

BY COURIER

5th November 2012

URGENT / IMPORTANT

Palitha Fernando Esqr., P.C.
Hon. Attorney General
Attorney General's Department
Hultsdorf Street
Colombo 12.

Dear Attorney General,

Purported Oil Hedging Deals

Please accept my congratulations and best wishes on your appointment.

I was quite *perturbed* upon reading a news report in *The Sunday Times* of yesterday, quoting you to have stated that talks were on going between Ceylon Petroleum Corporation and Standard Chartered Bank, to reduce the payment to US \$ 60 Mn., (Rs. 7.8 Bn.). The report stated that the payment owed to Standard Chartered Bank is US \$ 160 Mn., plus US \$ 20 Mn., as interest.

The report further stated attributing to you, that since talks were going on there was no need to make an Appeal to a British Court. Such announcement now is different to what was reported by Reuters on 27th July 2012, that you were looking at the possibilities of appealing in the House of Lords, with Minister Petroleum Industries, Susil Premajayantha, also quoted to have confirmed the same. The said *dismissed* Appeal was against the UK High Court Order of 11th July 2011.

I am indeed *intrigued* by the foregoing, in that, the Controller of Exchange by Order dated 16th March 2011 had imposed a fine of Rs. 27.57 Bn., for alleged violation of the Exchange Control Act, as disclosed in the Court of Appeal Writ Application No. 409/2011 *vide* - para 67 thereof, filed on 16th June 2011 by Standard Chartered Bank against the Controller of Exchange, which Application is *pending*. This fine at the prevalent rate of exchange of US \$ 1 = Rs. 130/- amounts to US \$ 212.1 Mn., *which is much greater* than the aforesaid Claim of US \$ 180 Mn.

Upon two public interest Applications SC (FR) Nos. 404 & 481/2009 made by me, having been *per-incuriam* dismissed on 11th May 2010 on *misleading* submissions on 'time bar' made by Counsel, including your predecessor in Office, Mohan Peiris, P.C., in a series of Books I published abroad, I published a Book which was globally released in June 2011, *exclusively* on these purported Oil Hedging Deals in Sri Lanka titled – '*Derivative / Hedging Deals by Citibank, Standard Chartered Bank, Deutsche Bank, with Sri Lanka Government's Petroleum Corporation - Dubious & Illegal ?*' *vide* www.consultants21.com/publications. The Citibank Claims arbitrated upon by the London Court of International Arbitration, holding proceedings in Singapore, was lost by the Citibank, as per Order dated 31st July 2011, notwithstanding the aforesaid Order dated 11th July 2011 of the UK High Court, *having been tendered therein*.

Over the last weekend, it was reported that the Deutsche Bank Claim of US \$ 60 Mn. + Interest against the Government was awarded in favour of the Deutsche Bank in Arbitration proceedings before the International Centre for Settlement of Investment Disputes (ICSID), under the Treaty between Sri Lanka and Germany concerning the Promotion and Reciprocal Protection of Investments, passed into law on 18th February 2003 by a 2/3rd majority in Parliament, in terms of Article 157 of the Constitution.

