



**JUDICIAL REVIEW: ORDER 53 RULES OF COURT 2012  
- SECTION 96(a) COURTS OF JUDICATURE ACT 1964 -  
SECTION 99 INCOME TAX ACT 1967**

**OOI CHIENG SIM**

v.

**KETUA PENGARAH HASIL DALAM NEGERI**

**[08(i)-275-08/2024(W)]**

 **FEDERAL COURT, PUTRAJAYA**

 **YAA DATO' SRI HASNAH BINTI DATO'  
MUHAMMAD HASHIM,  
YA DATUK ABDUL KARIM BIN ABDUL JALIL  
YA DATUK VAZEER ALAM BIN MYDIN MEERA**

 **13 MARCH 2025**

The Federal Court unanimously dismissed the motion for leave to appeal to Federal Court filed by the Taxpayer. The High Court had dismissed the leave application for JR and the decision was affirmed by the Court of Appeal. Hence, this application before the Federal Court.

This case originated from a Judicial Review (“JR”) Application under Order 53 of the Rules of Court 2012 against the Revenue for among others, an order of *Certiorari* to quash the Notices of Assessment/Additional Assessments 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 Revenue in a letter, had given him 21 days to settle the matter. Despite this, the notices were raised a day after the letter was issued.

In this application for leave to appeal, 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 Revenue to honor 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 is about the availability of alternative remedy when there are breaches of natural justice. Counsel for the Taxpayer argued that the Revenue had breached the Taxpayer’s legitimate expectation that he had 21 days to respond to the assessments. It was further argued that the Revenue’s failure to honor this commitment constituted a clear denial of procedural fairness towards the Taxpayer.

In rebuttal, the Senior Revenue Counsel submits that the threshold under Section 96(a) of the Courts of Judicature Act 1964 is 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 Federal Court to allow the leave. The matter at hand involves assessments by way of Capital Statement, which fundamentally requires 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 claims that the Capital Statement was wrong. The Taxpayer took 1,326 days (3 years, 7 months & 18 days) from the date of the JR Application to furnish all the documentations to the Revenue, which renders the dispute on the 21 days moot. All dissatisfaction with the Capital Statement may be ventilated before the SCIT as Form Q had already been filed.

The motion for leave was dismissed with costs of RM10,000 payable to the Revenue.