



ITEM 32(AA) FIRST SCHEDULE STAMP ACT 1949

**LIM SUET MUN (EXECUTOR OF THE ESTATE
OF WONG KWAI MOD)**

V.

COLLECTOR OF STAMP DUTY

WA-24NCvC-3564-07/2025

 **HIGH COURT OF KUALA LUMPUR**

 **YA PUAN ROZ MAWAR BINTI ROZAIN**

 **5TH FEBRUARY 2026**

The Duty Payer is a citizen of Singapore and the executor of the two estates of the Deceased. Upon the issuance of strata title of the properties, Memorandum of Transfers

were executed and presented for adjudication. Notices of Assessment (*Ad Volarem*) has been issued to the Duty Payer and the stamp duty were imposed pursuant to Item 32(aa) of the First Schedule of the Stamp Act 1949 (“SA 1949”). Dissatisfied with the Notices of Assessment, the Duty Payer hereafter filed an appeal under section 39 of SA 1949 by way of Originating Summon.

The Duty Payer contended that the executor, who also acts in a fiduciary capacity akin to a trustee, owes fiduciary duties to all the beneficiaries. The fundamental duty of an executor is to settle all liabilities of the Deceased prior to distribution of the estate, which includes the stamp duty in question. All stamp duty imposed shall be borne by the estate of the Deceased. The two Memorandum of Transfers serve solely to confer authority upon the Duty Payer, in her capacity as an executor. Thus, the appropriate stamp duty rate must be the rate applicable to a Malaysian citizen.

In response, the Collector of Stamp Duty (“Collector”) asserts that Item 32(aa) of the First Schedule of SA 1949 applies where property is sold to a foreign company or a non-citizen. The Collector submits that Memorandum of Transfers is the operative instrument that transfers the Deceased’s properties. Stamp duty is imposed on the instrument and not on the transaction. Even where such title is held by an executor, the instrument carries the conveyancing effect. Therefore, once the Memorandum of Transfers vests legal title in a non-citizen executor, the foreign-rate under Item 32(aa) of the First Schedule of SA 1949 applies as a matter of statutory operation. The executor’s fiduciary role does not amount to, and cannot be treated as, a statutory exemption.

The High Court had on 05.02.2026 allowed the Duty Payer’s appeal with RM3,000.00 as to costs.

Editorial Note

- *The Collector has the right to appeal to the Court of Appeal within 30 days from the date of the decision.*