IN THE COURT OF APPEAL OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an Application of a case stated under section 11A of the Tax Appeals Commission Act, No. 23 of 2011 as amended by Act, No. 20 of 2013.

The Commissioner General of Inland Revenue,
Department of Inland Revenue,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

Appellant

Case No. CA/TAX/0005/2020
Tax Appeals Commission
No. TAC/IT/007/2016

Vs.

LOLC Micro Credit Ltd,
No. 100/1,
Sri Jayawardenapura Mawatha,
Rajagiriya.

Respondent

Before : Dr. Ruwan Fernando J. &

M. Sampath K.B. Wijeratne J.

: Manohara Jayasinghe, D.S.G. for the Appellant

Maithri Wickremesinghe, P.C. with Rakitha Jayatunga for the Respondent.

Argued on : 19.07.2021 & 09.08.2021

Written Submissions filed on

: 01.10.2021 & 26.04.2022 (by the Appellant)

10.12.2021 & 04.05.2022 (by the Respondent)

Decided on : 07.10. 2022

Dr. Ruwan Fernando, J.

Introduction

[1] This is an appeal by the Appellant by way of a case stated against the determination of the Tax Appeals Commission dated 16.01.2020 confirming the determination made by the Commissioner General of Inland Revenue on 27.11.2015, subject to the qualification that bad debts amounting to Rs. 138,222,745/- claimed by the Appellant should be allowed. The period under appeal relates to the year of assessment 2010/2011.

Factual Background

[2] The Respondent, LOLC Micro Credit Ltd. is a public limited liability company incorporated in the year 2008 and it has been registered with the Central Bank of Sri Lanka, as a leasing company under the provisions of the Finance Leasing Act, No. 56 of 2000. The principal activities of the Appellant comprised of leasing, hire purchase, and providing micro loans to customers.

[3] The Respondent submitted its returns for the year of assessment 2010/2011 claiming certain exemptions and deductions including the bad debts incurred by the Appellant amounting to Rs. 138,222,745/-. The Assessor by his letter dated 25.11.2013 did not accept the returns, and *inter alia,* disallowed the deduction claimed for bad debts on the basis that the details requested by him to determine the relationship of section 25(1) (e) of the Inland Revenue Act, No. 10 of 2006 to the business of the Appellant had not been submitted by the

Respondent. The relevant parts of the letter of the Assessor dated 25.11.2013 states as follows:

> *"According to the section 25(1)(e) of the Inland Revenue Act, No. 10 of 2006……,:*
>
> ……
>
> *As quoted above, specific provision could be deducted subject to the satisfaction of the Commissioner General of Inland Revenue who considers it as reasonable.*
>
> *Since the company has not submitted the details requested by me under item No. 03 of the letter dated 14.10.2013, I am not in a position to ascertain the relationship of the above provision to the business and therefore, it will be added back to the Adjusted Business Profits".*

[4] Being dissatisfied with the said assessment, the Respondent appealed to the Commissioner General of Inland Revenue, who decided that the relevant provision for doubtful debts is section 25(1) (eee) of the Inland Revenue Act, No. 10 of 2006 (hereinafter referred to as the Inland Revenue Act). The Commissioner General of Inland (hereinafter referred to as the CGIR) by its determination dated 27.11.2015 refused to allow the deduction and confirmed the adjusted assessment. The Commissioner General conformed the assessment on the following grounds:

(i) since the assets giving rise to the debts can be seized and sold or leased to another person in a case of default, the claimed debts cannot become bad debts until the assets are seized;

(ii) as no reason has been given for not recovering such debts, it is not reasonable to consider those debts as doubtful debts prior to the failure of the recovery actions.

Appeal to the Tax Appeals Commission & the Court of Appeal

[5] Being dissatisfied with the said determination of the CGIR, the Respondent appealed to the Tax Appeals Commission (hereinafter referred to as the TAC) and the TAC by its determination dated 16.01.2020 held *inter alia,* that for the purpose of the determining the deduction claimed by the Respondent, the relevant provision is section 25(1)(ee) and not section 25(1)(eee) of the Inland Revenue Act as the Respondent does not fall within the definition of a bank or a financial institution in section 147 of the Inland Revenue Act.

[6] Accordingly, the TAC by its determination dated 16.01.2020 confirmed the determination made by the CGIR, subject to the qualification that, bad debts amounting to Rs. 138,222,745/- claimed by the Respondent should be allowed.

Questions of Law

[7] Being dissatisfied with the said determination of the TAC, the Appellant appealed to the Court of Appeal and formulated two questions of law in the case stated for the opinion of the Court of Appeal. On 25.10.2011, both Counsel agreed that the following five questions of law shall be the questions of law for the opinion of this Court:

1. Did the Tax Appeals Commission err in law in holding that the Respondent Company does not fall within the definition of a bank or financial services as defined in section 147 of the Inland Revenue Act?

2. Did the Tax Appeals Commission err in law in applying section 25 (1) (ee) of the Inland Revenue Act as opposed to section 25(1) (eee)?

3. If either of the questions of law are answered in favour of the Appellant, would the Tax Appeals Commission have erred in law in allowing the deduction of bad debts amounting to Rs. 138,222,745 in arriving at the taxable profit of the Respondent Company?

4. Is the Appellant entitled to support or refuse to accept the return of the Respondent or to support an additional assessment made on the Respondent for reasons other than section 25(1)(e) of the Inland Revenue Act, No. 10 of 2006, or as set out by the Assessor in its communication made in terms of section 163 (iii) of the Inland Revenue Act, No. 10 of 2006?

5. Did the determination of the Commissioner General of the Inland Revenue which was appealed by the Respondent company to the Tax Appeals Commission expressly refer to the distinction between section 25(1) (ee) and section 25(1(eee)?

[8] At the hearing of the appeal, Mr. Manohara Jayasinghe, the learned Deputy Solicitor General on behalf of the Appellant and Mr. Maitree Wickremasinghe, learned President's Council on behalf of the Respondent made extensive oral

submissions on the above-mentioned questions of law submitted for the opinion of the Court of Appeal.

