

## Report of the Auditor General on Head 205 – Department of Public Trustee – Year 2015

The audit of the Appropriation Accounts and the Reconciliation Statements including the financial records, books, registers and other records of the Head – 205 Department of Public Trustee for the year ended 31 December 2015 was carried out in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka. The Management Audit Report for the year under review was issued to the Public Trustee on 29 July 2016. The audit observations, comments and findings on the accounts and the reconciliation statements were based on a review of the accounts and reconciliation statements presented to audit and tests of samples of transactions. The scope and extent of such review and tests were such as to enable as wide an audit coverage as possible within the limitations of staff, other resources and time available to me.

### 1.2 Responsibility of the Chief Accounting Officer and the Accounting Officer for the Accounts and Reconciliation Statements

The Chief Accounting Officer and the Accounting Officer are responsible for the maintenance, preparation and fair presentation of the Accounts and the Reconciliation Statements in accordance with the provisions in Articles 148, 149, 150 and 152 of the Constitution of the Democratic Socialist Republic of Sri Lanka, other statutory provisions and Public Finance and Administrative Regulations. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of Accounts and Reconciliation Statements that are free from material misstatements whether due to fraud or error.

## 2. Accounts

### 2.1 Appropriation Account

#### Total Provisions and Expenditure

The total net provisions made for the Department amounted to Rs.48.35 million and out of that, Rs.44.84 million had been utilized by the end of the year under review. Accordingly, the savings out of the net provisions made for the Department, amounted to Rs. 3.5 million representing 7.26 per cent. Details appear below.

Expenditure	As at 31 December 2015			Savings as a Percentage of the Net Provision
	Net Provision	Utilization	Savings	
	Rs. Millions	Rs. Millions	Rs. Millions	
Recurrent	45.45	42.12	3.33	7.33
Capital	2.90	2.72	0.18	6.21
<b>Total</b>	<b>48.35</b>	<b>44.84</b>	<b>3.51</b>	<b>7.26</b>

## 2.2 Advances to Public Officers Account

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### 2.2.1 Limits Authorized by Parliament

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The limits authorized by Parliament for the Advances to Public Officers Account under the Item No. 20501 and the actual amounts are given below.

Expenditure		Receipts		Debit Balance	
Maximum Limit	Actual	Minimum Limit	Actual	Maximum Limit	Actual
Rs. Millions	Rs. Millions	Rs. Millions	Rs. Millions	Rs. Millions	Rs. Millions
2.75	1.55	1.50	2.39	10.50	6.31

## 2.3 Imprest Account

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The balance of the imprest account bearing No. 7002/0000/00/0141/0015/000 under the Department as at 31 December 2015 amounted to Rs. 1.83 million.

## 2.4 General Deposit Account

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The balance of the account No. 6000/0000/00/0002/0122/000 under the Department as at 31 December 2015 amounted to Rs. 0.55 million.

## 2.5 Audit Observation

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The Appropriation Account and the Reconciliation Statements of Department of Public Trustee for the year ended 31 December had been satisfactorily prepared subject to the Audit Observations included in the Management Audit Report referred to in paragraph 1.1 above. The material and important audit observations included in that Management Audit Report appear in paragraph 3.

## 3. Material and Important Audit Observations

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### 3.1 Failure to Maintain Books and Registers

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Audit test checks observed that the Department had not maintained the following registers while some of the registers had not been maintained properly and in an up-dated manner.

<u>Type of Register</u>	<u>Relevant Regulation</u>	<u>Observations</u>
(a.) Register of Electrical Fittings	Financial Regulation 454 (2)	Not maintained
(b.) Security Register	Financial Regulation 891 (1)	Not maintained
(c.) Register of Fixed Assets.	Treasury Circular, No. 842, dated 19 December 1978	Not updated
(d.) Leave Register	Section 1.7 of Chapter XII of the Establishments Code.	No updated

### **3.2 Replies to the Audit Queries**

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Replies to 05 audit queries issued in the year under review and 01 audit query issued in the preceding year to the Department, had not been furnished even by 31 May 2016. The value of the computable transactions in respect of those queries amounted to Rs. 1,821,319.

