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## Court of Appeal upholds High Court decision

### CORPORATE

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**PETALING JAYA:** The Court of Appeal has upheld the High Court's decision two years ago to dismiss the Inland Revenue Board's (IRB) claim of taxes totalling RM1.8bil against Tenaga Nasional Bhd (TNB).

This represents the largest corporate tax dispute in the country's history.

The issue arose when TNB sought to challenge the IRB's decision made on July 13, 2020 to impose on it an additional assessment of RM1.8bil. The IRB had rejected TNB's argument that it was a claim for reinvestment allowance (RA).

The IRB contended that the utility giant is not entitled to the RA, granted to manufacturing companies, as it is not a manufacturer but a service provider.

The High Court's ruling in 2022, in favour of TNB, was of the view that TNB's business of producing electrical power is a manufacturing activity. Following this, a three-member Court of Appeal bench yesterday upheld the High Court's decision and ruled the High Court was right in allowing the

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S Saravana Kumar

judicial review sought by TNB.

The power utility was represented by S Saravana Kumar and Amira Azhar from Rosli Dahlan Saravana Partnership.

Meanwhile, senior revenue counsels Ashrina Ramzan Ali and Surani Che Ismail represented the director general of the IRB.

Saravana, a tax lawyer with the law firm Rosli Dahlan Saravana Partnership, told *StarBiz* the legal precedent set by this case is that the IRB cannot apply tax laws narrowly.

“The legislation regarding tax incentives

must be construed liberally. Parliament's intention in enacting these laws was to facilitate the claiming of incentives. Therefore, the IRB must adhere to this principle and should not act contrary to it.

“My overall perspective of the case is that the IRB has adopted a narrow interpretation of the law. However, pursuing the matter in court underscores the principle that taxpayers have the right to appeal.

“This case serves as a demonstration of the recognition of this fundamental right within the legal framework,” he said.

Saravana said the possibility of the case advancing to the Federal Court is uncertain as the IRB has a 30-day window to petition for leave subsequent to the Court of Appeal's ruling.

For context, when a party wants to appeal to the Federal Court, they need to seek leave from the Federal Court, which means they're asking for permission to proceed with the appeal. The IRB has 30 days to apply for leave. This process allows the court to review whether there are valid grounds for an appeal before allowing it to proceed.

“It is likely that the IRB will appeal the case as the disputed amount is big and this is a test case,” he said.