
**IN THE SUPREME COURT
OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an application in terms of Article 121 read with Article 120 of the Constitution to determine whether the Bill titled "Inland Revenue (Amendment)" or any part thereof is inconsistent with the Constitution.

K. L. Premadasa of No. 7/B/56/L
Raddolugama Housing Complex,
Raddolugama.

Petitioner

S.C. (S.D.) No:

- VS -

The Attorney General,
Attorney General's Department,
Colombo 12.

Respondent

On this 13th day of March 2013

**TO: THE CHIEF JUSTICE AND THEIR LORDSHIPS THE OTHER HONOURABLE
JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

The **Petition** of the Petitioner above named appearing by Lilanthi de Silva **his**
Registered Attorney-at-Law states as follows:

1. The Petitioner is a citizen of Sri Lanka and is entitled to make this application in terms of Article 121(1) of the Constitution.

2. The Attorney General is made a Respondent under and in terms of the requirements of Article 134(1) of the Constitution.

3. The Bill titled “Inland Revenue (Amendment)” (hereinafter referred to as “the Bill”) was published in the Gazette of the Democratic Socialist Republic of Sri Lanka Part II of February 22, 2013 issued on 26th February 2013 on the order of the Minister of Finance and Planning and placed on the Order Paper of Parliament on 8th March 2013. This was among the 21 Bills placed on the order paper on the same day.

True copies of the said Bill (in Sinhala, Tamil and English) are annexed hereto compendiously marked ‘P1a’, ‘P1b’, ‘P1c’ and pleaded as part and parcel hereof.

4. The long title of the said Bill describes it as a Bill “to amend the Inland Revenue Act, No. 10 of 2006”.

Clause 1(2) of the Bill

5. The Petitioner states that clause 1(2) has retrospective application inasmuch as it attempts to retrospectively introduce new criteria in order to be eligible for exemptions to which parties may already be lawfully entitled, and as such the said Clause contravenes Article 12(1) of the Constitution.

Clause 7, 8 and 10 of the Bill

6. The Petitioner respectfully states that Clauses 7, 8 and 10 attempt to introduce new criteria for the grant of an exemption to which a person may already have statutory expectation or right and thus the said Clauses are violative of Article 12 of the Constitution.

Clause 12 of the Bill

7. The Petitioner respectfully draws Your Lordships’ attention to clause 12 of the aforesaid Bill which states that:

“Section 26 of the principal enactment as last amended by Act No. 8 of 2012 is hereby further amended in paragraph (v) of subsection (1) of that section by

the substitution of the words “carried on or exercised by him other than”, of the words “carried on or exercised by him other than the costs of advertisements incurred on or after August 1, 2012, on sponsorship of international sport events approved by the Minister to whom the subject of Sports has been assigned; or”

- 8.** The Petitioner states that in this instance the exemption under Clause 12 is discriminatory (not applying to ALL businesses uniformly), and also arbitrary, grossly unreasonable and irrational, and thus and otherwise violates Article 12(1) of the Constitution which guarantees equality and equal protection of the law;
- 9.** The Petitioner further states that in such instance of the exemption under Clause 12 is an abdication of Parliament’s Constitutionally mandated Control over Public Finances, inasmuch as discretion is in effect granted to the Minister of Finance to determine which events / articles will benefit from the exemption, and thus and otherwise violates Article 148 of the Constitution and consequently Articles 4(a) and 3 of the Constitution.
- 10.** The Petitioner respectfully urges that Your Lordships be pleased to consider the need to address and redress the matters and concerns urged through this application, given the reality that the Sovereignty of the People, the Rule of Law and the Supremacy of the Constitution would be imperilled through the provisions of the said Bill that are inconsistent with and / or in contravention of the provisions of the Constitution, and thus ought not be permitted to pass validly into law through a simple majority in Parliament alone.
- 11.** The Petitioner has not previously invoked the jurisdiction of Your Lordships’ Court in respect of this matter.

12. The Petitioner respectfully reserves the right to furnish such further facts and documents in support of the matters set out herein at the Hearing should the Petitioner become possessed of any such material.

13. An affidavit of the Petitioner is appended hereto in support of the averments contained herein.

WHEREFORE the Petitioner respectfully prays that Your Lordships' Court be pleased to:

- (a) Determine that the provisions of Clauses 1(2), 7, 8 and 10 ,of the said Bill is inconsistent with and / or in contravention of the provisions of Article 12(1) of the Constitution and cannot be enacted into law except if approved by a two-thirds vote of the whole number of the members of Parliament;

- (b) Determine that the provisions of Clause 12, of the said Bill is inconsistent with and/or in contravention of Articles 3, 4(a), 12(1) and 148 of the Constitution and cannot be enacted into law except it cannot be enacted into law except if approved by the People at a Referendum in addition to a two-thirds vote of the whole Parliament.

- (c) Grant such further and other reliefs as to Your Lordships' Court shall seem meet.

Registered Attorney at Law for the Petitioner