

Land Reform Commission - 2013

The audit of financial statements of the Land Reform Commission comprising the statement of financial position as at 31 December 2013 and the statement of financial performance, statement of changes in equity and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information, was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with Section 13 (1) of the Finance Act, No.38 of 1971 and Section 56 of the Land Reform Law, No.1 of 1972. My comments and observations which I consider should be published with the Annual Report of the Commission in terms of Section 14(2)(c) of the Finance Act 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, conducted in accordance with Sri Lanka Auditing Standards consistent with International Standards of Supreme Audit Institutions (ISSAI 1000 – 1810).

1.4 Basis for Disclaimer of Opinion.

As a result of the matters described in paragraph 2.2 of this report, I am unable to determine whether any adjustments might have been found necessary in respect of recorded or unrecorded items and the elements making up the statement of financial position, statement of financial performance, statement of changes in equity and cash flow statement.

2. Financial Statements

2.1 Disclaimer of Opinion

Because of the significance of the matters described in paragraph 2.2 of this report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly I do not express an opinion on these financial statements.

2.2 Comments on Financial Statements

2.2.1 Sri Lanka Public Sector Accounting Standards

Even though the money received from the sale of property, plant and equipment, intangibles and other long term assets should be shown under the investment activities in the cash flow statement in terms of paragraph 25 (b) of the Sri Lanka Public Sector Accounting Standard No.2, the sum of Rs. 2,974,445 received from the sale of motor vehicles of the Commission had not been so shown.

2.2.2 Accounting Policies

The following observations are made.

- (a) The policy on accounting for the full amount received from the sale of lands of the Commission as income of the Commission had been followed throughout. As the adjustments for the cost of lands sold had not been made, the financial position and the financial results had not reflected the correct position. Sales income amounting to Rs.904,437,579 and Rs. 148,309,388 had been received from the year 2006 to 31 December 2012 and during the year under review respectively and the other assets of the Commission had been brought to account in the same manner. The income received during the year under review from the lands sold amounted to Rs. 2,974,445.
- (b) Even though it had been stated in the Notes to the financial statements that the financial statements were prepared by following the accrual basis, test checks revealed several instances of non-compliance. Several such instances revealed are given below.
 - (i) Lease income receivable and received in advance had not been identified in the preparation of accounts.
 - (ii) None of the surcharges receivable had been brought to account.

2.2.3 Accounting Deficiencies

The following observations are made.

- (a) The arrears of rent on the two buildings used for the maintenance of the Head Office of the Commission as at the end of the year under review had been understated by a sum of Rs.28,480,750.
- (b) The accrued rent on the District Office buildings amounting to Rs. 113,250 had been omitted in the accounts.

2.2.4 Contingent Liabilities

The Court of Appeal had delivered a judgment in the year 2009 for the payment of Rs.148,715,363 to the plaintiffs who had filed a case for claiming the ownership of a land. Even though the amount payable together with interest as at 31 August 2014 had exceeded Rs. 200 million, provision for the liability had not been made in the accounts.

2.2.5 Unexplained Differences

According to the financial statements the overall liability under the Compensation Suspense Stages I and II amounted to Rs. 229,099,408 and according to the records of the Valuation and Compensation Division the payments due to the claimants including the interest amounted to Rs. 590,000,000. As such a difference of Rs. 360,900,592 was observed. The accuracy thereof could not be ascertained in audit.

