

**BY COURIER**

15<sup>th</sup> September 2007.

Mr. Bandula Gunawardena, M.P.,  
Minister of Trade, Marketing Development,  
Co-operatives & Consumer Affairs,  
6<sup>th</sup> Floor, Rakshana Mandiraya,  
21, Vauxhall Street,  
Colombo 2.

Dear Minister,

**Proposed Cost Reduction on Essential Food Commodities by Rs. 9,000 Mn.  
by imposing certain Taxes to raise Rs. 3,000 Mn.**

I refer to the recent interview you had, after the News, on Derana TV, on the above subject.

No doubt, the endeavour to reduce the cost of essential food commodities by **Rs. 9,000 Mn.**, would give 'some relief' to millions of poor people in the country, where today - **the cost of living is 'sky rocketing'!**

To meet part of this revenue loss, the Government last week hastily enacted Statutes in Parliament, amidst protests and controversy, to impose certain other taxes to raise revenue by **Rs. 3,000 Mn.**, including a tax on 'cellular phones', used **not only by the affluent, but also by a multitude of the poor.**

**In 'stark comparison' to the foregoing**, I attach copies of recent Letters dated 31.7.2007 addressed to H.E. the President and dated 14.8.2007 addressed to the Secretary to H.E. the President, contents of which are self-explanatory. I cite the following extracts from my said Letters :

"Cabinet Memorandum of 21.1.2007 **had not disclosed** the **defaults** by HDL on Government Loans **from as far back as 1997 to 2005**, as set out below:

<u>Date of Loan</u>	<u>Capital</u>	<u>Rate of Interest</u>	<u>Interest</u>
	Rs.	% p.a.	Rs.
02.7.1997	288,567,633	12.50	648,504,108
12.7.1999	469,742,070	12.50	735,514,859
03.7.2000	464,427,826	12.50	594,791,483
29.6.2001	360,618,876	18.56	640,942,571
01.7.2002	446,803,874	12.50	358,351,215
04.7.2003	340,024,378	9.40	147,032,120
30.6.2004	395,658,959	8.59	110,970,575
30.6.2005	<u>225,639,338</u>	10.28	<u>48,775,967</u>
Total	<u>2,991,482,954</u>		<u>3,284,882,898</u>

I annex copies of 8 Letters from 1997 to 2005, giving the conditions of these Treasury Loans.

In addition to the above defaults amounting to Rs. 6,276,365,852, **that too at old Treasury Bill rates**, further Loans would have been given on 1.7.2006 and 1.7.2007, with which, the defaulted Loans by HDL to the Government would be around **Rs. 7,000,000,000/-**; and with further Loans that would be required to be given on 1.7.2008, 1.7.2009 and 1.7.2010, the total defaults to the Government would then be in the region of **Rs. 10,000,000,000/-**."

The foregoing Loans given by the Treasury, to repay Foreign Loans, to one Luxury 5-Star Hotel alone, **stand defaulted from as far back as 1997**, and at present amounts to around **Rs. 7,000 Mn.**, and is reckoned to increase to **Rs. 10,000 Mn.** You will note that the interest rate charged by the Treasury on these long defaulted Loans, which had been annually advanced, are still in the range of **8.6% p.a to 12.5% p.a**, only one Loan is at 18.5% p.a. **You are well aware, as to what the present Treasury Bill Rates are.** Notwithstanding the foregoing, Secretary to the Treasury, P.B. Jayasundera, without any Cabinet approval has stated to Court - that **'an undertaking has been given by the Government not to recover immediately the above defaulted Loans'**, which in addition, is a special privileged treatment, in violation of the fundamental rights guaranteed under the Constitution.