### **3.3 Budget Variance**

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As over Provisions had been made for 02 capital Objects the savings, after the utilization of provisions, ranged from 24 per cent to 62 per cent of the net provisions relating to those Objects.

### **3.4 Reconciliation Statement of the Advances to Public Officers Account**

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According to the Reconciliation Statement of the Advances to Public Officers Account bearing Item No.20501 as at 31 December 2015, the balances that remained outstanding as at that date totaled Rs. 656,194. Even though those outstanding balances related to a period of over a year, the follow up action relating to the recovery of those balances remained weaker even by 31 December 2015.

### **3.5 Internal Audit**

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Internal audit plans had been prepared for 67 activities to be carried out under 14 projects, and 09 internal audit queries had been issued during the year under review. Attention had not been paid on important areas of audit such as, confirmation of balances shown in the trust accounts, investment registers, inspection of share certificates, obtaining bank confirmation, and ensuring the receipt of interest and dividends and accounting them correctly.

### **3.6 Annual Performance Report**

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In terms of Public Finance Circular, No. 402, dated 12 September 2002, the performance report should be tabled in Parliament within 150 days since the lapse of the financial year. However, the performance report for the year 2015 had not been tabled in Parliament even by 30 May 2016.

### 3.7 Unsettled Liabilities

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The liabilities relating to a period of less than a year that had not been settled by the Department as at 31 December 2015, totaled Rs. 261,671.

### 3.8 Non-compliances

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#### 3.8.1 Non-compliances with Laws, Rules, and Regulations

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Instances of non-compliance with the provision in laws, rules and regulations observed at audit test checks are analyzed below.

<u>Reference to Laws, Rules, and Regulations</u>	<u>Value</u> Rs.	<u>Non-compliance</u>
(a.) Establishments Code of the Democratic Socialist Republic of Sri Lanka		
(i) Section 3.17.3 of Chapter XXIV	123,440	Loans had been granted without obtaining a written undertaking that another acceptable surety shall be furnished when the guarantor is to be retired during the pendency of the loan.
(ii) Section 4.2.3 of Chapter XXIV	151,233	A loan had been granted without obtaining the signature of the officer for the irrevocable undertaking in the from shown in Appendix 23 that the loan shall either be settled in full before retirement or that on retirement, he will commute his pension and authorize the Director of Pensions or the Head of the Department to recover any outstanding balance from his commuted pension.
(b.) Financial Regulations of the Democratic Socialist Republic of Sri Lanka		
(i) Financial Regulation 137 (5)	6,066,360	In the case of supplies, payments should be made by verifying that they should be examined and correctly taken on charge or otherwise accounted. However, it had not been so done.

(ii)	Financial Regulation 371(2) (b) as amended by Public Finance Circular, No. 03/2015, dated 14 July 2015.	2,057,558	"Ad hoc" Sub-Imprests had been issued in 10 instances in excess of the maximum limit issuable at an instance amounting to Rs. 100,000.
(iii)	Financial Regulation 371(5)	4,138,338	"Ad hoc" Sub-Imprests issued in 67 instances had been settled after delays ranging 1-12 months. Sub-Imprests issued in 20 instances totalling Rs. 480,730 had not been settled even as at the date of audit.
(iv)	Financial Regulation 371(2)	115,750	The grant of Sub-Imprests should be limited to Staff Officers, but "ad hoc" Sub-Imprests had been granted to private institutions in 02 instances.

### 3.9 Performance

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The observations on the performance of the Department in accordance with the Annual Budget Estimates and the Action Plan for the year 2015 are given below.

#### 3.9.1 Main Activities not Performed Adequately

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(a.) **The estate of *Shrima Indrani De Soyza***

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According to the last will of Mrs. *Shrima Indrani De Soyza* who had died on 14 April 2007, the Department had failed to fulfil the objectives of the owner of the property by 30 May 2016 even after 09 years of her demise. Furthermore, the house and its properties belonging to the owner of the estate had been given to a female officer in August 2009 who had been employed in the Department by that time, without an agreement or levying rentals. As such, the Government property had been misused following the failure of the Department to reacquire the said estate.

