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/130/2023
Tax Appeals Commission No. TAC/IT/015/2020

CA Case No: CA/TAX/131/2023
Tax Appeals Commission No. TAC/IT/033/2019

San Piling (Pvt) Ltd,
No.295, Madampitiya Road,
Colombo 14.

Appellant

Vs.

Commissioner General of Inland Revenue,
14th Floor, Secretarial Branch,
Department of Inland Revenue,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

Respondent

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

&

Annalingam Premashanker J.

Counsel:	Hiran Jayasuriya with Maithrika Kurukulasuriya and Ashen De Silva instructed by U.N.S. Perera for the Appellant.
	Sehan Soyza, SSC for the Respondent.

Written Submissions:

CA/TAX/130/2023	By the Appellant – on 23.10.2024, 29.04.2026
	By the Respondent – on 01.11.2024, 27.04.2026
CA/TAX/131/2023	By the Appellant - 23.10.2024, 29.04.2026
	By the Respondent - 04.11.2024

Argued on: 05.03.2026

Decided On: **16.07.2026**

JUDGMENT

M.C.B.S. Morais J.

As reflected in the journal entry dated 5th of March 2026, the parties has agreed to abide by the arguments and submissions made in **CA/TAX/130/2023** for the purpose of **CA/TAX/131/2023** as well, which involve the same parties and raise substantially identical issues of law. Therefore, both the cases shall be disposed of by way of a common judgment.

Accordingly, this judgment is delivered in respect of both appeals.

CA/TAX/130/2023

This is an appeal by way of Petition of appeal dated 20th of December 2023 against the determination of the Tax Appeals Commission dated 17th of October 2023. This appeal is filed under Section 11A 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 2015/2016 and the taxable amount in issue is Rs. 4,358,721.00 with a penalty of 1,513,881.00.

FACTUAL BACKGROUND

The San Piling (Pvt) Ltd (hereinafter will be referred to as the Appellant) is a GP-B1 graded Construction Company registered under the Construction Industry Development Authority of Sri Lanka and is practicing as a civil engineering contractor with a specialization for substructure building constructions (building foundation construction), piling construction, diaphragm wall construction, retaining walls and piers construction…etc.

The Appellant has submitted the tax return for the taxable period 2015/2016, which was rejected by the Deputy Commissioner of the Large Corporate Entities Audit Unit – 2 of Inland Revenue Department by the letter dated 28th of May 2018. The Appellant 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 Respondent). The Respondent in his determination dated 21st of May 2020 determined the appeal by upholding the assessment issued by the Deputy Commissioner. The Appellant being dissatisfied with the said determination of the Respondent, made an appeal to the Tax Appeals Commission (TAC). The TAC after considering the submissions made by both parties, dismissed the appeal by the determination dated 17th of October 2023 and confirmed the determination made by the Respondent.

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. *" Is the determination of the Tax Appeals Commission against the weight of the evidence?*

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

III. *Did the Tax Appeal Commission err in law in failing to conclude that the Appellant Company was qualified and/or entitled to receive the concessionary tax rate?*

IV. *Did the Tax Appeals Commission err in law in failing to arrive at the conclusion that the Appellant Company was engaged in works that fell within the ambit of 'construction of a building for the purposes of Section 46 of the Inland Revenue Act, read together with Section 45 (2) (c) of the said Act?*

V. *In any event, based on the settlement reached between the Appellant company and the Inland Revenue Department dated 15.02. 2022 and/or the specific terms and/or matters set out therein, has the Tax Appeals Commission erred in law in failing to conclude that Inland Revenue Department is estopped in law from asserting that the Appellant Company is not entitled to claim the concessionary tax rate?"*

CA/TAX/131/2023

This is an appeal by way of Petition of appeal dated 20th of December 2023 against the determination of the Tax Appeals Commission (TAC) dated 12th of September 2023. This appeal is filed under Section 11A 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 2014/2015 and the taxable amount in issue is Rs. 10,416,680.00 with a penalty of 3,750,005.00.

