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MALAYSIA BUDGET TAX SEMINAR 2027

Date: 4th November 2026 | *Time:* 8.00am - 5.30pm | *Venue:* Royale Chulan Damansara

SPEAKER SESSION 5

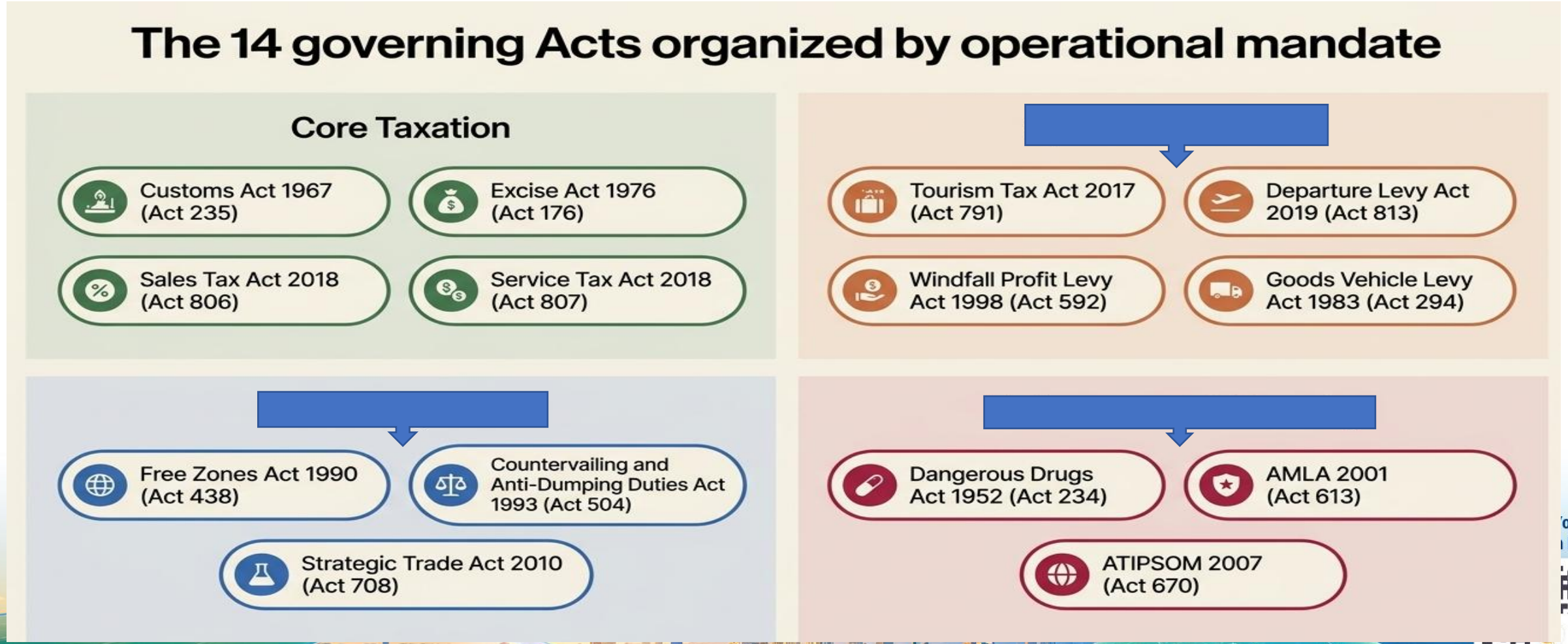
CUSTOM DISPUTE AND LITIGATION CASES



PUAN ASMAH IBRAHIM

Deputy Director of Customs (Prosecution and Appeals Branch, Enforcement Division),
Royal Malaysian Customs Department (RMCD)

LAWS UNDER RMCD ADMINISTRATION



DECISIONS OR MATTERS LEAD TO DISPUTES

- ✓Bill of Demand (BOD)
- ✓Refund
- ✓Drawback
- ✓Renewal of Licence (warehouse, ciggaretes)
- ✓Customs Ruling (classification- tariff code, taxable service)
- ✓Remission of Penalty



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“

Any person who is directly affected by a decision or omission of the Customs, shall have a right of appeal.”

