DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, MALAYSIA
SEMAKAN KEHAKIMAN NO.: WA-25-230-08/2017

Dalam perkara mengenai Keputusan Ketua Pengarah Hasil Dalam Negeri Lembaga Hasil Dalam Negeri Malaysia bertarikh 26.09.2013.

Dan

Dalam perkara Notis Taksiran bertarikh 10.11.2014

Dan

Dalam perkara mengenai Keputusan Rayuan oleh Pesuruhjaya Khas Cukai Pendapatan Lembaga Hasil Dalam Negeri bertarikh 01.06.2017.

Dan

Dalam perkara di bawah Seksyen 33(1), 140 dan 113(2) Akta Cukai Pendapatan 1967 ('Akta 53')

Dan

Dalam perenggan 13 Jadual 5 Akta Cukai Pendapatan 1967 ('Akta 53')

Dan

Dalam Perkara Mengenai Aturan 53 Kaedah
3(1) Kaedah-Kaedah Mahkamah 2012

ANTARA

STORMAC SDN BHD
(No. Syarikat:874105-P) ... PEMOHON

DAN

1. PESURUHJAYA KHAS CUKAI PENDAPATAN
2. LEMBAGA HASIL DALAM NEGERI MALAYSIA

...RESPONDEN-RESPONDEN

GROUNDS OF JUDGMENT

(for a leave to Judicial Review)

INTRODUCTION

1. This is the Applicant's application for a leave to commence a judicial review against the Respondents pursuant to Order 53 Rule 3 of the Rules of Court 2012 vide the Notice of Application dated 30.08.2017 seeking for the following reliefs of –

   (a) A Certiorari to quash the decision of the Special Commissioners of Income Tax dated 01.06.2017;

   (b) An order for Certiorari to quash the decision of the Special Commissioners of Income Tax to be allowed by this Honorable Court;

(c) An order that all proceedings and/or steps pertaining to the enforcement or execution of the Decisions be stayed until the final determination of this application;

(d) The cost of and/or incidental to this application be paid by the Respondents; and/or;

(e) All other and further relief which this Honorable Court deems fits and proper. (hereinafter referred to as "this Application").

2. For the purpose of the leave, parties relied on the following documents –

(a) Notice of the Application for Leave for Judicial Review dated 30.08.2017 (hereinafter referred to as "the Application");

(b) A statement by Applicant dated 29.08.2017 pursuant to Order 53 rule 3 (2) ROC 2012 (hereinafter referred to as "the statement");

(c) Affidavit in Support affirmed by Catherine Chan Yuen Ling on 28.08.2017 (hereinafter referred to as "the Applicant's Affidavit"); and

(d) The preliminary written submissions by the Senior Federal Counsel from the AGC and the Senior Revenue Counsel, which then replied by the Applicant's written submissions.

FACTUAL BACKGROUND

3. On 26.09.2013 the 2nd Respondent issued a letter to the Applicant following several issues raised in the audit findings for the years of assessment (YA) 2009 until 2011 to which notification was given via the same letter in exhibit CYL-1 of the Affidavit in Support.

4. Based on the audit finding as well as the reply by the Applicant, the 2nd Respondent allowed the Applicant to disregard the purchase made under section 140(1)(c) of the Income Tax Act 1967.

5. Pursuantly, the 2nd Respondent vide the letter dated 12.11.2014 enclosed the Notice of Additional Assessment dated 10.11.2014 for the YA 2009, 2010 and 2011 issued to the Applicant.

6. Dissatisfied with this, the Applicant filed an appeal to the Special Commissioners of Income Tax ("SCIT") by way of Form Q. The said Form Q has been forwarded by 2nd Respondent to the SCIT on 07.05.2015.

