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BY LEGAL DEPARTMENT

HIGH COURT OF KUALA LUMPUR

YA DATO' AMARJEET SINGH A/L SERJIT

4th FEBRUARY 2026

PARAGRAPH 4*(a)* INCOME TAX ACT 1967

MEWAH UNIK SDN BHD
v.
DIRECTOR GENERAL OF INLAND REVENUE
WA-14-4-01/2024

On 24.11.2023, the Special Commissioners of Income Tax ("SCIT") affirmed the Director General of Inland Revenue's ("DGIR") decision to treat the gains from the disposal of 18 housing units from the Joint Venture Agreement ("JVA") as the Taxpayer's business income under paragraph 4(a) of the Income Tax Act ("ITA 1967"). Under the JVA, the Taxpayer granted development rights over its Land to SYL Sdn Bhd in consideration of 33 completed housing units. Dissatisfied with the SCIT's decision, the Taxpayer further appealed to the High Court.

The Taxpayer argued that the learned SCIT had erred in its assessment of the badges of trade allegedly present in the Taxpayer's case. It stressed that since 1993, its business has been of land investment and not property trading. The Land bought in 1994 is its only asset and has always been recorded as a fixed asset, showing no intention to trade. Under Public Ruling No. 01/2009, the Taxpayer's role in the JVA was passive, so it should not be treated as business income. The Taxpayer also maintained that all units sold under the JVA formed a single transaction, as they came from the same Land and were only subdivided to carry out the JVA. Relying on the Federal Court decision in *Ketua Pengarah Hasil Dalam Negeri v. Kind Action (M) Sdn Bhd [2025] 4 CLJ 501,* the Taxpayer submitted that the DGIR is estopped from changing its position by assessing the subsequent disposals under the ITA 1967, since the DGIR had assessed the proceeds from the disposal of the first nine units in Phase 1 under the Real Property Gains Tax Act ("RPGTA"), of which earlier assessment was never withdrawn.

Conversely, the DGIR maintained that numerous judicial authorities have established that land recorded as a fixed asset may nonetheless be deemed a trading asset upon disposal. The DGIR argued that the learned SCIT's findings were firmly supported by the evidence and relevant case law. The DGIR further submitted that the Taxpayer had acquired the Land with full awareness of the surrounding development potential and with the intention of realising profit through subdivision and the construction of housing units via its related company, SYL, with whom it shared common directors and shareholdings. The DGIR also argued that the Taxpayer possessed the relevant expertise, as demonstrated by the evidence tendered before the learned SCIT. It is further contended that Public Ruling No. 01/2009 was irrelevant in this case because the SCIT had found, based on the facts, that the Land constituted the Taxpayer's stock in trade, rather than a capital investment.

Finally, the DGIR distinguished the case of *Kind Action* on the basis that, in that case, the disposals had already been assessed under the RPGTA. By contrast, in the present case, no assessments or notices of non-chargeability were ever issued under the RPGTA in respect of the 18 housing units.

On 04.02.2026, the High Court allowed the Taxpayer's appeal with costs of RM5,000.00.

Editorial Note:

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