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/0002/2024
Tax Appeals Commission No.
TAC/VAT/088/2021

CA Case No: CA/TAX/0007/2024
Tax Appeals Commission No.
TAC/VAT/083/2021

CA Case No: CA/TAX/0008/2024
Tax Appeals Commission No.
TAC/VAT/084/2021

CA Case No: CA/TAX/0009/2024
Tax Appeals Commission No.
TAC/VAT/087/2021

CA Case No: CA/TAX/0013/2024
Tax Appeals Commission No.
TAC/VAT/085/2021

Shangri-La Hotels Lanka (Pvt) Ltd.,
Level 05,
No.1A, Centre Road, Galle Face,
Colombo 02.

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:	Laknath Peiris with Isuri Peiris instructed by Abdeen Associates for the Appellant. Manohara Jayasinghe, DSG for the Respondent.

Written Submissions:

CA/TAX/0002/2024	By the Appellant – on 05.06.2026, 12.02.2026 By the Respondent – on 05.06.2026, 21.01.2026
CA/TAX/0007/2024	By the Appellant – on 05.06.2026, 17.06.2025 By the Respondent – on 06.05.2026, 22.05.2025
CA/TAX/0008/2024	By the Appellant – 05.06.2026, 17.06.2025 By the Respondent - 26.06.2025, 22.05.2026
CA/TAX/0009/2024	By the Appellant – 05.06.2026, 27.10.2025 By the Respondent –25.06.2025, 27.05.2025
CA/TAX/0013/2024	By the Appellant - 05.06.2026, 18.09.2025 By the Respondent - 13.08.2025, 06.05.2026

Argued on: 09.03.2026

Decided On: **06.08.2026**

JUDGMENT

M.C.B.S. Morais J.

These are appeals by way of case stated against the determinations of the Tax Appeals Commission (TAC). The appeals in CA/TAX/0002/2024, CA/TAX/0007/2024 and CA/TAX/0009/2024 arise from the determination of TAC dated 7^{th} of November 2023. The appeal in CA/TAX/0008/2024 arises from the determination of the TAC dated 14^{th} of November 2023, while the appeal in CA/TAX/0013/2024 arises from the determination of TAC dated 29^{th} of November 2023.

These appeals are filed under Section 11A of the Tax Appeals Commission Act No. 23 of 2011 (as amended).

According to the Journal entry dated 5^{th} of June 2026, the parties have agreed to have a common judgment since the cases CA/TAX/0002/2024, CA/TAX/0007/2024, CA/TAX/0008/2024, CA/TAX/0009/2024, and CA/TAX/0009/2024 are connected.

FACTUAL BACKGROUND

The Shangri-La Hotels Lanka (Pvt) Limited (hereinafter will be referred to as the Appellant) is a limited liability company incorporated and domiciled in Sri Lanka and carrying on development projects. The Appellant has entered into an agreement with the Board of Investment of Sri Lanka (BOI) on 7th of February 2011, to construct and operate a development project inclusive of a luxury hotel, high quality residencies and shopping mall in Colombo, with an investment of over USD 1 billion.

Accordingly, the BOI has identified this project as a strategic development project and has granted tax concessions under section 2 of the Strategic Development Act No. 14 of 2008. Further, in terms of section 3(4) of the Strategic Development Act No. 14 of 2008, the Minister of Economic Development has published an order via gazette No. 1714/3 dated 11th of July 2011, to declare the said project as a strategic development project and thereby the project is identified as "project to construct a Luxury Hotel as a Mixed Use Complex including High Quality Residencies and a High-End Shopping Mall, in Fort Colombo 1, in the Western Province".

CA/TAX/02/2024

The Appellant has submitted the return for the taxable period 1st of October 2016 to 31st of October 2016 (1641) and the taxable amount in dispute is Rs. 149,129,675.00 with a penalty of Rs. 149,129,675.00. The Appellant has claimed a deduction in terms of the supply of residential apartments. The said claim was rejected by the Assessor by the intimation letter dated 17th of September 2019.

