
TECHNICAL

Indirect Taxation

TAX CASE UPDATE - CWH v PEMUNGUT DUTI SETEM

The following tax case has been uploaded on the website of the Inland Revenue Board of Malaysia (LHDNM):

No.	Case Title	Matters deliberated by the court
1.	CWH (<i>appellant</i>) v Pemungut Duti Setem (<i>respondent</i>) Court of Appeal Date of Judgment: 16 July 2019	<ul style="list-style-type: none">• The issue on merit is whether the stamp duty for the Memorandum of Transfers should be assessed for <i>ad valorem</i> stamp duty under Item 66(c) of the First Schedule of the Stamp Act 1949 or nominal stamp duty under Item 32(e) of the First Schedule of the Stamp Act 1949.• There is no value attached to the issue in this case.• Respondent argues that the Appeal filed by the Appellant in this case is incompetent because the subject matter of the appeal is the stamp duty charged by the Respondent vide Notices of Assessment amounting to RM18,860.05 which is less than RM250,000.00. Therefore, the Appellant should obtain leave to appeal from this Court in accordance with Section 68 (1) (a) of the Courts of Judicature Act 1964.• Even though the Court of Appeal Practice Direction No.1 Year 2017 exempts the application for the declaration from obtaining leave to appeal, but it applies only to matters of appeals which have no value attached or where the value cannot be quantified. Thus, the failure of the Appellant to obtain leave to appeal before filing the Notice of Appeal is fatal.• Respondent's preliminary objection was upheld and the appeal was dismissed with a cost of RM5,000.00.

Members may read the full Case Report at the websites of the [Institute](#) and the [LHDNM](#).

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