Tax Espresso

Gazette Orders, Guidelines, Tax Cases and more

May 2025

Greetings from Deloitte Malaysia Tax Services

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Deloitte Malaysia
Inland Revenue Board of Malaysia

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Important deadlines:

Task	Deadline
	31 May 2025
1. 2026 tax estimates for companies with June year-end	√
2. 6th month revision of tax estimates for companies with November year-end	√
3. 9th month revision of tax estimates for companies with August year-end	√
4. 11th month revision of tax estimates for companies with June year-end	√
5. Statutory filing of 2024 tax returns for companies with October year-end	√
6. Maintenance of transfer pricing documentation for companies with October year-end	√
7. 2025 CbCR notification for applicable entities with May year-end	√

1. Double Taxation Relief Order between Malaysia and the Russian Federation [*P.U.(A) 112/2025*]

The Double Taxation Relief (the Government of the Russian Federation) Order 2025 [*P.U.(A) 112/2025*] was gazetted on 28 March 2025.

Remarks

1. This Order sets out the agreement between Malaysia and the Russian Federation to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance.

2. This agreement shall have effect in respect of Malaysian tax chargeable for any year of assessment (YA) beginning on or after 1 January in the calendar year following the year in which this Agreement enters into force.

3. The previous double taxation agreement signed on 31 July 1987 shall be terminated and cease to have effect from the date this agreement applies.

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2. Income Tax (Exemption) Order 2009 (Amendment) Order 2025 [*P.U.(A) 113/2025*]

The Income Tax (Exemption) Order 2009 (Amendment) Order 2025 [*P.U.(A) 113/2025*] was gazetted on 10 April 2025 and has effect from year of assessment (YA) 2025.

Amendments

The Amendment Order amends the Income Tax (exemption) Order 2009 [*P.U.(A) 152/2009*] to put into effect the following 2025 Budget proposal:

- The income tax exemption of up to RM3,000 per year given on childcare allowance received by an employee from their employer is expanded in scope to include care for parents, adoptive parents, or grandparents.

Prior to YA 2025, childcare allowance received by an employee from their employer is exempted from tax up to RM3,000 per year in respect of children up to 12 years of age. This exemption has been expanded to include parents, adoptive parents, and grandparents, with effect from YA 2025.

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3. Income Tax (Exemption) (No. 9) Order 2002 (Amendment) Order 2025 [*P.U.(A) 117/2025*] in relation to Increased Export Incentive for the Services Sector

The Income Tax (Exemption) (No. 9) Order 2002 (Amendment) Order 2025 [*P.U.(A) 117/2025*] was gazetted on 14 April 2025 and has effect from the YA 2025.

Amendments

The Amendment Order amends the Income Tax (Exemption) (No. 9) Order 2002 [*P.U.(A) 57/2002*] to put into effect the following 2025 Budget proposal:

- Integrated circuit design services have been included in the list of qualifying services for the increased export incentive for the services sector.

Effective YA 2025, a person resident in Malaysia is exempted from the payment of income tax in respect of income derived from the export of integrated circuit design services equivalent to 50% of the value of increased exports.

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4. IRBM – e-Invoice Guideline (Version 4.3)

The Inland Revenue Board of Malaysia (IRBM) has issued the following updated e-Invoice Guideline on the e-Invoice page of its website:

- e-Invoice Guideline (v.4.3) dated 18 March 2025 which replaces the e-Invoice Guideline (v.4.2) dated 21 February 2025.

For ease of reference, the update is as follows:

New paragraph 2.5.4 on page 39 of the Guideline
In circumstances where the MyInvois System experiences disruptions, system failures, unforeseen malfunctions or service outages (based on MyInvois System's performance records), the IRBM acknowledges that such occurrences will disrupt taxpayers' attempt to transmit the e-Invoices for the IRBM's validation in a timely manner.

In cases where the MyInvois System is down due to maintenance or technical issues, and taxpayers are able to demonstrate their evidence of their e-Invoice compliance efforts, the Director General of the IRBM will evaluate this on a case-to-case basis. If the justifications are valid, the Director General will not take action against the taxpayers for their inability to comply with the e-Invoice transmission and validation requirements during such period.

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5. IRBM media release – Application for tax payment by instalment via e-Ansuran service

The IRBM has issued a media release dated 18 March 2025 on its website to inform that, effective 5 March 2025, taxpayers can apply for payment of balance of tax payable or tax arrears by instalment via e-Ansuran service on the MyTax portal. This initiative is introduced to assist taxpayers in making application for payment of balance of tax payable or tax arrears by instalment and obtaining approval automatically without requiring any supporting documents.

