

**SECTION 18 REAL PROPERTY GAINS TAX 1976  
& PARAGRAPH 13 & 26 SCHEDULE 5  
INCOME TAX ACT 1967**

**JHSB  
V.  
DIRECTOR GENERAL OF INLAND REVENUE  
MOF.PKCP.700-7/1/1898**

The Taxpayer had been wound up by the High Court of Kuantan through a winding-up order dated 13.6.2006.



**ReveNews**  
BY LEGAL DEPARTMENT

 SPECIAL COMMISSIONERS OF INCOME TAX

 PUAN NIK ASMA ANITA BINTI MAKHTAR

 1<sup>ST</sup> AUGUST 2025

The Taxpayer, through the liquidator, entered into a Sale and Purchase Agreement dated 31.7.2020 to dispose of three (3) pieces of land which were charged in favour of MLB for a sale consideration of RM3,208,000.00. Following the disposal, the Director General of Inland Revenue (DGIR) issued three (3) Notices of Additional Assessments for the Year of Assessment (YA) 2020 wherein the Taxpayer was chargeable with tax amounting to RM159,990.60 under the Real Property Gains Tax (RPGT) Act 1976. The tax amount was fully paid by the Taxpayer.

The Taxpayer filed an appeal vide the Form Q against the Notices of Additional Assessments. The Taxpayer asserted that when administering a wound-up company, the liquidator would be legally bound to distribute payment to the Taxpayer's creditors in accordance with the priority order as set out under Section 434 of the Companies Act 2016. The secured creditor would have priority over the Inland Revenue Board of Malaysia (IRBM) in the distribution of sale proceeds. Hence, the tax should not be payable as yet to the DGIR and the payment made should be refunded to enable the Taxpayer to pay to the secured creditor.

The DGIR contended that the Taxpayer's appeal on refund fell outside the scope of appeal under Section 18 of the RPGT Act 1976 and beyond the jurisdiction of the Special Commissioners of Income Tax (SCIT). The appeal under Section 18 of the RPGT Act 1976 was strictly limited to disputing the assessment. Pursuant to Paragraph 13 of Schedule 5 of the Income Tax Act 1967 (ITA1967), the burden of proof would be on the Taxpayer to demonstrate that the assessment was incorrect or excessive. The DGIR further argued that the SCIT's powers under Paragraph 26 Schedule 5 ITA 1967 were confined to confirming, discharging, or amending the assessment.

On 1.8.2025, the SCIT dismissed the Taxpayer's appeal, holding that the Taxpayer failed to discharge the burden of proof as required under Paragraph 13 Schedule 5 ITA 1967. Accordingly, all the Notices of Additional Assessment dated 13.9.2021 for YA 2020 were correct and confirmed by the SCIT.

**Editorial Note:**

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