(b.) ***Labuhena Watta***

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The *Labuhena Watta* land in extent of 98 acres located in Kurunegala district under the ownership of N.D.S. Silva Board of Trustees, had been obtained in the custody of the Department of Public Trustee enabling the Public Trustee to be the custodian of the property, in accordance with the agreement, No. 1065 entered into with the Public Trustee on 04 August 2011. The following observations are made in this connection.

- (i) An agreement had not been entered into in respect of, the highlands and paddy lands of the property, main crops, intercrops, other trees, existing buildings, machinery and other specialties.
- (ii) The property had been undertaken without obtaining a financial contribution from the N.D.S. Silva Board of Trustees for the development of the property. A sum of Rs. 6,382,565 from the estates of other trustees had been incurred on *Labuhena Watta* as at the date of audit. Of that, a sum of Rs. 1,440,750 had been incurred on lawsuits. In the capacity of management and administrative trustee, the Department was responsible for a property sustaining losses with unclear tenure rights, and it had become only a financial burden for the Department.
- (iii) The Department, being the custodian, had failed in the execution of its responsibilities, due to reasons such as, payment of scholarship aids amounting to Rs. 51,000 despite being in a non-profitable status, failure to record a sum of Rs. 211,811 spent as per the expenditure file, in the votes ledger as expenses, non-availability of confirmation for expenses incurred in 15 instances totalling Rs. 700,465 and payments of Rs. 770,000 made as advances for plucking coconuts, and failure to furnish the account for *Labuhena Watta* along with the final accounts of the Trust presented for the years 2013 and 2014.

(c.) ***Wanasgalla Watta***

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 In accordance with the Agreement, No. 04, dated 18 April 2013, the Department, as the custodian, had undertaken the *Wanasgalla Watta* 100 acres in extent located in *Weuda*, Kurunegala, from the N.D.S. Silva Management Trust. The following observations are made in this connection.

- (i) There had been no agreement relating to the physical situation of the *Wanasgalla Watta*, its terms of paddy lands, crops, buildings, and machinery. Trees worth economically, had not been inventoried.
- (ii) In reaching the said agreement, the duration for which the Department of Public Trustee should develop the estate, handing over the estate to the N.D.S Silva Trust after being developed, and the benefits to be received by the Department of Public Trustee for the development of the estate, had not been agreed upon. Furthermore, a sum of Rs. 2,267,293 from the funds of other estates had been incurred on the development of *Wanasgalla Watta*, but no benefit whatsoever had been received so far either by the Department or other Trusts that provided financial contribution.
- (iii) The Department had deployed officers of the Civil Security Department to develop the estate, and the financial position of the estate remained in a debit balance. Without assigning specific tasks, allowances amounting to Rs. 152,800 had been given by the Department for the service of the officers of the Civil

Security Department relating to the period from 17 September 2014 to 28 February 2015.

### **3.9.2 Failure to Achieve the Objectives of the Trust, and Accomplishing the Objectives of Other Trusts from the Profitable Trusts**

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There had been 63 instances in which accomplishing the objectives of the Trust had been neglected despite adequate income, and 08 instances were observed where objectives of the Trust had been accomplished by utilizing the funds of other trusts despite the inadequacy of the funds required for accomplishing the objectives.

### **3.9.3 Non-rendition of Accounts of the Estates of the Trust**

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The following observations are made.

- (a.) The final accounts of the estates of the trust for the year 2015, had not been prepared and presented even by 30 June 2016.
  
- (b.) Accounts of the estates owned by the Department of Public Trustee had not been presented in the final accounts of the Trust prepared for the years 2013, and 2014. Accordingly, it was observed that the final accounts had not represented a true and accurate position of all the trusts.
  
- (c.) In case of miscellaneous properties being owned by a trust, separate accounts had been maintained for each of the properties, instead of maintaining a single trust account for the trust.

### **3.9.4 Interest on Investment**

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The following observations are made.

- (a.) The accumulated capital (investment) of the Polytechnic Trust (C 49) established on 01 September 1988, amounted to Rs. 1,271,036. The deficit of the income that had been brought forward as at 31 December 2014, amounted to Rs. 496, 238. According to the income and expenditure account for the year ended 31 December 2014, no income whatsoever had been shown in the accounts in respect of the years 2013, and 2014. As such, the Department had failed to earn interest on the investments, and to adjust the interest receivable from the investments, in the revenue accounts.
  