Taxpayers who meet the following criteria are eligible to apply for payment of tax by instalment via the e-Ansuran service:

- The total tax amount applied is more than RM300.
- The total number of instalments is limited to two (2) to six (6).
- Application is for income tax payment only (including penalties, if applicable).
- Does not involve instalments that are currently in effect.

Taxpayers can access the e-Ansuran service by logging in to the MyTax portal via the link https://mytax.hasil.gov.my/ and selecting the relevant role (Individual / Director / Representative Director). Please note that any cancellation of e-Ansuran applications can only be done at the IRBM's office.

IRBM is committed to providing more flexible and user-friendly tax payment facilities. It is hoped that the implementation of e-Ansuran will assist taxpayers in fulfilling their tax obligations more easily and systematically.

For any questions or feedback related to the above, please contact IRBM through:

a) HASiL Contact Centre (HCC) at 03-8911 1000 or 603-8911 1100 (overseas)
b) The IRBM's live chat function
c) Feedback form on the official portal https://maklumbalaspelanggan.hasil.gov.my/Public/

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6. IRBM media release – Tax Corporate Governance Framework (TCGF), TCGF Guidelines, and Frequently Asked Questions (FAQs) updated as of 13 March 2025

The IRBM has issued a media release dated 11 April 2025 to inform the release of the following documents in relation to the implementation of Tax Corporate Governance (TCG), updated as at 13 March 2025, on its website:

- TCGF;
- TCGF Guidelines; and
- FAQs on TCGF and TCGF Guidelines.

Note: The TCG Programme, launched on 1 March 2022, is designed to foster a more transparent working relationship between the IRBM and taxpayers and to promote fair, effective tax compliance. The previous version of the above documents was updated, as of 23 February 2024.

The updates in the TCGF include the additional paragraphs regarding the "Tax Control Framework" and "Reporting Tax Governance, Control and Risk Management". The TCGF Guidelines has been updated to emphasise the implementation details of the TCG Programme. This includes explanations regarding the monitoring phase for verification of tax compliance, and responsibilities of its participants. The updates and new paragraphs are indicated "Updated 13/03/2025" in the TCGF and TCGF Guidelines accordingly.

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7. IRBM – MITRS Accessible from 1 April 2025

The Malaysian Income Tax Reporting System (MITRS) webpage on the IRBM's website provides the following information:

1) The MITRS is accessible starting from 1 April 2025.
2) The submission is mandatory for taxpayers from the company and limited liability partnership categories from the YA 2025.
3) Taxpayers must submit the required information and documents electronically within 30 days after the deadline for the submission of the return form. (*Note*)
4) FAQ – Submission of documents prescribed under Section 82B through MITRS – updated on 6 March 2025.

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8. Genting Malaysia Berhad v KPHDN (FC)

IRBM has recently uploaded a case report, "Genting Malaysia Berhad v KPHDN (FC)" on its website.

Facts:

The taxpayer filed an appeal against the decision of the Court of Appeal (COA) in allowing the appeal by the Director General of Inland Revenue (DGIR) against the decision of the High Court (HC).

This case emanates from a judicial review (JR) application filed by Genting Malaysia Berhad (the taxpayer) in the HC against three respondents, namely Personal Data Protection Commissioner (1st Respondent), Personal Data Protection Deputy Commissioner (2nd Respondent) and the DGIR (3rd Respondent).

The JR application was allowed by the HC against all the respondents and all the respondents had appealed to the COA. However, the 1st and 2nd respondents had later withdrawn their respective appeal and thus, leaving the DGIR as the remaining appellant before the COA. The dispute which led to the JR application began in 2018 when the DGIR requested the taxpayer to provide the personal data of members of Genting Rewards Loyalty Programme. The request was refused by the taxpayer on the basis that such disclosure would be in breach of the Personal Data Protection Act 2010 (PDPA 2010) whereas the DGIR was of the view that such request was legally made under Section 81 of Income Tax Act 1967 (ITA) as the provision fell within the purview of Section 39(b)(ii) of the PDPA 2010.