FACTUAL BACKGROUND

The Appellant has submitted the tax return for the taxable period2014/2015, which was rejected by the Assessor and the Notice of Assessment dated 3rd of March 2017 was issued. The Appellant being aggrieved by the decision of the Assessor, made an appeal to the Respondent. The Respondent in his determination dated 5th of March 2019 determined the appeal by upholding the assessment issued by the Deputy Commissioner. The Appellant being dissatisfied with the said determination of the Respondent, made an appeal to the Tax Appeals Commission (TAC). The TAC after considering the submissions made by both parties, dismissed the appeal by the determination dated 12th of September 2023 and confirmed the determination made by the Respondent.

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III. *Did the Tax Appeal Commission err in law in failing to conclude that the Appellant Company was qualified and/ or entitled to receive the concessionary tax rate?*

IV. *Did the Tax Appeals Commission err in law in failing to arrive at the conclusion that the Appellant Company was engaged in works that fell within the ambit of 'construction of a* *building for the purposes of Section 46 of the Inland Revenue Act, read together with Section 45 (2) (c) of the said Act?*

V. *In any event, based on the settlement reached between the Appellant company and the Inland Revenue Department dated 15.02. 2022 and/or the specific terms and/or matters set out therein, has the Tax Appeals Commission erred in law in failing to conclude that Inland Revenue Department is estopped in law from asserting that the Appellant Company is not entitled to claim the concessionary tax rate?"*

The Appellant has raised the above similar questions of law before this Court in both the cases, and the substantive issue in both these cases are common and concerns the concessions available under section 46 of the Inland Revenue Act No. 10 of 2006 ("IRA 2006"). Accordingly, I shall analyse the said questions of law by first addressing the legal principles governing the concessions under section 46 of the IRA 2006. Thereafter, I shall address the question of law I separately.

ANALYSIS

The substantive issue arising in these appeals is whether the Tax Appeals Commission erred in law in failing to appreciate that an undertaking involving piling works falls within the meaning of an "undertaking for construction work" under section 46 of the IRA 2006. Such piling works include the installation of foundation piles as part of the construction of buildings and other structures. A further question is whether an undertaking of that nature, carried out pursuant to a subcontract relating to a principal construction contract, qualifies for the concessions provided under the Fifth Schedule to the Act.

The Appellant contends that the Act does not distinguish between a main contractor and a subcontractor in defining an undertaking for construction work. The Appellant argued that even the services of a sub-contractor is not excluded from the definition in Section 45 (2) (c) of the IRA 2006, and therefore, a sub-contractor who engages exclusively in piling work forms an integral part of the construction process and therefore is entitled for the concessionary tax rate of 12% on its part of profits.

It is the Appellant's contention that the construction work undertaken by the Appellant falls within the scope of section 46 of the IRA 2006, as amended by the Inland Revenue (Amendment) Act, No. 22 of 2011. Accordingly, the Appellant submits that it is entitled to the concessions provided under section 46(1)(c), read together with section 45(2)(c), of the IRA 2006.

For the sake of clarity, I shall reproduce section 45 and 46 below for reference.

Section 46 of the IRA 2006, which prescribes the rate of income tax applicable to profits derived from certain undertakings carried on by a company, provides as follows:

> *"1) Where the taxable income of any company for any year of assessment includes any profits and income within the meaning of paragraph (a) of section 3 from any–*
>
> *(a) agricultural undertaking;*
>
> *(aa) undertaking for the manufacture of animal feed;*
>
> *(b) undertaking for the promotion of tourism;*
>
> *(c) undertaking for construction work; or*
>
> *(d) undertaking for manufacture of sugar,*
>
> *such part of such taxable income as consists of such profits and income shall, notwithstanding anything to the contrary in other provisions, but subject to the provisions of section 16 of this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act. "*

The above provision specifies that if a company's taxable income for a particular year includes profits from certain specified business activities such as; an agricultural undertaking, the manufacture of animal feed, the promotion of tourism, construction work, or the manufacture of sugar. These profits are taxed at a special income tax rate under the Fifth Schedule to the IRA 2006, instead of the normal corporate tax rate.

