

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

TAX APPEALS COMMISSION

ACT, No. 23 OF 2011

[Certified on 31st March, 2011]

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Tax Appeals Commission Act, No. 23 of 2011 1

[Certified on 31st March, 2011]

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 Short title.

Commission Act, No. 23 of 2011.

2. (1) There shall be established a Commission to be Establishment of

called and known as the Tax Appeals Commission the Tax Appeals

Commission and

(hereinafter referred to as “the Commission”) which shall

its composition.

charged with the responsibility of hearing all appeals in

respect of matters relating to imposition of any tax, levy or

duty.

(2) The 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 the subject of Finance is assigned. One of the members

shall be appointed as the Chairman of the Commission by

the Minister.

(3) Every member of the Commission shall hold office

for a term not exceeding three years, and shall be eligible for

reappointment.

3. There shall be a Secretary to the Commission who Secretary to the

shall be appointed by the Minister in charge of the subject Commission.

of Finance.

4. (1) The Minister shall appoint a Panel of Legal Panel of Legal

Advisors (hereinafter referred to as the “Panel”) comprising Advisors.

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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.

(2) Three or more members of the Panel shall be nominated

by the Minster to attend the hearings of the Commission

and assist in the progress of the appeal proceedings and

investigations if any, before such Commission.

Meetings of 5. At the request of the Chairman, the Secretary to the

Members of the Commission shall summon once a month a meeting of all

Commission and

the members of the Commission and the Panel. The quorum

the Panel.

for such meeting shall be five members.

Remuneration of 6. The members of the Commission and the Panel shall

the Members of be remunerated in such amount as shall be determined by

the Commission the Minister.

and the Panel.

Right to appeal 7. (1) A person who is aggrieved by the determination

to the of the Commissioner-General of Inland Revenue given in

Commission respect of any matter relating to imposition of any tax, levy

against the

or duty under the provisions of any of the enactments

decision given

under any law specified in the Schedule to this Act, may appeal to the

specified in the Commission in accordance with the provisions hereinafter

Schedule. set out:

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 per centum of the sum as assessed by the

Commissioner-General as being payable by such person as

tax under any 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

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thirty days of the determination being communicated to him

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.

(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

require him to transmit in writing, to the Commission and

the aggrieved party and his authorized representative, within

thirty days 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

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 Procedure for

the reasons given by the Commissioner-General prefer an preferring an

appeal.

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.

9. (1) Within thirty days of the receipt of an appeal, the The hearing of

Secretary to the Commission shall fix a date and time and the appeal.

place for the hearing of the appeal, and shall give forty-two

days notice thereof, both to the appellant and to the

Commissioner-General.

(2) The Commissioner-General shall on receipt of a notice

under subsection (1), transmit to the Commission the extracts

of the provisions of the applicable enactments specified in

the Schedule to this Act and the record of evidence

maintained under such enactments.

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(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 Commission and on

such terms as the Commission 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.

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(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) 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 on such appeal. Where

a case 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 writing.

10. The Commission shall hear all appeals received by Determination

it and make its decision in respect thereof, within one hundred of appeals by

the Commission.

and eighty days from the date of the commencement of the

hearing of the 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 the Schedule to this Act,

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 make its

decision in respect thereof, within hundred and eighty days

from the date of such transfer notwithstanding anything

contained in any other written law.

11. Where under subsection (10) of section 9 the Costs to be

Commission does not reduce or annul an assessment in recovered with

assessment if

respect of which an appeal had been preferred in terms of Commission

this Act, the Commission may order the appellant to pay as does not reduce

costs a sum not exceeding rupees five thousand, in addition or annul the

to the assessed amount, which shall be added to the tax assessment.

charged by the assessment, and recovered therewith.

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No suit or 12. No suit or prosecution shall lie against any member,

prosecution to

officer or servant of the Commission for any lawful act done

lie.

or omitted to be done in good faith under this Act or which

is done on the directions of the Commission.

Repeals. 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.

Sinhala text to 14. In the event of any inconsistency between the

prevail in case

Sinhala and Tamil texts of this Act, the Sinhala text shall

of inconsistency.

prevail.

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SCHEDULEAA

Column I Column II Column III

Names of Sections or parts Applicable

Enactment to be amended Amendment

1. Inland Revenue Sections 166,167, The Inland Revenue

Act, No. 10 of 168, 169 Act is hereby amended

2006 by the repeal of

section 166, section

167, section 168 and

section169.

2. Value Added Tax Sections 35, The Value Added Tax

Act, No. 14 of 35(1A), 36 Act is hereby amended

2002 by the repeal of

section 35, section

35(1A) and section 36.

3. Nation Building Section 8 Section 8 of the Nation

Tax Act, No. 9 of Building Tax Act is

2009 hereby amended by

the omission therefrom

of the words and

figures “Chapter XXIII

relating to Appeals”.

4. Economic Service Section 11 Section 11 of the

Charge Act, No. Economic Service

13 of 2006 Charge Act is hereby

amended by the

omission therefrom of

the word “Appeals”.

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