Analysis

[9] At the hearing, the learned Deputy Solicitor General submitted that the Respondent being a finance company falls within the definition of a "financial institution" as defined in section 147 of the Inland Revenue Act. He submitted that the provision relevant to the Respondent is section 25(1) (eee), and not section 25(1) (ee) of the Inland Revenue Act, and therefore, the decision of the TAC allowing the deduction of bad debts amounting to Rs. 138,222,745 in full was wrong. He further submitted that where the debt in question is a doubtful debt under section 15(1) (eee), the Commissioner General's decision to allow the deduction is limited to one percent (1%) of the outstanding aggregate debt, and therefore, the decision of the TAC to allow the full deduction is wrong.

[10] On the other hand, Mr. Wickremasinghe disputed the contention of Mr. Jayasinghe and submitted that the Respondent is not a bank or financial institution as defined in section 147 of the Inland Revenue Act. His contention was that the decision of the CGIR that the relevant section is 25(1) (eee) without making a determination that the Respondent is either a bank or a financial institution is irrational and cannot stand.

Distinction between bad debt and provision for doubtful debt

[11] At the very outset, it is necessary to understand the distinction between a bad debt and a doubtful debt incurred by any person or a company in any trade, business, profession, vocation or employment during the period for which the profits are being ascertained. Rowland J., in *Curtis v. J & G Oldfield* (1925) 9 T.C. 319 explained the meaning of the term "bad debt" at page 330 in this way:

> *"When [the English statute] speaks of a bad debt, it means a debt which is a debt that would have come into the balance sheet as a trading debt in the trade that is in question and that it is bad. It does not really mean any bad debt, which, when it was a bad debt, would not have come in to swell the profits".*

[12] A bad debt normally refers to the amount receivable that has been specifically identified as uncollectible and the said amount has been recorded in the accounts for a long period of time and is confirmed as irrecoverable

(Jason Gordon, Bad Debts and Doubtful debts, Explained, (https://www.Bad Debt and Doubtful Accounts - Explained - The Business Professor, LLC). Thus, a bad debt is a specifically identified amount receivable that will not be paid, and so, it should be written off at once. (supra). On the other hand, a doubtful debt refers to an amount receivable that might become bad debt or recoverable at some point in the future, but unlikely to be collected, or it is unsure whether it is recoverable or not (supra).

Deductions allowed in ascertaining profits and Income- Section 25(1)

[13] Income chargeable with income tax is arrived at after taking into account the various exemptions and deductions allowed under the Inland Revenue Act and thus, the profits and income or profit or income on which income tax is payable may be either exempted or deducted by the provisions of the Inland Revenue Act. Section 25(1) of the Inland Revenue Act contains four paragraphs that deals with the deduction for bad or doubtful debts in ascertaining profits and income of any person, namely, paragraph (e), paragraph (ee), paragraph (eee) and paragraph (eeee).

Bad debts and doubtful debts (25(1)(e)

[14] Paragraph (e) of section 25(1) deals with bad debts and doubtful debts arising during the period commencing from **01.04.2006 to 31.03.2017,** and the Commissioner General is given the authority to permit deductions, which he considers reasonable to the extent that they are estimated to have become bad during the relevant period. It reads as follows

> *"(e) for the year of assessment commencing on April 1, 2006, a sum equal to the bad debts incurred by such person in any trade, business, profession, vocation or employment which have become bad debts during the period for which the profits are being ascertained, and such sum as the Commissioner-General considers reasonable for doubtful debts to the extent that they are estimated to have become bad during the period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of that period:*
>
> *Provided that all sums recovered during that period on account of the amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Act, be treated as receipts of that period of that trade, business, profession, vocation or employment and for the purpose of*

this proviso, sums recovered shall be deemed to include any reductions as at the last date of such period in any estimated amount of a doubtful debt previously allowed as a deduction".

[15] The Assessor in his letter dated 25.11.2013 relied on section 25(1)(e) of the Inland Revenue Act in disallowing the deduction claimed by the Respondent. The learned Deputy Solicitor General conceded during the hearing that section 25(1) (e) has no relevance to the assessment in question for the reason that it will only apply to the year of assessment 2006/2007.

Bad debts incurred by a person-(25(1)(ee)

[16] Paragraphs (ee), (eee) and (eeee) of section 25(1) were introduced to the Inland Revenue Act by the Inland Revenue (Amendment) Act, No. 10 of 2007. Paragraph (ee) of section 25(1) applies to bad debts incurred by any person during the period commencing from 01.04.2007, and in such case, bad debts can be deducted in calculating the assessable income of such person during the period for which the profits are being ascertained. It reads as follows:

"(ee) for any year of assessment commencing on or after April 1, 2007, a sum equal to the bad debts incurred by such person in any trade, business, profession, vocation or employment which have become bad debts during the period for which the profits are being ascertained:

Provided that, all sums recovered during such period on account of the amounts previously written off or allowed in respect of bad debts shall, for the purposes of this Act, be treated as receipts of that trade, business, profession, vocation or employment, for such period".

Doubtful debts incurred by a bank or a financial institution-25(1) (eeee)

[17] The Inland Revenue (Amendment) Act, No. 10 of 2007 has made a distinction between doubtful debts incurred by banks or financial institutions, and persons who are not banks or financial institutions. Paragraph (eee) of section 25(1) applies to doubtful debts incurred by a **bank or a financial institution** during the period commencing from 01.04.2007, and in the case of doubtful debts, the Commissioner General is given the authority to consider whether any sum is reasonable for such doubtful debts. It reads as follows:

"(eee) for any year of assessment commencing on or after April 1, 2007, where such person is a bank or a financial institution, such sum as the Commissioner-General considers reasonable for doubtful debts, to the extent that they are estimated to have become bad during the period for which the profits are being ascertained, and notwithstanding that such debts were due and payable prior to the commencement of that period:

Provided that: —

(i) such sum so considered reasonable shall not exceed one per centum of the aggregate debts outstanding at the end of that period;

(ii) where the doubtful debts estimated by such person as having become bad during the period for which the profits are being ascertained exceeds the sum deducted under this paragraph, the excess shall be deemed to be doubtful debts estimated by such person as having become bad during the period immediately succeeding the period hereinbefore referred to; and

(iii) where the estimated amount of any doubtful debt previously allowed as a deduction has been reduced or such amount or any part thereof has been paid during such period, the sum by which such amount has been so reduced or the sum so paid shall for the purposes of this Act, be treated as a receipt of such bank or financial institution for that period.

For the purposes of this paragraph, "financial institution" shall have the same meaning as given for that expression in section 147".

[18] The authority of the Commissioner General is, however, limited to one percent (1%) of the aggregate debts outstanding at the end of the period.

