

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

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.

CA Case No: CA/TAX/17/2023
Tax Appeals Commission No.
TAC/IT/177/2018

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

Appellant

Vs.

Ceylon Catch (Pvt) Ltd,
No. 21,
Bagathale Road,
Colombo 03.

Respondent

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

&

Annalingam Premashanker J.

Counsel: Chaya Sri Nammuni, DSG for the Appellant.
Manoli Jinadasa with Rakitha Jayathunga instructed by Rasika Wellappili for the Respondent.

Written Submissions: By the Appellant – on 30.05.2024
By the Respondent – on 06.03.2024, 16.12.2025

Argued on: 27.10.2025

Decided On: 21.05.2026

JUDGMENT

M.C.B.S. Morais J.

This is an appeal by way of case stated against the determination of the Tax Appeals Commission dated 17th of January 2023 in the case of TAC/IT/177/2018.

This appeal is filed under section 170 of the Inland Revenue Act No. 10 of 2006 read together with section 11A of the Tax Appeals Commission Act No. 23 of 2011 (as amended). The matter is primarily under section 16A of the Inland Revenue Act No.10 of 2006 as amended (hereinafter will be referred to as the IRA 2006), namely whether the taxpayer is eligible for an exemption under section 16A(1) of the IRA 2006.

The tax in dispute is against the assessment for the year of assessment 2013/2014 and the taxable amount in issue is Rs. 2,483,188 with a penalty of Rs. 1,241,594.

FACTUAL BACKGROUND

The Ceylon Catch (Pvt) Ltd (hereinafter sometimes will be referred to as the Respondent) is a limited liability company incorporated in Sri Lanka under the Companies Act No. 07 of 2007. The Respondent claims to be engaging in the business of buying fish, and processing them for exporting and local market purposes such as cleaning, sizing, sorting, grading, chilling, packing and cutting. The Respondent has submitted the assessment for the taxable period 2013/2014, which was rejected by the Assistant Commissioner of Inland Revenue by the letter of intimation dated 23rd of June 2015, as he was not in agreement with the exception claimed under section 16A of IRA 2006 on the business of buying and selling of fish or prawns. Accordingly, the notice of assessment dated 30th of November 2015 was issued.

Being aggrieved by the said assessment, the Respondent has appealed to the Commissioner General of Inland Revenue (hereinafter will be referred as the Appellant), and the Appellant by the determination dated 7th of August 2018 confirmed the said assessment made by the Assistant Commissioner. Being dissatisfied with the said determination, the Appellant has appealed to the Tax Appeals Commission (TAC) by their appeal dated 17th of January 2023. The TAC after considering the oral and written submissions of both parties allowed the appeal and annulled the determination of the Appellant, for the reasons mentioned in the determination dated 17th of January 2023.

The TAC has given the following reason in arriving at their decision;

“For the above given reasons, the view of this Commission is, as the Section 16 A (2) clearly states that, "undertaking for fishing" includes any undertaking for the cleaning, sizing, sorting, grading, chilling, dehydrating, packaging, cutting or canning of fish in preparation of such produce for the market, undertaking for cleaning, sizing, sorting, grading, chilling, dehydrating, packaging, cutting or canning of fish in preparation of such produce for the market should be included as an 'undertaking for fishing" without adding any word /s to give a different meaning to the said Section.

Therefore, this Commission decides that, the exemption from income tax granted by Section 16A (2) is applicable to a person or partnership that buy fish for processing for the export or local market such as cleaning, sizing, sorting, grading, chilling, packing and cutting.”

The Appellant being aggrieved by the said determination has requested the TAC to cause a case stated for the opinion of this Court.

Accordingly, the following questions of law have been raised by the Appellant.

