



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**VALUE ADDED TAX (AMENDMENT)
ACT, No. 6 OF 2005**

[Certified on 30th March, 2005]

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L. D. — O. 57/2004.

AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

BE it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 6 of 2005. Short title.

2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the “principal enactment”) is hereby amended as follows :— Amendment of section 2 of Act, No. 14 of 2002.

(1) in subsection (1) of that section —

(a) by the substitution for the words “as the case may be-” of the words “as the case may be, subject to the provisions of section 2A, at the following rates :—”;

(b) in subparagraph (ii) of that subsection—

(1) by the substitution for the words “for any taxable period commencing on or after January 1, 2004” of the words “for any taxable period commencing on or after January 1, 2004 and ending on or before —

(a) November 18, 2004 in respect of goods specified in the Third Schedule ; and

(b) December 31, 2004 in respect of goods for which the Third Schedule does not apply.”.

(2) by the substitution for the words “at zero *per centum.*” of the words “at zero *per centum;*”;

(c) by the addition immediately after sub-paragraph (ii) of that subsection of the following new sub-paragraphs :—

“(iii) for the period commencing on November 19, 2004 and ending on or before December 31, 2004 and for any taxable period commencing on or after January 1, 2005 at the rate of five *per centum* (Basic Rate) (of which tax fraction is $1/21$) on the value of such goods supplied or imported as referred to in the Third Schedule other than such goods chargeable with tax at zero *per centum* ;

(iv) for any taxable period commencing on or after January 1, 2005 at the rate of eighteen *per centum* (Luxury Rate) (of which Tax Fraction is $9/59$, on the value of such goods or services supplied or goods imported as referred to in the Fourth Schedule other than such goods or services chargeable with tax at zero *per centum* ; and

(v) for any taxable period commencing on or after January 1, 2005 at the rate of fifteen *per centum* (Standard Rate) (of which the Tax Fraction is $3/23$) on the value of such goods or services supplied or goods imported other than in respect of the following :—

(a) goods or services chargeable with tax at zero *per centum*; and

(b) goods or services specified in the Third Schedule or the Fourth Schedule of this Act.

(2) in subsection (2) of that section —

- (a) in paragraph (a) of that subsection by the substitution for the words “on any tea supplied by” of the words “on any tea supplied prior to January 1, 2005 by”;
- (b) in paragraph (b) of that subsection by the substitution for the word “supplies.” of the words “supplies ;”;
- (c) by the addition immediately after paragraph (b) of that subsection of the following new paragraphs :—

“(c) (i) on the supply with the approval of the Textile Quota Board established by the Textile Quota Board Act, No. 33 of 1996, of any goods manufactured in Sri Lanka by such supplier to be utilized for the purpose of manufacture of garments for export either by manufacturers who are registered with the Textile Quota Board or through Export Trading Houses registered with the Board of Investment of Sri Lanka; or

(ii) on the supply of finished garments manufactured in Sri Lanka by such supplier with the approval of the Textile Quota Board established by the Textile Quota Board Act, No. 33 of 1996, to be exported through Export Trading Houses registered with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No. 4 of 1978,

until such time as the activities of such garment manufacturers are monitored by the Textile Quota Board and the Textile Quota Board furnishes the reconciliation on the disposal of such goods on a quarterly basis as stipulated by the Commissioner-General to the satisfaction of the Commissioner-General, that such finished goods are in fact exported by the recipient of the supplies.

