



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

**GOODS AND SERVICES TAX
ACT, No. 34 of 1996**

[Certified on 23rd December , 1996]

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Goods and Services Tax Act, No. 34 of 1996

[Certified on 23rd December, 1996]

L.D.—O. 11/95

AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A TAX ON GOODS AND SERVICES SUPPLIED IN SRI LANKA OR IMPORTED INTO SRI LANKA ; AND 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 Goods and Services Tax Act, No. 34 of 1996 and shall come into operation on such date (hereinafter referred to as the “appointed date”) as the Minister may appoint by Order published in the Gazette.

Short title and
date of operation.

CHAPTER I

IMPOSITION OF GOODS AND SERVICES TAX

2. (1) Subject to the provisions of this Act, there shall be charged at the time of supply —

Imposition of
Goods and
Services Tax.

(a) on every taxable supply of goods or services made by a registered person, in a taxable period, in the course of carrying on or carrying out a taxable activity in Sri Lanka ; and

(b) on the importation of goods into Sri Lanka by any person,

a tax to be called the Goods and Services Tax (hereinafter referred to as “the tax”) at such rate as may be fixed by the Minister by Order published in the Gazette, by reference to the value of such goods or services supplied or the goods imported, as the case may be.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of its publication in the Gazette or on such later date as may be specified in such Order and shall be brought before Parliament for approval within three months of the date of its publication in the Gazette. Any such Order which is not so approved, shall be deemed to be revoked as from the date of its disapproval but without prejudice to the validity of anything previously done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the Gazette.

(3) The Tax on the importation of goods shall be charged, levied and collected as if it were a customs duty and as if all goods imported into Sri Lanka are dutiable and liable to customs duty. All regulations and procedures under the Customs Ordinance relating to the promotion of exports shall apply to goods liable to tax, other than to goods which are imported and are used in the manufacture of any article to be supplied in Sri Lanka to an exporter.

Tax on whole- sale
and retail supplies.

3. Notwithstanding anything in section 2, no tax shall be levied on any wholesale or retail supply of goods other than on the wholesale or retail supply of goods by a manufacturer or an importer of such goods :

Provided, however, such tax shall be levied on such wholesale or retail supply of goods if any person registered under section 10 or section 12 makes an application to the Commissioner-General to that effect.

Time of supply.

4. (1) The time of supply of goods shall be, when —

(a) an invoice is issued in respect of the goods by the supplier ; or

(b) a payment for the goods is received by the supplier ; or

(c) a payment for the goods is due to the supplier in respect of such supply ; or

(d) delivery of the goods have been effected,
whichever is the earliest.

(2) The time supply of services shall be when —

(a) the services are performed ; or

(b) a payment for the services or future services is received ; or

(c) a payment for the services or future services is due ; or

(d) an invoice in respect of the services is issued,
whichever is the earliest.

(3) Notwithstanding the provision of subsections (1) and (2) a supply is deemed to take place —

- (a) where a supply is made under an agreement, other than a hire purchase agreement, which provides for periodical payments, when the payment is due or when the payment is received, whichever is earlier ; and
- (b) where goods are supplied under a hire purchase agreement, when the agreement is entered into.

5. (1) The value of taxable supply of goods or services, shall if the supply is—

Value of supply
of goods or
services.

- (a) for a consideration in money, be such consideration less any tax chargeable under this Act and any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989 and any national security levy payable under the National Security Levy Act, No. 52 of 1991 which amount shall not be less than the open market value ;
- (b) not for consideration in money or not wholly consisting of money, be the open market value of such supply.

(2) Subject to the provisions of subsection (3) where a supply of goods or services, is made by a registered person for an amount which is less than the open market value and the person to whom the supply was made is not a registered person, the value in respect of that supply, shall be the open market value of such supply.

(3) Where goods or services are supplied by an employer to his employee as a benefit from employment, the value in money for the supply shall be the open market value of such supply or where the open market value of such supply cannot be ascertained, the value in money of that supply shall be the cost of a similar benefit enjoyed by any other person, as may be determined by the Assessor.

(4) Where a supply of services is made under any lottery, or any taxable activity of entering into or negotiating a wagering contract or any business of like nature, the value of such supply shall be the total amount of money receivable in respect of such supply less the consideration of the prizes or winnings awarded in such lottery, such contract, or any business of like nature as the case may be.

(5) Where goods or services —

- (i) are supplied by a person after the time of cancellation of the registration under section 16 ; or
- (ii) are supplied to any person who makes supplies which are exempted under section 8 ; or
- (iii) are supplied to any person, not being a registered person or being a registered person who has not made an application in accordance with the provisions of section 3 and who carries on or carries out any wholesale or retail trade ; or
- (iv) are appropriated by the supplier for his personal use or any other purpose other than the making of a taxable supply,

the value of such supply shall be not less than the open market value.

(6) Where the consideration in respect of a supply of goods or services relates to a taxable supply and a supply which is not taxable, the consideration for such taxable supply shall be deemed to be such part of the consideration as is attributable to such taxable supply and shall not be less than the open market value of such taxable supply.

(7) Where goods are manufactured or produced by using any other goods, whether provided by the supplier or any other person such other goods shall be deemed to be used in the manufacture or production and the value of the supply of the goods so manufactured or produced and the supply of services in connection with such manufacture or production shall be the open market value or the amount of consideration received for, such supply whichever is higher :

Provided however, where it is proved to the satisfaction of an Assessor that the supply of goods, and the supply of services are two separate supplies, the Assessor shall treat each such supply as a separate supply.

(8) The value of the supply of goods under a hire purchase agreement shall be the cash price determined in accordance with the provisions of the Consumer Credit Act, No. 29 of 1982, and shall not be less than the open market value.

(9) The value of the supply of land shall be the value of improvements effected on such land after the appointed date and shall not be less than the open market value.

(10) Where goods or services are supplied either on the issue of a ticket or by the deposit of money the value of such supply shall be the amount paid for such ticket or the amount deposited, not being any amount which is refundable as the case may be.

6. (1) The value of goods, imported shall be the aggregate of —

Value of importation of goods.

(a) the value of the goods determined for the purpose of Customs duty ; and

(b) the amount of any Customs duty payable, including any surcharge and any cess on the goods ;

(2) In calculating the value of any goods for the purposes of subsection (1) there shall be included an amount charged in respect of any—

(a) wrapper, package, box, bottle or other container in which the goods concerned are contained ;

(b) other goods contained in, or attached to, such wrapper, package, box, bottle or other container ; and

(c) amount that the purchaser has to pay to the vendor by reason of, or in respect of, the sale in addition to the amount charged as price (whether payable at the same time or some other time) including any amount charged for, or to make provision for, advertising, financing, servicing, warranty, commission, transportation, erection or any other matter.

7. (1) A supply of—

Zero rating.

(a) goods shall be zero rated where such supply has been exported by the supplier ;

(b) services shall be zero rated where such supply is directly connected with —

(i) any movable or immovable property outside Sri Lanka ;

(ii) any repair of any foreign ship or aircraft, refurbishment of marine cargo containers or any other goods imported for the purpose of re export ;

(iii) a copyright, patent, licence, trade mark or similar intellectual property right, to the extent that, such right is for use outside Sri Lanka.

(2) Where a registered person supplies any goods or services which is zero rated then—

(a) no tax shall be charged in respect of such supply ;

(b) the supply in all other respects be treated as a taxable supply and accordingly the rate at which tax is as charged on the supply shall be zero.

Exemption.

8. The provisions of this Act shall not apply to the supply of goods or services and the importation of goods set out in the Schedule to this Act other than any such goods as are zero rated under section 7.

Goods or services supplied in Sri Lanka.

9. Goods or services shall for the purposes of this Act be regarded as being supplied in Sri Lanka when the supplier carries on or carries out a taxable activity in Sri Lanka and the goods are in Sri Lanka at the time of supply or the services are performed in Sri Lanka by the supplier or his agent.

CHAPTER II

REGISTRATION

10. (1) Every person who on or after the appointed date carries on or carries out any taxable activity in Sri Lanka shall be liable to be registered under this Act if—

Persons making supplies in the course of taxable activity to be registered.

- (a) at the end of any taxable period the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka in that taxable period has exceeded two hundred thousand rupees ; or
- (b) in the four taxable periods then ending, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka has exceeded seven hundred thousand rupees ; or
- (c) at any time there are reasonable grounds to believe that the total value of his taxable supplies of goods or services or goods and services in a taxable period is likely to exceed two hundred thousand rupees or in the four succeeding taxable periods is likely to exceed seven hundred thousand rupees.

(2) Every persons who is liable to be registered under subsection (1) shall make an application in the specified form not later than fifteen days from the date on which he becomes so liable.