– The Revised Kyoto Convention



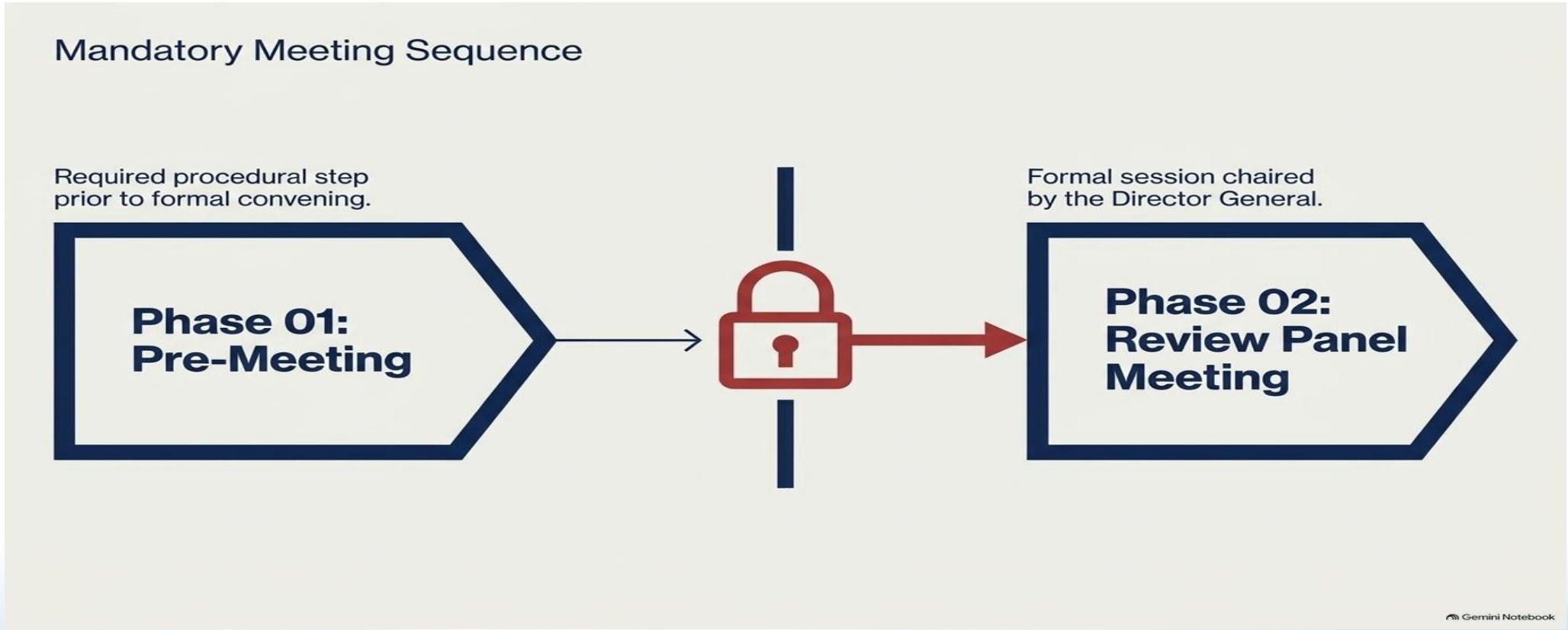
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THE APPEAL PROCESS



