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

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

CA Case No: CA/TAX/116/2023
Tax Appeals Commission Appeal No. TAC/IT/149/2018

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

Appellant

Vs.

Agro Micro Finance Ltd,
No. 202/1,
Stanley Thilakarathne Mawatha,
Nugegoda.

Respondent

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

&

Annalingam Premashanker J.

Counsel: N. Kahawita, SSC for the Appellant.

Hansika Lokusatuhewa with Rakitha Jayathunga, instructed by Rasika Wellappili for the Respondent.

Written Submissions: By the Appellant – on 10.06.2026, 21.01.2025

By the Respondent – on 29.04.2026, 15.01.2025

Argued on: 10.03.2026

Decided On: **25.08.2026**

JUDGMENT

M.C.B.S. Morais J.

This is an appeal by way of case stated against the determination of the Tax Appeals Commission (TAC) dated 5th of July 2023, in the case of TAC/IT/149/2018.

This appeal is filed under Section 11A(1) of the Tax Appeals Commission Act No. 23 of 2011 (as amended).

The tax in dispute is against the assessment made for the taxable period 2013/2014 (29th of November 2013 to 1st of November 2014) and the taxable amount in dispute is Rs. 1,586,875.00 with a penalty of Rs. 793,437.00.

FACTUAL BACKGROUND

The Agro Micro Finance (Guarantee) Limited (hereinafter will be referred to as the Respondent) is a limited liability company incorporated and domiciled in Sri Lanka. The principle activity of the company is carrying out disbursement of loans to income generating projects.

The Respondent has submitted the return for the taxable period 2013/2014 which was rejected by the Senior Deputy Commissioner of the Department of Inland Revenue by the intimation letter dated 24th of May 2016.

Accordingly, the Assessor has issued the Notice of Assessment dated 30th of May 2016 for the reasons set out in the intimation letter.

The Respondent being aggrieved by the decision of the Assessor, made an appeal to the Commissioner General of Inland Revenue (hereinafter will be referred to as the Appellant). The Appellant in his determination dated 28th of June 2018 determined the appeal by adjusting the assessment issued by the Assessor, by adding the bad debt provision to the adjusted profits. The Respondent being dissatisfied with the said determination of the Appellant, made an appeal to the Tax Appeals Commission (TAC) on the basis that the assessment issued by the Senior Deputy Commissioner of the Department of Inland Revenue is time barred. The TAC after considering the submissions made by both parties allowed the appeal by the determination dated 5th of July 2023.

Being dissatisfied with the said determination, the Appellant has requested the TAC to cause a Case Stated to the Court of Appeal on the following Questions of Law.

I. " Has the Tax Appeals Commission erred in law in determining that the Assessment is time barred?

II. *Whether the Tax Appeals Commission has erred in law when determining that the procedure adopted by the Senior Deputy Commissioner and the Commissioner who heard the appeal was not valid when issuing an Assessment by alternating, adjusting and readjusting the figures relevant to the previous Year of Assessment?"*

The Question of law No. I raised by the Appellant is in relation to the time limitation in issuing an assessment under the Inland Revenue Act No. 10 of 2006 as amended (IRA 2006). Since this matter goes to the root of the case, I shall initially address this question first. If it is answered in the Negative, little purpose is served in addressing the other question raised by the Appellant.

ANALYSIS

It is the contention of the Appellant that the assessment for the taxable year 2013/2014 was made by the Respondent on 26th of November 2014 and it was rejected by the Senior Deputy Commissioner of the Department of Inland Revenue, and the reasons for the said rejection was communicated to the Respondent by the intimation letter dated 24th of May 2016. Accordingly, the Notice of assessment dated 30th of May 2016 was issued to the Respondent. Therefore, it is the Appellant's position that the Assessment issued by the Assessor is not time barred under section 163(5) of the IRA 2006.

However, the Respondent contends that according to the time limitation stipulated for the issuance of an assessment by the Assessor under section 163(5) of IRA 2006, the Assessor is required to issue the assessment within eighteen months from 30th of November 2014. Therefore, it is the Respondent's position that the Assessor is required to issue the assessment on or before 30th of May 2016.

