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

In the matter of an appeal made in terms of Section 122 (1) of the Inland Revenue Act No. 28 0f 1979 (as amended).

SC / APPEAL / 41 / 2017

SC (SPL) LA / 138 / 2010

COA / 4 / 98 (TAX)

BRA / 427 & 443

Sri Lanka Insurance Corporation Ltd,

21, Vauxhall Street,

Colombo 2.

APPELLANT

-Vs-

Commissioner General of Inland Revenue,

Department of Inland Revenue,

Sir Chittampalam S. Gardiner Mawatha,

Colombo 2.

RESPONDENT

AND NOW BETWEEN

Sri Lanka Insurance Corporation Ltd,

21, Vauxhall Street,

Colombo 2.

APPELLANT – APPELLANT

-Vs-

Commissioner General of Inland Revenue,

Department of Inland Revenue,

Sir Chittampalam S. Gardiner Mawatha,

Colombo 2.

RESPONDENT – RESPONDENT

Before: S. Thurairaja, PC, J

A.H.M.D. Nawaz, J &

Menaka Wijesundera, J

Counsel: Faiz Musthapa, PC with Shivaji Felix, PC and Thushani Machado for the Appellant – Appellant.

Rajitha Perera, DSG for the Respondent – Respondent.

Argued on: 02.09.2025

Decided on: 19.03.2026

A.H.M.D. Nawaz, J.

1. This appeal arises from a case stated for the opinion of the Court of Appeal pursuant to Section 122 (6) of the Inland Revenue Act, No. 28 of 1979 (as amended) ("the Act"), in respect of assessments to income tax for the years of assessment 1988/1989, 1989/1990, 1990/1991 and 1991/1992. On 23 February 2017, this Court granted special leave to appeal to the Appellant – Appellant ("the Appellant") on the following question of law;

> *"For one or more or all of the reasons set out in Paragraph 26 of the Petition of Appeal, did the Court of Appeal err in holding that the Board of Review was justified in disregarding the Assessee's alternative contention that the annual depreciation of assets which has been charged on the accepted principles of Commercial Accounting is a deductible expense of Management?"*

2. Having considered the submissions of the Appellant, and the record of proceedings below, this Court is of the view that the question of law must be answered in favour of the Appellant. The Court of Appeal erred in law, and the Board of Review was not justified in disregarding the Assessee's alternative contention. The reasons for that conclusion are set out herein.

Parties And Background

3. The Appellant is Sri Lanka Insurance Corporation Ltd., a corporation engaged in the business of life insurance. In respect of the years of assessment in question, the Appellant claimed depreciation allowances on its capital assets including computers, furniture and fittings as a permissible deduction in arriving at its profits from the business of life insurance. These claims were made initially under Sections 23 and 24 of the Act, and in the alternative, as expenses of management properly falling within the scope of Section 79 (1) of the Act. The Assessor disallowed the claim. The Appellant appealed to the Commissioner General of Inland Revenue, who referred

the matter to an Authorized Adjudicator. The Authorized Adjudicator confirmed the assessment. A further appeal was taken to the Board of Review.

4. By its determination dated 23 March 1997, the Board of Review held, relying upon the decisions in ***National Mutual Life Association v. Commissioner of Income Tax***[1] and ***Ceylon Financial Investments Ltd. v. Commissioner of Income Tax***[2], that Sections 23 and 24 of the Act had no application whatsoever to the profits of a life insurance company, the computation of which falls exclusively under Section 79(1) of the Act. This aspect of the Board's determination, being consistent with binding precedent of this Court, was conceded by the Appellant in the Court of Appeal and is not in issue before this Court.

5. However, having placed reliance on ***Sun Life Assurance Company v. Davidson***[3], the Board also held that expenses of management within the meaning of Section 79 (1) were not coterminous with Sections 23 and 24 of the Act, and accordingly allowed entertainment, advertising and business promotion expenses as management expenses. Crucially, however, the Board declined to extend the same treatment to the Appellant's claim for book depreciation on its capital assets. It held that the authority to claim capital allowances was derived solely from Section 23 of the Act, and that since Section 23 was inapplicable to life insurance companies, the claim was to be disallowed.

6. The Appellant applied for a case stated for the opinion of the Court of Appeal. Two questions of law were stated. The Appellant conceded the first question relating to the applicability of ***National Mutual Life Association*** (supra) in favour of the Respondent. Only the second question remained, whether the Board was justified in disregarding the Appellant's alternative contention that the annual depreciation of assets, charged on accepted principles of commercial accounting, constitutes a deductible expense of management.

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[1] (1948) 1 CTC 389
[2] (1 CTC 234)
[3] (37 TC 330)

7. The Court of Appeal, by its judgment dated 24 June 2010, answered the second question in favour of the Respondent. The Court of Appeal held that the scheme of the Act indicated that the legislature did not intend to allow depreciation allowances as a deductible expense in any form under Section 79(1), and further characterized book depreciation as a notional expense incapable of constituting a management expense. It is against that finding that the present appeal is brought.