2.2.6 Lack of Evidence for Audit

The accuracy of the transactions could not be vouched or accepted in audit due to the non-submission of the documentary evidence indicated against the following items to audit.

| Item of Account | Balance Rs. | Evidence not made available |
|-------------------------------|----------------|---|
| ----- | ----- | ----- |
| Fixed Assets | | |
| ----- | | |
| Lands | 676,169,345 | Schedules showing the full particulars of the lands |
| Buildings | 4,586,223 | } Register of Fixed Assets and Board of Survey Reports |
| Computers and Accessories | 6,771,162 | |
| Furniture and Fixtures | 857,543 | |
| Motor Vehicles | 75,443,715 | |
| Office Equipment | 19,436,340 | |
| Welfare Equipment | 954,146 | |
| Loan and Advances | | |
| ----- | | |
| Lady Lohore Fund | 300,000 | } Confirmation of Balances |
| Fuel Advances | 185,000 | |
| Provision for Bad Debts | 8,270,356 | } Basis of Allocation Detailed Schedules and Confirmation of Balances |
| Income Receivable | 29,731,610 | |
| Compensation Suspense Account | 229,099,408 | } Detailed Schedules |
| Acquisition of Lands | 55,147,644 | |

2.3 Accounts Receivable and Payable

The following observations are made.

- (a) Even though a provision of Rs. 8,270,356 had been made for doubtful debts in respect of trade debtors balances of the Commission older than 11 years amounting to Rs.2,158,312,885, and sundry debtors balances older than 14 years amounting to Rs.2,921,575, the Commission had not taken adequate action during the year under review for the recovery of those debts. The recoverability of those debts had been at the minimum level.
- (b) Even though a sum of Rs. 2,135,598,154 had been shown in the financial statements of the Commission as receivable from 06 Government institutions, it was observed in audit that any balance due to the Commission did not appear in the financial statements of those institutions.

- (c) No recoveries whatsoever had been made up to the end of the year under review in respect of a sum of Rs. 732,056 remaining recoverable since the year 2010 from 49 employees of the Commission.

2.4 Non – compliance with Laws, Rules, Regulations and Management Decisions

Instances of non-compliance with the following laws, rules, regulations, etc., were observed.

| Reference to Laws, Rules, Regulations, etc. | Non – compliance |
|--|--|
| ----- | ----- |
| (a) Land Reform Law, No.1 of 1972 | |
| (i) Section 45 (i) (a) (iii) | A member representing the Presidential Secretariat in charge of the subject had not been appointed to the Commission. |
| (ii) Section 33 | Action had not been taken to deposit in the Civil Courts the compensation and interest due on 71 files in which the titles had not been confirmed. |
| (b) Finance Act, No.38 of 1971 | |
| Section 11 | The concurrence of the Minister in charge of the subject of Finance had not been obtained for Rs.85,000,000 invested in fixed deposits. |
| (c) Value Added Tax Act, No. 14 of 2002 | |
| | As the Commission had not registered under the Value Added Tax Act, a sum of Rs. 26,239,515 recoverable as tax income during the year under review had been deprived of to the Government. |
| (d) Establishments Code of the Democratic Socialist Republic of Sri Lanka | |
| Chapter II Section 13.3 | The post of Director (Finance) had been vacant over a period exceeding 06 years and action had not been taken up to the end of the year under review to fill the post. |
| (e) Financial Regulations of the Democratic Socialist Republic of Sri Lanka | |
| (i) Financial Regulation 502(2) | The Register of Fixed Assets had not been maintained in the proper and updated manner. |

(ii) Financial Regulation 134(3) Copies of Internal Audit Reports had not been furnished to the Auditor General.

(iii) Financial Regulation 104(3) and 104(4) The preliminary reports on accidents to 03 motor vehicles of the Commission had not been furnished. A period of about 06 months had been taken for the conduct of preliminary investigations on 02 accidents to motor vehicles in the years 2012 and 2013 and the full reports had not been furnished even by 31 January 2014.

**(f) Government Procurement
Guidelines of 25 January
2006**

Sections 7.1 and 7.11.1

A motor vehicle of the Commission had been repaired at a cost of Rs.535,405 and it was observed that the bids had been evaluated by a Technical Officer, instead of a Technical Evaluation Committee.

**(g) Public Enterprises Circular
No.PED/12 of 02 June 2003**

(i) Section 4.2.6

Quarterly, Half yearly and Annual Performance Reports had not been prepared and furnished to the relevant Ministry and the Department of Public Enterprises.