- (d) on the supply with the approval of the Export Development Board, established by the Sri Lanka Export Development Act, No. 40 of 1979 with the concurrence of the Ministry of the Minister in charge of the subject of Finance of any goods manufactured in Sri Lanka by such suppliers to be utilized for the purpose of manufacture of goods other than the goods referred to in paragraph (c) of this subsection by manufactures who are registered with the Export Development Board as exporters, until such time as the activities of such manufacturers are monitored by the Export Development Board with the approval of the Ministry of the Minister in charge of the subject of Finance and the Export Development Board, furnishes the reconciliation on the disposal of such goods on a quarterly basis as stipulated by the Commissioner-General to the satisfaction of the Commissioner-General, that such furnished goods are in fact exported by the recipient of the supplies.
- (3) in subsection (3) of that section —
- (a) in paragraph (e) thereof, by the substitution for the words “on or before December 31, 2002:” of the following words “on or before December 31, 2002;” and

(b) by the addition immediately after paragraph (e) of that subsection of the following new paragraph :—

(f) any fabric or accessories imported by any person for the purpose of manufacture of garments for export, who has registered with the Textile Quota Board established under the Textile Quota Board Act, No. 33 of 1996, with the approval of the Textile Quota Board and under the supervision of the Director-General of Customs or the Board of Investment as the case may be.”.

3. The following new section is hereby inserted immediately after section 2 of the principal enactment and shall have effect as section 2A of that enactment :—

Insertion of new section 2A in the principal enactment.

“Minister may vary the rates by Order.

2A. (1) The Minister may by Order vary the rates specified in section 2 insofar as the same relates to the increasing or reducing of the rates previously specified, and to such extent as it relates to the imposition of Value Added Tax specified under the aforesaid section.

(2) The Order made by the Minister under subsection (1) shall be in operation immediately upon the Minister affixing his signature thereto.

(3) Every such Order shall as soon as convenient be published in the *Gazette*.

(4) Every such Order shall as soon as convenient thereafter be approved by a Resolution of Parliament.

(5) Where any such Order is not approved by Parliament it shall be deemed to be rescinded with effect from the date of such Resolution.”.

Amendment of section 3 of the principal enactment.

4. Section 3 of the principal enactment is hereby amended in paragraph (d) of that section by the substitution for the words “August 1, 2002,” of the words “August 1, 2002 but prior to January 1, 2005.”.

Replacement of section 6 of the principal enactment.

5. Section 6 of the principal enactment is hereby repealed and the following section substituted therefor :—

“The value of the goods imported.

6. The value of goods imported shall be the aggregate of —

- (a) the value of the goods determined for the purpose of custom duty increased by five *per centum* ; and
- (b) the amount of any custom duty payable in respect of such goods with the addition of any surcharge, cess, any Port and Airport Development Levy payable under the Finance Act, No. 11 of 2002, and any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989 on such goods.”.

Amendment to section 7 of the principal enactment.

6. Section 7 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section by the addition immediately after sub-paragraph (vi), the following new sub-paragraph :—

“(vii) the provision of services to overseas buyers by a garment buying office registered with the Ministry of Industries under the supervision of the Textile Quota Board established under the Textile Quota Board Act, No. 33 of 1996, where payment for such service is received in foreign currency, through a Bank in Sri Lanka insofar as such services are identified by the Commissioner-General as being services essential for facilitating the export of garments to such overseas buyers.”.

7. Section 20 of the principal enactment is hereby amended in subsection (6) of that section as follows :—

Amendment of section 20 of the principal enactment.

- (1) by the re-numbering of that subsection as paragraph (a) of that subsection ;
- (2) in the re-numbered paragraph (a) by the substitution for the words “under this subsection” of the words “under this paragraph;”;
- (3) by the addition, immediately after the re-numbered subsection (6) (a) of that subsection of the following new paragraph :—

“(b) Notwithstanding the provisions of subsection (2), though Value Added Tax is deferred, there shall be issued by every registered person, on supplies made under paragraphs (a) or (c) of subsection (2) of section 2, a tax invoice along with the Value Added Tax component shown as ‘Suspended Value Added Tax’ . An invoice issued under this paragraph shall not be considered as a tax invoice for the purposes of this Act.”.

8. Section 21 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “before the expiry” of the words “not later than the twentieth day of the month after the expiry of each taxable period”.

Amendment of section 21 of the principal enactment.