The Relevant Statutory Provision

8. Section 79(1) of the Inland Revenue Act, No. 28 of 1979 (as amended) provides as follows;

> *"The profits of a company, whether mutual or proprietory, from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (including commission) attributable to that business."*

9. It is immediately apparent from the face of the statute that this provision is a self-contained and special regime for the computation of the profits of a life insurance company. It operates independently of the general charging provisions in Sections 23 and 24 of the Act. This was definitively settled by this Court in ***National Mutual Life Association v. Commissioner of Income Tax*** *(supra)*, where it was held that the predecessor to Section 79 (1) namely, Section 42 (1) of the Income Tax Ordinance provided the sole basis for ascertaining the profits of a life insurance business, and that the provisions of Sections 9 and 10 of the Income Tax Ordinance (equivalent to Sections 23 and 24 of the Act) were inapplicable. The effect is that a life insurance company's profits are computed exclusively by reference to Section 79 (1), and no other provision of the Act that would otherwise permit or prohibit a deduction can be brought to bear.

10. This structural feature of the Act is of pivotal importance to the question now before this Court. If Sections 23 and 24 are entirely inapplicable, then neither the capital allowances permitted by Section 23, nor the prohibition on book depreciation

contained in Section 24 (1) (r), apply to a life insurance company. The question that follows is a straightforward one; *does book depreciation, computed on accepted principles of commercial accounting, fall within the natural and ordinary meaning of the phrase "management expenses" in Section 79 (1)?* This Court holds that it does, for the reasons that follow.

The Meaning Of "Management Expenses"

11. The term "management expenses" is not defined anywhere in the Act. This absence of a statutory definition is significant. Parliament chose to employ a phrase of broad and ordinary meaning, leaving its application to be determined on the facts of each case. This was precisely the approach endorsed by Lord Reid in ***Sun Life Assurance Society v. Davidson*** *(supra)*, where His Lordship stated that it is not possible to define precisely what is meant by "expenses of management"; that these are ordinary words of the English language carrying no special or technical meaning; and that their application in any particular case can only be determined on a broad view of all relevant matters.

12. Where Parliament has chosen not to define a term of wide and ordinary meaning, the courts ought not to impose a narrow or restrictive gloss upon it. The correct approach is to ask, in the light of all the relevant circumstances, whether the expenditure in question was in truth incurred as part of the management of the life insurance business. Before applying that test, it is necessary to address the errors of law that infected the reasoning of the Court of Appeal.

13. The central and most fundamental error made by the Court of Appeal was its characterization of book depreciation as a "notional" expense. The Court of Appeal reasoned that since accounting depreciation does not result in a cash flow from the business, and since the figure is determined by the company according to its own depreciation policy, it cannot be treated as an expenditure for income-tax purposes under Section 79 (1) of the Act.

14. This reasoning betrays a fundamental misunderstanding of the nature of book depreciation. Book depreciation is not a fictitious, hypothetical or invented charge. It is the systematic allocation of the actual cost of a capital asset over that asset's useful life. When the Appellant acquires a computer or a piece of furniture, it pays a real and verifiable price for that asset. The capital cost represents money actually spent. The Appellant does not and has never sought to deduct the full purchase price from its income in the year of acquisition. Because the entire capital cost is not charged in the year it is incurred, the only principled and commercially accurate means of recovering that expenditure against income is by spreading it across the periods during which the asset serves the business. That is all that book depreciation achieves.

15. Sri Lanka Accounting Standard No. 18, entitled *Property, Plant and Equipment*, adopted pursuant to the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995, defines "depreciation" as the systematic allocation of the depreciable amount of an asset over its useful life. The "cost" of an asset is defined as the cash or cash equivalent paid at the time of acquisition. Section 6 (1) of the Sri Lanka Accounting and Auditing Standards Act imposes a statutory duty on every specified business enterprise to prepare its accounts in compliance with these Standards so as to present a true and fair view of its financial performance and condition. The Sri Lanka Accounting and Auditing Standards Act, and regulations made thereunder, constitute "written law" within the meaning of Article 170 of the Constitution read with section 2 of the Interpretation Ordinance, No. 21 of 1901 (as amended).

16. It follows, as a matter both of accounting principle and statutory mandate, that book depreciation is not notional. It is a real and verifiable cost, actually incurred, which is being allocated in a rational and principled manner over the periods to which it relates. A charge that is backed by an actual cash payment, the historical fact of which is not in dispute, cannot be dismissed as imaginary or hypothetical. Book depreciation is "notional" only in the limited sense that it does not involve a fresh cash outflow in the year it is charged to the accounts but that is entirely consistent with the matching principle of accounting, itself mandated by applicable law. The Court of Appeal

committed an elementary error in the characterization of the very expense it was called upon to consider.

17. The Court of Appeal further fell into error by implicitly proceeding on the assumption that the capital cost of the relevant assets had already been deducted when computing the Appellant's profits, rendering the book depreciation claim a form of double recovery. That assumption is wholly unsupported by the evidence. At no stage has the Respondent ever asserted, and the Board of Review never found, that the Appellant claimed the full capital expenditure as a deduction when computing its business profits. There is no evidentiary foundation for the assumption underlying part of the Court of Appeal's reasoning. If the capital cost was never deducted as an outright expense and it was not then the only vehicle available to the Appellant to set that actual cost against income is book depreciation. Disallowing it in its entirety would mean that a genuine and verifiable cost of acquiring the tools of the Appellant's management is entirely irrecoverable against income. That cannot be right, and it cannot have been the intention of Parliament.

