, which provides for periodical payments, when the payment is due or when the payment is received, whichever is earlier ; and
- (b) where goods are supplied under a hire purchase agreement, at the time the agreement is entered into.

(6) Where the Commissioner-General directs any registered person to account for the tax on a payment basis under section 23, the time of supply of goods or services supplied by such person shall be the time at which the payment in respect of such supply is received.

(7) Where the time of supply falls within any taxable period or portion of a taxable period ending on or before July 31, 2002, under the Goods and Services Tax Act, No. 34 of 1996 and any event referred to in this section takes place under this Act in relation to the same supply, such event shall not be considered as a time of supply.

5. (1) The value of a taxable supply of goods or services, shall be such amount where the supply is—

Value of supply of goods or services.

- (a) for a consideration in money, be such consideration less any tax chargeable under this Act which amount shall not be less than the open market value ;
- (b) not for a consideration in money or not wholly in consideration of money, be the open market value of such supply.

(2) Subject to the provisions of subsection (3), where a supply of goods or services is made by a registered person for an amount which is less than the open market value to a person not being a registered person the value of such supply, shall be the open market value of the supply.

(3) Where a supply of goods or services is made by an employer, to his employee as a benefit from employment, the consideration in money for the supply shall be the open market value of such supply or where the open market value of such supply cannot be ascertained, the consideration in money of such supply shall be the cost of a similar benefit enjoyed by any other employee, as may be determined by the Assessor.

(4) Where a supply of services is made under any lottery, or any taxable activity of entering into or negotiating a wagering contract or any business of like nature, the value of such supply shall be the total amount of money receivable in respect of such supply less the consideration of the prizes or winnings awarded in such lottery, wagering contract, or any business of like nature as the case may be.

(5) Where a supply of goods or services—

- (i) is made by a person at the time of cancellation of the registration under section 16 ; or
- (ii) is made to any person who makes a supply which is exempted under section 8 ; or
- (iii) made by any person, not being a registered person or being a registered person who had not opted to charge tax under the proviso to section 3, who carries on or carries out any wholesale or retail trade ; or
- (iv) is appropriated by the supplier for his personal use or any other purpose other than the making of a taxable supply,

the value of such supply shall be not less than the open market value.

(6) The value of the supply of goods under a hire purchase agreement shall be the cash price determined in accordance with the provisions of the Consumer Credit Act, No. 29 of 1982, and shall not be less than the open market value :

Provided however in the case of a hire purchase agreement—

- (a) where the cash price of any goods supplied under a hire purchase agreement includes the tax charged, by the supplier on the seller of such goods to be supplied under such agreement for which the seller cannot claim input tax credit being a person who is not registered under this Act, the cash price and the market value of such goods shall be adjusted for the purposes of charging the tax by deducting the tax so charged on the seller ;
- (b) under which second hand goods, which have been in circulation for a period over one year, are supplied, the cash price and the market value of such goods

for the purposes of charging the tax shall be the value specified in the hire purchase agreement less any charge made for such hire purchase facility included in such agreement.

(7) The value of supply of land and improvements thereon, shall be the value of such supply less the value of land at the time of supply and the value of any improvements on the land as at March 31, 1998 which shall not be less than the open market value of such supply excluding the value of such land at the time of supply and the value of any improvements on such land as at March 31, 1998.

(8) Where goods or services are supplied either on the issue of a ticket or by the deposit of money the value of such supply shall be the amount paid for such ticket less the tax payable under this Act or the amount deposited less the tax payable under this Act, not being any amount which is refundable as the case may be.

(9) The value of a supply, under any non reviewable agreement not being a hire purchase agreement entered into prior to April 1, 1998, shall be the total amount payable or paid under such agreement for any taxable period and shall be considered as a tax inclusive consideration.

(10) Where any goods supplied under a lease agreement is subsequently transferred to the lessee at the termination of such agreement for a consideration not exceeding ten *per centum* of the total consideration of the lease agreement, such consideration shall be deemed to be a lease rental recovered under such agreement.

Further, where such consideration is more than ten *per centum* of the total consideration of the lease agreement such supply shall be deemed to be a separate supply.

(11) Where the consideration in respect of a supply of goods or services relates to a taxable supply and a supply which is not taxable, the consideration for such taxable supply

shall be deemed to be such part of the consideration as is attributed to such taxable supply and shall not be less than the open market value of such taxable supply.

(12) Where goods are manufactured or produced or a service is provided, by using other goods, whether provided by the supplier or any other person, such other goods shall be deemed to be used in the manufacture or production or the provision of service as the case may be, and the value of the supply of the goods so manufactured or produced and the supply of services in connection with such manufacture or production or the supply of the service shall be the open market value or the sum received as consideration for such supply, whichever is higher :

Provided however, where it is proved to the satisfaction of an Assessor that the supply of goods, and the supply of services are two separate supplies, each such supply shall be treated as a separate supply by such Assessor.

The value of
goods
imported

6. (1) The value of goods imported, shall be the aggregate of—

- (a) the value of the goods determined for the purpose of customs duty ; and
- (b) the amount of any customs duty payable, in respect of such goods with the addition of any surcharge, cess and any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989 on such goods.

Zero rating.

7. (1) A supply of—

- (a) goods shall be zero rated where the supplier of such goods has exported such goods ; and

(b) services shall be zero rated where the supply of such services are directly connected with—

- (i) any movable or immovable property outside Sri Lanka ;
- (ii) the repair of any foreign ship or aircraft, refurbishment of marine cargo containers or any other goods imported for the purpose of re-export ;
- (iii) a copyright, patent, licence, trade mark or similar intellectual property right, to the extent that such right is for use outside Sri Lanka ;
- (iv) the international transportation (including transshipment) of goods or passengers as are specified by the Commissioner-General by a Notification published in the Gazette,
- (v) computer software development, in respect of software developed by the developer for use wholly outside Sri Lanka, and for which payment is received in foreign currency through a bank if, and only if, documentary evidence is produced to the satisfaction of the Commissioner-General of the supply of such services ;
- (vi) client support services provided, on or after April 1, 2001 over the internet or the telephone by an enterprise set up exclusively for the provision of such services to one or more identified clients outside Sri Lanka, for which payment is received in foreign currency, through a bank ;
- (vii) any other services consumed outside Sri Lanka to the extent that the payment for such services is received in foreign currency, through a bank in Sri Lanka.

(2) Where a registered person supplies any goods or services which is zero rated—

- (a) no tax shall be charged in respect of such supply ;
- (b) the supply shall in all other respects be treated as a taxable supply and accordingly the rate at which tax is charged on the supply shall be zero.

Supplies and importation exempted from tax.

8. No tax shall be charged on the supply of goods or services and the importation of goods specified in the First Schedule to this Act as such supplies and imports are not taxable unless zero rated under section 7.

Goods or services supplied in Sri Lanka.

9. For the purposes of this Act goods or services shall be deemed to be supplied in Sri Lanka where the supplier carries on or carries out a taxable activity in Sri Lanka and the goods are in Sri Lanka at the time of supply or the services are performed in Sri Lanka by the supplier or his agent.

CHAPTER II

REGISTRATION

Persons making supplies in the course of a taxable activity to be registered.

10. (1) Every person who, on or after August 1, 2002 carries on or carries out any taxable activity in Sri Lanka shall be required to be registered under this Act, if—

- (a) at the end of any taxable period of one month or three months, as the case may be, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka in that taxable period of one month or three months, as the case may be, has exceeded five hundred thousand rupees ; or
- (b) in the twelve months period then ending, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka has exceeded one million and eight hundred thousand rupees ; or

- (c) at any time, there are reasonable grounds to believe that the total value of his taxable supplies in Sri Lanka of goods or services or goods and services in the succeeding one month or three months taxable period, as the case may be, is likely to exceed five hundred thousand rupees or in the succeeding twelve months period is likely to exceed one million and eight hundred thousand rupees ;

Provided however, where the Commissioner-General is of opinion that the supply of goods relate to a single isolated transaction, the value of such supply may be excluded in calculating the total value of taxable supplies for the purposes of this section.

(2) Every person who is required to be registered under subsection (1), shall make an application for registration in the specified form to the Commissioner-General not later than fifteen days from the date on which is so liable to be registered.

For the purpose of this section the total value of taxable supplies shall not include the supplies of any wholesale or retail trading activity excluded from the payment of tax under section 3.

11. (1) Every person who is an importer of goods into Sri Lanka shall notify the Commissioner-General not later than fourteen days prior to the clearing of such goods that he has imported such goods and obtain from the Commissioner-General an identification number for the clearing of such goods :

Importers of
goods to notify
Commissioner-
General.

Provided however, any importer who imports into Sri Lanka goods under the Passengers Baggage (Exemptions) Regulations made under section 107 of the Customs Ordinance or a person who is registered under section 10 or section 12, or paragraph (c) of section 14, or be deemed to be registered under subsection (2) of section 77 or is deemed to be a registered person under subsection (1) of section 75 of the Goods and Services Tax Act, No. 34 of 1996 shall not be liable to notify the Commissioner-General.

(2) Every importer referred to in subsection (1) shall make an application in the specified form to the Commissioner-General.

Voluntary
registration

12. Notwithstanding the provisions of sections 3 and 10, any person who supplies goods or services and carries on or carries out a taxable activity or imports any taxable goods may make an application in the specified form to the Commissioner-General for registration under this Act :

Provided however, the Commissioner-General may after affording the applicant an opportunity of being heard, and having regard to the nature of the business carried on or carried out by such applicant, the value of the taxable supplies made by such applicant in the two preceding taxable periods and the probability that the value of his taxable supplies will not exceed the value referred to in section 10, refuse to register such applicant.

Commissioner-
General to
call for
information.

13. For the purpose of registering a person under section 14, the Commissioner-General may call for any information from such person at any time relating to any taxable activity carried on or carried out by such person.

Registered
person.

14. (1) The Commissioner-General shall—

- (a) where an application has been made by any person for registration under section 10 ;
- (b) where an application for registration under section 12 has been made and such application has not been refused by the Commissioner-General ; or
- (c) where an application for registration, has not been made but the Commissioner-General is of opinion having regard to the nature of the activities carried on or carried out by such person, that such person is required to be registered under this Act, and after affording such person an opportunity of being heard, register such person with effect from such date as may be determined by him.

(2) Any person registered under subsection (1) or deemed to be registered under subsection (2) of section 77 or deemed to be registered under section 75 of the Goods and Services Tax Act, No. 34 of 1996 on August 1, 2002 and where such person is carrying on or carrying out a taxable activity shall be a registered person under this Act.

15. (1) The Commissioner-General shall, issue to a person registered under this Act upon such registration under section 14 —

Certificate of registration.

(a) a tax registration number ; and

(b) a Certificate of registration.

(2) The Certificate of registration shall set out the name and other relevant details of the registered person, the date on which registration comes into effect, and the tax registration number of such person.

(3) The person to whom a certificate of registration is issued under subsection (1) shall, display such certificate at a conspicuous place in the place where he carries on or carries out the taxable activity. Copies of such certificate may be displayed in the event of there being more than one place of business.

