

**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/87/2023
Tax Appeals Commission No.
TAC/IT/078/2021

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

APPELLANT

Vs.

Ceylinco Life Insurance Ltd,
No. 106, Havelock Road,
Colombo 05.

RESPONDENT

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

Dr. D. F. H. Gunawardhana, J.

Counsel:

Chaya Sri Nammuni, D.S.G. for the Appellant.

Dr. Romesh de Silva, P.C. with Sugath Caldera and Niran Anketell instructed by H.
Chandrakumar de Silva for the Respondent.

Written Submissions filed on: 23.06.2026

Delivered on: 13.10.2026

Order

Introduction

This order is consequent to an application made by the Commissioner General of Inland Revenue, as the Appellant, to submit further documents to be considered in appeal, which he claims is an integral part of the Brief. However, the Respondent-Assessee has vehemently objected to the same.

According to the motion dated 04.11.2024 filed by the Appellant, it is his position that the Consolidated Statement of Financial Position and the Consolidated Statement of Comprehensive Income and Notes of the Respondent company signed by its CEO which had been submitted for the purpose of consideration of tax return by the Assessee, which the Assessee had called for at that stage are not in the Brief. According to the Appellant, the Respondent had submitted those documents, but they are not included in the Brief. However, when the Appellant considered the appeal preferred by the Respondent with regard to the assessment at the stage of consideration of the appeal by the Appellant, he had also considered the same document and rejected the appeal.

Therefore, it is the Appellant's position that those documents should be an integral part of this Brief, and thus, later submitted for the review of the determination of the Tax Appeals Commission (hereinafter referred to as the "TAC").

However, the Respondent-Assessee has vehemently objected to the submission of the said documents on the basis that it had never being part and parcel of the appeal which came before the TAC; therefore, should not be admitted and considered by this Court, and this Application should be rejected *in limine*.

On the other hand, the Appellant argues that in terms of Section 106(13), the Assessee was required to submit the said documents to the Assessor for consideration of the same, which was considered.

In addition to the arguments mentioned above, the respective written submissions were also filed by the counsel.

However, I wish to advert to certain factual matrix in this Application.

Factual matrix

The Appellant is the Commissioner General of Inland Revenue (hereinafter referred to as the "CGIR). The Assessee-Respondent is the Ceylinco Life Insurance Limited, which is a body corporate incorporated under the laws of Sri Lanka, capable of suing and being sued in its corporate name, and it appears that it is only engaged in long-term life insurance, after the segregation of the insurance industry by the Regulation of Insurance Industry Act, No. 43 of 2000 (as amended).

The Respondent had submitted its income tax returns for the year 2015/2016, and claimed deduction in respect of management expenses, including capital allowance attributable to life insurance business in terms of Section 92 of the Inland Revenue Act, No. 10 of 2006 (as amended) (hereinafter referred to as the "IR Act"); however, the Assessor did not accept the same, and accordingly, raised an assessment.

Being aggrieved by the said assessment, the Respondent appealed to the Appellant (the CGIR); the Appellant, by its determination dated 19.05.2021, affirmed the said assessment.

Being aggrieved by the said determination of the CGIR, the Respondent appealed to the TAC on the following questions, as reflected in the document marked as **X2**;

Preliminary Objections:

2.1 Reasons communicated by the Assistant Commissioner is not valid in law.

2.2 The company has not received letter dated May 19, 2018, issued by Mr. B.K.S. Shantha as mentioned in the notice of assessment.

2.3 Commissioner is not delegated to issue assessment under Section 164 of the Inland Revenue Act.

2.4 The determination of the appeal issued by the CGIR is statutory time barred.

Substantive Matters:

2.5 The specific provision applicable to the business of life insurance for the calculation of business profit from life insurance does not supersede the charging section.

2.6 The company is well entitled to claim the exemptions/exclusions granted under the specific provisions of the Inland Revenue Act.

2.7 Management expenses including Commission Cost attributable to the life insurance business is specifically allowed under Section 92 of the Inland Revenue Act.

