

FAX No. 2777224 / BY HAND

IMPORTANT

10th November 2008

Hon. W.J.M. Lokubandara M.P.
Speaker of Parliament
Parliamentary Complex
Sri Jayawardenapura
Kotte.

Hon. Speaker,

Appropriation Bill 2008

As you are aware, I was the Petitioner in SC (SD) No. 3 of 2008. I appearing in person made extensive submissions in the Supreme Court, in the national and public interest. With due respect, I draw your kind attention to the following:

1. a) Paragraph 4 on page 10 of the Supreme Court Determination cited below:

“Accordingly, we are of the opinion that the inconsistency with Articles 148 and 150 would cease if clause 6(1) is amended by the inclusion of a specific provision that the money so transferred shall be deemed to be a supplementary allocation made to the particular Ministry and the transfer including the reasons therefor are reported to Parliament within a period of two months from the date such transfer is effected”

b) End of the last paragraph on page 2, continuing to top of page 3 of the Supreme Court Determination cited below:

“Conceding this position the Petitioners contended that in any event in keeping with the full control Parliament should exercise over public finance, when funds are required to meet **unforeseen expenditure**, such expenditure should be approved by Parliament on the basis of a Supplementary Estimate in the manner provided for in Article 151(3) of the Constitution” (*Emphasis added*)

2. a) Paragraph 1 on page 7 in relation to Clause 2(1) of the Appropriation Bill 2008 cited below:

“The Clause would cease to be inconsistent if it is amended by the inclusion of the expenditure already charged on the Consolidated Fund in terms of other laws being approximately Rs. 738 Billion according to the Estimates. Such items of expenditure may be included in a separate schedule.”

b) Clause 2(1) ends with the words “**shall be met**” - from funds stipulated in sub-paragraph 2(1)(a), and the **borrowings** stipulated in sub-paragraph 2(1)(b), whereby, if such aforesaid sum is not included in paragraph 2(1), then the **borrowings** referred to in sub-paragraph 2(1)(b) **could not be utilised to meet such payments**. Hence, without Parliamentary approval, how this happened in the current year 2008, no doubt, is an issue, which if you so consider, would need ratification by Parliament.

3. a) In terms of Sections 12 and 15 of the Fiscal Management (Responsibility) Act No. 3 of 2003, the Mid-Year Fiscal Position Report and the Final Budget Position Report should disclose the **estimates and actuals** in respect of -
- a) expenditure
 - b) revenue
 - c) cash flows
 - d) borrowings,

giving the reasons for **shortfalls and excesses**, for public to evaluate Government's fiscal performance. Hence, the foregoing information ought be reported in the manner aforesaid to enable evaluation by members of the public.

- b) As per Section 22 of the Fiscal Management (Responsibility) Act No. 3 of 2003, the foregoing information, should also include such information in respect of **public corporations** or **companies in which Government owns shares**, upon reading Section 12, with Section 10, and Section 15, with Section 13.

Yours truly,



Nihal Sri Ameresekere