Doubtful debts incurred by a person who is not a bank or a financial institution-(25(1)(eeee)

[19] Paragraph (eeee) of section 25(1) applies to doubtful debts incurred by a person who is not a **bank or a financial institution** during the period commencing from 01.04.2007. In the case of doubtful debts incurred by a person who is not a bank or a financial institution, the Commissioner General is given the authority to consider such doubtful debts to be reasonable, to the

extent that they are estimated to have become bad during the period for which the profits are being ascertained. It reads as follows:

> *"(eeee) for any year of assessment commencing on or after April 1, 2007, where such person is not a bank or a financial institution, such sum as the Commissioner-General considers reasonable for doubtful debts, to the extent that they are estimated to have become bad during the period for which the profits are being ascertained : Provided that, where the estimated amount of any doubtful debt previously allowed as a deduction has been reduced or such amount or any part thereof has been paid during such period, the sum by which such amount has been so reduced or the sum so paid shall, for the purposes of this Act, be treated as a receipt of such person for such period.*
>
> *For the purposes of this paragraph "financial institution" shall have the same meaning as given for that expression in section 147;*

[20] The deduction on account of bad debt under section 25(1) (ee) is distinct and independent of the provision for the deduction on account of doubtful debts under section 25(1) (eee). In the case of doubtful debts under section 25(1) (eee), the authority of the Commissioner General is limited to a sum that does not exceed 1%. In the case of doubt debts under section 25(1) (eeee), the authority of the Commissioner General is limited to the extent that they are estimated to have become bad during the period for which the profits are being ascertained. Where the debts fall within the meaning of section 25(1) (ee), the taxpayer may be entitled to the full deduction without the limitation contained in section 23(1) (eee) or 25(1) (eeee).

[21] The learned Deputy Solicitor General on behalf of the Appellant argued that as the Respondent has referred to the debt in question as "doubtful debt" and not "bad debt" in its financial statement, the TAC was wrong in treating the debts sought to be deducted as "bad debts" under section 25(1) (ee) without subjecting it to the one percent rule under section 25(1) (eee). The Appellant's contention is that the Respondent is a financial institution within the meaning of section 147 of the Inland Revenue Act and therefore, the applicable provision is section 25(1) (eee). On that basis, he argued that the TAC was wrong in treating the debts as bad debts under section 25(1) (ee) of the Inland Revenue Act.

[22] The question whether or not a debt is bad or doubtful, either wholly or partly and the extent to which is it bad or doubtful is in every case (whether the debtor is a human being or a company or other entity) a question of fact to be decided by the appropriate tribunal upon a consideration of the relevant facts of that case (F.E. *Dinshaw v. The Commissioner of Income Tax*, 50 TLR 527, paragraph 10).

[23] It is technically correct to say that the taxpayer must show that a debt is bad or doubtful of recovery, but the taxpayer cannot be the sole arbiter of the question whether the debt is bad or doubtful on the basis of the amounts made by the taxpayer in the statement of accounts. Whether a debt is bad or doubtful of recovery, and when it became bad or doubtful, and the limitation to which it is bad or doubtful applies, is a question of fact to be determined in case of a dispute, not by the assessee or the exercise of any option on his part. Those questions, in my view, should, in case of a dispute, such as this, be decided by the appropriate tribunal upon a consideration of all relevant and admissible evidence that has been presented to it by the taxpayer.

[24] In the circumstance, it is not possible to say that the mere categorization of the debts by the Respondent as "provision for doubtful debts with specific provision" in the statement of accounts, the TAC has no option of declaring debts, as bad debts under section 25(1) (ee) or doubtful debts under section 25(1) (eee) of the Inland Revenue Act.

[25] The opinion of the Court of Appeal is sought on the question whether or not the Respondent falls within the definition of a bank of a financial institution as defined in section 147, and if it is a bank or a financial institution, whether the relevant provision is section 25(1) (eee) as opposed to section 25(1) (ee) of the Inland Revenue Act. Accordingly, the main question for decision is whether it is section 25(1) (ee) or section 25(1) (eee) that applies to the deduction of debts claimed by the Respondent. The answer to this question exclusively depends on the question whether the Respondent is a bank or a financial institution as defined in section 147 of the Inland Revenue Act. If the Respondent is a bank or a financial institution, section 25(1) (eee) applies whereas, if it is not a bank or a financial institution, section 25(1) (eee) has no application and if so, section 25(1) (ee) applies to the Respondent in the present case.

Definition of a financial institution in section 147 of the Inland Revenue Act

[26] It is not in dispute that section 25(1) (eee) relied on by the Appellant applies to a doubtful debt incurred by a bank or a financial institution as defined in section 147 of the Inland Revenue Act and that the Respondent is not a bank. Now the question is whether or not the Respondent falls within the definition of a "financial institution" under section 147 of the Inland Revenue Act. As noted, section 25 (1) (eee) provides that for the purposes of this paragraph [either section 25(1) (eee) or section 25(1) eeee)] a "financial institution" shall have the same meaning as given for that expression in section 147 of the Inland Revenue Act. In terms of section 147 of the Inland Revenue Act, a "financial institution" is defined as follows:

> *"financial institution" means any person or body of persons, corporate or unincorporated, whose business or part of whose business consists in the acceptance of money by way of deposit, or loan in the form of debenture or bond or in any other form,* ***and the payment of interest thereon,*** *whether such acceptance is on its own behalf or on behalf of any other person".*

[27] The learned Deputy Solicitor General referred to the Sinhala version of section 147 and submitted that the words "and the payment of interest thereon" applies only to loans (ණය) and not to deposits (තැන්පතු) and therefore, the Respondent can be categorized as a "financial institution" on both grounds "A" and "B" referred to above. The Sinhala version of section 147 reads as follows:

> —මේ පරිච්ඡේදයෙහි "මූල්‍ය ආයතනය" යන්නෙන් මුදල් භාර ගැනීම තමන් වෙනුවෙන් ම කරනු ලැබුව ද නැතහොත් වෙනත් යම් තැනැත්තෙකු වෙනුවෙන් කරනු ලැබුව ද තැන්පතු හෝ සෘණ පත්‍ර හෝ බැඳුම්කර ආකාරයෙන් හෝ වෙනත් යම් ආකාරයෙන් වූ ණය මගින් සහ ඒ මත පොලිය ගෙවීමේ ව්‍යාපාරය හෝ ඒ ව්‍යාපාරයේ කොටසක් සමන්විත වන සංස්ථාගත කරනු ලැබූ හෝ සංස්ථාගත කරනු නොලැබූ යම් තැනැත්තෙක් හෝ පුද්ගල මණ්ඩලයක් හෝ අදහස් වේ."

