NIHAL SRI AMERESEKERE F.C.A., F.C.M.A.
BUSINESS & MANAGEMENT CONSULTANT

BY COURIER

22nd October 2007

Urgent / Important

Mr. P.A. Ratnayake P.C.,
Addl. Solicitor General,
Attorney General's Department,
Hulfstdorp,
Colombo 12.

Dear Mr. Ratnayake,

SC/ SD No. 7/2007
Appropriation Bill for Year 2008

I attach copy of my Letter of even date forwarded to the Auditor General, contents of which, I believe are materially relevant to proceedings on 17.10.2007 at the Hearing in the Supreme Court.

As you are aware, I hardly had any time, when my turn came to deal with my Application, at about 3.00 p.m., by which time I was 'famished' *[I am under medication for hypertension, diabetes and cholesterol now for over 13 years]* ! In such circumstances, I could not focus and develop my cohesive argument, with the lights also failing, even though I had devoted much time with strenuous efforts, as evidenced by the formulation of my Petition, filed in the public interest.

It is led to be believed that the Budget Head – "Department of National Budget" is for specified public expenditure for specific purposes. Please clarify, as to whether this is so ? If so, as per Clause 6, what is the need to have the specific right to transfer administratively, without disclosure to Parliament ? You would recall, that in the course of the proceedings it was suggested that this was to afford some 'flexibility'. Could Parliament approve funds for unspecified public expenditure for unspecific purposes ?

In terms of Article 149(1) of the Constitution, funds of the government not allocated by law to specific purposes, in aggregate form the Consolidated Fund.

As per Articles 150(1) & (2), the Minister of Finance could withdraw from the 'Consolidated Fund', only where Parliament has approved such funds for specified public services.

Therefore, would not Parliament be prohibited from approving funds for unspecified and/or unspecific public services ? In terms of Article 149 funds not allocated for specific purposes, in fact, form the 'Consolidated Fund'.

The only exception is in terms of Article 151, which stipulates that, notwithstanding the provisions of Article 149 i.e. the prohibition, that Parliament could, however, create a 'Contingencies Fund' for unspecified expenditure and/or unspecific public services, where after expending funds for such purposes, the Minister of Finance is required to obtain the approval of Parliament, through a Supplementary Estimate.

I also draw your kind attention to Clause 7 of the Appropriation Bill, where the satisfaction of the Minister and approval of the Government is mandated, where original funds for a particular purpose are no longer required.

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I reiterate the dicta of the Supreme Court cited in paragraphs 10 and 11 of my Petition and draw your kind attention, particularly to the following:

- "It is to be borne in mind that public revenue is held in trust for the People of Sri Lanka, who cannot be denied its benefit"

- "Therefore, shorn of all flourishes of Constitutional Law and of political theory, on a plain interpretation of the relevant Articles of the Constitution, it could be stated that any power that is attributed by the Constitution to one organ of government cannot be transferred to another organ of government or relinquished or removed from that organ of government; and any such transfer, relinquishment or removal would be an "alienation" of sovereignty which is inconsistent with Article 3 read together with Article 4 of the Constitution."

- "If there is one principle which runs through the entire fabric of the Constitution, it is the principle of the Rule of Law and under the Constitution, it is the judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the Rule of Law meaningful and effective"

I appeal to you, to please apprise yourself of the facts from the Auditor General *vide* - my attached Letter, and to consider the foregoing, such facts and the prayers in my Petition, in tendering to your Written Submissions to the Supreme Court in this matter.

Kind regards,

Nihal Sri Ameresekere