(ii) Section 6.5.1

Even though the draft Annual Report together with the financial statements should be furnished to the Auditor General with copies to the Line Ministry and the Department of Public Enterprises of the Treasury within 60 days after the close of the financial year, action in terms of the provision had not been taken.

3. Financial Review

3.1 Financial Results

According to the financial statements presented, the operations of the Commission for the year under review had resulted in a surplus of Rs. 97,096,038 as compared with the corresponding surplus of Rs. 129,731,182 for the preceding year, thus indicating a deterioration of Rs.32,635,144 in the financial results. The decrease of land acquisition compensation income and the land lease income by Rs. 105,896,914 and Rs. 11,084,170 respectively in the year under review as compared with the preceding year had been the main reasons for the deterioration.

3.2 Analytical Financial Review

The following observations are made.

- (a) The current ratio of the year 2013 had been 1:22.98. Out of the current assets as at the end of the year under review, a sum of Rs. 2,158,312,885 relating to 24 items or 90 per cent consists of debtors balances older than 12 years remaining doubtful of recovery and that represented 54 per cent of the total assets. As such the statement of financial position of the Commission does not reflect the actual position of the assets and liabilities and the financial position of the Commission.
- (b) The lease income collected by the Commission for the year under review amounted to Rs.60,697,934 and the income from the sale of lands amounted to Rs. 93,054,187. The lease income and the land sales income received during the year under review as compared with the preceding year, had decreased by Rs.11,084,170 or 15 per cent and Rs. 8,334,076 or 8 per cent respectively. The land acquisition compensation income received for the lands acquired by the Divisional Secretaries during the year under review amounted to Rs.55,147,644 and as compared with the preceding year that income had decreased by a sum of Rs.105,896,914 or 65.8 per cent.

3.3 Legal Action instituted against or by the Commission

Even though the number of cases filed against and by the Commission had been stated as 626 in the financial statements, the number of cases according to the information called for submitting to the Committee on Public Enterprises amounted to 435.

4. Operating Review

4.1 Management Inefficiencies

- (a) The following matters were observed in connection with the compensation payable by the Commission to the claimants.

| Year | Opening Balance of Compensation Suspense Account | Closing Balance of Compensation Suspense Account | Amount Paid | Percentage |
|------|--|--|-------------|------------|
| | Rs. | Rs. | Rs. | |
| 2009 | 142,437,351 | 140,769,719 | 1,667,632 | 1.17 |
| 2010 | 140,769,719 | 138,136,888 | 2,632,831 | 1.87 |
| 2011 | 138,136,888 | 131,287,683 | 6,849,205 | 4.96 |
| 2012 | 126,561,890 | 126,561,890 | 4,725,793 | 3.6 |
| 2013 | 119,139,915 | 119,139,915 | 7,421,976 | 5.86 |

Even though the Commission should pay compensation on lands transferred to the Commission in terms of Section 28 of the Land Reform Law, No.1 of 1972, according to the performance of the Commission for the past 05 years, the settlement of compensation from the Compensation and Suspense I Account during the period of 05 years had ranged between 1.17 per cent to 5.86 per cent. In addition, no settlement of compensation had been made from the Compensation Suspense II Account and the balance thereof amounting to Rs. 109,959,493 remained unchanged over a number of years.

- (b) It was observed that information needed to be obtained for about 600 files relating to lands transferred to the Commission.
- (c) Even though the compensation for 66,161 acres 01 rood 28 perches relating to 49 out of the 104 claimants files where ownership had not been confirmed, had been determined as Rs.3,136,963 the compensation on the balance 55 files had not been determined.

4.2 Operating Inefficiencies

The following observations are made.