Accordingly, the Assessor has issued an assessment without granting those deductions by the Notice of Assessment dated 3rd of September 2019 for the reasons set out therein. 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 12th of October 2021 determined the appeal by upholding the assessment issued by the Assessor. 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 7th of November 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) Whether Tax Appeals Commission has the jurisdiction to confirm the Assessment under section 9(10) of Tax Appeal Commission Act, No.23 of 2011 (as amended)?*
>
> *II) Did the Tax Appeals Commission err in law when it decide that effect of section 16(2)(b) of Value Added Tax Act No. 20 of 2016 was not retrospective?*
>
> *III) Did the Tax Appeals Commission err in law when it interprets that the phrase 'if such supply has taken place prior to November 1, 2016' of section 16 (2)(b) of Value Added Tax Act No. 20 of 2016, as 'the date that has been mentioned is only to identify the period that supplies of lease or rent of residential accommodation that has taken place'?*
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> *IV) In view of the facts and circumstance of the case, did the Tax Appeals Commission err in law when it arrived at the conclusion that it did?"*

The Appellant has submitted the return for the taxable period 1st of March 2016 to 31st of March 2016 (1622) and the taxable amount in dispute is Rs. 110,943,754.00 with a penalty of Rs. 110,943,754.00. The Appellant has claimed a deduction in terms of the supply of residential apartments. The Assessor rejected the said claim by the intimation letter dated 17th of September 2019.

Accordingly, the Assessor has issued an assessment without granting those deductions by the Notice of Assessment dated 20th of September 2019 for the reasons set out in the intimation letter. The Appellant being aggrieved by the decision of the Assessor, made an appeal to the Respondent. The Respondent in his determination dated 12th of October 2021 determined the appeal by upholding the assessment issued by the Assessor. 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 7th of November 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) Did the Tax Appeals Commission err in law when it decide that the Assessment was not time barred?*
>
> *II) Did the Tax Appeals Commission err in law when it decide that the Appellant 'has willfully or fraudulently failed to make a full and true disclosure of all the material facts necessary to determine the amount of tax payable' by him?*

III) Is the Determination Tax Appeals Commission contrary to section 33 of Value Added Tax Act, No 14 of 2002 (as amended) read together with section 2 and section 28 of Value Added Tax Act, No 14 of 2022 (as amended)?

IV) Did the Tax Appeals Commission err in law when it decide that effect of section 16(2)(b) of Value Added Tax Act No. 20 of 2016 was not retrospective?

V) Did the Tax Appeals Commission err in law when it interprets that the phrase 'if such supply has taken place prior to November 1, 2016' of section 16 (2)(b) of Value Added Tax Act No.20 of 2016, as 'the date that has been mentioned is only to identify the period that supplies of lease or rent of residential accommodation that has taken place'?

VI) In view of the facts and circumstance of the case, did the Tax Appeals Commission err in law when it arrived at the conclusion that it did?"

CA/TAX/08/2024

The Appellant has submitted the return for the taxable period 1st of June 2016 to 30th of June 2016 (1623) and the taxable amount in dispute is Rs. 204,214,415.00 with a penalty of Rs. 204,214,415.00. The Appellant has claimed a deduction in terms of the supply of residential apartments. The said claim was rejected by the Assessor by the intimation letter dated 17th of September 2019.

Accordingly, the Assessor has issued an assessment without granting those deductions by the Notice of Assessment dated 27th of September 2019 for the reasons set out therein. 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 12th of October 2021 determined the appeal by upholding the assessment issued by the Assessor. 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 14th of November 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) Did the Tax Appeals Commission err in law when it decide that the Assessment was not time barred?*
>
> *II) Did the Tax Appeals Commission err in law when it decide that the Appellant 'has willfully or fraudulently failed to make a full and true disclosure of all the material facts necessary to determine the amount of tax payable' by him?*
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> *III) Is the Determination Tax Appeals Commission contrary to section 33 of Value Added Tax Act, No 14 of 2002 (as amended) read together with section 2 and section 28 of Value Added Tax Act, No 14 of 2022 (as amended)?*
>
> *IV) Did the Tax Appeals Commission err in law when it decide that effect of section 16(2)(b) of Value Added Tax Act No. 20 of 2016 was not retrospective?*
>
> *V) Did the Tax Appeals Commission err in law when it interprets that the phrase 'if such supply has taken place prior to November 1, 2016' of section 16 (2)(b) of Value Added Tax Act ActNo.20 of 2016, as 'the date that has been mentioned is only to identify the period that supplies of lease or rent of residential accommodation that has taken place'?*
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> *VI) In view of the facts and circumstance of the case, did the Tax Appeals Commission err in law when it arrived at the conclusion that it did?"*

The Appellant has submitted the return for the taxable period 1st of September 2016 to 30th of September 2016 (1633) and the taxable amount in dispute is Rs. 105,042,171.00 with a penalty of Rs. 105,042,171.00. The Appellant has claimed a deduction in terms of the supply of residential apartments. The said claim was rejected by the Assessor by the intimation letter dated 29th of August 2019.