The DGIR then wrote to the Department of Personal Data Protection (DPDP) for confirmation relating to the request for information. On 8 November 2019, the 2nd respondent confirmed that such disclosure of information is allowed under Section 39(b)(ii) of the PDPA 2010 as Section 81 of the ITA authorised the DGIR to request such information. On 12 November 2019, the said letter was forwarded by the DGIR via e-mail to the taxpayer. The JR application was filed against the DGIR for what was purported to be the DGIR's decision in conveying the letter via the said e-mail on 12 November 2019. The JR application also prayed for several declarations against the DGIR, among others, that the request for information under Section 81 of the ITA was in breach of the personal data protection provided under the PDPA 2010.

The COA held that the e-mail dated 12 November 2019 was not a ‘decision’ and thus the learned HC Judge had erred in allowing the JR application against the DGIR. The decision contained in the earlier letters dated 23 November 2018, 29 April 2019, and 17 May 2019. Since the JR application was filed out of time, the HC had no power to grant leave for the JR application. The HC had further erred in deciding that the HC was *functus officio* when the DGIR raised the argument of jurisdiction at the substantive stage, as argument on the issue of jurisdiction may be raised at any stage.

Taxpayer’s argument:

The taxpayer argued that the JR application was timely, as the earlier letters were merely requests (‘*Permohonan’*) whereas the DGIR’s act of forwarding the e-mail constituted an “action” that impacted the taxpayer.

DGIR’s argument:

The DGIR argued that e-mail dated 12 November 2019 was not a ‘decision’ and the decision if any, had been wrongly identified and thus, the JR application had been filed out of time. Further, the proposed questions lacked the merit and justification for the FC to allow leave. The questions clearly involved adjudication of principles of law that had long been settled by the FC.

Issue:

Whether the COA’s decision of allowing the DGIR’s appeal against the HC’s decision on the basis that taxpayer’s JR application exceeded time frame is justified.

Decision:

The Federal Court (FC) upheld the COA’s decision and unanimously dismissed the taxpayer’s appeal with cost of RM30,000 to the DGIR. The FC held that the taxpayer would not be successful if the appeal were to proceed to the substantive stage since the JR application was filed out of time.

[Details of the above tax case at the FC level are not available as of date of publication.]

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9. Ooi Chieng Sim v DGIR (FC)

The IRBM has recently uploaded a case report, “Ooi Chieng Sim v DGIR (FC)” on its website.

Facts:

This case originated from a JR application under Order 53 of the Rules of Court 2012 against the DGIR for among others, an order of Certiorari to quash the Notices of Assessment / Additional Assessment on the grounds that the taxpayer was not given the right to be heard and the assessments were raised against his legitimate expectation. The taxpayer was unable to properly respond to the investigation since he was in prison and the DGIR had, via a letter, given him 21 days to settle the matter. Despite this, the notices were raised a day after the letter was issued.

The HC dismissed the taxpayer’s application for leave to commence JR and the HC’s decision was affirmed by the COA. Hence, this application before the FC.

Taxpayer’s argument:

In this application for leave to commence JR, 5 questions were posed by the taxpayer. Questions 1 and 2 addressed the issue of the breach of natural justice involving the failure of the DGIR to honour the 21-day response period to discuss the proposed tax assessment. Next, Questions 3 and 4 addressed the issue of procedural fairness for the taxpayer who was previously on remand and thereby handicapped. Lastly, Question 5 was about the availability of alternative remedy when there were breaches of natural justice. The taxpayer argued that the DGIR had breached the taxpayer’s legitimate expectation that he had 21 days to respond to the assessments. It was further argued that the DGIR’s failure to honour this commitment constituted a clear denial of procedural fairness towards the taxpayer.

DGIR's argument:

The DGIR submitted that the threshold under Section 96(a) of the Courts of Judicature Act 1964 was not met as the questions of law do not raise any novel issues to be determined. It was argued that the taxpayer's proposed questions lack the merit and justification for the FC to allow the leave. The matter at hand involved assessments by way of Capital Statement, which fundamentally required fact-finding by the Special Commissioners of Income Tax (SCIT). Further, the 21-day period had also long passed without the taxpayer providing documentation to substantiate his claim that the Capital Statement was wrong. The taxpayer took 1,326 days (3 years, 7 months and 18 days) from the date of his application for leave to commence JR to furnish all the documentations to the DGIR, which rendered the dispute on the 21 days moot. All dissatisfaction with the Capital Statement may be ventilated before the SCIT as the Form Q had already been filed.

Issue:

Whether the taxpayer had an arguable case for the JR application and can bypass the alternative remedy of appeal to the SCIT under Section 99(1) of the ITA.

Decision:

The FC dismissed the motion for leave filed by the taxpayer with costs of RM10,000 payable to the DGIR.

