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

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In the matter of An Application of a case stated under section 11A of the Tax Appeals Commission Act No. 23 of 2011 as amended by Act No. 20 of 2013.

**THE COMMISSIONER GENERAL  
OF INLAND REVENUE,**

Department of Inland Revenue,  
Inland Revenue Building,  
Sir Chittampalam A. Gardiner  
Mawatha,  
Colombo 2.

**APPELLANT**

**Court of Appeal No.**

**CA (Tax)/12/2024**

Case Stated Tax Appeals

Commission No:

TAC/VAT/037/2021

No.TAC/IT/055/2016

**-Vs-**

**PEOPLE'S BANK,**

No. 75,

Sir Chittampalam A. Gardiner

Mawatha,

Colombo 2.

**RESPONDENT**

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**Before :**           **JUSTICE M.CHAMATH.B.S. MORAIS**  
**JUSTICE ANNALINGAM PREMASHANKER**

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**Counsel:**           **Manohara Jayasinghe, Deputy Solicitor General**  
**with Ishara Madarasinghe, State Counsel for the**  
**APPELLANT**

**Naomal Goonewardena, , Attorney at Law with**  
**Aparna Kulathunga, , Attorney at Law, Akshina**  
**Liyanage, , Attorney at Law for the**  
**RESPONDENT.**

Written Submissions of the Appellant       :- 01.01.2026  
Written Submissions of the Respondent     :- 01.01.2026  
Inquiry on   :- 24.09.2025  
Order on    :- 05.03.2026

**ORDER**

**ANNALINGAM PREMASHANKER, J.**

**INTRODUCTION**

This order is in respect of the Respondent’s application seeking to add questions of law to the case stated. Originally, the Appellant, by the case stated dated 09.01.2024, had submitted three (3) questions of law for the opinion of the Court.

## **APPLICATION OF THE RESPONDENT**

On 15.10.2024, the learned Counsel for the Respondent informs court that they wish to add few more legal questions and the same will be submitted by way of motion. Thereafter on 21.11.2024 a motion dated 21.11.2024 together with original case stated and documents marked X1, X2 and X3 tendered to court.

## **APPELLANT'S QUESTIONS OF LAW**

Three questions of law in the case stated dated 09.01.2024 submitted on behalf of the Appellant are as follows:

1. Whether the Tax Appeals Commission has erred in law when determining that “Reason given by the Commissioner General of Inland Revenue on the deduction of special levy paid to the Government Treasury is incorrect” with due consideration to the section 25 C (1) of the Inland Revenue Act No.10 of 2006?
2. Has the Tax Appeals Commission erred in law in determining that special levy paid by the People's Bank to the Government can be deducted, in arriving at the profits for the purpose of calculating Value Added Tax on Financial Services under the provision of Section 25 C (1) of the Inland Revenue Act No.10 of 2006?

3. In view of the fact and circumstances of the case, did the Tax Appeals Commission err in law when it came to the conclusion that it did?

### **TAC ACT**

Section 11 A (6) of the TAC Act is as follows:

***“Any two or more judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of court upon such questions, confirm, reduce, increase or annul the assessment determined by the commission, or may remit the case to the commission with the opinion of the court, there on. Where a case is so remitted by the court, the commission shall revise the assessment in accordance with the opinion of the court”***

### **ADDITIONAL QUESTIONS OF LAW**

The Respondent referred to a case stated in their motion and in the same there were eleven Questions of Law. Thereafter by the motion dated 21.11.2024 Respondent moves to add six Questions of Law to the case stated submitted on behalf of the appellant. Thereafter in the written submission tendered on 9.12.2025, it is informed that the Respondent is seeking to add the following seven Questions of Law to the Appellant’s case stated :-

- 1. Has the Tax Appeals Commission erred in determining that the Appellant carried on share trading business and dividend income received by the Appellant from investing in shares is a supply of financial services within the meaning of Section 25F of the Value Added Tax Act No.14 of 2002 (as amended)?**
  
- 2. Has the Tax Appeals Commission erred in its Determination by failing to consider that the expense on account of amortization cost of the staff loan was offset by interest income of the corresponding amount in computing the net profit or loss computed in accordance with accounting standards as required under Section 25C (1) of the Value Added Tax Act No.14 of 2002 (as amended)?**
  