7. On 1.06.2017, after hearing the facts and evidence by the Applicant and the 2nd Respondent, the SCIT unanimously dismissed the Applicant's appeal on the grounds that –

   (a) The purchase for furniture is not allowable under subsection 33(1) Act 53;
   (b) The application of section 140(1)(c) by the 2nd Respondent is correct; and
   (c) The imposition of penalty by the Respondent under the Act 53 is correct

8. There is no appeal filed by the Applicant against the Decision of the SCIT pursuant to paragraph 34 and 35 of the Income Tax Act. At the expiry time available for the appeal, there is no application being made for an extension of time to file in the notice of appeal pursuant to paragraph 36 of the Income Tax Act. Instead, the Applicant filed for a judicial review against the said decision. Below is the consideration made by the Court.

THE PRINCIPLE OF LAW IN THE LEAVE APPLICATION FOR JUDICIAL REVIEW

9. The Federal Court in **Association of Bank Officers, Peninsular Malaysia v Malayan Commercial Banks Association (1990) 3 MLJ 228** has provided the principle of law in respect of leave application as follows –

"The guiding principles ought to be that the applicants must show prima facie that the application is not frivolous or vexatious and that there is some substance in the grounds supporting the application".

10. In **Tang Kwor Ham & Ors v. Pengurusan Danaharta Nasional Bhd & Ors (2006)1 CLJ 927** the Court of Appeal held that –

"Applications for leave under O.53 are made – any they must be made-through a two stage process. The High Court should not go into the merits of the case at the leave stage. ***Its role is only to see if the application for leave is frivolous. If for example the applicant is a busybody, or the application is made out of time or against a person or body that is immunized from being impleaded in legal proceedings then the High Court would be justified in refusing leave in limine. So too will the court be entitled to refuse leave it is a case where the subject matter of the review is one which by settled law (either written law or the common law) is non justiciable, e.g. proceedings in Parliament. (paras 5 & 10)"***

11. In **Bandar Utama Development Sdn Bhd & Anor v Lembaga Lebuhraya & Anor (1998)1 MLJ 224** His Lordship Visu Sinnadurai J held at page 225 as follows –

"...The court, in exercising its discretion that an application for leave be granted must be convinced by the applicants that prima facie the application is genuine and that there is some substance in the grounds supporting the application. The test's threshold is very low; a prima facie case of reasonable suspicion, an arguable case must be shown, not prima facie case. Additionally, an application must fail if it is frivolous, vexatious, misconceived, made by busybodies with misguided or trivial complaints of administrative errors, groundless, where there are more appropriate

alternative remedies, and where the application for judicial remedies is inappropriate."

12. The above consideration by the High Court in exercising its discretion for an application for leave had been endorsed by His Lordship Edgar Joseph Jr. FCJ in **Tuan Haji Sarip & Anor v Patco Malaysia Berhad (1995) 3 CLJ 627** at page 663 whereby he held –

"in R. V. Secretary of State for the Home Department, ex parte Rukshanda Begum (1990) Crown Office Digest 109, Dip, the Court of Appeal in England correctly laid down guidelines to be followed by the Court when considering an application for leave, in the following terms:

(i) The Judge should grant leave if it is clear that there is a point for further investigation on a full inter partes basis with all such evidence as is necessary on the facts and all such argument as is necessary on the law.

(ii) If the Judge is satisfied that there is no arguable case he should dismiss the application for leave to move for judicial review.

(iii) If on considering the papers, the Judge comes to the conclusion that he really does not know whether there is or is not an arguable case, the right course is for the Judge to invite the putative respondent to attend and make representations as to whether or not leave should be granted.

That inter partes leave hearing should not be anywhere near so extensive as a full substantive judicial review hearing. The test to be applied by the Judge at that inter partes leave hearing should be analogous to the approach adopted in deciding whether to grant leave to appeal against an arbitrator's award...namely: if, taking account of a brief argument on either

side, the Judge is satisfied that there is a case fit for further consideration, then he should grant leave."

