




 Court of Appeal, Putrajaya

 Sept 22, 2020

 Legal Department, IRBM

## APPLICATION FOR LEAVE FOR JUDICIAL REVIEW DISMISSED

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### APSB V. KETUA PENGARAH HASIL DALAM NEGERI

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#### SALIENT FACTS

The Respondent conducted an investigation on the Appellant which led to additional assessments being raised for Year of Assessment 2015, 2016 and 2017 for under declared income by the Appellant. The Appellant had applied for leave to commence Judicial Review to quash the Respondent's decision in respect of the Notices of Assessments raised against the Appellant.

The High Court dismissed the Appellant's application and the Appellant therein appealed against the High Court's decision in not granting leave for Judicial Review.

#### JUDGES

Y.A Datuk Seri Kamaludin Bin  
Md Said, HMR

Y.A Datuk Hajjah Azizah Binti  
Haji Nawawi, HMR

Y.A Dato' Lee Heng Cheong,

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#### REVENUE COUNSELS

Dr. Hazlina Hussain  
Ashrina Ramzan Ali  
Kwan Huey Shin

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#### APPELLANT'S SUBMISSION

1. The Appellant contended that the Respondent had acted beyond its jurisdiction and had abused its powers under Section 140 of the Income Tax Act 1967 ('ITA') when there were no elements of fraud and tax evasion. The Appellant further contended that the Respondent had breached the principle of natural justice in failing to give particulars as required under Section 140(5) of the ITA to the Appellant.
2. The Appellant contended that these are exceptional circumstances and the threshold for leave for Judicial Review is very low. Thus the appeal should be allowed.

## RESPONDENT'S SUBMISSION

1. The Respondent argued that the Respondent's action was not beyond its jurisdiction nor was it in breach of natural justice. The Respondent did not invoke Section 140 of the ITA and had raised the said assessments under Section 91 of the ITA. Therefore, obligations under Section 140(5) of the ITA does not arise.
  2. The Respondent further argued that there are no exceptional circumstances established by the Appellant. Therefore, the Appellant should proceed with their appeal at the Special Commissioners of Income Tax as they are aggrieved by the assessments raised by the Respondent.
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## DECISION OF COURT

The Court of Appeal found that the appeal has no merits and the High Court Judge had not made any error in its judgment thus unanimously dismissed the appeal with costs awarded to the Respondent.