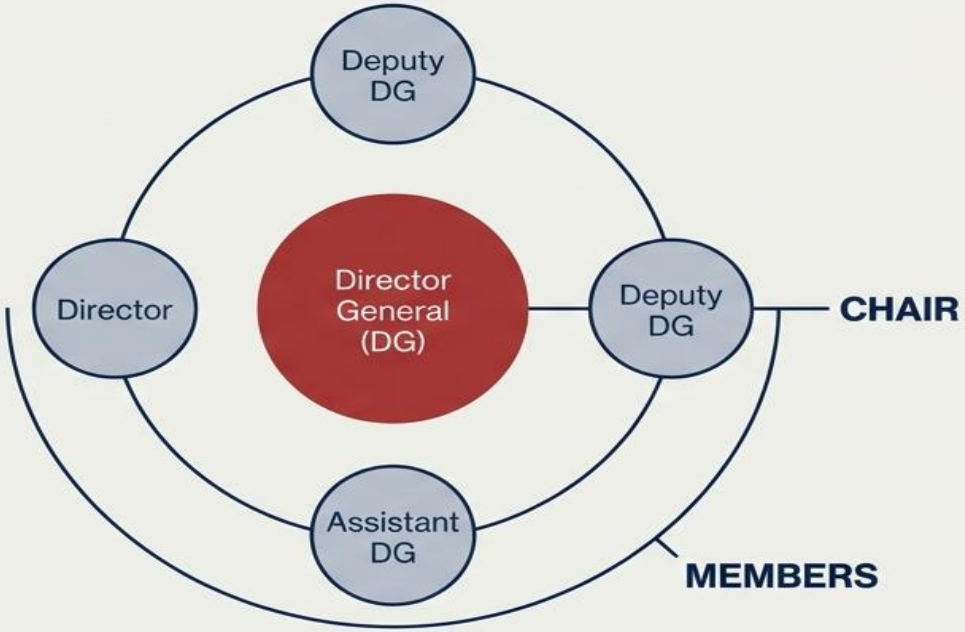
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REVIEW PROCESS



REVIEW PANEL MEETING

Executive Topology of the Review Panel



Panel Designation	Executive Title	Headcount
Chair	Director General (DG)	1
Member	Deputy DG	2
Member	Assistant DG	1
Member	Director	1

Total Panel Size: 5

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PROVISION UNDER THE CUSTOMS ACT 1967

143. (1) Subject to subsection (4), any person aggrieved by any decision of the DG may apply to the DG to review any of his decision within 30 days from the date the person has been notified of such decision provided that no appeal has been made on the same decision to the Tribunal or High Court.

(2) An application under subsection (1) shall be made in the prescribed form.

(3) Where an application for review has been made under subsection (1), the DG shall, where practicable within 60 days from the date of the receipt of such application, carry out the review and notify the decision of the review to the person.



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(4) No review may be made in any matter relating to compound or subsection 128(3A).

(5) Any person aggrieved by any decision of the DG under subsection (3) or any other provision of this Act, except any matter relating to compound or subsection 128(3A), may appeal to the Tribunal within 30 days from the date of notification in writing of the decision to the aggrieved person.

(6) Any customs duty payable under this Act shall be paid on the due date notwithstanding that any review or appeal has been made under this section.



