

**IN THE COURT OF APPEAL IN PUTRAJAYA**

**(APPELLATE JURISDICTION)**

**CIVIL APPEAL NO: W-01-448-10/2012**

**SRI BINARAYA SDN BHD**

**... APPELLANT**

**AND**

**KETUA PENGARAH HASIL DALAM NEGERI**

**... RESPONDENT**

*Revenue Law – Property Development & Construction Contracts – Certificate of Practical Completion – actual profit for contracts – final accounts – Section 24 of the Income Tax Act 1967 - Imposition of penalty - Section 113(2) of the Income Tax Act 1967*

Issues :

- (a) Whether the Inland Revenue Board’s Public Ruling No. 3/2006 on Property Development & Construction Contracts issued on 13.03.2006 has retrospective effect;
- (b) 3 contracts completed in 2003. Whether the Respondent is correct to direct the Appellant to prepare final account of year of assessment 2003;
- (c) Whether contractual sum recognized at the conditional and/or sectional Certificate of Practical Completion that will tantamount to Certificate of Practical Completion (“CPC”); and
- (d) Whether the penalty imposed under section 113(2) of Income Tax Act 1967 is correct in law.

Decision : The Appellant’s appeal dismissed.

The Special Commissioners of Income Tax (“SCIT”) findings maintained. The additional assessment raised by the Respondent against the taxpayer was couched upon the wide spirit of section 24 of the Act and there is no issue of retrospective effect of the Public Ruling 3/2006. Conditional or sectional certificate of Practical Completion would amount to a Certificate of Practical

Completion. The date stated in Certificate of Practical Completion is the cut-off date for the taxpayer to prepare the final accounts in order to recognize the taxpayer income in the basis year of 2003.

Section 113(2) of Income Tax Act 1967 gives a discretion to the Respondent to impose a penalty on a person who has failed to observe the requirements of the law as provided in paragraph 2(a) or (b) of section 113.

Status : The High Court's decision upheld by Court of Appeal. No Grounds of Judgment available at Court of Appeal.

Date of Judgment : 03.9.2013