# *The Right to Information Commission*

R. B. J. Suranga
No. 76/3
Galawatte
Bandirippuwa
Lunuwila

RTIC/Appeal/1620/2024 Vs.

Inland Revenue Department
Inland Revenue Building
P. O. Box 515
Sir Chiththampalam A. Gardiner
Mawatha
Colombo 02

**Before** : 1. Mr. Dayaratne Lankapura - Chairman
2. Justice D.N Samarakoon (Rtd.) - Commissioner
3. Ms. Kishali Pinto-Jayawardena (Attorney-at-Law) - Commissioner
4. Mr. A.M Nahiya - Commissioner

**Appearance** : The Appellant and the Public Authority were absent. The Order shall be communicated to both parties by registered post.

**Written Submissions :** The Appellant : - 24.01.2025
The Public Authority : - 01.01.2025, 24.02.2025, 20.06.2025, 18.09.2025

**Dates of Hearing** : .03.01.2025, 31.01.2025, 05.03.2025, 02.04.2025,29.05.2025, 09.07.2025,13.08.2025,18.09.2025, 06.11.2025

**Decided on** : 30.06.2026

# O R D E R

The request of information pertains to a media release by the Department of Inland Revenue dated 26.08.2024 that a sum of Rs. 1066 is to be recovered by that department as defaulted tax.

The following are the items of requests

(a) What are the names of individuals/institutions assessed by the IRD as on 31.12.2023 as defaulted a sum of Rs. 1066 billion in payment as tax?

   (i) Indicate the tax assessed as to be recovered by each individual/institution.

(b) The names of taxpayers of whom that media release says recovery has been suspended due to appeals which is a sum Rs. 878 billion with the amount of the tax liability of each taxpayer.

(c) The names of individuals/institutions as per that media release who are liable to pay as at 31.12.2023 a sum of Rs. 188 billion with a breakdown of the amount of the liability of each individual/institution.

(d) The names of taxpayers from whom as per that media release the IRD has recovered from 01.01.2024 to 30.06.2024 out of the sum due on 31.12.2023 a sum of Rs. 47 billion with a breakdown of the amount of the liability of each individual/institution.

(e) Who are the taxpayers who received tax relief as per that media release?

(f) What are the names of 900 taxpayers referred to in that media release from whom recoveries were made having freezed their bank accounts?

(g) Who are the taxpayers whose tax liabilities were settled or who received refunds? A breakdown of amounts of defaulted tax paid or setoff by them.

(h) The names of taxpayers who has defaulted a sum of Rs. 84 billion as at 31.12.2023 with a breakdown of the liability of each taxpayer.

The appellant submitted his request to the Information officer of the Inland Revenue Department on 09.09.2024. The Information officer informed on 25.09.2024 in writing that the said request is rejected under section 5(1)(a) of the Right to Information Act No. 12 of 2016. That provision reads

> "(a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the disclosure of such information or the person concerned has consented in writing to such disclosure;.."

Against that decision, the appellant filed an appeal on 30.09.2024 to the Designated Officer. The Designated Officer, in response to that appeal, informed the appellant on 21.10.2024 that under sections 5(1)(a) and 5(1)(g) of the Right to Information Act the disclosure of this information is refused.

Section 5(1)(g) reads

> "(g) the information is required to be kept confidential by reason of the existence of a fiduciary relationship;.."

The appellant, dissatisfied with the Designated Officer's decision, filed an appeal in this Commission on 08.11.2024.

At the hearing of the appeal Mr. K. P. K. Dharmawardane, the Senior Commissioner of the Public Authority in tendering preliminary written submissions dated 01.01.2025 has stated that in addition to the above mentioned reasons the information request of the appellant cannot be acceded to as the requested information is not in the custody or control of the Public Authority.

At the hearing of the appeal, the appellant was given an opportunity to respond to the Public Authority's written submission and accordingly the appellant has submitted a written submission on 17.01.2025.

This appeal was scheduled for further written submissions at the hearing held on 31.01.2025 and accordingly, the Public Authority made an additional written submission on 04.02.2025 and at the time the appeal hearing was held on 05.03.2025 the appellant informed the Commission that it was not necessary for him to make any further written submission.

The Public Authority has presented 4 reasons as to why the requested information cannot be released. They are,

(a) The disclosure is refused under section 5(1)(a) of the Right to Information Act.

