

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

In the matter of an Appeal in
terms of Article 28 of the
Constitution.

1. Sri Lanka Telecom PLC
Head Office, Lotus Road
Colombo 01

2. U. Ananda Illeperuma,
Regional Manager,
Sri Lanka Telecom PLC,
No 08, Galawala Road,
Wakwella Road,
Galle

Petitioners

SC Appeal No: 07/2014

SC/SPL/LA No: 85/2013

Court of Appeal Case No:
CA/WRIT/269/2010

Vs.

1. A.L.A.A. Siriwardena
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.

- 1a. B.M. Chandra Siri
Municipal Commissioner,
Municipal Council, Town
Hall, Galle

- 1b. Chandima Muhandiramge
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.

- 1c. P. Edirisinghe
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.

2. H.K. Hemalatha
Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.
- 2a. D.W. Sahabandu
Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.
3. W. Kelum Seneviratne
Former Mayor, Municipal
Council, Town Hall, Galle.
4. Methsiri De Silva
Mayor, Municipal Council,
Town Hall, Galle.
- 4a. Fouzul Niyaz
Mayor, Municipal Council,
Town Hall, Galle.
5. Galle Municipal Council,
Town Hall, Galle

RESPONDENTS

AND NOW

1. Sri Lanka Telecom PLC
Head Office, Lotus Road
Colombo 01
2. U. Ananda Illeperuma,
Regional Manager,
Sri Lanka Telecom PLC,
No 08, Galawala Road,
Wakwella Road,
Galle

Petitioner-Appellants

Vs.

1. A.L.A.A. Siriwardena
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.
- 1a. B.M. Chandra Siri
Municipal Commissioner,
Municipal Council, Town
Hall, Galle
- 1b. Chandima Muhandiramge
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.
- 1c. P. Edirisinghe
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.
- 1d. Ranil Wickremasekara
Municipal Commissioner,
Municipal Council, Town
Hall, Galle.
2. H.K. Hemalatha
Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.
- 2a. D.W. Sahabandu
Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.
- 2b. A.V. Mendis
Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.
- 2c. T.E.U. Mendis

Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.

2d. D.V. Dilini Sumali,
Deputy Municipal
Commissioner, Municipal
Council, Town Hall, Galle.

3. W. Kelum Seneviratne
Former Mayor, Municipal
Council, Town Hall, Galle.

4. Methsiri De Silva
Mayor, Municipal Council,
Town Hall, Galle.

4a. Fouzul Niyaz
Mayor, Municipal Council,
Town Hall, Galle.

4b. Weerananarayana Kelum
Senevirathna
Acting Mayor,
Municipal Council,
Town Hall, Galle

4c. Priyantha G. Sahabandu
Mayor, Municipal Council,
Town Hall, Galle.

5. Galle Municipal Council,
Town Hall, Galle

Respondents- Respondents

BEFORE:

Hon. Yasantha Kodagoda PC, J.

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

Hon. K. Kumudini Wickremasinghe, J.

COUNSEL:

Kuvera De Zoysa PC with Senaka De Saram
and Ms. Randeewari Arangala instructed by

Ms. H.D.A.S.A. Samaranyake for
Appellants-Appellants

W. Dayaratne PC with Ms. Rajika
Jayawardena instructed by Ms C. Dayaratne
for the 1st to 5th Respondents-Respondents.

WRITTEN SUBMISSIONS: By the Petitioners-Appellants on 03.02.2025
and 12.04.2014

By the Respondents-Respondents on
13.02.2025 and 24.10.2023 and 10.01.2017
and 30.10.2014

ARGUED ON: 04.12.2024

DECIDED ON: 06.03.2026

K. KUMUDINI WICKREMASINGHE, J.

This is an appeal from a judgment of the Court of Appeal, dated 22.02.2013. The Petitioners-Appellants (hereinafter referred to as Appellants) have instituted this writ application before the Court of Appeal of the Republic of Sri Lanka seeking relief against the Respondents-Respondents (hereinafter referred to as Respondents) in respect of the imposition of trade and business taxes by the Galle Municipal Council, which the Appellants contend are unlawful, ultra vires, and contrary to the governing statutory framework.