(4) Every registered person who makes an exempt supply specified in the First Schedule shall display the categories of such goods and services supplied by him as given in the First Schedule at each such place of supply.

(5) Where any person fails to comply with the provisions of subsection (3) or (4) the Commissioner-General may—

(a) impose on such person a penalty of a sum not exceeding fifty thousand rupees and give notice in writing to such person of the imposition of such penalty ;

(b) by notice in writing require such person—

(i) to pay such penalty ; and

(ii) to comply with the provisions of subsections (3) or (4) as the case may be,

within such period as may be specified in such notice.

(6) The Commissioner-General may reduce, or annul any penalty imposed on any person under paragraph (a) of subsection (5) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the provisions of subsection (3) or (4) was due to circumstances beyond his control and that he has subsequently complied with such provisions.

Cancellation of registration.

16. (1) A registered person may make an application to have his registration cancelled at any time after the lapse of a period of twelve months following the date of registration, either under this Act or under the Goods and Services Tax Act, No. 34 of 1996 where such registered person has ceased to carry on or carry out a taxable activity or the total value of his supplies during any taxable period within such period does not exceed the value set out in section 10.

(2) The Commissioner-General—

(a) shall on receipt of an application made under subsection (1) ;

(b) may at any time,

and upon being satisfied that the applicant or any registered person as the case may be, has ceased to carry on or carry out a taxable activity or that the total value of his taxable supplies does not exceed the value referred to in section 10, or the facilities under the Customs Ordinance in respect of him have been suspended by the Director-General of Customs or that the continuation of such registration may impede the protection of revenue, cancel his registration.

(3) The Commissioner-General may refuse to cancel the registration of any person where he is of the opinion that such person has not ceased to carry on or carry out a taxable activity or that it is necessary and expedient to continue with his registration for the protection of revenue.

(4) Where the Commissioner-General cancels the registration of a registered person he shall inform such person of the date of cancellation of the registration by registered post.

(5) With effect from the date of cancellation of the registration, any goods or services then forming part of the assets of a taxable activity carried on or carried out by that person shall be deemed to be supplied by that person in the course of carrying on or carrying out a taxable activity at a time immediately prior to the date of cancellation, unless the taxable activity (inclusive of all such assets) is carried on or carried out by another person who is a registered person.

17. (1) Where the registration of a registered person has been cancelled by the Commissioner-General, such person shall—

Registered person
to return
certificate on
cancellation.

(a) return to the Commissioner-General the certificate of registration issued to him not later than fourteen days from the last day of the last taxable period during which the registration was valid ;

(b) not display in any place where such taxable activity is carried on or carried out, the certificate of registration or a copy thereof ;

(c) not issue any tax invoice, tax debit note or tax credit note as the case may be,

(2) Where any person fails to comply with the provisions of subsection (1), the Commissioner-General may —

- (a) impose on such person a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person of the imposition of such penalty ;
- (b) by notice in writing require such person —
 - (i) to pay such penalty ; and
 - (ii) comply with the provisions of subsection (1) within such period as may be specified in such notice.

(3) The Commissioner-General may reduce, or annul any penalty imposed on any person under paragraph (a) of subsection (2) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the provisions of subsection (1) was due to circumstances beyond his control and that he has subsequently complied with such provisions.

Liability not affected by cancellation of registration.

18. Notwithstanding the cancellation of registration under section 16, a registered person, shall be liable for any act done or omitted to be done while he remained a registered person in respect of the taxable supplies made by such person under this Act or under the Goods and Services Tax Act, No. 34 of 1996.

Registered person to notify certain changes.

19. Every registered person shall notify the Commissioner-General in writing of any change—

- (a) in the name, address and place at which any taxable activity is carried on or carried out by such person ;
- (b) in the nature of the taxable activity carried on or carried out by such person ;

(c) in the person authorized to sign returns and other documents ; and

(d) in ownership of the taxable activity,

not later than fourteen days after the occurrence of the change.

20. (1) A registered person who makes a taxable supply shall issue to the person to whom such supply is made, if he has made a written request within fourteen days from the time of supply stating that he is a registered person under this Act or is deemed to be a registered person under this Act, and requires that a tax invoice be issued, a tax invoice shall be issued not later than twenty eight days after the time of such supply :

Tax invoice.

Provided however, where a request has been made by a person registered or deemed to be registered under this Act after the receipt of the first supply such person shall not be required to make any further request in respect of any subsequent supply.

(2) The tax invoice shall set out—

(a) the name, address and the registration number of the supplier ;

(b) the name and address of the person to whom the supply was made;

(c) the date on which the tax invoice was issued and its serial number ;

(d) the date of supply and the description of the goods or services ;

(e) the quantity or volume of the supply ;

(f) the value of the supply, the tax charged and the consideration for the supply ; and

- (g) the words "TAX INVOICE" at a conspicuous place in such invoice.

Any valid tax invoice issued under the Goods and Services Tax Act, No. 34 of 1996 prior to August 1, 2002 shall be deemed to be a tax invoice issued under this Act.

(3) Where goods have been imported into Sri Lanka the customs goods declaration or any other document authenticated by the Director-General of Customs shall be treated as a tax invoice.

Any customs goods declaration or any other document authenticated by the Director-General of Customs and issued under the Goods and Services Tax Act, No. 34 of 1996 prior to August 1, 2002 shall also be treated as a tax invoice.

(4) The original of the tax invoice shall be issued to the person to whom the supply was made and the duplicate of such invoice shall be retained by the person who makes such supply for a period of five years after the expiry of the taxable period in which such invoice was issued.

(5) It shall not be lawful to issue more than one tax invoice for each supply. If a registered person claims to have lost the original tax invoice the person who makes the supply may issue to such registered person a copy clearly marked "copy only".

(6) Notwithstanding the provisions of subsection (2), where a registered person makes a taxable supply and the recipient of such supply is not a registered person such supplier shall issue an invoice giving the total consideration of such supply including the tax charged. Where the supplier has not kept adequate records on such supplies covered by such invoices all such supplies shall be considered as supplies made under the standard rate of tax. An invoice issued under this subsection shall not be considered as a tax invoice for the purposes of this Act.

(7) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate, to a fine not less than rupees twenty-five thousand and not exceeding rupees two hundred and fifty thousand and thereafter in the event of the offence being continued to be committed, after conviction to a fine of rupees five hundred for each day on which the offence is so continued to be committed.

(8) Where any person convicted of an offence under subsection (7) continues to commit such offence beyond a period of fourteen days from the date of his conviction, the court may, upon an application for closure of the business being made by the Commissioner-General or any officer authorized in that behalf by the Commissioner-General, order the closure of such business.

(9) In any case where such person fails to comply with the closure order issued under subsection (8), the Magistrate shall forthwith order the fiscal of the court requiring and authorizing such fiscal before a date specified in such order not being a date earlier than three or later than seven clear days from the date of issue of such order to close such business. Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises in which the business is carried on or carried out with such assistants as the fiscal or such police officer shall deem necessary to close such business.

CHAPTER III

RETURNS AND CALCULATION OF TAX

Returns and
information to be
furnished.

21. (1) Every registered person shall furnish, to the Commissioner-General not later than the last day of the month after the expiry of each taxable period a return of his supplies during that taxable period. Every such return shall be in the specified form and shall contain all such particulars as may be required to be set out in such form :

Provided however, a return for the period of two months commencing from August 1, 2002, shall be furnished not later than the last day of October, 2002 by any person who has been allocated with a taxable period of three months.

(2) An Assessor may, by notice in writing, require any person who is not a registered person but, in his judgment is a person chargeable with tax, to furnish, a return in the specified form within the time specified in such notice.

(3) Any return due under subsections (1) or (3) of section 21 of Goods and Services Tax Act, No. 34 of 1996 for any taxable period commencing prior to August 1, 2002 shall be deemed to be a return due under this Act.

(4) For the purposes of obtaining full information in respect of the supply of goods or services made by any person, an Assessor may give notice in writing to such person requiring him—

- (a) to produce for examination or transmit to the Assessor, within the period specified in such notice any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in slips, accounts, auditors' reports or other documents in his possession as may be specified in order to verify the entries in such books, documents and accounts :

- (b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the taxable activity carried on or carried out by that person.

(5) For the purposes of this Act, a Deputy Commissioner may give notice in writing to any person requiring him—

- (a) to produce or transmit to such Deputy Commissioner within the period specified in such notice any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in-slips, accounts, auditors' reports or other documents in his possession as may be specified in such notice ;
- (b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter as may be specified in such notice.

(6) A person who attends in compliance with a notice given under subsection (5) may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by him in so attending.

(7) A Deputy Commissioner or an Assessor with the approval of a Deputy Commissioner, may retain in his custody as long as such retention is necessary for the purpose of this Act any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in-slips, accounts, auditors' reports or other documents in his possession as may be specified in order to verify the entries in such books, documents and accounts.

(8) An Assessor may give notice in writing to any person where he thinks, it is necessary, requiring him to furnish within the time specified in such notice—

- (a) fuller or further returns ; or
- (b) fuller or further information relating to any matter which in the opinion of the Assessor he necessary or relevant for the assessment to tax payable by such person.

(9) A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing such return, statement or form shall be deemed to be cognizant of all matters contained therein.

(10) Where any person fails to comply with the provisions of subsection (1), or fails to comply with the requirements of a notice given to such person by an Assessor under subsection (2) directing him to furnish within the time specified in such notice, a return containing such particulars as the Assessor may require, the Commissioner-General may—

- (a) impose on such person a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person of the imposition of such penalty;
- (b) by notice in writing require such person—
 - (i) to pay such penalty ; and
 - (ii) to furnish the return he is required to furnish under subsection (1) if such return has not been furnished or to comply with the requirements of the notice given to him under

subsection (2) if such requirements have not been complied with, as the case may be, within such period as may be specified in such notice.

(11) The Commissioner-General may reduce or annul any penalty imposed on any person under paragraph (a) of subsection (10) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the provisions of subsection (1) or the direction under subsection (2), as the case may be, was due to circumstances beyond his control and that he has subsequently complied with such provisions or direction.

(12) Except where the Commissioner-General, imposes a penalty under subsection (9), every person who contravenes the provisions of subsection (1) or subsection (2), shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

22. (1) A registered person shall, in respect of any taxable supply made by him, account for and pay the tax by reference to such taxable period at such time and in such manner as may be specified in this Act :

Credit for input
tax against output
tax.

Provided however the amount of tax, due on the supply of any garments within such percentage as is permitted for sale locally by the Board of Investment of Sri Lanka, under any agreement entered into by a manufacturer of garments for export under section 17 of the Board of Investment of Sri Lanka Law, no. 4 of 1978 shall be twenty five rupees for each such garment supplied within Sri Lanka.

(2) Subject to the provisions of this Act, a registered person shall be entitled at end of each such period to credit for so much of his input tax as is allowable under this Act, and then to deduct such amount from any output tax that is due from him :

Provided however, any person adopting a payment basis of accounting, shall be entitled to claim credit on so much of his input tax as is allowable under this Act, only in respect of a supply for which the payment of the tax has been made by such person.