(b) The disclosure is refused under section 5(1)(g) of the Act

(c) The requested information is not in the possession custody or control of the Public Authority in the requested form

(d) That there is a legal barrier to provide the requested information in terms of the provisions of sections 100 and 191 of Inland Revenue Act No. 24 of 2017

The facts and arguments submitted by the appellant in his written submission dated 17.01.2025 (erroneously dated 17.01.2024 but correctly 2025 as per the Date Stamp of the Right to Information Commission dated 24.01.2025 it bears) discloses in its paragraphs (3) to (8) are matters of vital importance.

However they would be appropriately mentioned elsewhere in this order, where their presence would be more proper.

The media release dated 26.08.2024 which prompted the appellant to make his information request initially describes the process of recovery of taxes.

It says that the system starting from a self-assessment → Default or Non-acceptance by IRD → Assessment by IRD → Notice of Assessment → Payment or if the assessee is not agreeable appeal to IRD → If cannot be resolved on the discretion of the assessee to Tax Appeals Commission → A case stated to Court of Appeal → (ends with) an appeal to Supreme Court and as at 31.12.2023 the amount assessed by the IRD as recoverable is Rs. 1066 billion.

The news release says that until the tax recovery process ends, somewhere in the above process (sooner or later) an amount of tax does not become recoverable by the Inland Revenue Department.

The amount withheld due to appeals by taxpayers is Rs. 878 billion as per the statement.

The media statement reiterates that hence it is incorrect to suppose that the total amount due to the IRD is Rs. 1066 billion. (The reason is that a tax must become recoverable in law somewhere sooner or later in the above process starting from self-assessment ending from a judgment of Supreme Court)

The media statement says that hence the amount recoverable as tax as 31.12.2023 is Rs. 188 billion (Rs. 1066 billion – Rs. 878 billion = Rs. 188 billion)

Then the media statement adds that out of the dues as at 31.12.2023 the IRD has during the period from 01.01.2024 to 30.06.2024 recovered Rs. 47 billion from 900 taxpayers by (i) freezing their bank accounts (ii) allowing them to pay by instalments and (iii) by other legal processes.

It also adds that Rs. 57 billion has been written off from dues due to (i) refunds and (ii) settlements on objections.

It states hence the amount of tax in default (arrears) has been reduced by Rs. 104 billion within year 2024 (Rs. 47 billion + Rs. 57 billion = Rs. 104 billion)

Having stated that no system of tax administration can bring tax in default (arrears) to zero as continuous assessments add further arrears, the statement underscores that reducing Rs. 104 billion from the total default (Rs. 188 billion) within 2024 is a pristine result.

The statement concludes that the amount finally in default is Rs. 84 billion.

The statement adds a grand finale in the following three propositions

(a) The Inland Revenue Department has taken every possible measure to recover taxes within the legal framework of the country

(b) Any statement saying that tax in default subject to the legal process of adjudication could be recovered at once indicates taking extra legal action

(c) While a responsible state institution cannot adhere to such a process, accordingly the Inland Revenue Department will always be following the prescribed legal process.

So the entire sum due is not Rs. 1066 billion as it might appear prima facie.

Rs. 878 billion of it is being contested within the domains of the Tax Appeals Commission, the Court of Appeal and the Supreme Court.

The sum that falls out of those adjudicating agencies is hence Rs. 188 billion.

Out of that Rs. 47 billion was recovered.

Out of that Rs. 57 billion was written off due to refunds or settlements.

The total of that is Rs. 104 billion.

(The chart at the end of the IRD statement gives Rs. 104 billion as recovered sum but it comprises of Rs. 47 billion recovered and Rs. 57 billion written off. The effect of both is that either way they get reduced from Rs. 188 billion total sum that became due having fallen out of the process of adjudication)

The balance sum due which is Rs. 188 billion minus Rs. 104 billion is Rs. 84 billion.

The above reference to the media statement of the IRD which was the immediate as well as the mediate cause for the above request of information of the appellant places the matter in a clearer perspective.

It is pertinent at this stage to examine the legal position in respect of disclosure of information in comparative jurisdictions.

The historical position of the English system was summarized as follows by the English Court of Appeal (Civil Division) in *Mark Mitchell and Paul Bell vs. The Commissioners for Her Majesty's Revenue and Customs [2023] EWCA Civ 261*.

