

**Report of the Auditor General on Head 299 – National Intellectual Property Office of Sri Lanka
– Year 2015**

The audit of the Appropriation Account and the Reconciliation Statements including the financial records, books, registers and other records of the Head 299 – National Intellectual Property Office of Sri Lanka 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 Director General of National Intellectual Property on 24 January 2017. The audit observations, comments and findings on the accounts and 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 Appropriation Account 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 Financial and Administrative Regulations. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of Accounts and Reconciliations Statements that are free from material misstatements, whether due to fraud or error.

2. Accounts

2.1 Appropriation Account

Total Provision and Expenditure

The total net provision made for the Office amounted to Rs.25.87 million and out of that Rs.25.28 million had been utilized by the end of the year under review. Accordingly, the savings out of the net provision amounted to Rs.0.59 million or 2.28 per cent.

2.2 Advance Account

Advances to Public Officers Account

Limits Authorized by Parliament

Limits authorized by Parliament for the Advances to Public Officers Account, Item No.29901 of the National Intellectual Property Office of Sri Lanka 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
2.69	2.67	1.00	2.04	10.00	6.18

2.3 General Deposit Account

The balances of 02 General Deposit Accounts of the Office as at 31 December 2015 are given below.

Deposit Account Number	Balance as at 31 December 2015
	Rs.
6000/0000/00/0015/0154/000	(2,825)
6000/0000/00/0018/0050/000	2,825

2.4 Audit Observation

The Appropriation Account and the Reconciliation Statements for the year ended 31 December 2015 of the National Intellectual Property Office of Sri Lanka have been prepared satisfactorily subject to the Audit Observations appearing in the Management Audit Report referred to in paragraph 1.1 above. The material and significant Audit Observations out of the Audit Observations included in the said Management Audit Report appear in paragraph 3.

3. Material and Significant Audit Observations

3.1 Reconciliation Statement of Advances to Public Officers Account

According to the Reconciliation Statement as at 31 December 2015 of the Advances to Public Officers Account Item No.29901, the outstanding balances as at that date, remaining over periods of 06 years totalled Rs. 139,410. Nevertheless, the Office had failed to recover those balances.

3.2 Good Governance and Accountability

3.2.1 Annual Action Plan

The Office had not prepared the Annual Action Plan for the year under review in terms of paragraph 3 of the Public Finance Circular No.01/2014 of 17 February 2014.

3.2.2 Annual Procurement Plan

The Procurement Plan for the year under review in terms of the National Budget Circular No.128 of 24 March 2006 had not been prepared.

3.2.3 Internal Audit

An Internal Audit Unit had not been established in the Office.

3.2.4 Annual Performance Report

Even though the Office should table the Performance Report in Parliament within 150 days after close of the financial year in terms of the Public Finance Circular No. 402 of 12 September 2002, that Report had not been tabled in Parliament even by 30 September 2016.

3.3 Non-compliances

Non-compliance with Laws, Rules and Regulations

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

References to Laws, Rules and Regulations	Non-compliance
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| (a) Establishments Code of the Democratic Socialist Republic of Sri Lanka | |
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Section 3.1 of Chapter XV

Contrary to provisions of the Establishments Code, 14 officers on probation had been sent abroad for training programmes in the year under review.

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| (b) Financial Regulations of the Democratic Socialist Republic of Sri Lanka | |
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Financial Regulation 1646

Even though Daily Running Charts and Monthly Performance Summaries of the motor vehicles in the vehicle fleet of the Office should be furnished to the Auditor General before fifteenth day of the following month, the Office had not taken action accordingly.

3.4 Performance

The observations on the progress of the Office according to the Annual Budget Estimates for the year 2015 are given below.

(a) Activities contrary to Key Functions

A sum of Rs.271,320 had been spent in the year under review for publication of a newspaper advertisement for activities extraneous to the objectives of the Office. The Director General had informed that this payment was made on the approval of the Secretary to the Ministry.

(b) Key Functions not executed adequately

The key functions of the Office had not been executed adequately and several instances so revealed are given below.

(i) Information relating to the performance of registration of Trade Marks, Patents and Industrial Designs had been as follows.

	Registration of Trade Marks		Registration of Patents		Registration of Industrial Designs	
	2015	2014	2015	2014	2015	2014
Number of applications received during the year.	9,415	8,552	481	536	457	529
Number of applications from which Examination Reports were prepared.	12,623	21,931	439	313	443	349
Number of applications for which the Gazette Notifications were published.	5,088	2,184	41	41	351	200
Number of applications registered.	2,272	1,140	262	263	246	529

The following observations are made in this connection.

