



LEAVE TO APPEAL AGAINST THE HIGH COURT'S DECISION ALLOWING BAR COUNCIL'S INTERVENTION GRANTED

📍 Court of Appeal at Putrajaya

📅 December 5, 2019

🏛️ Tax Litigation Division,
Legal Department of IRBM

JUDGES

YA Datuk Yaacob Haji Md Sam
YA Datuk Abdul Karim Abdul Jalil
YA Datuk Hanipah Farikullah

REVENUE COUNSELS

Ashrina Ramzan Ali
Kwan Huey Shin
Amir Syafiq Abdul Karim

KETUA PENGARAH HASIL DALAM NEGERI v BJT

BJT is a law practitioner who owns a law firm and carries on a business of giving legal services. Upon audit, KPHDN found that among others, BJT has failed to recognise the 'incidentals' billed to his clients under 'disbursements' in his invoices as income pursuant to Section 24 Income Tax Act 1967 ("ITA"). BJT has also claimed deductions for expenses on staff salary, EPF and SOCSO under Section 33(1) of the ITA. An Additional Assessment was raised for Year of Assessment 2009.

BJT appealed against the said Additional Assessment, the case was heard before the Special Commissioners of Income Tax ("SCIT") in August 2017, and the said appeal was dismissed. BJT appealed to the High Court.

Bar Council appeared at the High Court on the hearing date and made an Intervener's Application orally before parties started submitting on the case. The learned High Court judge directed Bar Council to put in a written application.

Bar Council had then put in an Intervener's Application subsequently and parties had exchanged affidavits regarding the said application. The High Court allowed the Intervener's Application on the basis that the Bar Council has direct interest and could assist the court to determine the issues in the appeal effectively and completely having regard to the fact that Bar Council is the regulator of legal profession.

KPHDN made an application seeking leave to appeal to the Court of Appeal against the High Court's decision of allowing the Bar Council's Intervention as the subject matter of the case was below RM 250,000.00. The Court of Appeal granted the leave to appeal and ruled that the judgment of the High Court having the effect of finality and thus appealable.