Is this not a **'glaring instance'** of sheer 'hypocrisy' and 'duplicity', where a similar level of money is being endeavoured to be given by way of price reductions on essential food commodities to benefit millions of poor people in the country, **whilst no endeavour, whatsoever, is made to recover such same level of money defaulted to the government by one 5-Star Luxury Hotel alone**, that too, at **'concessionary rates'** of interest, and in addition, with no recovery of any consideration, whatsoever, for the use of 7 acres of valuable prime Land in the heart of the city. **How do you justify the same ?**

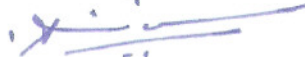
My attached Letters reveal my **endeavours and strategy to ensure the disputed 64% ownership of the Government in this Hotel, to be 'transformed' to an undisputed 100% ownership by the Government** of the said Hotel, which too, was attempted to be opposed by Secretary to the Treasury, P.B. Jayasundera, **suppressing the aforesaid facts and misleading the Cabinet of Ministers.**

In your interview on Derana TV, you also endeavoured to **'belittle' the Rs. 200,000 Mn 'all encompassing' perverse 'amnesty' of 2003, given under the 'guise' of an 'income amnesty', which was determined by the Supreme Court to be 'antithetic to the rule of law' and a 'fraud on government revenue, causing extensive loss to the State.'** The **Rs. 200,000 Mn** estimate comprised of the reported **Rs. 70,000 Mn.** outstanding dues of the Inland Revenue Department alone, and **Rs. 130,000 Mn.** estimated dues of other Revenue Departments, such as, a Customs, Excise, etc. This estimate of **Rs. 200,000 Mn.,** put in issue in Court, **was not disputed and/or refuted by the Hon. Attorney General, who represented the Government.**

In fact, the estimate of **Rs. 200,000 Mn.** was given, by none other than, Secretary to the Treasury P.B. Jayasundera, who, I verily believe, also gave you the aforesaid 'revenue loss' estimate of **Rs. 9,000 Mn.** and the 'additional revenue' of **Rs. 3,000 Mn., which you undisputedly accepted and endorsed to the public,** thereby raising the question, as to how you endeavoured to **'belittle' the Rs. 200,000 Mn.,** which was supported by state records; **whilst thereafter in July 2006 the Auditor General in a Special Report to Parliament reporting that 'uncollected state revenues', including the 'fathomless' VAT fraud, amounted Rs. 384,000 Mn. !** *Did you dispute and/or refute the same, or on the contrary, did you not endorse the same ?*

Your comments on the aforesaid perverse 'amnesty', **only demonstrated your inability to have comprehended the 'complexities' of the same.** The P.A. Government was elected to power in 2004 on the platform of **'denouncing' such perverse and fraudulent 'amnesty',** and thereafter rightfully repealed the same, as one of the very first statutes enacted after establishing the Government, **which you have now ironically joined !**

Yours truly,



Nihal Sri Ameresekere

c.c. : News Editor, Derana TV.  
Chief Executive Officer, Derana TV.

Minister Dinesh Gunawardena, M.P. – *You are aware that the UDA in your presence, upon demonstration, admitted the UDA approved Plan of the said Hotel, to be a 'fraudulent falsification' !*

Minister Sarath Amunugama, M.P. – *Did you not in October 2005 recommend to the Cabinet to wind-up HDL, and hence, could you now endorse a 'diametrically opposite stance' questionably recommended by the Secretary to the Treasury, suppressing the facts and misleading the Cabinet of Ministers ?*

His Excellency The President / Minister of Finance  
Mr. Lalith Weeratunga, Secretary to H.E. The President – *To apprise H.E. The President of the foregoing, which are of national economic proportions and of public importance.*













**In addition**, to the above defaults on Government Loans given to HDL upto 30.6.2005 amounting to **Rs. 6,276,365,852/-**, that too at **old Treasury Bill rates**, further Loans would have been given on **1.7.2006** and **1.7.2007**, with which, the defaulted Loans by HDL to the Government would be around **Rs. 7,000,000,000/-** as at **1.7.2007**.

With further Loans that would be required to be given to HDL on **1.7.2008**, **1.7.2009** and **1.7.2010** to pay Mitsui & Taisei, the Total Loan defaults to the Government by HDL is reckoned to be in the region of **Rs. 10,000,000,000/-** by that date.

5. Upon Order for Winding-up, the Hotel Building & Equipment will revert to the Government, which owns the Land.

Since the Government owns the Land, **for which no payments have been made by HDL since July 1999 and even before**, the Hotel Building standing on this Government Land, will go with this Government Land.

The Hotel Building & Equipment valued at Rs. 4,590 Mn. by the Chief Valuer in September 2005 would be set-off against the owings by HDL to the Government, reckoned to be in the region of Rs. 8,500 Mn. today.

