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SPECIAL COMMISSIONERS OF INCOME TAX

PUAN ZAHIDA BINTI ZAKARIA

29 OCTOBER 2026

SECTION 33(1) INCOME TAX ACT 1967 &

P.U.(A) 117/2017

M12SB

V.

DIRECTOR GENERAL OF INLAND REVENUE

MOF.PKCP.700-7/1/2132-2134

The Taxpayer is principally engaged in the business of subcontracting ready-mixed concrete operations and forms part of the MDC Group. The Director General of Inland Revenue ("DGIR") conducted an audit on the Taxpayer for Years of Assessment ("YAs") 2016, 2017 and 2018 and disallowed, inter alia, deductions claimed for site rental expenses, water and electricity expenses and staff-related costs under Section 33(1) Income Tax Act 1967 ("ITA 1967"). The DGIR issued Notices of Additional Assessment ("Forms JA") for YAs 2016 and 2017 and a Notice of Assessment ("Form J") for YA 2018, all dated 30.6.2021. Dissatisfied with the assessments raised, the Taxpayer filed Forms Q to the Special Commissioners of Income Tax ("SCIT").

The Taxpayer contended that the disputed expenses were incurred for its ready-mixed concrete operations and were ultimately borne by the Taxpayer. Although certain tenancy agreements, utility bills and employment records were in the names of MDCSB's related companies or third parties, the Taxpayer argued that the MDC Group operated a centralised structure whereby the relevant expenses were subsequently charged or back-charged to the Taxpayer. The Taxpayer relied on accounting records, debit notes, payment vouchers and bank records to establish that the expenditure was attributable to its business operations.

In response, the DGIR argued that the Taxpayer had failed to establish that the disputed expenses were incurred by the Taxpayer itself and wholly and exclusively in the production of its gross income as required under Section 33(1) ITA 1967. The primary documents showed that the tenancy arrangements, utility accounts and employment obligations were principally in the names of MDCSB or other parties. Further, there were no contemporaneous service, management, cost-sharing or back-charge agreements establishing the basis upon which those liabilities were transferred to the Taxpayer. The DGIR contended that internal accounting records alone were insufficient to establish deductibility and that operational necessity or benefit to the Taxpayer did not amount to proof that the expenditure was incurred by the Taxpayer.

The parties also addressed the Taxpayer's entitlement under the Income Tax (Exemption) (No. 2) Order 2017 [P.U.(A) 117/2017]. The DGIR did not dispute the Taxpayer's entitlement to the exemption in principle but contended that the quantum should be determined based on the final chargeable income after the audit adjustments and disposal of the appeals.

On 29.10.2026, the SCIT held that the Taxpayer had successfully discharged its burden of proof under Paragraph 13, Schedule 5 ITA 1967. Accordingly, the SCIT allowed the appeal and set aside the Notices of Additional Assessment for YAs 2016 and 2017 and a Notice of Assessment for YA 2018.

Editorial Note

- *The DGIR has the right to file an appeal against the decision by the SCIT within 21 days from the date of the decision.*