The 1st and 2nd Respondents are respectively the Municipal Commissioner and the Deputy Municipal Commissioner of the Galle Municipal Council. The 3rd Respondent is the former Mayor and the 4th Respondent is the incumbent Mayor of the Galle Municipal Council. The 5th Respondent is the Galle Municipal Council itself, which, in terms of section 34(1) of the Municipal Councils Ordinance, is a body corporate with the capacity to sue and be sued in its corporate name.

The 1st Appellant is a public company incorporated under the Companies Act No. 7 of 2007, and the 2nd Appellants is the Regional Manager for the Galle Region of the 1st Petitioner-Company. The Galle Regional Telecom Office of the 1st Appellant is situated at No. 8, Galwala Road, Wakwella Road, Galle, and is headed by the 2nd Appellant. It is in respect of the said premises that the Respondents purported to levy the impugned trade and business taxes.

The 1st Appellant was originally a department of the Government of Sri Lanka, namely the Telecommunications Department of Sri Lanka. In or about 1991, a State Corporation was established under the provisions of the State Industrial Corporations Act No. 49 of 1957 under the name “Sri Lanka Telecom” by Order published in Gazette No. 675 dated 09.08.1991, pursuant to which all assets and liabilities of the Telecommunications Department were transferred to the said Corporation. Thereafter, on or about 25.09.1996, the said Corporation was converted into a public limited liability company styled “Sri Lanka Telecom Limited” under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act No. 23 of 1987, and was declared a public quoted company by Order published in Gazette No. 942/7 dated 25.09.1996.

All telecommunication operators in Sri Lanka are required to conduct their business upon obtaining a telecommunication licence issued by the Minister in charge of the subject of Telecommunications in terms of section 17(1) of the Sri Lanka Telecommunications Act No. 25 of 1991, as amended. Sri Lanka Telecom was issued with a licence for fixed telephony on 31.07.1991. The said licence, issued under section 17 of the Act, authorises the 1st Petitioner to operate the telecommunication systems specified in the First Schedule thereto and to perform all or any of the acts set out in the Second Schedule, including the provision of services stipulated in clause 1(b) of the Second Schedule. The licence was issued upon due payment of the requisite fees and authorises the 1st Appellant to carry out all activities necessary and incidental to the operation of a telecommunication system.

In or about June 2008, the Galle Municipal Council purported to impose numerous trade licence and business taxes on the 1st Appellant. By letter dated 09.06.2008, the Administrative Officer (Finance), on behalf of the 1st Respondent, informed the 2nd Appellant that a sum of Rs. 86,250/- was payable as trade licence and trade taxes for the year 2007 in respect of several "trades" alleged to be carried out at No. 8, Wakwella Road, Galle. The letter further stated that failure to make payment within fourteen days would result in action being instituted under sections 247B and 247C(3) of the Municipal Councils Ordinance. The taxes were purportedly levied in respect of the following activities: a telecommunication transmission tower (Rs. 50,000/-), a telecommunication company (Rs. 5,000/-), providing telephone connections (Rs. 5,000/-), sale of telephones (Rs. 5,000/-), repair of telephones (Rs. 5,000/-), collection of telephone bills (Rs. 5,000/-), and value added tax (Rs. 11,250/-) amounting in total to Rs. 86,250/-.

Upon inquiry, the Appellants were informed that the said taxes were levied pursuant to a notice published in Gazette No. 1512 dated 24.08.2007, which set out the tax and licence rates for the year 2007 purportedly imposed under section 247B of the Municipal Councils Ordinance. According to the said Gazette notification, trade taxes levied under section 247B are listed in Schedule II, which includes certain categories relating to telecommunication booths, sale of telephones, and the carrying out of telephone service stations. However, the said Gazette does not provide for the levying of any tax in respect of a telecommunication transmission tower. In these circumstances, the Appellants stated that no tax could lawfully be charged for a telecommunication tower under the said Gazette.