For the purpose of this section total value of taxable supplies shall not include the supplies of any wholesale or retail trading activity not being the trading activities carried on by a manufacturer of the goods or as an importer of those goods.

11. (1) Every person who is an importer of goods into Sri Lanka shall be liable to notify the Commissioner-General not later than fourteen days prior to the clearing of such goods, and obtain from the Commissioner-General an identification number for the clearing of such goods :

Importers of goods to notify Commissioner-General.

Provided however, a person who imports into Sri Lanka goods for his personal use or a person who is registered under section 10 or section 12 shall not be liable to notify the Commissioner-General.

(2) Every importer liable to notify the Commissioner-General and obtain an identification number under subsection (1) shall make an application in the specified form to the Commissioner-General.

Voluntary
registration.

12. Notwithstanding the provisions of sections 3 and 10 any person, including an importer carrying on or carrying out a taxable activity may make an application in the specified form for registration under this Act.

Registered
person.

13. Where any person—

- (a) makes an application for registration under section 10 or section 12, such person shall be registered under this Act ;
- (b) has not made an application for registration but where the Commissioner-General is of opinion having regard to the nature and the transactions carried on or carried out by him, that such person is liable to be registered under this Act, he shall after affording such person an opportunity of being heard, register such person with effect from such date as may be determined by him.

Information to be
given to
Commissioner-
General.

14. For the purposes of registering a person under section 13 the Commissioner-General may call for any information from such person at any time relating to any taxable activity carried on or carried out by him.

Certificate of
registration.

15. (1) The Commissioner-General shall, upon registering a person, issue—

- (a) a tax registration number ; and
- (b) a certificate of registration,

to such person.

(2) The certificate of registration shall set out the name and other relevant details of the registered person, the date on which registration comes into effect, and the tax registration number of such person.

(3) The person to whom a certificate of registration is issued under subsection (1) shall, display such certificate at conspicuous the place where he carries on or carries out the taxable activity. Copies of such certificate may be displayed in the event of there being more than one place of business.

(4) Where any person fails to comply with the requirements of subsection (3) the Commissioner-General may—

(a) impose on such person a penalty of a sum not exceeding fifty thousand rupees and give notice in writing to such person of the imposition of such penalty ;

(b) by notice in writing require such person—

(i) to pay such penalty ; and

(ii) to comply with the requirements of subsection (3) within such period as may be specified in such notice.

(5) The Commissioner-General may reduce, or annul any penalty imposed on any person under paragraph (a) of subsection (4) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the requirements of subsection (3) was due to circumstances beyond his control and that he has subsequently complied with such requirements.

16. (1) A registered person may make an application to have his registration cancelled at any time after the lapse of eight successive taxable periods following the date of registration where such registered person has ceased to carry on or carry out a taxable activity or the total value of his taxable supplies for such taxable periods does not exceed the value set out in section 10.

Cancellation of registration.

(2) The Commissioner-General shall, subject to the provisions of subsection (3) where he is satisfied that such person has ceased to carry on or carry out a taxable activity or that the total value of his taxable supplies does not exceed the value set out in section 10, cancel his registration.

(3) The Commissioner-General may refuse to cancel the registration of any person registered under section 10 or section 12 where the Commissioner-General is of the opinion that such person has not ceased to carry on or carry out a taxable activity or that it is necessary and expedient to continue with his registration for the protection of revenue.

(4) Where the Commissioner-General cancels the registration of any person he shall inform such registered person of the date of cancellation of the registration by registered post.

(5) With effect from the date of cancellation of the registration, any goods or services then forming part of the assets of a taxable activity carried on or carried out by that person shall be deemed to be supplied by that person in the course of carrying on or carrying out a taxable activity at a time immediately prior to the date of cancellation, unless the taxable activity (inclusive of all such assets) is carried on or carried out by another person who is a registered person.

Registered person
to return
certificate on
cancellation.

17. (1) Where the registration of any person has been cancelled by the Commissioner-General, such person shall—

- (a) not later than fourteen days from the last day of the last taxable period during which the registration was valid, return to the Commissioner-General the certificate of registration issued to him ;
- (b) not, display in any place where such taxable activity is carried on or carried out, the certificate, of registration or a copy thereof ; and
- (c) not issue any tax invoice, tax debit note or tax credit note as the case may be.

(2) Where any person fails to comply with the requirements of subsection (1) the Commissioner-General may—

- (a) impose on such person a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person of the imposition of such penalty ;
- (b) by notice in writing require such person—
 - (i) to pay such penalty ; and
 - (ii) comply with the requirement of subsection (1) within such period as may be specified in such notice.

(3) The Commissioner-General may reduce, or annul any penalty imposed on any person under paragraph (a) of subsection (2) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the requirements of subsection (1) was due to circumstances beyond his control and that he has subsequently complied with such requirements.

18. Notwithstanding the cancellation of the registration under section 16, a registered person, shall be liable for any act done or omitted to be done while he remained a registered person in respect of the taxable supplies made by him.

Liability not affected by cancellation of registration.

19. Every registered person shall notify the Commissioner-General in writing of—

Registered person to notify certain changes.

(a) any change, in the name, address and place, at which any taxable activity is carried on or carried out by such person ;

(b) any change in the nature of the taxable activity carried on or carried out by him ;

(c) any change in the person authorized to sign returns and other documents ; and

(d) any change in ownership of the taxable activity,

not later than fourteen days after the occurrence of the change.

20. (1) A registered person who makes a taxable supply shall issue to another registered person to whom a supply is made a tax invoice not later than fourteen days after the time of such supply.

Tax invoice.

(2) The tax invoice shall set out—

(a) the name, address and the registration number of the supplier ;

(b) the name, address and registration number to whom the supply was made ;

(c) the date on which the tax invoice was issued and its serial number ;

- (d) the date of supply and description of the goods or services ;
- (e) the quantity or volume of the supply ; and
- (f) the value of the supply, the amount of any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989, any nationed security levy payable under the National Security Levy Act, No. 52 of 1991, the tax charged and the consideration for the supply.

(3) Where goods have been imported into Sri Lanka the customs goods declaration or any other document authenticated by the Director-General of Customs shall be treated as a tax invoice.

(4) The original of the tax invoice shall be issued to the person to whom the supply was made and the duplicate of such invoice shall be retained by the person who makes such supply, for a period of five years after the expiry of the taxable period in which such invoice was issued.

(5) It shall not be lawful to issue more than one tax invoice for each supply. If a registered person claims to have lost the original tax invoice, the person who makes the supply may issue to such registered person a copy clearly marked "copy only".

(6) Where a taxable supply is made by a registered person to a person who is not registered, such registered person shall issue an invoice, to such person who is not registered, setting-out the consideration inclusive of the tax of such supply and the rate of tax applicable to such supply.

(7) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate, to a fine not less than rupees twenty-five thousand and not exceeding rupees two hundred and fifty thousand and thereafter in the event of the offence being continued to be committed, after conviction to a fine of rupees five hundred for each day on which the offence is so continued to be committed.

(8) Where any person convicted of an offence under subsection (7) continues to commit such offence after a period of fourteen days from the date of his conviction, the court may upon an application for closure of the business being made by the Commissioner-General or any officer authorized in that behalf by the Commissioner-General order the closure of such business.

(9) In any case where such person fails to comply with the closure order issued under subsection (8), the Magistrate shall forthwith order the fiscal of the court requiring and authorizing such fiscal before a date specified in such order not being a date earlier than three or later than seven clear days from the date of issue of such order to close such business. Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises in which the business is carried on or carried out with such assistants as the fiscal or such police officer shall deem necessary to close such business.

CHAPTER III

RETURNS AND CALCULATION OF TAX

21. (1) Every registered person shall furnish, to the Commissioner-General not later than fifteen days after the expiry of each taxable period a return of his supplies during that taxable period. Every such return shall be in the specified form and shall contain all such particulars as may be required to be set out in such form.

Returns and
information to be
furnished.

(2) Notwithstanding the provisions of subsection (1)—

- (i) an exporter who is a registered person ; or
- (ii) any registered person who is liable to pay, under section 26 the tax on the taxable supplies made by such person in each month ; or
- (iii) any person, who has entered into an agreement with the Board of Investment of Sri Lanka, being a registered person, and referred to in item (xxvii) or (xxviii) of the Schedule to this Act,

shall furnish a return for the first and second month in a taxable period in respect of such taxable supplies made by him in such month during the taxable period not later than fifteen days after the expiry of such month.

(3) An Assessor may, by notice in writing, require any person who, in his judgment is a person chargeable with tax notwithstanding the fact that he is not registered, to furnish, a return in the specified form within the time specified in such notice.

