



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

**TAX APPEALS COMMISSION
(AMENDMENT) ACT, No. 20 OF 2013**

[Certified on 24th April, 2013]

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Tax Appeals Commission (Amendment)
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L.D.—O. (9/2013).

AN ACT TO AMEND THE TAX APPEALS COMMISSION
ACT, NO. 23 OF 2011

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

Short title.

1. This Act may be cited as the Tax Appeals Commission (Amendment) Act, No. 20 of 2013.

Amendment of
section 2 of the
Tax Appeals
Commission
Act, No.23 of
2011.

2. Section 2 of the Tax Appeals Commission Act, No. 23 of 2011 (hereinafter referred to as the “principal enactment”) as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended as follows:-

- (1) in subsection (2) thereof, by the substitution for the words “not more than three members one of whom shall be” and the words “two other members” of the words “not more than nine members three of whom shall be” and “six other members” respectively.
- (2) by the addition, immediately after subsection (2) thereof of the following new subsection:-

“(2A) The Chairman of the Commission shall constitute three panels comprising three members each, from among the members appointed under subsection (2) one of whom shall be a Judge as specified in subsection (2) to hear and determine any matter before the Commission.”.

3. Section 5 of the principal enactment is hereby amended by the substitution for the words “shall be five members.” of the words “shall be seven members.”.

Amendment of
section 5 of the
principal
enactment.

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Amendment of
section 7 of the
principal
enactment.

4. Section 7 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended as follows:-

- (1) by the repeal of subsection (1) thereof and the substitution therefor of the following:-

“(1) A person who is aggrieved by the determination –

- (a) of the Commissioner-General of Inland Revenue appointed in terms of the Inland Revenue Act, (hereinafter referred to as the “Commissioner-General”) given in respect of any matter relating to imposition of any tax, levy, charge, duty or penalty under the provisions of any of the enactments specified in Column I of Schedule I, or Schedule II to this Act; or
- (b) of the Director-General of Customs (hereinafter referred to as the “Director-General”) given in respect of any matter specified in subsection (1A) of section 10 of the Customs Ordinance (Chapter 235),

may appeal to the Commission in accordance with the provisions hereinafter set out:

Provided that, every person who wishes to appeal to the Commission under paragraph (a) shall, at the time of making of such appeal, be required to pay into a special account which shall be opened and operated by the Commission for such purpose, an amount-

- (a) as is equivalent to ten *per centum* which is non-refundable; or

- (b) as is equivalent to twenty five *per centum* which is refundable subject to subsection (1A) of this section or a bank guarantee for the equivalent amount which shall remain valid until the appeal is determined by the Commission,

of the sum as assessed by the Commissioner-General as being payable by such person as tax, levy, charge, duty or penalty under any of the said enactments and which assessment is the subject of the appeal.”;

- (2) by the insertion immediately after subsection (1) thereof, of the following new subsection:-

“(1A) (a) The amount referred to in paragraph (a) or (b) of the proviso to subsection (1), as the case may be, shall be transferred to the Commissioner-General upon the determination of the respective appeal to which such amount is applicable and which shall be set off against the sum as assessed by the Commissioner-General as being payable by such person as tax, levy, charge, duty or penalty under any of the said enactments and which assessment is the subject of the appeal.

(b) Any excess of the amount referred to in paragraph (b) of the proviso to subsection (1), may be set off against the taxes due and which are administered by the Commissioner-General. Where any balance of any of such amount shall be refunded to the appellant on request made in that behalf in writing to the Commissioner-General.”;

- (3) in subsection (2) of that section, by the substitution for the words and figures “specified in Column I of Schedule I and Schedule II to this Act” of the words and figures “specified in paragraphs (a) and (b) of subsection (1) of section 7”;

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- (4) in subsection (3) of that section, by the substitution for the words “notification to the Commissioner-General” of the words “notification to the Commissioner-General or the Director-General, as the case may be.”.

Repeal and replacement of section 8 of the principal enactment.

5. Section 8 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No. 4 of 2012 is hereby repealed and the following is substituted therefor :-

“Procedure for preferring an appeal.

8. (1) Any person aggrieved by the determination of—

- (a) the Commissioner-General, in respect of any matter relating to the imposition of any tax, levy, charge, duty or penalty; or
- (b) the Director-General under subsection (1B) of section 10 of the Customs Ordinance (Chapter 235),

may if he is dissatisfied with the reasons stated by the Commissioner-General or the Director-General, as the case may be, prefer the appeal therefrom to the Commission within thirty days from the date of receipt of such reasons; or

(2) Where the Director-General fails to give such determination within the time period specified in subsection (1B) of section 10 of the said Ordinance, such person also may appeal to the Commission at the expiration of the time period specified in subsection (1B) of section 10 of the said Ordinance.

(3) The manner and the form of submitting such appeal, the procedure to be followed by the Commission in the hearing and

determining of such appeal and the fees if any in respect thereof shall be determined by the Commission by rules made, from time to time, in that behalf.”.

