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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1985/5 - 2016 සැප්තැම්බර් මස 19 වැනි සඳුදා - 2016.09.19

No. 1985/5 - MONDAY, SEPTEMBER 19, 2016

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

STRATEGIC DEVELOPMENT PROJECTS ACT, No. 14 OF 2008

Notification under Section 3(2)

BY virtue of the powers vested in me in terms of Section 3(2) of the Strategic Development Projects Act, No. 14 of 2008 is amended, I, Malik Samarawickrama, being the Minister in Charge of the subject of Development Strategies and International Trade, in consultation with the Minister in charge of Finance, do by this Notification-

- (1) Identify as a Strategic Development Project for the purposes of the aforesaid Act, the project for the development of Colombo Port City in two phases for the construction of wave protection breakwater, land reclamation, ground improvement, revetment, canals to connect seawater, artery roads, utilities and for transfer or lease of any leasehold rights to the prospective buyers in accordance with applicable law. This Project will bring significant economic and social benefit to the country :-
 - (i) by the development of Colombo Port City creating a new land area in extent of Two Hundred and Sixty Nine Hectares (269 Hec.) which will be given highest priority in economic development as per the development strategy of the Government ;
 - (ii) through the inflow of foreign exchange and the total investment of United States Dollars One Thousand Three Hundred and Thirty Seven Million (US\$ 1,337 Mn) within the Project Implementation Period of Eight (08) years from the date on which the Third Supplementary Agreement is signed between the Board of Investment of Sri Lanka and the Project Company (“Project Implementation Period”) ;
 - (iii) through potential employment generation and consequent income earning opportunities for the people of Sri Lanka ;
 - (iv) by attracting secondary foreign direct investment for the development of the reclaimed land ; and
 - (v) by developing the planned Colombo International Finance Centre in the Colombo Port City and the consequent large foreign exchange turnover that could be generated.
- (2) The Project Company is CHEC PORT CITY COLOMBO (PRIVATE) LIMITED (“the Project Company”). The date of commencement of implementation and commercial operations of the Project shall be within Eight (08) years from the date the Third Supplementary Agreement is signed between the Board of Investment of Sri Lanka and the Project Company.



- (3) Specify that for the purposes of the aforesaid project, in terms of the Strategic Development Projects Act, No. 14 of 2008 as amended, the exemptions set out in Schedule I of this Notification shall apply to the Project Company.
- (4) The Project Company and M/S China Harbour Engineering Company Limited (“CHEC”) being the contractor for engineering, procurement and construction of the Project, are subsidiary companies of M/S China Communications Construction Company Limited. Therefore, the concessions morefully described in the Schedule II below under the provisions of Strategic Development Projects Act, No. 14 of 2008 as amended shall be applicable for the Project Implementation Period for profits to be generated through this Project by M/S China Harbour Engineering Company Limited.

SCHEDULE I

(1) Inland Revenue Act, No. 10 of 2006

(i) Corporate Income Tax

The provisions of the Inland Revenue Act, No. 10 of 2006 relating to the imposition of income tax on the Project Company on the profit and income generated from the activities from the said Project shall not apply for the period of twenty five (25) years (“Tax Exemption Period”).

The said Tax Exemption Period shall commence from the year in which the Project Company makes taxable profit or six (06) years after commencement of construction of the project, whichever occurs earlier, excluding the period between 6th March 2015 and 12th August 2016, the later date being the date on which the Tripartite Agreement between the Project Company, the Government of Sri Lanka and the Urban Development Authority was signed.

Provided that after the expiry of the aforesaid Tax Exemption Period income tax in respect of the profits and income of the Project Company shall be payable in terms of the provisions of the Inland Revenue Act for the time being in force.

(ii) Tax on Dividends

Dividends distributed to the shareholders out of the exempted profit shall be exempted from the income tax during the said tax exemption period of twenty five (25) years and one (01) year thereafter.

(iii) Withholding Tax

The Project Company shall be exempted from the payment of Withholding Tax on the following ;

- (a) on interest on foreign loans taken for capital expenditure and on technical fees paid to consultants ;
- (b) on management fees and royalty payments provided however the total of such charges does not exceed three per centum (3%) of the gross operating revenue ;
- (c) on marketing fees provided however the total of such fees does not exceed one point five per centum (1.5%) of the gross operating revenue ; and
- (d) on incentive management fees provided however the total of such fees does not exceed ten per centum (10%) of the gross operating profit.

(iv) *Paye Tax*

The expatriate staff of the Project Company shall be exempted from the payment of Pay as You Earn Tax (PAYE) subject to a restriction that this concession shall apply subject to the maximum number of thirty (30) employees at any given time. Subject to such ceiling, this exemption is available for expatriate project implementation staff during the project implementation period and for expatriate project operational staff for a period of ten (10) years from the date of commencement of commercial operations of the Project. Provided however, no single employee shall be given this exemption for a period in excess of ten (10) years. Further, the Project Company shall be required to gradually replace expatriate staff with local employees on a best efforts basis.