The Appellants stated that section 247B(2) clearly provides that the trade tax shall be an annual tax determined according to the annual value of the premises on which the trade is carried on, and does not permit the levying of separate taxes for different activities forming part of a single trade. The annual value of the premises at No. 8, Galwala Road, Wakwella Road, Galle is Rs. 313,043/-, and accordingly, in terms of section 247B(2), the

maximum tax that could lawfully be levied in respect of the said premises is Rs. 5,000/-.

Notwithstanding this position, the Respondents purported to levy taxes under both sections 247B and 247C(3) of the Municipal Councils Ordinance. The Appellants contended that where a tax is levied under section 247B, section 247C has no application, and no action could lawfully be instituted under section 247C(3). By letter dated 21.06.2008, the Head of the Southern Province of the 1st Appellants sought clarification from the 1st Respondent regarding the levying of taxes under multiple categories in respect of what was, in substance, a single trade. Further correspondence ensued, and by letter dated 24.10.2008, the Legal Officer of the 1st Petitioner formally objected to the levying of the said taxes and requested the Respondents to refrain from enforcing the same.

Despite these objections, the 1st Respondent instituted proceedings against the 2nd Appellant in the Magistrate's Court of Galle under case number 14065, purportedly under section 136(1)(a) of the Criminal Procedure Code, seeking to recover the said taxes. When the matter came up before the Magistrate's Court on 08.10.2009, objections were raised on behalf of the 2nd Appellant on the basis that the taxes had been levied in contravention of the Municipal Councils Ordinance, and written objections and submissions were filed. The matter was thereafter fixed for further consideration.

Subsequently, by letter dated 08.02.2010, the 2nd Respondent informed the 2nd Appellant that, pursuant to a recommendation of the Standing Committee and a Council Resolution dated 30.12.2009, the tax in respect of the telecommunication transmission tower had been reduced from Rs. 50,000/- to Rs. 5,000/-, while the other taxes levied for carrying on a telecommunication company and related activities, together with VAT, were to remain unchanged, resulting in a revised total of Rs. 34,500/-.

The Appellants maintained that the decision of the Respondents to levy separate taxes for telecommunication transmission towers, providing

telephone connections, sale and repair of telephones, and collection of telephone bills is arbitrary, unreasonable, and contrary to the provisions of the Municipal Councils Ordinance. The Appellants state that they engage in a single trade, namely the provision of telecommunication services, and that the impugned activities are integral and incidental components of that trade and do not constitute separate trades capable of independent taxation. Further, the Gazette notification relied upon by the Respondents does not authorise the levying of any tax on telecommunication transmission towers, and in any event, the maximum tax permissible under the first *proviso* to section 247B(2) is Rs. 5,000/-.

In these circumstances, the Appellants invoked the writ jurisdiction of this Honourable Court of Appeal seeking, inter alia, writs in the nature of certiorari to quash the impugned decisions and demands of the Respondents, and writs in the nature of prohibition restraining the Respondents from levying or recovering any sum in excess of that permitted by law, contending that the actions complained of are ultra vires, unlawful, and in violation of the statutory scheme governing municipal taxation.

In the writ application before the Court of Appeal, the Appellants sought extensive relief challenging both the administrative decisions of the Galle Municipal Council and the criminal proceedings instituted against the 2nd Appellant. They prayed, inter alia, for writs of certiorari quashing the decisions of the 1st to 5th Respondents contained in the letters dated 09.06.2008 and 08.02.2010, by which multiple taxes were levied on the 1st Appellant Company, as well as for a writ of certiorari quashing the decision to impose separate taxes in respect of what the Appellants maintained was a single trade, as reflected in the Gazette notification bearing No. 1512 dated 24.08.2007 issued under section 247 of the Municipal Councils Ordinance. The Appellants further sought a writ of prohibition restraining the Respondents from levying any sum in excess of Rs. 5,000/- in respect of the premises at No. 8, Galwala Road, Wakwella Road, Galle, in accordance with section 247B of the Municipal Councils Ordinance.