> "i) The nature and scope of HMRC's powers under Section 18 CRCA
>
> 39. The CRCA (Commissioners for Revenue and Customs Act) brought together into a single tax collecting authority the two bodies which had previously existed, namely the Inland Revenue and HM Customs and Excise. The CRCA sets out the functions and powers of the new unitary authority, HMRC, and is the statutory foundation for that body. Section 5 lists the functions of HMRC, including the function of collecting and managing the tax. That function (previously commonly referred to as "care and management") has for many years existed; immediately prior to the CRCA, it was contained in the Taxes Management Act 1970 in relation to the Inland Revenue and the Customs and Excise Management Act 1979 in relation to HM Customs and Excise. It was famously described as conferring on the tax authority a "wide managerial discretion" as to the best means of obtaining for the national exchequer the highest net return that is practicable from the taxes committed to the charge of that authority, having regard to the staff available to them and the cost of collection, see R v Inland Revenue Commissioners, ex p National

Federation of Self-Employed and Small Businesses Ltd [1982] AC 617 (the "Fleet Street Casuals" case) at p 636 per Lord Diplock, confirmed in R (Wilkinson) v Inland Revenue Commissioners [2005] UKHL 30, [2005] 1 WLR 1718 per Lord Hoffmann at [20]. The duty of confidence which HMRC owes to taxpayers has also long been recognised as part and parcel of the care and management function, see as examples the Fleet Street Casuals case per Lord Wilberforce at p 632, and Ingenious Media Holdings at [22]-[23] per Lord Toulson, referred to at para 4 above".

Commissioners for Revenue and Customs Act 2005 section 18 (1) says

"Revenue and Customs officials may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs".

However there are exceptions to the above in sub-section (2)

Section 23 of CRC Act reads

"**23Freedom of information**

(1) Revenue and customs information relating to a person, the disclosure of which is prohibited by section 18(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (c. 36) (prohibitions on disclosure) if its disclosure—

(a)would specify the identity of the person to whom the information relates, or

(b)would enable the identity of such a person to be deduced.

**[**F1 (1A) Subsections (2) and (3) of section 18 are to be disregarded in determining for the purposes of subsection (1) of this section whether the disclosure of revenue and customs information relating to a person is prohibited by subsection (1) of that section.**]**

(2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 18(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000.

(3) In subsection (1) "revenue and customs information relating to a person" has the same meaning as in section 19".

Section 44(1)(a) of the British Freedom of Information Act 2000 (FOIA) states that information is exempt from disclosure if its disclosure is prohibited by other legislation. This means that if a public authority is unable to disclose information due to restrictions imposed in any other statute, they are not required to provide it under FOIA. Such restrictions are referred to as statutory prohibitions or statutory bars, which prevent public authorities from disclosing specific types of information. The exemption is absolute, meaning that it does not require a public interest test to be applied.

However section 23(2) of CRCA 2005 saying that

> "(2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 18(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000"

shows that the age-old confidentiality barrier condensed in section 18(1) of CRCA 2005 does not impose such a blanket prohibition of disclosure.

Although the three exceptions the English Court of Appeal referred to under section 18(2) of CRCA 2005 cannot be as well as need not be imported en bloc to Sri Lankan jurisprudence on the matter a principle that court emphasized at paragraph 40 of the judgment was that

> "It has not been suggested that for HMRC to have disclosed the Disputed Documents would have contravened any restriction imposed by HMRC".

However it must be noted that even a mature tax administration system such as United Kingdom His Majesty's Revenue and Customs with the fundamental starting precept of confidentiality has found that naming deliberate defaulters is necessary to strengthen economic well-being.

Finance Act 2009 of United Kingdom provides in section 94 that

> "**94 Publishing details of deliberate tax defaulters**
>
> (1) The Commissioners may publish information about any person if—
>
> > (a) in consequence of an investigation conducted by the Commissioners, one or more relevant tax penalties is found to have been incurred by the person, and
> >
> > (b) the potential lost revenue in relation to the penalty (or the aggregate of the potential lost revenue in relation to each of the penalties) exceeds £25,000".

Hence deliberate defaulters under Section 94 are individuals or entities that have been found to have incurred tax penalties due to deliberate actions or inactions which penalties can arise from deliberate errors in tax returns or failures to notify tax liabilities.