18. The Court of Appeal fell into a further error when it gave weight to the consistent administrative practice of the Department of Inland Revenue in disallowing book depreciation as a guide to the proper interpretation of Section 79 (1). The administrative practice of the revenue authority cannot determine or constrain the meaning of a statute. It is a well-settled canon of statutory construction which is affirmed by this Court that taxing provisions must be construed by reference to the plain words of the legislature. As Rowlatt J. stated in ***Cape Brandy Syndicate v. Inland Revenue Commissioners***[4], in taxation one must look simply at what is clearly said; there is no room for any intendment, no equity about a tax, and nothing is to be implied. Where a provision is reasonably capable of two alternative meanings, the courts will prefer the construction more favourable to the subject: ***Inland Revenue Commissioners v. Ross and Coulter***[5], per Lord Thankerton at page 625.

[4] (1921) 12 TC 358
[5] (1948) 1 All ER 616

19. This Court further notes that in ***Commissioner General of Inland Revenue v. Lignocell (Pvt) Ltd & Another***[6], the Chief Justice held that in fiscal statutes the first source is the words of the statute itself, and where the meaning is manifest on the plain words, there is no room for an interpretation process. Ambiguity or doubt, where it exists, must be resolved having regard to the context and language of the statute, not by reference to the revenue's administrative preferences.

20. Section 79 (1) speaks of "management expenses (including commission) attributable to that business." The parenthetical reference to "commission" illustrates by example that the concept is intended to be inclusive and generous in scope. Commission is itself a real outgoing, paid to agents who manage and develop the life insurance business. There is no warrant in the language of the section for the restricted and narrow interpretation placed upon it by the Court of Appeal.

21. This Court turns to the central question;

> *Whether book depreciation, computed on accepted principles of commercial accounting, is properly to be regarded as an expense of management within the meaning of Section 79 (1).*

22. This Court holds, without hesitation, that it is. Computers, furniture and office fittings are not luxuries or incidentals. They are the indispensable tools through which the business of a modern insurance company is managed and conducted. The Board of Review itself proceeded on the basis that such items are proper tools of management and that a modern insurance company could not be managed without them. Expenditure on the acquisition of such assets is therefore plainly incurred for the purposes of the management of the life insurance business.

23. Furthermore, the reliance placed by the Board of Review and the Court of Appeal on ***Sun Life Assurance Society v. Davidson*** *(supra)* was misplaced. The House of Lords in that case did not hold that capital allowances or book depreciation fell

[6] SC Appeal 145/23, (SC Minutes 26.11.2024)

outside the scope of management expenses. On the contrary, the question did not arise because capital allowances had been allowed as a matter not in dispute, and accordingly the House of Lords did not need to consider the matter further. As the Court of Appeal itself acknowledged at page 6 of its judgment, capital allowances were allowed in the case of ***Davidson***. The Board of Review and the Court of Appeal failed to appreciate this critical fact. ***Sun Life Assurance Society v. Davidson*** offers no support for the proposition that the depreciation of assets employed in the management of an insurance company is incapable of constituting a management expense.

24. The Court of Appeal of England, in ***Johnson (Inspector of Taxes) v. The Prudential Assurance Co Ltd***[7], interpreted provisions closely analogous to Section 79 (1) of the Sri Lankan Act as permitting a life assurance company, in computing its profits, to deduct all sums disbursed as expenses of management and in ***Revenue & Customs Commissioners v. William Grant & Sons Distillers Ltd***[8], Lord Hoffmann affirmed that trading profits for income and corporation tax purposes are computed first on a basis that gives a true and fair view of the taxpayer's profits or losses, and that only those adjustments expressly required by the taxing statute are then made. This confirms the foundational principle: absent a specific statutory prohibition, the computation of profits takes its start from what is commercially and accountably accurate.

25. The logic of the Appellant's position is, in the judgment of this Court, unassailable. The prohibition on book depreciation in the general tax regime is found in Section 24 (1) (r), which disallows transfers to any reserve or provision. In the place of book depreciation, Section 23 substitutes a system of statutory capital allowances at prescribed rates. That is the legislative bargain for ordinary taxpayers; book depreciation out, statutory capital allowances in.

26. However, that entire framework, both the permission in Section 23 and the prohibition in Section 24 (1) (r) is, on the authority of ***National Mutual Life***

[7] (1998) STC 439
[8] (2007) 2 All ER 442

Association *(supra)*, inapplicable to a life insurance company. The two provisions rise and fall together. Once it is accepted, as it must be, that Sections 23 and 24 are entirely removed from the computation under Section 79 (1), the prohibition on book depreciation in Section 24 (1) (r) falls away along with everything else in those sections. Book depreciation must then be assessed by reference to its true character: a cost actually incurred in the management of the business, spread across the useful life of the asset in the manner mandated by applicable accounting standards. So assessed, it is plainly a management expense.

27. The Board of Review fell into a critical internal inconsistency by treating the two provisions asymmetrically; disabling Section 23 (which would have allowed capital allowances at statutory rates) while simultaneously, in effect, retaining the prohibition in Section 24 (1) (r) by holding that book depreciation cannot constitute a management expense. One cannot selectively apply a regime that has been held to be inapplicable in its entirety. The consistent and principled application of ***National Mutual Life Association*** requires that both the permission and the prohibition in Sections 23 and 24 be set aside, and that the deductibility of depreciation be tested solely by reference to whether it constitutes a management expense under Section 79 (1). So tested, it clearly does.