- (b.) Even though the Department had acquired 87.56 per cent of the shares of the Associated Newspapers of Ceylon Ltd. amounting to Rs. 30,050,380, the Appropriation Account or the Trust Estate Accounts had not revealed anything in that connection.

### 3.10 Transactions of Contentious Nature

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Some of the transactions performed by the Department had been of contentious nature. Particulars of some of such transactions revealed in sample tests are as follows.

#### Incurring Expenses from the Religious and Social Welfare Trust Fund

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The following observations are made.

- (a.) Instead of incurring expenses of the relevant Objects in a manner not exceeding the provisions made through the annual budget estimates for the general administration of the Department, a sum of Rs. 1,057,723 had been incurred from the Religious and Social Welfare Trust Fund.
- (b.) Vouchers had not been made available to audit to confirm the expenses amounting to Rs. 400,350 incurred by the Religious and Social Welfare Trust.

### 3.11 Irregular Transactions

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#### Estate of *Weerasinghe Abeynayake*

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The following observations are made in this connection.

- (a.) The compensation of Rs. 16,500,000 in connection with the acquisition of the plot under the letters 'A' and 'B' in extent of 31.0287 hectares at the combined land, *Moderamuneyaya*, and *Kaduruwekada* in Western *Giruwapattu*, *Polmote* that had belonged to the estate of *Weerasinghe Abeynayake*, had been retained in the General Deposit Account contrary to the objectives of the Department. Furthermore, the compensation amounting to Rs. 16,500,000 had been invested in a fixed deposit on 06 March 2012 without being recognized under the name of the relevant trust. As the interest earned from this deposit had been credited monthly to the Religious and Social Welfare Trust, the trust had been deprived of a sum of Rs. 4,516,050 earned from the estate of *Weerasinghe Abeynayake*, and the said moneys had been spent at the discretion of the Public Trustee through the Religious and Social Welfare Trust without being utilized for achieving the objectives of the Trust.
- (b.) Action had not been taken even up to 31 December 2015 to recover the income that the Trust had been deprived of, from the relevant parties thereby depositing
- (c.) the name of the Trust by enabling the achievement of the objectives of the Trust.
- (d.) The following deficiencies were observed in connection with the land, No. 03 in extent of 32 perches divided by plot No. "B" of *Punchipathahawatta* belonging to the estate of *Weerasinghe Abeynayake* and located on *Gabada Street, Matara*.



- (i) The said property had been leased out to a person under the lease agreement, No. 312 on 05 February 2013 at a monthly lease rent of Rs. 8,000. The Department of Public Trustee had not inquired the Department of Valuation about the assessment of the monthly lease rent even by 31 December 2015, and had not acted properly in that connection.
- (ii) The validity period of the said lease agreement had expired 31 December 2013, but action had not been taken either to renew or enter into a new agreement. Furthermore, the Department had not taken action to recover the outstanding lease rent of Rs. 128,000 relating to the period from April 2014 up to the date of audit.

### 3.12 Losses and Damages

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The Department had failed to recover the loss of Rs. 254,038 caused by a vehicle met with an accident on 27 January 2007.

### 3.13 Unresolved Audit Paragraphs

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Reference to the paragraphs of the Reports of the Auditor General relating to the deficiencies of the Department on which remedial action had not been taken, is given below.

#### Reference to the Report of the Auditor General

<u>Year</u>	<u>Paragraph No.</u>	<u>Subject Referenced</u>
(a) 2012	5.1	<p><u>Investment of Funds in the <i>Pramuka</i> Bank</u></p> <p>A total sum Rs. 129,052,032 belonging to the 40 trusts and estates under the Department of Public Trustee, had been invested in a private bank in the years 2001 and 2002. Once the said bank had been closed, the funds had been invested as share capital belonged to the Government in the National savings Bank by considering that sum as deposits recoverable to the Government. The interest income of about Rs. 160 million that would have been received based on the normal interest rate for the investments, had been deprived even by the end of the year 2015.</p>
(b) 2012	10.1	<p><u>Improper Administration of <i>Ambuluwawa</i> Environment Development and Conservation Trust Fund</u></p> <p>There had been an overdraft balance of Rs. 22,709,170 as at the date of audit, 11 September 2013 in the account of this Trust established with a capital of Rs. 100,000 on 01 September 2000 under the objective of developing and conserving the environment and the bio-diversity of Ambuluwawa.</p>