A provision that can correspond with section 94 of United Kingdom although not in all fours is found in the Sri Lankan tax administration system too in section 100 (7)(a) of Inland Revenue Act No. 24 of 2017.

It is appropriate at this stage to compare the provisions that correspond in the British system with the local system as follows.

The starting point in both systems is secrecy.

| **Compared Characteristic** | **HMRC – United Kingdom and FOIA** | **IRD – Sri Lanka and RTI** | **Remarks** |
| --- | --- | --- | --- |
| Secrecy | Strict confidentiality for all taxpayer information under section 18(1) of Commissioners for Revenue and Customs Act | Section 100(1) Except as provided for in subsection (3), (4), (5) or (7) every person having a duty under this Act or being employed in the administration of this Act, shall regard as secret and confidential all information and documents the person has received in an official capacity in relation to a specific taxpayer, and may disclose that information | As already said the starting point in both systems is secrecy. But secrecy alone would not affect RTI regime. Section 5(1)(c)(iii) which refers to taxation is subject to section 5(4) |

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|---|---|---|---|
| | | only to the following persons:- … IRD Act No. 24 of 2017<br><br>Section 191. A person who contravenes subsection (2) or (3) of section 100 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment. | |
| HMRC/FOIA interaction | Section 23 (1) Revenue and customs information relating to a person, the disclosure of which is prohibited by section 18(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 | RTI Act section 5(1)(a) and (c) (iii) exempts personal information and taxation decisions but section 5(4) applies where the pubic interest in disclosing the information | Sri Lankas RTI law is more flexible than United Kingdom FOIA. |

| | | | |
|---|---|---|---|
| | Section 23 (2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 18(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000. | outweighs the harm that would result from its disclosure. | |
| Human rights/public interest test | HMRC manual CH190880 "Publication….necessary in democratic society…to deter….strengthen economic well-being of UK". Article 8(2) ECHR permits privacy intrusion. | Article 14A of the Constitution. Right to information subject to reasonable restrictions. Notwithstanding provisions of subsection (1) a request for information shall not be refused where the public interest in disclosing the information outweighs the harm that would result from its disclosure. | Similar proportionality test. |
| Court/commission approach | Courts uphold HMRC publication as proportionate. Privacy | RTI commission has taken the approach of | Court/commission require HMRC/IRD to |

| | | | |
|---|---|---|---|
| | does not prevent naming after liability is finally determined. | "ongoing vs. concluded" in disclosure. | show specific harm not general secrecy. |

In addition the antithesis of section 18(1) of CRCA 2005 which is disclosure has become strengthened from April 2026[1].

> "HMRC's "name and shame" full disclosure regime allows it to publish the details of businesses and individuals found to have deliberately underpaid tax… From April 2026, the compliance environment becomes tougher. HMRC's strengthened whistleblower reward scheme now offers financial incentives for reporting serious tax evasion and high-value tax fraud. Intelligence provided under that framework may lead to investigation, penalties and, where deliberate conduct is established, publication under the deliberate defaulter rules[2]….
>
> .. Publication does not require a criminal conviction. A civil finding of deliberate conduct can be sufficient, provided the statutory conditions are satisfied… Section 94 Finance Act 2009 permits HMRC to publish information where a person has incurred a relevant penalty for deliberate tax default and the statutory threshold is met. The penalty position must also be final, meaning appeal rights have been exhausted or the time limit for appeal has expired…. The regime applies to companies, partnerships and individuals. It is not limited to large corporates. Small and medium-sized businesses are equally within scope if the criteria are met… Publication cannot occur while a penalty remains under appeal. Once finalised, HMRC has discretion to publish…. A finding of deliberate behaviour means HMRC considers that the taxpayer intentionally provided inaccurate information, deliberately withheld relevant facts or failed to notify a tax liability despite knowing that an obligation existed… HMRC draws a clear distinction between deliberate conduct and careless error. A careless inaccuracy arises where reasonable care was not taken[3]…

The above extracts were taken from the web article "HMRC Name and Shame Full Disclosure: April 2026 New rules" the URL of which is provided.