13. In the Federal Court Case of **Ahli-Ahli Suruhanjaya Yang Membentuk Suruhanjaya Siasatan Mengenai Rakaman Klip Video Yang Mengandungi Imej Seorang Yang Dikatakan Peguambela dan Peguamcara Berbual Melalui Telefon Mengenai Urusan Pelantikan Hakim-Hakim vs Tun Dato' Seri Ahmad Fairuz bin Dato' Sheikh Abdul Halim (2012)1 CLJ 805** His Lordship held at paragraph 20 / page 10 as follows –

"[20] It is clear from the above that a person who is adversely affected by the decision of a public authority can make an application for a judicial review of that decision. But the person must first obtain leave before his substantive motion can be heard. At the leave stage without the need to go into depth of the abundance of authorities, suffice for us to state that the threshold for the granting of such leave is very low. Leave is normally granted if the application is neither frivolous nor vexatious and it justifies further argument on a substantive motion.".

"...Leave is normally granted if the application is ***neither frivolous nor vexatious and it justifies further argument on a substantive motion***

PRELIMINARY OBJECTIONS BY THE AGC

14. The Senior Federal Counsel opposed this leave application on the sole grounds that the Application is frivolous and vexatious for it contravened Order 53 of the Rules of Court 2012 since there is available provision for further appeals provided by the Schedule 5 paragraph 34-42 of the Income Tax Act 1967 (Act 53). The Applicant has not exhausted its local remedy and thus abuse of the process of the court by filing this judicial review. Therefore, this leave application should be right away dismissed.

15. Schedule 5 paragraphs 34-42 of the Income Tax Act 1967 reads as follows –

SCHEDULE 5

Further appeals

34. *Either party to proceedings before the Special Commissioners may appeal on a question of law against a deciding order made in those proceedings (including a deciding order made pursuant to subparagraph 26(b) or (c) by requiring the Special Commissioners to state a case for the opinion of the High Court and by paying to the Clerk at the time of making the requisition such fee as may be prescribed from time to time by the Minister in respect of each deciding order against which he seeks to appeal.*

35. *A requisition under paragraph 34 shall be in writing and shall be sent or delivered to the Clerk within twenty-one days after the service on the intending appellant of the order against which he seeks to appeal.*

36. *The High Court on the application of an intending appellant made by summons in chambers may extend the period of twenty-one days mentioned in paragraph 35.*

37. *A case stated under paragraph 34 –*

(a) shall set forth the facts as found by the Special Commissioners, the deciding order and the grounds of their decision; and

(b) shall be signed by the Special Commissioners who heard the appeal (or, if any of them are incapacitated from signing by reason of death, illness, absence or any other cause, by such of them as are able to do so).

37A. (1) The Appellant shall pay to the Clerk the cost of preparing the case stated at such rate as may be prescribed from time to time by the Minister.

(2) The Special Commissioners may at any time before a case stated is transmitted to the High Court require the appellant to deposit with the clerk a sum which in their opinion will cover the cost of preparing copies of the case stated for the High Court and the parties, and where they do so they may refrain from stating the case or prevent the case stated from being transmitted to the High Court unless the required deposit is made.

(3) Any party to an appeal may obtain from the Clerk extra copies of the case stated on payment of such fee as may be prescribed from time to time by the Minister.

38. When a case has been stated and signed in accordance with paragraph 37, the Clerk shall transmit it to the High Court and serve a copy of it on the parties to the proceedings in respect of which it is stated.

39. The High Court shall hear and determine any question of law arising on a case stated under paragraph 34 and may in accordance with its determination thereof –

(a) order the assessment to which the case relates to be confirmed, discharged or amended;
(b) remit the case to the Special Commissioners with the opinion of the court thereon; or
(c) make such other order as it thinks just and appropriate.

40. At any time before it determines the questions of law arising on a case stated under paragraph 34, the High Court may –

(a) cause the case to be sent back to the Special Commissioners for amendment; or

(b) require the Special Commissioners to find further facts and state a supplementary case,

And may postpone or adjourn the proceedings before it until the amendment has been made or the requisition complied with.