- (a) The approval of the Commission for the allocation of the income from the sale of lands at 60 per cent for operating expenses and 40 per cent for reserves had not been furnished to audit.
- (b) Even though the approval of the Department of National Budget had been obtained for the sale of a motor cycle, three other motor vehicles also had been sold by using that approval.
- (c) A motor vehicle which had met with an accident in the year 2012 had been repaired at a cost of Rs. 1,434,302 and the approval of the Presidential Secretariat had not been obtained for the final estimate in that connection. Action in accordance with the recommendation of the Board of Inquiry had not been taken for the recovery of the sum of Rs. 82,219 not covered by the insurance indemnity from the officers connected to the incident.
- (d) The following matters were observed at an examination of lease and sale of lands by the Commission.
 - (i) Steps had not been taken to clear the portion of Humbahapitiya Estate occupied by unauthorized persons since the year 2010. Action had not been taken up to 31 January 2014 to enter into a lease agreement for another portion of land leased to a person who had been granted a lease of 03 acres 01 rood 18.90 perches in the year 2009.
 - (ii) An extent of 280 acres from the Monarakele Estate had been given on lease for a period of thirty years to a private company with effect from February 2011 without the approval of the Minister in charge of the subject. Even though the company had paid a lease advance of Rs. 1,000,000 in October 2011 and continue to utilize the tenure of the land action had not been taken by the Commission even up to 13 August 2014 to issue a Certificate of Tenure or enter into a lease agreement. The lease rent due for the period from the year 2011 to 2016 amounting to Rs. 10,764,622 according to the valuation obtained in March 2013 had not been recovered even by 14 August 2014.

- (iii) Even though an extent of 1 rood 10 perches of the Leyland Estate had been leased out to a private institution for Rs.80,000 with effect from 20 October 2006, the Commission had not taken action even up to 30 January 2014 to enter into a lease agreement.
- (iv) Even though an extent of 25.6 perches from the Ketandola Estate had been transferred by sale in the year 2003, action had not been taken for the recovery of the value of the building of the Commission assessed at Rs. 260,000 situated thereon.

Even though audit inspections revealed that the balance portion of the land had been occupied by unauthorized persons and enjoying the tenure of the land without payment, the Commission had not taken action in terms of Section 42 (d) 1,2,3 and 4 of the Land Reform (Amendment) Law, No.39 of 1975 for the eviction of the unauthorized occupants.

- (v) The Chairman of the Commission informed me that the Commission had not received any money for the portion of land 06 acres in extent from the Pitakanda Estate situated in the Kurunegala District transferred to the Department of Textile Industries on 19 September 1979 as the transfer process had not been properly executed. Nevertheless it was observed that the Department of Textile Industries had leased out that land for a period of 99 years for Rs. 5,400,000 and that institution had, in the year 2005 leased out the land to another company for a sum of Rs. 400,000. Action had not been taken even up to 30 November 2014 to enter into a lease agreement with the company enjoying the tenure of the land at present. Lease rent amounting to Rs. 4,444,622 remained recoverable from the Department of Textile Industries.
- (vi) Even though an extent of 196 acres 0 roods 4 perches from the Yalbowa Estate in the Monaragala District had been handed over to the Sri Lanka Sugar Corporation from the year 1975 to the year 1982, the Commission had not received any money during that period.
- (vii) Out of the Kumbalgoda Estate vested in the Commission under the Land Reform Law, No.1 of 1972, a portion of land 2.02 hectares in extent had been transferred to the Janatha Estates Development Board by a notification published in the Gazette of the Democratic Socialist Republic of Sri Lanka No.417/9 of 02 September 1986 and that Board had leased out the land in the year 1986 to a person for a period of 30 years. The Director of the Ratnapura District had, by his letter dated 30 September 2005 informed that an extent of 06 acres out of the total extent of 12 acres of the Kumbalgoda Estate remained free. Based on that matter, the Commission had taken action without confirming to legal requirements to lease out that land to another person for the maintenance of an export crop project. He has been using the land for illegal gem mining and deprived the legal lease holder from using the land.
- (viii) A portion of land 01 acre 02 roods 09 perches in extent from the Thanahena Estate in the Kurunegala District had been leased out to a private institution for a period of 30 years and that institution had sub - leased the land to another party. Even though the Commission had decided to lease out the land to a new industrial institution, the land

had been leased out to the former institution based on the decision of the then Minister in charge of the subject.

