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

In the matter of an appeal by way of Stated Case on a question of law for the opinion of the Court of Appeal under and in terms of section 11A of the Tax Appeals Commission Act No.23 of 2011 (as amended).

CA Case No: CA/TAX/26/2018
Tax Appeals Commission No. TAC/IT/035/2015

Union Assurance PLC,
No. 20, St. Michael's Road,
Colombo 03.

Appellant

Vs.

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

Respondent

Before: **M.C.B.S. Morais J.**

&

Annalingam Premashanker J.

Counsel: Dr. Shivaji Felix, PC with Nivantha Satharasinghe and Sajith Nawaratne for the Appellant.

Chaya Sri Nammuni, DSG for the Respondent.

Written Submissions: By the Appellant–on 02.10.2019, 16.10.2025

By the Respondent–on 01.10.2019, 08.07.2022

Argued on: 02.09.2025

Decided On: **19.02.2026**

ORDER

M.C.B.S. Morais J.

This is an application for appeal by way of Stated Case against the determination of the Tax Appeals Commission (hereinafter will be referred as TAC) under section 11A of the Tax Appeals Commission Act No. 23 of 2011 as amended by Act No. 20 of 2013.

The appeal raises a substantial question of law concerning the proper interpretation and applicability of Section 92(1) of the Inland Revenue Act, No. 10 of 2006 (as amended) (hereinafter referred to as the "IRA 2006"). The determination of this Court is therefore confined to the construction of the said statutory provision and its application to the facts as found by the TAC.

It is to be observed at the outset that the IRA 2006 has since been repealed and replaced by the Inland Revenue Act, No. 24 of 2017. However, the mere repeal of an enactment does not extinguish accrued rights, incurred liabilities, or pending proceedings commenced under it, unless the legislature expressly provides otherwise. No such contrary intention appears in the present instance. The issues raised in this appeal therefore remain live and justiciable.

Accordingly, Court's this interpretation of Section 92(1) of the IRA 2006 shall apply to all matters properly instituted and presently pending determination of this court, subject to any determination by the Supreme Court. The legal principles enunciated herein shall therefore govern not only the captioned appeal but also the enumerated cases referred to below, as well as any other pending proceeding before us in which the same question of law arise.

The relevant cases are as follows:

1. TAX-0010-19
2. TAX-0011-19

3. TAX-0032-19
4. TAX-0045-19
5. WRT-0510-19
6. TAX-0016-20
7. TAX-0002-21
8. TAX-0004-21
9. TAX-0011-21
10. TAX-0022-21
11. TAX-0025-21
12. TAX-0026-21
13. TAX-0029-21
14. TAX-0022-22
15. TAX-0013-22
16. TAX-0016-22
17. TAX-0030-22
18. TAX-0041-22
19. TAX-0021-23
20. TAX-0037-23
21. TAX-0044-23
22. TAX-0045-23
23. TAX-0051-23
24. TAX-0052-23
25. TAX-0082-23
26. TAX-0019-24
27. TAX-0055-24
28. TAX-0100-24
29. TAX-0102-24
30. TAX-0158-24
31. TAX-0163-24
32. TAX-0186-24
33. TAX-0218-24

In view of the commonality of the legal issue arising in the aforesaid matters, this Court considers it both convenient and appropriate to render a consolidated determination, the *ratio decidendi* of which shall govern each of the above stated cases.

The principal question of law common to all the said matters is as follows:

Whether, in computing the profits of a company from the business of life insurance under Section 92(1) of the Inland Revenue Act, No.10 of 2006 (as amended), the entirety of the management expenses attributable to the life insurance business is deductible, or whether only those management expenses directly referable to the Life Insurance Fund is deductible.

This question arises in respect of tax payable periods and assessments governed by the IRA 2006.

Section 92(1) of the IRA 2006, which constitutes the operative provision for the purposes of the present determination, provides as follows:

> *"The profits of a company whether mutual or proprietary, from the business of life insurance, shall be the investment income of the Life Insurance Fund, less the management expenses (including commission) attributable to that business."*

The controversy before this Court centers upon the proper construction of the phrase:

"management expenses (including commission) attributable to that business."