[Details of the above tax case at both the COA and FC levels are not available as of date of publication.]

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10. Sunway REIT Holdings Sdn Bhd v KPHDN (COA) [2025] MSTC 30-808

The taxpayer filed an appeal against the decision of the HC in dismissing the taxpayers' appeal against the Deciding Order of the SCIT concerning the nature of the distribution of return of capital received by the taxpayer and the basis of apportioning interest expense.

Issues:

Whether
1) The distribution of return of capital is a non-taxable income.
2) The DGIR's calculation of deductible interest expenses, based on the apportionment of taxable distribution (income) and non-taxable distribution (return of capital), is correct.

Decision:

The COA allowed the taxpayer's appeal and set aside the HC's decision on the apportionment of interest expenses based on the following grounds:

- The COA judges agreed that the return of capital made by Sunway REIT to the taxpayer is a distribution of income as rightly found by the SCIT in the Deciding Order and affirmed by the learned HC judge. Nonetheless, the COA judges were mindful that it was an agreed fact between the parties before the SCIT that the return of capital is not taxable. However, the COA judges took the view that it is not binding on the SCIT because this a legal and not a factual issue. In the premises, there is no misdirection by the learned HC judge on this issue of distribution of capital that warrants appellate intervention.

- That notwithstanding and moving on to the other issue of apportionment of interest expenditure, the COA judges do not find that apportionment of expenditure is statutorily provided in Section 33 and Section 39 of the ITA. Public Ruling No. 2/2011 is thus ultra vires and inapplicable to this case. In the premises, the computation of the deductible interest expenditure done by the DGIR based on the apportionment of the taxpayer's income and return of capital (which has been found to be also taxable income by the COA) that has been affirmed by the SCIT as well as the learned HC Judge is flawed.

- The COA judges were aware that the DGIR has alluded to and relied on *Ketua Pengarah Hasil Dalam Negeri v Perbadanan Kemajuan Ekonomi Negeri Johor (2009) MSTC 4,39*9 to justify its stance in so apportioning, but that case is easily distinguishable on the facts wherein the taxpayer has two sources of income, i.e., business income and dividends. However, the taxpayer here has only one source of income from Sunway REIT. The learned HC judge in having endorsed the DGIR's wrongful apportionment on the deductibility of interest expenditure here is a misdirection that warrants appellate intervention. The COA judges held that the full amount of the interest expenditure amounting to RM18,188,537 (i.e., RM24,468,528/RM24,641,226 × RM18,316,912) is allowed for deduction in full against the taxable income for the YA 2011.

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11. Guppyunip Sdn Bhd v DGIR (COA)

The IRBM has recently uploaded a case report, "Guppyunip Sdn Bhd v DGIR (COA)" on its website.

Facts:

The taxpayer appealed against the HC's decision. The HC had affirmed the decision of the SCIT by dismissing the taxpayer's appeal against the assessment raised by the DGIR for the YA 2013.

The taxpayer entered into a Joint Venture Agreement (JVA) with Awan Megah Sdn Bhd (AMSB) in 2010 for a property development project. However, the project was discontinued as AMSB failed to obtain the necessary approvals for land subdivision. As a result, both parties mutually rescinded the JVA through a Deed of Mutual Rescission (DMR) in 2013 under which AMSB paid the taxpayer an amount of RM7 million, comprising a refund of RM2 million and an additional RM5 million as a compensation. The DGIR determined the RM5 million compensation received by the taxpayer as gross income pursuant to Section 22(2)(b) of the ITA and subject it to tax as business income under Section 4(a) of the ITA.

Taxpayer's argument:

The taxpayer argued that the receipt of the amount of RM5 million under the DMR was a capital receipt and thus, should not be taxable under Section 4(a) of the ITA. The taxpayer contended that the JVA with AMSB was, in substance, a sale and purchase agreement (SPA) for land rather than a joint venture. Since AMSB was to receive a fixed sum for the land, and not a share in the development or profits, the taxpayer asserted that the RM5 million was compensation for relinquishing contractual rights rather than loss of income.

The SCIT and the HC ruled that the sum was taxable under Section 22(2)(b) of the ITA as compensation for loss of income, but the taxpayer disputed on this treatment and emphasized that it had no entitlement to income under the JVA and that the sum was not a replacement for business profits. Additionally, the taxpayer argued that Section 24(1)(b) of the ITA was not applicable, as no services were rendered to AMSB. As such, the taxpayer maintained that the compensation was for the loss of rights which constituted a capital receipt and should not be taxed as income.