***41.** There shall be such rights of appeal from decisions of the High Court on cases stated under paragraph 34 as exist in respect of decisions of the High Court on questions of law in its appellate civil jurisdiction.*

***42.** Unless it is otherwise provided by rules of court, the rules of court for the time being in force in relation to appeals in civil matters from a subordinate court to the High Court and from the High Court in its appellate jurisdiction to the court of appeal and the federal court shall, subject to this schedule, apply with the necessary modifications to appeals under this schedule to the High Court, the Court of Appeal and the Federal Court respectively.*

16. This trite principle has been enunciated way back in the 1980s whereby the Court inclined to dismiss the judicial review for the available local remedy on the subject matter. In the case of **The Government of Malaysia & Anor v. Jagdis Singh (1987) 2 MLJ 185,** at page 185, the Supreme Court held that –

"(1) Judicial Review is always as the discretion of the court but where there is another avenue or remedy open to the applicant, it will only be exercised in exceptional circumstances.

(2) The applicant must show exceptional circumstances, such as a clear lack of jurisdiction or a blatant failure to perform some statutory duty or a serious breach of natural justice."

17. Similarly, in **Khoo Ah Imm v Datuk Bandar Kuala Lumpur & Anor (1997) 3 CLJ 519** Gopal Sri Ram JCA in his judgment stated –

> *"One of the grounds on which the remedy of certiorari may be withheld is where the supplicant is able to obtain better or at least equally efficacious relief either in other proceedings or at an alternative forum. Sometimes the alternative remedy is given by statute. See, Government of Malaysia & Anor v. Jagdis Singh (1987)1CLJ415."*

18. In **Ta Wu Realty Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri & Anor (2008) 6 CLJ 235** , the Court of Appeal at page 244 held that –

> *(18) This remedy of certiorari is a discretionary one from which has emerged the proposition that an application will fail where there is an alternative remedy (see HongKong & Shanghai Banking Corporation Ipoh v Rent Tribunal for Ulu Kinta & Ors (1972)1MLJ70FC. In this case Ong Hock Sim FJ had remark:*
>
> *The normal rule is that certiorari will not lie where there is an alternative remedy. (See Badat bin Drani v Tan Kheat where the applicant had failed to avail himself of the remedy of appealing to the High Court and Melayu Raya Press Limited v Blythe where the application was refused as the applicants had not exhausted their right of appeal.)*

19. An example of nowadays procedure to appeal under schedule 5 against the decision of the Special Commissioners can be seen in the case of **Infra Quest Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2015)1 LNS 738** whereby the Applicant applied for an application under paragraph 34 schedule 5 of the Income Tax against the decision of the Special Commissioners of Income Tax where a case stated had been forwarded to be heard by the High Court.

20. In the latest case of **Ketua Pengarah Hasil Dalam Negeri v Mudah.my Sdn Bhd (2017) 2 MLJ 197** at page 213 and 215, the Court of Appeal held as follows –

> *"(22) the principle that the court retained the power to judicially review the decision of a public authority, but where there was an alternative remedy of appeal, leave to bring judicial review proceedings would only be granted in* ***exceptional circumstances*** *would entail the necessity on the part of the respondent to show to our satisfaction the existence of such exceptional circumstances. The effect of the failure by the respondent to establish special circumstances necessarily followed that the legal precept that an alternative remedy was available and yet to be exhausted would therefore return to the forefront for consideration (Ta Wu Reality Sdn Bhd). The decision in Jagdish Singh thus laid down a lucid and authoritative guiding principles enunciated by none other than the highest court of the land which this court was bound to follow.*
>
> *Therefore, the principle remains a good law here that the way is open for this court to hold that the above case authorities should apply to the appeal before us especially when these authorities deal specifically in revenue matters where an alternative and specific remedy is expressly provided under* ***s 109H*** *of Act 53.* ***It is beyond question that this position is not an option but the law that ought to be complied with and applied to the instant application.***

21. In the case of **Robin Tan Pang Heng v. Ketua Pengarah Kesatuan Sekerja Malaysia & Anor (2010) 9 CLJ 505,** Federal Court at page 514 held that –

> *"(17) In our opinion the legislation by stipulating that the decision of the Minister is to be final is itself indicative that when there is already stipulated a second tier identified in the legislation,* ***courts are not authorized to interfere for the statutory right that has accrued is not purely formal***

but mandatory. In other words, the statutory right has to be exhausted.