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APPLICATION FOR REVIEW

http://esemakan.customs.gov.my/



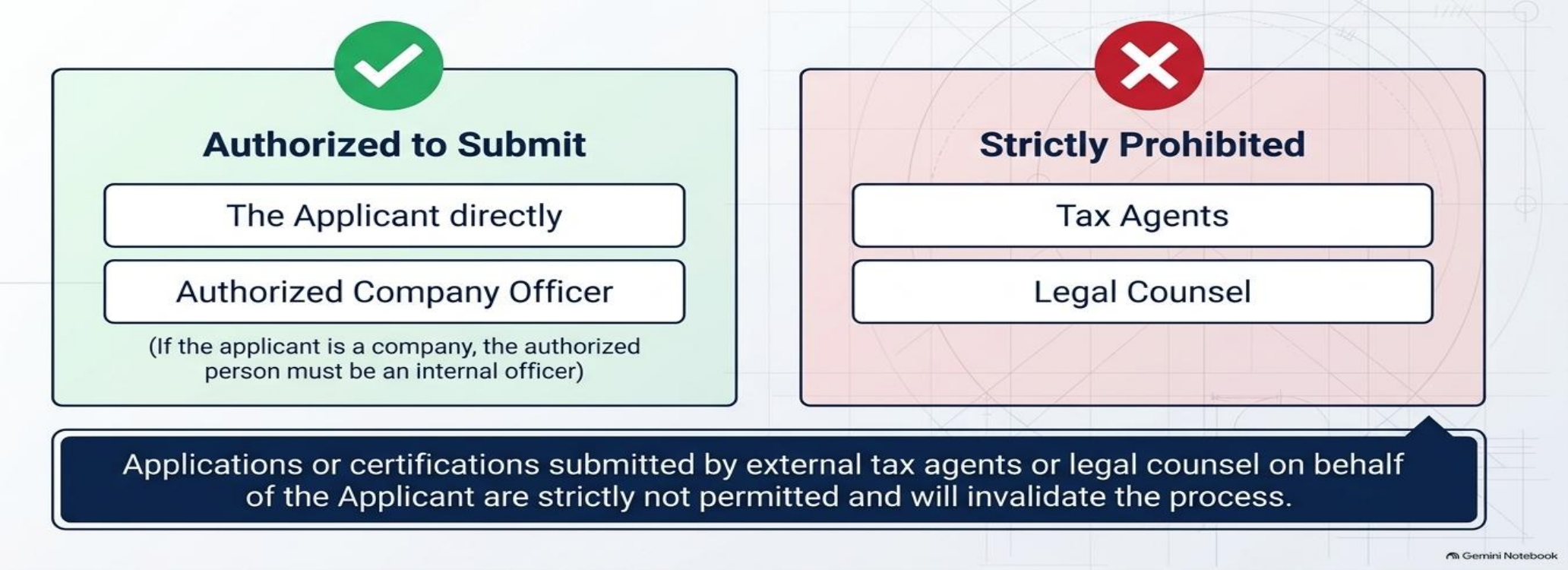
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The application will not be processed under any of the following

- Submitted after the 30-day period from the date of notification.
- The same DG decision has already been appealed to the Ministry of Finance, the Tribunal, or the High Court.
- A review decision has already been made and delivered to the applicant.
- The matter involves a decision regarding a compound.
- The matter is currently under active investigation.
- The matter involves a bill of demand for which payment has not yet been made.

Gemini Note

REVIEW APPLICATION



DECISIONS OF REVIEW PANEL

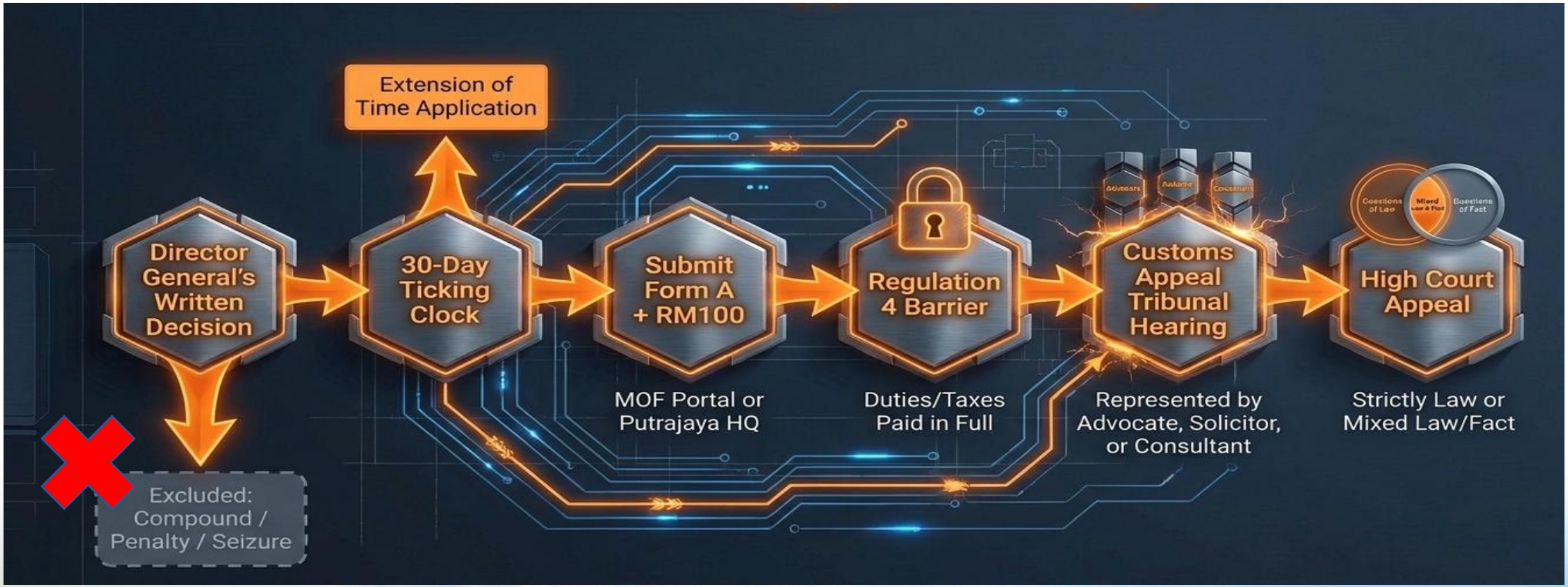
A formal review process dictates three mutually exclusive structural outcomes.