On this basis the Respondent argues that, even though the said intimation letter and the Notice of assessment is dated prior to the date of 30th of May 2016, the documents were received by the Respondent on 2nd of June 2016. Accordingly, the Respondent contends that the assessment is issued by the Assessor well after the eighteen months of limitation time required by law.

The section 163(5) of the IRA 2006, which deals with the time limitation for the assessment issued by the Assessor, reads in the following manner;

> *"(5) Subject to the provisions of section 72, no assessment of the income tax payable under this Act by any person or partnership –*
>
> > *(a) who or which has made a return of his or its income on or before the thirtieth day of November of the year of assessment immediately succeeding that year of assessment,*
> >
> > > *(i) where such year of assessment is any year of assessment commencing prior to April 1, 2013, shall be made after the expiry of a period of two years from the thirtieth day of November of the immediately succeeding year of assessment; and*
> > >
> > > ***(ii) where such year of assessment is any year of assessment commencing on or after April 1, 2013, <u>shall be made after the expiry of a period of eighteen months</u> from the thirtieth day of November of the immediately succeeding year of assessment:"***

According to section 163(5) of the IRA 2006, for an assessment commencing on or after 1st of April 2013, it should be made within the expiry of eighteen months from the thirtieth day of November of the immediately succeeding year of assessment.

Therefore, since the assessment in question is related to the taxable period 2013/2014, the assessor is required to issue the assessment within eighteen months from the 30th of November 2014.

In considering the time limits mentioned above, the Assessor is required by law to furnish the intimation letter and the Notice of Assessment on or before 30th of May 2016. However, when considering the materials presented before this court, the stamp in the intimation letter and the Notice of assessment indicates that the Respondent has received the said documents only on 2nd of June 2016, which is well after the eighteen months time period required by law.

Furthermore, according to section 163(3) of the IRA 2006, when an assessment is made by the tax payer, the Assessor is required to accept the return or if he wishes to reject the said return, the Assessor is required to estimate the assessable income of such person by assessing him, provided that the reasons for rejecting such return is communicated to the tax payer in due course. Having complied with the said procedure, the law also requires a Notice of assessment to be issued to the tax payer subsequently, with regard to the quantum of such tax amounts and the calculation.

This can be seen under section 163(3) and section 164 of the IRA 2006. I have reproduced the specific sections below for reference;

> *"163.*
> *(3) Where a person has furnished a return of income, the Assessor or Assistant Commissioner may in making an assessment on such person under subsection (1) or under subsection (2), either–*
>
> > *(a) accept the return made by such person; or*
> > *(b) if he does not accept the return made by that person, estimate the amount of the assessable income of such person and assess him accordingly:*
>
> *Provided that where an Assessor or Assistant Commissioner does not accept a return made by any person for any year of assessment and makes an assessment or additional assessment on such person for that year of assessment, he shall communicate to such person in writing his reasons for not accepting the return.*
>
> ...

164.

> *An Assessor or Assistant Commissioner shall give notice of assessment to each person and each partnership who or which has been assessed, stating the amount of income assessed and the amount of tax charged:"*

According to the proviso of the above provisions, it is clear under section 163(3) that the estimation of the taxpayer's assessable income is made in consequence of the rejection of the taxpayer's self-assessment. Therefore, the reasons for rejecting the self-assessment is directly relevant to the estimation made by the Assessor.

Further, section 163(3) of IRA 2006 needs to be read in line with the proviso, it does not require the Assessor to communicate the estimated taxable income to the taxpayer. Instead, the provision specifically requires the Assessor to communicate the reasons for rejecting the taxpayer's self-assessment. The requirement to communicate the amount of income assessed and the amount of tax charged arises under section 164, which requires the Assessor to do so by way of a Notice of Assessment.

Accordingly, it is clear that the primary purpose of section 163(3), in this context, is to ensure that the taxpayer is informed of the reasons for the rejection of the self-assessment by way of an intimation letter. The communication of the actual amount of income assessed and the tax charged is dealt with separately under section 164 of the IRA 2006.