Accordingly, the Assessor has issued an assessment without granting those deductions by the Notice of Assessment dated 3rd of September 2019 for the reasons set out therein. 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 12th of October 2021 determined the appeal by upholding the assessment issued by the Assessor. 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 7th of November 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) Whether Tax Appeals Commission has the jurisdiction to confirm the Assessment under section 9(10) of Tax Appeal Commission Act, No.23 of 2011 (as amended)?*
>
> *II) Did the Tax Appeals Commission err in law when it decide that effect of section 16(2)(b) of Value Added Tax Act No. 20 of 2016 was not retrospective?.*

III) Did the Tax Appeals Commission err in law when it interprets that the phrase 'if such supply has taken place prior to November 1, 2016' of section 16 (2)(b) of Value Added Tax Act No.20 of 2016, as 'the date that has been mentioned is only to identify the period that supplies of lease or rent of residential accommodation that has taken place'?

IV) In view of the facts and circumstance of the case, did the Tax Appeals Commission err in law when it arrived at the conclusion that it did?"

CA/TAX/13/2024

The Appellant has submitted the return for the taxable period 1st of July 2016 to 31st of July 2016 (1631) and the taxable amount in dispute is Rs. 58,336,260.00 with a penalty of Rs. 58,336,260.00. The Appellant has claimed a deduction in terms of the supply of residential apartments. The said claim was rejected by the Assessor by the intimation letter dated 17th of September 2019.

Accordingly, the Assessor has issued an assessment without granting those deductions by the Notice of Assessment dated 20th of September 2019 for the reasons set out therein. 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 12th of October 2021, determined the appeal by upholding the assessment issued by the Assessor. 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 29th of November 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) Did the Tax Appeals Commission err in law when it decide that the Assessment was not time barred?

II) Did the Tax Appeals Commission err in law when it decide that the Appellant 'has willfully or fraudulently failed to make a full and true disclosure of all the material facts necessary to determine the amount of tax payable' by him?

III) Is the Determination Tax Appeals Commission contrary to section 33 of Value Added Tax Act, No 14 of 2002 (as amended) read together with section 2 and section 28 of Value Added Tax Act, No 14 of 2002 (as amended)?

IV) Did the Tax Appeals Commission err in law when it decide that effect of section 16(2)(b) of Value Added Tax Act No. 20 of 2016 was not retrospective?

V) Did the Tax Appeals Commission err in law when it interprets that the phrase 'if such supply has taken place prior to November 1, 2016' of section 16 (2)(b) of Value Added Tax Act No.20 of 2016, as 'the date that has been mentioned is only to identify the period that supplies of lease or rent of residential accommodation that has taken place'?

VI) In view of the facts and circumstances of the case, did the Tax Appeals Commission err in law when it arrived at the conclusion that it did?"

The substantive issue in all the above appeals are identical in nature as it concerns the issue of whether the section 16(2)(b) of the VAT (Amendment) Act No.20 of 2016 applies retrospectively to supplies of residential accommodation made prior to 1st of November 2016. As this issue goes to the very root of the assessments issued by the Respondent, it is appropriate to determine it at the outset. If this question is answered affirmatively in favor of the Appellant, little purpose would be served in considering the remaining Questions of Law. Accordingly, I shall first address the substantive issue, which is common to all five appeals, before considering the other issues raised by the Appellant.

ANALYSIS

It is the contention of the Appellant that the section 16(2)(b) of the VAT (Amendment) Act No.20 of 2016 expressly refers that the supplies of residential accommodation which has taken place prior to 1st of November 2016 are exempt from VAT. On this basis, the Appellant contends that the said exemption applies to all the transactions that has occurred before the said 1st of November 2016 and therefore the said provision needs to be interpreted having retrospective effect.