Section 45 of IRA 2006 which deals with the rates of income tax on profits from certain undertakings carried on by a person other than a company reads as follows;

> *"(1) Where the taxable income of any person other than a company for any year of assessment includes any profits and income within the meaning of paragraph (a) of section 3 from any–*
>
> *(a) agricultural undertaking;*
>
> *(aa) undertaking for the manufacture of animal feed;*
>
> *(b) undertaking for the promotion of tourism ;*
>
> *(c) undertaking for construction work ; or*
>
> *(d) undertaking for the manufacture of sugar,*
>
> *hereinafter in this section referred to as "specified profits", such specified profits shall, subject to the other provisions of this Act, be chargeable with tax at the appropriate rate specified in the Fifth Schedule to this Act.*
>
> *………………………….*
>
> ***(c) "undertaking for construction work" means** an undertaking carried on by a resident person for the construction of any–*
>
> ***(i) building;***
>
> *(ii) roads or bridges;*
>
> *(iii) water supply, drainage or sewerage system; or*
>
> *(iv) harbour, airport or any infrastructure project in telecommunication or electricity; "*

Subsection (2)(c) of the section 45 of the IRA 2006 defines the key terms used in subsection (1) to determine which profits qualify for the special tax rates. The subsection defines an "undertaking for construction work" as a business carried on by a resident person that undertakes the construction of buildings, roads, bridges, water supply, drainage or sewerage systems, harbours, airports, or infrastructure projects in the telecommunications or electricity sectors.

Although the Appellant contends that section 46 should be read together with section 45(2)(c) of the Inland Revenue Act, No. 10 of 2006, it must be noted that section 45 applies to the rates of income tax on profits derived by a person other than a company. Moreover, the definition in section 45(2)(c) is expressly made applicable only for the purposes of section 45(1). However, in the present case the Appellant is a company, and therefore section 45 does not directly apply to the present case.

Nevertheless, the definition contained in section 45(2)(c) is useful in understanding the meaning of the expression "undertaking for construction work". Since the same expression is used in section 46, the definition provides guidance as to what the Legislature has intended by that expression. Accordingly, although section 45 is not directly applicable, the definition can be taken into consideration as an aid in interpreting section 46 of IRA 2006.

It is the Appellant's contention that the expression "undertaking for construction work" includes the business of any resident person engaged in the construction of buildings, among other activities. Accordingly, the Appellant submits that, as it carries on the business of constructing buildings, it falls within the scope of the said definition and is therefore entitled to the concessionary rate of income tax prescribed in the Fifth Schedule of the IRA 2006.

The item 10 of the Fifth schedule to the IRA 2006, reads as follows;

> *"10. The rate of income tax on profits from and undertaking carried on by a company,*
>
> *(a) engaged in agriculture, promotion of tourism or construction work as defined in section 46 or section 217, being profits for any year of assessment commencing prior to April 1, 2011;* — *15 per centum*
>
> ***(b) engaged in agriculture, manufacture of animal feed, promotion of tourism, or construction work as defined in section 46 or section 217, being profits for any year of assessment commencing on or after April 1, 2011. (Section 46) "*** — ***12 per centum***

According to Section 46, read together with the Fifth Schedule to the IRA 2006, provides for a concessionary income tax rate of 15% on the profits derived from certain specified undertakings carried on by a company. For years of assessment commencing prior to 1st of April 2011, the concessions applied to companies engaged in agriculture, the promotion of tourism, or construction work as defined in sections 46 or section 217 of IRA 2006 .

Following the amendment introduced by the Inland Revenue (Amendment) Act, No. 22 of 2011, the concessions continued to apply for years of assessment commencing on or after 1st of April 2011, with the additional inclusion of companies engaged in the manufacture of animal feed. Accordingly, a company is entitled to the concessionary rate of 12% only if the profits are derived from a qualifying undertaking that falls within the statutory definitions prescribed by the Act.

The Assessor in the letter dated 28th of May 2018, has rejected the income tax return of the Appellant for the Following reasons;

> *"I wish to inform you that Return of income submitted for Year of Assessment 2015/16 has not been accepted due to following reasons.*
>
> *The principal activity of the SPPL during the year, to carry out the businesses of the contract for, execute, perform piling or pile driving in the land. SPPL applied the Income Tax rate at 12% under Section 45(c) of the Inland Revenue Act No 10 of 2006.*
>
> *Section 45(c) of the Inland Revenue Act No 10 of 2006 defines the meaning of "Business undertaking of construction". Section 45(c) reads as;*
>
> *"Undertaking for construction work" means an undertaking carried on by a resident person for the construction of any-*
>
> *(1) Building;*
>
> *(ii) Roads or bridges;*

(iii) Water supply, drainage or sewerage system; or

(iv) Harbor, airport or any infrastructure project in telecommunication or electricity

The activities carried out by SPPL is piling works; not covered by Section 45(c) of the Inland Revenue Act No 10 of 2006. Therefore tax rate applicable for the above period is standard rate of 28%."

