



SECTION 4(a) & 113(2) INCOME TAX ACT 1967

BLADE RESOURCES SDN BHD

V.

DIRECTOR GENERAL OF INLAND REVENUE

APPEAL NO. WA-14-46-11/2023



HIGH COURT KUALA LUMPUR



YA DATO' AZIZAN BIN MD. ARSHAD



24 SEPTEMBER 2026

The Taxpayer acquired agricultural land known as Lot 17663, Block 11, Daerah Muara Tebas Land District, Kuching ('the Property') on 28.4.2003 for RM1,012,300.00. The land was held for about 13 years without generating any

rental, lease or other investment income. In 2015, the Taxpayer granted LT Homes Development Sdn Bhd (LTH) a Power of Attorney to obtain planning, subdivision and development approvals. Following the grant of those approvals, the land was sold to LTH on 28.6.2016 for RM15,918,000.00. The Taxpayer submitted its RPGT forms and the Director General of Inland Revenue ("DGIR") issued a Notice of Assessment (Form K) under the Real Property Gains Tax Act 1976 ("RPGTA 1976"), for the amount of RM745,285.00. Subsequently, the DGIR conducted investigation and raised an additional assessment for the Year of Assessment ("YA") 2017 on 24.12.2020 on the basis that the gain was subject to tax under Section 4(a) of the Income Tax Act 1967 ("ITA 1967"). On 6.11.2023, the Special Commissioner of Income Tax ("SCIT") dismissed the Taxpayer's appeal (Form Q) and held that the Additional Assessment and penalty imposed in Notice of Additional Assessment dated 24.12.2020. Dissatisfied with the SCIT's decision, the Taxpayer further appealed to the High Court.

Before the High Court, the Taxpayer argued that the land was a long-term investment as it had been held for 13 years. The Taxpayer further contended that the planning and subdivision approvals were obtained by LTH as conditions precedent to the sale and that the disposal arose from an unexpected need for funds rather than from a profit-making scheme. The Taxpayer further relied on *Ketua Pengarah Hasil Dalam Negeri v Kind Action (M) Sdn Bhd [2025] 4 CLJ 501*, contending that the present case was factually similar to *Kind Action* and that the Federal Court's decision should therefore be followed.

The DGIR contended that the transaction ought to be assessed in its entirety through the application of the badges of trade. A long holding period and single disposal were not determinative, particularly where the land remained idle and generated no investment return. The Taxpayer's conduct indicated a profit-making intention, as its principal activities were amended before the acquisition to include property trading, while investment activities were added only afterwards. The DGIR further contended that the Power of Attorney and the planning and subdivision applications were organized steps to facilitate disposal and enhance the land's value. The accounting treatment was relevant but not conclusive, and the alleged financial emergency was unsupported by evidence. Accordingly, SCIT's findings were properly grounded in the evidence and should not be disturbed on appeal. The decision in *Kind Action* was distinguishable and did not determine the present appeal.

On 24.9.2026, the High Court held that the disposal of the Property constituted an adventure in the nature of trade. The gain arising from the disposal was therefore assessable under Section 4(a) ITA 1967. The Court also held that the penalty under Subsection 113(2) of the ITA 1967 was correctly imposed. Hence, the Taxpayer's appeal was dismissed with costs of RM5,000.00.

Editorial Note

- *The Taxpayer has the right to file an appeal to the Court of Appeal within 30 days from the date of the High Court's decision*