In addition to the foregoing, the Appellants sought writs of mandamus directing the 1st Respondent to withdraw Magistrate's Court case No. 14065 instituted against the 2nd Appellant, and to withdraw the "B" report filed therein, or in the alternative, a writ of certiorari quashing the said "B" report. Interim relief was also sought by way of a stay of further proceedings in the Magistrate's Court pending the final determination of the writ application, together with an award of costs and such other relief as Court deemed just and equitable.

By judgment dated 22 February 2013, the Court of Appeal dismissed the Appellants application. In its reasoning, the Court held, inter alia, that the schedule introduced by section 247B of the Municipal Councils Ordinance in 1979 had not kept pace with the rapid increase in property values, and that it was therefore reasonable for a local authority to impose taxes corresponding to the annual value of premises, even where such taxes exceeded the sum of Rs. 5,000/- fixed for premises with an annual value exceeding Rs. 2,500/-. The Court further held that the provision of services could lawfully be subjected to taxation under section 247B, and that several trades could be carried on and taxed within the same premises. Finally, the Court concluded that the questions whether the Appellants were in fact carrying on several distinct trades within the premises, and whether the items listed in the Gazette notification constituted separate taxable trades, were matters of fact rather than matters of law, and thus fell outside the scope of determination in the exercise of the Court's writ jurisdiction.

The Appellants are before this Court challenging the judgment of the Court of Appeal. This Court by Order dated 28.01.2014 granted Leave to Appeal on the questions of law stated in paragraph (a) to (g) of the Petition dated 02.04.2013, as set out below.

1. Has the Court of Appeal failed to consider and thus erred in law that the Galle Municipal Council can levy tax on any trade only to a maximum of Rs.5000/- for a premises with an annual value exceeding

Rs.2500/- in terms of section 247B of the Municipal Council's Ordinance.

2. Has the Court of Appeal erred in law in coming to the conclusion that the Galle Municipal Council can levy any tax any trade exceeding a sum of Rs.5000/- for a premises with an annual value exceeding Rs.2500/- in terms of section 247B of the Municipal Councils Ordinance.

3.Has the Court of Appeal erred in law in coming to the conclusion that providing services can also be taxed under section 247B of the Municipal Councils Ordinance where several trades can be carried on within a particular premise?

4.Has the Court of Appeal erred in law in coming to the conclusion that the gazette bearing No.1512 dated 24.08.2007 is intra vires to the provisions of Section 247B the Municipal Council Ordinance?

5.Has the Court of Appeal failed to consider that in terms of Section 247B the Municipal Councils Ordinance the Galle Municipal Council cannot levy taxes on different activities with a single trade carried on at any premises within its administrative limits?

6.Has the Court of Appeal failed to consider that the taxes stated in the letters dated 09/06/2008 (P2) and on 08/02/2010 (P8) are arbitrary and calculated without any legal basis.

7.Has the Court of Appeal failed to consider that the Galle Municipal Council could not have levied any tax on the telecommunication tower?

However, during arguments all parties restricted their oral arguments to the application of judgement ***K.H. Dayananda, Revenue Inspector v Ceylon Electricity Board*** [SC Appeal No. 118/2013] decided on 17th September 2020 and the interpretation of the words “කර්මාන්තය” and “trade” in sinhala and english texts of section 247B of the Municipal Councils Ordinance where Justice Priyantha Jayawardena examined at length the provisions of the municipal council and deviated from the *ratio decidendi* laid down in the case of ***Crest Gems Ltd v The Colombo Municipal Council*** [2003] 1 SLR

370 and held that there in no inconsistency between words “වර්මාණය” and “trade” in Sinhala and English. All parties were directed to file written submissions summarising the entire submissions with regard to issues of law.