(4) For the purposes of obtaining full information in respect of the supply of goods or services made by any person, an Assessor may give notice in writing to such person requiring him—

(a) to produce for examination or transmit to the Assessor, within the period specified in such notice any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in slips, accounts, auditors reports or other documents in his possession as may be specified in order to verify the entries in such books, documents and accounts ;

(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the taxable activity carried on or carried out by that person.

(5) For the purposes of this Act, a Deputy Commissioner may give notice in writing to any person requiring him—

(a) to produce or transmit to such Deputy Commissioner within the period specified in such notice any books of, accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade list, stock lists, registers, invoices, cheques, bank statements, paying in-slips, accounts, auditors reports or other documents in his possession as may be specified in such notice ;

- (b) to attend in person or by an authorized representative, at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter as may be specified in such notice.

(6) A person who attends in compliance with a notice given under subsection (5) may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by him in so attending.

(7) A Deputy Commissioner or an Assessor with the approval of a Deputy Commissioner, may retain in his custody as long as such retention is necessary for the purpose of this Act any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in-slips, accounts, auditors reports or other documents in his possession as may be specified in order to verify the entries in such books, documents and accounts.

(8) An Assessor may give notice in writing to any person where he thinks necessary, requiring him to furnish within the time specified in such notice—

- (a) fuller or further returns ; or

- (b) fuller or further information relating to any matter as will in the opinion of the Assessor be necessary or relevant for the assessment to tax payable by such person.

(9) A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing such return, statement or form shall be deemed to be cognizant of all matters contained therein.

(10) Where any person fails to comply with the requirements of subsection (1) or fails to comply with the requirements of a notice given to him by an Assessor under subsection (3) directing him to furnish within the time specified in such notice, a return containing such particulars as the Assessor may require, the Commissioner-General may—

(a) imposes on such person a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person of the imposition of such penalty ;

(b) by notice in writing require such person—

(i) to pay such penalty ; and

(ii) to furnish the return he is required to furnish under subsection (1) if such return has not been furnished or to comply with the requirements of the notice given to him under subsection (3) if such requirements have not been complied with, as the case may be, within such period as may be specified in such notice.

(11) The Commissioner-General may reduce or annul any penalty imposed on any person under paragraph (a) of subsection (10) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the requirements of subsection (1) or the direction under subsection (3), as the case may be, was due to circumstances beyond his control and that he has subsequently complied with such requirements or direction.

(12) Where a penalty is imposed under subsection (10) for failure to furnish a return under subsection (1) or to comply with a direction under subsection (3) such person shall not be liable to prosecution for any offence under section 68 (f) relating to that return or notice.

22. (1) A registered person shall, in respect of taxable supplies made by him, account for and pay the tax by reference to such taxable periods at such time and in such manner as may be specified in this Act.

Credit for input
tax against output
tax.

(2) Subject to the provisions of this Act, a registered person is entitled at the end of each such period to credit for so much of his input tax as is allowable under this Act. and then to deduct such amount from any output tax that is due from him.

(3) Where goods or services supplied to a registered person, or goods imported by him, are used or to be used partly for the purposes of a taxable activity carried on or carried out by him and partly for other purposes, the tax on supplies and importations shall be apportioned so that only so much of the tax on such supply or importation as is referable to his taxable activity shall be counted as his input tax.

(4) Where any return is furnished under section 21, and if at the end of any taxable period to which the return relates, the amount of the input tax exceeds the amount of the output tax the excess of the input tax shall not be refunded but shall be set off against the output tax of the next succeeding taxable period and so on. Any residue of such excess as has not been so set off in the period of six months from the end of the period in which such excess first arose shall subject to provisions of section 58 be refunded and where it is not so refunded, the Commissioner-General shall pay interest, at such rate as is prescribed under section 59 in such amount, for the period commencing on the expiration of one month from the end of such taxable period in which the refund became due and ending on the date of the refund :

Provided, however, that where in any month in a taxable period —

- (a) the value of zero rated supplies was not less than fifty per centum of the total taxable supplies for that month, such part of the excess of the input tax (inclusive of any

excess brought forward from a preceding month) as is equivalent to the proportion that zero rated supplies bear to the total taxable supplies, or

- (b) there is a excess of input tax in such month of such taxable period in the case of a person, referred to in paragraph (iii) of subsection (2) of section 21, during the period referred to in item (xxvii) or (xxviii) to the Schedule to this Act such excess,

shall be refunded, subject to the provisions of section 58 not later than one month immediately after the end of the taxable period in which the excess arose. In the event of failure to pay such refund within such period, interest on such refund shall be payable from the date on which the refund becomes due to the date of payment thereof at such rate as may be prescribed under section 59.

(5) Any input tax attributable to the supply of goods or services shall not be deducted under subsection (2) in respect of the following :—

- (i) if the supply is in respect of motor vehicles, other than motor cycles, bicycles, motor coaches provided by an employer for the transportation of his employees, motor vehicles used for excursion tours, for the transportation of tourists, hiring cars, or for the transportation of any goods ;
- (ii) if the supply of goods or services is not connected with the taxable activity ;
- (iii) if the supply is not supported by a tax invoice, or a customs goods declaration or other authenticated document issued by the Director-General of Customs.

Accounting basis.

23. Every registered person shall account for tax on an invoice basis :

Provided however that, the Commissioner-General may direct such person to account for tax on a payment basis on such conditions as may be prescribed on an application made in that behalf by a registered person.

24. In ascertaining the amount of tax payable in any taxable period, there shall be deducted an amount of tax corresponding to any bad debt incurred in the taxable activity of a registered person and which has become bad during such taxable period. The amount of tax deductible shall not exceed the amount paid as tax in a previous taxable period in respect of the debt which is to be written off :

Bad debts.

Provided that if any amount is received in any taxable period by that person on account of the bad debt so written off, notwithstanding the provisions of section 33, the amount received shall be treated as a taxable supply during the taxable period in which it was received and shall be liable to tax.

25. (1) Where a registered person, has issued a tax invoice and accounted for an incorrect amount of tax by undercharging or overcharging tax on a supply made to another registered person, he shall be entitled to issue to such other person a tax debit note or a tax credit note, as the case may be for the purpose of adjusting the amount of tax so undercharged or overcharged.

Adjustment of tax by credit or debit notes.

(2) Upon the issue of the tax debit note or tax credit note as the case may be, in respect of a supply and in relation to the period in which such note was issued—

- (a)** the supplier shall pay as output tax such amount of the tax that was chargeable in respect of the supply as is in excess of the amount that was accounted for, or deduct as input tax such amount as was accounted for as output tax as exceeds the amount of tax chargeable ; and

(b) the person to whom the supply was made shall pay as output tax such amount of the tax that was deducted by him as input tax as exceeds the proper amount that should have been deducted or deduct as input tax such amount as was deductible as exceeds the actual amount deducted by him, as the case may be.

(3) The tax debit note or tax credit note referred to in subsection (1) shall be in the specified form.

CHAPTER IV

PAYMENT OF TAX

Payment of tax.

26. (1) The tax in respect of any taxable period shall be paid not later than the fifteenth day of the month following the end of that taxable period. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, each such person shall be deemed to be a defaulter for the purposes of this Act :

Provided however, where the value of the taxable supplies for any taxable period exceeds five million rupees, or such other amount as may be determined by the Minister by Order published in the Gazette, the tax calculated as provided in section 22 in respect of the taxable supplies made in every month following such taxable period shall be paid not later than the fifteenth day of the succeeding month until the value of the taxable supplies ceases to exceed five million rupees or such other amount as may be determined by the Minister and any tax not so paid shall be deemed to be in default :

Provided further where a return for the first or the second month has not been furnished by any person in any taxable period as provided for in section 21, the tax in default for such month shall be deemed to be an amount equal to one-third of the tax payable for such taxable period.

27. (1) Where any tax is in default, the defaulter shall, in addition to such tax in default pay as penalty—

Penalty for default.

(a) a sum equivalent to ten *per centum* of the amount in default ; and

(b) where the amount in default is not paid before the fifteenth day of the month succeeding the month in which such tax has begun to be in default, a further sum, equivalent to two *per centum* of the amount in default in respect of each period ending on the fifteenth day of each succeeding month or part of such period during which it is in default :

Provided however, that the total amount payable as penalty under this subsection shall in no case exceed one hundred *per centum* of the tax in default and any such amount may be waived or reduced if the Commissioner-General is satisfied that by reason of any special circumstances in which the default occurred waiver or reduction of such amount would be just and equitable.

(2) Where upon the final determination of an appeal under Chapter VI, any tax in default to which any sum or sums under subsection (1) has or have been added, is reduced, then such sum or sums shall be calculated on the tax so reduced.

