

Report of the Auditor General on Head 297 – Department of Registrar of Companies - Year 2016

The audit of the Appropriation Account, Revenue Account and the Reconciliation Statements including the financial records, books, registers and other records of the Department of Registrar of Companies for the year ended 31 December 2016 was carried out in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka. The Management Audit Report for the year under review was issued to the Registrar General of Companies on 08 September 2017. The audit observations, comments and findings on the accounts and reconciliation statements were based on a review of the Accounts and Reconciliation Statements presented to audit and tests of samples of transactions. The scope and extent of such review and tests were such as to enable as wide an audit coverage as possible within the limitations of staff, other resources and time available to me.

1.2 Responsibilities of the Chief Accounting Officer and the Accounting Officer for the Accounts and Reconciliation Statements

The Chief Accounting Officer and the Accounting Officers are responsible for the maintenance, preparation and fair presentation of the Appropriation Account, Revenue Account and the Reconciliation Statements in accordance with the provisions in Article 148, 149, 150 and 152 of the Constitution of the Democratic Socialist Republic of Sri Lanka, other statutory provisions and the Public Finance and Administrative Regulations. This responsibility includes: designing, implementing, maintaining internal control relevant to the preparation and fair presentation of Accounts and Reconciliation Statements that are free from material misstatements whether due to fraud or error.

2. Accounts

2.1 Appropriation Account

Total Provision and Expenditure

The total net recurrent provision made for the Department amounted to Rs.49.82 million and out of that Rs.47.94 million had been utilized by the end of the year under review. Accordingly, the savings out of the net provisions of the Department amounted to Rs.1.88 million or 3.77 per cent of the net recurrent provisions.

2:2 Revenue Accounts

Estimated and Actual Revenue

The Department had prepared Revenue Estimates totalling Rs.1,220.00 million in respect of three Revenue Codes for the year 2016 and revenue totalling Rs. 1,359.19 million had been collected during the year under review. Revenue amounting to 111.40 per cent of the estimated revenue had been collected. Details appear below.

Revenue Code	As at 31 December 2016			Excess as a Percentage of Estimate
	Estimated Revenue	Actual Revenue	Excess	
	Rs. Millions	Rs. Millions	Rs. Millions	
20.03.02.10	100.00	166.48	66.48	66
20.03.02.12	20.00	29.95	9.95	50
10.03.02.08	1,100.00	1,162.75	62.76	6
	<u>1,220.00</u>	<u>1,359.19</u>	<u>139.19</u>	11.41

2.3. Advances to Public Officers Accounts

The limits authorized by Parliament for the Advances to Public Officers Account of the Department of Registrar of Companies under Item No.29701 and the actual amounts are given below.

Expenditure		Receipts		Debit Balance	
Maximum Limit	Actual	Minimum Limit	Actual	Maximum Limit	Actual
Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions
5.50	5.38	3.00	3.57	20.00	12.15

2.4 Audit Observation

According to the Financial Records and Books for the year ended 31 December 2016, it was observed that subject to the audit observations appearing in paragraph 1.1 of the Management Audit Report, the Appropriation Account, Revenue Account and the Reconciliation Statements of the Department of Registrar of Companies have been satisfactorily prepared. The material and significant observations out of the observations included in that Management Audit Report appear in Paragraph 3 herein.

3. Material and Significant Audit Observations

3.1 Non-maintenance of Books and Registers

Although a Procurement Time Schedule should be prepared on the goods and work contracts in terms of Guideline 4.2.3 of the Government Procurement Guidelines, this Department had not properly maintained such Time Schedule on goods.

3.2 Revenue Accounts

The duties relating to the preparation of Revenue Estimates, collection of Revenue, Accounting and the presentation of Accounts relating to 03 Revenue Codes had been assigned to the Head of Department as the Revenue Accounting Officer. The following deficiencies were observed during the course of the test audit of those Revenue Codes.

(a) Revenue Code 20.03.02.10- Charges of the Registrar of Companies

The following observations are made.

- (i) According to the Annual Budget Estimates, the collection of Revenue amounting to Rs. 100 million had been estimated under the Revenue Code. A sum of Rs. 166.48 million had been collected as at the end of the year under review and that amounted to 166 per cent of the estimated Revenue. A sum of Rs.62.12 million out of the total revenue thus collected represented the arrears of revenue received for the registration of annual returns and it had been 37 per cent of the total revenue.
- (ii) According to the Revenue Account presented to Audit, Revenue amounting to Rs. 286.22 million had been in arrears and the arrears of revenue relating to the year amounted to Rs.75.41 million. Those arrears of Revenue related to periods ranging from 01 year to 06 years and the follow-up action on the recovery of those arrears had been at a weak level.
- (iii) Although special arrangements should be made in terms of Financial Regulation 128 (2)(e) for the expeditious collection of outstanding arrears of revenue receivable to the Government, action had not been taken accordingly.
- (iv) Reports in terms of Paragraph 04 (b) of the Government Fiscal Policy Circular No.01/2015 dated 20 July 2015 had not been properly maintained so as to depicting clearly the amount of outstanding arrears of revenue and the arrears of revenue, if any.
- (v) According to Paragraph 4 (b) of the above circular, expeditious action had not been taken to recover the revenue in arrears and to prevent further accumulation of revenue in arrears.
- (vi) Only the outstanding arrears of revenue receivable for the annual returns had been included in the reports of the revenue in arrears. But, the outstanding annual return revenue due from the registered societies and the revenue in arrears receivable from the Companies, the financial reports of which had not been registered had not been computed and included in the reports of the revenue in arrears.