The Respondent takes the position that the provisions of the Inland Revenue Act must be interpreted in accordance with the definitions and scheme of the Act itself. In support of this position, the Respondent explains that piling is a form of ground treatment involving the installation of piles below ground level to provide foundational support for structures. It is further stated that piling may involve various types of piles, including sheet piles, concrete piles, timber piles, steel piles, and bored piles.

The Respondent contends that the Appellant is engaged solely in piling works and provides such services to the main contractor. Accordingly, the Respondent submits that piling, by itself, does not constitute an "undertaking for construction work" within the meaning of section 46 of the Inland Revenue Act. The Respondent further argues that piling constitutes only one aspect of the overall construction process and does not, in itself, amount to the construction of a building.

In the present case, the principal issue before this court is whether the activities carried out by the Appellant constitutes an "undertaking for construction work" within the meaning of section 46 of the Inland Revenue Act, thereby rendering the Appellant eligible for the concessionary rate of tax prescribed under the Fifth Schedule.

In upholding the Respondent's position, the TAC has stated the following in its determination dated 17th of October 2023:

"The Appellant's argument is that the said Section 46 of the IRA provides concession to all the undertakings for the construction of any building and not limited only to an

undertaking which does the physical construction. But such argument cannot be accepted as the section does not speak of all the undertakings for the construction. It speaks only of "undertaking for construction work" which means an undertaking carried on by a resident person for the construction of any building."

If the legislature intended to include 'piling' under the meaning of 'construction' it could have stated that construction includes piling.

The meaning of 'construction' in the Oxford dictionary gives as 'the process or method of building or making something, especially roads, buildings, bridges' and 'piling' as 'heavy stakes or posts installed to support the foundations of a superstructure: wooden piling supporting a complex of waterfront buildings."

Therefore, it is clear 'construction' and 'piling' have completely two different meanings and 'piling' cannot be included or substituted to 'construction,' thus, the concessionary rate referred to in the 5th Schedule for the purpose of Section 46, read with section 45 (2), is not applicable to the Appellant and applicable tax rate is 28%.

The Appellant also argues that the Construction Industry Development Act No.33 of 2014 has defined the term "construction work" to cover the term 'piling' as well. However, the Commission observes that the IRA has given a clear definition of the term "undertaking for construction work" and therefore, any other definition given in another statute cannot be considered for the purposes of the IRA.

Accordingly, this Commission is of the view that the Respondent has not made any error in deciding that the Appellant is not entitled for the concessionary rate referred to in the 5th Schedule, for the purpose of Section 46, read with section-45 (2) and it is correct to decide that the applicable tax rate is 28%. After carefully considering all the submissions made available and authorities cited by both parties in this regard, the Commission accepts the reasons submitted by the Respondent in making his determination as correct and dismisses the appeal."

In considering the approach adopted by the TAC, the Commission has recognized that the central question was whether the Appellant's activities fell within the statutory concept of an "undertaking for construction work", namely, an undertaking carried on by a resident person for the construction of any building. However, having adopted that interpretation, the Commission proceeded to conclude that the Legislature had not intended to include piling within the scope of construction work, as piling was not expressly referred to in the provision.

In my view, such a conclusion is inconsistent with the very intention and the definition expressed by the legislature. The statutory definition places emphasis on the construction of a building and not on the enumeration of each individual activity that may be undertaken in the course of such construction. Piling, being the installation of foundation piles necessary for the erection of a building or other structure, constitutes an integral component of the construction process. It would therefore be artificial and unreasonable to exclude piling from the ambit of construction work merely because the Legislature had not specifically identified it as a separate activity within the provision.