[28] In my view, the Sinhala and the English versions do not contradict with each other or provide any confusion in the interpretation given for the expression "financial institution" in section 147 of the Inland Revenue Act. According to this definition, a "financial institution" is a person or a body of persons whose business or part of whose business consists:

(A) **in accepting money**:

(a) by way of deposit; or

(b) by way of a loan in the form of a (i) a debenture; or (ii) a bond; or (iii) any other form:

and

(B) in **paying interest** thereon.

[29] The learned Deputy Solicitor General however, submitted that the Respondent accepts money from customers by way of deposits with interests, and the customers repay such money with interests and therefore, the Respondent can be considered a financial institution as defined in section 147. Mr. Wickremasinghe however, countered this contention on the ground that the Respondent is a leasing company lend money, but does not lend money by way of deposits or pay interest thereon, and therefore, the Respondent falls outside the definition of a "financial institution".

[30] As noted, the fundamental features of a financial institution as defined in section 147 are that a person or a company engaged in the business or part of the business in the **acceptance of money** from the customers from any form **and payment of interest** on such money to such customers. Where a person or a company who is engaged in accepting money by way of deposits, or loan in any form from the customers **and** paying interest to such customers on such deposit or loan, as its business or part of its business, constitutes a financial institution as defined in section 147 of the Inland Revenue Act.

[31] In the circumstance, it is not possible to suggest that the words "payment of interest thereon" would apply only to "loans" and not to "deposits" as contended by the learned Deputy Solicitor General. The learned Deputy Solicitor General however submitted that the Respondent is a leasing company generates income by lending money to customers, and for that purpose, the leasing company borrows money from other lenders and pays interest to such borrowers as indicated in the financial statement of the Respondent. He referred to the Respondent's statement of accounts for the month of March 2011 at page 76 of the TAC brief titled "Borrowing Costs" and submitted that the Respondent has borrowed money by way of Bank Overdraft and paid interest to the value of over 420 million on the bank loans (overdraft). He argued that the payment of interests on the money borrowed from its borrowers by the Respondent proves that the Respondent has borrowed money as part of its

business and paid interest thereon, and therefore, the Respondent can be regarded as a financial institution as defined in section 147 of the Act.

[32] A perusal of the profits and loss accounts of the Respondent at page 76 titled "borrowed costs" reveals that the Respondent had obtained bank loans & overdraft facilities, and paid interest thereon in a sum of Rs. 420 million to the bank. The question is whether the acceptance of money by way of bank loans and overdraft facilities, and payment of interest thereon to the bank, makes the Respondent a financial institution as defined in section 147 of the Act. As noted, a person of a company must be engaged in **accepting money** from the customers and **paying interest thereon** to such customers as its business or part of its business, for a person or a company to be regarded as a financial institution.

Business of the Respondent

[33] In this context, it is necessary to consider the nature of the business of the Respondent. The Deputy Commissioner of Inland Revenue in his Appeal Report (p. 104 of the TAC brief) has accepted that the principal business of the Respondent is leasing, hire purchase and other micro loans to customers. The relevant parts of the Appeal Report (p. 104) read as follows:

> *"LOLC Micro Credit Ltd (hereinafter referred to as the "Company") is a registered company with the Central Bank of Sri Lanka as a Leasing Company under the provisions of the Finance Leasing Act, No. 56 of 2000 and a public limited liability company incorporated in 2008 and domiciled in Sri Lanka. The registered office of the company is situated in No. 100/1, Sri Jayawardanapura Mawatha, Rajagiriya.*
>
> *The Company primarily involved in Leasing, Hire Purchase and other micro loans to customers……."*

[34] The Appellant thus, concedes that the Respondent is a company registered with the Central Bank of Sri Lanka under the provisions of the Finance Leasing Act, No. 56 of 2000 whose business is leasing, hire purchase and providing micro loans to customers.

[35] The Commissioner General in its reasons for the determination considered the debts in question are doubtful debts and applied section 25(1) (eee) merely on the basis of the reference to the "provision for doubtful debts" set out in the

profit and loss accounts of the Respondent. No finding was made by the Commissioner General however, that the Respondent is a financial institution as defined in section 147 of the Inland Revenue Act (Vide- reasons for the determination on p. 10 of the TAC brief).

[36] The Assessor or the Commissioner General has never stated that the Respondent is in the business of accepting money by way of deposit or loan in the form of debenture or bond or in any other form and the payment of interest thereon. The Assessor or the Commissioner General has never taken up the position that the Respondent is a financial institution within the meaning of section 147 of the Inland Revenue Act or a finance company within the meaning of the Finance Companies Act, No. 78 of 1988 (as amended).

[37] During the hearing, the learned Deputy Solicitor General referred to the decision of the Court of Appeal in *People's Leasing and Finance PLC v. Commissioner General of Inland Revenue* CA Tax 21/2019 decided on 20.07.2021, and submitted that the Court of Appeal has held in that case that the People's Leasing and Finance Company is a financial institution, and therefore, the Appellant too ought to be considered as a financial institution. In *People's Leasing and Finance PLC v. Commissioner General of Inland Revenue* (supra), the question arose whether the People's Leasing and Finance PLC was a finance company registered under the Finance Companies Act, No. 78 of 1988 to be considered a "specified institution" within the meaning of section 25F of the VAT Act, No. 14 of 2002. In terms of Section 25F (b) of the VAT Act, a "specified institution" includes **a finance company registered under the Finance Companies Act, No. 78 of 1988.** Section 46 of the Finance Companies Act, No. 78 of 1988 defined a "finance company" as follows:

> *"Finance Company means a company as defined in the Companies Act No. 17 of 1982, registered under this Act for carrying on finance business."*
>
> *"Finance business "under the said Act means the business of acceptance of money by way of deposit the payment of interest thereon and*
>
> *(a) the lending of money on interest; or*
>
> *(b) the investment of money in any manner whatsoever; or*
>
> *(c) the lending of money on interest and the investment of money in any manner whatsoever…."*

[38] The definition of "finance company" in Section 46 of the Finance Companies Act, No. 78 of 1982 was amended by the Finance Companies (Amendment) Act No. 23 of 1991 by the substitution for the definition of the expression "finance company", and "finance business" which read as follows:

"finance company" means a company as defined in the Companies Act No. 17 of 1982, registered under this Act for the carrying on finance business and shall be deemed to include for the purpose of any action that, may be taken by the Board or the Directors under this Act. Any institution within the meaning of the Control of Finance Companies Act No. 27 of 1979. Notwithstanding that such institution has ceased to carry on finance, business on the day preceding the date of commencement of this Act".