More particularly, the dispute concerns whether the Legislature intended:

1. A broad deduction of all management expenses attributable to the overall life insurance business of the company; or

2. A narrower deduction confined only to management expenses directly and exclusively charged to or borne by the Life Insurance Fund.

It is common ground that the assessments in the above matters fall within the temporal operation of the IRA 2006. Accordingly, the resolution of the present question must be undertaken by reference to the statutory framework and legislative intent embodied in Section 92(1) of IRA 2006.

Given the multiplicity of pending cases involving the same interpretative issue, it is imperative that this Court adopt a construction that ensures certainty, uniformity, and consistency in the application of fiscal legislation. A coherent interpretation is essential not only for the parties before this Court, but also for the proper administration of tax law.

Section 92(1) provides that the profits derived by a life insurance company, whether mutual or proprietary from its life insurance operations shall be computed by taking the investment income of the Life Insurance Fund and deducting there from the management expenses (including commissions) attributable to that business.

However, the Commissioner General of Inland Revenue (CGIR) has adopted a restrictive construction of the provision, contending that the deductible management expenses are limited solely to those directly referable to, or borne by, the Life Insurance Fund itself. It is this narrowing of the statutory language that has given rise to the present controversy.

The duty of this Court, in the exercise of its judicial function, is to determine whether such a restrictive interpretation can be sustained upon a proper reading of Section 92(1), or whether the plain language of the statute permits a broader deduction encompassing all management expenses attributable to the life insurance business.

Even though the taxation of Life insurance companies in Sri Lanka is presently regulated by the section 92(1) of IRA 2006, this provision is identical to the corresponding provisions contained in previous income tax statutes in Sri Lanka.

The original position was stated under section 43(1) of the Income Tax Ordinance No. 02 of 1932 as follows,

> "43(1)-*The profits of a company, whether mutual or proprietary, from the business of life insurance shall be the investment income of the life insurance fund less the management expenses (including commission) attributable to that business*"

Subsequently, the above provision was replaced by section 65(1) of the Inland Revenue Act No. 04 of 1963 as follows;

"79(1)- *The profits of a company, whether mutual or Proprietary from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (Including commission) attributable to that business*"

The relevant part of section 79 (1) of the Inland Revenue Act, No. 28 of 1979 (as amended), provides as follows:

"79(1) The profits of a company, whether mutual or proprietary, from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (including commission) attributable to that business:…"

The above section was replaced by section 86(1) of the Inland Revenue Act No.38 of 2000, which reads as follows:

"86(1)The profits of a company, whether mutual or proprietary, from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (including commission) attributable to that business: ….."

Thereafter, the Inland Revenue Act No.10 of 2006 was brought in and the section 92(1) of this Act states:

"92(1)-*The profits of a company whether mutual or proprietary, from the business of life insurance, shall be the investment income of the Life Insurance Fund, less the management expenses (including commission) attributable to that business"*

It is noteworthy that the statutory provisions related to the Ascertainment of profits of insurance companies have remained unchanged since 1932 until the IRA 2006, which is a period of over 80 years.

Thereafter, the bill was passed for the Inland Revenue Act of 2017. The bill proposed few changes to the above provision as mentioned below:

"67(1) *The income of a company whether mutual or proprietary, from the business of life insurance, shall be the investment income of the Life Insurance Fund, less the management expenses.*

(2)*In this section, the term "management expenses" means the following expenditure Exclusively incurred for the administration of the Life Insurance Fund:-*

(a) salaries and other related expenses incurred for the employees, being those who were assigned to the unit established for managing the investment portfolio;

(b) capital allowances in respect of depreciable assets exclusively owned and used by the Life Insurance Fund;

(c) other expenses reasonably attributable to the administration of the Life Insurance Fund such as directors' salaries, rent and other common expenses, excluding commission and similar expenses paid to insurance agents and advertisement expenses."