CHAPTER V

ASSESSMENT OF TAX

Power of
Assessor to make
assessment.

28. (1) Where—

- (a) any registered person who in the opinion of the Assessor is chargeable with tax, fails to furnish a return for any taxable period ; or
- (b) any registered person, who is chargeable with tax, furnishes a return in respect of any taxable period but fails to pay the tax for that taxable period ; or
- (c) any person requests the Commissioner-General in writing to make any alteration or addition to any return furnished by such person for any taxable period,

the Assessor shall assess the amount of the tax, which such person, in the judgment of the Assessor, ought to have paid for that taxable period and shall, by notice in writing, require that person to pay such amount forthwith. The amount so assessed in respect of any person for a taxable period shall, be deemed to be the amount of the tax payable by him for that taxable period.

(2) An assesment made under subsection (1) in respect of any person for any taxable period shall not affect the liability of such person to a penalty under section 27 as though the amount assessed was the amount of tax due from him for that taxable period.

(3) Where, in the opinion of the Assessor, the amount paid as tax for any taxable period by any person who has failed to furnish a return in respect of a taxable period is less than the actual amount payable by that person for that taxable period, the Assessor shall assess the amount which, in the judgement of the Assessor, ought to have been paid by such person and shall, by notice in writing, require that person to pay on or before a date specified in that notice, the difference between the amount so assessed and the amount paid by that person.

(4) Where an assessment is made under subsection (3) in respect of any person for any taxable period the difference between the amount so assessed and the amount paid by that person as tax for the taxable period as provided in section 26, shall be the tax in default for that taxable period and accordingly such person shall, from the date on which such person ought to have paid the tax for that taxable period, be liable in respect of that amount to the penalty.

29. Where the Assessor does not accept a return furnished by any person under section 21 for any taxable period and makes an assessment or an additional assessment under section 28 or under section 31 respectively on that person for that taxable period he shall communicate to such person by registered letter sent through the post why he is not accepting the return.

Assessor to state why he is not accepting a return.

30. Where the Assessor is of opinion that a registered person has made a taxable supply for a value less than the open market value or for no value in order to avoid the payment of tax, he shall determine the value of such supply as the open market value.

Power of Assessor to determine open market value.

31. (1) Where it appears to an Assessor that a person chargeable with tax has for any taxable period paid as tax an amount less than the proper amount of the tax payable by him for that taxable period, or chargeable from him for that period, the Assessor may, at any time, assess such person on the additional amount at which, according to the judgement of such Assessor, tax ought to have been paid by such person. The Assessor shall give notice of assessment to such person.

Additional assessment.

(2) Where an assessment is made under subsection (1) in respect of any person for any taxable period, the amount so assessed shall be deemed to be the tax in default for that taxable period and accordingly such person shall, from the date on which such person ought to have paid the tax for that taxable period be liable to the penalty in respect to such amount.

32. The production of any document under the hand of the Commissioner-General purporting to be a copy of or extract from any return or assessment made under this Act shall be admissible in all courts and shall be sufficient evidence of the original.

Evidence of returns and assessments.

Limitation of time
for assessment or
additional
assessment.

33. (1) Where any registered person has furnished a return in respect of any taxable period or has been assessed for tax in respect of that period, it shall not be lawful for the Assessor where an assessment —

(a) has not been made, to make an assessment ; or

(b) has been made, to make an make additional assessment,

after the expiration of three years from the end of the taxable period in respect of which the assessment was made or the return was furnished as the case may be.

(2) Notwithstanding anything in subsection (1) where the Assessor is of opinion that a person has wilfully or fraudulently failed to make a full and true disclosure of all the material facts necessary to determine the amount of tax payable by him for any taxable, period, it shall be lawful for the Assessor where an assessment —

(a) has not been made, to make an assessment at any time; or

(b) has been made, to make an additional assessment at any time.

CHAPTER VI

APPEAL

Appeals to the
Commissioner-
General.

34. (1) Any registered person may, if he is dissatisfied with any assessment or additional assessment made in respect of him by an Assessor, or a penalty imposed under this Act, appeal against such assessment or additional assessment or penalty to the Commissioner-General within thirty days after the service of notice of such assessment, additional assessment or imposition of penalty as the case may be. Such person shall, notwithstanding the appeal, pay the tax charged by such assessment or additional assessment together with any penalty imposed on him by this Act :

Provided that the Commissioner-General, upon being satisfied that, owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.

(3) Where the assessment or additional assessment appealed against has been made in the absence of a return, the petition of appeal shall be accompanied by a return.

(4) Every person preferring an appeal under subsection (1) against an assessment for any taxable period shall (unless such person has done so already), pay to the Commissioner-General the amount of the tax payable by such person on the basis of the return furnished by him for such period together with any penalty thereon accrued up to the date of such notice of assessment, and shall attach, to the petition of appeal the receipt in proof of such payment :

Provided that the Commissioner-General, upon being satisfied that owing to serious financial hardship suffered by the appellant at or about the time of such notice of assessment or, owing to other reasonable cause, the appellant was prevented from paying such tax and such penalty, may grant an extension of time for the payment of such tax and penalty thereon accrued up to the date of payment and the receipt furnished within such extended time shall, for the purposes of this subsection, be deemed to have been attached to the petition of appeal.

(5) Every petition of appeal which does not conform to the provisions of subsections (1), (2), (3) and (4) shall not be valid.

(6) On receipt of a valid petition of appeal, the Commissioner-General may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made.

(7) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (6), the Commissioner-General shall fix a time and place for the hearing of the appeal.

(8) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time, adjourn the hearing of an appeal for such time and place as he shall fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General shall dismiss the appeal :

Provided that, if the appellant within a reasonable time after the dismissal of an appeal satisfies the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other reasonable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal :

Provided further, that every petition of appeal under this Chapter shall be agreed to or determined by the Commissioner-General within three years from the date on which such petition of appeal is received by the Commissioner-General, unless the agreement or determination of such appeal depends on the furnishing of any document or the taking of any action by any person other than the appellant or the Commissioner-

General or an Assessor. Where such appeal is not agreed to or determined within such period the appeal shall be deemed to have been allowed and the tax charged accordingly. The receipt of any appeal under this section shall be acknowledged and the date of the letter of acknowledgment shall for the purposes of this section be deemed to be the date of receipt of such appeal :

For the purposes of this proviso where an extension of time has been granted to an appellant for the payment of tax under subsection (4) the date of the receipt in proof of the payment of tax shall be deemed to be the date of receipt of such Appeal.

(9) The Commissioner-General shall have power to summon any person whom he may consider able to give evidence in respect of the appeal, to attend before him and examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by such person in so attending.

(10) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying in slips, auditor's reports or other documents in his possession as may be specified in such notice.

(11) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or caused to be maintained a record of such evidence.

(12) In determining an appeal under this section the Commissioner-General may confirm, reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.

Appeals to the
Board of
Review.

35. Any person aggrieved by the determination of the Commissioner-General upon any appeal made to him under subsection (1) of section 34 may appeal from that determination to the Board of Review constituted under the Inland Revenue Act, No. 28 of 1979, and the provisions of that Act relating to appeals to such Board shall, *mutatis mutandis*, apply to, an appeal under this section.

Appeal on a
question of
law to Court
of Appeal.

36. (1) The decision of the Board of Review shall be final :

Provided that either the appellant or the Commissioner-General may make an application requiring the Board of Review to state a case on a question of law for the opinion of the Court of Appeal.

(2) The provisions of the Inland Revenue Act, No. 28 of 1979 relating to appeals to the Court of Appeal and to the Supreme Court shall, *mutatis mutandis*, apply to an application and reference under this section.

CHAPTER VII

FINALITY OF ASSESSMENTS AND PENALTY FOR INCORRECT RETURNS

Assessments or
amended
assessments to be
final.

37. Where no valid appeal has been preferred within the time specified in this Act against an assessment in respect of tax or where the amount of tax has been determined on appeal, the assessment as made or reduced or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such tax :

Provided that nothing in this section shall prevent an Assessor from making an assessment or additional assessment for any taxable period if it does not involve reopening any matter which has been determined on appeal for that taxable period.

38. Where in an assessment made on any person, the tax exceeds, the tax paid by him as the amount due from him in respect of the taxable supplies specified in his return and the assessment is final and conclusive under section 37, the Commissioner-General may, unless the person proves to the satisfaction of the Commissioner-General that there was no fraud or wilful neglect involved in the disclosure of the taxable supplies made by that person in such return, in writing, order that person to pay, on or before a specified date, as penalty for making an incorrect return, a sum not exceeding twenty-five thousand rupees and a sum equal to twice the amount of the difference between the total tax claimed in the assessment and the tax paid on the return.

