

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

In the matter of a Case Stated for the opinion of the
Court of Appeal under Section 11A of the Tax Appeals
Commission Act No.23 of 2011, as amended by Act
No.20 of 2013.

Commercial Credit and Finance PLC
No. 106, Yatinuwara Weediya,
Kandy.

APPELLANT

CA CASE NO: CA/TAX/34/2019

Tax Appeals Commission Appeal

No: TAC/VAT/015/2016

Vs.

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

RESPONDENT

Before: **B. Sasi Mahendran, J**

 Adithya Patabendige, J

Counsel: Nihal Fernando, PC with Johann Corera for the Appellant.

Manohara Jayasinghe, DSG for the Respondent.

Written 17.02.2026 (by the Appellant)

Submissions: 17.02.2026 (by the Respondent)

On

Supported On: 07.08.2026

Order On: 01.10.2026

B. Sasi Mahendran,

This is a Case Stated submitted by the Tax Appeals Commission (hereinafter referred to as the “TAC”) for the opinion of this Court under Section 11 of Act No. 23 of 2011, as amended.

The Appellant, Commercial Credit and Finance PLC, is a limited liability company incorporated in Sri Lanka and engaged in the business of providing financial services.

The Appellant Company submitted its return of income for the taxable period from 1st April 2011 to 31st March 2012. However, the Assessor did not accept the return in respect of certain matters and issued an intimation on the basis that the Appellant Company was liable to pay VAT on financial services.

Being aggrieved by the said assessment, the Appellant Company appealed to the Commissioner-General of Inland Revenue (hereinafter referred to as the “Respondent”). The Respondent, by his determination dated 29th June 2024, confirmed the assessment made by the Assessor.

The Appellant thereafter appealed against the Respondent’s determination to the TAC by a Petition of Appeal dated 14th October 2016. The TAC, by its determination dated 10th July 2024, confirmed the determination made by the Respondent.

Being dissatisfied with the aforesaid determination of the TAC, the Appellant, by its communication dated 25th July 2019, requested the TAC to refer the Case Stated to the Court of Appeal for its opinion.

The Case Stated comprises sixteen questions of law formulated by the TAC and referred to this Court for its opinion.

The Questions of Law, reproduced verbatim, are as follows,

1. Whether the Tax Appeal Commission erred in law by failing to determine the appeal within the period of 270 days as stipulated under section 10 of the Tax Appeals Commission Act No. 23 of 2011 as amended?
2. Whether the appeal shall be allowed as the Tax Appeals Commission failed to determine the company's ground of appeal that "the assessor has given his conclusion" in assessing the additional income instead of communicating reasons under section 29 of the Value Added Tax Act, No. 14 of 2002 as amended" ("VAT Act")?
3. Whether the assessor has communicated his conclusion instead of communicating reasons under section 29 of the VAT Act?
4. If the answer for the aforesaid question is affirmative, whether the assessment becomes invalid as the assessor failed to communicate the reason for not accepting the return as stipulated under section 29 of the VAT Act?
5. Has the assessor erred in law and/ or disregarded the charging provision of section 25(A)(1) read together with section 25F of the VAT Act?
6. Whether the computation section viz section 25C (5) of the VAT Act can supersede and/or be applied independent of the charging section for VAT on "supply of financial services" viz section 25A (1) of the VAT Act?
7. Whether an item of income that does not fall within the definition of "supply of financial services" under section 25F of the VAT Act, is chargeable with VAT on "supply of financial services"?
8. Whether the Tax Appeals Commission has erred in law by determining that the investment interest income from government securities, fixed deposits, and other deposits which are not financial services" within the contemplation of section 25F, will have to be treated as "supply of financial services" purely because the company is a "specified institution" as defined in section 25F of the VAT Act?
9. Whether the Tax Appeals Commission has erred in law by determining, without any reasoning, that the purchase and sale of shares in listed entities fall within the meaning of "supply of financial services* under item (e) of section 25F of the VAT Act (transfer of ownership of any equity securities)?
10. Whether the Tax Appeals Commission has erred in law by determining, without any reasoning, that investments on the Appellant's own account fall within the meaning of "supply of financial services" under item (e) of section 25F of the VAT Act?
11. Whether the Tax Appeals Commission has erred in law by determining that the gain on sale of shares is chargeable for VAT on FS purely because of the reason that the company is "specified institution"?

12. Whether the appeal shall be allowed as the Tax Appeals Commission failed to determine the question that in real estate business the 'turnover' shall be the proceeds from sale of real estate instead of the gain (net income)?
13. Whether the Tax Appeals Commission has erred and/or failed to consider that the assessment is incorrect, as the assessor has treated the net income from real estate (which essentially represents the "profit") as turnover from the said business?
14. Whether the determination of the Tax Appeals Commission is erroneous as the Tax Appeals Commission failed to reduce the assessment while accepting the appeal that amounts such as official travelling and subsistence, and transport expenses need not be included as "emoluments" when computing the VAT on FS liability?
15. Has the Tax Appeals Commission erred in failing to make a determination on all the grounds of appeal as contained in the Petition of Appeal to the Commission?
16. The Tax Appeals Commission having considered and reduced the assessment, has the Commission erred in dismissing the appeal of the Appellant?

When the matter came up before this Court on 7 August 2026, learned Counsel for the Appellant moved that the case be remitted to the Tax Appeals Commission for the purpose of adjusting the assessment in accordance with the written submissions filed before this Court. The learned D.S.G. who appeared for the Respondent objected to the said application.

This order pertains to whether this Court has the power to direct the TAC to recalculate the assessment.

I am mindful that, under Section 11A of the said Act, an applicant or Commissioner-General may make an application requiring the TAC to state a case on a question of law for the consideration of the Court of Appeal.

Once the stated case is transferred to the Court of Appeal, there are two courses of action available to the Court in making an order. These are set out in subsections (5) and (6) of Section 11A of the said Act.

For ease of reference, I reproduce below subsections (5) and (6) of the said Act.

“(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Commission for amendment, and the Commission shall amend the case accordingly.

(6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of Court upon such question, confirm, reduce, increase or annul the assessment determined by the Commission, or may remit the case to the Commission with the opinion of the Court, thereon. Where a case is so remitted by the Court, the Commission shall revise the assessment in accordance with the opinion of the Court”

Having considered the above provisions together, it is apparent that the Act confers jurisdiction on the Court of Appeal to determine questions arising from an assessment determined by the TAC. My understanding is that Section 11A (6) of the said Act empowers the Court to hear and determine questions of law arising from the assessment determined by the Commission.

According to Section 11A (5), the Court is empowered to remit the stated case to the Tax Appeals Commission for amendment. In light of the foregoing provisions, it is respectfully submitted that this Court has no jurisdiction to direct the Tax Appeals Commission to amend or adjust the assessment without first determining and answering the questions of law arising from the stated case.

The application to remit the matter to the Tax Appeals Commission is not allowed.

For the above-said reasons, the application is not allowed.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.

I AGREE

JUDGE OF THE COURT OF APPEAL