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LHDN MALAYSIA
BY LEGAL DEPARTMENT

SPECIAL COMMISSIONERS OF INCOME TAX

PUAN ZAHIDA BINTI ZAKARIA

24 JULY 2026

SECTION 91(1) & SECTION 113(2)
INCOME TAX ACT 1967

TKK
V.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/2076

The Taxpayer was a registered owner of a land known as Lot 3502, Bandar Gelugor together with its residential bungalow ("the Property") which is valued at RM3,999,999.00. The Taxpayer reported his income as NIL in his tax return form (Form e-BE) for Year of Assessment ("YA") 2017. During the audit the Director General of Inland Revenue ("DGIR") applied the means test as the income reported by the Taxpayer does not commensurate with the monthly loan repayment for the Property. The Taxpayer failed to provide a credible explanation regarding the source of the funds. The DGIR then raised an assessment under Section 91(1) Income Tax Act 1967 ("ITA 1967") on 21.5.2021. Dissatisfied with the assessment, the Taxpayer filed an appeal by way of Form Q dated 17.6.2021.

The Taxpayer contended that he merely acted as the trustee of the Property which was owned by a Chinese citizen. The Taxpayer argued that the payment for the purchase of the Property was made by the owner and this was supported by a Trust Deed and a Statutory Declaration by the owner.

In response, the DGIR argued that the Taxpayer's case is founded largely on bare assertions and post-event documentation. The Trust Deed was only produced after the audit had commenced which was initially unstamped. Passport records contradicted the Taxpayer's initial claims as to where and when the trust documents were signed. The statutory declarations produced were undated and inadequately notarized. Critically, the Taxpayer did not provide contemporaneous remittance records and no evidence of actual control or enjoyment of the property by the alleged owner. The DGIR conducted a third-party confirmation exercise regarding the purchase of the Property and it was confirmed that the Sale and Purchase Agreement was executed between the Taxpayer and the vendor. Mere issuance of cheque by a third party did not establish the ultimate source of funds. The Property was registered under the Taxpayer's name and there was no endorsement on the Land Title indicating that he held the Property as a trustee. It was further argued that the Property was transferred by the Taxpayer to a third party in his own capacity without any trust notation.

On 24.7.2026, the Special Commissioners of Income Tax ("SCIT") ruled that the Taxpayer has failed to discharge his burden of proof under Paragraph 13 of Schedule 5 ITA 1967. Accordingly, the Taxpayer's appeal was dismissed, and Notice of Assessment dated 21.5.2021 was upheld and 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.*