Penalty for incorrect returns.

CHAPTER VIII

RECOVERY OF TAX

39. (1) For the purposes of this Chapter "tax" includes penalty imposed or incurred under this Act.

Recovery of tax.

(2) Whenever the Commissioner-General issues a certificate under section 42 or section 43 or a notice under section 44, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter sent through the post or by telegraph, but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

40. Any tax in default shall be a first charge on all the assets of the defaulter :

Tax to be a first charge.

Provided that —

- (i) such charge shall not extend to or affect any assets sold by such person to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 42 ;
- (ii) as regards immovable property, the tax shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of the seizure ;

- (iii) as regards movable property, where the tax for more than four taxable periods is in default, the tax for four taxable periods only to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance created *bonafide* for value prior to the date of default of such tax.

Notice to
defaulter.

41. (1) Where any tax is in default, the Commissioner-General shall, before proceeding to recover such tax, issue a notice in writing to the defaulter stating—

- (a) the particulars of such tax ; and
- (b) that action is being contemplated to recover such tax.

(2) If the defaulter has not appealed within the specified time against the assessment in respect of which such tax is charged, he may within thirty days of the date of such notice make any objection to the tax so charged to the Commissioner-General and the Commissioner-General shall notwithstanding the provisions of section 37 consider such objections and give his decision thereon which shall be final.

Recovery of tax
by seizure and
sale.

42. (1) The Commissioner-General may appoint persons to be tax collectors for the purposes of this Act.

(2) Where any tax is in default, the Commissioner-General may issue a certificate to a Divisional Secretary, Assistant Divisional Secretary, Fiscal, Deputy Fiscal or tax collector containing particulars of such tax and the name and address of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(3) The seizure referred to in subsection (2) shall be effected in such manner as the said officer shall deem most expedient in that behalf and any property so seized shall be kept for seven days at the costs and charges of the defaulter. If the defaulter fails to pay the said tax in default together with the costs and charges within the said seven days the Divisional Secretary, Assistant Divisional Secretary, Fiscal, Deputy Fiscal or tax collector as the case may be shall cause such property to be sold by public auction.

(4) The sum realized by the sale shall be applied—

(i) firstly in payment of the costs and charges of seizing keeping and selling the property ; and

(ii) secondly in satisfaction of the tax in default, and any balance shall be paid to the owner of the property seized .

(5) It shall be lawful for a tax collector to recover from the defaulter reasonable expenses incurred by him in proceeding against the defaulter under this section notwithstanding that the seizure was not effected. Where cash is seized such reasonable expenses shall be set off first from the amount so seized.

(6) Where any tax is in default, and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate containing such particulars of tax and the name and address of the person or persons by whom, the tax is payable, and the court shall there-upon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

For the purposes of this section "movable property" shall include plant and machinery.

43. (1) Where the Commissioner-General is of opinion in any case that recovery of tax in default by seizure and sale is impracticable, or inexpedient or where the full amount of the tax in default has not been recovered, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter, to a Magistrate having jurisdiction in the division in which such place of

Proceedings for recovery before a Magistrate.

business or residence of the defaulter is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof), of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence :

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Commissioner-General.

(2) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1).

(3) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that section to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made in instalments.

(4) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for the showing cause as therein provided or under subsection (3) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to be given bail.

(5) Where payment in instalments is directed under subsection (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

44. (1) Where the tax payable by any person is in default and it appears to the Commissioner-General to be probable that any person—

Recovery of tax
out of debts.

- (a) owes or is about to pay money to the defaulter or his agent ; or
- (b) holds money for or on account of the defaulter or his agent ; or
- (c) holds money for or on account of some other person for payment to the defaulter or his agent ; or
- (d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such money not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(3) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith owing to the fact that moneys in question do not come into his hands or custody or become due from him during the period referred to in subsection (1), he shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General appraising him of the facts.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (3) or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, be liable or where such person is a company or body of persons, whether corporate or unincorporate the secretary, manager, or the principal officer of such company or body be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all means provided in this Act.

(5) For the purposes of this section the expression "defaulter" shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been payable by any person if he were alive is in default, and for the purpose of the application of these provisions in any such case, the expression "defaulter" in subsection (1) means—

- (a) the executor or administrator of such deceased person ; or
- (b) any person who takes possession of, or intermeddles with, the property of such deceased person ; or
- (c) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of such deceased person.

Recovery of tax
from persons
leaving Sri Lanka.

45. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the tax due from him, the Commissioner-General may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to

take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General for payment thereof.

(2) At the time of issue of the certificate to the Magistrate the Commissioner-General shall issue to such person a notification thereof by personal service, or registered letter sent through the post or telegraph ; but the non receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) The production of a certificate signed by the Commissioner-General stating that the tax has been paid or that security has been furnished for the payment of the tax or payment of the tax to a police officer in charge of a police station shall be sufficient authority for allowing such person to leave Sri Lanka.

(4) Any police officer to whom the amount of any tax specified in such certificate has been paid shall forthwith pay such amount to the Commissioner-General.

46. Where the Commissioner-General is of opinion that application of any one of the means of recovery provided in this Act has failed or is likely to fail to secure payment of the full amount of tax due from any person it shall be lawful for the Commissioner-General to proceed to recover any sum remaining unpaid, by any means of recovery provided in this Act, notwithstanding that an order has been made by a Magistrate under section 43 and carried in to effect.

Use of more than one means of recovery.

47. The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any tax due from such person or any other person.

Power of Commissioner-General to obtain information for the recovery of tax.

Recovery of tax
from the principal
officer and others.

48. (1) Where a body corporate has not paid any tax on or before the due date, it shall be lawful to proceed under all or any of the provisions of this Chapter against a manager, director, secretary or any other principal officer of such body corporate, whether such officer is responsible or not for such default notwithstanding anything in any other written law relating to such body corporate.

(2) Where a partnership or a joint venture has not paid any tax on or before the due date, it shall be lawful to proceed under all or any of the provisions of this Chapter against any partner or a member of the joint venture, as the case may be, whether such person is responsible or not for such default, notwithstanding anything in any other written law.

Delegation of
Commissioner-
General's powers
and functions.

49. (1) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers and functions conferred on or assigned to the Commissioner-General by this Chapter.

(2) Every Assessor to whom any power or function has been delegated under subsection (1) shall exercise or discharge that power or function subject to the general or special directions of the Commissioner-General.

CHAPTER IX

SPECIAL CASES

Who may act for
incapacitated
persons.

50. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated person, be deemed to be required to be done by the trustee of such incapacitated person.

Precedant partner
to act on behalf of
partnership.

51. Any act or thing required by or under this Act to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership :

Provided that any person to whom a notice has been given under the provisions of this Act as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Sri Lanka is the precedent partner thereof.

52. (1) The secretary, manager, director or other principal officer of every company or body of persons, corporate or unincorporate, shall be liable to do all such acts, matters or things as are required to be done under the provisions of this Act by such company or body of persons :

Principal officer
to act on behalf
of a company or
body of persons:

Provided that any person to whom a notice has been given under the provisions of this Act on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with that company or body of persons or that some other person resident in Sri Lanka is the principal officer thereof.

(2) Where an offence under this Act is committed by a company or body of persons, corporate or unincorporate, every person who at the time of the commission of the offence was the secretary, manager, director or other principal officer of the company or body of persons shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity.

53. (1) Subject as hereinafter provided, where during the course of a taxable period a person chargeable with tax ceases to carry on or carry out any taxable activity in respect of which he is chargeable with such tax, he shall, notwithstanding that he had ceased to carry on or carry out such taxable activity, be liable to pay such tax for the period during which he carried on or carried out that taxable activity during that taxable period.

Liability to pay
tax in the case of
cessation of
taxable activity.

(2) Where any person carrying on or carrying out a taxable activity transfers the assets of such taxable activity to any other person, resulting in a change of ownership of any trade or business, tax payable in respect of such taxable activity for any period prior to the transfer may, if it cannot be recovered from the transfer or be recovered from the transferee notwithstanding that an assessment may not have been made on the transferee and the provisions of this Act as to collection and recovery of tax shall apply accordingly

Liability of
executor to
pay tax.

54. (1) Where any person chargeable with the tax dies, the executor of such deceased person shall in respect of all taxable periods prior to the date of death of such person be chargeable with tax which such person would be chargeable if he were alive, and shall be liable to do all acts, matters and things which such person if he were alive, would be liable to do under this Act :

Provided that—

- (a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person;
- (b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after three years from the end of the taxable period in which the death occurred; and
- (c) the liability of the executor under this section shall be limited to the sum of—
 - (i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to tax will arise under this section; and
 - (ii) any part of the estate which may have passed to a beneficiary.

