

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

In the matter of a Case Stated under Reference No. TAC/IT/123/2018 by the Tax Appeals Commission 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).

**CA Case No: CA/TAX/45/2022**  
**Tax Appeals Commission No.**  
**TAC/IT/123/2018**

Alpex Marine (Pvt) Ltd,  
No. 68, Canal Road,  
Hendala,  
Wattala.

**CA Case No: CA/TAX/35/2024**  
**Tax Appeals Commission No.**  
**TAC/IT/074/2019**

**Appellant**

**CA Case No: CA/TAX/48/2022**  
**Tax Appeals Commission No.**  
**TAC/IT/162/2018**

**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:** Manoli Jinadasa with Rakitha Jayathunga instructed by Rasika Wellappili for the Appellant.

Nayomi Kahawita, SSC for the Respondent.

**Written Submissions:** By the Appellant – on 29.02.2024, 16.12.2025

By the Respondent – on 03.06.2024, 04.03.2026

**Argued on:** 27.10.2025

**Decided On:** 21.05.2026

### **JUDGMENT**

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

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). Since the matters in CA/TAX/45/2022, CA/TAX/35/2024, and CA/TAX/48/2022 deal with the same substantial issues, namely whether the taxpayer is eligible for an exemption under section 16A(1) of the IRA 2006.

As the substantive question is identical across these matters, for convenience I shall refer to the facts of the case CA/TAX/45/2022.

The tax in dispute is against the assessment for the year of assessment 2013/2014 and the taxable amount in issue is Rs. 14,310,175 with a penalty of Rs.6,868,884.

## **FACTUAL BACKGROUND**

The Alpex Marine (Pvt) Ltd (hereinafter sometimes will be referred to as the Appellant) is a limited liability company incorporated in Sri Lanka under the Companies Act No. 07 of 2007. The Appellant 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 Appellant has submitted the assessment for the taxable period 2013/2014 on 20<sup>th</sup> of November 2014, which was rejected by the Assistant Commissioner of Inland Revenue by the letter of intimation dated 25<sup>th</sup> of May 2016, as he was not in agreement with the exception claimed under section 16A of IRA 2006, on the business of processing shrimps and other seafood items. Accordingly, the notice of assessment dated 30<sup>th</sup> of May 2016 was issued.

Being aggrieved by the said assessment, the Appellant has appealed to the Commissioner General of Inland Revenue (hereinafter will be referred as the Respondent), and the Respondent by the determination dated 31<sup>st</sup> of May 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 30<sup>th</sup> of June 2022. The TAC after considering the oral and written submissions of both parties confirmed the determination of the Respondent and dismissed the appeal for the reasons mentioned in the determination dated 30<sup>th</sup> of June 2022.

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

*“It is to be noted that section 16A was enacted in to the law for the purpose of promoting the fisheries industry in Sri Lanka. In this case one has to identify what was the intention of the legislature in enacting laws giving some concessions to certain persons and sectors of the fisheries industry. It is obvious that the intention of the law makers in regard to section 16A of the Inland Revenue Act was to promote the fisheries industry. However, the said section 16A covers "any person or partnership from any undertaking for fishing carried on in Sri Lanka definition given in the Inland Revenue Act to the word phrase "undertaking for fishing" or the word "fishing". In the*

*Sinhala text of the section 16A of the Inland Revenue (Amendment) Act No 22 of 2011, the English text of "undertaking for fishing" reads as; " මාළු ඇල්ලීම සඳහා වූ ව්‍යවසායකීන් ". Therefore, the ordinary meaning of "fishing" has to be considered. As there is no definition given in the Law Dictionary, according to the Oxford Dictionary, the meaning given to the word "fishing" is "catching fish". Furthermore, we are of the view that the sub sections of section 16A are interrelated to each other. In section 16A (1) the exemption is given to any undertaking for fishing. It has further extended to give the same person to cover various activities carried out by such person. (As per section 217 of the Inland Revenue Act, "person" includes a company or body of persons or any government.) Therefore, having regard to the materials referred to above it is clear that the Appellant Company is not an undertaking for fishing. Hence we are of the view that the Appellant was disqualified for the application of the exemption provided in the section 16A of the Inland Revenue Act."*

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 there has been a valid assessment made by the Assistant Commissioner on the Appellant for the Year of Assessment 2013/2014*
- II. Has the Tax Appeal Commission erred in law in failing to determine that the Assistant Commissioner had not made an assessment of income tax on the Appellant for the Year of Assessment 2013/2014 in accordance with the provisions of the Inland Revenue Act No. 10 of 2006 as amended?*
- III. Has the Tax Appeals Commission erred in law in failing to determine that the assessment bearing reference No. ITA 16030600264 VI was not an assessment that could have been made by the Assistant Commissioner in view of the provisions of the Inland Revenue Act No. 10 of 2006 as amended?*

