



**PARAGRAPH 9(bb) & 9(cc) SCHEDULE 7A
INCOME TAX ACT 1967**

GAYANIS SDN. BHD.

v.

**KETUA PENGARAH HASIL DALAM NEGERI
WA-14-54-12/2023 & WA-14-55-12/2023**

The Taxpayer's principal activity is oil palm plantation. The Taxpayer disagreed with the Director General of Inland Revenue's ("DGIR") decision to disallow the Taxpayer's claim on Reinvestment Allowance (RA) under Schedule 7A

of the Income Tax Act 1967 ("ITA 1967") in respect of the cultivation of oil palm and capital expenditure incurred for a palm oil mill project. The Special Commissioners of Income Tax ("SCIT") had on 15.12.2023 dismissed the Taxpayer's appeals and upheld the assessments and penalties raised by the DGIR.

The central issue was whether oil palm falls within the meaning "cultivation of fruits" under paragraph 9(cc), Schedule 7A ITA and "cultivation of vegetables" under paragraph 9(bb), Schedule 7A ITA 1967. The Taxpayer relied on expert evidence that oil palm is scientifically a fruit because it contains flesh and seeds and alternatively, may be regarded as a vegetable due to its association with vegetable oil products. The experts also testified that oil palm fruit is edible and that palm oil is widely used in food production. On the issue of palm oil mills project, the Taxpayer's position is that paragraph 1, Schedule 7A ITA 1967 when read together with paragraph 8(a), Schedule 7A ITA 1967 provides an independent statutory route to RA for qualifying expansion and diversification projects. Entitlement under paragraph 1, Schedule 7A ITA 1967 does not hinge upon classification under paragraph 9(bb) or 9(cc), Schedule 7A ITA 1967.

The DGIR contended that the terms "fruits" and "vegetables" must be interpreted according to their ordinary and popular meaning (common parlance) rather than their scientific or botanical classification. Relying on the High Court decision in *Bintulu Lumber Development Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri*, which was affirmed in the Court of Appeal, the DGIR argued that although oil palm is botanically a fruit, it is not commonly understood by Malaysians as buah-buahan or sayur-sayuran. Instead, oil palm is generally regarded as an industrial or commodity crop cultivated for oil extraction and processing rather than direct consumption as food. The DGIR further relied on government publications and agricultural classifications which do not categorise oil palm as a fruit crop or vegetable crop. As regards the palm oil mill project, the DGIR argued that Schedule 7A ITA 1976 draws a clear distinction between agricultural activities and manufacturing activities. Since the Taxpayer's existing business was the cultivation of oil palm, the construction of a palm oil mill constituted the commencement of a manufacturing operation rather than an expansion or diversification of its existing agricultural business. Consequently, the project did not qualify for RA under paragraph 8(a) or paragraph 8(c), Schedule 7A ITA 1967.

On 29.09.2026, the High Court dismissed the Taxpayer's appeal with costs of RM5,000.00.

Editorial Note:

- *The Appellant 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.*