(3) Where a supply of goods or services received by a registered person, or goods imported by such person are used or are to be used partly for the purposes of a taxable activity carried on or carried out by such person on which tax can be levied and partly for other purposes, the tax on such supplies and importation shall be apportioned so however that only so much of the tax on such supplies or importation as is referable to his taxable activity on which tax can be levied shall be counted as his input tax.

Provided however, in the case of a person providing leasing facilities under the Finance Leasing Act, No. 56 of 2000, the input tax on goods supplied under a leasing agreement for a period less than three years shall be counted at the rate of ten *per centum* or less, even if the tax charged on such goods is more than ten *per centum*.

(4) Where any return is furnished under subsection (1) or (2) of section 21 and if at the end of any taxable period in which the return relates, the amount of the input tax exceeds the amount of the output tax, the excess of the input tax shall, subject to the provisions of section 58 be refunded. Where such excess is not so refunded, the Commissioner-General shall pay interest at the rates prescribed under section 59 on such amount, for the period commencing on the expiration of two months from the end of the taxable period in which such refund became due and ending on the date of the refund :

Provided that where any residue of any excess input tax refundable on or after August 1, 2002 under the Goods and Services Act, No. 34 of 1996 is outstanding on August 1, 2002, such excess shall not be deducted from any output tax due for any taxable period under this Act, but shall accordingly be refunded under the Goods and Services Tax, Act, No. 34 of 1996.

(5) Where an unregistered person leases out his land and buildings in terms of a tenancy agreement, to a registered person, such registered person shall notwithstanding that the unregistered person is not entitled to claim any input tax in respect of any expenses incurred in connection with the services provided on such land and building, be entitled to claim input tax for the expenses incurred by him in connection with the services provide on such land for the duration of such tenancy agreement if such registered person provides sufficient evidence to the satisfaction of the Commissioner-General, which establish the existence of a tenancy agreement in respect of such land and building :

Provided however, that where in a taxable period —

- (a) there is an excess of input tax in any taxable period, in the case of a registered person who has entered into an agreement with the Board of Investment of Sri Lanka and that taxable period falls within the period referred to in item (xxvii) of the Schedule to the Goods and Services Tax Act, No. 34 of 1996 or Item (xx) of the First Schedule to this Act or, within the project implementation period as stipulated in any agreement referred to in item (xxvii) of the Schedule to the Goods and Services Tax Act No. 34 of 1996 or Item (xx) of the First Schedule to this Act or up to the commencement of commercial activities which ever is earlier ;
- (b) there is an excess of input tax and that taxable period falls before the taxable period, in which the making of taxable supplies commenced as undertaken by such person in the case of a person referred to in subsection (6) ;
- (c) there is an excess of input tax including the tax deferred under section 2, in the case of a registered person the value of whose zero rated supplies for the taxable period was more than fifty *per centum* of his total taxable supplies for that taxable period.

the excess of the input tax inclusive of any excess input tax brought forward from a preceeding taxable period ;

- (d) any registered person who has obtained a deferment tax under section 2 in any taxable period and not made any zero rated supplies or made zero rated supplies of fifty *per centum* or less of the total taxable supplies for such taxable period, the excess of input tax not exceeding the amount of such deferred tax under section 2.

such part of the excess or such excess as the case may be, including any excess brought forward from any taxable period under this Act or the Goods and Services Tax Act, No. 34 of 1996 for any taxable period or part of a taxable period ending on or before July 31, 2002 shall be refunded, subject to the provisions of section 58 not later than one month after the end of the taxable period or from the date of the receipt of the return for such taxable period, in which the excess arose, whichever is later :

Provided further, in case of a registered person who imports goods for re-sale without processing, the excess input tax representing the tax paid under subsection (3) of section 2 shall not be refunded.

In the event of a failure to pay such refund within such period, interest on such refund shall be payable from the date on which the refund becomes due to the date of payment thereof at such rate as may be prescribed under section 59 subject to the provisions of the proviso to that section.

(6) Any input tax attributable to the supply of goods or services received shall not be deducted under subsection (2) in respect of the following :—

- (i) If the supply is in respect of motor vehicles other than motor cycles, bicycles, motor coaches provided by an employer for the transportation of his

employees, motor vehicles used for excursion tours, or for the transportation of tourists or transportation of goods or hiring cars, or motor vehicle forming part of any stock in trade of any taxable activity ;

- (ii) if the supply of goods or services received is not connected with the taxable activity ;
- (iii) if the supply of goods or services received is not supported by—
 - (a) tax invoice ;
 - (b) a customs goods declaration or other authenticated document issued by the Director-General of Customs ;
 - (i) duly issued under the Goods and Services Tax Act, No. 34 of 1996 or under this Act ; and
 - (ii) received within twelve months from the end of the taxable period in respect of which the tax invoice was issued ; or
- (iv) if the input tax on such invoice as mentioned in subparagraph (iii) has not been deducted from output tax for any taxable period ending before the lapse of six months from the last day of the taxable period in which such invoice was received ;

Provided however, notwithstanding the provisions of subsection (3) and paragraph (ii) of subsection (5) any registered person who has obtained a licence under the Electricity Act, (Chapter 205) and engages in the distribution of electricity may be allowed input tax on the purchase of electricity for such distribution notwithstanding the exemption under items (xxvi) of the Schedule to the Goods and Services Tax Act, No. 34 of 1996 or under item (xviii) of the First Schedule to this Act.

(7) Where any person has proved to the satisfaction of the Commissioner-General, that such person has commenced any business or any project to carry on a business or project in Sri Lanka, and undertakes to make taxable supplies in such business within a period of thirty months from such commencement, he may register such person subject to such conditions as may be specified by him, notwithstanding the provisions of section 14 and allow credit for input tax in respect of such business or project subject to the provisions of sub-paragraph (iii) of subsection (5). Further, where the Commissioner-General is satisfied that in consideration of the nature of the project that the period of thirty months is not sufficient to make taxable supplies he may extend such period on the basis of an application made by such registered person to that effect.

(8) Notwithstanding the provisions of section 33, any refund in excess of the amount due, or any excess amount of input tax claimed under this Act or the Goods or Services Tax Act, No. 34 of 1996 shall be assessed by an Assessor on the registered person to whom the refund has been made or making such claim, as the case may be, and such amount shall be deemed to be a tax in default on the first day of the taxable period in which the excess of input tax first arose resulting in such refund or claim in excess as the case may be.

For the purpose of this subsection, input tax claimed in a return by any person—

- (a) who has not commenced any commercial operation within or on completion of the project implementation period referred to in item (xxvii) or item (xxviii) of the Schedule to the Goods and Services Tax Act, No. 34 of 1996 or item (xix) or (xx) of the First Schedule to this Act, as the case may be ;

- (b) who has obtained approval under subsection (6) and has not commenced business of making taxable supplies as stated in the undertaking given by such person prior to obtaining such approval.

shall be deemed to be an excess amount of input tax claimed by such person.

23. Every registered person shall account for tax on an invoice basis :

Accounting
basis.

Provided however that, the Commissioner-General may direct such person to account for tax on a payment basis on such conditions as may be specified by him on an application made in that behalf by a registered person.

24. In ascertaining the amount of tax payable in any taxable period, there shall be deducted an amount of tax corresponding to any bad debt incurred in the taxable activity of a registered person on a debt created on or after April 1, 1998 and which has become bad during such taxable period. The amount of tax deductible shall not exceed the amount paid as tax in a previous taxable period in respect of the bad debt which is to be written off :

Bad Debt

Provided that, any amount written off as bad debt before or after the commencement of this Act is received in any taxable period by that person on account of the bad debt so written off, notwithstanding the provisions of section 23, the amount received shall be treated as a taxable supply during the taxable period under this Act or the Goods and Services Tax Act, No. 34 of 1996 in which it was received and shall be liable to tax :

Provided further, that where any amount of tax corresponding to a bad debt has been deducted by any person, the amount so deducted shall be an output tax for the corresponding period of the person in respect of whom the bad debt was incurred if he is a registered person.

Adjustment of tax
by credit or debit
notes.

25. (1) Where a registered person has issued a tax invoice and accounted for an incorrect amount of tax by undercharging or overcharging tax on a supply made to another person, he shall be entitled to issue to such other person a tax debit note or a tax credit note, as the case may be, for the purpose of adjusting the amount of tax so undercharged or overcharged.

(2) Upon the issue of the tax debit note or tax credit note, as the case may be, in respect of a supply and in relation to the period in which such note was issued —

(a) the supplier shall pay as output tax such amount of the tax that was chargeable in respect of the supply as is in excess of the amount that was accounted for or deduct as input tax such amount as was accounted for as output tax as exceeds the amount of tax chargeable; and

(b) the person to whom the supply was made shall if such person is a registered person pay as output tax such amount of the tax that was deducted by him as input tax as exceeds the proper amount that should have been deducted or deduct as input tax such amount as was deductible as exceeds the actual amount deducted by him, as the case may be.

(3) The tax debit note or tax credit note referred to in subsection (1) shall be in the specified form.

CHAPTER IV

PAYMENT OF TAX

Payment of
tax.

26. (1) The tax in respect of any taxable period shall be paid not later than the last day of the month following the end of that taxable period. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, each such person shall be deemed to be a defaulter for the purposes of this Act.

(2) The Commissioner-General may, defer the due date for the payment of any tax assessed under paragraph (a) or (b) of subsection (1) of section 28 or subsection (1) of section 31, under an appeal against such assessment where:—

- (a) a request in writing has been made to the Commissioner-General for a deferment; and
- (b) it has been proved to the satisfaction of the Commissioner-General that the tax due on the alleged supplies on which the assessment has been made has not been charged by such person;

Provided however, such deferred tax or part thereof shall become payable on the settlement of the appeal or withdrawal of the deferment by the Commissioner-General, and shall be deemed to be tax in default of the original due date of such tax.

27. (1) Where any tax is in default; the defaulter shall, in addition to such tax in default pay as penalty –

Penalty for default.

- (a) a sum equivalent to ten *per centum* of the amount in default; and
- (b) where the amount in default is not paid before the last day of the month succeeding the month in which such tax 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 last day of each succeeding month or part of such period during which it is in default;

Provided however, that the total amount payable as penalty under this subsection shall in no case exceed one hundred *per centum* of the tax 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 waiver or reduction of such amount would be just and equitable.

(2) Where upon the final determination of an appeal under Chapter VI any tax in default to which any sum or sums under subsection (1) has or have been added is reduced, then such sum or sums shall be calculated on the tax so reduced.

CHAPTER V

ASSESSMENT OF TAX

Power of
Assessor to
make
assessment.

28. (1) Where –

- (a) any registered person who in the opinion of the Assessor is chargeable with tax, fails to furnish a return for any taxable period ; or
- (b) any registered person, who is chargeable with tax, furnishes a return in respect of any taxable period but fails to pay tax for that taxable period ; or
- (c) any person requests the Commissioner-General in writing to make any alteration or addition to any return furnished by such person for any taxable period.

the Assessor shall assess the amount of the tax, which such person, in the judgment of the Assessor, ought to have paid for that taxable period and shall, by notice in writing, require such person to pay such amount forthwith. The amount so assessed in respect of any person for a taxable period shall, be deemed to be the amount of the tax payable by him for that taxable period.

