

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of a Case Stated under Reference No. TAC/IT/011/20113 by the Tax Appeals Commission under Section 170(2) of the Inland Revenue Act No. 10 of 2006 and Section 11A (2) of the Tax Appeals Commission Act No. 23 of 2011 (as amended)

Ceylon Shell Flour Limited.,  
No. 148/1, Kynsey Road,  
Colombo 8.

**Appellant**

**Case No. CA (TAX)21/2014  
TAC Case No. TAC/IT/011/2013**

**Vs.**

The Commissioner General of Inland Revenue  
Department of Inland Revenue,  
Sir Chittampalam A. Gardiner Mawatha,  
Colombo 02.

**Respondent**

**Before:** Janak De Silva J.

N. Bandula Karunarathna J.

**Counsel:**

F.N. Gunawardena with E.D. Wickremanayake for the Appellant

Anusha Fernando DSG for the Respondent

**Written Submissions tendered on:**

Appellant on 01.08.2019

Respondent on 31.07.2019

**Argued On:** 24.09.2019

**Decided on:** 29.05.2020

**Janak De Silva J.**

The Respondent is a private limited liability company incorporated and domiciled in Sri Lanka. Its principal activity is the production of coconut shell flour which is a fine powder manufactured for the export market by grinding the coconut shells using a special machine. The raw material used for this production is the coconut shell which the Respondent purchases from an associate company called S.A. Silva & Sons Pvt. Ltd. dealing in the production of desiccated coconut.

The Respondent filed its return of income for the assessment year 2006/2007 on 03.04.2008. The Assessor by his letter dated 26.03.2011 rejected the return on the basis that coconut shell flour is not a conversion of produce referred to in the provisions of section 16(2) (a) of the Inland Revenue Act No. 10 of 2006 as amended (IRA 2006).

The Respondent appealed against the rejection to the Appellant on the basis that the assessment was issued after three years and hence time barred and additionally that the Assessor failed to communicate the reasons in writing in terms of section 163(3) of the IRA 2006.

A Deputy Commissioner under the authority of the Appellant having heard the appeal confirmed the assessment.

Aggrieved by this decision the Respondent appealed to the Tax Appeals Commission (TAC).

The TAC whilst holding with the Respondent on the question of time bar and proceeding to allow the appeal further held that "coconut shell flour is not an agricultural product".

Both the Appellant and Respondent filed appeals against the said determination of the TAC.

The cross appeal filed by the Respondent is CA (Tax) 20/2014 whilst the Appellant also filed CA (Tax) 03/2016 against the determination of the TAC for the years of assessment 2009/2010 where the TAC held that the assessment is not time barred and that the production of coconut shell flour made out of coconut shells is not an agricultural produce in terms of section 16(2)(b) of the Inland Revenue Act No. 10 of 2006.

On 24.09.2019 when all three matters were taken up, parties agreed that the determination Court gives to the relevant questions in CA (Tax) 20/2014 will be binding on the parties in CA (Tax) 21/2014 and CA (Tax) 03/2016.

Court has delivered its determination in CA (Tax) 20/2014 today. Accordingly, the questions of law raised in this Case Stated are answered as follows:

- (1) Has the TAC correctly interpreted the provisions of section 163 of Act No. 10 of 2006 (as amended) by concluding that the assessment was time barred? **No.**
- (2) Is the principal activity of the Appellant an "agricultural undertaking" in terms of section 16(2)(b) of the Inland Revenue Act No. 10 of 2006? **No.**

For the reasons aforesaid, this Court annuls the assessment determined by the TAC and confirm the Assessment made by the Assessor as confirmed by the Appellant.

The Registrar is directed to send a certified copy of this judgment to the TAC.

Judge of the Court of Appeal

**N. Bandula Karunarathna J.**

I agree.

Judge of the Court of Appeal