Furthermore, it is well established that the assessment process comprises both the issuance of the intimation letter, setting out the reasons for rejecting the taxpayer's self-assessment, and the subsequent issuance of the Notice of Assessment. These steps should not be viewed in isolation, but rather as integral components of the statutory assessment process.

The underlying principle is that the decisions of the Assessor must be duly and properly communicated to the taxpayer within the prescribed statutory framework. Such communication enables the taxpayer to understand the basis upon which the assessment has been made and, where appropriate, to exercise the statutory rights available under the law.

The above position has been established in the latest Supreme Court Judgment in the case of ***Fonterra Brands Lanka (Private) Limited V. The Commissioner General of Inland Revenue***, SC Appeal 187/2014, decided on 26th September 2025, His Lordship Thurairaja PC, J. having considered the dicta in ***D.M.S. Fernando and Another V. Mohideen Ismail,*** held that an assessment is not confined to the internal act of making the assessment by the Assessor. His Lordship held that the process of assessment include the communication of the reasons for rejection of the assessment by the letter of intimation and the subsequent issuance of the Notice of Assessment containing the computation of the tax payable.

> *"42. In D.M.S. Fernando and Another v. Mohideen Ismail, the majority opinion of the five-judge bench, led by Samarakoon, C.J., makes it clear that the notice of assessment, including the mandatory reasons, must be communicated to the taxpayer within the statutory deadline for the assessment to be valid. The internal act of preparing an assessment alone is insufficient to satisfy the legal requirement.*
>
> …
>
> *43. It may be noted that when the learned Chief Justice said, "[h]is reasons must be communicated at or about the time he sends his assessment on an estimated income", His Lordship referred to the "sending of the notice of assessment", since the internal assessment document, which remains in the possession of the Assessor, is only an "estimate" and is not sent to the taxpayer. Thus, the act of sending the notice of assessment, with the reasons, is what completes the legal process.*
>
> *45. This passage highlights two critical principles. First, the giving of reasons is not a mere procedural formality; it is a substantive requirement ensuring that the assessment reflects a genuine, considered decision by the Assessor. Second, the timing of the communication is essential; reasons must accompany the notice of assessment at the*

> *moment the assessment is sent; failing which, the remedial purpose of the legislation is defeated.*
>
> …
>
> *Therefore, I am of the view that* ***the act of assessment is only complete when the taxpayer is both assessed and required to pay.*** *To import the reasoning of Honig into the Sri Lankan context would therefore be to disregard the words and structure of our own legislation. "*

In the above case, His Lordship has considered that the communication of the reasons for the rejection and the quantum of the amount taxed are integral parts of the assessment itself. Accordingly, it can be established that for an assessment to be valid, the intimation letter as well as the Notice of assessment need to be communicated to the tax payer within the time period prescribed by law.

Therefore, I am of the view that the letter of intimation dated 24th of May 2016 and the Notice of Assessment dated 30th of May 2016 issued by the Assessor is time barred under section 163(5) of the IRA 2016, on the basis that that the Assessor has failed to communicated to the tax payer within the eighteen months of time as required by the law.

Therefore, I answer the Question of law No. I in the Negative.

In view of the conclusion reached in respect of Question of Law No. I, this Court hold that the TAC has not erred in law in determining that the assessment issued by the Assessor is time barred. Therefore, the determination of the TAC dated 5th of July 2023 shall sustain.

In light of the foregoing, the remaining Question of law raised by the Appellant will not arise and need not be answered.

CONCLUSION

When considering the facts and the circumstances of the case, in line with the materials presented before this court, I am of the considered view that the questions of law formulated by the Appellant should be answered as set out below.

Question of law I – Negative

Question of law II – Need not be addressed

The determination of the TAC dated 5th of July 2023 shall sustain, and the assessment dated 30th of May 2016 issued by the Assessor of the Department of Inland Revenue is null and void.

The appeal is dismissed.

Judge of the Court of Appeal

Annalingam Premashanker J.

I agree

Judge of the Court of Appeal