For the purpose of this section the notice given under this section may refer to one or more taxable periods.

(2) An assessment made under subsection (1) in respect of any person for any taxable period shall not affect the liability of such person to a penalty under section 27 as though the amount assessed was the amount of tax due from him for that taxable period.

(3) Where, in the opinion of the Assessor, the amount paid as tax for any taxable period by any person who has failed to furnish a return in respect of that taxable period is less than the actual amount payable by such person for that taxable period the Assessor shall assess the amount which, in the judgment of such 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 specified in that notice, the difference between the amount so assessed and the amount paid by such person.

(4) Where an assessment is made under subsection (3) in respect of any person for any taxable period the difference between the amount so assessed and the amount paid by that person as tax for the taxable period shall be deemed to be the tax in default for that taxable period and accordingly such person shall, from the date on which such person ought to have paid the tax for such taxable period, be liable in respect of that amount to the penalty.

29. Where an Assessor does not accept a return furnished by any person under section 21 for any taxable period and makes an assessment or an additional assessment on such person for such taxable period under section 28 or under section 31, as the case may be, the Assessor shall communicate to such person by registered letter sent through the post why he is not accepting the return.

Assessor to state why he is not accepting a return.

30. Where the Assessor is of opinion—

Power of Assessor to determine open market value

- (a) that a registered person has made a taxable supply for a value less than the open market value of such supply or for no value; or

- (b) the transaction in respect of which taxable supply has been made, is between two associated persons,

in order to avoid the payment of tax, he shall determine the open market value of such supply on which tax shall be charged, having regard to the circumstance of the transaction and the time of supply.

Additional
assessment

31. (1) Where it appears to an Assessor that a person chargeable with tax has for any taxable period paid as tax an amount less than the proper amount of the tax payable by him for that taxable period, or chargeable from him for that taxable period, the Assessor may, at any time, assess such person at the additional amount at which, according to the judgement of such Assessor, tax ought to have been paid by such person. The Assessor shall give such person notice of the assessment.

(2) Where an assessment is made under subsection (1) in respect of any person for any taxable period, the amount so assessed shall be deemed to be tax in default for that taxable period and accordingly such person shall, from the date on which such person ought to have paid the tax for that taxable period be liable to the penalty in respect of such amount.

Evidence of
returns and
assessment.

32. The production of any document under the hand of the Commissioner-General purporting to be a copy of or extract from any return or assessment made under this Act shall be admissible in all courts and shall be sufficient evidence of the original.

Limitation of time
for assessment or
additional
assessment.

33. (1) Where any registered person has furnished a return under subsection (1) of section 21 in respect of a taxable period or has been assessed for tax in respect of any period, it shall not be lawful for the Assessor, where an assessment –

- (a) has not been made, to make an assessment; or

(b) has been made, to make an additional assessment, after the expiration of three years from the end of the taxable period in respect of which the return is furnished, or the assessment was made, as the case may be.

(2) Notwithstanding the provisions of subsection (1) where the Assessor is of opinion that a person has wilfully or fraudulently failed to make a full and true disclosure of all the material facts necessary to determine the amount of tax payable by him for any taxable period, it shall be lawful for the Assessor where an assessment -

(a) has not been made, to make an assessment; or

(b) has been made to make an additional assessment,

at any time.

CHAPTER VI

APPEALS

34. (1) Any registered person may, if he is dissatisfied with any assessment or additional assessment made in respect of him by an Assessor, or a penalty imposed under this Act, appeal against such assessment, additional assessment or penalty, as the case may be, to the Commissioner-General within thirty days after the service of notice of such assessment, additional assessment or imposition of penalty, as the case may be. Such person shall, notwithstanding the appeal, but subject to subsection (2) of section 26, pay the tax charged by such assessment or additional assessment together with any penalty imposed on him by this Act:

Appeals to the
Commissioner-
General

Provided that, the Commissioner-General, upon being satisfied that, owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.

(3) Where the assessment or additional assessment appealed against has been made in the absence of a return, the petition of appeal shall be accompanied by a return with the proof of payment of the tax and penalty due on such return.

(4) Every person preferring an appeal under subsection (1) against an assessment for any taxable period shall (unless such person has done so already), pay to the Commissioner-General the amount of the tax payable by such person on the basis of the return furnished by him for such period together with any penalty thereon accrued up to the date of such notice of assessment, and shall attach, to the petition of appeal a receipt in proof of such payment :

Provided that the Commissioner-General upon being satisfied that owing to serious financial hardship suffered by the appellant at or about the time of such notice of assessment or, owing to other reasonable cause, the appellant was prevented from paying such tax and such penalty, may grant an extension of time for the payment of such tax and penalty thereon accrued up to the date of payment, and the receipt furnished within such extended time shall, for the purposes of this subsection, be deemed to have been attached to the petition of appeal.

(5) Every petition of appeal which was not made within the period specified under subsection (1) or does not conform to the provisions of subsections (2) , (3) and (4) shall not be valid.

(6) On receipt of a valid petition of appeal, the Commissioner-General 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, the necessary adjustment of the assessment shall be made.

(7) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (6), the Commissioner-General shall fix a time and place for the hearing of the appeal.

(8) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he shall fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General shall dismiss the appeal :

Provided that, if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other reasonable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal :

Provided further, that every petition of appeal under this Chapter shall be agreed to or determined by the Commissioner-General within three years from the date on which such petition of appeal is received by the Commissioner-General, unless the agreement or determination of such appeal depends on the furnishing of

any document or the taking of any action by any person other than the appellant or the Commissioner-General or an Assessor. Where such appeal is not agreed to or determined within such period the appeal shall be deemed to have been allowed and the tax charged accordingly. The receipt of any appeal under this section shall be acknowledged and the date of the letter of acknowledgment shall for the purposes of this section be deemed to be the date of receipt of such appeal.

For the purposes of this proviso where an extension of time has been granted to an appellant for the payment of tax under subsection (4) the date of the receipt in proof of the payment of tax shall be deemed to be the date of receipt of such Appeal.

(9) The Commissioner-General shall have power to summon any person whom he may consider able to give evidence in respect of the appeal, to attend before him and examine such person on oath or otherwise. Any person so attending may be allowed by the commissioner-General any reasonable expenses necessarily incurred by such person in so attending.

(10) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books of accounts, trade lists, stock lists, registers, cheques, paying in slips, auditors reports or other documents in his possession as may be specified in such notice. Further, the Commissioner-General may obtain the assistance of any other Commissioner, Deputy Commissioner or an Assessor who is familiar with the issues involved in such hearing of an appeal.

(11) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained a record of such evidence.

(12) In determining an appeal under this section the Commissioner-General may confirm, reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.

(13) The Commissioner-General may at any time prior to the determination of an appeal cancel the deferment of the due date for payment under subsection (2) of section 26, if he is satisfied that the appellant has not taken adequate steps to settle the appeal and inform the appellant in writing of such cancellation.

35. Any person aggrieved by the determination of the Commissioner-General upon an appeal made to him under subsection (1) of section 34 may appeal from such determination to the Board of Review constituted under the Inland Revenue Act, No. 38 of 2000 and provisions of that Act relating to appeals to such Board shall, *mutatis mutandis*, apply to, and appeal under this section.

Appeals to the Board of Review.

36. (1) The decision of the Board of Review shall be final:

Appeal on a question of law to Court of Appeal

Provided that either the appellant or the Commissioner-General may make an application requiring the Board of Review to state a case on a question of law for the opinion of the Court of Appeal.

(2) The provisions of, the Inland Revenue Act, No. 38 of 2000 relating to appeals to the Court of Appeal and to the Supreme Court shall, *mutatis mutandis*, apply to an application and reference under this section.

CHAPTER VII

FINALITY OF ASSESSMENT AND PENALTY FOR INCORRECT RETURN

37. Where no valid appeal has been preferred within the time specified in this Act against an assessment in respect of tax or where the amount of tax has been determined on appeal,

Assessments or amended assessments to be final.

the assessment as made or reduced or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such tax :

Provided that, nothing in this section shall prevent an Assessor from making an assessment or additional assessment for any taxable period if it does not involve reopening any matter which has been determined on appeal for that taxable period.

Penalty for
incorrect return.

35. Where in an assessment made on any person, the tax exceeds, the tax paid by him as the amount due from him in respect of the taxable supplies specified in his return and the assessment is final and conclusive under section 37, the Commissioner-General may unless that person proves to the satisfaction of the commissioner-General that there was no fraud or willful neglect involved in the disclosure of the taxable supplies made or input tax claimed by that person in such return, in writing, order that person to pay, on or before a specified date, as penalty for making an incorrect return, a sum not exceeding twenty five thousand rupees and a sum equal to twice the amount of the difference between the total tax claimed in the assessment and the tax paid on the return :

Provided however, any such person on whom a penalty is imposed under this section shall not be liable to prosecution for an offence relating to that taxable period under section 66.

CHAPTER VIII

RECOVERY OF TAX

Recovery of tax.

39. (1) For the purposes of this Chapter "tax" includes a penalty imposed or incurred under this Act.

(2) Whenever the Commissioner-General issues a certificate under section 42 or section 43 or a notice under section 44, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter

sent through the post or by telegraph ; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

40. Any tax in default shall be a first charge on all the assets of the defaulter ;

Tax to be a first charge.

Provided that —

- (i) such charge shall not extend to or affect any assets sold by such person to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 42 ;
- (ii) as regards immovable property the tax shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of the seizure ;
- (iii) as regards movable property, where the tax for more than four taxable periods is in default, the tax for four taxable periods only to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance created *bona fide* for value prior to the date of default of such tax.

41. (1) Where any tax is in default, the Commissioner-General shall, before proceeding to recover such tax, issue notice in writing to the defaulter stating —

Notice to defaulter.

- (a) the particulars of such tax ; and
- (b) that action is being contemplated to recover such tax.

(2) Where an assessment has been made and the defaulter has not appealed within the specified time against the assessment in respect of which such tax is charged, he may within thirty days of date of such notice make any objection

to the tax so charged to the Commissioner-General and the Commissioner-General shall notwithstanding the provisions of section 37 consider such objections and give his decision thereon which shall be final.

Recovery of tax
by seizure and
sale.

42. (1) The Commissioner-General may appoint persons to be tax collectors for the purposes of this Act.

(2) Where any tax is in default, the Commissioner-General may issue a certificate to a Divisional Secretary, Assistant Divisional Secretary, Fiscal, Deputy Fiscal or Tax Collector containing particulars of such tax and the name and address of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(3) The seizure referred to in subsection (2) shall be effected in such manner as the said officer shall deem most expedient in that behalf and any property so seized shall be kept for seven days at the costs and charges of the defaulter. If the defaulter fails to pay the said tax in default together with the costs and charges within the said seven days the Divisional Secretary, Assistant Divisional Secretary, Fiscal, Deputy Fiscal or Tax Collector, as the case may be, shall cause such property to be sold by public auction.

(4) The sum realized by sale shall be applied –

- (i) firstly in payment of the costs and charges of seizing, keeping and selling the property; and
- (ii) secondly in satisfaction of the tax in default.

and any balance shall be paid to the owner of the property seized.