However, when the actual Act was enacted, the legislature did not make any changes related to this particular section of this proposal in the Bill. Accordingly, the section 67 of the Inland Revenue Act No. 24 of 2017 mentions as follows:

"67(1)*In the case of a person engaged in the business of life insurance, whether mutual or proprietary, the gains and profits from the business on which tax is payable shall be ascertained by taking the aggregate of -*

(a) the surplus distributed to shareholders from the life insurance policy holders fund as certified by the Appointed Actuary functioning within the Regulation of the Insurance Industry Act, No. 43 of 2000; and

(b) the investment income of the shareholder fund less any expenses incurred in the production of such income,

subject to the deductions claimable under section 19 in arriving at the income from the business….."

It is therefore evident that the concept of "management expenses" as contemplated in the Inland Revenue Bill of 2017 was not incorporated into the new Inland Revenue Act, No.24 of 2017. The present issue thus arose when the Department of Inland Revenue undertook assessments for the year 2010/2011, departing from the interpretation consistently applied over a period exceeding eighty years.

Moreover, given the clear and unambiguous wording of Section 92(1) of the IRA 2006, the provision demands a literal construction, leaving no scope for any restrictive or hypothetical interpretation.

N.S. Bindra on *Interpretation of Statue* (13th Edn, 2023, p328) states as follows;

> *"The first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself.* ***If the words used are capable of one construction only, then it would not be open to the courts to adopt any other hypothetical construction*** *on the ground that such hypothetical construction is more consistent with the alleged object and policy of the Act. The legislature must be deemed to have intended what it has said. It is no part of the duty of the court to presume that the legislature meant something other than what it said. If the words of the section are plain and unambiguous, then there is no question of interpretation or construction. The duty of the court then is to implement those provisions with no hesitation…… "*

Moreover, **Maxwell on *Interpretation of Statutes* (6th Edn, 1920, p94.) mentions;**

> *"In a word then it is to be taken as a fundamental principle, standing as it were on the threshold of the whole subject of interpretation, that the plain intention of the Legislature, as expressed by the language employed, is invariably to be accepted and carried into effect, whatever may be the opinion of the judicial interpreter of its wisdom or justice. If the language admits of no doubt or secondary meaning it is to be obeyed."*

The law on this point is set out succinctly in **C.N. Beatie *Elements of the Law of Income and Capital Gains Taxation*** (8th Edn. 1968);

> *"It has frequently been said that, there is no equity in a taxing statute. This means that tax being the creature of statute, liability cannot be implied under any principle of equity but must be found in the express language of some statutory provision. The ordinary canons of construction apply in ascertaining the meaning of a taxing statute: "the only safe rule is to look at the words of the enactments and see what is the intention expressed by these words" If in so construing the statute the language found is to be so ambiguous that it is in doubt whether tax is attracted or not, the doubt must*

*be resolved in favour of the taxpayer, because it is not possible to fall back on any principle of common law or equity to fill a gap in a taxing statute "The subject is not to be taxed unless the words of the taxing statute unambiguously impose the tax upon him.***"**

The phrase "management expenses … attributable to that business" is clear and self-explanatory. The legislature has not qualified or limited the deduction to expenses directly borne by the Life Insurance Fund. The natural reading of the words indicates that all management expenses related to the life insurance business, including overheads and commissions incurred in running the business are deductible. The Department of Inland Revenue's interpretation, which seeks to restrict the deduction to only expenses charged to the Life Insurance Fund, introduces a limitation not found in the statute. The literal rule assumes that the words of the legislature reflect its intent. Section 92(1) has been consistently worded in substantially identical form since the 1932 Income Tax Ordinance, through successive enactments in 1963, 1979, 2000, and 2006. Hence, all management expenses properly attributable to the life insurance business are deductible, not merely those charged directly to the Life Insurance Fund.

Section 92(1) of the IRA 2006 employs the term "Business" on two occasions within the same section. The first instance expressly qualifies it as the "Business of Life Insurance," while the second refers to "that Business." Upon a plain reading of the provision, "that Business" can only be construed as referring exclusively to the "Business of Life Insurance" antecedently defined therein, and to no other business activity.

In Addition, a similar approach has been taken in the case of ***Commissioner General of Inland Revenue V. Lignocell (Pvt) Ltd and another (SC Appeal 145/2023)*** by Her Ladyship Chief Justice Murdu Fernando, where it was clearly held that the taxing provisions must be clear and unambiguous and no presumption will arise in favour of the revenue and the words in the taxing statute have to be interpreted in context.

