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SPECIAL COMMISSIONERS OF INCOME TAX

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21 OCTOBER 2026

SECTION 6, SECTION 12 & SECTION 109
INCOME TAX ACT 1967

MDCOGL
v.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/2300-2302

The Taxpayer is a non-resident company with a place of business or permanent establishment ("PE") in Malaysia for Years of Assessment ("YAs") 2016, 2017 and 2018.

The main issue of the appeal before the Special Commissioners of Income Tax ("SCIT") is whether the interest income received by the Taxpayer for YAs 2016, 2017 and 2018 are taxable at the corporate rate of 24% under paragraph 6(1)(a) of the Income Tax Act 1967 ("ITA 1967") or at 15% under subparagraph 6(1)(b)*(i)* ITA 1967.

The Taxpayer argued that subparagraph 6(1)(b)*(i)* ITA 1967 specifically governs Malaysian-sourced interest derived by a non-resident and therefore the rate applicable is 15%. The Taxpayer further contended that nothing in subparagraph 6(1)(b)*(i)* ITA 1967 required a non-resident to be without a PE in Malaysia. Reading such a condition into the provision would impermissibly add words not enacted by Parliament. The Taxpayer argued that subparagraph 6(1)(b)*(i)* ITA 1967 being a specific provision and containing the words "notwithstanding any other provisions of this Act" prevailed over the general provision in paragraph 6(1)(a) ITA 1967. Moreover, the Taxpayer also distinguished the rate of tax under subparagraph 6(1)(b)*(i)* ITA 1967 from the collection mechanism under Section 109 ITA 1967. In the Taxpayer's view, the inapplicability of withholding tax did not convert the substantive rate from 15% to 24%.

The Director General of Inland Revenue ("DGIR") argued that although the Taxpayer was a non-resident, it maintained a PE in Malaysia and the relevant bank deposits were connected to its Malaysian business activities. Accordingly, its interest income was required to be reported in its income tax return and taxed at the corporate rate of 24% under paragraph 6(1)(a) ITA 1967. DGIR further submitted that paragraph 6(1)*(b)* ITA 1967 is expressly "subjected to" Section 109 ITA 1967. Since the Taxpayer's interest was not subject to the withholding-tax mechanism under Section 109 ITA 1967, the 15% rate was inapplicable.

On 21.10.2026, 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 are dismissed and the Notice of Additional Assessment (Forms JA) for YAs 2016, 2017 and 2018 together with the imposition of penalties were 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.*