28. This Court further observes that the Board of Review, having correctly held that entertainment, advertising and business promotion expenses are management expenses notwithstanding the express prohibitions in section 24 (1) (d), (e) and (f), declined on no principled basis to extend the same treatment to book depreciation. If an entertainment expense incurred in the management of the life insurance business is a management expense under Section 79 (1) despite the prohibition in Section 24 (1), it is impossible to see on what rational ground book depreciation, which is the systematic recovery of the actual cost of tools admittedly indispensable to management should be treated differently. The inconsistency inherent in the Board's own reasoning reinforces the conclusion that its determination was wrong in law.

29. The Appellant also raised the alternative contention that, if book depreciation were not permitted as an annual deduction, then the entire capital expenditure incurred on the relevant assets ought to be allowed as a management expense in the year of acquisition. This Court does not find it necessary to resolve that alternative contention in the present case. The primary holding that annual book depreciation is a deductible expense of management under Section 79 (1) is sufficient to dispose of the appeal in the Appellant's favour.

30. This Court would observe, however, that there is considerable force in the alternative argument; if the cost of acquiring the tools of management is real and cannot be recovered either as a capital allowance under Section 23 or as book depreciation, the result would be a manifest failure to give effect to the true cost of management, an outcome difficult to reconcile with the plain words and evident purpose of Section 79(1).

31. For all the reasons set out above, this Court answers the question of law for which special leave to appeal was granted in favour of the Appellant – Appellant. The Court of Appeal erred in law in holding that the Board of Review was justified in disregarding the Assessee's alternative contention that the annual depreciation of assets, charged on the accepted principles of commercial accounting, is a deductible expense of management within the meaning of Section 79 (1) of the Inland Revenue Act, No. 28 of 1979.

32. This Court holds and declares that;

    (a) Section 79 (1) of the Inland Revenue Act, No. 28 of 1979 (as amended) constitutes a self-contained and exclusive regime for the computation of the profits of a life insurance company. Sections 23 and 24 of the Act including the capital allowances permitted by Section 23 and the prohibition on book depreciation contained in Section 24 (1) (r) are wholly inapplicable to such a computation.

(b) Book depreciation, being the systematic allocation of the actual cost of a capital asset over its useful life in accordance with accepted principles of commercial accounting and the Sri Lanka Accounting Standards adopted under the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995, is not a notional expense. It represents a genuine and verifiable cost of acquisition, apportioned rationally across the periods of the asset's productive use.

(c) The annual book depreciation charged by the Appellant on assets such as computers, furniture and fittings being assets that are the tools of management of the life insurance business constitutes an expense of management within the meaning and scope of Section 79 (1) of the Act, and is accordingly a permissible deduction in computing the Appellant's profits from the business of life insurance.

(d) The determination of the Board of Review and the judgment of the Court of Appeal, insofar as they hold to the contrary, are set aside.

33. The appeal is allowed. The matter is remitted for the assessments for the years of assessment 1988/1989, 1989/1990, 1990/1991 and 1991/1992 to be revised in accordance with this judgment. The Appellant is entitled to costs of the appeal.

Judge of the Supreme Court

S. Thurairaja, PC, J.

1. I have had the advantage of reading in draft the judgment of my learned brother, A.H.M.D. Nawaz, J. With all due respect to the views expressed by His Lordship, I regret that I find myself unable to agree with the conclusion reached therein, as

well as the interpretation adopted. As such, I prefer to express my dissenting views as elaborated below in a separate judgment.

2. Since my learned brother has comprehensively summarised the facts giving rise to this appeal, I do not propose to repeat them, save insofar as they are necessary for the purposes of this judgment.

3. The issue before this Court concerns the proper construction of Section 79(1) of the *Inland Revenue Act*, and in particular whether the accounting concept of depreciation—representing the gradual consumption of capital assets—can properly be brought within the statutory expression "management expenses" applicable to life insurance companies.

4. I am of the view, that the judgment of the Court of Appeal dated 24th June 2010 was correct in law and sound in its appreciation of the distinct nature of the tax regime applicable to life insurance companies. The determination of the Board of Review, which the majority now seeks to set aside, was a faithful application of long-standing principles of fiscal law that distinguish between the costs of "managing" an enterprise and the "consumption of capital" represented by the wear and tear of assets.

5. To hold otherwise would be to perform a judicial surgery on the statute, grafting onto Section 79(1) a benefit that the legislature has specifically reserved for other classes of taxpayers under an entirely different mechanism.

6. The question before this Court is therefore not merely whether depreciation appears in the accounts of an insurance company. The real question is whether an accounting allocation of capital cost can be transformed, by interpretation alone, into a statutory deduction which Parliament has not chosen to grant. In my respectful view, the answer must be in the negative, the reasons for which I shall detail hereinbelow.

THE FUNDAMENTAL DISTINCTION BETWEEN CAPITAL EXPENDITURE AND MANAGEMENT EXPENSES

7. To understand why book depreciation cannot be a “management expense,” one must first appreciate the fundamental difference between revenue expenditure (expenses) and capital expenditure (investments in assets). Management expenses are, by their nature, revenue expenditures. They represent outgoings or disbursements made in the course of producing income—a contemporary "going out" of money to keep the business running. Management expenses involve third-party transactions such as salaries, rent, utility payments, and the "commission" specifically mentioned in the statute.