9. Section 22 of the principal enactment is hereby amended in subsection (3) of that section by the addition immediately after the second proviso to that subsection of the following :—

Amendment of section 22 of the principal enactment.

“Provided further, that any person who accounts for the output tax at the rate of five *per centum* shall not be entitled to deduct any input tax in relation to such supply other than in the case of a motor vehicle used for purposes of transportation of machinery for production :

Provided further, any input tax paid at the rate of eighteen *per centum* by any person which is allowable under this Act shall be restricted to fifteen *per centum*.”.

Amendment of section 25c of the principal enactment.

10. Section 25c of the principal enactment is hereby amended in subsection (5) of that section as follows :—

(1) in sub-paragraph (ii) of paragraph (g) of that subsection, by the substitution for the words and figures “on or after January 1, 2004” of the words and figures “on or after January 1, 2004 and ending prior to January 1, 2005”;

(2) by the insertion immediately after paragraph (g) thereof of the following new paragraph :—

“(gg) for the taxable period commencing on or after January 1, 2005, the profits or income arising to any person from the sale of company shares owned by such person or to any person who is instrumental in the purchase and sale of such shares by other persons, other than such profits and income arising to any “specified institution” within the meaning of this Chapter or a person not registered with the Central Bank of Sri Lanka, but providing services similar to such services provided by a finance company ;”.

Amendment of section 26 of the principal enactment.

11. Section 26 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “fifteenth day of the month” of the words “twentieth day of the month”.

12. Section 76 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

Amendment of section 76 of the principal enactment.

- (1) in the second proviso to that subsection by the substitution for the words “wholly and exhaustively in making exempt supplies,” of the words “wholly and exclusively in making exempt supplies.”;
- (2) by the substitution for the words “taxable supplies.” of the following :—

“taxable supplies :

Provided further that where any goods or services that are acquired have been used in making a taxable supply and any input tax has been claimed and allowed, then any portion of such input tax allowed, which is attributable to an exempt supply at the point if any, if such supply subsequently becomes an exempt supply, except in the case of providing leasing facilities for three wheelers, then notwithstanding the provisions of section 22, be disallowed within the taxable period in which such taxable supply becomes an exempt supply.”.

13. The First Schedule of the principal enactment is hereby amended in Part II thereof as follows :—

Amendment of the First Schedule of the principal enactment.

- (1) in item (i), of Part II (a), by the substitution for the words “fresh coconut, green leaf,” of the words “fresh coconut, tea including green leaf.”;
- (2) in item (iv), of Part II (a), by the substitution for the words “aircrafts, helicopters, pearls, diamonds, natural or synthetic, precious or semi precious stones, diamond powder, precious metal, metals clad with precious metals, gold coins and” of the words “aircrafts, helicopters and”;
- (3) in item (x), of Part II (a), by the substitution for the words and figures “(effective from 01.07.2004).” of the words and figures “(effective from 01.07.2004).”;

- (4) by the addition immediately after item (x) of Part II (a), of the following new item :—

“(xi) agricultural seeds, agricultural plants, shrimp feed inclusive of prawn feed and animal feed but excluding poultry feed”;

- (5) in item (ii) of Part II (b), by the substitution for the words and figures “prior to January 1, 2004;” of the words and figures “prior to January 1, 2004 and the provision of leasing facilities for three wheelers on any lease rental payable on the leasing facility for three wheelers on or after January 1, 2005;”;

- (6) in item (iii) of Part II (b), by the substitution for the words and figures “(Chapter 2005) per month;” of the words and figures “(Chapter 2005) per month and electricity through alternate energy projects other than energy through hydro-power or thermal power;”;

- (7) by the addition immediately after item (viii) of Part II (c), of the following new items:—

“(ix) goods to any project approved by the Commissioner-General, as having a capital investment of not less than rupees one hundred million which are considered as project related capital goods, other than the goods in the negative list published by the Secretary to the Treasury, during the project implementation period which shall not exceed three years from the commencement of the project, provided that such project makes taxable supplies upon the completion of the project (effective from 1.1.2005);

(x) samples of garments for business purposes by any garment buying office in Sri Lanka registered with the Textile Quota Board established under the Textile Quota Board Act, No. 33 of 1996, so long as such item is not sold;”;

(8) by the addition immediately after Part II (d) of the following :—

“(e) the supply of locally manufactured goods to duty free shops for payment in foreign currency.”.

