PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

INLAND REVENUE (AMENDMENT) ACT, No. 43 OF 1983

[Certified on 19th October, 1983]

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L.D.—O 7/83

AN ACT TO AMEND THE INLAND REVENUE ACT, No. 28 OF 1979

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 43 of 1983. **Short title.**

2. Section 8 of the Inland Revenue Act, No. 28 of 1979, (hereinafter referred to as the "principal enactment") is hereby amended in paragraph (*a*) of that section by the addition, at the end of that paragraph, of the following sub-paragraphs :— **Amendment of section 8 of Act No. 28 of 1979.**

" (xLi) the Buddhist and Pali University of Sri Lanka and any Higher Educational Institution established by, or under, the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981 ;

(xLii) the Employees Trust Fund established by the Employees Trust Fund Act, No. 46 of 1980 ;

(xLiii) the International Irrigation Management Institute ;".

3. Section 9 of the principal enactment is hereby amended in subsection (1) of that section as follows :— Amendment of section 9 of the principal enactment.

(1) by the substitution in paragraph (*h*) of that subsection, for the words "World Tourism Organization ;", of the words "World Tourism Organization, the International Irrigation Management Institute, or the Colombo Plan Bureau ;" ; and

(2) by the repeal of paragraph (*k*) of that subsection, and the substitution of the following paragraph therefor :—

" (*k*) the emoluments earned, or the pension arising, in any year of assessment, in foreign currency, by or to, any individual resident in Sri Lanka in respect of—

(*a*) services rendered by him in that year of assessment ; or (*b*) past services rendered by him or his spouse,

outside Sri Lanka in the course of any employment carried on, or exercised by him or his spouse, if such emoluments or pension are paid to him in Sri Lanka or such emoluments or pension (less such amount expended by such individual outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted by him to Sri Lanka ; ".

Amendment of section 15 of the principal enactment.

4. Section 15 of the principal enactment is hereby amended by the repeal of paragraph (*k*) of that section.

Amendment of section 20 of the principal enactment.

5. Section 20 of the principal enactment is hereby amended as follows :—

(1) by the substitution, for subsection (1) of that section, of the following subsection :—

" (1) There shall be exempt from income tax—

(*a*) for a period of eight years reckoned from the date of incorporation of such company, in the case of a company incorporated on or after April 1, 1972, and approved by the Minister under section 7A of the Inland Revenue Act, No. 4 of 1963, prior to November 15, 1978 ;

(*b*) for a period of five years reckoned from the date on which the company made its first exports or from the date on which it commenced to provide services, for payment in foreign exchange, in the case of a company incorporated on or after April 1, 1972, for—

(i) the manufacture of any commodities, and approved by the Minister, by Order published in the *Gazette*, after November 15, 1978 ; or

(ii) the provision of any services, for payment in foreign currency, and approved by the Minister, by Order published in the *Gazette*, after November 15, 1978, but prior to March 31, 1983, such part of the profits and income of that company as consists of the export profits and income of any such undertaking carried on by it as is approved by the Minister by notice published in the *Gazette* to be an undertaking to which this section shall apply:

Provided that this subsection shall not apply to any company in relation to an undertaking carried on by such company if—

(i) it is an undertaking which was formed by the splitting up or reconstruction of any business, previously in existence, for the manufacture of commodities or the provision of services, for payment in foreign currency;

(ii) any part of the export turnover of that undertaking arose in consequence of the amalgamation of the whole or a part of the trade or business of any other undertaking with the trade or business of that undertaking."; and

(2) in subsection (2) of that section, by the insertion immediately after paragraph (*b*) of that subsection, of the following paragraph:—

'(*bb*) "manufacture", in relation to any year of assessment commencing on or after April 1, 1983, includes the growing of fruits, vegetables, flowers or foliage plants;'.

Insertion of new section 22DD of the principal enactment.

6. The following section is inserted immediately after section 22D, and shall have effect as section 22DD of the principal enactment:—

"Exemption from income tax for certain investment companies.

22DD. (1) The profits and income of any public company—

(i) incorporated on or after April 1, 1983, with not less than ninety-five *per centum* of its capital contributed, in the form of money or otherwise, by the State, and any public corporation, or by any body corporate; and

(ii) the primary object of which is to purchase and deal in shares of other public companies incorporated in Sri Lanka, shall, subject to the provisions of subsection (2), be exempt from income tax if such profits and income are retained by such company for a period of at least five years from the end of the year of assessment in which such profits and income are exempt from income tax.

(2) The exemption referred to in subsection (1) shall cease, when the profits and income, exempt from income tax under that subsection and retained by any company amounts to a sum equal to twice the paid up capital of such company as at the thirty-first of March immediately following the date of incorporation of such company.

(3) If any part of the profits and income retained by any company in any year of assessment and exempt from income tax under this section are distributed to the shareholders of such company within a period of five years from the end of that year of assessment, income tax shall be payable by the company for that year of assessment on the profits and income so distributed and such tax shall be assessable, payable and recoverable, notwihtstanding anything to the contrary in any other provision of this Act.".

Amendment of section 29 of the principal enactment.

