






SCHEDULE 7A INCOME TAX ACT 1967

IMPRESSIVE EDGE SDN BHD
V.
DIRECTOR GENERAL OF INLAND REVENUE
WA-14-29-11/2022

 **KUALA LUMPUR HIGH COURT**
 **YA DATO' WAN AHMAD FARID BIN WAN**
SALLEH
 **18 OCTOBER 2023**

The Taxpayer is involved in the manufacturing of engineering spare parts, mold parts, dye parts and precision tools.

Previously, the Taxpayer operated at the factory premise located at Kawasan Perindustrian Ringan Batu Berendam, Melaka ('Old Factory') and had claimed reinvestment allowance ('RA') on the said factory under Schedule 7A Income Tax Act 1967 ('ITA 1967') since 1996.

In the Year of Assessment ('YA') 2006, the Taxpayer moved to a new factory building located at No. 12A, Jalan TTC 29, Taman Teknologi Cheng, 75250 Melaka ('New Factory'). The Taxpayer claimed RA in the said YA on the New Factory. Between the YAs 2006 to 2008, the Taxpayer incurred the capital expenditure on computer, iron frame cabinets and tooling equipment ('Disputed Items') and had claimed RA under Schedule 7A ITA 1967.

Upon audit, the Taxpayer was informed by the DGIR via letters dated 11/11/2015 and 7/12/2015, that the Taxpayer is only entitled to claim RA on the difference between the size area of the Taxpayer's New Factory and Old Factory. The RA claimed on the Disputed Items were disallowed by the DGIR on the basis that the Disputed Items were not used directly in the Taxpayer's production activity.

It is the Taxpayer's contention that -

- The Notices of Non-Chargeability and the assessments for YAs 2006 to 2010 are time-barred pursuant to Section 91(1) ITA 1967.
- The Taxpayer has fulfilled all requirements and entitled to RA under Schedule 7A ITA 1967.
- There are no reasons to justify the imposition of penalty under Section 113(2) ITA 1967.

In response, the DGIR argued that -

- RA claimed by the Taxpayer for amount of RM5,139,369 for YA 2006 under Schedule 7A ITA 1967 is not allowable in full for the New factory since the Taxpayer has been given an allowance under paragraph 1 on the Old Factory which was first claimed by the Taxpayer in YA 1998 for all consecutive years until YA 2005. Only the difference in area that has not been given RA claim is allowed pursuant to subparagraph 8 (a) Schedule 7A ITA 1967. The word 'expanding its business' means addition to an existing one.
- The Taxpayer failed to fulfil Paragraph 8 (a) Schedule 7A ITA 1967 as the Disputed Items in YAs 2006 to 2009 is not allowable because the computer and iron frame cabinets are not been used in the manufacturing process. Similarly, the microscope & block gauge also not allowable as it was only a replacement. Those claims were subject to the proviso of Paragraph 1 Schedule 7A ITA 1967.
- The Taxpayer is also negligent in preparing and submitting its tax returns and the exception under section 91(3)(b) ITA 1967 is applicable.

The High Court had allowed the Taxpayer's appeal with no order as to costs and overturned the decision of the SCIT.

Editorial Note:

- *The DGIR has the right to file an appeal against the decision by the High Court within 30 days from the date of the decision.*