



Dato' Nitin Nadkarni  
Partner  
**Tax, SST & Customs**  
T: +603 6208 5866  
E: [nn@lh-ag.com](mailto:nn@lh-ag.com)



Jason Tan Jia Xin  
Partner  
**Tax, SST & Customs**  
T: +603 6208 5873  
E: [tjx@lh-ag.com](mailto:tjx@lh-ag.com)



Chris Toh Pei Roo  
Associate  
**Tax, SST & Customs**  
T: +603 6208 5945  
E: [tpr@lh-ag.com](mailto:tpr@lh-ag.com)

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## CA Confirms Applicability of *De Minimis* Rule in Tax Cases and Duty of Tax Authorities to Give Reasons

*Club Twenty-One Retail (Malaysia) Sdn Bhd v Ketua Pengarah Kastam*

On 4 May 2021, the Court of Appeal (**CA**) unanimously allowed the taxpayer's appeal and ordered the Director-General of Customs (**Customs**) to refund the sales tax claimed by the taxpayer in its special refund application under the Goods and Services Tax Act 2014.

This decision is noteworthy for:

### (a) The duty to give reasons

Continuing the commendable trend of the courts requiring public decision-making bodies to give reasons for the exercise of discretionary powers: see earlier decisions in *Ketua Pengarah Hasil Dalam Negeri v Classic Japan (M) Sdn Bhd & another appeal* (2021) MSTC 30-450 (see our [LHAG Insights dated 10 February 2021](#)); *Uniqlo (Malaysia) Sdn Bhd v Ketua Pengarah Kastam dan Eksais* [2020] 9 CLJ 521 (see our [LHAG Insights dated 27 January 2021](#)); and *Perbadanan Pengurusan Trellises & Ors v Datuk Bandar Kuala Lumpur & Ors* [2021] 2 CLJ 808 (see our [LHAG Insights dated 26 February 2021](#)).

### (b) The *de minimis* principle in tax cases

Confirming the applicability of the *de minimis* principle in tax cases despite the strenuous objection by Customs. The court agreed that trivial errors found in the taxpayer's claim could not be used as a basis to reject the entire claim for special refund, as this would accord with Parliament's

intention to avoid double taxation in the form of both sales tax and GST.

The full grounds of judgment from the CA are eagerly anticipated so as to provide the necessary clarity and guidance on the applicability of the *de minimis* principle.

The taxpayer was successfully represented by Dato' Nitin Nadkarni, Jason Tan Jia Xin and Chris Toh Pei Roo from [Lee Hishammuddin Allen & Gledhill](#)'s Tax, SST & Customs Practice.

Chris Toh Pei Roo ([tpr@lh-ag.com](mailto:tpr@lh-ag.com))

If you have any queries pertaining to tax assessments or bills of demand which have been raised by the tax authorities, please contact the author or team partners, [Dato' Nitin Nadkarni](#) and [Jason Tan Jia Xin](#), at [tax@lh-ag.com](mailto:tax@lh-ag.com)

**Lee Hishammuddin Allen & Gledhill**

Level 6, Menara 1 Dutamas  
Solaris Dutamas  
No. 1, Jalan Dutamas 1  
50480 Kuala Lumpur  
Malaysia

T +603 6208 5888  
F +603 6201 0122/0136  
E [enquiry@lh-ag.com](mailto:enquiry@lh-ag.com)  
W [www.lh-ag.com](http://www.lh-ag.com)

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