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BY LEGAL DEPARTMENT

HIGH COURT OF KUALA LUMPUR

YA DATO' AZIZAN BIN MD. ARSHAD

2 NOVEMBER 2026

SECTION 4A(iii), SECTION 109B & SECTION 54

INCOME TAX ACT 1967

PT TRAVIRA AIR
V.
DIRECTOR GENERAL OF INLAND REVENUE
WA-14-5-01/2024, WA-14-6-01/2024 &
WA-14-7-01/2024

The Taxpayer is a non-resident company that owns helicopters and provides pilots and crew for offshore operations. Carigali Hess Operating Company Sdn Bhd ("Carigali Hess") engaged Weststar Aviation Services Sdn Bhd ("Weststar") to provide helicopter transportation services. Weststar, in turn, engaged the Taxpayer to provide helicopters, pilots and crew. Under the financial arrangement with Weststar, Carigali Hess made payments directly to the Taxpayer for the use of helicopters through fixed monthly fees and flying-hour charges, while the costs of pilots and crew were reimbursed separately. Following an audit, Director General of Inland Revenue ("DGIR") raised additional assessments for the Years of Assessment ("YAs") 2013 to 2015 on the basis that the payments received by the Taxpayer constituted as income falling under Section 4A(iii) of the Income Tax Act 1967 ("ITA 1967") to be read together with Section 109B ITA 1967. On 15.12.2023, the Special Commissioners of Income Tax ("SCIT") dismissed the Taxpayer's appeals. Dissatisfied with the SCIT's decision, the Taxpayer further appealed to the High Court.

The SCIT made its findings that: (1) the contractual relationship and primary documents established that Weststar and not the Taxpayer provided helicopter transportation services to Carigali Hess. (2) The payments made to the Taxpayer arose from the lease or arrangement for the use of movable property, while crew costs were separately reimbursed.

The Taxpayer contended that its business operation consists of transporting passengers by air as it provides the helicopters together with pilots and crew. Accordingly, the income received should be taxed under Section 54 ITA 1967 and not as payment for the use of movable property under Section 4A(iii) ITA 1967. The Taxpayer also contended that there is a double taxation imposed by the DGIR.

The DGIR contended that the contractual structure and flow of income showed that Weststar, rather than the Taxpayer, provided the helicopter transportation services to Carigali Hess. The Taxpayer owned the helicopters and leased them to Weststar under a Dry Lease Agreement, while the pilots and crew were made available under a separate arrangement and their costs were reimbursed separately. Although Carigali Hess made payments directly to the Taxpayer, those payments arose from the financial arrangement between Carigali Hess, as project owner, and Weststar, as contractor, for the use of the helicopters. The payments were therefore taxable under Section 4A(iii) ITA 1967, read together with Section 109B ITA 1967 and not under Section 54 ITA 1967. The DGIR also contended that there is no double taxation imposed against the Taxpayer as the 5% withholding tax previously deducted and remitted had been taken into account when computing the tax payable at the applicable 10% rate.

On 02.11.2026, the High Court found no error of law in the SCITs decision and dismissed the Taxpayer's appeal. The High Court held that the payments received by the Taxpayer were properly characterized as income under Section 4A(iii) ITA 1967, read with Section 109B ITA 1967.

Editorial Note

- *The Taxpayer has a right to appeal to the Court of Appeal within 30 days from the date of the decision.*