My analysis hereafter will be confined to examining the aforesaid questions of law based on which leave was granted. As all the questions of law on which leave to appeal has been granted arise from, and are intrinsically connected to, the proper application, scope, and interpretation of section 247B of the Municipal Councils Ordinance, particularly in relation to the power of the Galle Municipal Council to levy taxes, all questions of law on which leave has been granted will be considered together. This course is adopted for reasons of convenience, coherence, and to avoid unnecessary repetition, as the issues are substantially overlapping and turn on a common statutory framework and factual matrix.

Section **247B of the Municipal Councils Ordinance** is set out as follows:

“1) A municipal Council may impose and levy a tax on any trade carried on within the administrative limits of that Council.

2) The tax levied under subsection (1) shall be annual tax determined by the Council according to the annual value of the premises on which that trade is carried on:

Provided that where the annual value of such premises falls within the limits of any item in Column I set out below, the tax levied shall not exceed the sum set out in the corresponding entry in Column II—

Column I

Column II

Where the annual value—

- | | |
|---|-------------------|
| <i>a) Does not exceed Rs. 1,500</i> | <i>Rs. 2,000</i> |
| <i>b) Exceeds Rs. 1,500 but does not exceed Rs. 2,500</i> | <i>Rs. 3,000</i> |
| <i>c) Exceeds Rs. 2,500</i> | <i>Rs. 5,000.</i> |

Provided further, that such tax shall not be leviable or payable in respect of any trade for which a licence is necessary under the provisions of this Ordinance or any by-law made thereunder.

3) The tax levied under subsection (1) shall be payable, on such date as may be determined by the Council or prescribed by by-law, by the person who carries on such trade. (4) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, the Council shall report such failure to the Magistrate's Court having jurisdiction over the area in which such Council is situated. The Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction, and the amount so recovered shall be paid into the Fund of the Council.”

Section 247B confers power on a Municipal Council to impose a tax on any trade carried on within its administrative limits. The amount of such tax is linked exclusively to the annual value of the premises and is deliberately insulated from the specific nature or multiplicity of activities conducted therein. Statutory ceilings are clearly prescribed: premises valued up to Rs. 1,500 are subject to a maximum tax of Rs. 2,000; premises valued between Rs. 1,500 and Rs. 2,500, a maximum of Rs. 3,000; and premises exceeding Rs. 2,500, a maximum of Rs. 5,000. The statutory language, particularly the phrase “shall not exceed,” reflects a deliberate legislative decision to impose a ceiling, thereby providing certainty and delimiting municipal power.

The Galle Municipal Council, through Gazette Notification No. 1512 dated 24 August 2007, undertook to categorize various commercial undertakings by enumerating distinct “trades” or “activities” and prescribing separate tax obligations for each identified activity. Pursuant to this notification, the Appellant was assessed multiple tax liabilities in respect of a single enterprise, encompassing a telecommunication tower, operations of a telecommunication company, provision of telephone connections, sale of telephones, repair of telephones, and the collection of telephone bills. For

each of these enumerated activities, the Council imposed a tax of Rs. 5,000, in addition to Value Added Tax, resulting cumulatively in a total liability of Rs. 34,500. The imposition of multiple taxes in respect of these interrelated operations raises questions of statutory authority and compliance with the ceiling prescribed under Section 247B of the Municipal Councils Ordinance.

The Appellants contended that Gazette Notification No. 1512 of 24 August 2007 is legally impermissible, as it fundamentally alters the statutory basis of taxation prescribed by Section 247B of the Municipal Councils Ordinance. Whereas Section 247B mandates that the tax be determined solely with reference to the annual value of the premises, the Gazette imposes separate taxes on each distinct activity within a trade, which, in their submission, directly contradicts the statutory scheme. They further submitted that the Gazette imposes taxes totaling Rs. 34,500 on premises with an annual value of Rs. 313,043, far exceeding the statutory ceiling of Rs. 5,000, a limitation which, in their view, cannot be overridden by subordinate legislation. While the Court of Appeal acknowledged the statutory link to annual value and the Rs. 5,000 cap, the Appellants argue that the Court effectively treated the statutory ceiling as directory on the basis of “reasonableness” in light of inflation, allowing the Council to depart from the clear authority granted by Parliament. In support of their position, the Appellants cited Bindra and Maxwell, emphasizing that taxing statutes must be strictly construed, that courts cannot add words or modify the law, and that any ambiguity should be resolved in favor of the taxpayer. Accordingly, the Appellants asserted that the Gazette, by imposing multiple taxes based on business activities and exceeding the statutory ceiling, is ultra vires, and that Section 247B should be interpreted strictly according to its wording, based solely on the annual value of premises, with the Rs. 5,000 cap treated as absolute.