Furthermore, it must be observed that where a statute provides an express definition of a particular term, there is no necessity to depart from the statutory language by relying on external sources of interpretation. In the present case, section 45(2)(c), read together with section 46 of the IRA 2006, provides the meaning of an "undertaking for construction work". Accordingly, the interpretation of the said expression must primarily be guided by the language and scope of the definition contained within the Act itself.

The phrase "undertaking for construction work" is defined in section 45(2)(c) of the Act as an undertaking carried on for the construction of any building, road or bridge, water supply, drainage or sewerage system, harbour, airport, or any infrastructure project in telecommunications or electricity.

Having regard to the facts and circumstances of the present case, it is apparent that the Appellant is engaged in piling works as a subcontractor in relation to building construction projects. The

Appellant contends that the construction of a building is a multifaceted process involving the collective efforts of various professionals and contractors, and that piling forms an integral part of the construction process. The Appellant further states that the construction of a building necessarily involves various stages, including foundational works, without which the construction of the building cannot be completed.

Upon consideration of the definition provided under section 45(2)(c), it is apparant that the term "undertaking for construction work" includes the construction of buildings. Moreover, construction of a building is not confined only to the final stage of assembling the physical structure but extends to the essential activities undertaken as part of the construction process. In this context, it can be reasonably construed that piling works constitute a fundamental stage in the construction of a building by providing the necessary foundation upon which the structure is established.

In the case of ***Illukkumbura Industrial Automation (Private) Limited V. Commissioner General of Inland Revenue*** **CA/Tax/0005/2016 decided, on 29.09.2022** His Lordship M. Sampath K. B. Wijeratne J. has held the following in interpreting section 45 read together with section 46 of the IRA Act.

> *" **It is true that the definition 'undertaking for construction work' has an extensive meaning and the construction of a building is a multitasking process which involves collective effort of different groups. Yet, the exemption under the IR Act is granted for the profits and income of the company's 'undertaking for construction work'. <u>The term 'undertaking for construction work' is defined to include the construction of any building.</u>** Admittedly, the undertaking for the construction of the building is not carried on by the Appellant. The Appellant only carries out the electrical installation work of the said building for and on behalf of the person who construct the building. **Upon a careful consideration of Section 45 of the IR Act, it is my considered view that the <u>intention of the Legislature is to give the benefit to the person who construct the building</u> and not to any other person who does any work relating to the construction of the building, on behalf of the builder.** If such a wide interpretation is given to Section 45 of the IR Act,*

other than the person who construct a road or a bridge, persons who supply rubble, sand etc. will also get the benefit of the exemption. "

Accordingly, when considering the facts of the case as a whole, I find it is reasonable to conclude that the activities carried out by the Appellant form part of the construction process and falls within the scope of an "undertaking for construction work" contemplated under section 46 of the IRA 2006.

This view is also supported and consistent with the contents of the agreement subsequently entered between the parties, as evidenced in the letter dated 15th of February 2022, issued by the Respondent to the TAC.

Having reached the above conclusion, the next issue for consideration is whether the Appellant is entitled to the concessionary rate provided under the Fifth Schedule to the IRA 2006. Section 46, read together with Item No. 10 of the Fifth Schedule of IRA 2006 grants a concessionary rate of tax on the profits derived from qualifying undertakings, including an undertaking for construction work.

According to Section 46(1) of the IRA 2006, where the taxable income of a company includes profits and income derived from any of the undertakings specified therein, including an undertaking for construction work under section 46(1)(c). The profits and income shall, notwithstanding anything to the contrary contained elsewhere in the Act and subject to section 16, be chargeable with income tax at the appropriate rate prescribed in the Fifth Schedule. Accordingly, once it is established that an undertaking falls within one of the categories enumerated in section 46(1), the profits and income attributable to that undertaking become liable to be taxed at the concessionary rate specified in the Fifth Schedule.

According to the above analysis, this Court is of the view that the construction work undertaken by the Appellant falls within the scope of section 46(1)(c) of the IRA 2006. Thereby, the profits and income derived from that undertaking are chargeable with income tax at the concessionary rate prescribed in the Fifth Schedule to the IRA 2006.

From the above analysis, it is my considered view that the Appellant's piling activities constitute an undertaking for construction work within the meaning of section 46, of the IRA 2006. Therefore, the Appellant is entitled to the concessionary rate of tax provided under the Fifth Schedule to the Act.

