



SECTION 13 & PARAGRAPH 15 SCHEDULE 6
INCOME TAX ACT 1967


YCY

V.

DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/768

 SPECIAL COMMISSIONERS OF INCOME TAX

 PUAN FAJRUL SHIHAR BINTI ABU SAMAH

 12 JUNE 2026

The Taxpayer was employed by HCSB ('The Company') and was dismissed from employment on 13.10.2014. The Taxpayer subsequently challenged the dismissal before

the Industrial Court. Through Award No. 545/2018 dated 13.03.2018, the Industrial Court ordered, among others, that the Taxpayer be reinstated to his former position and be paid back wages amounting to RM288,600.00. A rectification award dated 07.05.2018 subsequently described the amount as "compensation" instead of "back wages". The Taxpayer received the payment but did not declare the sum as taxable income in his return for Year of Assessment ("YA") 2018. The Director General of Inland Revenue ("DGIR") raised a Notice of Additional Assessment dated 31.07.2019 on the basis that the RM288,600.00 constituted taxable employment income.

The Taxpayer contended that the payment represented compensation for loss of employment under Section 13(1)(e) of the Income Tax Act 1967 ("ITA 1967") and therefore qualified for exemption under Paragraph 15, Schedule 6 of the ITA 1967. Although the Industrial Court had ordered reinstatement, no actual reinstatement took place in practice. The Company did not restore the Taxpayer to his former employment position and did not provide the benefits ordinarily associated with employment. As such, the Taxpayer maintained that the employer-employee relationship had effectively ceased and the payment received was compensation arising from the termination of employment. The Taxpayer further relied on the Rectification Award dated 7.5.2018 in which the Industrial Court amended the wording of the award from "back wages" to "compensation". The amendment reflected the Industrial Court's intention that the payment should be treated as compensation for loss of employment rather than salary or remuneration arising from employment.

In response, the DGIR argued that the Industrial Court had expressly ordered reinstatement and that the Taxpayer was subsequently reappointed as a director and participated in the affairs of the company. The payment of RM288,600.00 was therefore not compensation for loss of employment but represented remuneration arising from employment, akin to back wages awarded following reinstatement. Accordingly, the amount was taxable under Section 13(1)(a) of the ITA 1967. The DGIR submitted that since the payment was awarded together with reinstatement and was intended to compensate the Taxpayer for remuneration lost during the period of wrongful dismissal, it retained the character of employment income taxable under Section 13(1)(a) of the ITA 1967. The DGIR further contended that the exemption under Section 13(1)(e) of the ITA 1967 read together with Paragraph 15, Schedule 6 of the ITA 1967 was not applicable because there was no cessation of employment as the Taxpayer was a non-service director of a controlled company, thus did not satisfy the statutory conditions required for exemption.

The Special Commissioners of Income Tax ("SCIT") had on 12.6.2026 dismissed the Taxpayer's appeal and held that the Notices of Additional Assessment raised against the Taxpayer is 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.*