

PROFILE

**Partner**

Head, Tax, Trade & Customs

Co-Head, Competition Law & Antitrust

Shearn Delamore & Co., Kuala Lumpur, Malaysia

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Qualifications

LL.B (Hons), University of London

Certificate in Legal Practice

Advocate & Solicitor, High Court of Malaya

Languages

English, Malay

ANAND
RAJ

ABOUT ANAND

Anand Raj was admitted as an Advocate & Solicitor of the High Court of Malaya in 1996 and has been a partner of Shearn Delamore & Co. since 2003. Anand is the Head of the firm's Tax, Trade & Customs Department and Tax Disputes Practice, and Co-Head of the firm's Antitrust Practice.

Asia Business Law Journal (2020-2024) recognised Anand as one of Malaysia's Top 100 Lawyers in Competition Law & Antitrust and Tax Disputes & Controversy. Asialaw's Client Service Excellence (2021) recognised Anand as The Highest Rated Lawyer To Work With" in Tax and Competition/Antitrust. Anand was recognised as the 2017 Asia Tax Disputes and Litigation Practice Leader of the Year by the International Tax Review (ITR). Asialaw Leading Lawyers (2020 – 2023) recognised Anand as an "Elite Practitioner" in Competition/Antitrust as well as in Tax. Anand is recognised as a "Highly Regarded Practitioner" in Indirect Tax and Tax Controversy (2019 – 2022), as well as "Highly Regarded" in World Transfer Pricing (TP) (2023 – 2024) by the ITR. Anand is ranked by Legal 500 Asia-Pacific (2019 – 2024) as a "Leading Individual" in Tax. Anand is recognised as a "Global Leader" (2019 – 2020) in Competition as well as a "Recommended Corporate Tax Lawyer" (2013 – 2024) by Who's Who Legal. Anand is also ranked as a "Band 1 Lawyer" in Tax (2011 – 2024) and in Competition/Antitrust (2015 – 2024) by Chambers Asia Pacific.

Shearn Delamore & Co. has been recognised by the International Tax Review as the Asia Tax Transactions Firm of the Year in 2018 and the Malaysia Tax Disputes and Litigation Firm of the Year for 2016, 2017, 2018, 2020 and 2021.

Anand has also been recognised in the International Who's Who Legal: Competition Lawyers for 2013 - 2024 and as a Tier 1 leader in his fields by the Global Competition Review (GCR), Asia Pacific Legal 500,

Asialaw Profiles and other directories. Anand has also been named to The Legal 500 Asia-Pacific's "Hall of Fame" for Competition/Antitrust (2023). Anand regularly represents and advises MNCs, GLCs, foreign and Malaysian enterprises on Competition Law in industries as diverse as financial services, telecommunications and multimedia, pharmaceuticals, insurance, logistics, hospitality, amongst others. Anand also regularly conducts trainings and workshops for clients and event organisers. Anand is active in providing feedback to the relevant authorities and agencies on issues relating to Competition Law in Malaysia.

Anand currently serves as the Vice President of the Malaysian Bar. He is the Chair of the Tax and Customs Committee, the Co-Chair of the Corporate and Commercial Law Committee and the Chair of the Competition Law Sub-Committee of the Bar Council, Malaysia.

Anand handles numerous contentious and non-contentious competition and antitrust matters for international and local clients. In 2021, Anand and team worked on the first and only successful merger control notification in Malaysia to date.

In MAVCOM's Final Decision, MAVCOM approved the merger and concluded that the merger, if carried into effect, would not infringe the prohibition in section 54 of the Malaysia Aviation Commission Act 2015.

Shearn Delamore & Co. has been recognised by the GCR 2017 - 2020 as an "Elite Firm" in competition law practice for Malaysia, and as an "Outstanding Firm" in Competition and Antitrust practice by the Asialaw Profiles 2017 - 2020 and The Legal 500 Asia Pacific 2017 – 2020. Shearn Delamore & Co. has also been recognised as the "In-House Community Firm of the Year" 2011, 2012, 2014 and 2016 in Antitrust/Competition practice by the Asian-MENA Counsel.