8. Depreciation, by contrast, is not a “management” activity; it is an accounting recognition of the "loss of capital" or the "consumption of capital" over time. It is not an expenditure in the year it is charged to the accounts; rather, it is the systematic allocation of a cost that was incurred in a previous period when the asset was acquired. The acquisition of a computer or office furniture is a capital investment. While it is a "real" cost in an economic sense, it represents the creation of an enduring asset for the business, and the law has always treated such costs as capital in nature.

9. Management expenses represent the fuel that keeps the engine of the enterprise running—Depreciation, by contrast, relates not to the fuel of the engine but to the gradual wearing down of the machinery itself.

10. This brings me to what appears, with respect, to be a contradiction in the reasoning adopted in the judgment of my learned Brother. If the initial cost of acquiring a capital asset, such as a computer or furniture, is properly regarded as capital expenditure rather than a management expense, I find it difficult to see how the annual allocation of that same cost, in the form of depreciation, can assume the character of a management expense. My learned brother appears to reason that because computers are “indispensable tools” of management, the cost attributable to their wear and tear may properly be regarded as a management expense. I am unable to accept this approach.

11. The indispensability of an asset to the conduct of a business does not alter its fundamental character from capital to revenue. Many assets essential to the operation of a business are nonetheless treated in law as capital assets. A factory building is indispensable to a manufacturer, and a vessel is indispensable to a carrier; yet the cost of such assets has consistently been regarded as capital in nature, recoverable only through specific statutory allowances where the legislature has chosen to provide them, and not as ordinary expenses of carrying on the trade.

12. Furthermore, the phrase "management expenses" does not suggest any special or technical meaning capable of supporting the interpretation adopted. The expression must be understood in its ordinary and natural sense. In common parlance, "management" refers to the act or process of directing or administering the affairs of an enterprise, while "expenses" denote the money expended in the course of that activity.

13. The wear and tear of a physical asset, however, is not itself an act or incident of management; it is merely the physical consequence of the passage of time and use. Although the management of an insurance company undoubtedly requires the use of various tools and equipment, the cost of acquiring those tools remains a capital charge.

14. It is conceptually distinct from the expenses incurred in the activity of management itself, and cannot, in my respectful view, be transmuted into a management expense merely because the asset is necessary for the conduct of the business.

THE EXCLUSIVITY OF SECTION 79(1) AND THE "I-E" BASIS OF TAXATION

15. The taxation of life insurance companies in Sri Lanka has long followed a distinctive regime under the so-called "I–E" basis, taxing the investment income (I) of the Life Insurance Fund less the management expenses (E) attributable to that business. Section 79(1) of the Inland Revenue Act No. 28 of 1979 encapsulates this scheme, providing that:

"The profits of a company, whether mutual or Proprietory from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (Including commission) attributable to that business:"

16. This provision establishes a special and self-contained regime for determining the taxable profits of life insurance companies. As was recognised in ***National Mutual Life Association v Commissioner of Income Tax [1948]***[9], the predecessor to Section 79(1) constituted a complete code governing the ascertainment of such profits, thereby displacing the general provisions of the Act relating to the computation of business income.

17. By virtue of this exclusivity, the ordinary rules governing the computation of trading profits—including the provisions relating to capital allowances and statutory prohibitions contained in Sections 23 and 24 — do not form part of the life insurance computation. The profits of a life insurance company are determined solely in accordance with the statutory formula prescribed in Section 79(1).

18. However, the conclusion drawn from this principle in my learned Brother's opinion— that the inapplicability of Sections 23 and 24 permits depreciation to be tested solely by reference to the phrase "management expenses"—does not, with respect, follow.

19. If Section 79(1) operates as a self-contained code, it must itself contain the authority for every deduction claimed under it. In matters of taxation, deductions must be positively authorised by statute. The mere absence of a statutory prohibition does not create a corresponding statutory right. Where Section 79(1) is silent on depreciation, there is simply no legislative warrant to treat depreciation as a management expense.

20. The "I–E" basis was deliberately crafted as a simplified framework, concentrating on the revenues and expenditures of the Life Insurance Fund

[9] (1948) 49 NLR 433; 1 CTC 389.

rather than a comprehensive computation of trading profits that would incorporate capital recovery mechanisms. This simplified revenue-minus-expenses model has endured for decades, from the *Income Tax Ordinance of 1932* through successive enactments of the *Inland Revenue Act*. The continuity of the statutory language reflects a deliberate legislative choice to confine deductible items strictly to genuine management expenses.

21. The difficulty with the contrary approach becomes apparent if the logic is carried to its conclusion. If the prohibitions contained in Section 24 are entirely inapplicable to the life insurance computation, the various disallowances contained in that section— including those relating to private expenditure, capital improvements, or taxes paid— would likewise be inapplicable vis-a-vis life insurance. Yet it could hardly be suggested that such items thereby become deductible as "management expenses". They remain non-deductible because they do not fall within the ordinary meaning of that expression.

22. The same reasoning applies to depreciation. The absence of an express prohibition does not enlarge the statutory language of Section 79(1). If an item does not naturally fall within the concept of "management expenses attributable to that business", it cannot be brought within the computation merely because other provisions of the Act have been rendered inapplicable.

23. The legislative design therefore forecloses any attempt to import capital charges into a regime that was never intended to accommodate them.

