



EXPORTS (SPECIAL TAX) LAW,

No. 20 OF 1978

OF

THE NATIONAL STATE ASSEMBLY

[Certified on 22nd June, 1978]

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Exports (Special Tax) Law, No. 20 of 1978

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L. D.—O. 3/78.

A LAW TO IMPOSE ON PERSONS WHO HAVE EXPORTED CERTAIN GOODS PRIOR TO THE MIDNIGHT OF 15/16 NOVEMBER, 1977, AND RECEIVE PAYMENT IN SRI LANKA RUPEES ON OR AFTER THE MIDNIGHT OF 15/16 NOVEMBER, 1977, A TAX COMPUTED BY REFERENCE TO THE EXPORT DUTY AND CESSES WHICH SUCH PERSONS WOULD HAVE BEEN LIABLE TO PAY ON SUCH GOODS HAD SUCH GOODS BEEN EXPORTED ON OR AFTER THE MIDNIGHT OF 15/16 NOVEMBER 1977; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Exports (Special Tax) Law, No. 20 of 1978.

Short title.

2. Where any person—

Charge of the tax.

(a) has exported any goods prior to the midnight of 15/16 November, 1977, and

(b) has received payment in, or has been credited with, or has otherwise received a benefit in, Sri Lanka rupees, on or after the midnight of 15/16 November, 1977, for, or in respect of, such goods,

such person shall be liable to a tax (hereinafter referred to as "the tax.") of such amount as is equivalent to the amount of the difference between—

(i) the aggregate of the amounts of any export duty and cess which would have been leviable and payable on such goods, had such goods been exported on or after the midnight of 15/16 November, 1977; and

(ii) the aggregate of the amounts of any export duty and cess which were levied and paid on such goods at the time at which such goods were exported:

Provided however, that a person who has exported any goods prior to the midnight of 15/16 November, 1977, and has received payment in, or has been credited with, or has otherwise received a

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benefit in, Sri Lanka rupees on or after the midnight of 15/16 November, 1977, for, or in respect of, such goods shall not be liable to the tax if such person has received such payment or has been so credited with Sri Lanka rupees, or has received such benefit, in accordance with the terms of a contract entered into by such person with a commercial bank prior to the midnight of 15/16 November, 1977, for the purchase by such bank, of the foreign exchange which will accrue to such person from the export of such goods.

Payment of
the tax.

3. Every person who is liable to the tax shall, within two weeks of—

(a) the date of coming into operation of this Law;
or

(b) the date on which such person receives payment in, or is credited with, or otherwise receives a benefit in, Sri Lanka rupees for, or in respect of; the goods by reason of the export of which, his liability to the tax arises,

whichever date is later—

- (i) pay the tax to the Commissioner-General; and
- (ii) furnish to the Commissioner-General a return setting out the particulars of the export duties and cesses by reference to which the amount of the tax has been computed.

Default
in the
payment
of the
tax.

4. (1) Where any tax or part thereof payable under this Law is not paid on or before the date specified in section 3, such tax or part thereof shall be deemed to be in default and,—

(a) if the person in default is an individual or company, such individual or company, or

(b) if the person in default is a firm, every partner of the firm,

shall be deemed to be a defaulter for the purposes of this Law.

(2) Where the tax is deemed to be in default in respect of any amount, the defaulter shall, in addition to the amount in default, pay as a penalty a sum equivalent to twenty *per centum* of the amount in default.

5. Where it appears to an Assessor that any person who is liable to the tax has not paid such tax on or before the date specified in section 3, or that such person has paid an amount less than the amount which he should have paid as such tax, he may assess such person at the amount or additional amount which according to his judgment such person ought to have paid as the tax and shall, by notice in writing, require such person to pay the amount of tax so assessed together with any penalty which is payable under section 4.

Assessments.

6. (1) Any person aggrieved with the amount of an assessment made under section 5 may appeal against such assessment to the Commissioner-General within thirty days after the service of the notice of assessment.

Appeals.

(2) The Commissioner-General shall, before reaching his decision on an appeal made to him under subsection (1), give the appellant an opportunity of placing his case before the Commissioner-General either in person or by his authorized representative.

(3) The Commissioner-General may, upon an appeal made to him under subsection (1), confirm, reduce, increase or annul the assessment against which such appeal was made.

(4) Any person aggrieved by a decision of the Commissioner-General upon an appeal made to him under subsection (1) may appeal against that decision to the Board of Review constituted under the Inland Revenue Act, No. 4 of 1963, and the provisions of that Act relating to appeals to the Board of Review shall, *mutatis mutandis*, apply to an appeal under this subsection.

(5) Any person aggrieved by a decision of the Board of Review upon an appeal made to that Board under subsection (4) may appeal from that decision to the Supreme Court on a question of law and the provisions of the Inland Revenue Act, No. 4 of 1963, relating to appeals to the Supreme Court, shall, *mutatis mutandis*, apply to an appeal under this subsection.

