

PARLIAMENT OF CEYLON

1st Session 1960-61



Companies Tax Act, No. 35 of 1961

Date of Assent : June 6, 1961

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Companies Tax Act, No. 35 of 1961

L. D.—O. 26/60.

AN ACT TO IMPOSE ON COMPANIES INCORPORATED IN CEYLON AND HAVING A SHARE CAPITAL A TAX COMPUTED BY REFERENCE TO THE AMOUNT OF THE SHARE CAPITAL, TO IMPOSE A TAX OF A FIXED AMOUNT ON COMPANIES INCORPORATED IN CEYLON BUT LIMITED BY GUARANTEE AND HAVING NO SHARE CAPITAL AND ON COMPANIES INCORPORATED OUTSIDE CEYLON AND CARRYING ON BUSINESS IN CEYLON, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: 6th June, 1961]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Companies Tax Act, No. 35 of 1961.

Short title.

2. The provisions of this Act shall not apply to—

Companies to which this Act shall not apply.

(a) any company which commences on or after the relevant date to carry on any industrial undertaking and in respect of which a certificate declaring it to be an approved company for the purposes of this Act is issued under the hand of both the Controller of Finance and the Director of Industries, or

(b) any company which has been registered before the relevant date and the profits and income of which are exempt from income tax by virtue of the provisions of section 7A or section 7B of the Income Tax Ordinance, for the period during which such exemption lasts, or

(c) any company registered under section 19 of the Companies Ordinance, No. 51 of 1938, as a company with limited liability, without the addition of the word "Limited" to its name, or

(d) any company incorporated for promoting commerce, art, science, religion, charity, education, or other useful object and exempted from the provisions of this Act by Order made by the Minister of Finance.

Charge of
the tax.

3. (1) Subject to the other provisions of this Act, there shall be charged for each financial year—

- (a) from every company incorporated in Ceylon and carrying on business on or after the relevant date and having a share capital, a tax computed at the rate of fifty rupees for every ten thousand rupees of the share capital of that company as on the relevant date, in the case of the financial year ending on March 31, 1962, and, in the case of each of the subsequent financial years, on the date of commencement of each such financial year,
- (b) from every company incorporated in Ceylon and carrying on business on or after the relevant date but limited by guarantee and having no share capital, a tax of five thousand rupees, and
- (c) from every company incorporated outside Ceylon and having a place of business in Ceylon on or after the relevant date, a tax of fifty rupees for every ten thousand rupees of its capital employed in Ceylon, but so however that, in the case of the financial year ending on March 31, 1962, the tax payable shall not be less than five thousand rupees.

(2) A tax charged under sub-section (1) is hereafter in this Act referred to as "the tax".

(3) For the purposes of sub-section (1), the expression "capital employed in Ceylon", means all property, movable and immovable, used by a company incorporated outside Ceylon for carrying on its business in Ceylon but does not include the liabilities of such company incurred in carrying on its business in Ceylon or any sum invested by such company in any industry approved for the purposes of this Act by the Minister of Finance by Order published in the *Gazette*.

Computation of
the tax for the
financial year
ending on
March 31, 1962,
on reduction
of the share
capital of
a company.

4. Where any company, to which the provisions of paragraph (a) of section 3 (1) apply, takes steps to reduce its share capital and such reduction is effected on or before March 31, 1961, then,—

- (a) if before such reduction the share capital of that company exceeded, and the issued share capital of that company did not

exceed one million rupees, the tax to be charged from that company for the financial year ending on March 31, 1962, shall be computed on the amount of its reduced share capital or one million rupees, whichever is more, and

- (b) if before such reduction the share capital and the issued share capital of that company each exceeded one million rupees, the tax to be charged from that company for that financial year shall be computed on the amount of its reduced share capital or on the amount of its issued share capital as on the relevant date, whichever is more.

5. Where a company which is liable to the tax under this Act for any financial year is also liable to the land tax under the Land Tax Act for that year, then, if the amount of the tax under this Act is less than the amount of the land tax, such company shall not be liable to the tax under this Act for that year.