(5) It shall be lawful for a Tax Collector to recover from the defaulter reasonable expenses incurred by him in

proceeding against the defaulter under this section notwithstanding that the seizure was not effected. Where cash is seized such reasonable expenses shall be set off first from the amount so seized. Any amount so recovered or set off shall be informed to the defaulter in writing.

(6) Where any tax is in default, and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or in expedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing such particulars of tax and the name and address of the person or person by whom, the tax is payable, and the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis, mutandis*, apply to such seizure and sale.

For the purposes of this section "movable property" shall include plant and machinery whether fixed to a building or not.

43. (1) Where the Commissioner-General is of opinion in any case that recovery of tax in default by seizure and sale is impracticable, or inexpedient or where the full amount of the tax in default has not been recovered, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter, to a Magistrate having jurisdiction in the division in which such place of business or residence of the defaulter is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate

Proceedings for
recovery before a
Magistrate

on such defaulter for an offence punishable with fine only or not punishable with imprisonment and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i), thereof of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence :

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Commissioner-General.

(2) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1)

(3) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that section to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made in installments.

(4) The court may be required bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (3) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to be given bail.

(5) Where payment in installments is directed under subsection (3) and default is made in the payment of any one installment, the same proceedings may be taken as if default had been made in payment of all the installments then remaining unpaid.

44. (1) Where the tax payable by any person is in default and it appears to the Commissioner-General to be probable that any person-

Recovery of tax out of debts.

- (a) owes or is about to pay money to the defaulter or his agent ; or
- (b) holds money for or on account of the defaulter or his agent ; or
- (c) holds money for or on account of some other person for payment to the defaulter or his agent, or
- (d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(3) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith owing to the fact that moneys in question do not come into his hands or custody or become due from him during the period referred to in subsection(1), he shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General apprising him of the facts.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (3) or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, be liable or where such person is a company or body of persons, whether corporate or unincorporate, the secretary, manager, or the principal officer of such company or body be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all means provided in this Act.

(5) For the purposes of this section the expression "defaulter" shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been payable by any person if he were alive is in default, and for the purpose of the application of these provisions in any such case, the expression "defaulter" in subsection (1) means—

- (a) the executor or administrator of such deceased person ; or
- (b) any person who takes possession of, or intermeddles with, the property of such deceased person ; or
- (c) any person who has applied, or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of such deceased person.

45. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the tax due from him, the Commissioner-General may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General for payment thereof.

(2) At the time of issue of the certificate to the Magistrate the Commissioner-General shall issue to such person a notification thereof by personal service, or registered letter sent through the post or telegraph; but the non receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) The production of a certificate signed by the Commissioner-General stating that the tax has been paid or that security has been furnished for the payment of the tax or payment of the tax to a police officer in charge of a police station shall be sufficient authority for allowing such person to leave Sri Lanka.

(4) Any police officer to whom the amount of any tax specified in such certificate has been paid shall forthwith pay such amount to the Commissioner-General.

46. Where the Commissioner-General is of opinion that application of any one of the means of recovery provided in this Act has failed or is likely to fail to secure payment of the full amount of tax due from any person it shall be lawful for the Commissioner-General to proceed to recover any sum remaining unpaid, by any means of recovery provided in this Act, notwithstanding that an order has been made by a Magistrate under section 43 and carried into effect.

Recovery of
tax from
persons
leaving
Sri
Lanka. Abolition
of the
charging of
the National
security Levy
with effect
from August
1,
2002. Abolition
of the
charging of
the National
security Levy
with effect
from August
1, 2002.

Use of more than
one means of
recovery

Power of
Commissioner-
General to obtain
information for
the recovery of
tax.

47. The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any tax due from such person or any other person.

Recovery of tax
from the principal
officer and others.

48. (1) Where a body corporate has not paid any tax on or before the due date, as provided in Chapter IV it shall be lawful to proceed under all or any of the provisions of this Chapter against a manager, director, secretary or any other principal officer of such body corporate, as if such officer is responsible for such default unless he proves the contrary to the satisfaction of Commissioner-General notwithstanding anything in any other written law relating to such body corporate.

(2) Where an unincorporate body of persons has not paid any tax on or before the due date, as provided in Chapter IV, it shall be lawful to proceed under all or any of the provisions of this Chapter against any partner or office-bearer of such unincorporate body of persons as if he is responsible for such default unless he proves the contrary to the satisfaction of the Commissioner-General, notwithstanding anything in any other written law.

Commissioner-
General to
delegate powers
and functions.

49. (1) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers and functions conferred on or assigned to the Commissioner-General by this Chapter.

(2) Every Assessor to whom any power or function has been delegated under subsection (1) shall exercise or discharge such power or function subject to the general or special directions of the Commissioner-General.

CHAPTER IX

SPECIAL CASES

50. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated person, be deemed to be required to be done by the trustee of such incapacitated person.

Who may act for incapacitated person.

51. Any act or thing required by or under this Act to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership :

Precedent partner to act on behalf of partnership.

Provided that any person to whom a notice has been given under the provisions of this Act as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Sri Lanka is the precedent partner thereof.

52. (1) The secretary, manager, director or other principal officer of every company or body of persons shall be liable to do all such acts, matters or things as are required to be done under the provisions of this Act by such company or body of persons :

Principal officer to act on behalf of a company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Act on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with such company or body of persons or that some other person resident in Sri Lanka is the principal, officer thereof.

(2) Where an offence under this Act is committed by a company or body of persons, every person who at the time of the commission of the offence was the secretary, manager, director or other principal officer of the company or body of persons shall be deemed to be guilty of that offence unless he

proves that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity.

Liability to pay tax in the case of cessation of taxable activity.

53. (1) Subject as hereinafter provided, where during the course of a taxable period a person chargeable with tax ceases to carry on or carry out any taxable activity in respect of which he is chargeable with such tax, he shall, notwithstanding that he has ceased to carry on or carry out such taxable activity, be liable to pay such tax for the period during which he carried on or carried out that taxable activity in that taxable period.

(2) Where any person carrying on or carrying out a taxable activity transfers the assets of such taxable activity to another person, as a going concern, resulting in a change of ownership of any trade or businesses, tax payable in respect of such taxable activity for any period prior to the transfer may, if it cannot be recovered from the transferor, be recovered from the transferee notwithstanding that an assessment may not have been made on the transferee and the provisions of this Act as to collection and recovery of tax shall apply accordingly.

Liability of executor to pay tax.

54. (1) Where any person chargeable with the tax dies, the executor of such deceased person shall, in respect of all taxable periods prior to the date of death of such person, be chargeable with tax which such person would be chargeable if he were alive, and shall be liable to do all acts, matters and things which such person if he were alive, would be liable to do under this Act :

Provided that—

- (a) no proceedings shall be instituted against the executor in respect of any act or default of action of the deceased person ;

(b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after three years from the end of the taxable period in which the death occurred ; and

(c) the liability of the executor under this section shall be limited to the sum of—

(i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to tax will arise under this section ; and

(ii) any part of the estate which may have passed to a beneficiary.

(2) Where an executor on behalf of the estate of a deceased person carries on any taxable activity which is a part of such estate, such executor shall, in respect of such taxable activity, be chargeable with the tax with which such person would be chargeable if he were alive.

55. Where any taxable activity in respect of which tax is payable is carried on or carried out by any person on behalf of any other person as the agent of such other person, the first-mentioned person shall be chargeable with the tax in respect of that taxable activity in like manner and to the like amount as the second mentioned person would be chargeable under this Act.

Liability of certain persons to pay tax in respect of a taxable activity not belonging to them.

56. Where two or more persons act in the capacity as trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with the tax with which they are chargeable in the capacity under this Act and shall be jointly and severally liable for the payment of such tax.

Joint trustees and executors the persons who act as trustees or executors.

Persons liable to pay tax upon liquidation of a company or dissolution of a body of persons.

57. (1) Notwithstanding anything in the Companies Act, No. 17 of 1982, where a company is wound up and where any tax to which that company is liable cannot be recovered, then, every person who was a director of the company at any time during the period in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax, unless he proves that the default in payment of tax cannot be attributed to any gross neglect, malfeasance or breach of duty on his part in relation to affairs of the company, and the provisions of this Act as to collection and recovery of tax shall apply accordingly.

(2) Where a body of persons is dissolved and any tax to which such body of persons is liable, cannot be recovered then every person who was a partner or office-bearer of such body of persons at any time during the period in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of the tax cannot be attributed to any gross neglect, malfeasance or breach of duty on his part in relation to the affairs of such unincorporate body and the provisions of this Act relating to collection and recovery of tax such apply accordingly.

CHAPTER X

REFUND OF TAX

Refund of excess tax.

58. (1) Where a registered person makes an application for a refund of any tax or any penalty paid by him in excess during the taxable period and satisfies the Commissioner-General that such person has paid any tax or any penalty in excess, of any amount which he was liable to pay for that period, such person shall be entitled to a refund of the amount paid in excess, subject to the provisions of subsection (3) :

Provided however, that any such amount paid in excess by a registered person referred to in paragraphs (a), (b), (c) or (d) of subsection (4) of section 22, shall be refunded to such

person within one month from the end of the taxable period, or from the date of the receipt of the return for the taxable period, in which the excess arose which ever is later.

(2) Where through death, incapacity, bankruptcy, liquidation or other cause a registered person who would but for such cause have been entitled to make a claim under subsection (1) is unable to do so, his executor, trustee or receiver as the case may be, shall entitled to a refund of any tax or penalty paid in excess within the meaning of subsection (1) by such person for the benefit of such person or his estate.

(3) Notwithstanding anything in subsection (1) where any registered person—

(a) has failed to pay the Commissioner-General in whole or in part, any tax in respect of any taxable period, any amount of tax payable before the due date may be set off after due notice to such person against that unpaid tax, any amount or any part of any amount otherwise refundable to that person or any amount or part of any amount of interest payable to that person under section 59 and shall treat any amount so set off as a payment received from such registered person :

(b) has not furnished a return, in respect of, any taxable period the Commissioner-General may withhold payment of any amount otherwise refundable or any amount of interest payable under section 59 of this Act, until the registered person has furnished such return.

59. (1) Where any amount refundable under this Act to a registered person has not been refunded within a period of thirty days from the due date of such refund there shall be paid by the Commissioner-General to such person interest on such amount for the period commencing on the thirtieth day from the due date up to the date of refund of the amount as is required to be refunded by the Commissioner-General to such person under this Act, at the rate prescribed by the Minister from time to time :

Interest on
refunds.

Provided however, no such interest shall be payable where there was a delay on the part of the registered person in complying with any requirement made by the Assessor in respect of any records of the registered person.

(2) For the purposes of this section "due date" means the period ending ninety days—

- (i) from the date of agreement with an Assessor or from the date of determination of an appeal in respect of the assessment appealed against : or
- (ii) from the date on which a claim, other than a claim for a refund made in writing under subsection (4) of section 22 was received from such person by the Commissioner-General.

CHAPTER XI

MISCELLANEOUS

Signature and
service of notice.

60. (1) Every notice to be given by the Commissioner-General, a Deputy Commissioner or an Assessor under this Act shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or during the period to which the notice relates, was carrying on or carrying out a taxable activity.

