

Tax Appeals Commission – 2017

The audit of performance of the Tax Appeals Commission for the year ended 31 December 2017 was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka. The financial statements for the year 2017 had not been presented by the Tax Appeals Commission even by the date of this report. My observations on the performance of the Commission in the year under review which I consider should be presented to Parliament in terms of Article 154(6) of the Constitution of the Democratic Socialist Republic of Sri Lanka 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 of the Commission 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.

2. Financial Statements

2.1 Presentation of Financial Statements

The Tax Appeals Commission had been established on 23 April 2011 and in terms of Paragraph 2 of the Tax Appeals Commission Act, No.23 of 2011 and the Commission shall charge with the responsibility of hearing all appeals in respect of matters relating to imposition of any tax, levy, charge, duty or penalty. Nevertheless, provisions relating to the presentation and auditing of the financial statements of the Commission had not been included in the Act by which the Commission had been established. However, the financial statements from the year 2011 up to 2016 had been presented to the Auditor General by the Commission whereas the financial statements of the year under review had not been presented to the Auditor General even by the date of this report.

2.2 Maintenance of Books of Accounts and Registers

Even though functions of the Commission had been performed continuously, the ledger accounts based in the preparation of financial statements relating to the year under review had not been maintained. Net recurrent and net capital provisions amounting to Rs.57,177,000 and Rs.16,620,100 respectively had been made for the functioning of Commission by the Project 03 of Programme 01 of Head 102 of the Treasury. The recurrent expenditure and capital expenditure totalling Rs.55,494,611 and Rs.5,725,389 respectively incurred by the Commission by utilizing the said provisions in the year under review, had been debited to the Objects of the said Project by Monthly Account Summaries and shown under the Appropriation Account of the Ministry of Finance.

2.3 Existence of Assets and Liabilities

Particulars of assets, liabilities, income and expenditure shown in the last financial statements prepared as at 31 December 2016 by the Commission are given below.

Assets	Value
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	Rs.
Non-current Assets	3,844,863
Current Assets	<u>95,330,292</u>
Total Assets	99,175,155
	=====
<u>Liabilities</u>	
Current Liabilities	90,469,357
Non-current Liabilities	-
Surplus	<u>8,705,798</u>
Total Liabilities	99,175,155
	=====
Total Income(including Treasury Receipts of Rs.35,021,517)	35,065,517
Total Expenditure	<u>42,891,469</u>
Deficit	(7,825,952)
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2.4 Non-compliance with Laws, Rules Regulations and Management Decisions

The following non-compliances were observed.

Reference to Laws, Rules, Regulations and Management Decisions	Non-compliance
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(a) Financial Regulations of the Democratic Socialist Republic of Sri Lanka Financial Regulation 396 (d)	Three cheques aggregating Rs.32,612 issued but remained uncashed for more than 06 months had not been taken to Government Revenue in terms of the Financial Regulations.
(b) Treasury Circular No. 842 dated 19 December 1978.	A Register of Fixed Assets had not been properly maintained in terms of the provisions in the circular.

3. Operating Review

3.1 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 made 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 hear the appeals so received and make determination. According to the information obtained by the Audit, the following observations are made with regard to the appeals received by the Commission and the progress of determination thereof during the period from the year 2011 up to 30 June 2018.

- (a) Out of the 504 valid tax appeals received by the Commission from the year 2011 up to the end of the year under review, 269 appeals had not been heard and determined even by 30 June 2018.
- (b) According to the information made available to Audit, even though the appeal had been heard, 48 tax appeals were to be determined. The relevant tax of contentious nature totalled Rs.9,632,738,035.
- (c) Even though the hearing of appeal had been commenced, 52 tax appeals had not been determined and the relevant tax of contentious nature totalled Rs.9,572,602,392.
- (d) The tax appeals of which the hearing were not commenced even by 30 June 2018 despite being registered in the years 2016,2017 and 2018 had been 283. It was observed that the relevant tax of contentious nature totalled Rs.27,108,767,237.

3.2 Management Activities

A bank guarantee of Rs.57,033,050 encashed after being determined the tax appeals in 18 instances during the period from 28 February 2012 up to 19 December 2017, had not been remitted to the Commissioner General of Inland Revenue even by 31 December 2017.

4. Accountability and Good Governance

A Procurement Plan had not been prepared for the year under review by the Tax Appeal Commission.

5. 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 areas of control.

Area of Systems and Controls

Observation

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|-----------------------------|--|
| (a) Accounting | Failure in maintaining the books of accounts and registers. |
| (b) Control of Fixed Assets | Failure to maintain the Register of Fixed Assets properly. |
| (c) Operating Control | Failure in remitting the encashed guarantees in a timely manner. |