Gemini Notebook

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APPEAL TO CUSTOMS APPEAL TRIBUNAL



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LITIGATION CASES (RENEWAL OF IMPORT LICENCE)

XXX Sdn.Bhd (Appellant) vs DG of Customs (Respondent)

Facts of the case;

- Renewal of import licence for cigarettes.
- App did not met the conditions (must have importation of min 10 millions sticks during the licence period - 1 year period)-
- DG did not approve the renewal of licence to import- Reg 42 (1) Customs Regulation 2019.
- Filed application to review the decision.
- Review Panel affirmed the decision earlier (2025).
- Appealed to Tribunal.



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CONT.....

Issue;

-Whether the App eligible for the renewal of licence.

-Whether the Resp has made the right decision in accordance with the laws.

Reg 42 - Requirement for licence

(1) No person shall import intoxicating liquor, tobacco or denatured spirit except with a licence granted by or under the direction of the DG.

Reg 43 - Application for licence

(2) The DG may, on payment of fees of RM 4,800, grant the licence in form and manner as determined by the DG with or without conditions, or refuse to grant the licence.

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CONT.....

TRIBUNAL decision (Feb 2026);

- Evidence showed that the App has imported only 500,000 sticks during the licence period.

- Upheld decision of Resp (DG) and appeal dismissed with cost RM 500.00



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LITIGATION CASES (REFUND APPLICATION)

YYY (Appellant) vs DG of Customs (Respondent)

Facts of the case;

- App imported goods in Jan 2023 from Thailand and paid customs duty of RM 400,000.
- App eligible for preferential tariff treatment under free trade agreement, ASEAN TRADE in GOODS AGREEMENT (ATIGA).
- The Certificate of Origin (COO-Form D) was not presented during the importation, but was presented only in Jun 2023.
- applied for refund application under section 16 of the Customs Act 1967, but was rejected by Resp.

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CONT....

Issues;

- Whether App is entitled for refund.
- Whether App eligible for preferential tariff treatment.

Tribunal decision;

- Rule 13, Annexture 8 of ATIGA - COO must be presented at the time of importation.

- Rule 10 (2) Annexture 8- COO may be issued retroactively but no longer than 1 year from the date of shipment and shall be marked 'issued retroactively'.
- refund application that was rejected by Resp.



CONT.....

Article 38

Certificate of Origin A claim that a good shall be accepted as eligible for preferential tariff treatment shall be supported by a Certificate of Origin (Form D), as set out in Annex 7 issued by a Government authority designated by the exporting Member State and notified to the other Member States in accordance with the Operational Certification Procedures, as set out in Annex 8.