However, it is the Respondent's position that the said amendment came into operation on 1st of November 2016 and cannot be given retrospective effect. Therefore, it is the Respondent's position that the Appellant is not entitled to the exemption claimed in its VAT returns. The Respondent further contends that the Appellant has not satisfied the requirement under Part II (b) item No. (xi) under the First Schedule to the VAT Act. On this basis, the Respondent claims that the section 16(2)(b) of the VAT (Amendment) Act No.20 of 2016 does not apply retrospectively and therefore the Appellant is not entitled for the exemption provided there under.

The item No. (xi) of Part II(b) under the First Schedule to the VAT Act has been amended by section 16(2)(b) of the VAT (Amendment) Act No.20 of 2016 in the following manner;

> *"16. The First Schedule to the principal enactment is hereby amended in PART II thereof as follows:–*
>
> > *(2) in paragraph (b) of that PART –*

(b) by the repeal of item (xi) and the substitution therefore of the following:–

“(xi) services being the supply, lease or rent of residential accommodation – (a) ***if such supply has taken place prior to November 1, 2016****,* ***other than the supply, lease or rent of residential accommodation by a person, being an enterprise which has entered into an agreement with the Board of Investment of Sri Lanka, under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, on or after April 1, 2001*** *and* ***the total cost of the projects which such agreement relates is not less than ten million United States Dollars*** *or its equivalent in any other currency and* ***the project relates exclusively to the aforesaid supply, lease or rental;***

(b) on or after November 1, 2016 by any person, other than any lease or rent of residential accommodation.”

According to the aforesaid amendment to the Value Added Tax Act, the services of supply, lease or rental of residential accommodation is exempt from Value Added Tax where the relevant services were made prior to 1st of November 2016, provided that the following conditions are satisfied:

1. The enterprise has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, on or after 1st of April 2001;
2. The total cost of the project to which the agreement relates is not less than ten million United States Dollars or its equivalent in any other currency; and
3. The project relates exclusively to the supply, lease or rental of residential accommodation.
4. The said supply, should have taken place prior to 1st of November 2016.

I shall now consider whether the Appellant has satisfied the above requirements.

According to the letter dated 7th of February 2011, the Appellant has entered into an agreement with the Board of Investment of Sri Lanka to construct and operate a mixed development project comprising a luxury hotel, residential apartments and a shopping mall in Colombo. Further, Gazette Extraordinary No. 1714/3 dated 11th of July 2011 states that required VAT exemptions provided. Furthermore, the Appellant's, transaction has engaged in the transaction exclusively to supply, lease or rent of residential accommodation. These facts have not been disputed from the Respondent's end. Therefore, I am satisfied that the Appellant has complied with the first three requirements of the amendment.

I shall now consider whether the Appellant has satisfied the fourth requirement, namely, whether the said supply has been taken place prior to 1st of November 2016.

When considering the facts of the present case, it is evident that the disputed supplies relate to the taxable periods of May 2016, June 2016, July 2016, September 2016 and October 2016. Therefore, it can be established that the alleged supplies has taken place prior to 1st of November 2016.

The Respondent, however, contends that, in terms of section 1 of the Value Added Tax (Amendment) Act, No. 20 of 2016, the Act came into operation on 1st of November 2016 and that, where the Legislature intended a particular provision to operate from an earlier date, such intention would have been expressly stated in that provision. On that basis, the Respondent argues that section 16(2)(b) cannot be construed as having retrospective effect.

Furthermore, the TAC in arriving at the determination dated 7th of November 2023, has held in the following manner;

“When draw attention to part (a) in the Section 16(2)(b) even though it states that' if such supply has taken place prior to November 1, 2016, the said sentence is continued adding words 'other than the supply, lease or rent of residential accommodation by a person', being an enterprise which has entered into an agreement with the Board of Investment of Sri Lanka, under section 17 of the Board of Investment of Sri Lanka Law,. Therefore, it is quite clear the date that has been mentioned is only to identify the period that supplies of lease or rent of residential accommodation that has taken place', but not as the date that 'the Section comes into operation'. Therefore, this provision cannot be taken as an express provision that has included a date of operation or a provision with necessary implication that has retrospective effect.