2.8 Assessment issued by the Commissioner restricting the claim of expenses is without authority.

2.9 The formula adopted by the Assistant Commissioner to restrict the expenses has no legal validity.

While considering the appeal against the determination of the CGIR, the TAC has first gone into the preliminary issue of time-bar. It has decided that the determination of the CGIR is time-barred in terms of Section 165(14) of the IR Act, because the acknowledgement of the petition of appeal submitted to the CGIR was dated 06.07.2018, and the CGIR had to determine the appeal within

two years, on 05.07.2020, while the determination of the CGIR was made 20.05.2021, which is out of the time stipulated; therefore, the appeal of the Respondent prevails. Accordingly, the self-assessment contained in the return should prevail. Thus, the appeal was allowed by the TAC by its decision dated 18.07.2023.

Being aggrieved by the said decision of the TAC, the CGIR appealed to this Court by way of this Application.

The TAC sent the Case Stated, setting out the Questions of Law for the determination of this Court, which reads as thus;

- (i) Whether the TAC has erred in law in determining a question of law and failed to give due consideration to the judgement of the case of *A.M. Ismail v. CIR* (1981) 2 Sri L.R. 78 that the question of law has to be decided by courts and the TAC can decide on questions of facts?
- (ii) Whether the TAC was empowered to determine the appeal only on preliminary objections of the appeal preferred by the Appellant without giving due consideration to the main issues raised in the appeal?
- (iii) Whether the TAC has erred in law when determining the appeal Covid-19 impacted period from March 2020 to July 2021 as abnormal situations are remedied through “Doctrine of Necessity” which means that which is otherwise not lawful is made lawful by necessity?
- (iv) Whether the TAC has erred in determining the question of law without considering the applicability of Section 195 of the Inland Revenue Act No. 10 of 2006 and the *A.M. Ismail v. CIR* (SLTC Vol IV, page 156), on account of a mistake, defect or omission in other preliminary issues when the same is in substance in conformity with the intent and meaning of the Act?

When the parties were to agree as to whether the Brief is complete on 25.11.2024, the Appellant moved to add two more documents by way of a motion dated 04.11.2024, tendering the consolidated statement of financial position and the consolidated statement of comprehensive income and notes, moved that this be accepted as part of the record. To that, the Respondent vehemently objected.

This had been fixed for inquiry, and finally, after several dates of various steps, this came up before my brother Justice Morais and myself on 23.06.2026, and thereafter, the counsel made their respective short oral submissions which I have referred to above. Thereafter, the counsel filed their respective Written Submissions, elucidating the same; hence, this order.

It is the Counsel for the Respondent, Dr. Silva's contention that the TAC has forwarded the Case Stated, having set out the Questions of Law to be determined by this Court according to law. On a perusal of the said Questions of Law as reflected in the Case Stated, I wish to state that the substantive issue on which the Respondent had appealed to the TAC has not been decided. The TAC had only decided upon the preliminary issue of time-bar of the determination of the CGIR on the appeal submitted by the Respondent to the CGIR. Therefore, the TAC has not raised any Question of Law on the substantive issues to be decided by this Court. If the Appellant desired to have a question of law based or raising on the substantive issue, the CGIR should have raised the same before the TAC and moved the TAC to raise such question of law in the Case Stated as well. However, such a question of law was not raised. Even before us, such a question of law is not raised.

Accordingly, what is to be determined by this Court is only on the Questions of Law raised by the TAC in the Case Stated. As such, the Appellant's Application to have the said two documents added and be part of the record, might affect the entire appeal procedure; it is also something that

is redundant as well. Therefore, as argued by Dr. Silva, the said two documents moved to be filed as part of the record, does not have any bearing on the Questions of Law to be determined by this Court.

As such, the objection raised by Dr. Silva is upheld.

Conclusion

Accordingly, this Application made by the Appellant to submit the said two documents and his motion to have it admitted as part of the record is rejected.

JUDGE OF THE COURT OF APPEAL

M.C.B.S. Morais, J.

I agree.

JUDGE OF THE COURT OF APPEAL