7. Section 29 of the principal enactment is hereby amended as follows :—

(1) in subsection (3) of that section by the substitution, in paragraph (*a*) thereof, for the expression "under section 16 of this Act", of the expression "under section 16, or section 16A, or section 22A, or section 22B, or section 22C, or section 22D, or section 22DD of this Act"; and

(2) by the insertion, immediately after subsection (4) of that section, of the following subsection :—

'(4A) In computing the assessable income of a person carrying on an undertaking referred to in section 16B or in paragraph (*a*) or paragraph (*b*) of subsection (1) of section 20, for the year of assessment in the course of which the exempt period ends, there shall be duducted the total of the losses incurred during the exempt period after deducting therefrom the aggregate of—

(i) such profits and income of that undertaking as were exempt from income tax for any accounting period succeeding that in which such loss was incurred; and

(ii) such part of such losses incurred in that undertaking as were deducted from the total statutory income of that person under paragraph (*b*) of subsection (2).

In this subsection, "exempt period" in relation to an undertaking referred to in section 16B or paragraph (*a*) or paragraph (*b*) of subsection (1). of section 20, means the period during which the profits and income of that undertaking were exempt from income tax.'.

Amendment of section 31 of the principal enactment.

8. Section 31 of the principal enactment is hereby amended as follows :—

(1) in subsection (2) of that section—

(*a*) by the substitution, for paragraph (*b*) of that section, of the following paragraph :—

" (*b*) a donation made in money or otherwise to—

(i) the Government of Sri Lanka;

(ii) a local authority;

(iii) any Higher Educational Institute established or deemed to be established under the Universities Act, No. 16 of 1978;

(iv) the Buddhist and Pali University or any Higher Educational Institution established by, or under, the Buddhist and Pali University Act, No. 74 of 1981;

(v) a fund established by the Government;

(vi) a fund established by a local authority and approved by the Minister;";

(*b*) by the omission, in paragraph (*f*) of that subsection, of the words " certified by the Commissioner for National Housing as having been " ;

(*c*) by the insertion, immediately after paragraph (*h*) of that subsection, of the following paragraph :—

" (*hh*) any premia paid by individual on a policy of insurance against riot or civil commotion, not being premia in respect of which an allowance has been granted under section 23 ; " ;

(*d*) by the substitution, for paragraph (*m*) of that sub-section, of the following paragraph :—

' (*m*) any sum invested by any person in the purchase of ordinary shares, other than existing shares, in a company—

(i) approved by the Minister, prior to March 31, 1983, under section 16A or section 22D, or

(ii) engaged in any project approved by the Minister, prior to March 31, 1983, under section 22B,

being a company the capital of which exceeds five hundred million rupees.

For the purposes of this paragraph " capital " shall have the same meaning as in subsection (5) of section 18 ;

(*n*) any amount certified by REPIA established under the Public Security Ordinance or by a government department performing functions similar to REPIA, as having been spent by a person on the repair or restoration of any immovable property, damaged or destroyed by riot or civil commotion after July 24, 1983, and before August 24, 1983, not being an amount obtained as a grant from REPIA or any government fund or the receipts of an insurance policy against damage or destruction by riot or civil commotion or in respect of which an allowance has been granted under section 23,' ;

(2) in subsection (3) of that section—

(*a*) by the substitution, for the words " not more than four ", of the words " not more than fourteen " ;

(*b*) by the substitution, for the words " as exceed five ", of the words " as exceeds fifteen " ;

(3) in subsection (5) of that section, by the substitution for the words " (*b*), (*c*) and (*m*) of subsection (2), of the words " (*b*), (*c*), (*m*) and (*n*) of subsection (2) " ; and

(4) in subsection (6) of that section by the substitution for the words " (*b*), (*c*) and (*m*) of subsection (2) ", of the words " (*b*), (*c*), (*m*) and (*n*) of subsection (2) ".

9. Section 42 of the principal enactment is hereby amended as follows :— Amendment of section 42 of the principal enactment.

(*a*) by the re-lettering of paragraphs (*w*) and (*x*) of that section as paragraphs (*y*) and (*z*) respectively, of that section ; and

(*b*) by the insertion, immediately after paragraph (*v*) of that section, of the following paragraphs :—

" (*w*) the Employees Trust Fund established by the Employees Trust Fund Act, No. 46 of 1980 ;

(*x*) the International Irrigation Management Institute ; ".

10. Section 54 of the principal enactment is hereby amended in paragraph (*e*) of subsection (1) of that section by substitution, for the words and figures " Universities Act, No. 16 of 1978 ; ", of the words and figures " Universities Act, No. 16 of 1978 or to the Buddhist and Pali University of Sri Lanka and any Higher Educational Institution established by or under the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981 ; ". Amendment of section 54 of the principal enactment.

11. Section 56 of the principal eactment is hereby amended in subsection (1A) of that section by the substitution, for the expression " or its market value on April 1, of that year ", of the expression " or its market value on the date of the gift, ". Amendment of section 56 of the principal enactment.

12. Section 115 of the principal enactment is hereby amended in subsection (5) of that section, by the substitution, for the second proviso to that subsection of the following new proviso :— Amendment of section 115 of the principal enactment.

"Provided further that, where in the opinion of the Assessor, any fraud, evasion or wilful default has been committed by, or on behalf of, any person, in relation to any income tax, wealth tax or gifts tax payable by such person for any year of assessment, it shall be lawful for the Assessor to make an assessment or an additional assessment on such person at any time after the end of that year of assessment.".

Retrospective effect of section 3 (2).

13. The amendment made in the principal enactment by subsection (2) of section 3 shall be deemed, for all purposes, to have come into force on April 1, 1983.

Application of principal enactment to REPIA.

14. REPIA established under the Public Security Ordinance shall, for the purposes of the application of the principal enactment, be deemed to be a government institution and its fund shall be deemed to be a fund established and maintained by the government.