Contrary to the objectives of the Trust, a total sum of Rs. 4,413,899, comprising a total sum of Rs. 2,802,816 for the settlement of personal medical bills in 02 instances, a sum of Rs. 1,296,353 for purchasing air tickets, and a sum of Rs. 314,731 on repair of vehicles and insurance, had been paid by the Trust improperly.

Furthermore, contrary to the objectives of the Trust, a total sum of Rs. 2,300,000 had been paid improperly in 04 instances without approval of the Board of Management.

Contrary to the laws, rules and regulations, a jeep purchased in December 2010 at a value of Rs. 3,431,400 had been sold in January, 2012 for a sum of Rs. 3,400,000 without approval of the Board of Management of the Board.

Even though a sum of Rs. 4,000,000 had been paid in January, 2012 for purchasing a vehicle, evidence to ensure whether that vehicle had been purchased, had not been made available to audit.

Due to matters such as, failure to recover interest on a sum of Rs. 15,000,000 invested in a bank, release of a sum totalling Rs. 10,754,399 in 14 instances without approval of the depositor, and failure to prepare and present statement of accounts to the audit, the conditions 08, 16, and 18 of the Trust Deed had been breached.

(c) 2012

10.3

#### Acquisition of an Estate

The following observations are made in connection with the acquisition of an estate.

Despite the availability of a permanent experienced and qualified staff on the ground work of the acquisition of assets of an estate once it is in the custody of the Department on 19 April 2010, the department had got this ground work done by an external person without a proper methodology by incurring a sum of Rs. 1,003,955 from the money of the estate. Supporting documents to corroborate those payments had not been made available to audit.

Eighty items of valuable assets and jewelries of that

estate deposited in a bank safe, had not been shown in the relevant files of the Department and the register of assets presented before the court.

According to the information made available to the court, the value of the bank balances of the proprietor of the estate, amounted to Rs.45,324,443. Nevertheless, that balance amounted to Rs. 51,906,005 in accordance with the information received by the audit. Furthermore, information on another bank balance owned by the proprietor by the owner of the estate had been understated by Rs. 304,445 and presented to the court.

In addition to the said bank balances, the bank statements containing information relating to the balances maintained at other banks amounting to Rs. 53,646,470 that had been presented before the court, had not been included in the files of the estates. Hence, on the accuracy of those balances could not be established in audit.

A period of 02 years and 08 months had elapsed as at the date of audit, 20 December 2012 since the demise of the owner of the said estate, but the activities stated in his last will relating to his house in *Bandarawela*, such as establishing a hermitage for woman hermits, and maintaining a center therein for training meditation, had not been implemented in collaboration with the *Mahabodhi* Society of Colombo. Furthermore, a Board of Directors comprising 06 members including a representative from the Sri Lanka *Mahabodhi* Society, had not been appointed for the administration of the Trust.

(d.) 2013

4.8 (b)

Suspense Account

Due to lack of a proper methodology for accounting the estates of trusts, it was not possible to identify specifically as to how the interest received by the Department in respect of the estates of the trusts should be credited. Hence, those monies had been credited to a suspense account until information in that connection is received. As the information of that account had not been properly identified and settled, a balance of Rs. 6,731,539 was observed as at 31 December 2015.

### 3.14 Human Resource Management

#### ----- Approved Cadre and Actual Cadre -----

The position of cadre as at 31 December 2015, had been as follows.

<u>Category of Employee</u>	<u>Approved Cadre</u>	<u>Actual Cadre</u>	<u>No. of Vacancies</u>
(i) Senior Level	5	4	01
(ii) Tertiary Level	2	1	01
(iii) Secondary Level	46	25	21
(iv) Primary Level	<u>17</u>	<u>14</u>	<u>03</u>
Total	<u>70</u>	<u>44</u>	<u>26</u>