- IV. *Has the Tax Appeal Commission erred in law in failing to determine that there is no valid assessment made on the Appellant by the Assistant Commissioner under the provisions of the Inland Revenue Act No. 10 of 2006 as amended?*
- V. *Whether the Tax Appeals Commission erred in law in its interpretation of Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?*
- VI. *Has the Tax Appeals Commission erred in law in failing to determine that the profits and income of the Appellant of Rs. 173,042,625/ are exempted from income tax and fall within the meaning of Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?*
- VII. *Has the Tax Appeals Commission erred in law in failing to determine that the business of the Appellant fall within the meaning of "any undertaking for fishing" under Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?*
- VIII. *Has the Tax Appeals Commission erred in law in failing to appreciate that the profits and income of the Appellant for the Years of Assessment 2011/2012 and 2012/2013 were exempted from income tax under Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?*
- IX. *Has the Tax Appeals Commission erred in law in failing to appreciate and determine that the Assessment No. ITA 16030600264 V1 issued for the Year of Assessment 2013/2014 is arbitrary, exaggerated and a protective Assessment not valid in law?*
- X. *Has the Tax Appeals Commission erred in law in considering reasons other than the reasons set out by the Assistant Commissioner in his communication of the purported reasons for not accepting the return of the Appellant?*

- XI. *Has the Tax Appeals Commission erred in law in failing to determine that the CGIR has given reasons other than the reasons set out by the Assistant Commissioner in his communication of the purported reasons for not accepting the return of the Appellant?*
- XII. *Has the Tax Appeals Commission erred in law in failing to determine that the CGIR has failed to give reasons within the time period as required by section 7(3) of the Tax Appeals Commission Act No.23 of 2011 as amended?"*

### **ANALYSIS**

I consider it is appropriate to address the common substantive issues in relation to the above three cases together. 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 only address the Questions of Law V, VI, VII, and VIII, which is in relation to the applicability of the exception provided under section 16 of IRA 2006.

***Whether the Tax Appeals Commission erred in law in its interpretation of Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?***

***Has the Tax Appeals Commission erred in law in failing to determine that the profits and income of the Appellant of Rs. 173,042,625/ are exempted from income tax and fall within the meaning of Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?***

***Has the Tax Appeals Commission erred in law in failing to determine that the business of the Appellant fall within the meaning of "any undertaking for fishing" under Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?***

***Has the Tax Appeals Commission erred in law in failing to appreciate that the profits and income of the Appellant for the Years of Assessment 2011/2012 and 2012/2013 were exempted from income tax under Section 16A of the Inland Revenue Act No. 10 of 2006 as amended?***

The Appellant claims that the principal activity of the Appellant is said to be engaging in the business of processing shrimps and other sea food items in value addition and exports. Therefore, it is the contention of the Appellant that they are 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 1<sup>st</sup> 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 Respondent that the exception is only applicable to catching fish from deep sea or inland waters. It is the position of the Respondent that according to the Oxford dictionary the definition for the term ‘undertaking for fishing’ is known as the business of catching fish. Therefore, the Respondent 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 Respondent 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 Respondent 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 තැනැත්තෙකු 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 භාජන 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 පොලේ 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 Respondent 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 Respondent accordingly relies on the ordinary meaning of the term as the ‘catching of 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*” (13<sup>th</sup> Edition, page 264-265)** states that the best guide to interpret a word in a statute is the definition of the word provided in 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 specific 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 takes precedence over 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 ‘මාළු ඇල්ලීම සඳහා වූ ව්‍යවසායකීන්’ which denotes an undertaking engaged in fishing activities. The Respondent, however, has isolated only the words ‘මාළු ඇල්ලීම’ 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 Respondent is fundamentally flawed and grossly inappropriate.

Further, the Respondent’s contention that section 16A(1) should be interpreted independently is untenable, as it is inconsistent with the clear definition provided under subsection (2) of the above provision. 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 resorting to a general dictionary definition.

On this basis I conclude that the Respondent’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 V, VI, VII, and VIII in the Affirmative.

Since, the questions of law V, VI, VII, and VIII are answered in the above manner; the notice of assessment dated 30<sup>th</sup> of May 2016 is considered nullified. Hence, the rest of the questions raised by the Appellant need not be discussed.

## **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 V – Affirmative

Question of law VI – Affirmative

Question of law VII – Affirmative

Question of law VIII – Affirmative

Accordingly, the appeals are allowed.

In the case of CA/TAX/45/2022 and CA/TAX/48/2022, the assessments dated 30<sup>th</sup> of May 2016 is quashed and the determination of the Respondent dated 31<sup>st</sup> of May 2018 and the determination of the TAC dated 30<sup>th</sup> of June 2022 are null and void.

In the case of CA/TAX/35/2024 the assessment dated 30<sup>th</sup> of May 2017 is quashed and the determination of the Respondent dated 5<sup>th</sup> of August 2019 and the determination of the TAC dated 23<sup>rd</sup> of November 2020 are null and void.

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**