This is not a '**lengthy and time consuming process**', as misleadingly stated in the Cabinet Memorandum of 21.1.2007 by Dr. P.B.Jayasundera.

6. The Government could immediately form a New Company to take over the Hilton Hotel, structured as follows:

	Rs.Mn.
Shares for the Government in the New Company -	
Land - 7 Acres, as per Chief Valuer's Valuation of September 2005	4018
Hotel Building & Equipment, as per Chief Valuer's Valuation of September 2005	4590
Balance payment to Mitsui & Taisei on 1.7.2008, 1.7.2009 and 1.7.2010 at today's value	<u>1500</u>
<i>(The above Chief Valuer's Valuations could be updated to today)</i>	<u>10,108</u>

'Net Current Assets' of HDL are reckoned to be around Rs. 400 Mn., which will pass on to the New Company, and would be set-off against owings by HDL to the Government.

Upon Winding-up today, HDL will have a deficit payable to the Government of around Rs.3,500 Mn.

7. **The New Company will be a 100% Government owned Company, with no disputes, whatsoever, of Government's 100% Shareholding, and all Operational Profits of the Hilton Hotel will accrue to the benefit of Government.**

If the Government so wishes, it could give compensatory Shareholdings to the present 7.5% Public Shareholders of HDL, whose Shares are actually worthless today.

The Government could enter into a new Management Agreement with Hilton International on terms mutually acceptable, or if not, have the option of offering another Hotel Chain of international repute.

At an appropriate time, the Government could consider to sell a minority or majority Shareholdings, of the New Company, to recover part of its investment, and continue to benefit from the profits.

8. As per the Companies Act No.7 of 2007, which came into operation on 3.5.2007, vide Sections 219 and 220 thereof, when a company is Bankrupt and is continuing to carry on business, parties opposing a Winding-up, would be personally liable to pay the Debts to the Creditors, **in this instance, the Creditor is the Government.**

Approval of Cabinet had been obtained by Dr. P.B.Jayasundera on 24.1.2007, as per Cabinet Memorandum of 21.1.2007, to oppose the Winding-up of HDL, by suppressing and misrepresenting material facts, as disclosed by my Letter of 31.7.2007, on the basis of a '**contemplated suggestion**' made by the Hon. Attorney General in December 2006 quote: "***It may be advisable to oppose the liquidation***".

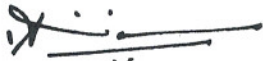
The above by no means is a conclusive Opinion by the Hon. Attorney General considering the totality of the facts, but a mere suggestion on some unknown representations made to him, *inasmuch as the Cabinet Memorandum of 21.1.2007 had suppressed and misrepresented facts.*

9. **The above was before the new Companies Act No. 7 of 2007 came into operation on 3.5.2007. I verily believe that the Hon. Attorney General, if apprised of the relevant facts, will no doubt reconsider his suggestion, in terms of the facts and the prevalent law, to act to protect the interests of the Government.**

**I am sure you will agree that the Government cannot violate and/or contravene law enacted by Parliament.**

10. It is beyond comprehension, as to how anyone in proper senses, could oppose the Government (*unless with an 'ulterior motive' or some 'hidden agenda', which will cause enormous loss to the Government*) obtaining a 100% owned Company to own the Hilton Hotel and have the benefit of the entirety of the Operational Profits of Hilton Hotel, as opposed to a present 65% Shareholding, in a bankrupt company, which Shareholding too is disputed in vexatious and baseless litigations, by parties, who had in fact endeavoured to perpetrate a fraud on the Government, **which was prevented by me.** In this context, I reiterate the penultimate paragraph of my Letter dated 31.7.2007.

Yours truly,



Nihal Sri Ameresekere

cc: H.E. the President / Minister of Finance

Hon. Attorney General

Hon. Sarath Amunugama, Former Minister of Finance & Planning  
and Minister of Enterprise Development & Investment Promotion

Mr. Dhammika Perera, Chairman, BOI

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order

Mr. Victor Perera, IGP

Mr. D.W. Prathapasinghe, DIG-CID

- *Vis-à-vis, the on going Investigations*

Mr. Ameer Ismail, Chairman, Commission to Investigate Allegations of Bribery or Corruption

Ven. Elle Gunawansa, Member Police Commission / Chairman, Committee to Combat Fraud,  
Bribery & Corruption