"finance business" means the business of acceptance of deposits, and

(a) the lending of money; or

(b) the investment of money in any manner whatsoever; or

(c) the lending of money and the investment of money in any manner whatsoever".

[39] It is to be noted that the expression "institution" is defined in section 22 of the Control of Finance Companies Act, No. 27 of 1979 and its business is identical to the finance business as defined in Section 46 of the Finance Companies Act, No. 78 of 1988. The expression "institution" in section 22 of the Control of Finance Companies Act, No. 27 of 1979 is as follows:

"Institution" means any person or body of persons, corporate or unincorporated, whose business or part of whose business consists in the acceptance of money by way of deposit, the payment of interest thereon and-

(a) the lending of money on interest; or

(b) the investment of money in any manner whatsoever; or

(c) the lending of money on interest and the investment of money in any manner whatsoever".

[40] It is to be noted that the Finance Companies Act, No. 78 of 1988 was repealed by section 71 (1) of the Finance Business Act, No. 42 of 2011 and the

said Act came into operation on **09th November, 2011** after the taxable periods assessed in question.

[41] The Court in *People's Leasing and Finance PLC v. Commissioner General of Inland Revenue* (supra) however, held that the Appellant in that case (People's Leasing and Finance Company) had repeatedly admitted that the Appellant was a finance company registered with the Central Bank, and never challenged the determination of the Assessor or the Commissioner General on the basis that the Appellant was not a finance company registered with the Central Bank of Sri Lanka. The Court stated at p. 139:

> *"[139] A perusal of the record reveals, as correctly submitted by the learned Senior State Counsel that the Appellant has never taken up the position either before the Commissioner-General or the Tax Appeals Commission that it was not a registered finance company under the Finance Companies Act, No. 78 of 1988 or that the Appellant became a registered finance company to carry on finance business with effect from 08.11.2012. On the contrary, the Appellant has clearly admitted in the written submissions filed before the Commissioner-General on 30.03.2016, (p. 31 of the record) that the Appellant is a finance company registered with the Central Bank".*

[42] On this basis, the Court of Appeal held that the TAC was justified in proceeding upon the Appellant's own admission that the Appellant was a finance company registered with the Central Bank of Sri Lanka and thus, could be categorized as a "specified institution" within the meaning of the VAT Act.

[43] The Appellant in the present case has never taken up the position at any stage that the Respondent is a financial institution as defined in section 147 of the Inland Revenue Act, or a finance company within the meaning of the Finance Companies Act, No. 78 of 1988 (as amended). In fact, the learned Deputy Solicitor General did not make any submission before us that the Respondent was registered under the Finance Companies Act as a finance company. The Appellant, however, admitted in the present case that the Respondent is a leasing company registered under the provisions of the Finance Leasing Act, No. 56 of 2000, and was involved in the business of leasing, hire purchase and providing micro loans to customers.

[44] In the circumstance, admittedly, the Respondent's primary business is leasing, hire purchase and providing micro loans to customers and there is no credible evidence before court to conclude that the Respondent 's business or

part of its business consists in the acceptance of money by way of deposit or loan in form from the customers **and** the payment of interest thereon to its customers. In the absence of such credible material before the Assessor or the CGIR or the TAC, and in view of the Appellant's own admission that the Respondent's principal activities comprised of leasing, hire purchase and providing other micro loans to customers, it is not possible to presume that the Respondent's business consists in the acceptance of money and payment of interest thereon to its customers as defined in section 147.

[45] It is not in dispute that the Respondent has borrowed money by way of bank loans and overdraft and paid interest to the banks as set out in the profit and loss accounts of the Respondent, under titled "Borrowed Cost" (p. 167 of the TAC brief). Does that become the business or part of the business of the Respondent a financial institution? The learned Deputy Solicitor General strenuously argued that the acceptance of money by way of loans and overdraft and payment of interest thereon to lenders can be regarded as a part of the Respondent's business and therefore, the Respondent is a financial institution as defined in section 147 of the Inland Revenue Act.

[46] On the other hand, Mr. Wickremasinghe submitted that it was not the intention of the legislature to make every company that borrows money and pays interest a financial institution, unless a company accepts money and pays interest thereon as part of its principal business activities. In my view, a company that merely borrows money from a bank to run a business and pays interest thereon cannot be regarded as a financial institution within the meaning of section 147 unless it can be shown that the borrowing money and paying interest were an integral part of its business. If a company that borrows money from a bank to run a company and pays interest thereon to the bank is regarded as a financial institution, every single company that borrows money from a bank and pays interest thereon to the bank would fall within the meaning of a financial institution under section 147. The test in this context is to consider whether or not the person or company that accepts money from customers and pays interest thereon to customers as an integral part of the business carried on for the purpose of securing or retaining business of such person of business.

[47] In my view, the intention of the legislature is to ensure that a financial institution as defined in section 147 is a person of a company that accepts money from **customers** by way of deposit or loan in the form of debenture or

bond or in any other form **and the pays interest thereon to customers as an integral part of its business.** In the present case, there is no evidence whatsoever, that the Respondent accepted money from its customers by way of deposit or loan in the form of a debenture or bond or in any other form and paid interest thereon to the customers as an integral part of its business activities. In the circumstance, I hold that the Respondent cannot be held to be a financial institution as defined in section 147 of the Inland Revenue Act and therefore, section 25(1) (eee) has no application to the Respondent. I am of the view that the TAC was correct in holding that the relevant provision that applies to the Respondent is section 25(1) (ee) of the Inland Revenue Act. In the circumstance, the questions of law Nos. 1 and 2 must be answered in favour of the Respondent.

