

NAJIB, SON ALLOWED TO DEFER PAYMENTS

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A three-man bench allows application on grounds that there were special circumstances

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

THE Court of Appeal has allowed a temporary stay of a judgment, which ordered Datuk Seri Najib Razak and his son Datuk Mohd Nazifuddin to pay RM1.69 billion and RM37.6 million respectively in tax arrears.

A three-man bench led by Datuk Azizah Nawawi unanimously allowed the father and son's application on grounds that there were special circumstances for a stay pending the hearing of their bid for leave to appeal in the Federal Court.

"We find that there are special circumstances that warrant us to exercise our discretion to allow

an interim stay of the execution of summary judgment in both applications until the hearing of the leave application in the Federal Court," the judge said.

Judges Datuk M. Gunalan and Datuk Che Ruzima Ghazali also presided in the proceedings, which were conducted via Zoom.

The High Court, earlier this year dismissed Najib and his son's bid to stay the summary judgment order obtained by the Inland Revenue Board (IRB) against them.

The IRB on Feb 4, issued bankruptcy notices against the duo following their failure to pay the sums.

Earlier, during submissions lawyer Tan Sri Muhammad Shafee Abdullah, who represented Najib and Nazifuddin, argued that there were special circumstances for a stay to be granted.

He said there would be a trail of irreparable repercussions, such as Najib losing his position as a



Datuk Mohd Nazifuddin Najib

Member of Parliament (MP) and would no longer be able to contest in any elections if he were declared a bankrupt.

He also argued that there was bad faith conducted on part of the government to declare Najib bankrupt as there were clear errors in the additional assessments.

He claimed the IRB had maliciously

calculated as income the donations his client received from the late King Abdullah from Saudi Arabia, which had been refunded, the interbank transfers within Najib's bank accounts and cancelled cheques, among others.

"This is rather a mala fide (bad faith) eagerness to declare my client bankrupt despite the obvious deformity of assessment," he said.

Shafee said Nazifuddin had been negotiating to settle the certain amount due and had paid RM30,000 in spite of his protest against the summary judgment

order.

On the other hand, he said Najib was fighting against the order as none of the latter's tax were due, not a single cent.

"The accounting itself is totally flawed," Shafee added.

Meanwhile, senior revenue counsel Dr Hazlina Hussain, who acted for IRB in objecting the stay application, said the

reasons stated by the lawyer were not special circumstances which warranted a stay.

She said the allegation that the board had acted in bad faith in the recovery action was unfounded.

On the contention involving the assessment, Hazlina said the matter must be decided by the Special Commissioner of Income Tax as it involved the merits of the assessment.

On July 22 last year, the High Court allowed the IRB's application for a summary judgment to be entered against Najib, 68, in its



Datuk Seri Najib Razak

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 a year 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 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 MP and his son following their failure to pay the sums.