

**GTSB****V.****DIRECTOR GENERAL OF INLAND REVENUE  
MOF.PKCP.700-7/1/1701-1707** **SPECIAL COMMISSIONERS OF INCOME TAX** **PUAN NIK ASMA ANITA BINTI MAKHTAR** **30<sup>TH</sup> JANUARY 2026**

The Taxpayer entered into a Joint Venture Agreement (“JVA”) with a property developer with the intention of developing the subject land. Through a profit-sharing mechanism under the

JVA, the Taxpayer was entitled to 22.5% of the sale proceeds. The Taxpayer contended that the gains they received from the sale of the subject land should be subjected to the Real Property Gains Tax Act 1976 (“RPGTA 1976”) while the Director General of Inland Revenue (“DGIR”) was of the view that the land disposal carried out via the JVA should be subjected to paragraph 4(a) of the Income Tax Act 1967 (“ITA 1967”). Notices of Additional Assessment were raised against the Taxpayer for the years of assessment (“YA”) 2013 to 2019. However, the assessments for YA 2013 and YA 2014 were issued beyond the five-year limitation period under subsection 91(3) of the ITA 1967. The DGIR sought to rely on subsection 91(3) of the ITA 1967, contending negligence on the part of the Taxpayer as the Taxpayer had failed to declare gains arising from the disposal of the subject land as business income.

The Taxpayer argued that evidence showed that the Taxpayer had acted based on professional tax advice and had consistently taken the position that the disposal fell within the RPGTA 1976. Mere disagreement with the Taxpayer’s tax treatment was insufficient to constitute negligence.

The Taxpayer submitted that the DGIR’s reliance on the concept of “adventure in the nature of trade” was misconceived. The Taxpayer further argued that the subject land was acquired as a long-term investment which was consistent with the Taxpayer’s principal business as a property investment company. The Taxpayer submitted that entering in a joint venture with a developer did not, by itself, transform an investment disposal into trading income. Crucially, the Taxpayer did not exhibit the characteristics of a developer or trader, as it did not assume construction risk, engage in marketing activities, or exercise operational control over the development.

The DGIR argued that the gains from the land disposal by the Taxpayer constituted trading receipts taxable under paragraph 4(a) of the ITA 1967. It was submitted that the transaction amounted to an adventure in the nature of trade, falling squarely within the statutory definition of “business” under section 2 of the ITA 1967. The DGIR highlighted several factors pointing towards trading including the short holding period between acquisition of the land and the Taxpayer’s entry into the JVA. In addition, evidence of other land disposals indicates that the transaction was not isolated.

On 30.01.2026, the Special Commissioners Income Tax (“SCIT”) allowed the Taxpayer’s appeal as the SCIT found that the Taxpayer had discharged its burden of proof under paragraph 13 of Schedule 5 to the ITA 1967. The SCIT ordered for the assessments and penalties for YA 2013 to YA 2019 to be set aside.

**Editorial Note:**

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