(18) In filing this action, the appellant is seeking the court's intervention in what could be described as the intermediate stage."

(24) ...The court should not be influenced by the fact that the process by way of judicial review could be resorted to when Act 53 had provided for a specific remedy in the form of an appeal process under ***s 109H****, Chapter 2 of Part vi and Schedule 5 thereof. The Act has specifically provided comprehensive provisions on the right and procedure of appeal for the taxpayers to avail themselves to in the event they were aggrieved by the act of the appellant.* ***Parliament would not have enacted in vain without any real significance such comprehensive provisions on appeal. It is indeed an alternative remedy within the legislative scheme of income tax legislation that allows any person aggrieved by an assessment to appeal before a body which is dedicated specifically to hear such appeal. It would indeed be an exercise in futility to create such mechanism of appeal if it is not to be complied with."*** *(page 213-215).*

22. **Robert Cheah Foong Chiew v Lembaga Jurutera Malaysia (2005) 8 CLJ 613** at page 622 & 623, it was held that :

"The second ground raised by the Respondent is that the application is premature. I am in agreement with the Respondent. This is because the Respondent has not to date made any order for cancellation of the registration of the Applicant as an engineer under Section 15(1) of the Act. Thus, the Applicant's application for injunction would be in effect pre-empt or hinder the Respondent's right to exercise its statutory duties and power under section 15(1) and (2) of the Act."

"Thus, in the circumstances of this case, I am of the view that the general principles as laid down by the Court of Appeal in particular that the applicant's application to the court was premature, is still applicable till

today. It is premature for the applicant to resort to this application when the domestic remedy had not been completed. The Plaintiff must exhaust his domestic remedy before coming to this court.

23. **Cheah Foong Chiew v Lembaga Jurutera Malaysia (1999) 3 MLJ 110** at page 113, the Court of Appeal held that:

> *"Apart from the Respondent's power to decide on their jurisdiction, under s.20 of the said Act, there is a appeal process, where the Appellant can appeal to an Appeal Board chaired by a High Court Judge.* ***We are of the view that the Appellant's application to the court, in the circumstances of this case, is premature. We feel that it would be wrong for the courts to intervene at this stage as it would tantamount to restraining the Respondent from hearing the charge against the Appellant, and would pre-empt the Respondent's right under the law to adjudicate the matter.*** *We are of the view that the learned judge was right when he said it was premature for the court to injunct the Respondent n exercising their powers."*

24. Having considered the submission of the AGC, I now turn to the Second Respondent's objection which is more structured and expanded as it submitted on two points for the Court to consider, i.e. that the application for leave for judicial review is wrong in procedure; and tainted with illegality, irrationality and procedural impropriety.

25. I have been made to refer to Section 99 of the Income Tax Act 1967 which provides for the provisions on the appeals before the Special Commissioners of Income Tax by way of Form Q within 30 days after the service of the Notice of Assessment. It reads as follows –

"99. Right of Appeal

A person aggrieved by an assessment made in respect of him may appeal to the Special Commissioners against the assessment by giving to the Director General within thirty days after the service of the notice of assessment or, in the case of an appeal against an assessment made under section 92, within the first three months of the year of assessment following the year of assessment for which the assessment was made (or within such extended period as regards those days or months as may be allowed under section 100) a written notice of appeal in the prescribed form stating the grounds of appeal and containing such other particulars as may be required by that form."

26. This Court observed that the Second Respondent also referred to the case of Jagdish Singh and TA Wu in the guiding principle of leave application pertaining to the revenue matters when alternative remedy is available. Hence, it is reiterated that the Income Tax Act has specifically provided the avenue for an aggrieved Taxpayer to appeal against the Revenue's decision uexcept in a very exceptional case. The case on point is the 2016 case of **Ketua Pengarah Hasil Dalam Negeri v Bandar Nusajaya Development Sdn Bhd (2016) MSTC 30-117** had argued that issues in dispute involves question of law which are more suitable to be decided by way of judicial review. The Federal Court in allowing the Revenue's appeal and rejecting the Applicant's claim has stated that where there is available domestic remedy prescribed by the regulating Act, the domestic remedy must first be exhausted.

