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BY LEGAL DEPARTMENT

HIGH COURT OF MALAYA KUALA LUMPUR

DATO' AZIZAN BIN MD. ARSHAD

30 JULY 2026

**SCHEDULE 3 OF THE ITA &
P.U.(A) 187/1998, P.U.(A) 272/1999, P.U.(A) 358/2008,
P.U.(A) 217/2014, P.U.(A) 156/2018 & P.U.(A) 274/2019**

**DIRECTOR GENERAL OF INLAND REVENUE
V.
MALAYAN BANKING BERHAD
WA-14-16-06/2023**

The appeal concerns additional assessments raised by the Director General of Inland Revenue ("DGIR") against Malayan Banking Berhad ("the Taxpayer") for the Years of Assessment ("YA") 2014 to 2017 in respect of the Taxpayer's claims for Capital Allowance ("CA") and Accelerated Capital Allowance ("ACA") on expenditures incurred in relation to computer software. These claims involved (i) ACA on the upgrading of existing computer software amounting to RM31,671,624; (ii) CA on development costs incurred for customised computer software amounting to RM9,880,039; (iii) ACA on development costs incurred for customised computer software amounting to RM45,738,706; and (iv) the imposition of a penalty under section 113(2) of the Income Tax Act 1967 ("ITA"). The DGIR disallowed the claims of the Taxpayer and raised the assessments and penalty, which were subsequently challenged by the Taxpayer before the Special Commissioners of Income Tax ("SCIT").

The DGIR's case before the High Court was not whether computer software could constitute a "plant" as decided in the *CIMB-Principal Asset Management's* case, but whether the specific expenditure claimed by the Taxpayer fell within the ambit of the applicable subsidiary legislation and the relevant effective years. It was emphasized that different Gazette Orders were enacted for different categories of information technology expenditure and must be read harmoniously with Schedule 3 of the ITA.

The DGIR argued that the Taxpayer's own evidence supported the disallowance of the claims. During cross-examination, the Taxpayer's witness admitted that development costs for customized software were only expressly recognized as qualifying plant expenditure under P.U.(A) 274/2019, effective from YA 2018. As such, the DGIR maintained that there was no legal basis for CA or ACA claims on such expenditure for YA 2014 to YA 2017. The witness also acknowledged that different P.U.(A)s served different purposes and that software-related costs should be categorized according to their nature before the applicable incentive could be determined. Since the Taxpayer did not segregate costs relating to software purchase, upgrading and development, the DGIR contended that the expenditure could not automatically qualify under Schedule 3 or P.U.(A) 217/2024.

On the other hand, the Taxpayer contended that its banking software constituted as "plant" used in its business and therefore qualifies for capital allowances under Schedule 3 of the ITA. The Taxpayer argued that the software expenditure, including software development and upgrading costs, formed part of an integrated banking system owned and used in its business operations. The Taxpayer submitted that its claims were made in accordance with its understanding of the law and supported by professional tax advice, such that the penalty imposed under section 113(2) of the ITA was unjustified.

On 30.07.2026, the High Court dismissed the DGIR's appeals and upheld the SCIT's decision. The High Court found no error of law in the SCIT's decision and no grounds to disturb the SCIT's findings of fact.

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.