(b) Revenue Code 20.03.02.12- Fees recovered under the Public Contract Act

The following observations are made

- (i) According to the Annual Budget Estimates, the collection of Revenue amounting to Rs. 20.00 million had been estimated under the Revenue Code and a sum of Rs. 29.95 million had been collected as at the end of the year under review. It had been an increase of 50 per cent of the estimated revenue.
- (ii) In terms of Section (2) (1) of the Public Contract Act No.03 of 1987, the public contract, the cost of which exceeds Rs.5 million should be registered with the Department of Registrar of Companies. Nevertheless, a specific programme for the registration of all the relevant contracts had not been implemented in the Department and as such, an extensive income that could have been received by the state revenue had been deprived.
- (iii) A certificate issued under the Section 11(3) of the Public Contract Act No.03 of 1987, shall, subject to the provisions of section 14 remain in force for a period of one year from the grant of such certificate and may from time to time be renewed for a period of one year on payment of the prescribed fee. Nevertheless, the Department had not hitherto established a methodology to monitor as to whether,
 - The applications are made for the renewal of registration after the expiry of a period of one year.
 - The making application for the re-registration of a public contract is properly carried out.

Therefore, an income that could have been received by the state revenue had been deprived.

(c) Revenue Code 10.03.07.08- Tax on Company Registration

The following observations are made

- (i) According to the Annual Budget Estimates, the collection of Revenue amounting to Rs. 1,100.00 million had been estimated under the Revenue Code. A sum of Rs. 1,162.76 million had been collected as at the end of the year under review and that amounted to 106 per cent of the estimated Revenue.
- (ii) According to the information furnished to audit on the recovery of tax, the number of companies liable for paying tax as at 31 December 2016 was 77,392 and the number of companies that had paid taxes was 16,826 or 22 per cent.

- (iii) In accordance with a budget proposal presented and adopted for the year 2016, the relevant tax had been levied from the companies according to the instructions of the Ministry of Finance. Either a Gazette notification relating to the implementation of this tax had not been issued or a relevant statutory amendment to the Finance Act had not been made. This tax had been levied without proper legal authority and out of the companies registered under the Companies Act No.07 of 2007, only a few companies had paid this tax.

3.3 Reconciliation Statement on the Advances to Public Officers Account

The following deficiencies were observed during the course of test checks of the Reconciliation Statement as at 31 December 2016 relating to the Advances to Public Officers Account Item No. 29701.

- (a) As action had not been taken according to Paragraph 1.1.6 of the Budget Circular No.118 of 11 October 2004, it had not been possible to recover a loan balance of Rs.120,741 due from three officers who had left the Department on transfers.
- (b) It had not been possible to recover a loan balance totalling Rs.17,000 due from an officer who had been interdicted from 01 August 2005, even by the end of the year under review.
- (c) According to Paragraph 1.1.7 of the Budget Circular No.118 of 11 October 2004, loan balances should be settled before the lapse of 02 months from the arrival and 03 months from the leave of an officer on transfer. Nevertheless, in the settlement of loan balances of Rs.444,778 relating to 05 officers arrived on transfers and Rs.497,297 relating to 4 officers left on transfers, delays from 4 months to 8 months were observed.

3.4 Good Governance and Accountability

3.4.1 Annual Procurement Plan

According to the Guidelines 4.2.1 (a), (c), (e) and 4.2.2. (a) of the Government Procurement Guidelines, the procurement entity should prepared the main Procurement Plan by including the expected procurement activities at least for a period of 03 years and the procurement activities for the ensuing year in details and it should be updated regularly within a period not more than 06 months. Nevertheless, action had not been taken accordingly.

3.4.2 Internal Audit

An adequate audit as required by the Circular No.DMA/2009 (1) dated 09 June 2009 of the Department of Management Services and the Financial Regulation 133 (2) had not been carried out.

3.5 Non-compliances

Non-compliances with Laws, Rules and Regulations

Instances of non-compliance with the provisions of laws, rules and regulations observed during the course of audit test checks are analyzed below.