Question of Law No. 3

[48] The question of law No. 3 has been formulated on the basis that if the questions of law Nos. 1 and 2 are answered in favour of the Appellant, whether the TAC was wrong in allowing the bad debts amounting to Rs. 138,222,245. At the hearing Mr. Wickremasinghe submitted that the Respondent is entitled to the deduction of the entirety of Rs. 138,222,245 without any restriction under section 25(1) (ee) and therefore, the TAC was correct in allowing the deduction of Rs. 138,222,245 in full.

[49] The learned Deputy Solicitor General however, submitted that though the Respondent claims to have furnished documents to support its bad debts by letter dated 13.11.2013, those documents are not available in the brief, and the Respondent did not at any stage move to introduce those letters. He submitted, therefore, that the real reason for refusing the claim was the failure on the part of the taxpayer to furnish the necessary information and substantiate its claim of deduction that is reasonable on the basis of the information provided to the Assessor.

[50] His submission was that even if the Respondent is not held to be a financial institution by this Court, that does not mean that the Respondent is entitled to the entirety of the sum of Rs. 138,222,245 when it has failed to substantiate its claim on the basis of the information provided to the Assessor. In such a case, he submitted that the matter shall be sent back to the TAC for the purpose of determining a reasonable sum as a deduction unconstrained by the one percent rule.

Opinion of the Court of Appeal on the entirety of the deduction allowed under section 25(1) (ee) of the Inland Revenue Act

[51] In view of the answer to the questions of law Nos. 1 and 2 in favour of the Respondent, the bad debts must be calculated under section 25(1) (ee) without subjecting to the 1% rule contained in section 25(1) (eee). Accordingly, the total sum as a deduction under section 25(1) (ee) must be determined unconstrained by the one percent rule. The entirety of bad debts may however be determined only where the taxpayer is able to provide sufficient information to the Assessor or the CGIR to show that reasonable steps, based on sound commercial considerations were taken by the Respondent to recover the bad debts.

[52] The Assessor or the CGIR or the TAC cannot be guided by the mere amount set out in the profits and loss accounts of the taxpayer, and they cannot blindly deduct the entirety of the amount set out in the statement of accounts. The entirety of the deduction claimed by the taxpayer can be, however, allowed where it is possible for them to conclude on the basis of the information provided to them that sound commercial steps were taken by the taxpayer to recover them but such bad debts cannot be recovered during the period for which the profits are ascertained.

[53] The TAC has blindly taken the entire sum of Rs. 138,222,245 from the Profits and loss accounts as bad debts (p. 76 of the TAC brief) and allowed the entirety of the sum claimed by the Respondent. The TAC has not indicated in its determination whatsoever, how the entirety of the sum of Rs. 138,222,245 claimed by the Respondent was determined without at least referring to, and consideration of information provided by the Respondent to the Assessor or the CGIR during the course of the appeal process before the CGIR.

[54] It must be shown that based on sound commercial considerations and the information provided to the Assessor or the CGIR that steps were taken to recover them, but bad debts stated in the Accounts cannot be recovered during the relevant period for which the profits are being ascertained. To determine the amount of a bad debt written off for tax purposes, there should be sufficient evidence to show that reasonable steps based on sound commercial considerations were taken by the taxpayer to recover the debt. Such steps would include one or more of the following steps:

1. Names of the debtors, the identification of the amount of debt, and circumstances in which debt became a bad debt or reasons for treating it

as a bad debt, such as (a) the debt is statute barred; or (b) debtor had died without leaving any assets or estate; or (c) the debtor has become bankrupt or in liquidation; or (d) debt cannot be traced, etc.;

2. Issuing termination letters or reminder notices to the debtors and debt restructuring schemes to be proposed or re-scheduling of debt settlement;
3. Attempts at negotiation or conciliation or arbitrations or mediations;
4. Any other circumstances where there is no likelihood of cost-effective recovery during the relevant period for which the profits are being ascertained.

[55] It is relevant to note, however, that the legal action for the recovery of a debt may be taken in some cases by the creditors, in order to compel the debtors to pay the debt or discourage its debtors from committing similar defaults. The decision to take legal action depends on whether the anticipated costs of litigation or whether the debtors have assets to be recovered or the debtors died without leaving any assets or estate, from which the debt can be recovered, or the debtors have become bankrupt or in liquidation.

[56] However, the legal action for recovery of a debt or seizure of property is not a requirement before a deduction for a bad debt is claimed provided that the sufficient other information referred to above is provided to show, that reasonable steps based on sound commercial considerations were taken by the taxpayer to recover the debt. In my opinion, it is not possible to contend that bad debts cannot be deducted at all in every case, until the legal action has been taken or such action has failed or the asset is seized where sufficient information has been provided to show that reasonable steps based on sound commercial considerations were taken to recover the debt.

[57] However, if legal action has been taken to recover the debt, that is a very strong factor to be taken in favour of the tax payer that the debt is bad and the full amount of such bad debt will be allowed irrespective of whether the execution proceedings have been initiated and the assets seized.

[58] According to the Respondent's written submissions filed before the TAC, (pp. 165-167), the Respondent's total claim for Rs. 138,222,245 consists of the following:

On leasing	-	10,258,786
On Hire purchase	-	120,060,968
On loans	-	77,322
On other loans	-	7,131,699

[59] The Assessor's by his letter dated 25.11.2013 intimated to the Respondent that the return of income was not accepted for the reasons stated therein, and specifically stated that the details requested by his letter dated 14.10.2013 have not been provided. The Respondent in its appeal to the CGIR by letter dated 24.12.2013 states that by its letter dated 07.11.2013, it had submitted the relevant documents and details requested by the Assessor. The said letter and the documents are not available in the TAC brief as contended by the learned Deputy Solicitor General. A perusal of the said letter dated 24.12.2013, however, reveals that the Respondent by the said letter dated 24.12.2013 had annexed the details of the list of the debtors (annexure "C"), which list is not however, available in the TAC brief).