27. The Federal Court also decided in **Ketua Pengarah Hasil Dalam Negeri v Alcatel-Lucent (M) Sdn Bhd & Anor [2017] 1 MLJ 563** decided on the issue of domestic remedy whereby the Suriyadi Halim FCJ has commented at page 581 and 585: -

"[60] Had the respondents filed an appeal before the Special Commissioners, where the onus is on the respondents to establish their position, they will be accorded every opportunity to show where the appellant went wrong. The Respondents may request for attendance of

witnesses to give evidence on oath and request any witness to produce any books, papers or documents which is in his custody or his control necessary for the purpose of appeal. Therefore, before the Special Commissioners, the respondents will have all the opportunity to undo what the appellant determined (see Director-General of Inland Revenue v Lahad Datu Timber Sdn Bhd [1978] 1 MLJ 203).

[61] At the completion of the hearing of the appeal, the Special Commissioners shall give their decision in the form of an order known as a deciding order, and which in certain circumstances may be final. Either party to the proceedings before the Special Commissioners may appeal on a question of law against a deciding order, or may request the Special Commissioners to state a case (generally known as case stated) for the opinion of High Court. Any dissatisfied party may appeal only up to the Court of Appeal (Tio Chee Hing v United Overseas (Malaysia) Bhd (2013) 2 CLJ 910; Koperasi Jimat Cermat dan Pinjaman Keretapi Bhd v Kumar Gurusamy (2011) 3 CLJ 241; Ketua Pengarah Hasil Dalam Negeri v Syarikat Jasa Bumi (Woods) Sdn Bhd (Civil Application No. 8-31-99 (S) (Unreported)).

[62] By filing an appeal before the Special Commissioners the respondents would have had that opportunity to challenge the decision of the appellant as to whether the payments were indeed royalty...

[63] By circumventing the Special Commissioners from resolving these issues, and unwittingly leaving the deeming provision unrebutted, the first respondent's payments to the second respondent are thus income derived from Malaysia."

[81] The relevant question that must follow is did the appellant make an assessment i.e. carry out an official administrative act, when he ordered the first respondent to make payments of the withholding tax? Without a doubt the answer is in the affirmative. That being so, with the imposition of

the withholding tax being an assessment, it is thus subject to appeal to the Special Commissioners under section 99."

28. This Court has inclined to be agreeable to the AGC and the Second Respondent. After all, the doctrine of *stare decisis*, has made the decision of the Federal Court in rejecting the Taxpayer's claim as the domestic remedy available is not exhausted by the Taxpayer in the case of Bandar Nusajaya *(supra)* and Alcatel-Lucent *(supra)* be binding on this Court as well.

29. Nevertheless, consideration has also been drawn to the affidavit in support f the leave as well as the submission of the applicant and the submission in reply to the objections by both the AGC and the Second Respondent. The substance of the submission is on two main points, that the case before the SCIT was not properly and sufficiently heard which makes this judicial review should be allowed to interfere; and that there is nothing under the law that prohibits the judicial review filed even before the exhaust of local remedy. The Applicant had referred to the principle in **Metacorp Development v Ketua Pengarah Hasil Dalam Negeri [2011] 5 MLJ** as it was held that –

"It is settled law that the availability of an alternative internal remedy in the form of an appeal process would not bar an application for judicial review."

30. Applying the same principles in those above cases, despite the argument that there are certain decided cases which the Respondent are bound to follow before issuing notice of assessment, this High Court in the case of **Iskandar Coast Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2017) MLJU 1796** has made its decision that there are no exceptional circumstances for the court to allow the application. The dispute raised by the Applicant shall be dealt with by the Special Commissioners of Income Tax like any other appeals on assessment.

