



BY LEGAL DEPARTMENT

RBMK

V.

DIRECTOR GENERAL OF INLAND REVENUE

MOF.PKCP.700-7/1/2541-2543

 SPECIAL COMMISSIONERS OF INCOME TAX

 PUAN NIK ASMA ANITA BINTI MAKHTAR

 4th OCTOBER 2024

The Taxpayer is a director and a shareholder of SBWR (M) SB (the Company). The Taxpayer failed to submit Income Tax Return Forms (Tax Returns) for the Years of Assessment (YAs) 2015, 2016 and 2017. The Director

General of Inland Revenue (DGIR) conducted an audit on the Taxpayer and discovered that the Taxpayer had received a total of RM427,000.00 in 2015, 2016 and 2017 as her director fees from the Company based on the Financial Statements of the Company. Due to her failure to furnish Tax Returns under Section 77 Income Tax Act 1967 (ITA 1967), the DGIR had issued Notices of Assessment (Forms J) for the YAs 2015, 2016 and 2017 dated 23rd February 2021 in accordance with Section 90(3) ITA 1967. On 28th September 2022, the Taxpayer submitted the Tax Returns for YAs 2015, 2016 and 2017 with supporting documents through e-filing. Upon proper scrutiny by the DGIR, it was found out that the amount declared by the Taxpayer was different from the amount stated in Financial Statements and Tax Returns submitted by the Company.

The Taxpayer contended that she had never received any director fees from the Company. It was further argued that the said Company had misused her name as a shareholder and director of that Company. The Taxpayer provided her bank statements for years 2016 and 2017 to prove that there was no record of her receiving the said payment from the Company.

In response, the DGIR asserted that the documents produced by the Taxpayer were not sufficient to prove her contentions. The Taxpayer submitted incomplete bank statements during the audit for years 2016 and 2017, while for year 2015, there was no bank statement submitted to the DGIR at all. The Taxpayer also failed to call material witness from the Company to give testimony during hearing before the Special Commissioner of Income Tax (SCIT) to support her contentions. In addition, the imposition of penalties under Section 112(3) ITA 1967 was due to the failure of the Taxpayer to furnish the Tax Returns for YAs 2015, 2016 and 2017. Therefore, the penalties imposed at the rate of 45% under Section 112(3) ITA 1967 were correct.

On 4th October 2024, the SCIT had dismissed the Taxpayer's appeals and held that Forms J dated 23rd February 2021 including penalties for YAs 2015, 2016 and 2017 are correct and justified.

Editorial Note:

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