[1] https://www.taxoo.co.uk/hmrc-name-and-shame-full-disclosure-april-2026-new-rules/
[2] https://www.taxoo.co.uk/hmrc-name-and-shame-full-disclosure-april-2026-new-rules/
[3] https://www.taxoo.co.uk/hmrc-name-and-shame-full-disclosure-april-2026-new-rules/

The disclosure procedures in deliberate default incidents in two countries could be compared as follows.

| **Compared characteristic** | **HMRC U. K.** | **IRD Sri Lanka** | **Remarks** |
|---|---|---|---|
| Cause | "deliberate default" and penalty equal or exceeds 25,000 sterling pounds plus appeal rights exhausted and 30 days passed | No "deliberate" test but the Commissioner General may publish taxpayer names and amounts due under section 100 (7)(a) | From 2026 United Kingdom has adopted tougher measures in introducing a whistleblower rewarding system which "is designed to encourage individuals to report serious tax evasion and high-value tax avoidance that leads to significant recovery of unpaid tax[4]". |
| Scope | Includes only 'deliberate defaulters". Published quarterly on gov.uk | No minimum criteria or threshold. Rarely done in practice. | |
| What is published? | Name, address, business type, tax periods, amount of penalty. | Name and the amount of tax payable (address is implied) | |
| Compulsion to | HMRC must publish | The Commissioner | IRD could be |

4 https://www.taxoo.co.uk/hmrc-name-and-shame-full-disclosure-april-2026-new-rules/

| | | | |
|---|---|---|---|
| publish | if the criteria is met | General has the discretion | directed so to do if circumstances so require and admit under RTI section 5(4) without coming within the scope of IR Act section 191. |
| Data protection | Treated as lawful under United Kingdom General Data Protection Regulation (GDPR) Article 6(1)(e) public task which is a European Union regulation that became effective on 25th May 2018 | Must comply with RTI section 5(1)(a) privacy and section 5(1)(c)(iii) tax discretion read with section 5(4) | |

Hence United Kingdom has a mandatory however narrow "deliberate defaulter" regime whereas Sri Lanka has a broad discretionary power of disclosure which has not been materially used.

As stated at an earlier stage in this order it is pertinent at this juncture to consider the reasons mentioned in the written submissions of the appellant dated 17.01.2025 although a requester of information under the Right to Information regime is not under a duty to justify his or her request or requests.

The following are the appellant's arguments to justify his claim.

(1) By paragraph 03 counters paragraph 03 of initial written submission of the Public Authority that information requested discloses the financial status of individuals/institutions and says that the appellant wants to know the amount of tax due and any amount of tax written off etc which information whilst not encroaching upon privacy larger public interest justifies their disclosure under section 5(1)(a)

(2) The appellant says in paragraph 04 that if the state grants tax reliefs to companies which do not even disclose their personal and financial information as tax money constitutes an allocation for public benefit the public has a direct right to know under section 5(1)(a)

(3) When the Public Authority has by a Media statement informed that a colossal amount of funds are to be recovered for gross national produce and for country's economy they contain information that must be disclosed to the country with transparency and not those that should be hidden from the public

(4) What is significant is the disclosure of information but not secrecy on the basis of a fiduciary relationship

(5) Under section 7 of the Right to Information Act a Public Authority is under a duty to preserve them for a period not less than 12 years (section 7(3)(b))

Paragraph 07 of the initial written submission of the Public Authority says that they had not kept hard copies pertaining to the date of the media statement.

The appellant says that this statement of the Public Authority is one made by the Public Authority either to mislead or to avoid responsibility.

According to the Media statement dated 26.08.2024 they have released information as at 31.12.2023 and also pertaining to the duration of period between 01.01.2024 to 30.06.2024.

(Hence) the appellant says that such information must be preserved under section 7(3)(b) above and they must also be preserved in electronic format under section 7(5)

(6) The Public Authority in paragraph 08 of its written submission says that it does not have the requested information in its possession custody or control.

This is said by the state institution which is responsible for preserving information of the main source of state income of Sri Lanka when it is bound in law to preserve information for not less than 12 years.

Such statements can induce fraud and corruption. The public must have access to such information.