DGIR's argument:

The DGIR argued that the compensation received by the taxpayer under the DMR was a trading receipt taxable under Section 4(a) of the ITA, not a capital receipt. The JVA was an ordinary commercial transaction in the taxpayer's property development business, and its termination did not affect the entire structure of its profit-making apparatus. The compensation was paid for the loss of future profits, making it taxable under Section 22(2)(b) of the ITA as income replacement. The DGIR rejected the taxpayer's claim that the payment was for the loss of rights, emphasising that the JVA ensured profit entitlement rather than mere contractual rights.

Furthermore, the taxpayer continued with its business operations after the termination of the JVA, engaged in other contracts, and entered a new SPA before the DMR was executed, proving that the JVA was not its sole business activity. The taxpayer's contention that, in substance, the JVA was a SPA, was misconceived. The terms of the JVA clearly indicated that it was a commercial arrangement for property development rather than a mere land sale. Unlike the SPA where ownership would be transferred in exchange for a fixed consideration, the JVA was expressly provided for the taxpayer to undertake development activities and derive profits from the sale of the units. The taxpayer's entitlement to the proceeds from the sale of the units, rather than a fixed purchase price for the land, aligned with the nature of a joint venture rather than a sale transaction. The DGIR also argued that the SCIT's findings of facts were unassailable, and the burden of proof was on the taxpayer to show that the assessment was excessive or erroneous, which it had failed to do.

Issue:

Whether the compensation of RM5 million received by the taxpayer under the DMR was a trading receipt taxable under Section 4(a) of the ITA (i.e. compensation for loss of income) or a capital receipt (i.e. compensation for loss of contractual rights).

Decision:

The COA, by a unanimous decision, upheld the decisions of the SCIT and the HC and dismissed the taxpayer's appeal with cost of RM15,000 payable to the DGIR.

[Details of the above tax case at the COA level are not available as of date of publication.]

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12. Chief Executive Officer / DGIR & IRBM v Landmark Property Sdn Bhd (COA)

The IRBM has recently uploaded a case report, "Chief Executive Officer/DGIR & IRBM v Landmark Property Sdn Bhd (COA)" on its website.

Facts:

The taxpayer, being a property developer received a government Facilitation Fund of RM104.2 million (Facilitation Fund) to finance a housing project under the PPA1M scheme. The DGIR conducted a tax audit and disallowed the taxpayer's deduction of expenditures incurred out of the Facilitation Fund by virtue of *P.U.(A) 207/2006* which prohibited tax deductions for expenses financed by government grants. The DGIR then issued additional assessments for the YAs 2016, 2017 and 2018.

The DGIR appealed against the HC's decision in allowing the taxpayer's JR application to quash the additional assessments raised against the taxpayer for the YAs 2016, 2017 and 2018. The DGIR contended that the HC had erred in fact and law by ruling that the assessments were ultra vires of the Income Tax (Exemption) (No. 22) Order 2006 [*P.U.(A) 207/2006*], irrational and without jurisdiction.

DGIR's argument:

The DGIR argued that the HC had erred in its findings on the merits and facts of the case particularly regarding the interpretation of *P.U.(A) 207/2006*, the application of tax deductions and the taxpayer's use of the Facilitation Fund. The DGIR's decision to disallow certain tax deductions was based on a proper audit investigation which concluded that the entire amount of RM104.2 million was used to finance project expenditures. Clause 4 of the Facilitation Fund Agreement required the entire RM104.2 million government grant to be fully utilised for project expenditures. The investigation findings were supported by the financial records and banking transactions which showed that the government grant was deposited into designated accounts and subsequently used for the PPA1M housing project. This directly contradicted the HC's conclusion that only a portion of the Facilitation Fund was spent on deductible expenditures. Paragraphs 3(1) and 3(2) of *P.U.(A) 207/2006* explicitly prohibited tax deductions for expenses financed by the government grants and the HC had misinterpreted these provisions. The earlier Global Settlement Agreement reached between the DGIR and KTI Sdn Bhd and between the DGIR and Dataran Jayamakmur Sdn Bhd involved the taxpayer and it also did not in any way dealt with the issue of Facilitation Fund and therefore the DGIR was at liberty to carry out audit on the issue and to raise assessments against the taxpayer where it appeared that none or no sufficient assessments had been made on the taxpayer.