Reference to Laws, Rules and Regulations

Non-compliance

- (a) Financial Regulations of the Democratic Socialist Republic of Sri Lanka

Financial Regulation 128 (2) (e)

Although special arrangements should be made for the expeditious collection of outstanding arrears of revenue receivable to the Government, the Department had not taken a formal steps to recover the outstanding annual returns revenue.

- (b) Government Fiscal Policy Circular No.01/2015 dated 20 July 2015
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(i) Paragraph 04 (a)

Reports had not been properly maintained so as to depicting clearly the amount of receivable revenue, amount of added revenue and arrears of revenue, if any.

(ii) Paragraph 04 (b)

Expeditious action had not been taken to recover the revenue in arrears and to prevent further accumulation of revenue in arrears.

3.6 Performance

The following observations are made.

(a) Revenue from the Registered Societies

In terms of the Societies Ordinance (Amendment) Act, No.11 of 2005, the registered societies should file the annual returns and the revenue that could be collected from 12,281 Societies liable for filing annual returns for the year under review amounted to Rs.12,281,000. Nevertheless, the number of societies that had filed the annual returns during the year was 70 and the revenue collected from those societies amounted to Rs.70,000 or 0.57 per cent of the revenue due to be recovered therefrom. Accordingly, the revenue in arrears amounted to Rs.12,211,000. Action had not been taken to recognize the active Societies and state that revenue in arrears as a receivable income in the financial statements and to collect the revenue in arrears for the annual returns from the registered Societies in terms of Financial Regulation 128 (2)(e).

(b) Due to the absence of a formal computer data system for obtaining the accurate statistical data on the actual number of active societies, the number of inactive societies and the number of registered active societies and the inactive societies, it had not been possible to correctly recognize the revenue that could be collected hereunder and the arrears in revenue.

3.7 Management Weaknesses

(a) The arrears of revenue had exceeded Rs.850 million as at 31 December 2016 and an officer of the Grade I , Class 03 in the Information and Communication Technology Service only had been employed for the recovery of revenue in arrears and the maintenance of relevant information system in an updated manner.

(b) The number of files kept in the Record Room of the Department consisting of 5000 square feet was 174,787 approximately and the number of files daily exchanged was in the range from 800 to 1000. Apart from that, the number of files daily accumulated had grossly remained from 40 to 50 files. Accordingly, the following matters were observed relating to the Record Room.

(i) There was no adequate space facilities in the Record Room and an accepted and formal arrangement had not been made for wiping out dusts in the files. Accordingly, it had posed a severe threat to the health care of the members of the staff.

(ii) A proper arrangement had not been made for providing security to the files registered with the Department and kept in the Record Room and three officers of the private security service had been attached to the duties therein.

- (iii) Further, the security camera system installed as a security measure had been under the supervision of a security officer of the private security service. Accordingly, it is observed to be highly likely that the issues relating to the security and the confidentiality may crop up.
- (c) The registration of limited companies in terms of the Companies Act and handling the affairs of the companies registered as per the provisions set out thereunder and ensuring that the activities are carried out accordingly and in case of failure to do so, to cause action to be taken in terms of the provisions set out in the Act are the statutory functions assigned to the Registrar General of Companies under the Companies Act. Nevertheless, the arrangement made for the regulation of the activities of the companies was inadequate.
- (d) The Department had not taken action to establish the accuracy and the authenticity of the certificates relating to the educational and professional qualifications included in the personal files of the officers of the Department directly from the relevant educational and professional institutions.

3.8 Human Resources Management

(a) Approved Cadre and Actual Cadre

The position of the cadre as at 31 December 2016 had been as follows.

	Category of Employees	Approved Cadre	Actual Cadre	Number of Vacancies	Excess
(i)	Senior Level	14	09	05	-
(ii)	Tertiary Level	03	02	01	-
(iii)	Secondary Level	107	75	32	02
(iv)	Primary Level	25	27	-	-
	Total	149	113	38	02

- (b) The post of Registrar of the Company had remained vacant from the year 2013 and an officer had been appointed on fulltime acting basis. Two posts of Registrar of Companies Grade 1 had been approved and two Assistant Registrar of Companies had been employed on the basis of covering up duties of the above two posts. Further, one post of Assistant Registrar of Companies had remained vacant.
- (c) Ten posts of Company Inspection Officers have been approved and those 10 posts and 18 out of 54 approved posts of Management Assistants had been in vacant.
- (d) Although the approved new composition of staff included the post of Assistant/Deputy Registrar of Companies (Administration S.L.A.S) Class 1, Grade III and a new post of Assistant Director (Sri Lanka Information and Communication Technology Service) Class 1, Grade III, it had remained vacant up to date. The post

of Legal Officer, too has remained vacant. Although the Scheme of Recruitment had been sent to the Public Service Commission seeking amendments, it had not been approved even by 01 August 2017.