

Tax Appeals Commission – 2011

The audit of financial statements of the Tax Appeals Commission for the Period ended 31 December 2011 comprising the balance sheet as at 31 December 2011 and the income and expenditure account for the period ended that date and a summary of significant accounting policies and other explanatory information, was carried out under my direction in pursuance of provisions in Article 154(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka. My comments and observations on the above financial statements appear in this report.

1.2 Management’s Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as the management determines is necessary to enable the preparation of financial statements that are free from material misstatements whether due to fraud or error.

1.3 Auditor’s Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Sri Lanka Public Sector Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000 – 1810). Those Standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission’s internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

1.4 Establishment of the Tax Appeals Commission

The Tax Appeals Commission was established on 23 April 2011 in terms of Section 2 of the Tax Appeal Commission Act, No 23 of 2011 charges with the responsibility of hearing all appeals in respect of matters relating to imposition of any tax levy or duty.

1.5 Basis for Qualified Opinion

My opinion is qualified based on the matters described in paragraph 2.2 of this report.

2. Financial Statements

2.1 Qualified Opinion

In my opinion, except for the effects of the matters described in paragraph 2.2 of this report the financial statements give a true and fair view of the financial position of the Tax Appeals Commission as at 31 December 2011 and its financial performance and cash flows for the period then ended in accordance with Sri Lanka Public Sector Accounting Standards.

2.2 Comments on Financial Statements

2.2.1 Sri Lanka Public Sector Accounting Standards

A cash flow statement for the period from May 2011 to 31 December 2011 had not been prepared in terms of Sri Lanka Public Sector Accounting Standard 01.

2.2.2 Accounting Deficiencies

The following observations are made.

- (a) An expenditure of Rs.106,243 payable for the purchase of a name board had been omitted in the Accounts.
- (b) The advance of Rs.3,105,000 paid as the security deposit for the building obtained on rent basis had been brought to account as an expenditure of the period.
- (c) Provision had not been made for the Audit Fees for the period under review.
- (d) The money/guarantees totaling Rs.1,329,648,907 received for the tax Appeals in the year 2011 had not been disclosed in the financial statements.

3. Financial Review

3.1 Financial Results

The money required by the Commission for the period ending 31 December 2011 had been made available through Supplementary Provision by the General Treasury. Accordingly, out of the provision of Rs.39,892,249 received for the period a sum of Rs.21,934,401 had been spent, thus resulting in a surplus of Rs.17,957,848.

4. Operating Review

4.1 Operating Activities

The Commission had received 76 Tax Appeals from the Department of Inland Revenue in the year 2011 for adjudication and the assessed value of those appeals amounted to Rs.5,703,137,132. Further, the Tax Appeals Commission which was in operation since 23 April 2011 had directly received 36 Tax Appeals by 31 December 2011. Out of that, 28 Appeals valued at Rs.4,663,158,312 had been accepted for investigation and 8 Appeals had been rejected. Nevertheless, investigation of any appeals, whatsoever had not been amounted up to 15 February 2012. As such, the objectives of the establishment of the Tax Appeals Commission had not been achieved in the year 2011.

4.2 Management Activities

The Commission had entered into an agreement with a private Company for obtaining a building with 13,500 square feet of floor area, on rent basis from 20 May 2011 and a sum of Rs.22,064,450 for that had been paid in the year under review.

The following observations are made in this connection.

- (i) Even though the decision relating to procurement activities exceeding Rs.50,000,000 should be taken by the Ministry Procurement Committee in terms of Guideline 2.14.1 of the Procurement Guidelines, contrary to that, the Commission had selected an institution by deviating from the Procurement Guidelines in renting a building and entered into an agreement for a period of 03 years for a sum of Rs.55,890,000 without obtaining an Assessment Report from the Department of Valuation.
- (ii) An office of the Compensation Commission is established in the Ground Floor of the building and the water and electricity for the entire building are supplied through one meter in each case and as such the expenditure on water and electricity consumed by the Compensation Commission as well had been paid by the Tax Appeals Commission.
- (iii) A comparison of the square area with the staff of 18 deployed in the service of the Commission revealed that the annual rent per officer amounted to Rs.1,035,000 and as compared with the staff, the building accommodation had been underutilized.

5. Accountability and Good Governance

5.1 Presentation of Financial Statements

The following observations are made.

- (a) In terms of Section 6.5.1 of the Public Enterprises Circular No.PED/12 of 02 June 2003, the financial statements should be presented to the Auditor General within 60 days after the close of the year of accounts. Nevertheless, the financial statements for the year 2011 had been presented to the Auditor General only 17 July 2015.
- (b) The certificate on the Responsibility for Presenting the Account in terms of Section 3 of the Public Enterprises Circular No.PED/45 of 02 October 2007 had not been included in the financial statements.

5.2 Corporate Plan, Action Plan and Procurement Plan

A Corporate Plan, an Action Plan and a Procurement Plan for the period under review had not been prepared.

5.3 Budgetary Control

Budget has not been prepared for the year under review.

6. Systems and Controls

The deficiencies in system and controls observed during the course of audit were brought to the notice of Secretary to the Commission from time to time. Special attention is needed in respect of the following areas of control.

Areas of Systems and Controls

Observations

(a) Fixed Assets Control

Non-maintenance of Registers of Fixed Assets and non-conduct of the Annual Board of Survey.

(b) Operating Control

Non-maintenance of sufficient records on deposits. Non-extension of the periods of deposits until the finalization of the Appeals.