



**PART I & II SCHEDULE 5
AND
PARAGRAPH 2A (1) SCHEDULE 2
REAL PROPERTY GAINS TAX ACT 1976**

MNWR SB

V.

**DIRECTOR GENERAL OF INLAND REVENUE
(MOF.PKCP.700-7/1/1507 (2021))**

 **SPECIAL COMMISSIONER OF INCOME TAX**

 **YA PUAN HABIBAH BINTI HARON**

 **1 DECEMBER 2023**

The Taxpayer is a company incorporated in Malaysia and acquired one (1) unit of two storey shop house (“the said Property”) on or about 30.05.1994. The Taxpayer entered into a Sale and Purchase Agreement dated 13.08.2020 and the disposal price was RM6,300,000.00.

The Director General of Inland Revenue (“DGIR”) issued a Notice of Assessment for Year of Assessment (“YA”) 2020 dated 23.12.2020 (“Notice of Assessment”) against the Taxpayer in respect of the assessment of the real property gains tax payable (“Tax Amount”). The DGIR assessed the real property chargeable gains for the sum of RM5,225,000.00 based on the market value of the said Property on 30.05.1994 at RM1,075,000.00 valued by Jabatan Penilaian dan Perkhidmatan Harta Malaysia (Kuala Lumpur) in its letter dated 14.12.2020.

The Taxpayer contended that in assessing the chargeable gains, the DGIR ought to have considered the acquisition price of the said Property based on the market value of RM7,000,000 as at 01.01.2013 following Paragraph 2A Schedule 2 Real Property Gains Tax Act 1976 (“RPGTA 1976”).

In response, the DGIR asserted that the Taxpayer is a private limited company incorporated and domiciled in Malaysia, thus the Taxpayer is subject to be taxed under Part II Schedule 5 RPGTA 1976. Paragraph 2A (1) Schedule 2 RPGTA 1976 is applicable to a disposal of chargeable asset which subjected to tax under Part I Schedule 5 RPGTA 1976. As such, the Taxpayer is not entitled to claim the said Property ought to be valued as at 01.01.2013. The Taxpayer’s allegation that the market value of the said Property in year 2013 was RM7,000,000 is baseless as the Taxpayer failed to provide any supporting documents or call any material witness to testify in court.

On 01.12.2023, the Special Commissioner of Income Tax dismissed the Taxpayer’s appeal and held that the Taxpayer failed to prove its case as required under Paragraph 13 Schedule 5 Income Tax Act 1967. As such, the Notice of Assessment for YA 2020 dated 23.12.2020 amounting to RM5,225,000.00 raised by the DGIR was confirmed.

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.