7. Where no appeal has been made against an assessment within the period specified in section 6, or where the amount of the tax has been determined on appeal, then the assessment or as the case may be,

Finality of assessments.

the assessment as reduced, confirmed or increased on appeal, shall be final and conclusive for all purposes as regards the amount of the tax.

Tax to be a first charge.

8. The provisions of section 109 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provisions of this Law and refer to the tax instead of to income tax, and as if the reference in that section to the provisions of any other section of that Act were a reference to the provisions of that other section applied as if they were provisions of this Law in the manner indicated in this Law.

Recovery by seizure and sale.

9. The provisions of section 110 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provision of this Law and refer to the tax instead of to income tax.

Proceedings for recovery before a Magistrate.

10. The provisions of section 111 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provisions of this Law and refer to the tax instead of to income tax, and as if the reference in that section to the provisions of any other section of that Act were a reference to the provisions of that other section applied as if they were provisions of this Law in the manner indicated in this Law.

Recovery of tax out of debts.

11. The provisions of section 112 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provisions of this Law and refer to the tax instead of to income tax.

Recovery of tax from persons leaving the island.

12. The provisions of section 113 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provisions of this Law and as if the reference in that section to income tax, wealth tax or gifts tax were a reference to the tax.

Use of more than one means of recovery.

13. The provisions of section 114 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provisions of this Law and refer to the tax instead of to income tax, and if the reference in that section to the provisions of any Chapter of that Act were a reference to the provisions of that Chapter applied as if they were provisions of this Law in the manner indicated in this Law.

Meaning of "the tax" in section 6 to 13.

14. In sections 8, 9, 10, 11, 12 and 13 "the tax" includes any penalty payable under section 4.

15. For the purposes of ascertaining under section 10 of the Inland Revenue Act, No. 4 of 1963, the profits and income of any person for the year preceding the year of assessment commencing on April 1, 1978, the amount of the tax which such person is liable to pay under section 2 and which has been paid by such person shall, notwithstanding anything to the contrary in that Act, be deemed to be an expense incurred in the production of such profits and income.

Tax paid under this Law deemed to be an expense incurred in the production of profits and income for the purpose of the Inland Revenue Act, No. 4 of 1963.

16. If it is proved to the satisfaction of the Commissioner-General by claim made in writing on or before the thirty-first day of March, 1980, that any person has paid any tax or penalties in excess of the amount he was liable to pay under this Law, such person shall be entitled to a refund of the amount paid in excess:

Tax paid in excess to be refunded.

Provided that nothing in this section shall be read or construed as extending or reducing any time limit for appeal or as validating any appeal which is otherwise invalid or as authorizing a revision of any assessment which has become final and conclusive.

17. The Commissioner-General may, by notice in writing to any person, require such person to furnish within such time as may be specified in the notice, such returns or other information as may be necessary for the purposes of this Law.

Power of Commissioner-General to call for returns and information.

18. (1) Any person who—

Offences.

(a) fails to furnish a return as required by section 3; or

(b) fails to comply with the requirements of any notice sent under section 17; or

(c) knowingly makes a false or incorrect statement in a return furnished under section 3 or section 17; or

(d) knowingly furnishes any false or incorrect information in complying with the requirements of a notice sent under section 17,

shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding one thousand rupees or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Where an offence is committed by a body of persons, then—

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- (a) if that body of persons is a company, every director of that company, and
- (b) if that body of persons is a firm, every partner of that firm;

shall be deemed to be guilty of that offence:

Provided however that a director of that company or a partner of that firm shall not be deemed to be guilty of that offence if he proves that such offence was committed without his knowledge or that he used all diligence to prevent the commission of the offence.

Power of Minister to waive or reduce tax in certain circumstances.

19. If in the operation of this Law any case shall arise in which, in the opinion of the Minister, substantial hardship is likely to be caused to any person by reason of the liability of such person to pay the tax or any penalty incurred under this Law, the Minister may waive or reduce such tax or penalty if he considers that such waiver or reduction is just and equitable in all the circumstances of the case.

Interpretation.

20. In this Law, unless the context otherwise requires—

“ Assessor ” has the same meaning as in the Inland Revenue Act, No. 4 of 1963;

“ cess ” means any cess levied or imposed by or under any law other than the Customs Ordinance;

“ commercial bank ” has the same meaning as in section 127 (1) of the Monetary Law Act;

“ company ” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere;

“ Commissioner-General ” has the same meaning as in the Inland Revenue Act, No. 4 of 1963;

“ export duty ” means the customs duty levied under the Customs Ordinance on goods exported from Sri Lanka;

“ firm ” means a body of two or more individuals, or one or more individuals and one or more corporations or companies or two or more corporations or companies, who have entered into partnership with one another with a view to carrying on business for profit;

“ goods ” means any goods in respect of the export of which the exporter was not entitled to the issue of any Foreign Exchange Entitlement Certificates under the Foreign Exchange Entitlement Certificates Act, No. 28 of 1968;

“ person ” shall be deemed to include a firm.