THE CARDINAL PRINCIPLE OF STRICT CONSTRUCTION IN FISCAL STATUTES

24. The point of departure for any analysis involving the *Inland Revenue Act* must be the cardinal principle of strict construction. It is a well-settled canon of statutory interpretation, affirmed across the Commonwealth and consistently applied by this Court, that there is no room for equity, intendment, or presumption in a taxing statute.

25. As famously articulated by Rowlatt J. in ***Cape Brandy Syndicate v. Inland Revenue Commissioners [1921],***[10]

"It means that in taxation you have to look simply at what is clearly said. there is no room for any intendment; there is no equity about a tax: there is no presumption as to a tax; you read nothing in; you imply nothing, but you look fairly at what is said clearly and that is the tax."[11]

26. A deduction in tax law is not a matter of general fairness or commercial logic; it is a matter of legislative grace. Unless the statute clearly authorises it, the deduction simply does not exist.

27. This was recently affirmed by Her Ladyship Hon. Murdu Fernando, J. (as Her Ladyship was then), in ***Commissioner General of Inland Revenue v Lignocell (Pvt) Ltd [2023],***[12]

"Thus, as Rowlatt, J., in Cape Brandy Syndicate case [supra] succinctly held, courts have clearly followed the rule that in taxation, you have to look simply at what is clearly said. You read nothing in; you imply nothing; but you look fairly at what is said and at what is said clearly. That is the tax. Hence, in fiscal Statutes, the first source is the words of the Statute. Where the meaning is manifest on the plain words of the Statute, there is no need for any interpretation process."[13]

28. In my respectful view, the reasoning adopted by my Learned Brother proceeds upon an attempt to ascertain the "intention of Parliament" and the "logic of the position" in order to fill what is perceived to be a gap in the law. I hold, that if a case is not covered within the four corners of the provisions of the taxing statute, no tax can be imposed—and conversely, no deduction can be granted—by inference or by analogy.

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[10] [1921] 1 KB; 12 TC 358
[11] ibid. at 366.
[12] SC Appeal 145/2023, SC Minutes of 26.11.2024
[13] ibid, at p.20

29. In the present case, Section 79(1) provides for the deduction of "management expenses (including commission) attributable to that business"

30. The legislature did not use the phrase "allowances for depreciation" or "wear and tear," terms which are used with surgical precision in Section 23 of the same Act. In the realm of statutory interpretation, the use of different words in the same statute to describe related concepts is presumed to be intentional. By using "management expenses" in Section 79(1) and "allowance for depreciation" in Section 23, the legislature clearly signaled that these are distinct legal categories.

THE LIMITS OF THE "LEGISLATIVE BARGAIN"

31. A pivotal aspect of the reasoning under consideration is the notion of a "legislative bargain". It is suggested that, in the general scheme of the Inland Revenue Act, book depreciation is disallowed under Section 24 in exchange for the availability of statutory capital allowances under Section 23, and that once both provisions are removed from the computation applicable to life insurance companies, the prohibition on book depreciation likewise falls away. On this basis, the deductibility of depreciation is said to depend solely upon whether it may properly be characterised as a "management expense" within the meaning of Section 79(1).

32. With respect, this conception of a legislative bargain does not advance the Appellant's case. The absence of Section 23 from the computation applicable to life insurance companies is not a neutral omission. Section 23 is the only provision in the Act that positively authorises the deduction of amounts representing the wear and tear of capital assets. Its exclusion from the life insurance regime therefore indicates that the legislature did not intend for such capital recovery to form part of the computation under Section 79(1).

33. The "I-E" basis—investment income minus management expenses—has long operated as a simplified proxy for the profits of life insurance companies. It deliberately departs from the comprehensive calculation of trading profits

applicable to ordinary businesses, omitting a number of features characteristic of Case I taxation, including inventory adjustments and the capital allowance regime. By adopting this simplified revenue-minus-expenses model, the legislature necessarily accepted that certain capital-related costs would not be recoverable through the computation, in exchange for other structural advantages inherent in the regime, including the exclusion of premium income from the tax base.

34. The attempt to treat "management expenses" as a residual category capable of absorbing any unrecovered cost would effectively rewrite the statutory scheme. To treat "management expenses" as a catch-all for unrecovered costs would be to rewrite, not interpret, the statute.

SUN LIFE ASSURANCE SOCIETY V DAVIDSON [1958]

35. My learned Brother draws support from the speech of Lord Reid in ***Sun Life Assurance Society v Davidson***[14], citing Lord Reid for the proposition that "management expenses" should be given a broad meaning and that their application must be determined on a broad view of all relevant matters. However, this reliance is misplaced when viewed in the full context of that case and subsequent developments in the United Kingdom.

36. In ***Davidson***, the House of Lords was primarily concerned with whether brokerage charges and stamp duties incurred during the routine change of investments were "management expenses". The majority of the House of Lords held that they were not, as these costs were too closely tied to the acquisition and disposal of capital assets to be considered part of the "management" of the business. The court emphasized that the words "management expenses" are words of "qualification or limitation" and do not include every expense incurred by a company.

[14] [1958] AC 184; (1957) 37 TC 330

37. The observation that capital allowances were allowed in Davidson and therefore the House of Lords did not exclude them is a misreading of the procedural history of that case. In the United Kingdom, the availability and treatment of capital allowances for life insurance companies were governed by express statutory provisions, historically contained in the Finance Acts and later consolidated in legislation such as the Income and Corporation Taxes Act 1988., not because they were considered "management expenses".