31. The Applicant in **Iskandar Coast (supra)** argued that the dispute involves question of law which are more suitable to be decided by way of judicial review. The question of law as contended by the Applicant involves the applicability of subsection 24(1) of the Act and the decision in the cases of *Lower Perak Co-Operative Housing Society Berhad v Ketua Pengarah Hasil Dalam Negeri [1994] 3 CLJ 540, Ketua Pengarah Hasil Dalam Negeri v Penang Realty Sdn Bhd [2006] 2 CLJ 835* and *Ketua Pengarah Hasil Dalam Negeri v Metacorp Development Sdn Bhd (2011) MSTC 30-024* relied by the Applicant that the gain from the compulsory acquisition of lands was not subjected to income tax on one hand and on the other hand, the decision in the case of *F. Housing Sdn Bhd (1976) 2 MLJ 18 and Metacorp Development,* relied by the Respondent that the Court of Appeal had agreed that compulsory acquisition of land did not fall under subsection 24(1) of the Act UNLESS the taxpayer when obtaining the said land had knowledge that it would be acquired by the government.

32. Nonetheless, it is nothing in the affidavit or submission that explain the exceptional circumstances of the Applicant's case that warrant the Court to exercise its discretion to allow this leave and divert from the trite principle of law as has been laid down in the previous discussion.

CONCLUSION

33. With this finding thereto, I decide to dismiss this application with no order as to costs.

Dated: 22nd March 2018

(KAMALUDIN BIN MD SAID)
JUDGE
HIGH COURT KUALA LUMPUR

SOLICITORS

Messrs. Jasbeer, Nur & Lee (Dato' Jasbeer Singh and Nur Hakimah) for the Applicant

Ahmad Ishak bin Mohd Hassan and Wan Hamdanie bte Wan Muhamad) for the Respondents

ACTS OF PARLIAMENT REFERRED TO

Schedule 5 paragraphs 34-42 of the Income Tax Act 1967

Section 33(1), 140(1) (c), 99 of the Income Tax Act 1967

CASES REFERRED TO

Association of Bank Officers, Peninsular Malaysia v Malayan Commercial Banks Association (1990) 3 MLJ 228

Tang Kwor Ham & Ors v. Pengurusan Danaharta Nasional Bhd & Ors (2006)1 CLJ 927

Bandar Utama Development Sdn Bhd & Anor v Lembaga Lebuhraya & Anor (1998)1 MLJ 224

Tuan Haji Sarip & Anor v Patco Malaysia Berhad (1995) 3 CLJ 627

Ahli-Ahli Suruhanjaya Yang Membentuk Suruhanjaya Siasatan Mengenai Rakaman Klip Video Yang Mengandungi Imej Seorang Yang Dikatakan Peguambela dan Peguamcara

Berbual Melalui Telefon Mengenai Urusan Pelantikan Hakim-Hakim vs Tun Dato' Seri Ahmad Fairuz bin Dato' Sheikh Abdul Halim (2012)1 CLJ 805

The Government of Malaysia & Anor v. Jagdis Singh (1987) 2 MLJ 185

Khoo Ah Imm v Datuk Bandar Kuala Lumpur & Anor (1997) 3 CLJ 519

Ta Wu Realty Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri & Anor (2008) 6 CLJ 235

Infra Quest Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2015)1 LNS 738

Ketua Pengarah Hasil Dalam Negeri v Mudah.my Sdn Bhd (2017) 2 MLJ 197

Robin Tan Pang Heng v. Ketua Pengarah Kesatuan Sekerja Malaysia & Anor (2010) 9 CLJ 505

Robert Cheah Foong Chiew v Lembaga Jurutera Malaysia (2005) 8 CLJ 613

Cheah Foong Chiew v Lembaga Jurutera Malaysia (1999) 3 MLJ 110

Ketua Pengarah Hasil Dalam Negeri v Bandar Nusajaya Development Sdn Bhd (2016) MSTC 30-117

Ketua Pengarah Hasil Dalam Negeri v Alcatel-Lucent (M) Sdn Bhd & Anor [2017] 1 MLJ 563

Metacorp Development v Ketua Pengarah Hasil Dalam Negeri [2011] 5 MLJ