

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

Part II of February 25, 2011

SUPPLEMENT

(Issued on 28. 02. 2011)



TAX APPEALS COMMISSION

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to provide for the constitution of a Tax Appeals Commission; to specify the powers of such commission and the procedure to be followed in hearing and disposing of such appeals; and to provide for matters connected therewith or incidental thereto.

Ordered to be published by the Minister of Finance and Planning

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 8.00

Postage : Rs. 5.00

Tax Appeals Commission

L.D.—O. 19/2011.

AN ACT TO PROVIDE FOR THE CONSTITUTION OF A TAX APPEALS COMMISSION; TO SPECIFY THE POWERS OF SUCH COMMISSION AND THE PROCEDURE TO BE FOLLOWED IN HEARING AND DISPOSING OF SUCH APPEALS; 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 Tax Appeals Commission Act, No. of 2011. Short title.

5 2. (1) There shall be established a Commission to be called and known as the Tax Appeals Commission (hereinafter referred to as “the Commission”) which shall charged with the responsibility of hearing all appeals in respect of matters relating to imposition of any tax, levy or duty. Establishment of the Tax Appeals Commission and its composition.

10 (2) Commission shall comprise not more than three members who shall be appointed from amongst retired Judges of the Supreme Court and the Court of Appeal, persons who have wide knowledge of, and have gained eminence in, the fields of Taxation, Finance and law, by the Minister to whom subject of Finance is assigned. One of the members shall be appointed as the Chairman of the Tribunal by the Minister.

20 (3) Every member of the Commission shall hold office for a term not exceeding three years, and shall be eligible for reappointment.

3. (1) There shall be a Secretary to the Commission who shall be appointed by the Minister in charge of the subject of Finance. Secretary to the Commission.

25 4. (1) The Minister shall appoint a Panel of Legal Advisors (hereinafter referred to as the “Panel”) comprising Panel of Legal Advisors.

not more than ten persons, who have gained eminence in the field of Law, for the purpose of assisting the Commission in the exercise, performance and discharge of powers, duties and functions under this Act.

- 5 (2) Three or more members of the Panel shall be nominated by the Minister to attend the hearings of the Commission and assist in the progress of the appeal proceedings and any investigations if any, before such Commission.

- 10 **5.** At the request of the Chairman, the Secretary to the Commission shall summon once a month a meeting of all the members of the Commission and the Panel. The quorum for such meeting shall be five members.
- Meeting of
Members of
the
Commission
and the
Panel.

- 15 **6.** The members of the Commission and the Panel shall be remunerated in such amount as shall be determined by the Minister.
- Remuneration
of the
Members of
the
Commission
and the
Panel.

- 20 **7.** (1) A person who is aggrieved by the determination of the Commissioner-General of Inland Revenue given in respect of any matter relating to imposition of any tax, levy or duty under the provisions of any of the enactments specified in the Schedule to this Act, may appeal to the Commission in accordance with the Provisions hereinafter set out:
- Right to
appeal to the
Commission
against the
decision
given under
any law
specified in
the Schedule.

- 25 Provided that, every person who wishes to appeal to the Commission as provided for above, shall, at the time of making the appeal, be required to pay into a special account which shall be opened and operated by the Commission for such purpose, an amount as is equivalent to twenty-five *percentum* of the sum as assessed by the Commissioner-General as being payable by such person as tax under any
- 30 of the said enactments and which assessment is the subject of the appeal, or a bank guarantee for the equivalent amount.

(2) A person to whom a right to appeal has accrued in terms of the provisions of the enactments specified in the Schedule to this Act, shall notify the Commission within thirty days of the determination being communicated to him
5 under the respective laws, of the fact that he intends to prefer an appeal to the Commission against such determination. He shall state all relevant details of the determination in such notification including the name and address of his authorized representative, if any.

10 (3) Where the aggrieved person has notified the Commission in accordance with the provisions of subsection (2) that he intends to prefer an appeal to the Commission against such determination, the Commission shall forward a copy of such notification to the Commissioner-General and
15 require him to transmit in writing, to the Commission and the aggrieved party and his authorized representative, within one month of receipt of the notification, his reasons for the determination against which such person seeks to appeal.

(4) The manner and form of submitting an appeal under
20 this Act and the fees if any, payable in respect thereof, and the time within which a petition ought to be preferred, shall be as prescribed.

8. The person aggrieved may, if he is not satisfied with the reasons given by the Commissioner-General prefer an
25 appeal therefrom, to the Commission and the Commission shall hear and determine such appeal in accordance with such rules as may be made in that behalf.

Procedure
for
preferring an
appeal.

9. (1) Within thirty days of the receipt of an appeal, the Secretary to the Commission shall fix a date and time and
30 place for the hearing of the appeal, and shall give forty-two days notice thereof, both to the appellant and to the Commissioner-General.