(2) Where an executor on behalf of the estate of a deceased person carries on or carries out any taxable activity which is a part of such estate, such executor shall in respect of such taxable activity, be chargeable with the tax with which such person would be chargeable if he were alive.

55. Where any taxable activity in respect of which tax is payable is carried on or carried out by any person on behalf of any other person as the agent of such other person the first mentioned person shall be chargeable with the tax in respect of that taxable activity in like manner and to the like amount as the second mentioned person would be chargeable under this Act.

Liability of certain persons to pay tax in respect of taxable activity not belonging to them.

56. Where two or more persons act as trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with the tax which they are chargeable under this Act and shall be jointly and severally liable for the payment of such tax.

Joint agents, trustees and executors

57. (1) Notwithstanding anything in the Companies Act, No. 17 of 1982, where a company is wound up and where any tax to which that company is liable cannot be recovered then every person who was a director of the company at any time during the period in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, and the provisions of this Act as to collection and recovery of tax shall apply accordingly.

Persons liable to pay tax upon liquidation of a company or dissolution of a body of persons.

CHAPTER X

REFUND OF TAX

58. (1) Where a registered person makes an application for a refund of any tax or any penalty paid by him in excess during the taxable period within three years immediately after the end of the taxable period and satisfies the Commissioner-General that such person has paid any tax or any penalty in excess of the amount which he was liable to pay for that period, such person shall be entitled to a refund of the amount paid in excess, subject to provisions of subsection (3):

Refund of excess tax.

Provided however,

- (i) an exporter; or
- (ii) any registered person referred to in paragraph (iii) of subsection (2) of section 21,

shall be entitled to a refund of such tax or penalty paid in excess within a period of thirty days from the date of receipt of the application.

(2) Where through death, incapacity, bankruptcy, liquidation or other cause a registered person who would but for such cause have been entitled to make a claim under subsection (1) is unable to do so, his executor, trustee or receiver as the case may be, shall be entitled to a refund of any tax or penalty paid in excess within the meaning of subsection (1) by such person for the benefit of such person or his estate.

(3) Notwithstanding anything in subsection (1)—

(a) where any registered person has failed to pay the Commissioner-General in whole or in part, any tax in respect of any taxable period, or a month in a taxable period, any amount of tax payable before the due date may be set off after due notice to such person against that unpaid tax, any amount or any part of any amount otherwise refundable to that person or any amount or part of any amount of interest payable to that person under section 59, and shall treat any amount so set off as a payment received from such registered person ;

(b) Where any registered person, in respect of, any taxable period or in a month in a taxable period has not furnished a return for any taxable period or a month in a taxable period, the Commissioner-General may withhold payment of any amount otherwise refundable or any amount of interest payable under section 59 of this Act, until such registered person has furnished such return.

Interest on
refunds.

59. (1) Where any amount refundable under this Act to a registered person has not been refunded within a period of thirty days from the due date of such refund there shall be paid by the Commissioner-General to such person interest on such amount for the period commencing on the thirtieth day from the due date up to the date of refund of the amount as is required to be refunded by the Commissioner-General to such person under this Act, at the rate prescribed by the Minister from time to time.

(2) For the purposes of this section "due date" means the period ending ninety days—

- (i) from the date of an agreement with an Assessor or from the date of determination of an appeal in respect of the assessment appealed against or ;
- (ii) from the date on which a claim, other than a claim for a refund made in writing under subsection (4) of section 22 was received from such person by the Commissioner-General.

CHAPTER XI

DEDUCTION OF TAX FROM PAYMENTS

60. (1) Every person who makes any payment in pursuance of a contract to which he is a party or on behalf of any other person who is a party to a contract shall, whether or not such contract was entered into prior to the appointed date, deduct from such payment, tax which shall be a percentage of such payment at such rate as may be determined by the Minister by Order published in the Gazette and the amount of tax so deducted shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any tax, if any, payable by him under this Act:

Deduction of tax
from payments.

Provided that where the total consideration payable for the performance of such contract does not exceed one million rupees no such deduction shall be made.

(2) Any person who deducts tax in accordance with the provisions of subsection (1) shall—

(a) issue to the person from whose payment the deduction is made a statement showing—

- (i) the gross amount of such payment ;
- (ii) the rate and amount of tax so deducted; and
- (iii) the net amount actually paid ;

(b) remit within seven days of making such deduction the sum so deducted to the Commissioner-General together with a statement showing—

- (i) the name and address of the person to whom the payment was made and the registration number of such person if any ;
- (ii) the gross amount of such payment;
- (iii) the rate and amount of tax so deducted ;
- (iv) the net amount actually paid; and
- (v) the name and address of the person who made the payment and the registration number of such person.

(3) Where the taxable supplies of a person include a sum from which tax has been deducted in accordance with subsection (1) he shall be entitled on production of a statement relating to such sum issued in accordance with subsection , (2) to a set off against the tax payable by him, of the amount shown on such statement as the amount of tax deducted.

(4) For the purposes of this section "contract" means—

- (i) any contract in respect of construction work or services of whatever nature not being a contract of employment ;
- (ii) any contract for the supply of goods or services in respect of any contract specified in paragraph (i) ;
- (iii) any sub-contract in respect of any contract specified in paragraph (i) or (ii) ;
- (iv) any contract for the provision of services including a contract for the provision of services as an entertainer or artiste other than a contract of employment ; or
- (v) any contract for the supply of cinematograph films.

(5) Any person who fails to deduct tax in terms of subsection (1) or fails to remit under subsection (2) any tax to the Commissioner-General shall be deemed to be in default and the provisions of this Act relating to recovery of tax shall accordingly apply on any such default.

(6) Any person who has made any deduction under subsection (1) or any remittance in pursuance of subsection (2) shall be deemed to have acted under the authority of the person by whom the tax was payable and of all other persons concerned, and is hereby indemnified in respect of such deduction or remittance, as the case may be, against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(7) Where any person has entered into two or more contracts and the Assessor, having regard to the nature and the parties to such contracts, is of opinion that the persons to whom the payments were made in respect of such contracts is one and the same person or his agent, the sum paid or payable shall be aggregated for the purposes of subsection (1).

CHAPTER XII

MISCELLANEOUS

61. (1) Every notice required to be given by the Commissioner-General, a Deputy Commissioner or an Assessor under this Act shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner or Assessor is duly printed or signed thereon.

Signature and
service of notices.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or was carrying on or carrying out a taxable activity during the period to which the notice relates.

(3) Any notice sent by post shall be deemed to have been served on the day on which it could have been received in the ordinary course of post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Act, which purports to be the name of the person authorized to give or issue the same, shall be judicially noticed.

Validity of
assessments.

62. (1) No notice, assessment, certificate or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed or deemed to be void or voidable for want of form or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be affected or impugned—

(a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of the value of the taxable supplies or the amount of the tax charged ; or

(b) by reason of any variance between the assessment and the notice thereof,

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this subsection.

Power to search
buildings or
places.

63. (1) Any officer of the Department of Inland Revenue who is specially authorized by the Commissioner-General in that behalf may, accompanied by a peace officer, do all or any of the following acts :—

(a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be useful for or relevant to, any proceeding under this Act may be found, and examine them if found ;

- (b) seize any such books of account, registers, records or other documents or place marks of identification thereon or make extracts or copies therefrom ;
- (c) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Act,

and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section.

In this subsection "peace officer" shall have the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

(2) Before authorising any officer to exercise the powers under subsection (1), the Commissioner-General shall record the circumstances which necessitate the exercise of those powers by that officer.

(3) Where any officer authorized by the Commissioner-General under subsection (1) seizes any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or other document he has seized.

(4) Any book of account, register, record or other document seized under subsection (1) by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

64. (1) The Commissioner-General or any other officer of the Department of Inland Revenue who is specially authorized in that behalf by the Commissioner-General in writing may do all or any of the following acts :—

Power to search where taxable activity is carried on, or carried out.

- (a) enter and inspect any place or building where any taxable activity is carried on or carried out by any person for the purpose of ascertaining whether the provisions of this Act are being complied with ;
- (b) open and examine any book of account, register, record or any other document which may be found therein and make an inventory of any of the articles found therein ;
- (c) examine and take copies of, or make extracts from, any book of account, register, record or other document found in such place or building ;
- (d) take possession of any book of account, register, record or other document or place marks of identification thereon ;
- (e) count and make a record immediately of the cash found in such place or building ;
- (f) require any person whom he finds in such place or building to give such information within his knowledge with respect to matters under this Act ;
- (g) examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in such place or building.

(2) Where an officer authorized by the Commissioner-General under subsection (1), takes into his possession any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.

