

Tax Appeals Commission - 2015

The audit of financial statements of the Tax Appeals Commission for the year ended 31 December 2015 comprising the balance sheet as at 31 December 2015 and the income and expenditure account and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information, was carried out under my direction in pursuance of provisions in Article 154(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka. My comments and observations on the above financial statements appear in this report.

1.2 Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as the management determines is necessary to enable the preparation of financial statements that are free from material misstatements whether due to fraud or error.

1.3 Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000– 1810). Those Standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

2. Financial Statements

2.1 Opinion

In my opinion, the financial statements give a true and fair view of the financial position of the Tax Appeals Commission as at 31 December 2015 and its financial performance and its cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards

2.2 Comments on Financial Statements

2.2.1 Sri Lanka Public Sector Accounting Standards

The following deficiencies were observed.

- (a) A statement of changes in equity had not been furnished together with the financial statements for the year under review in terms of Sri Lanka Public Sector Accounting Standard 01.
- (b) In terms of Sri Lanka Public Sector Accounting Standard 07, an acquired asset should be depreciated from the date it was made available to the position fit for use, whereas contrary to that, the Commission had prepared the depreciation policy so as not to depreciate the assets during the year of purchase of those assets.

2.2.2 Accounting Policy

Even though the Commission had recognized a policy for the depreciation of machinery, furniture and office equipment costing Rs.6,140,059 under an annual rate of 10 per cent, attention had not been drawn on the determination of the depreciation rate by taking into consideration the life period of the assets.

2.2.3 Accounting Deficiencies

Provision for audit fees relating to the year under review had not been made in the financial statements.

2.3 Non-compliance with Laws, Rules Regulations and Management Decisions

The following instances of non-compliances with Laws, Rules and Regulations were observed.

Reference to Laws, Rules, Regulations and Management Decisions

Non-compliance

- (a) In terms of section 7 of the Tax Appeals Commission Act, No 23 of 2011, as amended by Tax Appeals Commission Act, No 20 of 2013

During the year, under review commission determined 04 Tax Appeals and received the Part of Rs.1,915,915 from the recoverable tax amount by submitting 04 bank bonds. This received amount should have been sent to the Commissioner, General of Inland Revenue, according to the Commission Act. But it had not been sent by Commission end of the year under review.

- (b) Financial Regulations of the Democratic Socialist Republic of Sri Lanka
Financial Regulation 396 (d)

Action in terms of the financial regulations had not been taken in respect of 3 cheques totalled Rs.32,612 which had elapsed 6 months from their issuance but not been presented to the bank.

- (c) Treasury Circular No. 842 dated 19 December 1978.

A Register of Fixed Assets had not been maintained in accordance with the provisions in the circular.

3. Financial Review

3.1 Financial Results

According to the financial statements presented, the operation of the Commission for the year ended 31 December 2015 had resulted in a deficit of Rs.8,099,294 as against the surplus of Rs.16,236,558 for the preceding year, thus indicating an deterioration of Rs.24,335,852 in the financial results for the year under review as compared with the preceding year. Although the establishment and administration expenditure of the year under review had decreased by Rs.306,997, the decrease in the Treasury Grants by Rs.24,612,553 had mainly attributed to the above deterioration in the financial result.

4. Operating Review

4.1 Performance

The Tax Appeals Commission had established by the Tax Appeals Commission Act, No.23 of 2011 and any person who is aggrieved by the determination of the Commissioner-General of Inland Revenue given in respect of any matter relating to imposition of any tax, levy or penalty may prefer an appeal to the Commission and the Commission shall examine the appeals thus received and give determination. According to the information obtained by the Audit, the number of appeals referred to the Commission from the year 2011 to 2014 was 209 and the number of appeals determined amounted to 158. Accordingly, 51 appeals had not been determined. Further, out of 59 appeals received during the year under review, 50 appeals or 84 per cent had not been determined. Accordingly, it was observed that the Commission had not show an adequate performance.

4.2 Management Activities

The following observations are made

- (a) Provisions relating to the presentation and auditing of the financial statements of the Commission had not been included in the Tax Appeals Commission Act No,23 of 2011 by which the Commission had been established. Accordingly, the Commission had not drawn attention on making amendments to the Act by including the relevant provisions.

- (b) A balance of Rs.38,177,251 comprising 10 per cent deposit recovered from the taxpayer relating to the amount appealed, the bank guarantees taken over and a sum of Rs. 2,500 recovered on an appeal, had been stated as the deposits under the current assets and as the creditors under the current liabilities in the balance sheet as at the end of the year under review. Nevertheless, any disclosure on this balance had not been made in the Notes to the accounts of the financial statements.
- (c) According to the provisions of the Act, in case of an appeal is made by a taxpayer, a bank guarantee equivalent to 25 per cent of the sum as assessed by the Commissioner General of Inland Revenue shall be paid to the Commission and when the tax is established after giving determination, it is taken over by the Commission. Particulars on the bank guarantees which had not been taken over by the Commission relating to the appeals not determined as at the end of the year under review had not been revealed in the financial statements.

5. Accountability and Good Governance

5.1 Presentation of Financial Statements

The following observations are made.

- (a) In terms of Section 6.5.1 of the Public Enterprises Circular No. PED/12 dated 02 June 2003, the financial statements for the year under review should be presented to the Auditor General within 60 days after the close of the year of accounts. Nevertheless, the Commission had furnished the financial statements for the year under review to the Auditor General on 27 February 2017.
- (b) In terms of Section 3 of the Public Enterprises Circular No. PED/45 dated 02 October 2007, the certification relating to the responsibility of the presentation of accounts had not been indicated in the financial statements.

5.2 Corporate Plan and Action Plan

A Corporate Plan and an Action Plan for the year under review had not been prepared in accordance with Section 5.1 of the Public Enterprises Circular No. PED/12 dated 02 June 2003.

5.3 Budgetary Control

A budget for the year under review had not been prepared in terms of Section 5.2 of the Public Enterprises Circular No. PED/12 dated 02 June 2003.

6. Systems and Controls

Deficiencies in systems and controls observed during the course of audit were brought to the notice of the Secretary of the Tax Appeals Commission from time to time. Special attention is needed in respect of the following the ledger accounts Failure in properly maintaining, appeal deposits and appeal guarantees, not properly maintaining the Register of Fixed Assets and not adequately maintaining the records on deposits and guarantees.