Further, the determination of whether the Facilitation Fund was used for deductible expenditures was a question of fact that should have been decided by the SCIT. The HC overstepped its judicial function by engaging in factual findings that were outside the scope of JR and the HC's failure to properly consider the audit investigation findings, the financial documentation, and statutory tax provisions resulted in an erroneous decision warranting its reversal by the COA. It was also argued that the taxpayer had filed its appeal to the SCIT against the Notices of Assessment and decided to stay the proceeding before the SCIT while pursuing the course of JR which clearly is an abuse of the process of the court.

Taxpayer's argument:

The taxpayer argued that the HC correctly quashed the additional assessments which were ultra vires of *P.U.(A) 207/2006,* violated the principles of natural justice, tainted with irrationality, and constitute a breach of legitimate expectation. The taxpayer contended that the Facilitation Fund granted by the government was meant to bridge the gap between the Gross Development Cost (GDC) and the Gross Development Value (GDV) of the PPA1M housing project and was not used to finance project expenditures. The DGIR's actions were illegal because the assessments were based on a misinterpretation of *P.U.(A) 207/2006*, which exempts government grants from income tax but did not prohibit deductions for expenditures unrelated to the grant. Additionally, the taxpayer had entered into a Global Settlement Agreement with the DGIR in 2018, which closed the tax audit with no further adjustments, reinforcing the expectation that the expenditures were deductible. The DGIR's reopening of the tax investigation and issuance of fresh assessments in 2020 amounted to a breach of this agreement and an abuse of process.

The taxpayer also argued that the DGIR's assessment was irrational because it disregarded financial records and imposed penalties at an excessive 60% rate without justification. Lastly, the DGIR's insistence on statutory appeal through the SCIT was misplaced as the case involved exceptional circumstances, justifying JR.

Issue:

Whether the HC had erred in fact and law by ruling that the assessments raised by the DGIR were ultra vires of the *P.U.(A) 207/2006*, irrational and without jurisdiction.

Decision:

The COA unanimously allowed the DGIR's appeal with cost of RM30,000 payable to the DGIR.

[Details of the above tax case at the COA level are not available as of date of publication.]

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13. Kerajaan Malaysia v Abu Sahid Bin Mohamed (HC) [2024] MSTC 30-734

This was an application to the HC by the taxpayer, Abu Sahid Bin Mohamed, to set aside the judgment in default of appearance (JID) filed by the Government of Malaysia (government). The government filed the JID against the taxpayer pursuant to the issuance of the notices of additional assessment (NAA) by IRBM for the YAs 2013 to 2017, for a sum of RM98,919,228.24, which included a 10% penalty for unpaid taxes, as no payment was made by the taxpayer within the 30-day period specified under Section 103 of the ITA.

Issue:

Whether the taxpayer's application to set aside the government's JID had merit.

Decision:

The HC held that there was no merit in the taxpayer's application and dismissed his appeal based on the following grounds:

- The JID entered by the government against the taxpayer was regular. The writ was properly served via AR registered post to the taxpayer's last known address. The government was not required to prove that the taxpayer personally received the writ.

- The taxpayer did not deny that the writ was sent to the correct address and provided no notification of an address change. Evidence showed that the taxpayer still used the same address. Therefore, the government had satisfied the presumption of proper service, the taxpayer's claim of "inadvertence" in not being made aware of the service was not a valid ground for setting aside the JID.

- Section 103(2) of the ITA formed the basis of the government's claim. Section 106 of the ITA, which was applicable to the present dispute, provided further support for the government's case against the taxpayer. This section clearly outlined the government's rights regarding the recovery of tax amounts from a taxpayer. The government was claiming a debt due to unpaid taxes, following a "pay first, dispute later" concept. The taxpayer was bound to comply without exception. Therefore, even if the application was allowed, the government could still recover the amount through other legal means. Consequently, the taxpayer's defence lacked merit.

- The government had no obligation to plead fraud, wilful default or negligence by the taxpayer in the statement of claim under Section 91(3) of the ITA since it was not within the court's power to decide on these issues. Based on the case authorities, it was clear that the SCIT had the authority to hear issues on the limitation period and questions of facts.

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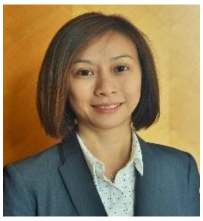
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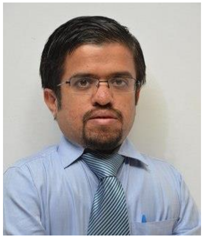
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