

# Taxpayer Succeeded in a Judicial Review Application Instituted against the Director General of Customs & Excise (“Customs”), in a Challenge against Customs’ Refusal to Recognise GST exemption for Designated Areas

In the recent case of **Lam Ah Company Sdn Bhd (“taxpayer”) v Director General of Customs and Excise**, the taxpayer succeeded in its judicial review application challenging Customs’ refusal to give effect to the exemption under section 155 of the **Goods and Services Tax Act 2014 (“GST Act”)**, which exempted, among others, taxable supplies of goods or services made within a “*designated area*” (i.e. Labuan, Langkawi and Tioman) from goods and services tax (“GST”).

Customs had purported to impose the condition that the taxpayer must have a “*fixed establishment*” in the designated area, in order to qualify for the said exemption, and on that purported basis, had refused to give effect to the section 155 exemption even though the taxpayer had in fact made supplies within a designated area at the material time. Bills of demand were raised upon the taxpayer for failure to account for the GST (output tax) (“DG’s Decision”).

The High Court ruled in favour of the taxpayer and held that the taxpayer was entitled to the exemption under Section 155 of the GST Act. The Court held, among other things, that Customs’ “fixed establishment” condition was an extraneous

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condition that was not contained in Section 155 and cannot be used to deny the taxpayer of the benefit of the exemption. The High Court also held that Customs' guides, upon which Customs had relied upon to impose and define a "fixed establishment", had no force of law and were not binding upon the taxpayer.

This is a landmark decision on the novel issue of GST treatment on taxable supplies made in designated areas, i.e., Langkawi, Labuan and Tioman, and is relevant for transactions involving the designated areas.

The taxpayer was represented in this matter by [Irene Yong](#) (Partner), [Yeoh Yu Xian](#) (Associate) and [Thivagar Paramasivam](#) (Associate), from our [Tax & Revenue Practice Group](#).

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