- I. “Whether the Tax Appeals Commission has erred in law in the definition of "Fishing" as per prominent dictionaries and bodies?*
- II. Whether the Tax Appeals Commission has erred in law in interpretation of "Fishing" as per the ruling issued by CGIR as per the powers vested under the section 208A of the Inland Revenue Act No.10 of 2002 as amended by section 48 of the IR Act, No.22 of 2011 and section 36 of the IR Act, No.18 of 2013.*
- III. Whether the Tax Appeals Commission has erred in law in its interpretation of section 16A of the Inland Revenue Act No.10 of 2006 as amended?*
- IV. Whether the Tax Appeals Commission has erred in law in failing to determine that the profits and income of the Appellant of Rs.20,693,234 are not exempted from income tax and do not fall within the meaning of Section 16A of the Inland Revenue Act No.10 of 2006 as amended?*
- V. Whether the Tax Appeals Commission has erred in law in failing to determine that the business of the Appellant does not fall within the meaning of "any undertaking for fishing" under section 16A of the Inland Revenue Act No.10 of 2006?*
- VI. Whether the Tax Appeals Commission has erred in law in failing to appreciate that the profits and income of the Appellant for the year of assessment 2013/2014*

were not exempted from income tax under section 16A of the Inland Revenue Act No.10 of 2006?

VII. Whether the Tax Appeals Commission has erred in law in failing to determine the intention of the legislator by giving exemptions under section 16A of IR Act is not relevant to the business activities performed by the Appellant Company?

VIII. Whether the Tax Appeals Commission has erred in law in failing to determine that the sub section (3) of section 16A further demonstrates the exemption provided under section 16A is confined only for persons who carry out the business activity of catching of fish?”

ANALYSIS

I consider it is appropriate to address the substantive issues in relation to this matter. The Appellant has informed this court that they confine their submissions only to the questions of law in relation to the interpretation of the term ‘undertaking for fishing.’ Therefore I shall address all the Questions of Law raised together, since all the questions raised by the Appellant are in relation to the applicability of the exception provided under section 16 of IRA 2006.

The Appellant claims that the principal activity of the Respondent is said to be engaging in the business of buying and processing fishes, shrimps for exporting and local market purposes. Therefore, it is the contention of the Appellant that the Respondent is not entitled to the exception under section 16A of IRA 2006.

The section 16A of IRA 2006, which deals with the exemption from income tax of the profits and income of any undertaking for fishing, reads as follows;

“(1) The profits and income within the meaning of paragraph (a) of section 3, other than any profits and income from the disposal of any capital asset, of any person or partnership from any undertaking for fishing carried on in Sri Lanka, shall be exempted from income tax for each year of assessment within the period of five years commencing on April 1, 2011. Exemption from income tax of the profits and income of any undertaking for fishing.

(2) In this section "undertaking for fishing" includes any undertaking for the cleaning, sizing, sorting, grading, chilling, dehydrating, packaging, cutting or canning of fish in preparation of such produce for the market.

(3) In relation to an undertaking which consists of fishing and utilizing such fish for manufacturing of any product, such fish shall be deemed to have been sold for the manufacture of such product at the open market price prevailing at the time of such deemed sale, and the exemption granted under subsection (1) shall be applicable to that undertaking, on the profits and income computed on the basis of such deemed sale.”

The section 16A(1) of IRA 2006 grants a complete income tax exemption on operational profits and income from any undertaking carried out for fishing in Sri Lanka. It covers individuals or partnerships for five years of assessment starting from 1st of April 2011. It also targets income defined under section 3(a) of the IRA 2006 (day-to-day business earnings) but excludes any gains from selling capital assets. The exemption applies year by year within the above-mentioned window under the clear title, "Exemption from income tax of the profits and income of any undertaking for fishing," aimed to enhance the sector by removing tax on core fishing activities.

The section 16(2) broadly defines "undertaking for fishing" to include not just catching fish, but all key processing steps taken after catching the fish to prepare it for sale. This includes cleaning, sizing, sorting, grading, chilling, dehydrating, packaging, cutting, or canning of fish, by ensuring the entire preparation chain qualifies for the tax exemption.

Further section 16(3) provides that, in the case of an undertaking engaged in both fishing and the use of such fish in the manufacture of any product, the fish so utilized are treated as having been sold, for the purposes of the Act, at the prevailing open market price at the time of that deemed sale, and the exemption under section 16A(1) applies to the profits and income of that undertaking computed on the basis of such deemed sale value.

It is the contention of the Appellant that the exception is only applicable to catching fish from deep sea or inland waters. It is the position of the Appellant that according to the oxford dictionary the definition for the term ‘undertaking for fishing’ is known as the business of catching fish. Therefore, the Appellant contends that the exception is only applicable to any person or partnership who engages in catching fish from deep sea or inland waters, which is a prime requisite. The Appellant further contends that the wide definition of ‘undertaking of fishing’ under section 16(2) is only applicable to any person or partnership whose primary activity is catching fishing and therefore, ‘catching fish’ is a pre requisite for the said exception.