On the other hand, when analyzed the language used in those Sections with retrospective effect, it is seen that the Sections 16 (1) (b) states as 'substitute in sub item (c) of item (xix) of paragraph (a) of PART II of the First Schedule for the words "(c) light weight electrical and electronic items with effect from June 1, 2010;" of the following:-

"(c) light weight electrical and electronic items with effect from June 1, 2010 but prior to November 1, 2016;".

Similarly the Section 16(1) (c) also states as 'by the repeal of sub-item (e) of item (xix) and the substitution therefore of the following:-

"(e) telecommunication equipment with effect from January 1, 2011 but prior to May 2, 2016 and for the period commencing from July 11, 2016 but ending on or before on November 1, 2016.

Therefore, it can be clearly observed that, when the legislature wanted to give retrospective effect to a particular item, it has specifically mentioned in the Section itself without making any ambiguity, using the words "with effect from' at all the instances.

Therefore, the Section 16 (2) (b) part (a) cannot be taken as an express provision in the Act or a provision with necessary implication that has given 'retrospective effect.

In the matter SC Appeal No. 46/2016 CA Case No. CA (tax) 23/2013, Seylan Bank PLC, Vs. The Commissioner General of Inland Revenue, (Decided on 16th December 2021), the Hon Supreme Court Judge, Justice Priyantha Jayawardena PC, has stated 'the amendments made to substantive laws have a prospective effect, unless its effect has been made retrospective by express provision in the Act or by necessary implication. On the other hand, amendments made to procedural laws are presumed to have retrospective effect, unless its effect has been made prospective by express provision in the Act or by necessary implication, or such a construction is textually not possible.

Thus, it has to be considered that the 'retrospective effect to a particular Section, has to be made prospective by express provision in the Act or by necessary implication. Thus, it is clear searching for the intention of the legislature in making a Section will not be sufficient, unless retrospective effect is expressly mentioned in the said Section or it is made with necessary implication."

The section 1 of the VAT (Amendment) Act No.20 of 2016 reads as follows;

"1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 20 of 2016 and shall come into operation on November 1, 2016 ***unless the dates on which certain provisions thereof shall come into operation are specified in such sections****."*

The Section 1 of the Value Added Tax (Amendment) Act, No. 20 of 2016 provides that the Act shall come into operation on 1st of November 2016, unless a different date is expressly specified in a particular provision. Thus, the general rule is that all the amendments introduced by the Act takes effect from 1st of November 2016. However,where the Legislature has expressly provided a different commencement date for a particular provision, that provision takes effect from the date so specified.

In my view, the above provision merely prescribes the date on which the Amendment Act came into operation. It does not lay down any rule governing the retrospective operation of a substantive provision. Further, whether a particular provision operates retrospectively must be determined from the language of that provision, and the intention of the Legislature as disclosed therein.

Furthermore, if the interpretation adopted by the Tax Appeals Commission is to be accepted, Items No. (xi)(a) and (xi)(b) of Part II of the First Schedule, as amended by section 16(2)(b) of the Value Added Tax (Amendment) Act, No. 20 of 2016, would have the same effect. However, such an interpretation cannot be sustained. Item (xi)(b) expressly applies to services provided "on or after 1st of November 2016", whereas Item (xi)(a) expressly refers to services provided prior to that date. It is a well-established principle of statutory interpretation that every word used by the Legislature must, as far as possible be given its ordinary meaning and effect and that no provision should be construed in a manner that renders another provision redundant.

Accordingly, I am unable to accept the interpretation adopted by the Tax Appeals Commission. In my view, the Parliament has deliberately employed different language in Items (xi)(a) and (xi)(b) to distinguish between supplies made prior to and those made on or after 1st of November 2016. To construe both provisions as having the same temporal application would defeat the clear language adopted by the Legislature. Further, the mere absence of a separate commencement date for Item (xi)(a) does not alter that position, as the scope of the provision is expressly defined by the language used therein.

Accordingly, I am unable to agree with the interpretation adopted by the Respondent and accepted by the Tax Appeals Commission that section 1 precludes a retrospective operation of section 16(2)(b). The question whether section 16(2)(b) operates retrospectively must therefore be determined by reference to its own language and not by reference to section 1 of the Amendment Act.

