

An aerial photograph of an airport tarmac. In the foreground, the noses of three large commercial aircraft are visible, parked at gates. From top to bottom, they are Lufthansa, SriLankan, and Condor. The aircraft are white with blue lettering. Ground support equipment, including mobile staircases and belt loaders, is positioned at the gates. In the background, there are red and white striped barriers, traffic lights with red lights illuminated, and a multi-lane road. The overall scene is a busy airport environment.

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Bulletin Highlights

- Changi Airport Group v CIT – Another Perspective



Changi Airport Group v CIT – Another Perspective

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Introduction

The recent High Court decision in *Changi Airport Group (Singapore) Pte Ltd v Comptroller of Income Tax (2024) SGHC 281* has sparked considerable discussion within the tax community. The case centred on how to classify airport assets specifically runways, taxiways, and aprons (collectively, “RTAs”), and whether these assets qualify as “plant” eligible for capital allowances under Section 19A of the Income Tax Act (“the Act”). The Court ultimately held that RTAs are “structures,” not “plant,” meaning they do not qualify for capital allowances.

This paper examines the Court’s reasoning and presents an alternative view, drawing on both Singaporean principles and comparative tax jurisprudence.

1. The Core Issue: Plant vs Structure

Under Singapore tax law, “plant” and “structure” are mutually exclusive, yet the Act does not define what “plant” means. As a result, courts must rely on precedent and interpretive principles to draw the line between the two categories.

The High Court concluded that RTAs fall on the “structure” side of the divide for three main reasons:

1. The statutory framework treats “plant” and “structure” as distinct concepts.
2. The Court found foreign (especially UK) cases unhelpful or inapplicable.
3. RTAs were viewed as indivisible components of a larger airport infrastructure.

In particular, the Court reasoned that RTAs are permanent, immovable, and form part of the airport’s overall layout because they do not operate independently, serving instead as embedded parts of the airport environment. Therefore, the Court considered them unsuitable for classification as “plant.”

However, this approach arguably places undue emphasis on physical features. UK cases such as *Barclay Curle* have long held that assets may qualify as plant despite being large, fixed, or structurally integrated so long as they perform an active function in the business.

2. Rethinking the Notion of “Plant”: The Role of Foreign Precedent

In the absence of statutory definition, courts often turn to the classic definition from *Yarmouth v France* (1887), where plant was described as “whatever apparatus is used by a businessman for carrying on his business, not his stock-in-trade.” This functional definition has guided tax law across many Commonwealth jurisdictions, including Singapore.

The High Court’s reluctance to consider foreign authorities warrants careful reflection. While such cases are not binding, Singapore courts have traditionally found UK jurisprudence helpful, especially when grappling with undefined statutory terms. Cases such as *CIR v Scottish & Newcastle Breweries Ltd* and *Wimpy International Ltd v Warland* show that assets integrated into a building can still be plant if they serve an active operational role.

By distancing itself from these established authorities, the Court may have foregone helpful guidance directly relevant to the classification of RTAs.

3. The Functional Test: Beyond Physical Features

A more commercially realistic approach is the functional test: does the asset serve an active role in the business, or does it merely provide the setting in which the business is carried on?

An NPEHE is an excluded entity if –

- **RTAs underpin aeronautical operations including** landing, taxiing, and take-off activities. These functions are not peripheral; they lie at the heart of the airport’s operations.
- **Comparable cases confirm that structural features can still be plant.** Dry docks (*Barclay Curle*) and silos (*Schofield v Hall*), though permanent fixtures that are large and immovable, were regarded as plant because of their operational purpose.
- **RTAs form part of an integrated operating system.** Lighting, guidance, and radar systems require RTAs to function, underscoring that RTAs are integral components of an operational apparatus rather than passive background infrastructure.

From a functional standpoint, RTAs do much more than merely accommodate the business, they enable it.

4. Points of Procedure and Analysis

A proper classification exercise should typically involve two sequential steps:

1. First, assess the asset’s function and role within the business to determine whether it is more appropriately characterised as plant or a structure.
2. Only then should the statutory consequences, the eligibility or exclusion under Section 19A be applied.

Instead, the High Court focused primarily on physical attributes and labelled RTAs as structures at the outset. This seems to diverge from established authorities, including *Yarmouth v France*, *Wimpy International*, *Barclay Curle*, and *Schofield*, all of which emphasise function over form. These cases consistently show that even large, fixed assets can qualify as plant if they actively contribute to the business.

5. Parliament intention – Sixth Schedule of the Singapore Income Tax Act

The Sixth Schedule of the Act provides a valuable interpretive guide. It lists specific examples of assets that Parliament considers to be plant such as dry docks and bank vaults. These assets are permanent and immovable, yet Parliament expressly classified them as plant and assigned specific writing down periods (16 years).

This legislative choice affirms that permanence or structural characteristics do not automatically exclude an asset from being considered plant. As the High Court stated in *Li Weiming and other matters v Public Prosecutor* [2013] SGHC 69 at [18], “Parliament does not legislate in vain.” The Sixth Schedule therefore must be given meaningful interpretive effect.

Its inclusion of permanent, embedded assets supports the principle that functional purpose rather than physical nature is the key determinant. This reinforces the argument that RTAs, like dry docks, should properly be regarded and treated as functional apparatus essential to the business.

6. Functional Integration: RTAs as Part of the Airport's Operating System

The operational reality at Changi Airport further supports treating RTAs as plant:

- **They underpin all core operations**, including air hub services, emergency response, commercial leasing, and ground handling.
- **They function in tandem with other essential systems** such as runway lighting, docking guidance, and radar. These systems are effective only when integrated with RTAs.
- **They have commercial significance only as part of an integrated operational system**, demonstrating that RTAs are active business tools rather than inert infrastructure

This high degree of functional interdependence is consistent with the classification of RTAs as plant.

7. Broader Policy Considerations

Since the elimination of Industrial Building Allowance (IBA) in 2010, the classification of capital assets under Section 19A has become increasingly consequential. Denying capital allowances for essential infrastructures such as RTAs could create disincentives for investment in critical facilities. A functional approach ensures economic neutrality and alignment between tax treatment and commercial reality.

Conclusion

The High Court's decision in *Changi Airport Group v CIT* places predominant weight on physical characteristics at the expense of functional purpose. This marks a departure from the well-established principles in Singaporean and Commonwealth jurisprudence, which consistently emphasise the practical role an asset plays in the taxpayer's business. RTAs are not merely the backdrop against which CAG's operations take place. They are indispensable to the very activities that define an airport's trade. Recognising them as plant is not only consistent with the functional test, but also aligns with commercial reality and Parliament's evident intention, particularly in a post-IBA landscape where capital allowance relief must remain grounded in economic substance rather than formalistic distinctions.

A more nuanced, function-driven interpretation would restore coherence, fairness, and economic rationality to the capital allowance regime. On this approach, RTAs are properly characterised as "plant," and their treatment as such would better reflect both legal principle and the operational realities of modern aviation infrastructure.

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Writers' Caveat

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