The Appellant has applied the above approach in consideration of the Sinhala text of the section 16A of IRA 2006, which reads as follows;

“16(අ).(1) ශ්‍රී ලංකාව තුළ පවත්වාගෙන යන්නා වූ යම් මාළු ඇල්ලීම සඳහා වූ ව්‍යවසායකින් 3 වන වගන්තියේ (ආ) ඡේදයේ අර්ථනුකූලව, යම් ප්‍රාග්ධන වත්කමක් බැහැර කිරීමෙන් හැර, යම් නැතැත්තෙකු හෝ හවුල් ව්‍යාපාරයක් ලබන ලාභ සහ ආදායම, 2011 අප්‍රේල් මස 1 වන දිනෙන් ආරම්භ වන වසර 5 ක කාල පරිච්ඡේදය තුළ එක් එක් තක්සේරු වර්ෂය සඳහා ආදායම් බද්දෙන් නිදහස් කරනු ලැබිය යුතුය.

16 අ. (2) මෙම වගන්තියේ " මාළු ඇල්ලීමේ ව්‍යවසාය " යන්නට අල්ලන ලද මාළු වෙළඳ පොල සඳහා සකස් කිරීමේදී පිරිසිදු කිරීම, ප්‍රමාණගත කිරීම, තේරීම, වර්ග කිරීම, ශීත කිරීම, විජලනය කිරීම, ඇසිරීම, ඡේදනය කිරීම හෝ භාෂන වල ඇසිරීම සඳහා වූ යම් ව්‍යවසායක් ඇතුළත් වේ.

16 අ. (3) යම් මාළු ඇල්ලීමේ ව්‍යාපාරයකින් සහ එම මාළු යම් භාණ්ඩයක් නිෂ්පාදනය කිරීම සඳහා වන ව්‍යාපාරයකින් සමන්විත වන ව්‍යවසායක් සම්බන්ධයෙන් එකී මාළු විවෘත වෙළඳ පොළේ පවත්නා මිලට එම භාණ්ඩ නිෂ්පාදනය කිරීම සඳහා විකුණනු ලැබූ බවට සැලකිය යුතු අතර එසේ සලකනු ලබන විකිණීම සම්බන්ධයෙන් වන ලාභ සහ ආදායම සඳහා එකී ව්‍යවසායට (1) වන උපවගන්තිය යටතේ ප්‍රධානය කරන ලද නිදහස් කිරීම අදාළ විය යුතුය.”

The Appellant contends that the Inland Revenue Act No. 10 of 2006 does not define the expression ‘undertaking of fishing’ in specific terms, and that it must therefore be interpreted with reference to the Sinhala text, namely ‘මාළු ඇල්ලීමේ’, together with the ordinary dictionary meaning of ‘fishing’. The Appellant accordingly relies on the ordinary meaning of the term ‘fishing’ as the catching fish in deep sea or inland waters.

Upon consideration of the exception under section 16A(1), it is evident that the exemption applies to any person or partnership engaged in an ‘undertaking of fishing’ carried on in Sri Lanka. Section 16A(2) expands the scope of that term by expressly including activities such as cleaning, sizing, sorting, grading, chilling, dehydrating, packaging, cutting, and canning of fish in preparation for the market. It is therefore clear that the law has defined, in express and comprehensive terms, what constitutes an ‘undertaking of fishing’.

N. S. Bindra in “*Interpretation of Statutes*” (13th Edition, page 264-265) states that the best guide to interpret a word in a statute is the definition of the word provide din the statute itself;

“It is a common practice for legislative bodies to define words used in statutes, and to place such definition in a general interpretation of statute. These statutes are a valuable aid in resolving questions of statutory meaning, and they should control except where the language of the Act, examined in the light of relevant and permissible guides to meaning, indicates that a different meaning is intended. In UOI Vs. V Sriharan, it was further opined that a statute should be construed in harmony with constitutional goals and to promote national harmony and public interest.