It is pertinent in this respect to see that the writer Philip Coppel in his book Information Rights Law and Practice Fourth Edition Hart Publishing Limited 2014 says

"25– 025 Public interest in the disclosure of iniquity

Although the defence of public interest is not confined to cases involving wrongdoing, that is the paradigm instance in which it operates. The courts have always refused to uphold the right to confidence when to do so would cover up wrongdoing: in the words of Wood VC in Gartside v Outram *((1857) 26 LJ Ch (NS) 113 at 114. The case is reported in differing terms in three other sets of reports: (1856) 3 Jur (NS) 39, 5 WR 35 and 28 LT(OS) 120.*) there is 'no confidence as to the disclosure of iniquity'. In addition, in the era of the Human Rights Act 1998, such a public interest consideration may be an exception under article 8(2) to the article 8(1) right to respect for private and family life. The reason that exposure of wrongdoing should not be prevented, even if it is in breach of confidence, is that 'no private obligations can dispense with that universal one which lies on every member of society to discover every design which may be formed contrary to the laws of the society to destroy the public welfare'. (*Annersley v Anglesea (Earl) (1743) LR 5 QB 317n 17 State Tr 1139, cited by Lord Denning MR in Initial Services v Putterill [1968] 1 QB 396 at 405.*) An allegation of wrongdoing will justify exposure in the public interest if it is a credible allegation from an apparently reliable source. (*AG v Guardian Newspapers Ltd (No 2) [1990] 1 AC 109 at 283. In S v IC and The General Register Office, IT, 9 May 2007 the Information Tribunal, whilst holding that in relation to information found to be confidential 'the public interest would likely be in favour of disclosure if the disputed information provided evidence of criminal conduct, having regard to the contents of the letter the Tribunal is satisfied that it does not' (at [62]).*) **An illustration of the operation of the principle at the interim stage is provided by Cream Holdings Ltd v Banerjee**, (*Cream Holdings Ltd v Banerjee [2004] UKHL 44, [2005] 1 AC 253, [2004] 4 All ER 617.*) **in which the principal events related to tax**

**evasion**. **The House of Lords held that these events were clearly matters of serious public interest such that restraint by interim injunction was inappropriate**. In that case, the source of the information was an employee, and one of the arguments upon which the claimant employer relied *("In the course of dealing with this argument, the House of Lords accepted that the Inland Revenue owed a duty of confidentiality to the claimant. This is supported by, eg, Mount Murray Country Club Ltd v Commission of Inquiry into Mount Murray & Anr [2003] UKPC 53 Lord Walker of Gestingthorpe at [33]: '**A taxpayer's returns of income are not covered by legal professional privilege. In the hands of the Revenue they are entitled to be treated as confidential, and subject to public interest immunity, because they relate to the taxpayer's personal affairs and are obtained by the Revenue under statutory compulsion.' <u>It did not follow, however, that the defendants in Cream Holdings Ltd v Banerjee [2004] UKHL 44, [2005] 1 AC 253 (an employee and a local newspaper to which she revealed information) should not be permitted to publish information about the claimant's income and tax affairs, including its dealings with the Inland Revenue, where that disclosure was otherwise justified in the public interest</u>".***) was that the situation was governed by, or at least should be appraised by reference to, express statutory provisions which applied to disclosures by employees. In rejecting this argument, Lord Nicholls, giving the leading speech with which the other members of the House of Lords agreed, stated that:

> The graduated protection afforded to "whistleblowers" by sections 43A to 43L of the Employment Rights Act 1996, inserted by the Public Interest Disclosure Act 1998, section 1, does not militate against this appraisal. Authorities such as the Inland Revenue owe duties of confidentiality regarding the affairs of those with whom they are dealing. The "whistleblower" provisions were intended to give additional protection to employees, not to cut down the circumstances where the public interest may justify private information being published at large". (page 815 – 816) (Content in footnotes shown within brackets)

However that position twenty years ago in 2023 – 2025 era published in the above book in 2014 has now changed as the above web article says from April 2026.

In any event as said in the second table, what is mandatory for publication in a narrower scope in Britain is discretionary in a wider scope in Sri Lanka.

Furthermore in Mount Murray Country Club Ltd v Commission of Inquiry into Mount Murray & Anr [2003] UKPC 53 the publication of the information in the tax returns was considered on the basis of disclosure of information and "documents obtained by an employee in the course of his employment".

The circumstances in the present appeal are different. At the same page 816 of the above book the writer says

> "In Fraser v Evans *([1969] 1 QB 349 at 363*) Lord Denning MR said:
>
>> There are some things which are of such public concern that the newspapers, the Press, and, indeed, everyone is entitled to make known the truth and to make fair comment on it. This is an integral part of the right of free speech and expression. It must not be whittled away".