Rule 13

Presentation of the Certificate of Origin

For the purposes of claiming preferential tariff treatment, the importer shall submit to the customs authority of the importing Member State at the time of import, a declaration, a Certificate of Origin (Form D) including supporting documents (i e invoices and, when required, the through Bill of Lading issued in the territory of the exporting Member State) and other documents as required in accordance with the laws and regulations of the importing Member State



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CONT.....

Rule 10

Issuance of the Certificate of Origin

2. In exceptional cases where a Certificate of Origin (Form D) has not been issued at the time of exportation or no later than three (3) days from the declared shipment date, due to involuntary errors or omissions or other valid causes, the Certificate of Origin (Form D) may be issued retroactively but no longer than one (1) year from the date of shipment and shall be duly and prominently marked “Issued Retroactively”



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CONT.....

Tribunal Decision (Mac 2026);

- Appealed allowed.
- DG's decision set aside.
- Respondent to refund RM 400,000.00 to App.



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LITIGATION CASE (BILL OF DEMAND)

ZZZ Sdn.Bhd (App) vs Customs DG (Respondent)

Facts of the case;

- Audit conducted and found out the company did not comply with conditions (b)under item 57, Schedule A, Sales Tax (Persons Exempted From Payment of Tax) Order 2018.
- 2 BODs issued - RM 6 million
- Applied for review, but Review Panel decision - upheld and retained the BODs, App paid the BODs.
- App appealed to Tribunal



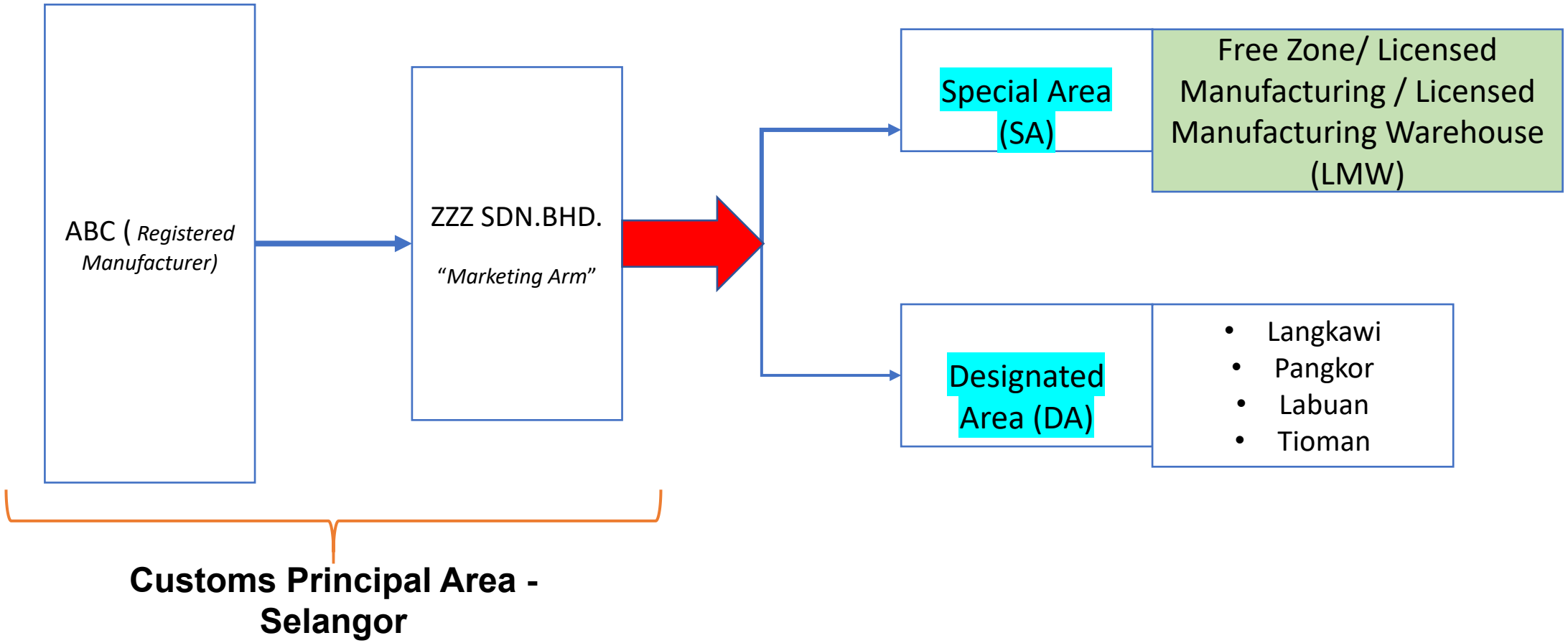
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Exemptions - Item 57, Schedule A, Sales Tax (Persons Exempted From Payment of Tax) Order 2018