(3) Any book of account, register, record or other document taken into his possession under subsection (1) by any officer may be retained in the possession of such officer as long as may be, necessary for the purpose of scrutinizing such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

65. (1) Every registered person shall keep and maintain records in respect of the taxable activity carried on or carried out by him to enable the Commissioner-General or any other officer authorized by the Commissioner-General on that behalf to ascertain the liability for the payment of the tax.

Keeping of records.

(2) The form of the records, to be maintained under subsection (1) and the particulars to be set forth therein shall be as prescribed.

For the purpose of this section the term "records" includes—

- (a) books of account (whether contained in a manual, mechanical or electronic format or combination thereof) recording receipts or payments or income or expenditure and also includes vouchers, bank statements, invoices, tax invoices, tax credit notes, tax debit notes, receipts and such other documents as are necessary to verify the entries in any such books of account ;
- (b) details of any warehouse, godown or any other place where stock of goods are kept and the stock of goods kept in such warehouses, godown, or any other place, as the case may be ;
- (c) any list or record required to be maintained or kept in accordance with provision of this Act or under any regulations thereunder.

CHAPTER XIII

OFFENCES AND PENALTIES

66. (1) Every person who—

- (a) being a person required to take an oath and fails to take the oath of secrecy when so required under section 72 ; or
- (b) acts in contravention of the provisions of section 72 ;
or
- (c) aids, abets or incites any other person to act in contravention of any of the provisions of this Act,

Penal provisions relating to breach of secrecy &c.

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penal provisions
relating to fraud.

67. Any person who—

- (a) gives any false answer whether orally or in writing to any question or request for information asked or made in accordance with the provisions of this Act ; or
- (b) omits from a return made under this Act, any particulars which he should have included in such return ; or
- (c) makes any false return or false entry in any return made under this Act,

and thereby evades or attempts to evade tax or assists any other person to evade or to attempt to evade tax shall be guilty of an offence under this Act, and shall be liable, after summary trial before a Magistrate, to a fine consisting of—

- (i) a sum equal to twice the amount of tax so evaded or attempted to be evaded for which he is liable under this Act for the taxable period in respect of which the offence was committed ; and
- (ii) a sum not exceeding twenty-five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penal provisions
relating to
returns &c.

68. Every person who—

- (a) fails to apply for registration as required under section 10 ; or
- (b) fails to notify the Commissioner-General of any matters required to be notified under section 19 ; or
- (c) fails to issue tax invoices as required by section 20 ;
or

- (d) issues more than one tax invoice for each taxable supply ; or
- (e) issues a tax invoice where such person is not entitled to issue such tax invoice under section 20 ;
- (f) fails to furnish a return under section 21 or comply with a notice under section 21 ; or
- (g) having appeared before an officer of the Department of Inland Revenue in compliance with a notice issued to him under section 21 or section 34 fails, without sufficient cause, to answer any question lawfully put to him by an officer acting under this Act ; or
- (h) gives any incorrect information relating to any matter or thing affecting his own liability to tax or the liability of any other person ; or
- (i) permits the payment to any other person, other than the Commissioner-General of any amount to be paid under section 44 ; or
- (j) knowingly fails to make any deduction required under section 60 or fails to comply with the provisions of section 60 ; or
- (k) wilfully obstructs or delays the Commissioner General or any other officer in the exercise of his power under section 63 or 64 ; or
- (l) fails to maintain records as required under section 65,
- (m) not being a person registered under this Act, issues a tax invoice,

shall be guilty of an offence under this Act, and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding ten thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

69. No prosecution in respect of an offence under this Chapter shall be commenced except at the instance, or with the sanction, of the Commissioner-General.

Prosecution to be with the sanction of the Commissioner-General.

Compounding of
offence.

70. The Commissioner-General may with the consent of the parties having regard to the circumstances in which any offence under this Act was committed, compound such offence for a sum not exceeding one third of the maximum fine imposeable for such offence under the Act. Any sum received by the Commissioner-General in compounding an offence under this section shall be credited to the Consolidated Fund.

CHAPTER XIV

ADMINISTRATION

Officers.

71. (1) The Commissioner-General shall be incharge of the administration of this Act, assisted by such number of Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue, Senior Assessors of Inland Revenue, Assessors of Inland Revenue and Tax Officers of Inland Revenue as may be necessary.

(2) The Commissioner-General may authorise any Commissioner or Deputy Commissioner to exercise, perform or discharge any power, duty or function which is conferred or imposed on or assigned to, the Commissioner-General by this Act.

(3) A Commissioner or a Deputy Commissioner of Inland Revenue exercising, performing or discharging any power, duty or function conferred or imposed on, or assigned to, the Commissioner-General by any provision of this Act shall be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function, until the contrary is proved.

(4) A Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to an Assessor by this Act.

72. (1) Every person who is or has been employed or engaged in carrying out or in assisting any person in carrying out the provisions of this Act shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or to the Minister or to the Secretary to the Ministry of the Minister in charge of the subject of Finance or suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.

(2) Every person employed in carrying out the provisions of this Act shall, before acting under this Act, and the Minister and the Secretary to the Ministry of the Minister in charge of the subject of Finance shall before acting under this Act take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person employed in carrying out the provisions of this Act shall be required to produce in any court any return, document or to divulge or communicate to any court any matter or thing coming to his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act or any other written law administered by the Commissioner-General.

(4) Notwithstanding anything contained in this section any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act to any other officer of the Department if the communication is necessary for the performance of any duty under this Act or under any other written law administered by the Commissioner-General and the Commissioner-General may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any Court, in any proceedings under this Act, a copy of any return or document received by him or in his possession under this Act or under any other written law administered by him and certified by him or on his behalf to be a correct copy :

Provided that the Commissioner-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature of the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof :

Provided, further that the Commissioner-General shall not in any case be compelled to produce in any court either the original of such document or return or copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in this section the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf to have access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorized by him under this section shall be deemed to be a person employed in carrying out the provision of this Act for the purposes of subsection (2) of this section.

(6) Notwithstanding anything contained in this section where it appears to the Commissioner-General from any matter which comes to his knowledge in the performance of his duties under this Act, that any person has committed an offence under the Customs Ordinance or the Excise Ordinance or Excise (Special Provisions) Act, No. 13 of 1989, he may communicate with or deliver to the Commissioner of Excise or the Director-General of Customs as the case may be, any information relating to the commission of the offence or any articles, books of accounts or any other documents necessary or useful for the purpose of proving the commission of such offence.

Forms.

73. The Commissioner-General may from time to time specify the forms to be used for all or any of the purposes of this Act, and any form so specified may from time to time be amended or varied by the Commissioner-General or some other form may be substituted by the Commissioner-General in place of any form so specified or amended.

74 (1) The Minister may make regulations to give effect to the principles and provisions of this Act.

Regulations.

(2) Every regulation made by the Minister shall come into operation on the date of its publication in the Gazette or on such date as may be specified in the regulation.

(3) Every regulation shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. A Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

CHAPTER XV

TRANSITIONAL PROVISIONS

75. (1) Every person whose turnover under the Turnover Tax Act, No. 69 of 1981, for any quarter in the period of twelve months ending six months immediately proceeding the appointed date exceeds two hundred thousand rupees shall if such person is carrying on or carrying out a taxable activity on such appointed date, be deemed to be a registered person for the purposes of this Act and the provisions of this Act shall apply to such person accordingly.

Transitional provisions.

(2) Any person who is deemed to be a registered person under subsection (1) may make a statement of objection, in writing to the Commissioner-General within thirty days of the receipt of the notice of such registration, indicating that his taxable supplies for the period specified in subsection (1) do not exceed the amount specified in section 10.

(3) Where the Commissioner-General is satisfied with the statement he may cancel such registration notwithstanding the provisions of section 16.

CHAPTER XVI

INTERPRETATION

Interpretation.

