



SECTION 33(1) INCOME TAX ACT 1967

JSSB

V.

**DIRECTOR GENERAL OF INLAND REVENUE
PKCP(R) 159/2017**

 SPECIAL COMMISSIONERS OF INCOME TAX

 PUAN FAJRUL SHIHAR BINTI ABU SAMAH

 20th JUNE 2025

The Taxpayer operated a National Service training camp and related services in Sarawak. An audit exercise has been carried out against the Taxpayer by the Director

General Inland Revenue (DGIR) in relation to the year of assessment (YA) 2011. Upon audit, a Notice of Additional Assessment for YA 2011 was raised where the DGIR had disallowed the Taxpayer's claim on development cost amounting to RM4,838,082.00. Dissatisfied with the DGIR's treatment, the Taxpayer filed a notice of appeal vide Form Q to the Special Commissioners of Income Tax (SCIT) to determine whether the development cost is a deductible expense under Section 33(1) of the Income Tax Act 1967 (ITA 1967).

The Taxpayer contended that the development cost was an expense incurred by the Taxpayer in generating its revenue and therefore it was a revenue expenditure and not capital expenditure. The development cost was incurred in adhering the Schedule of Compliance (SOC) issued by the Ministry of Defence (MINDEF) and not for securing advantage and enduring benefit of the Taxpayer's trade. The DGIR was wrong in treating the development cost as an initial step for the Taxpayer to produce income.

The DGIR argued that the cost of building the training camp was an initial expenditure or preparatory to the earning of income of the Taxpayer and it was for the enduring benefit of the Taxpayer's trade. In this appeal, the Taxpayer had not only failed to furnish its tax returns in accordance with Section 77A(1) ITA 1967 for YA 2011 but also filed an incorrect returns by understating its income for YA 2011.

The SCIT had on 20.06.2025 dismissed the Taxpayer's appeal and held that the Taxpayer failed to prove its case as required under Paragraph 13, Schedule 5 ITA 1967. The SCIT ruled that the DGIR was correct in disallowing the development cost as a deductible expense under Section 33(1) of the ITA 1967 including the imposition of penalty under Section 112(3) and Section 113(2) of the ITA 1967 and therefore the Notice of Assessment for YA 2011 raised against the Taxpayer was reasonable and justified.

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.*