EXPERIENCE

Competition Law - Advisory and Representation

Anand regularly represents and advises MNCs, GLCs, foreign and Malaysian enterprises on Competition Law in industries as diverse as aviation, financial services, telecommunications and multimedia, pharmaceuticals, insurance, logistics, hospitality, FMCG, manufacturing and the automotive sector, amongst others. Anand regularly conducts trainings and workshops for clients and is active in providing feedback to the relevant authorities and agencies.

Anand's experience in competition law includes, but is not limited to, matters related to:

- Representing clients in investigations by the Malaysia Competition Commission ("MyCC");
- Prohibitions on horizontal and vertical agreements;
- Monopoly and abuse of dominance;
- Cartel investigations;
- Litigation;
- Undertakings;
- Leniency applications;
- Whistle-blowing programmes;
- Dawn raids;
- Interlocking Directorates;
- No-Poach Agreements;
- Employment and Antitrust/Competition Law; and
- Data Privacy and Antitrust/Competition Law.

Some of Anand's matters include:

- Advising and representing a number of general insurers in Malaysia who have been investigated by the Malaysia Competition Commission (MyCC) for an alleged horizontal infringement.
- Advised and successfully assisted and acted for Korean Airlines Co Ltd in filing a notice and application for an anticipated merger. The team handled Malaysia's first ever successful merger control notification under the new Malaysian Aviation Commission Act 2015. This merger notification was approved by the Malaysian Aviation Commission in September 2021.
- Advised one of the largest global technology companies on competition law issues arising from the company's data collection process, including any potential abuse of dominance in the video-sharing platform market.
- Successfully handled the first substantial case closed via undertakings which resulted in closures without findings of infringement including for Giga Shipping and Nexus Mega Carriers, amongst others. MyCC investigated our clients following a complaint of alleged abuse of dominance vis-a-vis exclusivity clauses.
- Advised on competition law and antitrust concerns which arose from the removal of a director for failing to disclose a position of risk.
- Advised an operator in the small package delivery and freight forwarding sector that monitors its market shares in Europe on the basis of the relevant market segmentations, in relation to competition law and antitrust concerns surrounding market definition in Malaysia.

Tax Disputes

• **BAR MALAYSIA v. KETUA PENGARAH HASIL DALAM NEGERI [2018] 4 CLJ 635**

Anand Raj acted for the Malaysian Bar in legal proceedings against the Revenue to determine the extent of the Revenue's powers to purportedly undertake tax audits on the clients' accounts of law firms and whether legal professional privilege (or also known as attorney or solicitor-client privilege) would prevent the Revenue from so doing. Bar Malaysia sought for declarations that the exercise by the Revenue was abusive, unlawful and illegal. The High Court decided in favour of the Malaysian Bar, holding that privilege is absolute unless it is waived by the privilege holder or falls within the proviso to section 126 of the Evidence Act 1950 and would require an advocate and solicitor to reject any request or demand of the Revenue for access to, or disclosure of, any, client communications. The High Court held that the Director General of Inland Revenue ("DGIR") cannot be allowed to use the Income Tax Act 1967 ("ITA")

as an instrument of fraud purportedly to fish for information on the clients of the law firms. This is a landmark case affecting legal professional privilege in Malaysia.

- **ASPAC LUBRICANTS (M) SDN BHD (FORMERLY KNOWN AS CASTROL (M) SDN BHD) v KETUA PENGARAH HASIL DALAM NEGERI [2007] 6 MLJ 65**

Anand Raj acted for the taxpayer in Castrol (Malaysia) Sdn Bhd (now known as Aspac Lubricants (Malaysia) Sdn Bhd) in a successful tax appeal against the Director General of Inland Revenue before the Malaysian Court of Appeal. This was a landmark case which dealt with the broad principle of tax deductibility of promotional expenditure on product sales. Castrol succeeded in its tax appeal and the Court of Appeal clarified the law by adopting a more pragmatic test in differentiating between business expenditure on sales promotions (which is tax deductible) and expenditure on entertainment (which is not tax deductible or is only partially deductible). There are significant implications to this decision as sales promotion expenses are important annually recurring expenses for virtually all Malaysian businesses. This case is now reported at [2007] 6 MLJ 65, [2007] 5 CLJ 353, [2007] MSTC 4,271.

