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LHDN MALAYSIA
BY LEGAL DEPARTMENT

HIGH COURT OF KUALA LUMPUR

YA PUAN ALICE LOKE YEE CHING

14 JULY 2026

PARAGRAPH 4(a) INCOME TAX ACT 1967

DIRECTOR GENERAL OF INLAND REVENUE
V.
KRISTAL PENAGA SDN BHD
WA-14-17-06/2023

This is the Director General of Inland Revenue's ("DGIR") appeal against the Special Commissioners of Income Tax ("SCIT") decision on 29.05.2023 that has allowed the Taxpayer's appeal to treat the gains arising from the disposal of 12 parcels of lands ("said lands") as capital receipts and taxable under the Real Property Gains Tax Act 1976 ("RPGTA 1976").

On 20.07.1994, the Taxpayer entered into an agreement with the vendor to acquire the said lands. The titles show that the said lands comprised of Malay Reserved Lands. On 23.12.2013, the Taxpayer executed a sale and purchase agreement with Mega Daiman Sdn Bhd ('Mega Daiman') to dispose the said lands at a price of RM13,108,215.00. The Taxpayer then submitted the Real Property Gains Tax ("RPGT") forms to subject the gains arising from the disposal under RPGTA 1976. Vide a letter dated 23.11.2016, the DGIR raised Notice of Assessment for Year of Assessment ("YA") 2014 informing that the gains arising from the disposal of the said lands is subject to Income Tax Act 1967 ("ITA 1967").

The Taxpayer submitted that trading activities have to be distinguished from investment transactions. The Taxpayer had acquired and kept the land for investment purposes from day one. The Taxpayer only disposed the said lands to Mega Daiman for the sole purpose of a company restructuring exercise which will transform the Taxpayer from a Bumi company to a non-Bumi company. The land remains to date with Mega Daiman, which is a related company. Further, the Taxpayer highlighted that the learned SCIT had correctly noted that the said lands was never reclassified by the Taxpayer as its current asset.

The DGIR argued that since its incorporation, there is no evidence to indicate that the Taxpayer had earned investment income from the initial acquisition of the said lands until their disposal in 2013. The true intention was for a resale at a profit as it has been shown from the Taxpayer's financial statement that it had inadequate funds/capital to enable the Taxpayer to work on its investment holding activity. Further, there was no development done in respect of the said lands by the Taxpayer for its own use or to generate income for the purpose of investment such as rental activity. The DGIR further contended that although the subject land was retained for more than 19 years, the proceeds gained can still be viewed as business income.

On 14.07.2026, the High Court dismissed the DGIR's appeal with costs of RM3,000.00.

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.*