

# MIT WORKSHOP



Malaysian Institute Of Taxation  
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The Premier Body For Tax Professionals

## A Critique of Recent Tax Cases

### Date

7 April 2009  
29 April 2009  
5 May 2009  
12 May 2009  
17 June 2009  
18 June 2009

### Venue

Impiana Casuarina Hotel, Ipoh  
Bayview Hotel, Penang  
Legacy Hotel, Malacca  
Mutiara Hotel, Johor Bahru  
Hyatt Regency Hotel, Kota Kinabalu  
Holiday Inn Hotel, Kuching

### Time

9.00 am - 5.00 pm

## Course Contents

### OPD Sdn Bhd v KPHDN (Rayuan PKCP 53/2006)

- Recognition of income based on accounting principles
- Is good faith a defence to set aside penalty imposed under s.113(2) of the ITA 1967?
- Can a taxpayer appeal against his own tax return?
- Can a taxpayer appeal against the IRB's decision to adjust carried forward losses?

### Aspac Lubricants (M) Sdn Bhd v KPHDN (2007) MSTC 4,271

- What amounts to entertainment expenses?
- Sales promotion expenses- is it deductible under s.33(1) of the ITA 1967?

### DD Dev. Sdn Bhd v KPHDN (2008) MSTC 3,726

- Whether the IRB can act contrary to its own Guidelines
- Whether the taxpayer's method of recognising income is acceptable?
- Whether the IRB can raise an assessment that is statute barred?

### KPHDN v Penang Realty Sdn Bhd (2006) MSTC 4,256

- Whether compensation for compulsorily acquired land is taxable?
- An analysis of the Decision Impact Statement issued by the IRB

### Kerajaan Malaysia v Kemayan Bina Sdn Bhd (2008) MSTC 4,334

- Introduction as to how the IRB recovers unpaid taxes
- When does the presumption of service under s.145(2) of the ITA 1967 applies?
- Whether a notice of assessment without the "next page" stating where the tax is payable, right of appeal etc is valid?

### TS Sdn Bhd v KPHDN (2008) MSTC 3,707

- Examining the scope of s.4A(ii) of the ITA 1967
- Whether "handling and receiving" charges are subject to withholding tax?
- Does s.4A(ii) of the ITA 1967 cover non-technical services?

### PR Sdn Bhd v KPHDN (2008) MSTC 3,716

- Whether the taxpayer was investing or trading in land?
- Whether the gains are subject to income tax or RPGT?
- Understanding how the Courts apply the badges of trade

## Speaker

**S. Saravana Kumar** is a tax lawyer with Lee Hishammuddin Allen & Gledhill. He holds an LL.B(Honours) from the University of London, LL.M in Taxation from the London School of Economics and M.Sc in Development Administration from University College London. He was called and admitted to the English Bar in 2006 as a Barrister-at-Law.

Saravana has appeared before the Special Commissioners of Income Tax and the High Court for various tax and custom matters. Among others, he has represented taxpayers in recent cases like OPD Sdn Bhd v KPHDN, OS Sdn Bhd v KPHDN, S Hotel Sdn Bhd v KPHDN, CB Sdn Bhd v KPHDN and B Development Sdn Bhd v KPHDN and LS(M) v Ketua Pengarah Kastam. Besides tax litigation, he also advises multinational and local enterprises on tax advisory and tax planning matters. He is the Secretary of the Bar Council's Tax Practice Sub-Committee and a member of the Malaysian Institute of Taxation's Publications Committee.



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### About The Organiser

MIT was incorporated on October 1, 1991 as a company limited by guarantee. Currently, MIT is governed by its Council of 16 elected representatives, which delegates much of its detailed work to working committees.

Its mission statement is to be the premier body providing effective institutional support to members and promoting convergence of interests with government, using taxation as a tool for the nation's economic advancement; and to attain the highest standard of technical and professional competency in revenue law and practice supported by an effective secretariat.

### Important Notes



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