14. The following new Schedules are hereby inserted immediately after the Second Schedule of the principal enactment and shall have effect as the Third Schedule and the Fourth Schedule of that enactment :—

Insertion of a new Third Schedule and Fourth Schedule in the principal enactment.

“THIRD SCHEDULE (Section 2)

BASIC RATE

The supply or import of—

- (i) sugar;
- (ii) dhal;
- (iii) potatoes;
- (iv) onions;
- (v) dried fish;
- (vi) milk powder other than infant milk powder;
- (vii) chillies.

The import or supply of goods referred to in items (i) and (ii) of this Schedule shall be deemed for all purposes to have been exempt from Value Added Tax from October 1, 2004 to November 18, 2004.

FOURTH SCHEDULE

(Section 2)

LUXURY RATE

(a) The supply and import of —

- (i) air conditioning machines;
- (ii) refrigerators;
- (iii) dishwashing machines;
- (iv) washing machines;
- (v) vacuum cleaners/floor polishers;
- (vi) kitchen waste disposers;
- (vii) food grinders and mixers;
- (viii) ovens and cookers;
- (ix) hair dryers/hair dressing equipment;
- (x) video player (VCD, DVD);
- (xi) cameras;
- (xii) radio, cassette and Music systems;
- (xiii) television;
- (xiv) motor vehicles, other than motor cycles, bicycles, three wheelers and passenger transport buses, lorries, trucks and any other vehicle used for the transport of goods ;
- (xv) watches/clocks;
- (xvi) musical instruments;
- (xvii) equipment for games;
- (xviii) jewellery;
- (xix) aerated water;
- (xx) liquor;

(b) the supply of services by hotels, guest houses, restaurants or similar institution so far as such services are provided for wedding receptions and other receptions, other than professional conferences, seminars or similar events and also including the hiring of halls for such receptions.

15. The amendment made to—

Retrospective effect.

- (a) section 2(3) (f) of the principal enactment by section 2 of this Act shall for all purposes be deemed to have come into force on January 1, 2005;
- (b) section 6 of the principal enactment by section 5 of this Act shall be deemed for all purposes to have come into force on January 1, 2005;
- (c) section 21 of the principal enactment by section 8 of this Act shall be deemed for all purposes to have come into force on January 1, 2005;
- (d) section 22 of the principal enactment —
 - (i) by the first proviso to section 9 of this Act shall for all purposes be deemed to have come into force on November 18, 2004;
 - (ii) by the second proviso to section 9 of this Act shall for all purposes be deemed to have come into force on January 1, 2005 ;
- (e) section 26 of the principal enactment by section 11 of this Act shall be deemed for all purposes to have come into force on January 1, 2005 ;
- (f) the third proviso to section 76 of the principal enactment by section 11 of this Act shall be deemed for all purposes to have come into force on January 1, 2005.

16 Section 22 of Act, No. 13 of 2004 is hereby amended in paragraph (v) of item (1) thereof by the substitution for the words and figures “October 17, 2003” of the words and figures “September 17, 2003”.

Amendment of section 22 of Act, No. 13 of 2004.

Indemnity.

17. Any person who collects the value added tax as provided for in this Act, during the period commencing November 19, 2004 and ending on December 31, 2004, and for the period commencing on January 1, 2005 and ending on the date of the coming into operation of this Act, shall be deemed to have acted with due authority and such collection shall be deemed for all purposes to have been, and to be, validly made and such person is hereby indemnified against all actions civil or criminal, in respect of such collection.

Sinhala text to prevail in case of inconsistency.

18. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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