



SECTION 113(2) INCOME TAX ACT 1967

RMSB

v.

DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/727



SPECIAL COMMISSIONERS OF INCOME TAX



PUAN MASTURA BINTI HUSAIN



11th JULY 2025

The Taxpayer was a seller and an authorized representative of a company in Malaysia. The Taxpayer failed to submit the Company's Tax Return Forms (Form C) for the Year of Assessment (YA) 2011 to YA 2014.

On 17.9.2015, the Director General of Inland Revenue (DGIR) conducted an investigation and discovered that there was an under-reported sales of RM1,614,842.00 for YA 2013 by the Taxpayer. Due to repeated non-compliance and inaccurate report, the DGIR imposed a penalty of 100% on the Taxpayer for YA 2013 under subsection 113(2) of the Income Tax Act (ITA) 1967.

The imposition of penalty was within the jurisdiction of the law based on an admitted offence pursuant to subsection 113(2) of ITA 1967 which provided that the DGIR had the discretion to impose a penalty of up to 100% of the undercharged tax resulting from the incorrect return or information. Furthermore, the penalty was imposed due to the Taxpayer's submission of incorrect report and false information as confirmed through the investigation and subsequent tax assessments which revealed that the Taxpayer's earlier tax returns were inaccurate. In addition, the DGIR maintained that the penalty that was imposed under subsection 113(2) of ITA 1967 was lawful and justified after giving full consideration of the relevant factors and supported by the testimony of the witness which further reinforced that there was no legal basis to overturn the penalty.

On 11.7.2025, the Special Commissioners of Income Tax (SCIT) dismissed the Taxpayer's appeal and held that the Taxpayer had failed to prove its case as required under Paragraph 13 of Schedule 5 of ITA 1967. The imposition of penalty for YA 2013 was found to be correct and justified. Accordingly, the issuance of the Notice of Assessment dated 6.12.2017 for YA 2013 together with the imposition of penalties were confirmed by the SCIT.

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.*