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BY LEGAL DEPARTMENT

SPECIAL COMMISSIONERS OF INCOME TAX

PUAN MASTURA BINTI HUSSAIN

12 AUGUST 2026

SECTION 33(1) & SECTION 113(2)
INCOME TAX ACT 1967

IGSB
V.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/1636-1638

The Taxpayer is a shopping mall operator engaged in the business of letting of properties and property management services. The Taxpayer's income is derived solely from rental income, and no income was reported from event-based or promotional activities. The Director General of Inland Revenue ("DGIR") conducted an audit against the Taxpayer for Years of Assessment ("YAs") 2015, 2016 and 2017. It was discovered that the Taxpayer claimed deductions for advertisement, promotional activities, maintenance charges and festive decorations under Section 33(1) Income Tax Act 1967 ("ITA 1967"). The DGIR disallowed part of the claims on the ground that they were either capital in nature, unsupported with documents and not exclusively incurred in the production of rental income of the Taxpayer. DGIR issued Notice of Non-Chargeability ("NONC") for YA 2015 dated 31.1.2021 and Notices of Additional Assessment ("Forms JA") for YA 2016 and 2017 collectively dated 31.1.2021. Dissatisfied with the assessments raised, the Taxpayer filed Forms Q to the Special Commissioners of Income Tax ("SCIT") to appeal against the assessments.

The Taxpayer contended that advertising and promotional activities are standard and necessary business activities for a shopping mall operator. Promotional activities and festive decorations attracted public traffic, increased the attractiveness of the mall, improved tenant occupancy which in return contributed to rental revenue. The expenditure was commercially necessary and supported by tenancy agreements requiring promotional activities to be undertaken by the Taxpayer. Further, the Taxpayer argued that the maintenance expenses were incurred in the course of operating its rental business. It relied on Public Ruling No. 12/2018 to support its contention that expenses incurred in a property rental business should be deductible.

In response, the DGIR argued that the Taxpayer had failed to establish whether the disputed expenditures are incurred in the production of rental income under section 33(1) ITA 1967. The evidence merely showed increased public traffic and improved tenant sales but not an increase of rental income. The primary and immediate benefit of the expenditure only benefitted the tenants, while any benefit to the Taxpayer was merely consequential. The tenancy agreements relied on by the Taxpayer were insufficient as there was only one tenancy agreement containing a promotion clause that was produced and it was admitted that not all agreements contained such a clause. Further, certain maintenance expenses involved the construction of a new manhole, concrete washing area and other structural improvements, thereby creating identifiable assets and constitute as capital expenditure.

On 12.8.2026, the SCIT ruled that the Taxpayer has failed to discharge its burden of proof under Paragraph 13 of Schedule 5 ITA 1967. Hence the Taxpayer's appeals were dismissed and the NONC for YA 2015 and Forms JA for YAs 2016 and 2017 were affirmed.

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.*