

**PARAGRAPH 4 & PARAGRAPH 9 SCHEDULE 2  
REAL PROPERTY GAINS TAX ACT 1976**

**BEH CHOR BENG, LIM PENG WENG &  
OOI LENG HWA**

**v.**

**KETUA PENGARAH HASIL DALAM NEGERI  
PA-14-4, 5 & 6-04/2024**

FCS Sdn Bhd (“FCS”) is a company incorporated on 24.09.1980. Its principal business activity was changed from shipping, freight consulting services and forwarding



 **HIGH COURT OF PULAU PINANG**

 **YA DR. WENDY OOI SU GHEE**

 **23 FEBRUARY 2026**

agent to durian estate operation after acquiring nine (9) contiguous parcels of land in 1988. On 17.08.2015, the Taxpayers acquired 33,000 shares and 34,000 shares respectively in FCS. On 16.12.2016, the Taxpayers disposed of the said shares at the price of RM26.00 per share pursuant to a Share Sale Agreement dated 16.12.2016 (“SSA”). The Director General of Inland Revenue (“DGIR”) assessed the acquisition price at RM1.00 per share pursuant to paragraph 4 Schedule 2 of the Real Property Gains Tax Act 1976 (“RPGTA 1976”). The Taxpayers submitted that the acquisition price ought to be assessed at RM33.25 per share pursuant to paragraph 9 Schedule 2 of RPGTA 1976.

The Taxpayers argued that the market value of the ordinary shares issued by FCS was RM33.25 as per a valuation report by an independent auditor. Therefore, paragraph 4 Schedule 2 of RPGTA 1976 is not applicable and the DGIR’s finding is erroneous. Paragraph 9 Schedule 2 of RPGTA 1976 is clearly applicable as the Taxpayers acquired the shares “*otherwise than by way of a bargain made at arm’s length*”.

The DGIR submitted that paragraph 4 Schedule 2 of RPGTA 1976 is applicable in determining the acquisition price of the shares. Hence, the acquisition price for, the disposal of 33,000 shares by the 1<sup>st</sup> Taxpayer, the disposal of 33,000 shares by the 2<sup>nd</sup> Taxpayer and the disposal of 34,000 shares by the 3<sup>rd</sup> Taxpayer in FCS were correct and in accordance with paragraph 34A Schedule 2 of RPGTA 1976. The Special Commissioners of Income Tax confirmed the DGIR’s computation for YA 2016.

On 23.02.2026, the High Court of Pulau Pinang had dismissed the Taxpayers’ appeals with costs of RM15,000.00.

***Editorial Note:***

- *The Taxpayers 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.*