

Intellectual Property Fund - 2020

1. Financial Statements

1.1 Qualified Opinion

The audit of the financial statements of the Intellectual Property Fund for the year ended 31 December 2020 comprising the statement of financial position as at 31 December 2020 and the statement of financial performance, statement of changes in equity and cash flow statement for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, 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 and Section 176(6) of Chapter xxxvii of the Intellectual Property Act, No.36 of 2003 read in conjunction with provisions of the National Audit Act No. 19 of 2018 . My report to Parliament in pursuance of Article 154 (6) of the Constitution will be tabled in due course.

In my opinion, except for the effects of the matters described in Paragraph 1.5 of this report, the accompanying financial statements give a true and fair view of the financial position of the Fund as at 31 December 2020, and of its financial performance and its cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

1.2 Basis for Qualified Opinion

My opinion is qualified based on the matters described in Paragraph 1.5 of this report.

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuSs). My responsibilities, under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards, and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intend to liquidate the Fund or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Fund's financial reporting process.

As per Section 16 (1) of the National Audit Act No. 19 of 2018, the Fund is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared.

1.4 Auditor's Responsibility in Auditing Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit 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 Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Fund to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following.

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Fund, and whether such systems, procedures, books, records and other documents are in effective operation;
- Whether the Fund has complied with applicable written law, or other general or special directions issued by the governing body of the Fund ;
- Whether performed according to its powers, functions and duties; and
- Whether the resources had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

1.5 Financial Statements

1.5.1 Internal Control over the Preparation of Financial Statements.

The Fund is required to “devise and maintain” a system of internal accounting controls sufficient to provide reasonable assurance that , transactions are executed in accordance with management’s general or specific authorization, transactions are recorded as necessary to permit preparation of financial statements in conformity with the applicable reporting standards , and to maintain accountability for assets, access to assets is permitted only in accordance with management’s general or specific authorization, and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

1.5.2 Non-compliance with Sri Lanka Public Sector Accounting Standards

Non-compliance with reference to the relevant standard	Comment of the Management	Recommendation
Although the revaluation profit of Rs. 5,578,250 generated from the revaluation of three classes of assets in the preceding year should have been separately shown as revaluation surplus in the Statement of Changes in Equity, it had been adjusted to the cumulative deficit.	The Accountant was advised to amend the format and present it in the submission of financial statements for the ensuing year of accounts.	Revaluation profit should be separately shown as revaluation surplus in the Statement of Changes in Equity.

2. Financial Review

2.1 Financial Result

The operating result of the year under review was a surplus of Rs. 67,051,672 and the corresponding surplus as compared to the preceding year was Rs. 87,006,250 . Accordingly, deterioration of Rs. 19,954,578 was observed in the financial result. The decrease of the revenue by Rs. 16,182,956 and the increase in expenditure by Rs. 3,771,622 had mainly attributed to this deterioration.

3. Operating Review

3.1 Management Inefficiencies

Audit Observation

Although plans had been drawn to prepare a project report on accessing to the Hage System which provides facilities for international registration of industrial plans, only the initial activities had been carried out.

Comment of the Management

It should be done by studying the relevant legal status, technical issues, needs and tendencies of the relevant field in the country at present. As priority was given for patent and industrial design registration, a reasonable time is needed to complete these activities.

Recommendation

Action should be taken to achieve the set targets.

3.2 Operating Inefficiencies

The following observations are made

Audit Observation

- (a) Out of the 5,932 instances of trademark registration in the year under review, 760 instances were in relation to the applications received before 2010 and the Director-General had commented that the above delay was due to the nature and complexity of the trademark registration process. However, according to Sections 118 (1) and (2) of

Comment of the Management

Expiration of the period of validity of registration to issue certificates for trade mark files (760), which was about 12% out of the 5932 certificates issued in the year 2020 was occurred due to the nature and complexity of the trademark registration process and this delay may also exceed the 10-

Recommendation

According to Sections 118 (1) and (2) of the Intellectual Property Act, as the validity period of a trade mark is limited to 10 years from the date of registration and registration had been issued so as to valid from the date of making application for registration, action should

the Intellectual Property Act, as the validity period of a trade mark is limited to 10 years from the date of registration and as the registration had been issued so as to be valid from the date of requesting the registration, those trademarks had become expired even as at the time of the registration.

year limit due to making payments of registration fees with shortcomings as delays may occur due to reasons beyond the control of the institution.

be taken to prevent delays in the registration.

(b) Although work on 6,294 out of 9,593 applications received for trademark registration during the year had been commenced, it had not reached up to the level of trademark registration during the year under review.

This situation is due to the confinement of normal official duties owing to the outbreak of Covid 19 epidemic and the limitations experienced in the performance of duties under the work from home arrangement.

Applications received during the year should be dealt with up to the level of registration during the year itself.

(c) Although the applications eligible for registration should be registered after making payment of the fee for publication, 3466 applications for which those fees had been paid could not be registered as at 31 December 2020 due to the Covid-19 epidemic.

As the certificates have not been printed and the registration has not been completed, a separate unit has been established in the institute to issue registration certificates in 2019 to prevent delays in the registration of trademarks.

After making payment of the fee for publication, expeditious action should be taken to register the applications which are eligible for the registration.

(d) Although arrangements should be made to issue Patents during the year in which the applications are made for the Patient, out of 273 Patents issued in the year 2020, 258 Patents were applicable to the applications made from 2008 to 2018. Accordingly, Patents had been issued after an inordinate delay.

Before granting of a patent, the accuracy of the report filed with the application and thereby the innovativeness / innovative steps of the technologies relating to which the patent right is sought will be examined and the errors, subject matters and the matters relating to the amendments that arise in the process will also be examined and further, due to the failure of the applicants to submit the documents properly, it takes a considerable time for the granting of patents on the applications of many local applicants.

Arrangements should be made to issue Patents during the year in which the application is made for the Patient.