Consequently, I hold that the Tax Appeals Commission erred in law in determining that the Appellant's undertaking did not fall within the scope of section 46 of the Inland Revenue Act. Therefore, I answer the questions of Law No. II, III, IV, and V in the Affirmative.

<u>Question of Law I</u>

I. Is the determination of the Tax Appeals Commission against the weight of the evidence?

When considering the materials before this court it is evident that the issue relating to the Appellant's claim for the concessionary rate of tax has been the subject of discussion between the parties for a considerable period of time. In this regard, the Appellant has relied upon the letter dated 15th of February 2022, submitted by the Inland Revenue Department to the Tax Appeals Commission, concerning the settlement reached between the Appellant and the Respondent Department. The said letter expressly indicates that the Appellant is entitled to the relevant tax concessions.

The relevant portion of the said letter is reproduced below;

> *"**As per the agreement reached with the Department and the Appellant Company, The Company is eligible to tax at concessionary rate at 12% on the profit from constructions on following grounds**.*

- ***As per the letter dated 22.04.2016 issued by Construction Industry Development Authority (CIDA) technical interpretation to the undertaking for construction work is categorized under two main categories;***
    - ***Main construction contractors***
    - ***Specialized construction contractors***

Piling construction work is identified under specialized construction work and piling contractors are registered under four grades by financial limits. Accordingly San Piling (Pvt) Ltd registered GP-B1 (one) piling grade under the institute for construction trading and development.

- *As per the letter of Chamber of Construction Industry Sri Lank dated 05.12.2019 construction work means;*

"As such even under the presently effective law, foundation work that include piling diaphragm walls, retaining walls, piers etc. shall be considered as undertaking construction work"

- *As per the letter of Construction Industry Development Authority (CIDA) the San Piling (Pvt) Ltd is a registered company under No P/0012 PB 1 grade."*

On this basis, the Appellant further contends that the Respondent is estopped in law from departing from the position previously taken and now adopting a different interpretation of section 46 of the IRA 2006, in granting concession.

It is not disputed that the Appellant's activities are undertaken in connection with the construction of buildings. Upon a careful consideration of the language and purpose of section 46 of the Inland Revenue Act, It is apparent that the provision does not expressly exclude subcontractors engaged in essential components of the construction process.

It must be noted that the agreement entered into between the parties has been entirely overlooked by the Tax Appeals Commission in arriving at its determination. Further, the Tax Appeals Commission has failed to consider the letter dated 15th of February 2022 submitted by the Inland Revenue Department, which expressly acknowledges that piling forms part of the construction activity and that the Appellant is entitled to the relevant concessions. This material consideration appears to have been wholly disregarded in the determination of the TAC.

In these circumstances, I am of the view that the Tax Appeals Commission has erred in law in reaching its determination by disregarding the material evidence for the determination of the appeal. Accordingly, I answer Question of Law No. I in the affirmative.

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.

CA/TAX/130/2023

Question of law I – Affirmative

Question of law II – Affirmative

Question of law III – Affirmative

Question of law IV – Affirmative

Question of law V – Affirmative

CA/TAX/131/2023

Question of law I – Affirmative

Question of law II – Affirmative

Question of law III – Affirmative

Question of law IV – Affirmative

Question of law V – Affirmative

Accordingly, the appeals are allowed.

Since the questions of law raised by the Appellant are answered in the above manner. In **CA/TAX/130/2023**, the determination of the TAC dated 17th of October 2023, and the determination of the Respondent dated 21st of May 2020 are overturned and the Assessment dated 28th of May 2018 issued by the Deputy Commissioner of the Department of Inland Revenue, is hereby annulled.

In the case of **CA/TAX/131/2023**, the determination of the TAC dated 12th of September 2023, and the determination of the Respondent dated 5th of March 2019 are overturned and the Assessment dated 3rd of March 2017 issued by the Deputy Commissioner of the Department of Inland Revenue, is hereby annulled.

The Registrar is directed to serve a copy of this judgment to the Secretary of the Tax Appeals Commission for necessary action.

Judge of the Court of Appeal

Annalingam Premashanker J.

I agree

Judge of the Court of Appeal