(3) Any notice sent by post shall be deemed to have been served on the day on which it could have been received in the ordinary course of post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Act, which purports to be the name of the person authorised to give or issue the same, shall be judicially noticed.

61. (1) No notice, assessment, certificate or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

Validity of assessments.

(2) Without prejudice to the generality of subsection (1) an assessment shall not be affected or impugned by reason of—

- (a) a mistake therein as to the name or surname of person chargeable, the amount of the value of taxable supplies or the amount of tax charged; or
- (b) any variance between the assessment and the notice therefor,

if notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars set out in paragraph (a) of this subsection.

62. (1) Any officer of the Department of Inland Revenue who is specially authorised by the Commissioner-General in that behalf may, accompanied by a peace officer, to do all or any of the following acts :—

Power to search building or places.

- (a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his

opinion will be useful for, or relevant to, any proceeding under this Act may be found, and examine them if found ;

(b) seize any such books of account, registers, records or other documents or place marks of identification thereon or make extracts or copies therefrom ;

(c) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Act,

and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section.

In this subsection "peace officer" shall have the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

(2) Before authorising any officer to exercise the powers under subsection (1), the Commissioner-General shall record the circumstances which necessitate the exercise of such powers by such officer.

(3) Where any officer authorised by the Commissioner-General under subsection (1) take into his possession any book of account, register, record or other document from any person, such officer shall issue to such person a memorandum specifying the book, register, record or other document he has taken into his possession.

(4) Any book of account, register, record or other document taken to his possession under subsection (1), by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

63. (1) The Commissioner-General or any other officer of the Department of Inland Revenue who is specially authorised in that behalf by the Commissioner-General in writing may do all or any of the following acts :—

Power to search where taxable activity is carried on or carried out.

- (a) enter and inspect any place or building where any taxable activity is carried on by any person for the purpose of ascertaining whether the provisions of this Act are being complied with ;
- (b) open and examine any book of account, register, record or any other document which may be found therein and make an inventory of any of the articles found therein ;
- (c) examine and take copies of, or make extracts from, any book of account, register, record or other document found in such place or building ;
- (d) take possession of any book of account, register, record or other document or place marks of identification thereon ;
- (e) count and make a record immediately of the cash found in such place or building ;
- (f) require any person whom he finds in such place or building to give such information within his knowledge with respect to matters under this Act ;
- (g) examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in such place or building.

(2) Where an officer authorised by the Commissioner-General under subsection (1), takes into his possession any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.

(3) Any book of account, register, record or other document taken into his possession under subsection (1), by any officer may be retained in the possession of such officer for a period not exceeding three years from the date of taking such possession for the purposes of scrutinizing such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs :

Provided, however where the Commissioner-General has instituted action in the case of willfull evasion under sections 66 or 67 as the case may be, such book, register, record or document may be retained as long as it is required for the purposes of such prosecution.

Keeping of
records.

64. (1) Every registered person shall keep and maintain records in respect of the taxable activity carried on or carried out by him to enable the Commissioner-General or any other officer authorized by the Commissioner-General or that behalf to ascertain the liability for the payment of the tax.

(2) The form of the records, to be maintained under subsection (1) and the particulars to be set forth therein shall be as prescribed.

(3) For the purpose of this section "records" includes—

- (a) books of account, (whether contained in a manual, mechanical or electronic format or combination thereof) recording receipts or payments or income or expenditure and also includes vouchers, bank statements, invoice tax invoices, tax credit notes, tax debit notes, receipts and such other documents as are necessary to verify the entries in any such books of account ;
- (b) details of any warehouse, go-down or any other place where stock of goods are kept and the stock of goods kept in such warehouse, go-down, or any other place as the case may be ;
- (c) any list or record required to be maintained or kept in accordance with the provisions of this Act or under any regulations made thereunder.

CHAPTER XII

OFFENCES AND PENALTIES

65. Every person who —

Penal provisions
relating to breach
of secrecy &c.

- (a) being a person required to take an oath fails to take an oath of secrecy when so required under section 73 ; or
- (b) acts in contravention of the provisions of section 73 ; or
- (c) aids, abets or incites any other person to act in contravention of any of the provisions of this Act,

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

66. Any person who—

Penal provisions
relating to fraud.

- (a) gives any false answer whether orally or in writing to any question or when requested to furnish information in accordance with the provisions of this Act, or under the Goods and Services Tax Act, No. 34 of 1996 ;
- (b) omits from a return made under this Act any particulars which he should have included in such return ; or
- (c) makes any false return or false entry in any return made under this Act,

and thereby evades or attempts to evade tax or assists any other person to evade or to attempt to evade tax shall be

guilty of an offence under this Act, and shall be liable, after summary trial before a Magistrate, to a fine consisting of—

- (i) a sum equal to twice the amount of tax so evaded or attempted to be evaded for which he is liable under this Act for the taxable period in respect of which the offence was committed ; and
- (ii) a sum not exceeding twenty five thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penal provisions
relating to returns
&c.

67. Every person who—

- (a) fails to apply for registration as required under section 10 ; or
- (b) fails to notify the Commissioner-General of any matters required to be notified under section 19 ; or
- (c) fails to issue a tax invoice as required under subsection (1) of section 20 or an invoice under subsection (b) of section 20 ; or
- (d) issues more than one tax invoice for each taxable supply ; or
- (e) issues a tax invoice where such person is not entitled to issue such tax invoice under section 20 ; or
- (f) fails to furnish a return under section 21 or comply with a notice issued under section 21 ; or
- (g) having appeared before an officer of the Department of Inland Revenue in compliance with a notice issued to him under section 21 or section 34 fails, without sufficient cause, to answer any question lawfully put to him by an officer acting under this Act ; or
- (h) gives any incorrect information relating to any matter or thing affecting his own liability to tax or the liability of any other person ; or

- (f) permits the payment to any other person, other than the Commissioner-General of any amount to be paid under section 44 ; or
- (g) willfully obstructs or delays the Commissioner-General or any other officer in the exercise of his power under section 62 or 63 ; or
- (k) fails to maintain records as required under section 64 ;
- (l) not being a person registered under this Act, issues a tax invoice,

shall be guilty of an offence under this Act, and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding twenty-five thousand rupees, or to imprisonment of either description for a term not exceeding six months or both such fine and imprisonment.

68. No prosecution in respect of an offence under this Chapter shall be commenced except at the instance, or with the sanction of the Commissioner-General.

Prosecution to be with the sanction of the Commissioner-General

69. The Commissioner-General may with the consent of the parties, having regard to the circumstances in which any offence under this Act was committed compound, such offence for a sum not exceeding one third the maximum fine imposed for that offence under this Act. Any sum received by the Commissioner-General in compounding an offence under this section shall be credited to the Consolidated Fund.

Compounding of offence.

CHAPTER XIII

ADMINISTRATION

70. (1) The Commissioner-General shall, be in-charge of the administration of this Act, assisted by such number of Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue, Senior Assessors of Inland Revenue, Assessors of Inland Revenue and Tax Officers of Inland Revenue as may be necessary for the purpose of giving effect to the provisions of this Act.

Officers.

(2) (a) The Commissioner-General may authorise any Commissioner of Inland Revenue or Deputy Commissioner of Inland Revenue to exercise, perform or discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner-General by this Act.

(b) A Commissioner of Inland Revenue or Deputy Commissioner of Inland Revenue exercising, performing or discharging any power, duty or function conferred or imposed on, or assigned to, the Commissioner-General by any provision of this Act shall be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function, until the contrary is proved.

(3) A Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue or a Senior Assessor of Inland Revenue may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to, an Assessor by any provisions of this Act.

Value Added Tax
Refund Fund.

71. (1) There shall be established a Fund called the Value Added Tax Refund Fund, hereinafter referred to as "the Fund")

(2) There shall be credited to the Fund twenty five *per centum* of the tax collected every month commencing from the month commencing from August 1, 2002 on or before the fifteenth day of the month immediately succeeding that month.

(3) There shall be paid out of the Fund all refunds required to be paid in accordance with the provision of this Act or the Goods and Services Tax Act, No. 34 of 1996.

(4) (a) The Commissioner-General or any other officer of the Department of Inland Revenue authorised by him in that behalf in writing shall administer the Fund.

(b) Regulations may be made as regards the manner and mode in which the refunds may be made.

72. The Commissioner-General may pay, from sums appropriated for that purpose by Parliament, such sums of money as he considers reasonable in the circumstances of the case, to any individual who provides information which results in the assessment of the tax payable by any other person and the collection of tax from such other person.

Commissioner-General may pay rewards to informants.

73. (1) Every person, who is or has been employed or engaged in carrying out or in assisting any person in carrying out the provisions of this Act shall preserve, and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or to the Minister or to the Secretary to the Ministry of the Minister in-charge of the subject of Finance or suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.

Official Secrecy.

(2) Every person employed in carrying out the provisions of this Act shall, before acting under this Act, and the Minister and the Secretary to the Ministry of the Minister in-charge of the subject of Finance shall before acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form:

Provided however, such oath taken under the Goods and Services Tax Act, No. 34 of 1996 shall be deemed for all purposes to have taken under this Act.

(3) No person employed in carrying out the provisions of this Act shall be required to produce in any Court any return, document or to divulge or communicate to any Court any matter or thing coming to his notice in the performance of his duties under this Act, except as may be necessary for the

purpose of carrying into effect the provisions of this Act or any other written law administered by the Commissioner-General.

(4) Notwithstanding anything contained in this section any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act to any other officer of the Department if the communication is necessary for the performance of any duty under this Act or under any other written law administered by the Commissioner-General and the Commissioner-General may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any Court, in any proceedings under this Act, a copy of any return or document received by him or in his possession under this Act or under any other written law administered by him and certified by him or on his behalf to be a correct copy :

Provided that the Commissioner-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature or the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof :

Provided, further that the Commissioner-General shall not in any case be compelled to produce in any court either the original of such document or return or copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in this section the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorised by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorised by him under this section shall be deemed to be a person employed in carrying out the provisions of this Act for the purposes of subsection (2).

(6) Notwithstanding anything contained in this section where it appears to the Commissioner-General from any matter which comes to his knowledge in the performance of his duties under this Act, that any person has committed an offence under the Customs Ordinance or the Excise Ordinance or Excise (Special Provisions) Act, No. 13 of 1989, he may communicate with or deliver to the Commissioner of Excise or the Director-General of Excise or the Director-General of Customs as the case may be, any information relating to the commission of the offence or any articles, books of accounts or any other documents necessary or useful for the purpose of proving the commission of such offence.

74. The Commissioner-General may from time to time specify the forms to be used for all or any of the purposes of this Act, and any form so specified may from time to time be amended or varied by the Commissioner-General or some other form may be substituted by the Commissioner-General in place of any form so specified.

Forms.

75. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of matters authorized by this Act to be made.

Regulations.

(2) Every regulation made by the Minister shall come into operation on the date of its publication in the Gazette or on such date as may be specified in the regulation.

(3) Every regulation shall within two months after its publication in the Gazette, be brought before the Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. A notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

CHAPTER XIV

TRANSITIONAL AND SAVINGS

Transitional provisions.