"Hence, in fiscal Statutes, the first source is the words of the Statute. Where the meaning is manifest on the plain words of the Statute, there is no need for any interpretation process. Where there is an ambiguity or doubt regarding an exemption, only such ambiguity or doubt should be resolved having regard to the context and the language of the words of the Statute. In the appeal before this Court for

determination, the words of the Statute is clear and precise. There is no ambiguity or doubt whatsoever.

In the said circumstances, I see no merit in the submissions of the Appellant, where there is ambiguity or doubt, that it should always be resolved in favour of the revenue and against the assessee. Such a contention would go against the cannons of interpretation.

Further, I am of the view, that a hard and fast rule cannot be laid down in a situation where there is ambiguity or doubt. Every incident should be looked at and resolved, having regard to the words of the Statute and the intention of the Legislature. Thus, a general presumption or a hypothetical assertion, as contented by the Appellant cannot be laid down."

In light of the foregoing authorities, it is manifest that Section 92 (1) of the IRA 2006 employs plain and unambiguous language, admitting of no secondary or hypothetical construction. The Legislature's intent is clearly shown by the words used in the provision, making any further interpretation beyond their plain meaning unnecessary. Accordingly, the provision mandates a strict and literal application, wherein the profits of a life insurance company, whether mutual or proprietary, from its life insurance operations are computed as the investment income of the Life Insurance Fund, less the management expenses (including commissions) properly attributable to that business (The business of Life insurance).

Further, a similar interpretation has also been given to the section 92(1) of the IRA 2006, in the case of **S*ri Lanka Insurance Corporation Limited V. Commissioner General of Inland Revenue, CA No 4/ 98 (Tax)***, decided on 24 June 2010.

"The Board of Review relying upon the decision of Sun Life Assurance Co Vs Davidson (37 TC 330) held that the management expenses (which constitutes a permissible deduction when computing profits for the business of life insurance) was not coterminous with section 23 and 24 of the Inland Revenue Act. The Board of Review further held that expenses incurred in respect of advertising and entertainment could properly be held as management expenses in terms of section 79 of the Inland Revenue Act."

It is evident that advertising and entertainment expenses cannot be classified as costs attributable to the management of the Life Insurance Fund's investments, but rather constitutes general management expenses of the life insurance business as a whole. Thus, the

interpretive approach under Section 79 of the Inland Revenue Act No. 28 of 1979 (as amended) which permitted such deductions equally applies to Section 92(1) of the IRA 2006, given the identical wording of the provisions.

Thereby, it is evident that the section 92(1) of the IRA 2006 constitute reference to management expenses related to life insurance business and not the management expense related to the life Insurance fund.

The Case WRT-510-19 is an application made under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka, seeking reliefs by way of Writ of Prohibition, Mandamus and Certiorari against the CGIR and their officers, the substantive question of law in relation to the case concerns the interpretation and applicability of section 92(1) of the IRA 2006. However, since the question of law in relation to section 92(1) of IRA 2006 is decided in the above manner, this court does not find any necessity to issue writs as prayed for in the petition.

Upon review of all materials submitted to this court, I hold that Section 92(1) of the Inland Revenue Act No. 10 of 2006 must be construed literally, such that the profits of a life insurance company whether mutual or proprietary arising from its life insurance business shall be calculated as the investment income of the Life Insurance Fund, deducting the management expenses (including commissions) of the business of life insurance. Therefore, the possible equation that can be adopted in calculating the Taxable Income on Life Insurance shall be in the following manner;

Taxable Income to the profits of the business of life insurance received shall be equal to investment income of life Insurance Fund, less the management expenses attributable to the business of Life Insurance.

P – Profits of the Business of Life Insurance.
I - Investment Income of Life Insurance Fund.
E – Management expenses of Business of Life Insurance.

$$P = I - E$$

For the foregoing reasons, I conclude that this is the determination of this court pertaining to the relevant question of law. The Registrar is directed to send a copy of this order to the Tax Appeals Commission.

Judge of the Court of Appeal

Annalingam Premashanker J.

I agree

Judge of the Court of Appeal