- 3. If (ii) above is answered in the affirmative, has the Tax Appeals Commission erred in adding back an amount on account of expense of the amortization cost of the staff loan in computing the total value addition in accordance with accounting standards as required under Section 25C(1) of the Value Added Tax Act No.14 of 2002 (as amended)?**

- 4. Has the Tax Appeals Commission erred in adding a notional figure as an additional imputed interest received on staff loans notwithstanding the Appellant not receiving any such amounts as interest from its staff?**
  
- 5. Without prejudice to (ii) and (iii) and (iv) above, has the Tax Appeals Commission erred in its Determination by failing to consider that the adjustment for emoluments payable under Section 25C (1) of the Value Added Tax Act No.14 of 2002 (as amended) is restricted to the amount reflected in the pay sheet maintained under Section 119 of the Inland Revenue Act No. 10 of 2006 (as amended)?**
  
- 6. Has the Tax Appeals Commission erred in determining that the 'staff retirement benefit' amount has not been overstated by the Respondent and therefore the Determination made by the CGIR is not excessive?**
  
- 7. Has the Tax Appeals Commission erred in determining that the Appellant has failed to submit relevant information with regard to the characterization of the amortization of prepaid lease rentals amounting to Rs.24,136,484/- as depreciation and therefore such add back on account of depreciation is correct?"**

## **PROCEDURE**

As per the above section 11A (6), the Court of Appeal is empowered to hear any questions of law arising on the case stated. There can't be two case stated in one appeal. The case stated has to be submitted on behalf of the Appellant. If Appellant wishes to add more questions of law, the test would be that the answer to the proposed questions of law will confirm, reduce, increase or annul the assessment, then the same proposed questions of law can be added.

**CGIR Vs Janashakthi Insurance Company Ltd | SC Appeal**  
114/2019

## **FIRST APPEAL**

The TAC appeal is numbered as TAC/VAT/037/2021. In that case the People's Bank is the appellant. The CGIR is the Respondent. Determination is dated 31.10.2023. Thereafter, CGIR requested for a case stated by their communication dated 06.12.2023. Accordingly case stated dated 09.01.2024 issued and the same was forwarded to the Court of Appeal. The Court of Appeal having received the case stated has allocated appeal no TAC 012/2024 to the said appeal.

## **SECOND APPEAL**

In the same time the People's Bank by their communication dated 05.12. 2023 sought to issue a case stated. Accordingly a case stated dated 09.01.2024 issued by the commission and the same was

forwarded to the Court of Appeal. Although, People's Bank requested for the case stated but failed to prosecute the appeal as required for reason known to them. The Court of Appeal without allocating an independent appeal number to the said case stated, the same has been filed in the Appeal Tax 012/2024.

### **STAGE OF CONFUSION**

The People's Bank having missed the bus, now attempting to add some of the questions mentioned in the case stated to the case stated of the CGIR. In practice this cannot be done. The appellant, CGIR has its case in the case stated submitted on their behalf. The Respondent, People's Bank has its case in a different line. The said questions of law can't be added to appellant's case stated. Then the character of the parties, contents of the case and the conclusion of the court are at peril - fully confused.

### **INDEPENDANT APPEAL**

The other issue placed by the respondent that the TAC could have consolidated the both case stated. The TAC has no power to consolidate the case stated. If both parties request for a case stated, the same have to be issued and the further duties fall on the parties to prosecute their respective appeals.

### **CONCLUSION**

Therefore in conclusion, the application of the Respondent cannot be allowed as it will cause lot of confusion to the appeal of the

Appellant. **Therefore, this court upheld the objection of the Appellant, rejects the application of the Respondent. The application of the Respondent to add certain questions of law to the case stated of the Appellant, is refused. No cost is ordered.**

**SPECIAL ACTION**

It is noted that the Respondent has forwarded their case stated to the Court of Appeal with the motion dated 21.11.2024, nearly after laps of ten months of the receipt of the same. Section 11A (2) of the Tax Appeal Commissions Act requires a party to transmit the case stated within 14 days after receiving the same. Hence, the case stated of the Respondent is clearly out of time and the court can't act on it. In the said background, the court refuse to accept the delayed case stated of the Respondent.

**On this 5<sup>th</sup> day of March 2026.**

**JUDGE OF THE COURT OF APPEAL**

**M. C. B. S. MORAIS**

I agree.

**JUDGE OF THE COURT OF APPEAL**