The Respondents contended that, when read in conjunction with the Gazette Notification, Section 247B of the Municipal Councils Ordinance empowers the Municipal Council to levy taxes on separate trades or business activities carried on within a single premises. They submitted that the Gazette Notification is intra vires and has been expressly upheld by this Court in

K.H. Dayananda, Revenue Inspector v Ceylon Electricity Board [SC Appeal No. 118/2013] decided on 17th September 2020. The Respondents further argued that the Appellants challenge raises disputed questions of fact, particularly regarding whether multiple trades were in fact conducted, which are not matters suitable for determination under writ jurisdiction. The Respondents, for their part, submitted that the Appellant's interpretation of Section 247B is unduly rigid and, if accepted, would result in an artificial and impractical restriction on the revenue-raising capacity of Municipal Councils. They contended that Section 247B must be interpreted purposively, having regard to contemporary commercial realities and the multiplicity of activities conducted within modern commercial premises. In support, the Respondents highlighted that the Appellants are engaged in several distinct profit-generating activities, including but not limited to the operation of telecommunication towers, the provision of telecommunication services, and ancillary commercial functions, each of which is capable of being treated as a separate trade for the purposes of municipal taxation. In this context, it was submitted that the statutory ceiling cannot be read in isolation, and that the Gazette and resolutions issued by the Municipal Council constitute lawful instruments for giving effect to the taxing power conferred by the Ordinance.

The Respondents further submitted that the Court of Appeal, exercising writ jurisdiction, was not called upon to undertake a merits-based reassessment of tax calculations, but merely to determine whether the decision-making process disclosed jurisdictional error, mala fides, or patent illegality. It is also contended that the Appellants, having submitted to the jurisdiction of the Magistrate's Court, admitted liability, and made payments pursuant to those proceedings, are disentitled from subsequently invoking the extraordinary jurisdiction of the Court of Appeal to challenge the same demands. Accordingly, the Respondents submitted that the Court of Appeal acted appropriately in declining to intervene, and that the Appellants challenge reflects a misconceived attempt to re-litigate matters already addressed under the statutory framework and prior proceedings.

The interpretation of legislation, and particularly taxation statutes, requires careful and disciplined analysis of statutory language, context, and purpose. Legislation is generally interpreted according to the grammatical or ordinary meaning of its words, unless such interpretation produces absurdity. In cases of uncertainty, ambiguity, or apparent absurdity, courts have historically examined the so-called “intention of the legislature.” However, modern jurisprudence, as emphasised in ***Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA) (16 March 2012)***, confirms that statutory interpretation is objective, not subjective. The Court observed:

“Interpretation is the process of attributing meaning to the words used in a document...having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence...A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document.”

This principle underscores that courts must discern the purpose and effect of legislative provisions rather than speculate on the mental intent of legislators. Tax legislation, by its nature, is particularly complex, given the interplay between statutory authority, administrative practice, and the coercive effect of taxation. While administrative bodies may issue interpretation notes or guides, these cannot displace the independent and objective judicial determination of statutory meaning. As the Constitutional Court of South Africa held in ***Marshall and Others v Commissioner, South African Revenue Service 2019 (6) SA 246 (CC) (25 April 2018)***:

“Why should a unilateral practice of one part of the executive arm of government play a role in the determination of the reasonable meaning to be given to a statutory provision?...It might conceivably be justified where the practice is evidence of an impartial application of a custom recognised by all concerned, but not where

the practice is unilaterally established by one of the litigating parties...It is best avoided.”

