



# Property Tax on a Building with a Network

In *Chief Assessor & Anor v First DCS Pte Ltd* (2007), the Court of Appeal had to consider the proper method of assessing property tax on a building that housed a plant providing chilled water to various buildings for air-conditioning in the Changi Business Park.

The building in question pipes chilled water along a network of pipelines that extend two kilometres out from the plant. It also cools the water before it is piped out. If the network of chilled water pipelines were to be taken into account in the assessment of property tax, the land would incur a property tax of some S\$3.5 million. If it were to be excluded, property tax would be S\$2 million less.

This update looks at the Court of Appeal's decision.

## The Issue before the Court

*Exclusion for enhancements due to certain machinery*

Under section 2(2) of the Property Tax Act, when assessing a premise's annual value, the enhancement in value arising from the presence or installation of certain types of machinery on the premises must be ignored if the machinery falls into one of the following categories:

- machinery to make articles;
- machinery to alter, repair, ornament or finish articles; or
- machinery to adapt articles for sale.

*Chilling water is to adapt or alter it*

Among the arguments made by the taxpayer were that the plant should be considered to be either machinery to alter an article or machinery to adapt an article. In this case, the article adapted or altered was water, and the adaptation or alteration was the chilling of the water. Accordingly, the enhancement in value arising from the presence of the plant on the land should be ignored.

## The Court of Appeal's Concern

*Should pipelines be included as integral to the plant?*

At the High Court, these arguments were accepted. The Chief Assessor appealed to the Court of Appeal, on the grounds that the pipelines should be regarded as integral to the building. Without this

**CaseWatch**

November 2007



network, the plant would be useless.

*Such an argument would catch internet or cable networks*

The Court of Appeal's concern was whether such an argument would mean that, by analogy, all companies which had wires and networks connecting them to other buildings (for example, internet service providers or cable television service providers) would be required to pay property tax on this network. It preferred instead the taxpayer's arguments, and dismissed the appeal.

### **Analysis of Section 2(2) by the High Court**

*Section's purpose is to encourage investments in plant and machinery*

The Court of Appeal also endorsed the reasoning of the High Court, and it is accordingly useful to briefly set it out:

- The High Court noted that the likely purpose of the exclusion was to encourage investments in plant and machinery for manufacturing, processing, and other industrial purposes. Accordingly, it should draw a distinction between machines used for such purposes and those that were not.
- The ordinary meaning of the term "alter" was simply "to make otherwise or different in some respect". This was very wide and could clearly cover changing warm water to cold water.
- The chilling of water clearly qualified as "adapting", and by analogy with the District Cooling Act which defined a district cooling service as "the sale of coolant for space cooling", the chilled water was sold for the purposes of cooling. This construction also accorded with the purpose behind the provision.

*This analysis will apply to other situations*

This analysis by the High Court of section 2(2) of the Property Tax Act will provide useful guidance for its application to other cases of machinery affixed to land.

WongPartnership acted for the taxpayer in this matter.

### **WongPartnership's Tax Practice**

WongPartnership's Tax Practice meets a growing need for tax advice requested by clients. The Practice is unique, as it comprises practitioners who are qualified not only in law but also in accounting

**CaseWatch**

November 2007



and valuation, and whose wide experience covers transactional, advisory and contentious tax matters.

A leading legal advisor in transactional and advisory services and tax advocacy, the Firm's Tax Practice is ranked Tier 1 in international directories such as *The Asia Pacific Legal 500* (2006/2007), as well as the forthcoming *Tax Directors Handbook 2008*.

If you would like information on this or any other area relating to revenue and tax, you may wish to contact the lawyer at WongPartnership that you normally deal with or contact the following partners from the Tax Practice:

**TAN KAY KHENG**

DID: +65 6416 8102

Email:

[kaykheng.tan@wongpartnership.com.sg](mailto:kaykheng.tan@wongpartnership.com.sg)[Click here to see Kay Kheng's CV.](#)**LEUNG YEW KWONG**

DID: +65 6416 6868

Email:

[yewkwong.leung@wongpartnership.com.sg](mailto:yewkwong.leung@wongpartnership.com.sg)[Click here to see Yew Kwong's CV.](#)