[60] A perusal of the written submissions filed by the CGIR before the TAC dated 24.03.2017 however, reveals that the Appellant has examined the documents submitted by the Respondent in respect of the claim of Rs. 138,222,245, and considered each category of the debt mentioned in paragraph 58 of this judgment. The CGIR's written submission at pp. 181-182 of the TAC brief are as follows:

> *"The breakup of the [provision for doubtful debt claimed by the company in arriving at its taxable profit and adjusted tax treatment for the same when considered the details submitted on November 15, 2016 is explained below:*
>
> | | | | |
> |---|---|---|---|
> | *i.* | *Provision for hire purchase debtor* | - | *Rs. 120,060,968* |
> | *ii.* | *Provision for lease debtors* | - | *Rs. 10,258,786* |
> | *iii.* | *Provision for other* | - | *Rs. 7,131,669* |
> | *iv.* | *Provision for other loans and receivable* | - | *Rs. 771,322* |
>
> *i. Provision for hire purchase debtor - Rs. 120,060,968*
>
> *As per the details submitted, the company has taken recovery actions against the debtors, the total value of which is amounting to Rs. 13,942,566 and has not taken any recovery actions against the balance amount of debtors. Hence, that balance amount cannot be considered as a reasonable sum to be allowed as per section 25(1(eee) of the Act.*

ii. Provision for lease debtors - Rs. 10,258,786

As per the method followed by the company in declaring taxable receipt from leasing business (that is declaring the capital portion of lease rentals as taxable receipt), capital allowance has been allowed in respect of above lease debtors. Therefore, provision for doubtful debt also cannot be allowed for same lease debtors under section 25(2) of the Act. If the company has not declared capital portion of lease rentals as taxable receipts, provision for doubtful debt in respect of the lease debtors would have been considered.

iii. Provision for other - Rs. 7,131,669

As per the Financial Statements, the company is not engaged in insurance business. Therefore, provision made in respect of insurance debtors cannot be allowed under section 25(1)(eee) of the Act;

iv. Provision for other loans and receivable - Rs. 771,322

The company has not provided any details in respect of above debtors. Therefore, provision made in respect of other debtors cannot be allowed under section 25(1) (eee) of the Act.

[61] As noted, the amount of the bad debts must be determined under section 25(1) (ee) unconstrained by the 1% rule, but must be based on the sufficient evidence to show that reasonable steps based on sound commercial considerations were taken by the taxpayer to recover the debt, as set out in paragraph 54 of this judgment.

Item (i)- Provision for hire purchase debtor -Rs. 120,060,968

[62] The CGIR, under item (i) above, had examined the documents and found that the Respondent **has taken legal action against the debtors, the total value of which is amounting to Rs. 13,942,566.** It is the opinion of this Court that based on the examination of the relevant documents by the CGIR, and the decision of this court as set out in paragraph 54 of this judgment, the Respondent is entitled to deduct that portion of the bad debts (Rs. 13,942,566) under section 25(1) (ee) of the Inland Revenue Act without subjecting it to the 1% rule.

[63] With regard to the balance amount of the bad debts out of Rs, 120,060,968, under item (i) above, the CGIR at page 182 of the TAC brief has, however, stated that the Respondent **is not entitled to recover the balance amount of debt** [approximately, Rs. 106,118,402] on the basis that the Respondent **had not filed legal action to recover the same**. As noted, the legal action before the deduction for a bad debt is claimed is not a requirement if the taxpayer is able to provide sufficient evidence that reasonable steps based on sound commercial considerations were taken to recover the debt such as the factors set out in paragraph 54 of this judgment. As noted, the TAC blindly allowed the balance portion of the debts (approximately, Rs. 106,118,402] claimed by the Respondent without considering the relevant documents, and examining whether all reasonable steps, based on sound commercial considerations were taken by the Respondent before granting the balance portion of the debt in item (i) above.

Item (ii)-Provision for lease debtors (Rs. 10,258,786 [69]

[64] As regards the provision for lease debtors (Rs. 10,258,786), the TAC has not examined the submissions made by the parties and considered whether this portion of the bad debts (Rs. 10,258,786) should be allowed or not, in respect of lease debtors under section 25(2) of the Inland Revenue Act.

Item (iii)-Provision for insurance debtors- Rs. 7,131,669

[65] As regards the provision for insurance debtors, the TAC has not considered the question whether this portion of the bad debts claimed in a sum of Rs. 7,131,669 is part of the business activity of the Respondent to be regarded as bad debts, if so, whether or not, it should be allowed.

Item (iv)-Provision for other debtors- Rs. 771,322

[66] As regards, the provision for other debtors claimed in a sum of Rs. 771,322, the CGIR has stated that the Respondent has not provided **any details.** The TAC has not considered the question whether or not the relevant documents were provided by the Respondent and if so, whether they establish that the Respondent has taken reasonable steps based on sound commercial considerations to recover the same.

Question of Law No. 4

[67] The Respondent has formulated the question of law No. 4 on the basis that when the Assessor rejected the deduction under section 25(1)(e) and communicated the reasons under section 163(iii) of the Inland revenue Act, the CGIR cannot change the basis of assessment under section 25(1) (eee) and provide reasons different from the reasons provided by the Assessor. The contention of Mr. Wickremasinghe was that once the Assessor has given reasons for the assessment on the basis of section 25(1) (ee) and communicated such reasons to the Assessee, the CGIR cannot change the basis of assessment under section 25(1) (eee) and provide different reasons. His submission is that such a change amounts to a failure to give reasons citing mainly the decision of the Supreme Court in *D.M.S. Fernando v Mohideen Ismail* (1982(1) 222.

[68] In *D.M.S. Fernando v Mohideen Ismail* (supra), the Supreme Court held that an Assessor must give reasons for the assessment, communicate those reasons to the Assessee and those reasons cannot be changed by the Assessor. In view of the argument advanced by Mr. Wickremasinghe, it is necessary to refer to the following statement made by His Lordship the Samarakoon C.J. in the said case:

> *"Consequent to this rejection, the reasons must be communicated to the Assessee. The provisions for the giving of reasons and the written communication of the reasons, contained in the amendment is to ensure that in fact the new procedure would be followed. More particularly, the communication of the reason at the relevant time is the indication of its compliance. The new procedure would also have the effect of fixing the Assessor to a definite position and not give him latitude to chop and change thereafter. It was therefore essential that an Assessor who rejects a return should state his reasons and communicate them. His reasons must be communicated at or about the time he sends his assessment on an estimated income. Any later communication should defeat the remedial action intended by the amendment".*

[69] Section 163(3) of the Inland Revenue Act provides:

> *"(3) Where a person has furnished a return of income, the Assessor or Assistant Commissioner may in making an assessment on such person under subsection (1) or under subsection (2), either-*
>
> *(a) accept the return made by such person; or*
> *(b) if he does not accept the return made by the person, estimate the amount of the assessable income of such person and assess him accordingly:*

Provided that where an Assessor or Assistant Commissioner does not accept a return made by any person for any year of assessment and makes an assessment or additional assessment on such person for that year of assessment, he shall communicate to such person in writing his reasons for not accepting the return".

