



**SECTION 112(3) & SECTION 113(2)**

**INCOME TAX ACT 1967**

**TYH**

**V.**

**DIRECTOR GENERAL OF INLAND REVENUE  
PKCP(R) 468 - 469/2015**

 **SPECIAL COMMISSIONERS OF INCOME TAX**

 **PUAN NIK ASMA ANITA BINTI MAKHTAR**

 **23<sup>rd</sup> AUGUST 2024**

The Taxpayer was a sole proprietor of a business namely MFP which was involved in the selling of beauty and slimming product in Year of Assessments (“YAs”) 2012 and 2013. The business commenced in September 2012

and from October 2013, the business was changed to a company under the name of MPFSB. The Taxpayer was audited by the Director General of Inland Revenue (“DGIR”) based on a complaint received from a third party whereby the Appellant had failed to report the income of her business.

The DGIR had requested the Taxpayer to submit her annual return forms (BNCP) for YAs 2012 and 2013 with the relevant documents but only received two (2) Maybank Statements of Accounts as a proof of her business income. Based on these documents, the DGIR issued a Notice of Assessment and Notice of Additional Assessment for YAs 2012 and 2013 (“the Assessments”). The Taxpayer appealed against the Assessments.

The Taxpayer contended that the DGIR’s computation of the taxable income for her business was too high with a margin of 61.80% for 2012 and 48.62% for 2013. The Taxpayer thereafter came up with her own margin by using the completed company account for YAs 2015 until 2017 prepared by her accountant to reflect her business margin for YAs 2012 and 2013. Based on the margin for YAs 2015 until 2017, the margin was calculated at 30%-40%. The Taxpayer further argued that the company was a partnership and the partners had agreed to report their income as partners.

The DGIR submitted that the proof of partnership was never submitted by the Taxpayer and the same was never proven during the trial. With regard to the sampling method as suggested by the Taxpayer’s witnesses, the DGIR submitted that the sampling method was only a suggestion and/or opinion of the witnesses. It also cannot be applied to YAs 2012 and 2013 as the Taxpayer did not keep a proper record. The method used by the DGIR in calculating the Taxpayer’s business income is correct and acceptable as fortified in Francis Fong Ngin Wyu v Ketua Pengarah Hasil Dalam Negeri [2021] MLJU 02699 and Ketua Pengarah Hasil Dalam Negeri v Lai Keng Chong & Anor [2012] 4 MLJ 184. Moreover, the DGIR had even made a 3<sup>rd</sup> party confirmation with the Taxpayer’s supplier to confirm the Taxpayer’s business expenses.

The Special Commissioner of Income Tax (“SCIT”) had on 23.08.2024 dismissed the Taxpayer’s appeals and held that the Taxpayer failed to prove its case as required under Paragraph 13 Schedule 5 ITA 1967. As such, the Assessments and the penalty imposed under Section 112 (3) and Section 113(2) ITA 1967 raised by the DGIR against the Taxpayer is justified and confirmed.

***Editorial Note:***

*The Taxpayer has the right to file an appeal against the decision by the SCIT within 21 days from the date of the decision.*