



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

FINANCE (AMENDMENT)
ACT, No. 37 OF 1981

[Certified on 2nd June, 1981]

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L. D.—O. 35/80.

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

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

1. This Act may be cited as the Finance (Amendment) Act, No. 37 of 1981. Short title.

2. The following new section is hereby inserted immediately after section 119, and shall have effect as section 119A, of the Finance Act, No. 11 of 1963 (hereinafter referred to as "the principal enactment") :— Insertion of new section 119A in the Finance Act No. 11 of 1963.

Recovery of business turnover tax not to be invalid by reason only of non-registration of hotels and guest houses.

119A. (1) Any recovery of business turnover tax for any period commencing on November 5, 1975 and ending on the date of coming into operation of this section in respect of the business of operating a hotel or a guest house by virtue of a relevant Order shall be deemed not to be invalid by reason only of the fact that such hotel or guest house had not been registered with the Ceylon Tourist Board established under the Ceylon Tourist Board Act, No. 10 of 1966;

(2) Every reference to "the business of operating a hotel or a guest house registered with the Ceylon Tourist Board" in a relevant Order shall be deemed with effect from the date of such Order to be a reference to "a business of operating a hotel or a guest house approved by the Ceylon Tourist Board established under the Ceylon Tourist Board Act, No. 10 of 1966", and accordingly, any person chargeable with business turnover tax by virtue of a relevant Order in respect of the business of operating a hotel or a guest house for any period commencing on the date of such Order and ending on the date of coming into operation of this section shall—

(a) be deemed to have complied with the provisions of section 123 if he furnishes a return setting out the turnover of that business for that

period within thirty days of the coming into operation of this section; and

- (b) be deemed not to be in default on the payment of business turnover tax under section 122 in respect of such business for such period if he pays the total amount of such tax within the aforesaid thirty days, and where he fails to pay the total amount of such tax within the aforesaid thirty days, such amount shall be deemed to be in default and the provisions of this Part of this Act relating to the recovery of business turnover tax in default shall accordingly apply to the recovery of such amount.

(3) Where at the hearing in any court or tribunal, of any appeal, action, application or other proceeding (whether such appeal, action, application or proceeding was preferred or instituted before or after the date of coming into operation of this Part of this Act), any question or matter arises as to the validity of a relevant Order under section 119 such question or matter shall be determined in accordance with the preceding provisions of this section.

(4) In this section "relevant Order" means an Order made under section 119 and published in—

- (a) Gazette No. 118/12 of November 5, 1975; or
(b) Gazette No. 291/9 of November 15, 1977.

Amendment
of
section 120
of the
principal
enactment.

3. Section 120 of the principal enactment, as last amended by Act No. 29 of 1980, is hereby further amended in paragraph (c) of subsection (3) of that section, by the substitution for sub-paragraph (v) of that paragraph, of the following sub-paragraph:—

"(v) the business of any bank to the extent of its transactions attributable to the operation of the foreign currency banking unit of such bank;".

4. The following new section is hereby inserted immediately after section 137, and shall have effect as section 137A, of the principal enactment:—

Insertion of new section 137A in the principal enactment.

Deduction of turnover tax from payments.

137A. (1) Every person who makes any payment in pursuance of a contract to which he is a party or on behalf of any other person who is a party to a contract shall, whether or not such contract was entered into before the coming into operation of this section, deduct from such payment, business turnover tax which shall be a percentage of such payment at a rate to be prescribed by the Minister by Order published in the Gazette and the amount of tax so deducted shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any business turnover tax if any payable by him under this Part of this Act:

Provided that where the total consideration payable for the performance of such contract does not exceed five hundred thousand rupees no such deduction shall be made.

(2) Any person who deducts business turnover tax in accordance with the provisions of sub-section (1) shall—

(a) issue to the person from whose payment the deduction is made a statement showing—

- (i) the gross amount of such payment;
- (ii) the rate and amount of tax so deducted; and
- (iii) the net amount actually paid; and

(b) remit within seven days of making such deduction the sum so deducted to the Commissioner-General together with a statement showing—

- (i) the name and address of the person to whom the payment was made;

(ii) the gross amount of such payment;

(iii) the rate and amount of tax so deducted; and

(iv) the net amount actually paid.

(3) Where the turnover of a person includes a sum from which business turnover tax has been deducted in accordance with subsection (1), he shall be entitled on production of a statement relating to such sum issued in accordance with subsection (2) a set-off against the tax payable by him of the amount shown on such statement as the amount of tax deducted.

(4) For the purposes of this section "contract" means—

(i) any contract in respect of construction work of whatever nature;

(ii) any contract for the supply of goods or services in respect of any contract specified in paragraph (i);

(iii) any sub-contract in respect of any contract specified in paragraph (i) or (ii).

(5) Any person who fails to deduct business turnover tax in terms of subsection (1) or fails to remit under subsection (2) any business turnover tax to the Commissioner-General shall be deemed to be in default and the provisions of this Part of this Act relating to recovery of business turnover tax shall accordingly apply to any such default.

(6) Any person who has made any deduction under subsection (1) or any remittance in pursuance of subsection (2) shall be deemed to have acted under the authority of the person by whom the tax was payable and of all other persons concerned, and is hereby indemnified in respect of such deduction or remittance, as the case may be,

against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(7) Where any person has entered into two or more contracts and the Assessor, having regard to the nature and the parties to such contracts, is of opinion that the recipient of the payments made in respect of such contracts by such person is one and the same person or his agent, the sum paid or payable shall be aggregated for the purposes of subsection (1).

5. Section 159 of the principal enactment (as last amended by Act No. 26 of 1978) is hereby further amended in sub-section (1) of that section by the substitution, for the definition of "turnover", of the following new definition:—

Amendment of section 159 of the principal enactment.

"turnover", in relation to any business, means the total amount received or receivable from transactions entered into in respect of that business or for services performed in carrying on that business and includes—

(a) in the case of a bank, the receipts of such bank by way of or on account of interest, discounts, dividends, exchange, service charges, commissions, brokerage and any other income derived by such bank in the course of its business or otherwise but shall not include receipts attributable to the operation of the foreign currency banking unit of such bank.

In this paragraph "foreign currency banking unit" means a unit or department of a commercial bank authorized by the Central Bank of Ceylon to operate as a foreign currency banking unit;

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

(c) in the case of an auctioneer and, subject to the provisions of paragraph (d), in the case of a broker or a commission agent—

(i) in respect of lands sold by him or in the sale of which he is instrumental, the commissions or fees received or receivable by him or for any transactions effected, or services rendered, by him in connection with such sale,

(ii) in respect of any goods sold by him or in the sale of which he is instrumental, the total amount paid or payable by the purchaser of such goods;

(d) in the case of any broker (other than a share broker or a produce broker), or commission agent, who—

(i) on behalf of a non-resident person, sells or is instrumental in selling any goods of that non-resident person, or

(ii) acts on behalf of an exporter of any goods manufactured in Sri Lanka, or

(iii) on behalf of any other person carrying on a business in Sri Lanka, is instrumental in selling in Sri Lanka any goods of that other person, being goods the total proceeds of the sale of which is included in the turnover of the business of that other person, whether or not such business is a "business" within the meaning of that expression in subsection (3) of section 120,

the commissions or fees received or receivable by such broker or commission agent in respect of any transactions effected or services rendered by him in so selling, acting, or in being instrumental in so selling, and in the case of a share broker or a produce broker, the commissions or fees received or receivable by such broker or commission agent in

respect of any transaction effected or services rendered by him ; and

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

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

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