It is equally a common practice to provide an interpretation or definition clause in every statute and the normal canon of interpretation of statutes lays down that while interpreting a particular word in a statute, the best guide is the definition of that word in the concerned statute itself. When a word or phrase is defined as having a particular meaning in an enactment, it is that meaning alone which must be given to it in interpretation of a section of the Act, unless there by anything repugnant in the context. In other words, the definition section in an Act would ordinarily apply to the provisions of the Act, unless any particular provision therein either expressly or by intendment excludes it by giving a different meaning or a wider construction to the words used. When an expression is not defined in the statute and such expression happens to be one of everyday use, it must be construed in popular sense, as understood in common parlance, and not in any technical sense.”

Therefore, where the Inland Revenue Act supplies an express statutory definition, that definition is the primary guide to the meaning of the specified word and it displaces competing dictionary or extrinsic definitions. As **Bindra** explains, a defined term in an enactment ordinarily must be given that meaning in interpreting the Act unless the context plainly requires a different construction.

Moreover, the Latin maxim *expressio unius est exclusio alterius* , that ‘where a statute expressly mentions one matter, it is taken to exclude others’ applies here. When an Act provides an express statutory definition of a term, that definition displaces any competing dictionary or extrinsic definitions. Accordingly, where the Inland Revenue Act supplies a specific definition, that statutory meaning governs and excludes alternative meanings not embraced by the provision.

The original Sinhala text of the term ‘undertakings for fishing’ under section 16A(a) is ‘යම් මාළු ඇල්ලීම් සඳහා වූ ව්‍යවසායකින්,’ which denotes an undertaking engaged in fishing activities. The Appellant, however, has isolated only the words ‘මාළු ඇල්ලීම්’ and construed them narrowly as ‘catching fish,’ and has interpreted the entire section accordingly while ignoring the broader statutory context. When considering the ultimate purpose of the

statute, it is apparent that the approach taken by the Appellant is fundamentally flawed and grossly inappropriate.

Further, the Appellant's contention that the section 16A(2) should be interpreted independently is untenable, as it is inconsistent with the clear definition provided by law. The section 16A(1) of IRA 2006 cannot be interpreted in isolation, but must be read harmoniously with sections 16A(2) and 16A(3), which together constitute a single, integrated framework governing the exceptions relating to the 'undertaking of fishing'. Each subsection frames part of the same exception and therefore cannot be construed in isolation or given divergent meanings.

When the above provision was introduced by the legislature, the primary objective was to promote the fisheries industry by granting an income tax exemption (X3). Hence, it is evident that the legislature does not confine the term 'undertaking of fishing' to the mere act of catching fish, but instead enacted a deliberately broad definition in section 16A(2) of IRA 2006. Had the legislature intended the exception to be limited to the physical act of catching fish, it would have said so expressly rather than adopting expansive language.

Therefore it is my view, that the proper interpretation of section 16A of the Inland Revenue Act, No. 10 of 2006 is that the statutory definition and the exception created by the provision must be given their full and ordinary legal effect as the Act itself supplies the relevant meaning of 'undertaking of fishing' and that meaning cannot be narrowed by resort to a general dictionary definition. On this basis I conclude that the Appellant's narrow, standalone reading that confines 'undertaking of fishing' to catching fish in deep sea and inland waters is erroneous and is inconsistent with the legislative purpose.

For those reasons, I answer the questions of law I, II, III, IV, V, VI, VII, and VIII in the negative.

Since, the questions of law I, II, III, IV, V, VI, VII, and VIII are answered in the above manner; we confirm the determination of the TAC in the case of TAC/IT/177/2018, for the reasons set out in this judgment.

CONCLUSION

When considering the facts and the circumstances of the case, in line with the materials presented before this court, I am of the view that the questions of law raised by the Appellant in relation to their submission, pertaining to the exception under section 16A shall be answered in the following manner.

Question of Law I – Negative

Question of Law II - Negative

Question of Law III - Negative

Question of Law IV - Negative

Question of Law V - Negative

Question of Law VI - Negative

Question of Law VII - Negative

Question of Law VIII - Negative

Hence, this appeal is dismissed and the determination of the TAC dated 17th of January 2023 shall sustain.

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

Judge of the Court of Appeal

Annalingam Premashanker J.

I agree

Judge of the Court of Appeal