



📍 High Court, Ipoh
📅 January 15, 2021
🏛️ Legal Department, IRBM

HIGH COURT DISMISSED DUTY PAYER'S APPEAL ON IMPOSITION OF NEW RATE

MW PARK SDN BHD v. PEMUNGUT DUTI SETEM, LEMBAGA HASIL DALAM NEGERI MALAYSIA

JUDGE

YA Tuan Bhupindar Singh a/l
Gurcharan Singh Preet (JC)

COUNSEL FOR DGIR

Puan Normareza Mat Rejab
Puan Syazana Safiah Rozman

COUNSEL FOR THE APPELLANT

En Yunus Ali
Puan Yeoh Wen De
[Messrs. Yunus Ali & Kam]

Catchwords: ss.36(1) of the Stamp Act 1949 – rate of stamp duty – item 32(a) of the First Schedule of the Stamp Act 1949.

Effective from 1st January 2019, a new rate of stamp duty has been introduced for any instrument having a value above RM1,000,000.00 and chargeable to duty under item 32(a) of the First Schedule of the Stamp Act 1949. MW Park Sdn. Bhd. (the Duty Payer) had executed a Memorandum of Transfer (MOT) on 24.12.2018 and submitted the MOT for adjudication on 2.1.2019. The Collector of Stamp Duties applied the amended law and assessed the stamp duty based on the new rate. An appeal was filed under section 39 of the Act against the decision of the Collector.

The appeal had been heard by way of case stated and the issue revolves around the question whether the Collector ought to apply the law at the time the MOT was executed or when the MOT was submitted for adjudication.

The Duty Payer contended that based on s.12A(b) and (e) of the Act, the applicable rate must be based on either the date of execution of the Sale and Purchase Agreement or the MOT, which took place before the new rate came into force.

The Collector argued that in carrying out the assessment of 'duty' upon an application for adjudication under ss.36(1) of the Act, the Collector is obliged to assess based on the prevailing law at the time of the application as "duty" is defined as any stamp duty for the time being chargeable under the Act. Since the amendment of item 32(a) of the First Schedule of the Act came into force on 1.1.2019, the instrument is then rightfully assessed in accordance with the amended provision. Section 12A of the Act has no application as its purpose is simply to provide the relevant date in determining the market value of the property.

The High Court agreed with the decision of the Collector and the appeal was thus dismissed with costs.