38. The fact that they were "allowed" in ***Davidson*** simply meant they were claimed under the appropriate statutory head for capital allowances, leaving only the "management expenses" claim for brokerage/stamp duty to be litigated.

39. In Sri Lanka, however, the Appellant is attempting to claim depreciation as a management expense because it has no statutory right to capital allowances under Section 79(1). To use ***Davidson*** as an authority for this leap is to ignore the statutory framework that existed in the UK at the time.

40. On the contrary, subsequent UK and Commonwealth jurisprudence has reinforced the distinction between management expenses and capital-related costs. In ***Revenue and Customs Commissioners v William Grant and Sons Distillers Ltd [2007],***[15] Lord Hoffmann affirmed that while accounting profit is the starting point, it must yield to adjustments required by the taxing statute. In Sri Lankan law, the legislature has provided a specific mechanism for capital recovery in Section 23 and specifically excluded it from the life insurance regime in Section 79(1).

CEYLON FINANCIAL INVESTMENTS LTD CASE

41. Further support has been drawn from the principles of investment income deduction, but a closer look at the ***Ceylon Financial Investments Ltd v Commissioner of Income Tax [1944]***[16] decision and the interpretation by Keuneman J. reveals a more nuanced reality. Keuneman J. emphasized that

[15] [2007] 2 All ER 442
[16] (1944) 1 CTC 234

management expenses—such as Directors' and Auditors' fees—are deductible because they are incurred in the production of dividends and interest. He applied the general rule of deduction because the interest was "embedded" in the business.

42. However, the "production" of income from investments does not logically require the "consumption" of capital in the same way a manufacturing process does.

43. In a life insurance context, the management of the fund involves personnel, commissions, and overheads—all of which are revenue outgoings. The purchase of a computer to track those investments is a capital acquisition. The CFI case did not, at any point, suggest that the depreciation of the tools used by the Auditor was a "management expense" of the investment company. It only permitted the fees paid to the Auditor. To extend CFI to cover book depreciation is to stretch the "embedded source" logic beyond its breaking point.

ON THE RELIANCE PLACED ON ACCOUNTING STANDARDS IN DETERMINING TAXABLE PROFITS

44. Considerable reliance has been placed on the *Sri Lanka Accounting Standards (LKAS) and the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995.* The reasoning appears to proceed on the basis that, since these standards require the systematic allocation of costs through depreciation, and since the Act mandates that financial statements present a "true and fair view" of a company's financial position, the depreciation reflected in a company's books must necessarily be recognized for tax purposes.

45. With respect, such reasoning conflates two distinct legal and functional frameworks: financial reporting and taxation. I take the view that, Accounting practice may inform the computation of profit, but it cannot override the statute which ultimately defines taxable income.

46. The objective of financial accounting is to provide shareholders, creditors, and other stakeholders with a true and fair representation of a company's financial performance and position. The objective of the formulae set out in tax legislation,

by contrast, is to determine taxable profits for the purpose of revenue collection. These objectives are fundamentally different. Consequently, it is a well-established principle of fiscal law that accounting profit and taxable profit frequently diverge.

47. While Section 6(1) of the *Sri Lanka Accounting and Auditing Standards Act* imposes a statutory obligation on companies to prepare financial statements in accordance with prescribed accounting standards, that obligation cannot override the specific provisions of the *Inland Revenue Act*. Tax liability is strictly governed by statute. Where the legislature has defined the computation of "profits" in a particular manner—as is done in Section 79(1) of the *Inland Revenue Act*—accounting standards cannot be relied upon to expand or alter that statutory definition.

48. Book depreciation is, by its nature, notional for tax purposes. It is determined by management estimates regarding the useful life of assets and the depreciation method chosen by the enterprise. Such estimates inevitably involve elements of discretion and judgment. If such book depreciation were to be accepted as a deductible management expense for tax purposes, it would introduce a subjective element into the computation of taxable income.

49. The legislature has consciously avoided such subjectivity by establishing a statutory capital allowance regime under Section 23 of the Inland Revenue Act, which provides a standardized and objective mechanism for recognizing the cost of capital assets for tax purposes.

50. To permit the deduction of book depreciation as a management expense would effectively allow a taxpayer to determine its tax deductions through internal accounting policies. Such an approach would undermine the certainty and uniformity intended by the statutory scheme and would inevitably lead to an inconsistent and administratively unmanageable system of taxation.

51. For these reasons, the reliance placed on accounting standards to justify the deduction of book depreciation cannot prevail against the clear statutory framework established by the *Inland Revenue Act*.

52. Financial accounts measure economic performance; tax statutes define taxable income. The two often begin at the same point, but they do not necessarily end in the same place.

THE ALLEGED INTERNAL INCONSISTENCY IN THE BOARD OF REVIEW'S APPROACH

53. I turn next to what appears, with respect, to be a critical internal inconsistency in the reasoning of my learned Brother. He observes that the Board of Review allowed entertainment, advertising, and business promotion expenses as management expenses, notwithstanding the general prohibitions in section 24(1)(d), (e), and (f), while disallowing book depreciation, and concludes that if the prohibitions in Section 24 are disregarded for entertainment and similar expenditure, the prohibition in Section 24(1)(r) relating to depreciation must likewise be set aside.