It is pertinent in the light of the above to consider the requests of information of the appellant.

(a) What are the names of individuals/institutions assessed by the IRD as on 31.12.2023 as defaulted a sum of Rs. 1066 billion in payment as tax?

(i) Indicate the tax assessed as to be recovered by each individual/institution.

This item (a) and (i) of request cannot be acceded to **as it is** because it includes a major part of the tax which is in contest between the IRD and taxpayers in adjudication in the Tax Appeals Commission, the Court of Appeal and the Supreme Court

(b) The names of taxpayers of whom that media release says recovery has been suspended due to appeals which is a sum Rs. 878 billion with the amount of the tax liability of each taxpayer.

What is under this heading pertaining to Rs. 878 billion is the contested amount out of the total of Rs. 1066 billion. Hence this is not a finalized tax liability. However as cases are pending the names of individuals/institutions and the amount of tax liability involved is in the public domain. They could be released as liabilities are pending to be adjudicated with relevant case numbers.

The maxim **"Interest Reipublicae Ut Sit Finis Litium"** translates to **"It is in the interest of the state that there should be an end to litigation."** This principle emphasizes the imp ortance of finality in legal proceedings, ensuring that disputes are resolved efficiently and p reventing prolonged litigation that could burden the judicial system and affect public order.

Hence the disclosure of this information could show the number of cases concluded from 31.12.2023.

(c) The names of individuals/institutions as per that media release who are liable to pay as at 31.12.2023 a sum of Rs. 188 billion with a breakdown of the amount of the liability of each individual/institution.

This item pertains to Rs. 188 billion due as at 31.12.2023. The request is for the names of the taxpayers and their liabilities.

However as per the media statement Rs. 47 billion out of the above has been recovered,

Rs. 57 billion was written off.

That Rs. 57 billion was once a part of Rs. 188 billion which is the net amount due; and as it now goes into what is not due, the public has a right to know the particulars.

(d) The names of taxpayers from whom as per that media release the IRD has recovered from 01.01.2024 to 30.06.2024 out of the sum due on 31.12.2023 a sum of Rs. 47 billion with a breakdown of the amount of the liability of each individual/institution.

This was Rs. 47 billion recovered as per the media statement.

Those individuals/institutions have discharged their tax liability and their names and tax amounts need not be released.

(e) Who are the taxpayers who received tax relief as per that media release?

As already said that Rs. 57 billion was once a part of Rs. 188 billion which is the net amount due and as it now goes into what is not due the public has a right to know the particulars. Hence the names of those individuals/institutions and their defaulted tax liabilities and the reason, if any, for writing off must be released.

(f) What are the names of 900 taxpayers referred to in that media release from whom recoveries were made having freezed their bank accounts?

This information is included in the Rs. 47 billion tax recovered and hence need not be released.

(g) Who are the taxpayers whose tax liabilities were settled or who received refunds? A breakdown of amounts of defaulted tax paid or setoff by them.

This information is included in (e) above.

(h) The names of taxpayers who has defaulted a sum of Rs. 84 billion as at 31.12.2023 with a breakdown of the liability of each taxpayer.

This is the Rs. 84 billion finally due to IRD and which has exhausted all appeal and settlement processes and the names of which could be publicised anyway under section 100(7)(a) and hence must be released

It is obvious that the Public Authority has the above information in its possession custody and control. If it denies it violates the provisions of section 7(3)(b) among other provisions in the Right to Information Act.

The Commission directs the Public Authority to release to the appellant the information referred to in paragraphs (b), (e) and (h) within 30 days of this order.

The Commission further decides that, if the Public Authority fails to comply with the said decision of the Commission before the said date, the Information Officer and the Public Authority shall be prosecuted before the relevant Magistrate's Court under Section 39 of the Right to Information Act No.12 of 2016.

For the completeness of this decision, we place on record that, in terms of Rule No. 11 of Right to Information Commission Rules of 2017, the Public Authority is not entitled to charge any fee from a citizen for the release of the information upon a decision made by this Commission.

The Director General is directed to convey the decision to the Appellant, the Information Officer and the Public Authority.

Appeal concluded.