It is a well-established principle of statutory interpretation that legislation is presumed to operate prospectively. This principle is reflected in the maxim *lex prospicit non respicit* (the law looks forward, not backward). Accordingly, an amendment to a substantive law is generally construed as applying only to future transactions. However, this presumption will not apply where the Legislature has expressly provided, or where it is clear by necessary implication, that the provision is to operate retrospectively. Article 75 of the Constitution empowers the Parliament to enact laws with retrospective effect. Therefore, where the language of a statute clearly demonstrates such an intention, the Court must give effect to it.

N.S. Bindra in *'Interpretation of Statutes'* (13th edition, page 503-504), states that a statute should not be given retrospective operation unless the intention of the Legislature is clearly expressed or necessarily implied;

> *"It has been held that a statute should not be given retrospective operation unless its words are so clear, strong and imperative that no other meaning can be annexed to them, or unless the intention of the legislature could not be otherwise satisfied particularly where retrospective operation would alter the pre-existing situation of parties or affect, or interfere with their antecedent rights. The rule that laws are not to be construed as applying to cases which arose before their passage is applicable when to disregard it would impose an unexpected liability that if known might have caused those concerned to avoid it."* ***Statutes have retrospective effect when the declared intention is clearly and unequivocally manifest from the language employed in the particular law or in the context of connected provisions.*** *It is always a question whether the legislature has sufficiently expressed itself. One must look at the general scope and purview of the Act and the remedy the legislature intends to apply in the former state of the law and then*

determine what the legislature intended to do. More retrospectivity is not to be given than what can be gathered from expressed or clearly implied intention of the legislature.

Acts which have the effect of impairing contracts and effect vesting rights must be strictly construed; and in interpreting such laws the courts must lean against giving retrospective effect to their provisions; *unless there is something in the language of an Act showing a contrary intention. The duty and the practice of the court of justice is to presume that the Act is prospective and not retrospective. "*

In applying these principles to the present case, the section 16(2)(b) read together with Item XI of the Value Added Tax (Amendment) Act, No. 20 of 2016 expressly provides that the exemption applies to services of supply, lease or rent of residential accommodations, if such services have been done prior to the 1st of November 2016 and subject to the conditions prescribed therein. Therefore in my view, the intention of the Parliament to give retrospective effect to section 16(2)(b) is unequivocally clear .

Further, the Respondent's submission appears to proceed on the basis that section 1 provides, the Amendment Act to come into operation on 1st of November 2016, no provision of the Act can have retrospective effect unless its commencement date is separately specified. I am unable to agree with that proposition. Section 1 merely prescribes the date on which the Amendment Act came into operation. It does not govern the temporal application of every substantive provision contained therein.

Moreover, section 1 itself provides that the general commencement date applies unless a different date is specified in a particular provision. In the present case, Item No. (xi) expressly applies to the supply, lease or rental of residential accommodation provided prior to 1st of November 2016. Accordingly, effect must be given to the specific provision rather than the general commencement provision contained in section 1 of the Value Added Tax (Amendment) Act, No. 20 of 2016 .

In the case of ***Sri Lanka Insurance Corporation Ltd V. Commissioner General of Inland Revenue*** **SC/CHC/APPEAL/19 decided on 19.03.2026**, His Lordship A.H.M.D. Nawaz, J. reaffirmed the well-established principle that taxing statutes must be construed strictly where the language employed by the Legislature is clear and unambiguous. His Lordship observed that, in interpreting fiscal legislation, the Court must give effect to the plain words of the statute and that there is no room to imply words or to depart from the language adopted by the Parliament.

> *"…….It is a well-settled canon of statutory construction which is affirmed by this Court that* ***taxing provisions must be construed by reference to the plain words of the legislature.*** *As Rowlatt J. stated in Cape Brandy Syndicate v. Inland Revenue Commissioners4, in taxation one must look simply at what is clearly said; there is no room for any intendment, no equity about a tax, and nothing is to be implied. Where a provision is reasonably capable of two alternative meanings, the courts will prefer the construction more favorable to the subject: Inland Revenue Commissioners v. Ross and Coulter5, per Lord Thankerton at page 625.*
>
> *This Court further notes that in Commissioner General of Inland Revenue v. Lignocell (Pvt) Ltd & Another, the Chief Justice held that in* ***fiscal statutes the first source is the words of the statute itself, and where the meaning is manifest on the plain words, there is no room for an interpretation process. Ambiguity or doubt, where it exists, must be resolved having regard to the context and language of the statute, not by reference to the revenue's administrative preferences****."*

Therefore, it is well-established principle of statutory interpretation that the taxing statues has to be interpreted strictly when the provisions of the law are clear and intention of the parliament is apparent.