76. Where the Commissioner-General is satisfied that a registered person or any other person, as the case may be, on or after August 1, 2002, has paid tax on the acquisition of goods for the purpose of making an exempt supply, the tax so paid by such person shall be deemed to be input tax where such supply has subsequently become a taxable supply and the goods so acquired are being used in making such taxable supply :

Provided however the Commissioner-General shall determine the allowable portion of such input tax where the goods so acquired are being used only partly for the purpose of making a taxable supply.

Amendments to the Inland Revenue Act, No.38 of 2000.

77. All references to Goods and Services Tax and Goods and Services Tax Act, No. 34 of 1996 in the Inland Revenue Act, No. 38 of 2000, shall on or after August 1, 2002, be read and construed to include a reference to the Value Added Tax and the Value Added Tax Act, No. 14 of 2002, for any year of assessment or part of a year of assessment.

National Security Levy paid under the National Security Levy Act, No. 52 of 1991 to be deemed to be input tax.

78. (1) Where it is proved to the satisfaction of the Commissioner-General on a claim made in writing on or before December 31, 2002, that any registered person has paid the National Security Levy under section 5A of the National Security Levy Act, No. 52 of 1991 on the importation into Sri Lanka of any article, for sale without using such article in the manufacture of any other goods by such person prior to August 1, 2002 and the supply of such articles is taxable at the rate of twelve and one half *per centum* prior to August 1, 2002 under the Goods and Services Tax Act, No. 34 of 1996, and such Articles imported or a portion thereof are remaining as stock-in-trade as at July 31, 2002 of such registered person and if such stock-in-trade will be supplied in the course of making taxable supplies under this Act, such National Security Levy.

paid in full or part shall be deemed to be input tax and may be allowed as input tax credit under section 22 during any taxable period commencing from the taxable period in which such claim was accepted by the Commissioner-General.

(2) Any excess of input tax attributable to such deemed input tax shall not be refunded but carried forward to the next taxable period and so on notwithstanding the provisions of subsection (3) of section 22.

(3) Any excess claim or undue claim under subsection (1) and allowed as input credit shall be considered as excess input tax claimed and shall be assessed under subsection (7) of section 22.

79. Any person who is unable to comply with the requirements under subsections (1) and (6) of section 20 due to specific problems in converting existing invoicing system to comply with such requirements and undertakes to comply with such requirements on or before September 30, 2002, and makes arrangements to issue such invoices complying with such requirements to the maximum possible extent with effect from August 1, 2002, shall not be liable to any prosecution or penalty for such noncompliance during the period August 1, 2002 to September 30, 2002.

Indemnity

80. (1) (a) All directions issued by the Commissioner-General under section 23 ;

Savings.

(b) Any notification issued by the Commissioner-General under subsection (1) of section 7;

(c) All regulations made by the Minister –

(i) under section 74 ;

(ii) under section 65 ; and

(d) All forms specified under section 73,

under the Goods and Services Tax Act, No. 34 of 1996 and in force on the day immediately preceding August 1, 2002, shall be deemed to be directions, notifications, regulations and forms issued under this Act and shall be in force until such directions, notifications, regulations and forms are rescinded or replaced by directions, notification or regulations made under this Act.

(2) Every person registered under section 15 of the Goods and Services Tax Act, No. 34 of 1996, shall be deemed to be a registered person under this Act and every certificate of registration issued and every tax registration number assigned to a registered person under section 15 of the Goods and Services Tax Act, No. 34 of 1996 and in force on the day preceding August 1, 2002 shall be deemed for all purposes to be a certificate of registration issued and a tax registration number assigned under this Act.

CHAPTER XV

ABOLITION OF NATIONAL SECURITY LEVY AND THE GOODS AND SERVICES TAX

Abolition of the charging of the National security Levy with effect from August 1, 2002.

81. Notwithstanding anything in the National Security Levy Act, No. 52 of 1991 the National Security Levy shall not be charged from any person to whom such Act applies for any quarter or part of a quarter commencing on or after August 1, 2002:

Provided however, any person to whom the National Security Levy Act, No. 52 of 1991 applies, shall furnish a return under that Act for the month of July, 2002 notwithstanding anything to the contrary in that Act.

Abolition of the charging of the Goods and Services Tax with effect from August 1, 2002

82. Notwithstanding anything in the Goods and services Tax Act, No. 34 of 1996, the Goods and Services Tax shall not be charged from any person to whom such Act applies, for any taxable period or part of a taxable period commencing on or after August 1, 2002 :

Provided however, any person registered under the Goods and Services Tax Act, No 34 of 1996, shall furnish return under that Act for the month of July, 2002 notwithstanding anything to the contrary in that Act.

CHAPTER XVI

INTERPRETATION

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

Interpretation.

“Assessor” means an Assessor or Senior Assessor appointed under the Inland Revenue Act, No. 38 of 2000;

“associated persons” means—

- (a) any two or more companies which consist of the same shareholders or are managed and controlled by the same Directors ; or
- (b) any company and any shareholder, where such shareholder or the spouse or child of such shareholder or any trustee of such shareholder or any trustee of the spouse or the child of such shareholder hold jointly or severally twenty- five *per centum* or more of the paid up capital or twenty -five *per centum* or more of the nominal value of the allotted shares of that company ; or
- (c) any two individuals one of whom is the spouse or child of the other or is a trustee for such spouse or child ; or
- (d) a partnership and an individual where such individual is related to any partner of such partnership ; or
- (e) a joint venture and any person who is related to a member of such joint venture ; or
- (f) any two persons one of whom is a trustee for the other ;
- (g) any two individuals related to each other ; or
- (h) any two or more persons carrying on any activity separately or jointly which has resulted in the supply of identical goods or services which cannot be produced by any other person or persons.

"authorized representative" shall have the meaning assigned to it by the Inland Revenue Act, No. 38 of 2000.

"body of persons" means any body corporate or unincorporate, provincial Council, local authority, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate, any partnership, and includes any Government department or any undertaking of the Government of Sri Lanka or any Co-ownership of immovable property ;

"books" shall not include diaries, cheque books, exercise books or ledger books ;

"Commissioner-General" means the Commissioner-General of Inland Revenue appointed under the Inland Revenue Act, No. 38 of 2000 and includes a Commissioner, and a Deputy Commissioner specially authorized by the Commissioner-General either generally or for a specific purpose to act on behalf of the Commissioner-General ;

"Commissioner" means a Commissioner of Inland Revenue appointed under the Inland Revenue Act, No. 38 of 2000.

"Company" means any company incorporated or registered under any law in force in Sri Lanka or elsewhere ;

"customs bonded area" means -

(a) a bonded warehouse approved under section 69 of Customs Ordinance ;

(b) a bonded warehouse approved under section 84A of Customs Ordinance ;

(c) a warehouse of the Republic as defined in section 167 of Customs Ordinance ;

(d) a Free Trade Zone declared by the Board of Investment of Sri Lanka which is subject to monitoring by the Department of Customs.

"construction contractor or sub-contractor" means any person who has entered into a contract with another person and provide services in Sri Lanka in constructing of a building, road, bridge, water supply systems, drainage

systems, sewerage systems, electricity generation or transmission system or any other infrastructure for that other person.

"Director" means a director as defined in the Companies Act, No. 17 of 1982 and includes a working director ;

"Deputy Commissioner" means a Deputy Commissioner of Inland Revenue appointed under the Inland Revenue Act, No. 38 of 2000 ;

"educational establishment" means –

(a) a higher educational institution established under the Universities Act, No. 16 of 1978 or the Buddhist and Pali University Act, No. 74 of 1981 ;

(b) any recognized institution providing vocational training or training for persons engaged in any trade, profession, or employment and includes an incorporated examination body ;

"educational services" means the provision of services by any educational establishment in relation to education, vocational training or retraining ;

"executor" includes an administrator ;

"goods" means all kinds of movable or immovable property but does not include money ;

"incapacitated person" means any minor, lunatic, idiot or person of unsound mind ;

"importation" includes the bringing into Sri Lanka of goods from outside Sri Lanka by any person or goods received from a custom bonded area the purchase of goods on a sale by the Director-General of Customs, the Sri Lanka Ports Authority or the Commissioner-General, for the levy of the tax and other dues ;

"input tax" in relation to a registered person, means –

- (a) the tax charged by another registered person on any goods or services to be used by such registered person in carrying on or carrying out a taxable activity ;
- (b) the tax paid by him or tax deferred under the proviso to subsection (3) of section 2, on the importation or purchase of goods or purchase of services which are used by such person for the purpose of making taxable supplies under this Act or Goods and Services Tax Act, No. 34 of 1996.

"international transportation" means any service directly related to the transportation of goods or passengers—

- (a) from a place in Sri Lanka to a place outside Sri Lanka ;
- (b) from a place outside Sri Lanka to a place in Sri Lanka up to the point of landing unless such services are carried out under a specified carriage contract according to the Documents of carriage issued by a freight forwarder who is registered with the Central Bank of Sri Lanka.
- (c) from a place outside Sri Lanka to another place outside Sri Lanka.

"manufacture" means the making of an article, the assembling or joining of an article by whatever process, adapting for sale any article, packaging, bottling, putting into boxes, cutting, cleaning, polishing, wrapping, labeling or in any other way preparing an article for sale other than in a wholesale or retail activity ;

"output tax", in relation to any registered person, means the tax chargeable in respect of the supply of goods and services made or deemed to be made by such person under this Act or Goods and Services Tax Act, No. 34 of 1996.

"open market value" in relation to the value of a supply of goods or services at any date means, the consideration in money less any tax charged under this Act, which a

similar supply would generally fetch if supplied in similar circumstance at that date in Sri Lanka, being a supply freely offered and made between persons who are not associated persons.

"person" includes a company, or body of persons ;

"prescribed" means prescribed by regulations made under this Act ;

"standard rate" means the rate specified under subsection (1) of section 2, applicable to the supply of taxable goods and services other than such supplies of goods and services and imports specified in the Second Schedule ;

"supply of goods" means the passing of exclusive ownership of goods to another as the owner of such goods or under the authority of any written law and includes the sale of goods by public auction, the transfer of goods under a hire purchase agreement, the sale of goods in satisfaction of a debt and the transfer of goods from a taxable activity to a non-taxable activity.

"supply of services" means any supply which is not a supply of goods but includes any loss incurred in taxable activity for which an indemnity is due.

"supplier", in relation to any supply of goods and services, means the person making the supply ;

"taxable period" means—

(a) a period of one month.—

- (i) where the value of taxable supplies of any person has exceeded thirty million rupees during the preceding twelve months ; or where the value of taxable supplies of any person for the period of the succeeding twelve months is estimated to exceed thirty million rupees ; or
- (ii) where any person makes zero rated supplies ;
- (iii) where any person has entered into an agreement with the Board of Investment of Sri Lanka referred to in items (XXVII) or (XXVIII) of the

Schedule to the Goods and services Tax Act, No. 34 of 1996 prior to April 1, 2001, during the project implementation period :

- (iv) where any person has commenced a business or started a project and undertakes to comply with the requirements of subsection (6) of section 22 under this Act or Goods and Services tax Act, No. 34 of 1996.
- (v) where any person has entered into any such agreement with the Board of Investment of Sri Lanka, as referred to in item (XXVIII) of the Schedule to the Goods and Services Tax Act, No. 34 of 1996 and such person could not commence making taxable supplies under the project to which the agreement relates, by March 31, 2001.