- Even though the key function of the National Intellectual Property Office is to register the Trade Marks, Patents and Industrial Designs, the number of applications published in the Gazette and registered in the year, had been at a low level as compared with the number of applications received in the year. However, in addition to the activities pertaining to the applications received in the year under review, activities of uncompleted applications of preceding years as well had been performed.
 - Examinations on Trade Marks had decreased by 42 per cent as compared with the preceding year. A considerable period of delay had occurred for registration of Trade Marks and the number of applications registered in the year 2015 included the applications received from the year 2007 as well.
 - There was a large number of applications which should be examined for the registration of Trade Marks, Patents and Industrial Designs. A Piece Based Payment System was introduced for examinations from the year 2013 to accelerate such activities. A sum of Rs.1,164,609 had been spent thereon in the year under review. However, as compared with the number of applications published in the Gazette and the number of registered certificates issued from the year 2011, a considerable improvement had not been achieved.
 - Even though the number of applications of which the registration of Trade Marks, Patents and Industrial Designs had been commenced the work done by the end of a particular period can be considered as the amount of work in progress, information thereon had not been prepared according to a proper methodology.
- (ii) Activities such as introduction of a computerized system for the recovery of money and an internal e-mail system and improvement of systems had been planned under the automation of activities of the Fund. However, only purchase of computers had been made at a cost of Rs.3,969,434 during the year.
- (iii) Even though the establishment of 09 Centres had been planned so as to cover 09 Provinces under the establishment of Technical and Innovation Centres, only 06 Centres had been established during the year.

(c) **Planning**

Action not taken in accordance with the Annual Action Plan

Even though the construction of a new office building for the National Intellectual Property Office of Sri Lanka had been planned, that activity had not been executed during the year due to inability to find out a suitable land.

3.5 Transactions of Contentious Nature

Twelve officers of other Ministries and institutions outside the Office had been sent abroad for foreign workshops and training in the year under review and a sum of Rs.206,389 had been spent as incidental allowances for 06 of those officers.

3.6 Irregular Transactions

Certain transactions entered into by the Office had been devoid of regularity. Several such instances observed are given below.

- (a) In terms of Guideline 8.12.3(a) of the Government Procurement Guidelines, the relevant Technical Evaluation Committee and the officer in charge of should issue a certificate that the goods supplied are in accordance with the specifications and other agreed terms. Nevertheless, action had not been so taken in making purchases by the Office.
- (b) Three printers had been purchased at a cost of Rs.59,700 at the rate of Rs.19,900 by inviting bids on 15 September 2015. The contractor had supplied those goods to offices on 11 December 2015 after a delay of 03 months from the date of inviting bids.

3.7 Management Weaknesses

The following weaknesses were observed during the course of audit test checks.

- (a) The Office had purchased a land owned by the Cooperative Wholesale Establishment, at a cost of Rs.22,298,751 for the construction of a Sales Promotion Centre for Intellectual Properties. Consequently, that land had been vested with the Urban Development Authority. Even though the Cabinet of Ministers had approved the recovery of the amount spent for the construction of the Centre on 23 April 2015, that amount had not been recovered even by the end of the year under review.
- (b) A portion of 1/3 of the revenue earned by the National Intellectual Property Office had been transmitted to the Deputy Secretary of the Treasury. The Office had not taken action to obtain a Revenue Code for accounting that revenue. A sum of Rs.30,679,973 had been so transmitted in the year 2015.
- (c) Inventories for the assets of the National Intellectual Property Office had not been maintained separately for each Division and all assets had been recorded in the inventory of the stores. Moreover, issue of those Goods had not been recorded and that had adversely affected the custody, safety and existence of the assets. A laptop computer misplaced in the year 2008 had been recorded as a shortage at the Annual Boards of Survey of the year 2015. The preliminary investigation conducted thereon revealed that there was no adequate evidence to file a charge sheet and no other action whatsoever had been taken thereon.

3.8 Human Resources Management

Approved Cadre and Actual Cadre

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

Category of Employees	Approved Cadre	Actual Cadre	Number of Vacancies
(i) Senior Level	12	05	07
(ii) Tertiary Level	04	04	-
(iii) Secondary Level	73	39	34
(iv) Primary Level	15	11	04
Total	104	59	45

The following observation is made.

Even though one of the functions of the Office is registration of Trade Marks, Patents and Industrial Designs, the approved cadre had been vacant to perform those functions. As such, functions had been fulfilled by making payments on the Piece Based Payment System from 01 May 2013.