

IN THE COURT OF APPEAL IN PUTRAJAYA

(APPELLATE JURISDICTION)

CIVIL APPEAL NO: W – 01 – 712 – 12 /2011

SYARIKAT PUKIN LADANG KELAPA SAWIT SDN BHD

... APPELLANT

AND

KETUA PENGARAH HASIL DALAM NEGERI

... RESPONDENT

*Revenue Law – Income Tax – Deduction – Whether advance rental paid under lease agreement of 60 years were expenses deductible – Pre-conditions for deductibility – Section 33 Income Tax Act 1967– Section 113(2) Income Tax Act 1967*

Issues : i) Whether advance rental paid in accordance with the lease agreement which had in fact been paid, are expenses deductible under s 33(1)(b) or capital expenses under s 39 of ITA 1967;

ii) Whether in restricting the allowance for deductible rental to be based on annual rental basis, was SCIT unnecessarily restricting the meaning of word “rental” in s 33(1)(b) to exclude advanced rental; and

iii) Whether penalty under section 113(2) ITA was correctly imposed

Decision : i) The Appellant’s appeal dismissed.

S 33(1)(b) of the ITA 1967 recognize *rental payable* not as provided under the lease agreement but it must be based on calculation of rental ought to have been incurred in the basis year based on the principle of *expenses wholly and exclusively incurred for the production of gross income in the basis year*, thus in coming to its decision that only annual rental is to be recognized under s 33(1)(b) of the SCIT is therefore right in excluding advanced rental.

ii) The SCIT, however, had wrongly made a finding that the advance rental of RM18,000,000 cannot be recognized

under s33 on the ground that it is capital expenses under s39 of the ITA. From the lease agreement it is clear that the amount of RM18,000,000 is not capital expenses but merely advance rental;

- iii) The penalty imposed on the appellant was correctly made, no misapplication of law or facts that merits interference by this court.

Status : No grounds of judgment provided by the Court of Appeal. No right of further appeal.

Date of Judgment : 19.7.2013