

NAJIB AND SON'S TAX APPEAL TO BE HEARD ON SEPT 9

NST
-12/8/2021
pg. 12

Date fixed after duo fail in attempt to refer constitutional issues to Federal Court

KHAIRAH N. KARIM
PUTRAJAYA
news@nst.com.my



Datuk Seri Najib Razak



Datuk Mohd Nazifuddin Najib

DATUK Seri Najib Razak and his son Datuk Mohd Nazifuddin's appeal over taxes they owe the Inland Revenue Board (IRB) will be heard on Sept 9.

The date was fixed after a three-man Court of Appeal bench dismissed the duo's application to refer constitutional issues in their appeals to the Federal Court.

The matter was originally fixed for hearing yesterday.

The former prime minister and his son are appealing to quash the High Court's summary judgment against them in the IRB's tax suit to recover RM1.69 billion and RM37.6 million in unpaid taxes and penalties.

Earlier, lawyer Tan Sri Muhammad Shafee Abdullah, who represented Najib and Nazifuddin, argued that the matter should be referred to the Federal Court be-

cause it involves important issues for the top court to decide on.

Shafee said the argument here would be that Section 106(3) of the Income Tax Act 1967 is contrary to Article 121 of the Federal Constitution.

Section 106(3) provides that the courts cannot entertain any plea when it is argued that the amount of tax sought to be recovered is an excessive one, incorrectly assessed, under appeal or incorrectly increased while Article 121 deals with the judicial power of the federation.

"This court has got the power to make a reference of these extremely important constitutional issues directly to the Federal Court," Shafee said.

However, senior revenue counsel Hazlina Hussain, who appeared for IRB, said that in a different appeal case, the Federal

Court had decided that Section 106 is valid and it was properly enacted by Parliament.

"The Court of Appeal has the jurisdiction to hear the appeal. Our position is that this court is a correct forum to decide on the issues," she said.

In his decision, judge Datuk Abdul Karim Abdul Jalil, who chaired the panel, said he was not in agreement with Shafee to have the Federal Court hear constitutional issues in relation to the appeals.

The court, however, postponed the hearing of the appeals proper to Sept 9 for the counsel representing Najib and Nazifuddin to further submit on the validity of Section 106.

Judges Datuk Vazeer Alam Mydin Meera and Datuk Supang Lian also presided in the proceedings, which was conducted via Zoom.

Najib and Nazifuddin were also represented by counsel Muhammad Farhan Shafee, Wee Yeong Kang, Mohamed Reza Rahim and Hannah Kam Zhen Yi, while revenue counsel Norhisham Ahmad and Hummidallah Idrus also appeared for the IRB.

On July 22 last year, the High Court allowed the IRB's application for a summary judgment to be entered against Najib in its suit to recover RM1.69 billion in taxes from the latter for the period between 2011 and 2017.

Najib was ordered to pay the sum.

The government, through IRB, filed the suit against Najib on June 25, 2019, asking him to settle the unpaid tax with interest at five per cent per annum from the date of judgment, as well as costs and other relief deemed fit by the court.

On July 6 last year, the High Court had ordered Nazifuddin, 38, to pay RM37,644,810.73 in unpaid taxes to the IRB.

This was after a summary judgment order was entered in the IRB's tax arrears suit seeking to recoup the unpaid amount from Nazifuddin between 2011 and 2017.

The suit was filed against him on July 24 last year.

On Feb 4, the board issued bankruptcy notices against the Pekan member of parliament and his son following their failure to pay the sum.