- (b) a period of three months commencing respectively on the first day of January, the first day of April, the first day of July and the first day of October of each year in respect of a registered person whom is not referred to in paragraph (a) or who opts to submit quarterly returns on the approval by the Commissioner-General.

“taxable activity” means —

- (a) any activity carried on as a business, trade, profession or vocation other than in the course of employment or every adventure or concern in the nature of a trade ;
- (b) the provision of facilities to its members or others for a consideration and the payment of subscription in the case of a club, association or organization ;
- (c) anything done in connection with the commencement or cessation of any activity or provision of facilities referred to in (a) or (b) ;
- (d) the hiring, or leasing of any movable property or the renting or leasing of immovable property or the administration of any property ;

- (e) the exploitation of any intangible property such as patents, copyrights or other similar assets where such asset is registered in Sri Lanka or the owner of such asset is domiciled in Sri Lanka.

"taxable supply" means any supply of goods or services made or deemed to be made in Sri Lanka which is chargeable with tax under this Act and includes a supply charged at the rate of zero percent other than an exempt supply.

84. 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 inconsistency.

FIRST SCHEDULE

(i) The supply or import of —

- (a) unprocessed agricultural products other than, potatoes, onions, chillies, all other grains (other than rice and paddy) and planting material ;
- (b) unprocessed horticultural products ;
- (c) unprocessed animal husbandry products other than any variety of meat and live birds, including day old chicks ;
- (d) unprocessed fishing products ;
- (e) unprocessed forestry products other than timber,
- (f) Cardamom, cinnamon, cloves, nutmeg, pepper, desiccated coconuts, rubber, paddy and seed paddy ;

(ii) The supply or import of rice, rice flour, wheat, wheat flour and eggs ;

(iii) The supply or import of bread of any description ;

(iv) The supply or import of liquid milk (not made out of powdered milk or any grain) and infants powdered milk ;

- (v) The supply or import of air crafts, helicopters and temporary import of any plant, machinery, equipment which are re-exported with twelve months from the date of such import ;
- (vi) The supply of educational services by an educational establishment or government schools or schools funded by the government;
- (vii) The supply or import of any books other than chequebooks, periodicals, magazines, news papers, diaries, ledger books or exercise books ;
- (viii) The supply or import of kerosene, bunkerfuel and aviation fuel ;
- (ix) The supply of public library services by the Government, a Provincial Council or a local authority ;
- (x) The supply or import of crude petroleum oil;
- (xi) The supply of the following financial services :—
 - (a) the operation of any current, deposit or savings account ;
 - (b) the exchange of currency ;
 - (c) the issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit ;
 - (d) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt security, being any interest in or right to be paid money owing by any person ;
 - (e) the issue, allotment, transfer of ownership of any equity security or a participatory security ;
 - (f) underwriting or sub-underwriting the issue of an equity security, debt security or participatory security ;
 - (g) the provision of any loan, advance or credit ;

- (h) the provision of the facility of installment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made and the goods supplied under such hire-purchase agreement have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement ;
- (i) life insurance, 'Agrabara' insurance and crop and livestock insurance ;
- (xii) The import or supply of goods and services to the mission of any State or any organization to which the provisions of the Diplomatic Privileges Act, No. 9 of 1996 applies, or to any diplomatic personnel of such mission or organization, or entitled to these benefits provided that reciprocal benefits are available to their counterparts from Sri Lanka and identified as such by the Commissioner - General, including the import under a temporary admission carnet for re-export. Such identifications under Goods and Services Tax Act, No. 34 of 1996 will be remained valid under this Act.
- (xiii) The import and supply of goods at duty free shops for payment in foreign currency ;
- (xiv) The import and supply of unused postage or revenue stamps of the Government of the Democratic Socialist Republic of Sri Lanka or of a Provincial Council ;
- (xv) The import of any article entitled to duty free clearance under the Passenger's Baggage (Exemptions) Regulations made under section 107 of the Customs Ordinance, or any article cleared duty free re-importation certificate as provided in Schedule A under the Customs Ordinance, or any article cleared ex-bond for use as ship stores ;

- (xvi) The import of goods by any organization approved by the Minister in charge of the subject of Finance and proved to his satisfaction to be gifts from persons or organizations overseas or supply of goods directly funded by foreign organizations for the relief of distress caused by natural or other disasters, or similar cause or for religious or charitable purposes.
- (xvii) The supply of public passenger transport services (other than air or water transport or transport of tourists by way of excursion tours or taxi services) or the provision of leasing facilities for such motor coaches with seating capacity not less than twenty eight passenger seats and used for such public passenger transport.
- (xviii) The supply of electricity not exceeding 30 kwh per consumer as defined under the Electricity Act. (Chapter 205) per month ;
- (xix) The import by any person who has entered into an agreement —
- (a) prior to May 16, 1996; or
 - (b) prior to April 1, 1998 in respect of a project the total cost of which is not less than Rs. 500 Million.

with the Board of Investment of Sri Lanka, under section 17 of Board of Investment of Sri Lanka Law, No. 4 of 1978, of any article which is prescribed as a project related article to be utilized in the project specified in the agreement during the project implementation period of such project as specified in such agreement or up to the date of completion of such project, which ever is earlier ;

- (xx) The import by any person who has entered into an agreement with the Board of Investment of Sri Lanka, under section 17 of Board of Investment of Sri Lanka Law No. 4 of 1978, of any article which is prescribed as a project related article to be utilized in the project specified in the agreement, who will be making only exempt supplies after completion of the project—

(a) for a period of two years from August 1, 2002 ; or

(b) until the completion of the project,

which ever is earlier.

- (xxi) The supply of services at a restaurant situated beyond the immigration counter at the Bandaranaike International Air Port ;
- (xxii) The supply of services by a person in Sri Lanka to another person, to be consumed or utilized by such other person outside Sri Lanka, where the payment is made in rupees ;
- (xxiii) The supply, lease or rent of residential accommodation other than the supply, lease or rent of residential accommodation by an enterprise which has entered into an agreement with the Board of Investment of Sri Lanka, under section 17 of the Board of Investment of Sri Lanka Law, No 4 of 1978, on or after April 1, 2001 and the total cost of the projects which such agreement relates is not less than ten million United States of America dollars or its equivalent in any other currency and the project relates exclusively to the aforesaid supply, lease or rental;
- (xxiv) The supply of all health care services provided by medical institutions or professionally qualified persons providing such care, other than

the supply of health care services by a medical institution which has entered in to an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No. 4 of 1978, on or after April 1, 2001 and the total cost of the project to which such agreement relates is not less than ten million United States of America dollars or its equivalent in any other currency;

- (xxv) The supply or import of pearls, diamonds, natural or synthetic precious or semi-precious stones, diamond powder, precious metals or metals clad with precious metal, and gold coins ;
- (xxvi) The supply or import of machinery, medical and surgical instruments, apparatus and accessories including medical and dental equipment and ambulances for the provision of health services ;
- (xxvii) The supply or import of artificial limbs, crutches, hearing aids, accessories for such aids or other appliances which are worn or carried or implanted in the human body to compensate for a defect or disability;
- (xxviii) The supply or import of wheel chairs, prepared culture media for development of micro organisms, diagnostic or laboratory reagents, surgical gloves, contact lenses, X-ray tubes, white canes for the blind and Braille typewriters and parts;
- (xxix) The supply of services in relation to burials and cremations by the government, a Provincial Council, a local authority or any other person;
- (xxx) The supply of free or subsidised meals by an employer to his employees at their places of work ;

- (xxxii) The supply of transport free or at a subsidized rate by an employer to his employees using a vehicle on which the input tax has been disallowed or a motor coach provided by such employer to transport employees to and from their homes and their place of work ;
- (xxxiii) The import of personal items and samples in relation to business worth not more than Rupees 10,000/- through parcel post or courier.
- (xxxiiii) The supply or import of pharmaceutical products (other than cosmetics) and raw materials for such products ;
- (xxxv) The supply or import of ayurvedic preparations which belong to the Ayurveda pharmacopoeia or Ayurveda preparations (other than cosmetic preparations) or unani, siddha or homeopathic preparations (other than cosmetic preparations) and raw materials for such preparations.
- (xxxvi) The supply or import of agricultural tractors ;
- (xxxvii) The supply or import of agricultural machinery.

SECOND SCHEDULE

- (i) The supply of electricity exceeding 30 kwh per consumer as defined under the Electricity Act, (Chapter 205) per month, and the supply of electricity in bulk to the national grid ;
- (ii) The supply of services by construction contractors or sub-contractors ;
- (iii) The supply of services by hotels, guest houses, restaurants or similar institutions and travel agents in relation to inbound tours ;

- (iv) The supply of cinematic films, other than video films, either produced in Sri Lanka or imported into Sri Lanka import of such films, exhibition of such films and theatrical productions ;
- (v) The supply of educational services other than services referred to in item (vi) of the First Schedule;
- (vi) The supply or import of coconut ponnac, prawn feed, and poultry feed,
- (vii) The supply or import of tea, coconut oil, potatoes, onions, chillies, copra, vegetable seeds (other than seed paddy), planting materials, live birds, day old chicks, dressed chicken including chicken parts and any other variety of unprocessed meat;
- (viii) The supply or import of magazines and journals;
- (ix) The supply or import of powdered milk (other than infants powdered milk,) condensed milk and lentils;
- (x) The supply or import of sugar, jaggery and sakkara ;
- (xi) The supply or import of dried fish, maldive fish, fertilizer including rock phosphate and water;
- (xii) The supply or import of petrol, diesel, fuel, liquified petroleum gas;
- (xiii) The supply or import of motor coaches and chassis or bodies of motor coaches with twenty eight or more seating capacity, used for public passenger transport as described under item (xvii) of the First Schedule.
- (xiv) The supply or import of photo voltaic, solar batteries, energy, efficient compact fluorescent lamps and spare parts for such lamps and Solar Home Systems;

- (xvi) The supply of services in relations to the fees collected by the Sri Lanka Bureau of Foreign Employment from prospective migrants;
- (xvi) The supply or import of industrial machinery other than fans and parts, air conditioners, refrigerators, cabinets for refrigerators, dish washing machines (house hold type), personal weighing machines, lawn or sports ground rollers and spares, lawn movers and parts, household washing machines, household type sewing machines, but including electric motors and generators, electric generating sets and rotary converters and parts for such motors, generators, generating sets and converters;
- (xvii) The supply of services in the course of carrying on a profession or vocation either singly or jointly with another person or persons, if all such persons are qualified members of a recognized professional body or carrying on a vocation in the fields of literature, art, music or any other fine art ;
- (xviii) The supply of leasing facilities by a person registered under Finance Leasing Act, No. 56 of 2000;
- (xix) The supply of land transport services to transport goods;
- (xx) The collection of membership fee or similar charges from the members of a society, club or association;
- (xxi) The supply or import of bicycles and motor bicycles.