The hearing
of the appeal.

(2) The Commissioner-General shall on receipt of a notice under subsection (1), transmit to the Commission a copy of
35 the record of evidence maintained under subsection (12) of

section 165 of the Inland Revenue Act, No. 10 of 2006 and extracts of the provisions of the applicable enactments specified in the Schedule to this Act.

- (3) Every appellant shall attend in person or by an authorized representative, on the day fixed for the hearing of the appeal by the Commission:

Provided that where an authorized representative of the appellant is present at the hearing of an appeal, the Commission may postpone the hearing for such time as it thinks necessary to enable the attendance in person, of the appellant.

- (4) The Assessor who made the assessment appealed against or a person authorized by the Commissioner-General in that behalf, shall attend the hearing of the Commission at which such appeal is heard, in support of the determination of the Commissioner-General.

- (5) The onus of proving that the assessment as determined by the Commissioner-General in terms of the respective enactments specified in the Schedule to the Act, is excessive or erroneous, shall be on the appellant.

- (6) All appeals shall be heard in *camera*.

- (7) The Commission shall have power to summon to a hearing, the attendance of any person whom it considers capable of giving evidence respecting the appeal and may examine him as a witness, either on oath or otherwise. Any person so attending may be allowed by the Commission to be paid any reasonable expenses necessarily incurred by him in so attending.

- (8) Except with the consent of the Tribunal and on such terms as the Tribunal may determine, the appellant shall not at the hearing, be allowed to produce any document which was not produced before the Commissioner-General, or to

adduce the evidence of any witness whose evidence was not led before the Commissioner-General, or adduce evidence of a witness whose evidence has already been recorded at the hearing before the Commissioner-General.

5 (9) At the hearing of the appeal the Commission may, admit or reject any evidence adduced whether oral or documentary, and the provisions of the Evidence Ordinance relating to the admissibility of evidence shall not apply in respect of such evidence.

10 (10) After hearing the evidence, the Commission shall on appeal either confirm, reduce, increase or annul, as the case may be, the assessment as determined by the Commissioner-General or may remit the case to the Commissioner-General with the decision of the commission thereon, Where a case
15 is so remitted by the Commission, the Commissioner-General shall revise the assessment in order that it is in conformity with such amount as stated in the decision of the Commission. The decision of the Commission shall be notified to the appellant and the Commissioner-General in
20 writing.

10. The Commission shall hear all appeals received by it and make its decision in respect thereof, within one hundred and eighty days from the date of the commencement of the hearing of the appeal:

Determination
of appeals by
the
Commission.

25 Provided that all appeals pending before the respective Board or Boards of Review in terms of the provisions of the respective enactments specified in the Schedule to this Act, such appeals shall with effect of the coming into operation of the provision of this Act be deemed to stand transferred to
30 the Commission, notwithstanding anything to the contrary in any other written law:

Provided further that, where the hearing of any appeal had commenced prior to the date of the coming into operation of this Act, the appeal shall be determined or an opinion
35 shall be expressed, within two years from the commencement of this Act.

11. Where under subsection (10) of section 9 the Commission does not reduce or annul an assessment in respect of which an appeal had been preferred in terms of this Act, the Commission may order the appellant to pay as costs a sum not exceeding rupees five thousand, in addition to the assessed amount, which shall be added to the tax charged by the assessment and recovered therewith. Costs to be recovered with assessment if Commission does not reduce or annul the assessment.
12. No suit or prosecution shall lie against any member, officer or servant of the Commission for any lawful act done or omitted to be done in good faith under this Act or which is done on the directions of the Commission. No suit or prosecution to lie.
13. The provisions of the enactments specified in Column I of the Schedule to this Act, are hereby amended or repealed in the sections or parts thereof as are specified in Column II of the Schedule to the extent and in the manner as shall be specified in Column III of such Schedule. Repeals.
14. 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.

SCHEDULE

<i>Column I</i>	<i>Column II</i>	<i>Column III</i>
<i>Names of Enactment</i>	<i>Sections or parts to be amended</i>	<i>Applicable Amendment</i>
1. Inland Revenue Act, No. 6 of 2007	Sections 166,167, 168, 169	The Inland Revenue Act is hereby amended by the repeal of section 166, section 167, section 168 and section169.
2. Value Added Tax Act, No. 14 of 2002	Sections 35, 35(1A), 36	The Value Added Tax Act is hereby amended by the repeal of section 35, section 35(1A) and section 36.
3. Nation Building Tax Act, No. 9 of 2009	Section 8	Section 8 of the Nation Building Tax Act is hereby amended by the omission therefrom of the words and figures “Chapter XXIII relating to Appeals”.
4. Economic Service Charge Act, No. 13 of 2006	Section 11	Section 11 of the Economic Service Charge Act is hereby amended by the omission therefrom of the word “Appeals”.

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