(2) Value Added Tax (VAT) Act, No. 14 of 2002

All imports of project related goods and local purchases of project related goods or services required for the implementation of the project as approved by the Board of Investment of Sri Lanka, shall be exempted from the payment of Value Added Tax (VAT), during the Project Implementation Period of eight (08) years. Any contractor or a sub-contractor who supplies to such contractor, to the Project, will be entitled to the deferment as permitted in the VAT Act.

The Project Company shall be liable for the payment of VAT as provided in the VAT Act, No. 14 of 2002 upon the completion of the Project Implementation Period.

Provided however, transfer or lease of any leasehold rights to the project company or by the project company to the prospective buyers in accordance with applicable law, shall be exempted from the payment of VAT.

(3) Ports and Airports Development Levy (PAL) Act, No. 18 of 2011

The project company shall be exempted from the payment and charge of Ports and Airports Development Levy (PAL), on the project related goods as approved by the Board of Investment of Sri Lanka imported during the Project Implementation Period of Eight (08) years. The exemption shall be applicable on direct imports by the Project Company for the Project or on imports by a contractor or sub-contractor for the purposes of the Project, so long as the consignee of such goods is the Project Company, subject to the condition referred to in item No. (08) below.

(4) The Finance Act No. 5 of 2005

The Project Company/Contractors shall be exempted from construction industry Guarantee Fund Levy imposed under the Finance Act No. 05 of 2005 in relation to the Project.

(5) Excise (Special Provisions) Act, No. 13 of 1989

Import of project related items as approved by the Board of Investment of Sri Lanka shall be exempted from the Excise Duty Payment during the Project Implementation Period of eight (08) years.

(6) The Sri Lanka Export Development Act, No. 40 of 1979

Import of project related items as approved by the Board of Investment of Sri Lanka shall be exempted from the payment of CESS during the Project Implementation Period of eight (08) years.

(7) Nation Building Tax (NBT)

The Project Company, the contractor and the sub-contractors shall be exempted from the Nation Building Tax during the Project Implementation Period of eight (08) years.

Provided Further, transfer or lease of any leasehold rights to the project company or by the project company to the prospective buyers in accordance with applicable law, shall be exempted from the payment of NBT.

(8) Customs Duty on Importation of Project Related Items (Customs Ordinance - Chapter 235)

Exemption from Customs Duty will be applicable to all project related items in capital nature and any other project related items as approved by the Board of Investment of Sri Lanka imported in the name of the Project Company Implementing the Project in relation to items so imported solely for the purpose of the Project whether directly imported by the Project Company or sourced through the contractors of sub-contractors to the contractors provided that the goods consigned in the name of the Project Company other than the items mentioned in the Negative List within the Project Implementation Period of Eight (08) years. The items in the Negative List will also be exempted from the Customs Duty where such items are either not wholly produced in Sri Lanka or are unavailable in sufficient quality, quantity and time lines for Project completion.

As such, in general, project related goods could be imported through a contractor or a sub-contractor in respect of the project within the Project Implementation Period of Eight (08) years as provided above, only if the Project Company is named as the consignee of such goods. Hence, if such imports have been done along with any other imports, the Project Company shall be solely responsible to ensure that the concessions noted herein shall be available only to project related goods of the Project Company, if so, for any reason this condition has been violated, taxes and levies payable under laws and regulations prevailing at the time shall apply to all goods that do not form part of project related goods for the project and such taxes shall become payable forthwith. It is noted that any personal effects imported by the Project Company for the private/personal use of any employee, consultant or any other of the Project Company shall not be treated as project related goods. It is further noted that in view of the exemptions/concessions granted to the Project Company under the Strategic Development Projects Act, No. 14 of 2008, no tenant or any other party associating with the project or the Project Company will be granted any exemptions or concessions in view of or consequent to such association in connection with the Project.

SCHEDULE II

(1) Inland Revenue Act, No. 10 of 2006

(i) Corporate Income Tax

The provisions of the Inland Revenue Act, No. 10 of 2006 relating to the imposition of income tax on the China Harbour Engineering Company Ltd. ("CHEC") on the profit and income generated from the activities from the said Project shall not apply for a period of eight (08) years.

The said Tax Exemption Period of Eight (08) years shall commence from the year in which the China Harbour Engineering Company Ltd. ("CHEC") commences the construction of the Project, but excluding the period between 6th March, 2015 and 12th August 2016, the later date being the date on which the Tripartite Agreement between the Project Company, the Government of Sri Lanka and the Urban Development Authority was signed.

Provided that after the expiry of the aforesaid Tax Exemption Period of Eight (08) years, income tax in respect of the profits and income of the China Harbour Engineering Company Ltd. ("CHEC") shall be payable in terms of the provisions of the Inland Revenue Act for the time being in force.

MALIK SAMARAWICKRAMA, MP,
Minister of Development Strategies
and International Trade,

on this 19th day of September, 2016.