57	Any person approved by the DG	All locally manufactured goods for export	(a) That the goods are purchased from a registered manufacturer; (b) that the goods be exported within 6 months from the date of purchase; (c) that the goods shall not be sold or otherwise disposed of in Malaysia except as sanctioned by the DGand upon payment of the tax; (d) (e)	The person approved by the DG

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TRANSACTION



CONT.....

Issues ;

- Whether App has complied with condition (b).
- Whether 'transported' considered as 'exported'.

"export" means to take or cause to be taken out of Malaysia, by land, sea, air, or by any other means or to place any goods in a conveyance for the purpose of such goods being taken out of Malaysia by land, sea, air, or by any other means;

[Subst. S2 Act 1593 w.e.f 1/1/2020]



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CONT.....

Tribunal Decision;

- Appealed allowed.
- Resp decision on BODs quashed.

Section 51

Transportation of taxable goods from or to DA to or from Malaysia

(1) Where taxable goods are transported—

(a) from the DA to Malaysia; or

(b) from Malaysia to the DA,

the provisions of this Act shall, with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or exported from, Malaysia from or to a place outside Malaysia.

Drop Your Question Here

CONT.....

Section 58 of the Sales Tax Act 2018
Transportation of taxable goods from or to SA to or from Malaysia

(1) Where taxable goods are transported—
(a) from the SA to Malaysia; or
(b) from Malaysia to the SA,

the provisions of this Act shall, with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or exported from, Malaysia from or to a place outside Malaysia.

CONT.....

Resp appealed to High Court.

High Court decision;(2026)

- Appeal not allowed.
- Tribunal decision maintained/retained.
- Resp to refund the amount BODs paid.



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LITIGATION CASE (CUSTOMS RULING- CLASSIFICATION)

XYZ (Plaintiff) vs DG (Respondent)

Fact of the case;

-XYZ applied for classification (customs ruling) for their imported product.

-Information on the label indicates that the product is a cultured milk drink made from sugar, skimmed milk powder, glucose, vitamin D, and live probiotic cultures and contains permitted flavoring.

- DG issued customs ruling and classified the product under tariff code (TC) 2202.99.5000 - *Other non-aerated beverages ready for immediate consumption without dilution.*

(DI-20% CJI-10% Excise RM0.50/ ltr)

- XYZ requested to retain TC 0403.90.9000



CONT.....

XYZ applied for review;

- to retain the TC 0403.90.9000

- the previous TC applied for more than 20 years without encountering any issues or challenges from Customs.

- consistency in international markets spanning over 19 years in certain countries.



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CONT.....

Review Panel Decision (2025);

-retained the decision for TC 2202.99.5000

-the TC 0403.90.910 for "other fermented milk" is not suitable because the original nature of the fermented milk in the products has been added with water and caused the product to lose its milk-like characteristics, transforming it into a new product that is beverage.

XYZ appealed to High Court; (2026)

- allowed the appeal.

- TC 0403.90.9000



DG appealed to Court of Appeal.

OTHER CASES

- Prosecution - appealed to Public Prosecutor
- Amount of Compound - appealed to DG
- Seizure of goods - appealed to High Court



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MALAYSIA BUDGET TAX SEMINAR 2027

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Thank You!

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SPEAKER5