76. In this Act, unless the context otherwise requires —

“Assessor” means an Assessor or a Senior Assessor appointed under the Inland Revenue Act, No. 28 of 1979 ;

“Authorized representative” shall have the meaning assigned to it by the Inland Revenue Act, No. 28 of 1979 ;

“Board of Review” has the meaning assigned to it by the Inland Revenue Act, No. 28 of 1979 ;

“body of persons” means any body corporate or unincorporate, Provincial Council, local authority, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate any partnership and includes any Government department or any undertaking of the Government of Sri Lanka ;

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed under the Inland Revenue Act, No. 28 of 1979, and includes a Commissioner and a Deputy Commissioner specially authorized by the Commissioner-General either generally or for a specific purpose to act on behalf of the Commissioner-General ;

“Commissioner” means a Commissioner of Inland Revenue appointed under the Inland Revenue Act, No. 28 of 1979 ;

“company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere ;

“Director” means a director as defined in the Companies Act, No. 17 of 1982 and includes a working director ;

“Deputy Commissioner” means a Deputy Commissioner of Inland Revenue appointed under the Inland Revenue Act, No. 28 of 1979 ;

“executor” includes an administrator ;

“goods” means all kinds of movable or immovable property but does not include money ;

“incapacitated person” means any minor, lunatic, idiot or person of unsound mind ;

“Importation” includes the bringing into Sri Lanka of goods from outside Sri Lanka by any person or goods received from a customs bonded warehouse and is deemed to include the purchase of goods on a sale by the Director-General of Customs, the Sri Lanka Ports Authority or the Commissioner-General, for the levy of any tax and other dues ;

“input tax” in relation to a registered person, means —

(a) tax paid on the supply to a registered person of any goods or services to be used by such person in carrying on or carrying out a taxable activity ;

(b) tax paid by him on the importation of goods which are used by such person for the purpose of making taxable supplies ;

“ manufacture ” means the making of an article, the assembling or joining of an article by whatever process, adapting for sale any article, packaging, bottling, putting into boxes, cutting, cleaning, polishing, warpping, labelling or in any other way preparing an article for sale other than in a wholesale or retail activity ;

“output tax” in relation to any regisrered person, means the tax chargeable in respect of the supply of goods or services made or deemed to be made by such person.

“open market value” in relation to the value of a supply of goods or services at any date means the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at the date in Sri Lanka, being a supply freely offered and made between persons who are not associated persons, excluding the excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989 and the national security levy payable under the National Security Levy Act, no. 52 of 1991 ;

“ person ” includes a company, or body of persons ;

“ prescribed ” means prescribed by regulations made under this Act ;

“ registered person ” means any person who is registered or deemed to be registered under section 10 or section 12 of this Act and includes a person liable to be registered under this Act ;

“ specified ” means specified by the Commissioner-General of Inland Revenue ;

“ supply of goods ” means the transfer of the right to dispose as owner of movable or immovable property ;

“ supply of services ” means any supply which is not a supply of goods ;

“ supplier ”, in relation to any supply of goods or services, means the person making the supply ;

“ taxable period ” means the period of three months commencing respectively on the first day of January, the first day of April, the first day of July and the first day of October of each year ;

“ taxable activity ” means —

(a) any activity carried on or carried out as a business, trade, profession or vocation other than in the course of employment or every adventure or concern in the nature of a trade ;

(b) the provision of facilities to its members or others for a consideration and the receipt of subscription in the case of a club, association or organization ;

(c) anything done in connection with the commencement or cessation of any activity or provision of facilities referred to in (a) or (b) ;

- (d) the hiring or leasing of any movable property or the renting or leasing of any immovable property ;
 - (e) the exploitation of any intangible property such as patents, copyrights or other similar assets ;
- “ taxable supply ” means any supply of goods or services made or deemed to be made in Sri Lanka which is chargeable with tax under this Act and includes a supply charged at the rate of zero *per cent* other than a exempt supply.

SCHEDULE

- (i) The supply of coconuts, desiccated coconuts, coconut fibre, coconut poonac, copra, rubber, tea, green leaf, paddy, cardamons, cinamon, cloves, nutmeg, pepper or any other unprocessed produce of any agricultural, horticultural, animal husbandry, poultry or fishing undertaking;
- (ii) The import of potatoes, onions and chillies or the supply or import of vegetable seeds ;
- (iii) The supply or import of rice, rice flour, wheat, wheat flour and all other grains;
- (iv) The supply of bread other than fancy bread such as toasted bread, garlic bread, french bread, banana bread, bread roll, hard bread roll & see ;
- (v) The supply or import of milk or powdered or condensed milk excluding any article manufactured or produced from milk ;
- (vi) The supply of water other than in sealed containers or in bottles ;
- (vii) The supply or import of pharmaceutical products, or ayurvedic, siddha, unani or homeopathic preparations, or any raw material to be used in such production or preparation;
- (viii) The supply of any services by an educational establishment or school to which grants from state funds are paid or to which such grants were earlier paid but are not paid at present;
- (ix) The supply or import of any books other than newspapers, periodicals or magazines;
- (x) The supply or import of any dried fish and maldivé fish;

- (xi) The supply or import of sugar, jaggery and sakkara;
- (xii) The supply or import of kerosine, diesel and liquid petroleum gas;
- (xiii) The supply or import of cement including clinker;
- (xiv) The supply or import of fertilizer including rock phosphate;
- (xv) The import of crude petroleum oil;
- (xvi) The supply of the following financial services:—
 - (a) The operation of any current, deposit or savings account;
 - (b) The exchange of currency;
 - (c) The issue, payment, collection or transfer of ownership of any note or order for payment, cheque, or letter of credit;
 - (d) The issue, allotment, transfer of ownership, drawing acceptance or endorsement of any debt security, being any interest in or right to be paid money owing by any person;
 - (e) The issue, allotment, or transfer of ownership of any equity security or a participatory security;
 - (f) Underwriting or sub underwriting the issue of an equity security, debt security or participatory security.
 - (g) The provision of any loan, advance or credit;
 - (h) The provision of the facility of instalment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made ;
 - (i) Life insurance.
- (xvii) The import or supply of goods and services to Diplomatic Missions, United Nations Organisation and its specialised agencies, and the staff of those Missions and Organisations, which or who under the Vienna Convention on Diplomatic Relations (1961) relating to the privileges and immunities are entitle to these benefits provided that reciprocal benefits are available to their counterparts from Sri Lanka and identified as such by the Commissioner-General, including the import under a temporary admission Carnet for re-export ;
- (xviii) The import and supply of goods at Duty Free Shops for payment in foreign currency;

- (xix) The import or supply of unused postage or revenue stamps of the Government of the Democratic Socialist Republic of Sri Lanka;
- (xx) The import of any article entitled to duty free clearance under the Passenger's Baggage (Exemptions) Regulations made under section 107 of the Customs Ordinance or any article cleared duty free re-importation certificate as provided in Schedule A under the Customs Ordinance or any article cleared ex-bond for re-export or for use as ship stores ;
- (xxi) The import of goods by any organisation approved by the Minister in charge of the subject of Finance and proved to his satisfaction to be gifts from persons or organizations overseas for the relief of distress caused by natural or other disasters ;
- (xxii) The supply of aviation fuel, and burker fuel ;
- (xxiii) The supply of public passenger transport services (other than air or water transport, services for the transport of tourists, or in the form of excursion tours or taxi services) or the import or supply of a motor coach or chassis or a body of a motor coach for such public passenger transport services ;
- (xxiv) The import or supply of tractors to be used exclusively for agricultural work ;
- (xxv) The supply of services by a ship owner or aircraft owner, or a charterer of a ship or aircraft in their respective capacities as an owner or charter ;
- (xxvi) The supply of electricity upto 75 kwh per consumer as defined under Electricity Act, No. 19 of 1950, per month ;
- (xxvii) Import by any person who has entered into an agreement —
 - (a) prior to May 16th, 1996 ; or
 - (b) prior to the appointed date in respect of a project the total cost of which is not less than Rs. 500 Million,with the Board of Investment of Sri Lanka, under section 17 of Board of Investment of Sri Lanka Law, No. 4 of 1978, of any article which is prescribed as a project related article to be utilised in the project specified in the agreement during the project implementation period of such project as specified in such agreement or up to the date of completion of such project, which ever is earlier ;

(xxviii) Import by any person who has entered into an agreement, with the Board of Investment of Sri Lanka, under section 17 of Board of Investment of Sri Lanka Law No. 4 of 1978, of any article which is prescribed as a project related article to be utilised in the project specified in the agreement —

(a) for a period of three years, from the appointed date, or

(b) until the completion of such project,

whichever is earlier ;

(xxix) Import, by any person of any article which is prescribed as project related article to be utilised in any prescribed project where the total cost of the project is not less than Rupees 500 million —

(a) for a period of three years from the appointed date, or

(b) upto the date of completion of such project,

whichever is earlier ;

(xxx) Supply, in Sri Lanka, of architectural, engineering, quantity surveying or construction management services by a non resident person within the meaning of the Inland Revenue Act, No. 28 of 1979, to a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, on or before the appointed date, if the total cost of the project to which such agreement relates is not less than US \$ 50 Million or its equivalent ;

(xxxi) the supply of services by a person in Sri Lanka to another person, to be consumed or utilized wholly, by such other person outside Sri Lanka.

Sinhala text to prevail in case of inconsistency.

77. In the event of any inconsistency between the Sinhala and Tamil text of this Act, the Sinhala text shall prevail.