



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

TAX APPEALS COMMISSION (AMENDMENT)

A

BILL

to amend the Tax Appeals Commission Act, No. 23 of 2011

*Presented by the Prime Minister and Minister of Buddha Sasana and
Religious Affairs on 08th March, 2013*

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 2 of the Tax Appeals Commission Act, No. 23 of 2011 (hereinafter referred to as the “principal enactment”), and the legal effect of the section as amended is to increase the number of members in the Tax Appeals Commission and provide for matters relating thereto.

Clause 3 : This clause amends section 5 of the principal enactment, and is consequential to the amendment made to it by clause 2 of this Act.

Clause 4 : This clause amends section 7 of the principal enactment, in order to provide for the determination by the Tax Appeals Commission of the appeals received from an aggrieved party by a determination given by the Director-General of Customs in terms of section 10 of the Customs Ordinance (Chapter 235).

Clause 5 : This clause amends section 8 of the principal enactment, and is consequential to the amendment made to it by clause 4 of this Act.

Clause 6 : This clause amends section 9 of the principal enactment, and is consequential to the amendment made to it by clause 4 of this Act.

Clause 7 : This clause amends section 10 of the principal enactment, and the legal effect of that amendment is to consider the time period given for that.

Tax Appeals Commission (Amendment)

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:-

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

5 **2.** Section 2 of the Tax Appeals Commission Act, No. 23 of 2011 (herein after 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:- Amendment of section 2 of the Tax Appeals Commission Act, No.23 of 2011.

10 (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 “eight other members” respectively.

15 (2) by the addition, immediately after subsection (2) thereof of the following new subsection:-

20 “(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.”

25 **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.

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:-

Amendment of section 7 of the principal enactment.

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

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

10 (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

20 (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:

25 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-

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

(b) as is equivalent to twenty five *per centum* or a bank guarantee for the equivalent amount which shall remain valid until the appeal is determined by the Commission,

5 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.”;

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

15 “(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.

20 (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 such amount shall be refunded to the appellant on request made in that behalf in writing to the Commissioner-General.”;

25 (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 Column I of Schedule I or Schedule II to this Act, or in terms of paragraph (b) of subsection (1) of section 7 ”;

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4 *Tax Appeals Commission (Amendment)*

(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,”.

5 **5.** Section 8 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended in subsection (1) thereof as follows:-

Amendment of section 8 of the principal enactment.

10 (1) by the substitution for the words “Commissioner-General” wherever those words appear in that subsection, by the substitution therefor of the words “Commissioner-General or the Director-General, as the case may be,”;

15 (2) by the repeal of all the words commencing from “if he is dissatisfied with the reasons stated by the Commissioner-General” to the end of that subsection and the substitution therefor of the words “if he is dissatisfied with the reasons stated by the Commissioner-General, prefer an appeal therefrom to the Commission within thirty days from the receipt of the reasons by such person under section 7. The Commission shall hear and determine such appeal in accordance with such rules as may be made in that behalf by the Commission, from time to time.”.

20 **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.

30 (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.”;

- 5 (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”;
- 10 (3) 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,”;
- 15 (4) 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,”

20 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:-

Amendment of section 10 of the principal enactment.

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

30 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, 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.”.

5 **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.

10 “Appeals on a question of law to the Court of Appeal. 11A. (1) Any decision of the Commission in respect of any appeal under paragraph (a) of subsection (1) of section 7 of this Act shall be final:

15 Provided that, either the person who preferred an appeal to the Commission under 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.

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30 (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 the case, when stated and signed to the Court of Appeal, within fourteen days after receiving the same.
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(3) For the purpose of the application of the provisions of the Stamp Duty Act, No. 43 of 1982 –

5 (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;

10 (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

15 (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*.

20 (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.

25 (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.

5 (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.

15 (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.

20 (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.

25 (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 –

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

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

10 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

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

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

Replacement of section 13 of the principal enactment.

25 “(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.”.

30 **10.** The Schedule 1 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	The Inland Revenue Act, No. 10 of 2006 is hereby amended - (a) by the repeal of sections 166, 167, 168, 169 and 170; and 5 (b) in subsection (2) and (3) of section 172 thereof by the substitution 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”.
15 Inland Revenue Act, No.38 of 2000	Inland Revenue Act, No.38 of 2000 is hereby amended - (a) by the repeal of sections 137, 138, 139, 140 and 141 ; and 20 (b) in subsection (2) and (3) of section 143 thereof by the substitution for the words “Board of Review” of the words “Tax Appeals Commission established by the Tax Appeals Commission Act, No.23 of 2011”.
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Inland Revenue Act, Inland Revenue Act, No.28 of 1979
No.28 of 1979 is hereby amended -

5 (a) by the repeal of sections
118, 119, 120, 121 and
122 ; and

10 (b) in subsection (2) and (3) of
section 124 thereof by the
substitution for the words
“Board of Review” of the
words “Tax Appeal
Commission established
by the Tax Appeals
Commission Act, No.23 of
2011”.

15 2.Value Added Tax Act, The Value Added Tax Act is
No. 14 of 2002. hereby amended by the repeal of
sections 35 and 36.

20 3.Nation Building Tax Section 8 of the Nation Building
Act, No. 9 of 2009. Tax Act 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
25 figures “Chapter XXIII relating to
appeals other than sections 166,
167, 168, 169 and 170.”

30 4. Economic Service Section 11 of the Economic Service
Charge Act, No. 13 of Charge Act is hereby amended by
2006. 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,
35 168, 169 and 170”

5. Stamp Duty Section 11 of the Stamp Duty (Special
(Special Provisions) Provisions) Act is hereby amended
Act, No. 12 of 2006. by the substitution for the words
5 “Chapters XVIII to XXIV of the
Inland Revenue Act relating to
Assessment, Appeals, Determination
of Appeals” of the words “Chapters
10 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”

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

Amendment
of Schedule
II of the
principal
enactment.

3. Finance Act, No.11 of 2004

4. Debits Act, No.16 of 2002

12. (1) The amendments made to the principal enactment
20 [other than the amendment made to the proviso to subsection
(1) to 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.

25 (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 April 1, 2011 and where any act or decision made
by the Commission during the period commencing on March
30 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.

13. For the purposes of this Act, unless the context otherwise requires- Interpretation.

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

5 “Inland Revenue Act” means the Inland Revenue Act, No.28 of 1979, Inland Revenue Act, No.38 of 2000 or Inland Revenue Act, No.10 of 2006, as the case may be.”.

15. 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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