The issue before this Court is whether the Appellant is entitled to the exemption provided under item No. (xi) of Part II(b) under the First Schedule to the VAT Act which was amended by section 16(2)(b) of the VAT (Amendment) Act No.20 of 2016. In determining this issue, the Court has considered whether the supplies disclosed in the VAT returns relate to the taxable periods prior to 1st of November 2016 and whether the Appellant has satisfied the conditions prescribed by the said provision. Further, in interpreting the retrospective operation of the provision, the Court must give effect to the language employed by the Parliament. Therefore, where the words of the statute are clear and the legislative intention is apparent, it is not open to the Court to read into the provision, any limitation or qualification which the Legislature has not imposed.

In the present case, Item XI expressly provides an exemption to the supply, lease or rental of residential accommodation made **prior to 1st of November 2016,** subject to the fulfillment of the prescribed conditions. Since this court has already found that the Appellant has satisfied those conditions, I am of the view that the Appellant is entitled to the benefit of the exemption.

For the foregoing reasons, I am of the view that the Tax Appeals Commission has erred in its interpretation of section 16(2)(b) of the Value Added Tax (Amendment) Act, No. 20 of 2016. Accordingly, I answer this Question of Law in favor of the Appellant.

In the cases CA/TAX/07/2024, CA/TAX/08/2024 and CA/TAX/13/2024, the Appellant has also raised Question of Law No. I relating to whether the assessments are time-barred. However, in view of my findings on the substantive Questions of Law, which have been answered in favor of the Appellant and which shall result in the impugned assessments being annulled, I do not consider it necessary to determine the question relating to the limitation period of the assessment. Accordingly, I refrain from addressing the Question of Law No. I in the above three cases separately.

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/02/2024

Question of law I – Need not be answered

Question of law II - Affirmative

Question of law III - Affirmative

Question of law IV - Affirmative

CA/TAX/07/2024

Question of law I – Need not be answered

Question of law II - Need not be answered

Question of law III - Need not be answered

Question of law IV - Affirmative

Question of law V – Affirmative

Question of law VI – Affirmative

CA/TAX/8/2024

Question of law I – Need not be answered

Question of law II - Need not be answered

Question of law III - Need not be answered

Question of law IV - Affirmative

Question of law V - Affirmative

Question of law VI - Affirmative

CA/TAX/9/2024

Question of law I – Need not be answered

Question of law II - Affirmative

Question of law III - Affirmative

Question of law IV - Affirmative

CA/TAX/13/2024

Question of law I – Need not be answered

Question of law II - Need not be answered

Question of law III - Need not be answered

Question of law IV - Affirmative

Question of law V - Affirmative

Question of law VI - Affirmative

Accordingly, the appeals are allowed.

Since the questions of law raised by the Appellant are answered in the above manner, in the case of **CA/TAX/02/2024**, the determination of the TAC dated 7th of November 2023, and the determination of the Respondent dated 12th of October 2021 are overturned and the Assessment dated 3rd of September 2019 issued by the Deputy Commissioner of the Department of Inland Revenue, is hereby annulled.

In the case of **CA/TAX/07/2024**, the determination of the TAC dated 7th of November 2023, and the determination of the Respondent dated 12th of October 2021 are overturned and the Assessment dated 20th of September 2019 issued by the Deputy Commissioner of the Department of Inland Revenue, is hereby annulled.

In the case of **CA/TAX/08/2024**, the determination of the TAC dated 14th of November 2023, and the determination of the Respondent dated 12th of October 2021 are overturned and the Assessment dated 27th of September 2019 issued by the Deputy Commissioner of the Department of Inland Revenue, is hereby annulled.

In the case of **CA/TAX/09/2024**, the determination of the TAC dated 7th of November 2023, and the determination of the Respondent dated 12th of October 2021 are overturned and the Assessment dated 3rd of October 2019 issued by the Deputy Commissioner of the Department of Inland Revenue, is hereby annulled.

In the case of **CA/TAX/31/2024**, the determination of the TAC dated 29th of November 2023, and the determination of the Respondent dated 12th of October 2021 are overturned and the Assessment dated 20th of September 2019 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