



A CRITICAL EVALUATION OF ASSESSOR’S POWERS IN RESPECT OF TAX ASSESSMENT IN SRI LANKAN CONTEXT: WITH SPECIAL REFERENCE TO TAX PAYER’S PROCEDURAL DUE PROCESS RIGHTS

Chathurika Sisimali Gunasekera

Faculty of Law, General Sir John Kotelawala Defence University, Ratmalana, Sri Lanka

sisimali92@gmail.com

The self assessment system that operates in Sri Lanka requires the tax payer to furnish his own return in respect of his profits and income for the respective year of assessment. Accordingly, the tax payer is expected to act honestly and transparently in making the return. Hence, the assessor’s power to make tax assessments commences when the tax payer fails to act in conformity with the self assessment scheme as stipulated in the Inland Revenue Act No 10 of 2006 as amended. However, in exercising his powers in respect of tax assessment more often the assessor fails to recognize and give adequate concern for the tax payer’s rights thereby placing the tax payer in a vulnerable situation. In this backdrop, the objective of this study is to critically evaluate the assessor’s powers in respect of tax assessment and tax payer’s due process rights in Sri Lankan context in light of Indian and Australian jurisdictions and make recommendations for the further development of law in this field. The second objective is to analyze how the judiciary has contributed for the evolution of the tax jurisprudence in Sri Lanka in this regard. Hence, this research will be conducted as a qualitative research based on books with critical analysis, journal articles, statutes, case laws and also data collected from legal experts and relevant policy making authorities. The assessor being an administrative official is under an obligation to act in compliance with relevant statutes and administrative law principles when exercising his powers. In Sri Lanka, the assessor’s powers in respect of tax assessment are stipulated in the Inland Revenue Act No 10 of 2006 as amended. Although the domestic legal framework provides substantive safeguards to ensure the tax payer’s rights in respect of tax assessment, numerous drawbacks exist in respect of its implementation and most importantly the law is yet to be developed.. Hence, this study analyses the relevant case laws where such issues were brought into judicial attention and proposes the improvements that can be incorporated into the existing legal framework. And also a comparative analysis will be made to India and Australia. In the absence of much legal authority in this regard, this research will thus provide guidelines for professionals such as lawyers, policy makers and the assessors in Sri Lanka.

Keywords: Assessor’s powers, Tax assessment, Tax payer’s rights, Due Process rights, judicial interpretations