

Counsel: Mihiri De Alwis, SSC for the Appellant.
Dr. Shivaji Felix, PC with N. Satharasinghe, S. Nawaratne for the Respondent.

Written Submissions: By the Appellant – on 26.09.2025
By the Respondent – on 25.08.2025, 03.02.2026

Inquired on: 09.12.2025

Decided On: **27.05.2026**

ORDER

M.C.B.S. Morais J.

This is an appeal by way of case stated against the determination of the Tax Appeals Commission dated 25th of July 2023 in the case of TAC/IT/NEW/182/2023.

This appeal is filed under and in terms of section 11A of the Tax Appeals Commission Act No. 23 of 2011 (as amended).

The tax in dispute is related to the taxable period 2018/2019 and the taxable amount in dispute is Rs. 40,325,004.00 with a Penalty of Rs. 8,065,000.00.

According to the income tax regime in Sri Lanka, two distinct appellate routes exist in respect of appeals on a question of law from the determination of TAC to the Court of Appeal: one arising under the Inland Revenue Act, No. 24 of 2017 (IRA 2017), and the other under the Tax Appeals Commission Act, No. 23 of 2011, which has not been amended or repealed by the IRA 2017. Each statute thus contemplates a separate and distinct appellate mechanism governing recourse to the Court of Appeal on questions of law.

In the present matter, the case caption indicates that the appeal has been instituted under section 11A of the Tax Appeals Commission Act, No. 23 of 2011.

Accordingly, the Respondent by the motion dated 18th of October 2024, has raised the following preliminary Objection.

“The Appellant (Commissioner General of Inland Revenue) has made an appeal to the Tax Appeals Commission under and in terms section 7(1) of the Tax Appeals Commission Act, No 23 of 2011 (as amended), but has not followed the procedure prescribed under and in terms of section 140 of the Inland Revenue Act, No 24 of 2017 (as amended), since this matter relates to the year of assessment 2018/2019. In the circumstances, the Appellant's appeal cannot be admitted by operation of law and must, therefore, be dismissed.”

Since the Respondent has articulated its position and raised its objection in the foregoing manner, this order will be confined to an examination of that specific objection, and will not purport to address any ancillary or consequential issues that may otherwise arise.

One of the main objections taken up by the Respondent is that the Appellant has failed to comply with section 140 of the Inland Revenue Act, No. 24 of 2017.

When an appeal is made under section 11A of the Tax Appeals Commission Act, No. 23 of 2011, the Inland Revenue Act No. 24 of 2017 has no application. Even if it were relevant, the objection presently advanced by the Respondent is expressly founded on section 140 of the Inland Revenue Act No. 24 of 2017. However, that provision is Irrelevant, as it governs appeals from an administrative review to the Tax Appeals Commission, and not appeals from the Tax Appeals Commission to the Court of Appeal.

Therefore, for the reasons set out above, I am of the view that the preliminary objection advanced by the Respondent is fundamentally flawed, both in fact and in law, and accordingly cannot be sustained. The case shall proceed to be heard on its substantive merits.

Thus, the preliminary objection raised by the Respondent is overruled.

Judge of the Court of Appeal

Annalingam Premashanker J.

I agree

Judge of the Court of Appeal