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LHDN MALAYSIA
BY LEGAL DEPARTMENT

SPECIAL COMMISSIONERS OF INCOME TAX

PUAN ZAHIDA BINTI ZAKARIA

24 JULY 2026

PARAGRAPHS 6, 34A(2) AND (3) SCHEDULE 2 REAL PROPERTY GAINS TAX ACT 1976

HASB
V.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/1529

The Taxpayer was a director and one of shareholders of a Real Property Company ("RPC") known as ECSB. ECSB became an RPC on 24.3.2014 pursuant to the purchase of a land known as Lot 308. By way of a Share Sale Agreement dated 11.1.2018, the Taxpayer and another shareholder disposed of their shares of 500,000 units in ECSB with total consideration of RM2,716,070.40. The Taxpayer submitted Real Property Gains Tax ("RPGT") Form (CKHT 1B) and Share Sale Agreement dated 11.1.2018. The Taxpayer also claimed deductions for cost of acquisition of land by ECSB. The Director General of Inland Revenue ("DGIR") took the acquisition price of RM1.00 per share and disallowed the expenses claimed by the Taxpayer. The DGIR subsequently raised an assessment under Real Property Gains Tax Act 1976 ("RPGTA 1976") (Form K) dated 11.8.2018 for Year of Assessment ("YA") 2018. Dissatisfied with the assessment, the Taxpayer filed Form Q against the assessment.

The Taxpayer contended that the consideration of the shares is RM1.00 per unit. The assessments raised was wrong because the DGIR took RM1.00 as the acquisition price per share and disallowed the legal fees and purchase price of the land as expenses. The Taxpayer did not obtain gains or profit from the disposal of the shares under Paragraph 34A(2)(a) and 3(a) of Schedule 2 RPGTA 1976 after deducting the acquisition cost of the land. The DGIR could not continually revise the assessment after its issuance and any amended assessment was time-barred under Section 15 RPGTA 1976.

In response, the DGIR argued that the Taxpayer acquired 245,000 shares at RM1.00 per unit from the previous shareholder after ECSB became an RPC. The acquisition cost of the land is not allowable under Paragraph 34A of Schedule 2 RPGTA 1976. Accordingly, the amount is excluded from the computation of the acquisition price.

On 24.7.2026, the Special Commissioners of Income Tax ("SCIT") ruled that the Taxpayer has successfully discharged his burden of proof under Paragraph 13 of Schedule 5 Income Tax Act 1967. Hence the Taxpayer's appeal was allowed and Form K dated 11.8.2018 was set aside.

Editorial Note

- *The DGIR has the right to file an appeal against the decision by the SCIT within 21 days from the date of the decision.*