6. Section 9 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended as follows:-

Amendment of section 9 of the principal enactment.

- (1) in subsection (1) thereof, by the substitution for the words “to the Commissioner-General.” of the words “to the Commissioner-General or the Director-General, as the case may be.”;
- (2) in subsection (2) thereof, by the substitution for the words “The Commissioner-General shall” and the words and figures “specified in Column I of Schedule I and Schedule II to this Act”, of the words “The Commissioner-General or the Director-General, as the case may be, shall” and the words and figures “specified in Column I of Schedule I or Schedule II to this Act or any applicable provisions of the Customs Ordinance (Chapter 235), as the case may be,”;
- (3) by the repeal of subsection (4) thereof and the substitution therefor of the following:—
 - “(4) (a) in respect of an appeal under paragraph (a) of subsection (1) of section 7, the Assessor who made the assessment appealed against or a person authorized by the Commissioner-General in that behalf; or
 - (b) in respect of an appeal under paragraph (b) of subsection (1) of section 7, any officer authorized by the Director-General in that behalf,

Shall attend the hearing of the Commission at which such appeal is heard, in support of the determination

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of the Commissioner-General or the Director-General, as the case may be.”.

- (4) in subsection (5) thereof, by the substitution for the words and figures “specified in Column I of Schedule I and Schedule II to this Act,” of the words “specified in Column I of Schedule I or Schedule II to this Act,”;
- (5) in subsection (8) thereof, by the substitution for the words “Commissioner-General” wherever those words appear of the words “Commissioner-General or the Director-General, as the case may be,”
- (6) in subsection (10) thereof, by the substitution for the words “as stated in the decision of the Commission. The decision of the Commission shall be notified to the appellant and the Commissioner-General in writing.” of the words “as stated in the decision of the Commission.”
- (7) by the addition immediately after subsection (10) thereof the following:—

“(11) The decision of the Commission shall be final and be notified to the appellant, and the Commissioner-General or the Director-General as the case may be.”.

Amendment of
section 10 of the
principal
enactment.

7. Section 10 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby amended by the substitution for all the words commencing from “two hundred and seventy days” to the end of that section, of the following:-

“two hundred and seventy days from the date of the commencement of its sittings for the hearing of each such appeal:

Provided that, all appeals pending before the respective Board or Boards of Review in terms of the provisions of the respective enactments specified in

Column I of Schedule I, or Schedule II to this Act, notwithstanding the fact that such provisions are applicable to different taxable periods as specified therein shall with effect from the date of coming into operation of the provision of this Act be deemed to stand transferred to the Commission, and the Commission shall notwithstanding anything contained in any other written law make its determination in respect thereof, within twenty four months from the date on which the Commission shall commence its sittings for the hearing of each such appeal.”.

8. The following new section is hereby inserted immediately after section 11 of the principal enactment and shall have effect as section 11A of that enactment:-

Insertion of new section 11A in the principal enactment.

“Appeals on a question of law to the Court of Appeal.

11A. (1) Either the person who preferred an appeal to the Commission under paragraph (a) of subsection (1) of section 7 of this Act (hereinafter in this Act referred to as the “appellant”) or the Commissioner-General may make an application requiring the Commission to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the secretary to the Commission, together with a fee of one thousand and five hundred rupees, within one month from the date on which the decision of the Commission was notified in writing to the Commissioner-General or the appellant, as the case may be.

(2) The case stated by the Commission shall set out the facts, the decision of the Commission, and the amount of the tax in dispute where such amount exceeds five thousand rupees, and the party requiring the Commission to state such case shall transmit such case, when stated and signed to the Court of Appeal, within fourteen days after receiving the same.

(3) For the purpose of the application of the provisions of the Stamp Duty Act, No. 43 of 1982 –

- (a) all proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees or of such greater amount as is set out by the Commission in the stated case as the amount of the tax in dispute;
- (b) every such case stated shall, together with all books, documents and papers annexed thereto by the Commission, be deemed to be a single exhibit in civil proceedings before the Court of Appeal; and
- (c) the Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtue officii*.

(4) At or before the time when he transmits the stated case to the Court of Appeal, the party requiring it shall send to the other party, a notice in writing informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Commission for amendment, and the Commission shall amend the case accordingly.

(6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of Court upon such question, confirm, reduce, increase or annul the assessment determined by the Commission, or may remit the case to the Commission with the opinion of the Court, thereon. Where a case is so remitted by the Court, the Commission shall revise the assessment in accordance with the opinion of the Court.

(7) The Court of Appeal may, pending the determination of the case stated to such Court, make an interim determination as regards the amount of tax recoverable by the Commissioner-General in respect of the amount of tax in dispute, on the basis of a report furnished by the Commissioner-General.

(8) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.

(9) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6), and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal –

- (a) an order made by the Court of Appeal under subsection (6) shall, together

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with any order of that Court under subsection (8), be deemed to be a final judgment of the Court of Appeal in a civil action between the Commissioner-General and such other party;

- (b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees:

Provided that, where the Commission in the stated case, set out an amount higher than five thousand rupees as the amount of the tax in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount; and

- (c) in respect of any such appeal, the Commissioner-General shall not be required to make any deposit or pay any fee or furnish any security prescribed by such written law.”.