Company liable to the tax under this Act and to the land tax under the Land Tax Act shall not be liable to pay the tax under this Act if the amount of such tax is less than the amount of the land tax.

6. Where the aggregate of—

- (a) the tax to which a company is liable under this Act for any financial year, and
(b) the income tax to which that company is liable under the Income Tax Ordinance for the year of assessment ending on the day preceding the date of commencement of that financial year,

Set off against the tax payable by a company under this Act.

exceeds eighty per centum of the assessable income of that company for that year of assessment and the whole or any part of such excess cannot as required by section 75B of that Ordinance be set off against the income tax to which that company is liable, the amount which cannot be so set off shall be set off against the tax to which that company is liable under this Act for that financial year.

The provisions of this section in so far as they relate to income tax shall apply to the Income Tax Ordinance as if they were also provisions of that Ordinance.

7. (1) A company liable to the tax for any financial year shall pay the tax to the Registrar of Companies within thirty days after the date of commencement of that financial year.

Payment of the tax.

(2) Where a company liable to the tax fails to pay any amount of the tax for any financial year within the period required by sub-section (1), the Registrar of Companies shall, by notice in writing, require that company to pay, within a period of fourteen days after the date of the service of such notice, such amount to the Registrar. If such company fails to pay such amount within the period of fourteen days so specified in the notice, such amount shall be deemed to be in default and shall be a charge on all the assets of such company, and the company shall be deemed to be a defaulter for the purposes of this Act.

Proceedings
for the
recovery of
the tax.

8. Where the amount of the tax for any financial year is in default, the Registrar of Companies may issue a certificate containing particulars of such amount, and the name and the place of business of such defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon the defaulter before him to show cause why proceedings for the recovery of the amount of the tax in default should not be taken against such defaulter, and, if sufficient cause is not shown, the amount of the tax in default shall by order of the Magistrate be recovered as if it were a fine imposed by the Magistrate on such defaulter.

Powers conferred
on the Registrar
of Companies
for the purposes
of this Act.

9. (1) The Registrar of Companies or any officer authorised in that behalf by such Registrar may direct any company to furnish such returns as may be necessary for the purposes of this Act, and may inspect, and make copies of any entries in, the books, records and all other documents of the company in order to ascertain whether the company is liable to the tax or the amount of the tax which the company is liable to pay.

(2) Every company shall comply with any direction given under sub-section (1) and shall permit and assist any person empowered to do so by that sub-section to inspect, and make copies of any entries in, any books, records or other documents of the company.

Offences.

10. If any company—

(a) contravenes any provisions of this Act,

(b) furnishes for the purposes of this Act any return which is, or any part of the contents of which is, to the knowledge of the company untrue or incorrect, or

- (c) does not comply with any direction given by the Registrar of Companies, or any officer authorised in that behalf by the Registrar, under section 9,

the company and every director, manager, secretary, or other officer of that company shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to pay a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

11. All sums paid to or recovered by the Registrar of Companies as tax under this Act shall be credited by the Registrar to the Consolidated Fund of Ceylon.

Sums paid or recovered as tax to be credited to the Consolidated Fund of Ceylon.

12. (1) Where any amount paid as the tax by a company for any financial year is in excess of the amount with which that company was properly chargeable for that financial year, that company shall, upon a claim made in writing by the company in that behalf to the Deputy Secretary to the Treasury, be entitled to a refund of the sum paid in excess.

Refund of sums paid in excess as the tax for any financial year.

(2) Any sum payable to any company under subsection (1) shall be paid out of the Consolidated Fund of Ceylon.

13. This Act shall have effect notwithstanding anything to the contrary in any other written law or in any instrument governing the management or functions of any company liable to the tax.

This Act to prevail over any other written law or instrument.

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

Interpretation.

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

“ financial year ” means the period which commences on April 1, 1961, and ends on March 31, 1962, and every subsequent period of twelve months commencing on April 1; and

“ relevant date ” means the fifteenth day of September, 1960.