This pronouncement confirms that judicial interpretation must remain independent of unilateral administrative practices unless such practices are longstanding, consistently applied, and fully aligned with statutory intent. Interpretation notes may have peripheral relevance to corroborate established practice, but they cannot supplant the court’s independent analysis.

Applying these principles to Section 247B of the Municipal Councils Ordinance, it is apparent that municipal councils exercise delegated fiscal authority. Their discretion to levy taxes on trade must be evaluated within the statutory framework, in accordance with the language, purpose, and limits prescribed by Parliament. The statutory ceiling, the annual value calculation, and the identification of taxable “trades” must be assessed objectively, grounded in factual and commercial realities, rather than on policy preferences or subjective notions of fairness. Gazette Notification No. 1512 of 24 August 2007, as subordinate legislation, operationalises Section 247B by classifying taxable activities and specifying applicable taxes. It must be evaluated on whether it faithfully implements the statutory scheme, rather than on administrative convenience.

Sri Lankan jurisprudence provides further guidance on the judicial approach to taxation. In ***Crest Gems Limited v Colombo Municipal Council* [2003] 1 Sri LR 370**, the Court emphasised that the decisive inquiry in cases of multiple trade taxation is whether the activities, in substance and law, constitute distinct trades, cautioning against artificial dissection of a single business to expand municipal taxing power. ***K.A. Don Albert v Municipal Revenue Inspector* [1962] 65 NLR 1** similarly rejected attempts to elevate ancillary activities into separately taxable trades, underscoring that factual and commercial realities must guide classification. These authorities collectively confirm that judicial intervention is warranted only where statutory limits are exceeded, classifications are contrived, or

powers are exercised capriciously, and not to substitute the court's own factual assessment for that of competent authorities.

Bank of Ceylon v Hatton-Dickoya Urban Council [2005] 3 Sri LR 1 reinforces the principle of caution against artificial fragmentation, holding that where a statutory definition establishes an indivisible trade, ancillary functions cannot be taxed separately. That decision, however, is context-specific, grounded in the statutory clarity of banking as a single integrated activity. By contrast, Section 247B uses the term "trade" in a broad commercial sense, with no statutory definition rendering telecommunication-related activities indivisible. Whether connections, billing, repairs, and sales constitute separate trades is therefore inherently a question of fact. The Court of Appeal correctly observed that the Appellants presented no cogent evidence establishing inseparability, and the factual record demonstrates that multiple activities were indeed conducted independently and profitably.

The Supreme Court of Sri Lanka, in ***K.H. Dayananda, Revenue Inspector v Ceylon Electricity Board [SC Appeal No. 118/2013] decided on 17th September 2020***, further clarifies this position. The Court held that service-oriented operations such as billing, sales, repairs, and customer-facing functions may, depending on the factual matrix, constitute distinct taxable business activities. Gazette-based classifications under Section 247B, therefore, are not ultra vires merely because multiple activities are identified. The legislative scheme contemplates that different trades or profit-generating activities within a single premises may constitute separate taxable enterprises, thereby enabling municipal authorities to discharge their statutory mandate of raising revenue efficiently without undermining statutory ceilings.

It is a settled principle of taxation jurisprudence that statutes conferring fiscal authority must be interpreted with rigour and fidelity to the language employed by the legislature. As the Supreme Court of India observed in ***Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd [2024] SCC***

ONLINE SC 2691, the primary task of the judiciary is to construe tax legislation strictly in accordance with its plain language, without introducing additions, subtractions, or modifications based on perceived policy objectives, notions of fairness, or the exigencies of contemporary economic conditions. Where the statutory text appears to yield results that may seem anomalous or “absurd” in practical effect, the proper corrective lies with the legislature, not the courts. This reflects the underlying principle that the coercive power of taxation must remain firmly circumscribed by law and that judicial intervention is warranted only to ensure compliance with statutory limits, rather than to recalibrate fiscal policy.