Replacement of
section 13 of the
principal
enactment.

9. Section 13 of the principal enactment is hereby amended by the repeal of that section and the substitution therefor of the following:-

“Repeals.

13. The provisions of the enactments specified in Column I of Schedule I are hereby amended or repealed in the sections or parts thereof as are specified in Column II of that Schedule to the extent and in the manner as shall be specified therein.”.

Repeal of
section 13A of
the principal
enactment.

10. Section 13A of the principal enactment is hereby repealed.

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11. The following new section is hereby inserted immediately after section 13 of the principal enactment and shall have effect as section 13A of that enactment:—

Insertion of new section 13A in the principal enactment.

“Interpretation. 13A. For the purposes of this Act, unless the context otherwise requires—

“Assessor” shall have the same meaning as assigned to it in the Inland Revenue Act;

“Inland Revenue Act” means the Inland Revenue Act, No. 10 of 2006 and includes where necessary and appropriate, the Inland Revenue Act, No. 28 of 1979 and Inland Revenue Act, No. 38 of 2000.”.

12. The Schedule I of the principal enactment is hereby repealed and the following new Schedule is substituted therefor:-

Replacement of Schedule 1 of the principal enactment.

“Schedule I

<i>Column I</i>	<i>Column II</i>
<i>Names of Enactments</i>	<i>Applicable Amendment</i>
1. Inland Revenue Act, No. 10 of 2006	<p>(a) by the repeal of sections 166, 167, 168, 169 and 170; and</p> <p>(b) by the substitution in subsection (2) and (3) of section 172 thereof for the words “Board of Review” of the words and figures “Tax Appeal Commission established by the Tax Appeals Commission Act, No.23 of 2011”.</p>

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Inland Revenue Act, No.38 of 2000	<p>(a) by the repeal of sections 137, 138, 139, 140 and 141 ; and</p> <p>(b) by the substitution in subsection (2) and (3) of section 143 thereof for the words “Board of Review” of the words “Tax Appeals Commission established by the Tax Appeals Commission Act, No.23 of 2011”.</p>
Inland Revenue Act, No.28 of 1979	<p>(a) by the repeal of sections 118, 119, 120, 121 and 122 ; and</p> <p>(b) by the substitution in subsection (2) and (3) of section 124 thereof for the words “Board of Review” of the words “Tax Appeal Commission established by the Tax Appeals Commission Act, No.23 of 2011”.</p>
2. Value Added Tax Act, No.14 of 2002	by the repeal of sections 35 and 36
3. Nation Building Tax Act, No.9 of 2009	Section 8 is hereby amended by the substitution for the words and figures “Chapter XXII relating to appeals other than sections 166, 167, 168 and 169 of the words and figures “Chapter XXIII relating to appeals other than sections 166, 167, 168, 169 and 170.”
4. Economic Service Charge Act, No.13 of 2006	Section 11 is hereby amended by the substitution for the words “relating respectively to appeals” of the words and figures “relating respectively to appeals other than the provisions in sections 166, 167, 168, 169 and 170”
5. Stamp Duty (Special Provisions) Act, No. 12 of 2006.	Section 11 of the Stamp Duty (Special Provisions) Act is hereby amended by the substitution for the words “Chapters XVIII to XXIV of the Inland Revenue Act relating to Assessment, Appeals, Determination of Appeals” of the words “Chapters XVIII to XXIV of the Inland Revenue Act relating to Assessments, Appeals, Determination of Appeals, other than sections 166, 167, 168, 169 and 170 relating to appeals to Board of Review”

13. Schedule II of the principal enactment is hereby amended by the insertion immediately after item 2, of the following:-

Amendment of
Shedule II of the
principal
enactment.

“3. Finance Act, No.11 of 2004.

4. Debits Tax Act, No.16 of 2002.”.

14. (1) The amendments made to the principal enactment [other than the amendments made to section 2, the proviso to subsection (1) of section 7 and the amendments made in relation to the appeals under the Customs Ordinance (Chapter 235)] by the provisions of this Act shall be deemed for all purposes to have come into force on April 1, 2011.

Retrospective
effect.

(2) The amendment made to section 2 of the principal enactment by the Tax Appeals Commission Act, No.4 of 2012 shall be deemed for all purposes to have come into force on March 31, 2011 and any act or decision made by the Commission during the period commencing on March 31, 2011 up to the date of coming into operation of this Act shall be deemed to have for all purposes to have been validly made.

15. For the avoidance of doubts, it is hereby declared, that the Commission shall have the power in accordance with the provisions of the principal enactment as amended by this Act, to hear and determine any appeal that was deemed transferred to the Commission under section 10 of the principal enactment, notwithstanding the expiry of the twelve months granted for its determination by that sectoin, prior to its amindment by this Act.

Avoidance of
doubts.

16. 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.

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