[70] It is necessary to understand whether the Assessor has given reasons for the rejection of the deduction sought by the Respondent and if so, whether such reasons were properly communicated to the Assessee as required by section 163(3) of the Inland Revenue Act. The Assessor in his letter dated **25.11.2013** rejected the deduction claimed by the Respondent for doubtful debts quoting section 25(1)(e) on the following basis:

"Since the company has not submitted the details requested by me under item No. 03 of the letter dated 14.10.2013, I am not in a position to ascertain the relationship of the above provision to the business and therefore, it will be added back to the Adjusted Business Profit".

[71] It is not in dispute that the Assessor by his letter dated 25.11.2013 communicated those reasons to the Assessee. The main reason for the rejection of the deduction by the Assessor was the failure of the Respondent to provide the details requested by the Assessor to determine the relationship of section 25(1)(e) to the business of the Respondent. It is true that the Assessor had applied the wrong section [25(1)(e)] which is admittedly not relevant to the year of assessment. The Assessor had given reasons for the rejection of the deduction and communicated reasons as required by section 163 (3) of the Inland Revenue Act. In the circumstance, it is not possible to suggest that the Assessor had not given reasons for the assessment or that the Assessor had changed his assessment thereafter.

[72] The Respondent by letter dated 24.12.2013 appealed to the CGIR and the CGIR referring to the provision for doubtful debts amounting to Rs. 138,222,745 in the profits and loss accounts, affirmed the assessment on the basis that it was not reasonable to treat the debts claimed by the Respondent bad until the assets are seized (p. 10 of the TAC brief). The reasons given by the CGIR for not considering the debts claimed by the Respondent reasonable are as reproduced as follows:

"It is the commercial practice in the leasing and higher purchase industry the asset on which the leasing or higher purchase facility is provided is seized

and sold or leased to another person in a case of default. Hence, it cannot be said that there is a possibility of becoming bad until the asset is seized. No reason can be seen for making of doubt of recovering until they become actually bad. As such, it is not reasonable to consider those debts as doubtful prior to the failure of recovery action. Thus, it was decided to confirm the Assessor's adjustment".

[73] The CGIR in its reasons for the confirmation of the assessment quoted section 25(1) (eee), which applies to the provision of doubtful debts apparently on the basis of the reference to doubtful debts found in the profits and loss accounts of the Respondent (p. 76). The CGIR rejected the deduction under section 25(1) (eee) on the basis that the debts claimed cannot be held to be reasonable as doubtful debts until the assets are seized.

[74] The TAC held section 25(1) (ee) applies and allowed the deduction of Rs. 138,222,245 in full but confirmed the determination of the CGIR subject to the said deduction. In my view the reference to a wrong section on the assessment did not in any way impede the Respondent's appeal to the TAC when the TAC allowed the deduction of Rs. 138,222,245 in full. In the circumstance, I am not inclined to agree with the submission of Mr. Wickremasinghe that the very fact that the CGIR has rejected, the reasons given by the Assessor and set out reasons different to that of the Assessor is a ground for annulling the whole assessment.

[75] I am of the view that the Assessor had given reasons for its assessment and communicated reasons to the Respondent as required by section 163(3). The reasons given by the CGIR in appeal distinct from the reasons given by the Assessor is not a reason to hold that no reasons were given at all as required by section 163 (iii) of the Inland Revenue Act. In the circumstances, I am of the view that the decision of the Supreme Court in *D.M.S.Fernando v. Mohideen Ismail* (supra) will not support the argument of the Respondent.

[76] The Respondent whose appeal to the TAC was allowed in respect of its claim for Rs. 138,222,245 was not clearly prejudiced, and therefore the Respondent now cannot seek to annul the whole assessment in the appeal filed by the Appellant on a highly technical and belated ground which in my view is devoid of merit and should be rejected.

Question of Law No. 5

[77] The question of law No. 5 has been formulated on the basis that the CGIR had failed in its determination to distinguish between section 25(1) (ee) and section 25(1) (eee). A perusal of the determination made by the CGIR reveals that the CGIR has not specifically referred to the distinction between section 25(1) (ee) and section 25(1) (eee). The CGIR for the reasons stated has held that the relevant section for doubtful debts is section 25(1) (eee).

Conclusion

[78] For those reasons, I answer questions of law Nos. 1, 2 and 5 in favour of the Respondent and the question of law 4 in favour of the Appellant as follows. I express my opinion on the question of law No. 3 as follows:

1. No
2. No
3. The Assessor or the CGIR or the TAC is not obliged to deduct the amount claimed by the taxpayer as bad debts, in full merely on the basis of the amount stated in the statement of accounts. The TAC has not indicated in its determination as to how the entirety of the sum of Rs. 138,222,245 was determined as bad debts. The TAC has blindly held that the entirety of the bad debts amounting to Rs. 138,222,245 claimed by the Respondent should be allowed.

   As section 25(1) (ee) applies, the entirety of bad debts may be deducted during the period for which the profits are being ascertained. The entirety of bad debts can only be allowed however, where the taxpayer is able to provide sufficient evidence to show that reasonable steps, based on sound commercial considerations were taken by the tax payer to recover the amount of the bad debts stated in the statement of accounts.
4. Yes
5. No

[79] For those reasons, I confirm the determination made by the Tax Appeals Commission dated 16.01.2020 subject to the qualification that the amount of the bad debts claimed by the Respondent in its profits and loss accounts should be determined by the Tax Appeals Commission in accordance with the opinion of this Court as set out in paragraphs 51-66 of this judgment.

[80] For that purpose, I remit the case to the Tax Appeals Commission with our opinion in terms of section 11A (6) of the Tax Appeals Commission Act, No. 23 of 2011 (as amended). The Tax Appeals Commission is directed to calculate and determine the amount of the bad debts that should be allowed to the Respondent under section 25(1) (ee) of the Inland Revenue Act, unconstrained by the 1% rule on the basis of the opinion of this Court as set out in paragraphs 51-66 of this judgment and the information provided to the Assessor or the CGIR by the Respondent.

[81] The Registrar is directed to send a certified copy of this judgment to the Tax Appeals Commission.

JUDGE OF THE COURT OF APPEAL

M. Sampath K.B. Wijeratne, J.

I agree.

JUDGE OF THE COURT OF APPEAL