At the same time, the Court reaffirmed that, in circumstances of ambiguity or uncertainty, tax statutes must be construed in favour of the taxpayer, recognizing the inherently coercive nature of taxation and the fundamental requirement that fiscal liability must be unequivocally authorised by law. This principle of *contra fiscum* interpretation operates not as a discretionary relief mechanism but as a substantive safeguard against overreach, ensuring that taxpayers are not subjected to burdens beyond the scope explicitly sanctioned by Parliament.

Finally, the Court emphasised the significance of commercial context in interpreting undefined terms within taxing statutes. Where the statute does not furnish a precise definition, the meaning of such terms must be derived from their ordinary commercial significance and prevailing trade usage, rather than speculative assumptions regarding legislative intent or analogies drawn from unrelated statutes. This approach ensures that taxation is administered consistently with economic realities and the practical functioning of trade, thereby balancing the objectives of revenue collection with fairness and predictability. Collectively, these principles establish a rigorous framework for judicial interpretation of tax statutes: fidelity to the statutory text, protective construction in favour of the taxpayer where ambiguity exists, and grounding in commercial and factual realities where legislative language is indeterminate.

Applying the said principles to Section 247B, these principles reinforce the necessity of an objective, purposive interpretation: while the statute prescribes a ceiling linked to the annual value of premises, it allows municipal councils the discretion to classify and tax commercially distinct activities. Courts are not to micro-manage municipal fiscal policy, nor recalibrate statutory ceilings, but rather to ensure that taxing power is exercised lawfully, rationally, and within statutory limits.

In balancing these considerations, the proper judicial approach is one of principled restraint. Section 247B, read with Gazette No. 1512, permits taxation of multiple, commercially distinct trades within a single premises, provided the statutory ceiling is respected and classifications are factually justified. Judicial review is concerned with legality, not merits; absent jurisdictional error, mala fides, or patent illegality, courts must not interfere with the factual and administrative determinations of competent authorities. The record demonstrates that the Municipal Council exercised its taxing power transparently: representations were considered, reductions were granted, and amounts quantified and recorded before the Magistrate's Court.

Accordingly, while the Appellants' concerns regarding statutory ceilings and potential artificial fragmentation are not without conceptual merit, they do not undermine the legality of the Respondents' actions on the facts before this Court. Section 247B, interpreted holistically, provides municipal authorities with a clear framework to levy taxes linked to the annual value of premises while recognising the commercial reality of multiple, independently revenue-generating activities. Critically, courts cannot unduly restrict the ability of municipal councils to classify and tax multiple trades where such classification is factually justified and supported by commercial reality. Discretion in this regard is entrusted to the municipal authority, constrained only by statutory ceilings, fairness, and legality.

In conclusion, the statutory text, factual record, and binding authorities and comparative jurisprudence, demonstrate that the Respondents' imposition of

multiple taxes pursuant to Section 247B and Gazette No. 1512 represents a lawful, rational, and factually supported exercise of municipal taxing authority, fully consistent with legislative intent and judicially recognised principles of statutory interpretation.

In view of the foregoing, I am satisfied that the Court of Appeal was correct in concluding that the Municipal Council, under Section 247B of the Municipal Councils Ordinance, is empowered to impose and levy a tax on any trade carried on within its jurisdiction, including service-oriented activities. The determination of whether the Appellant conducts multiple trades within the premises, and whether the items enumerated in the Gazette Notification constitute distinct trades, is inherently a question of fact, not law. It is neither appropriate nor within the scope of this Court's jurisdiction to re-examine such factual determinations. Consequently, the Gazette Notification and the taxes levied thereunder cannot be said to be illegal or ultra vires the provisions of the Ordinance.

Accordingly, I answer all the questions of law on which leave has been granted in the negative and dismiss the appeal of the Appellants.

Appeal Dismissed.

JUDGE OF THE SUPREME COURT

Yasantha Kodagoda PC, J.

I agree.

JUDGE OF THE SUPREME COURT

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

I agree.

JUDGE OF THE SUPREME COURT