



INCOME RECEIVED BY THE CLUB FROM A NON-MEMBER IS NOT EXEMPTED

THE NEW CLUB TAIPING

v.

DIRECTOR GENERAL OF INLAND REVENUE



High Court, Kuala Lumpur



May 31, 2021



Legal Department, IRBM

JUDGE

Dato' Ahmad Kamal Bin Md
Shahid

COUNSEL FOR DGIR

Ashrina Ramzan Ali
Kwan Huey Shin

COUNSEL FOR APPELLANT

S. Saravana Kumar
Brandon Chee Ken Wei

*[Messrs. Rosli Dahlan Saravana
Partnership]*

Keywords: Club- income- whether exempted from tax - Section 53A (2) Income Tax Act 1967

The High Court on 31.5.2021 decided that monthly payments received by the Appellant from appointed company is not exempted from tax under Section 53A (2) ACP 1967.

The Appellant is a recreational club registered with the Registrar of Societies. The Appellant has license to operate slot machines on the Appellant's premise and the slot machines are solely accessible to the Appellant's members.

A Principal Agreement and Supplementary Agreement gave the appointed company right to operate and manage Appellant's slot machines. Guaranteed monthly payments with increase percentage within a period was agreed by both parties. In event license be given for more slot machines, additional fees to be paid by the appointed company to the Appellant.

Excess profits after the guaranteed income payments to the Appellant belongs to the appointed company. Any shortfall on the monthly income from the slot machine, the difference to the guaranteed sum shall be paid by the appointed company. The Appellant agreed that the gross taking from the slot machines belongs to the appointed company.

The SCIT found based on the terms of the agreements, the monies received by the appointed company from the slot machines belongs to the appointed company exclusively.

The SCIT found that the monthly payments received by the Appellant from the appointed company [not from member of the club] and therein the said income is not exempted from tax under Section 53A (2) ACP 1967.

High Court therein dismissed the Appellant's appeal.