4.3. Transactions of Contentious Nature

The following observations are made.

- (a) Even though 402 external parties and members of the staff of the Commission had paid a sum of Rs. 11,772,992 as deposits for obtaining lands over periods ranging from 01 year to 8 years no action had been taken to give lands to them.
- (b) A motor vehicle purchased for Rs. 6,770,644 in the year 2009 had met with accidents in the years 2012 and 2013 and repaired at costs amounting to Rs. 682,681 and Rs. 620,050 respectively. Even though repairs costing Rs. 517,363 had to be carried out in the year 2013, it had been sold by auction on 02 October 2014 for Rs. 2,261,900 without carrying out the repairs. A motor vehicle costing Rs. 6,770,644 taken off from running within a short period of 04 years is a contentious issue in audit.

4.4 Apparent Irregularities

The files and the used official counterfoil books in official room of the Ampara District Director had been robbed on 20 December 2011 and the District Director had been transferred to the Head Office in the year 2014. The money not banked in the first 03 months of the year 2011 amounted to Rs. 1,299,750 and that money had been recovered in 06 instances by the Commission from the District Director on an order made by the Chairman. The income brought to account during 03 months of the year 2013 amounted to Rs. 14,480 only and the Commission had not taken action to ascertain the income actually receivable during that period. The Commission had not taken disciplinary action against the District Director.

4.5 Identified Losses

A sum of Rs. 1,700,000 paid to a private institution in the year 2002 for the purchase of a software package had been brought to account as an advance even by the end of the year under review. It was further observed in audit that the Criminal Investigation Department is conducting an investigation in connection with this matter and that such an institution is not in existence. The matter had not been disclosed in the financial statements.

4.6 Staff Administration

According to the letter No. DMS/E2/01/7/008/2 dated 03 October 2012 the approved cadre of the Commission had been 307 and the number deployed in excess of the approved cadre as at 31 December 2013 had been 107. Out of the approved cadre, 24 posts had been vacant and that included 13 staff grade posts.

5. Accountability and Good Governance

5.1 Action Plan

The following observations are made.

- (a) Estimates of expenditure had not been furnished for 07 activities included in the Action Plan for the year under review and the officers responsible for certain activities had not been indicated.
- (b) The periods relating to the targets given for 08 activities of the Action Plan had not been indicated. In the case of certain activities, the allocation made for the respective periods did not agree with the totals.
- (c) Estimates of expenditure for legal problems had not been prepared and included in the Action Plan together with the targets.
- (d) According to the Progress Report furnished in accordance with the Action Plan for the year 2013 ten activities had not been implemented at all while the progress of 14 activities ranged between 2 per cent to 48 per cent. In addition, instances of expenditure incurred on 03 activities had been included in the report showing the progress of activities without implementing those activities.

5.2 Internal Audit

Four sections in the Internal Audit Programme for the year 2013 had not been covered.

5.3 Audit Committee

Even though the Commission is under the purview of the Presidential Secretariat, a member of that had not been included for participation in the meetings of the Audit and Management Committee.

5.4 Budgetary Control

An examination of the budgeted income and expenditure for the year 2013 with the actual income and expenditure revealed variances ranging from 1 per cent to 4,405 per cent in the income and variances ranging from 7 per cent to 348 per cent in the expenditure, thus indicating that the budget had not been made use of as an effective instrument of financial control.

5.5 Tabling of Annual Reports

The Annual Report for the year 2012 had not been tabled in Parliament even by 13 August 2014.

6. Systems and Controls

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

- (a) Income Control
- (b) Cash Control
- (c) Motor Vehicles Control
- (d) Maintenance of Registers