54. With respect, this reasoning overlooks the qualitative distinction between these categories of expenditure. Entertainment, advertising, and business promotion are inherently revenue expenditures, representing outgoings incurred in the ordinary course of managing and promoting a business. Their disallowance for ordinary businesses arises not from any defect in character but from the specific prohibitions in Section 24. Where, by reason of the principle recognised in the ***National Mutual Case***, those prohibitions do not apply to life insurance companies, such expenditures naturally retain their character as management expenses.

55. Depreciation, however, stands on a different footing. As already discussed, it represents the gradual recovery of capital cost and does not possess the character of a revenue outgoing incurred in the course of management. Its non-deductibility therefore does not arise merely because of the prohibition contained in section 24.

56. The reasoning under review appears to treat computers as "indispensable tools" of management, on the basis that the cost of their wear and tear should therefore be regarded as a management expense. With respect, I am unable to accept this reasoning.

57. The indispensability of an asset does not alter its character from capital to revenue. Many assets essential to the conduct of a business remain capital in nature and are recoverable only where the legislature has expressly provided a mechanism for doing so.

58. Viewed in this light, I find the Board of Review's approach to be entirely consistent: it allowed revenue-based management expenses while declining to treat a capital charge as falling within the scope of section 79(1). In my respectful view, the reasoning under review fails to maintain this principled distinction between revenue outgoings and capital recovery.

WHY THE ALTERNATIVE CONTENTION CANNOT STAND

59. The Appellant contends that, if annual depreciation is disallowed, the entire capital expenditure should be treated as a management expense in the year of acquisition. With respect, this proposition cannot be sustained.

60. If the purchase of a computer were treated as a "cost of management," the logical consequence would be the immediate deduction of the full cost in a single year. Such an approach would allow life insurance companies to offset enormous capital investments against profits in one fell swoop, potentially wiping out taxable income for several years and disrupting the very balance the legislative scheme seeks to maintain.

61. The administrative consequences of this approach would be equally stark. In the absence of Section 23, there would be no objective framework to determine which assets qualify, the rates applicable, or how balancing allowances should be calculated upon disposal. The Revenue Department would be left to navigate a sea

of uncertainty, with no clear rules to govern capital recovery in the insurance sector.

62. By contrast, the system applied by the Board of Review and upheld by the Court of Appeal provides clarity and predictability: revenue outgoings remain deductible as management expenses, while capital outgoings are excluded. This distinction is not a mere technicality; it is a deliberate and principled feature of the legislative design, ensuring both fairness in taxation and practical administrability.

CONCLUSION

63. I wish to recall the oft-cited observation of Lord Cairns in ***Partington v Attorney General***[17]***,***

"If the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of the law the case might otherwise appear to be. In other words, if there be admissible, in any statute, what is called an equitable construction, certainly such a construction is not admissible in a taxing statute, where you can simply adhere to the words of the statute."[18]

64. Life insurance companies already enjoy significant fiscal advantages within the statutory scheme, including the exclusion of premium income from the tax base and the ability to carry forward management expense losses indefinitely. This represents the legislative balance which Parliament has chosen to strike. It is not for this Court to recalibrate that balance under the guise of interpretation.

65. In the final analysis, the difficulty I face in agreeing with the interpretation adopted by my learned Brother is not merely that it stretches the language of Section 79(1), but that it replaces the legislative design with a judicial

[17] (1869) LR 4 HL 100
[18] ibid, at page 122

substitute. What the statute deliberately omits cannot be supplied by interpretative ingenuity. To treat depreciation as a "management expense" is not to interpret the provision but to expand it beyond recognition.

66. In matters of taxation, courts are not at liberty to construct a more rational scheme than the one Parliament has enacted. The statute must be applied as it stands, not as it ought to have been framed. To do otherwise would be to cross the boundary between interpretation and legislation—a boundary which courts must be vigilant never to transgress.

67. The question of law for which Special Leave was granted is whether the Court of Appeal erred in holding that the Board of Review was justified in rejecting the Assessee's alternative contention that annual depreciation constitutes a deductible expense of management.

68. For the reasons elaborated above, I find that the Court of Appeal did not err. The determination of the Board of Review was justified in law and consistent with the statutory scheme governing the taxation of life insurance companies. The reasoning adopted in the judgment under review, with the greatest respect, conflates accounting methodology with statutory authorization, and in doing so introduces a category of deduction which the legislature did not see fit to include in Section 79(1).

69. The words "management expenses" must therefore be interpreted within the four corners of the statute. Section 79(1) contains no positive grant permitting the deduction of depreciation, and depreciation, in its true character, represents a mechanism for capital recovery rather than an expense of management.

70. To treat depreciation as a management expense would therefore require the Court to perform what can only be described as a form of judicial surgery upon the statutory language—an exercise which the discipline of fiscal interpretation does not permit. Language stretched beyond its natural limits ceases to interpret the statute and begins to displace it.

71. Accordingly, I would affirm the judgment of the Court of Appeal and dismiss the appeal.

Appeal Dismissed.

Judge of the Supreme Court

Menaka Wijesundera, J.

I had the privilege of going through the draft judgement of Justice S. Thurairaja. I also carefully reviewed, for the second time, the draft judgement of Justice A.H.M.D. Nawaz.

However, I regret that I am unable to agree with the conclusion reached by Justice S.Thurairaja.

I am in agreement with the judgement of Justice A.H.M.D. Nawaz.

Judge of the Supreme Court