- **WINCOR NIXDORF – SUCCESSFUL JUDICIAL REVIEW PROCEEDINGS TO CHALLENGE DECISION OF THE MINISTER OF FINANCE AND DIRECTOR GENERAL OF CUSTOMS**

Anand Raj acted for Wincor Nixdorf (M) Sdn Bhd (“Wincor Nixdorf”) in successful judicial review proceedings before the High Court following the refusal of the Minister of Finance (“MOF”) and Director General of Customs (“DGC”) to grant the company a remission of import duties and sales tax under Section 14A of the Customs Act 1967 and Section 33 of the Sales Tax Act 1972. The High Court decided in favour of Wincor Nixdorf and quashed the decision of MOF. The Court also granted full remission of the import duties and sales tax sought by the taxpayer. The MOF and DGC appealed to the Court of Appeal. In Q1 of 2014, Anand Raj succeeded before the Court of Appeal as the Court affirmed the decision of the High Court quashing the decision of the MOF and remitted the case to the MOF for assessment on the quantum of the remission. Wincor Nixdorf then applied for leave to appeal to the Federal Court (apex court) against the decision of the Court of Appeal in remitting the case to the MOF for assessment on the quantum of the remission. Leave to appeal was granted by the Federal Court in Q4 of 2016. The case was settled on terms favourable to the taxpayer. This is a landmark case being the first Malaysian case on remission of import duties and sales tax and one of very few Commonwealth decisions on the issue of remission.

- **SUCCESSFUL RESOLUTION OF TAX APPEAL INVOLVING LANDMARK WITHHOLDING TAX PRINCIPLES ON PROVISION OF SERVICES BY NON-RESIDENTS**

Anand Raj acted as co-Counsel for Esso Production Malaysia Inc. (now known as ExxonMobil Exploration and Production Malaysia Inc.) and Esso Malaysia Berhad in an appeal before the Court of Appeal. The issues dealt with landmark withholding tax principles with ramifications upon all Malaysian and non-resident taxpayers in the provision of services by non-residents. Anand Raj successfully resolved and concluded the tax appeal before the Court of Appeal favourably for the taxpayer.

- **KETUA PENGARAH HASIL DALAM NEGERI v SHELL REFINING CO (FOM) BHD [2014] 9 MLJ 686**

Anand Raj acted for Shell Refining Company (Federation of Malaya) Berhad in this tax appeal. The Special Commissioners of Income Tax (“SCIT”) decided in favour of Shell and allowed Shell’s claim for deduction of certain expenses incurred by the Company on services and advice in respect of a feasibility study and held that the expenses were deductible under Section 33(1) of the Income Tax Act 1967 (“ITA”) and all penalties imposed by the Revenue under Section 113(2) of the ITA were discharged in full as the

SCIT held that the penalties were imposed mechanically. The Revenue appealed to the High Court. Anand Raj succeeded before the High Court as the High Court dismissed the Revenue's appeal and affirmed the decision of the SCIT. The Revenue appealed to the Court of Appeal. The Revenue subsequently withdrew its appeal by filing a Notice of Discontinuance. This is a landmark case on the deductibility of expenses incurred on feasibility studies.

ACCOLADES

- **Asia Business Law Journal (2020 - 2024)**
One of Malaysia's Top 100 Lawyers in Competition Law & Antitrust, Taxation & Anti-Bribery
- **Asialaw's Client Service Excellence (2021)**
"The Highest Rated Lawyer To Work With" in Competition/Antitrust and Tax
- **Asialaw Leading Lawyers (2020 - 2023)**
"Elite Practitioner" in Competition & Antitrust & Tax
- **Asialaw Leading Lawyers (2017)**
"Market Leading Lawyer" in Tax
- **Asialaw Leading Lawyers (2015 - 2019)**
"Leading Lawyer" in Competition & Antitrust
- **Asialaw Leading Lawyers (2014 - 2019)**
"Leading Lawyer" in Taxation
- **Asialaw Profiles (2011, 2013 - 2016)**
"Recommended Individual" in Tax
- **Chambers Asia-Pacific (2011 - 2024)**
"Band 1" Lawyer in Tax
- **Chambers Asia-Pacific (2009 - 2010)**
"Band 2" Lawyer in Tax
- **Chambers Asia-Pacific (2015 - 2024)**
"Band 1" Lawyer in Competition / Antitrust
- **The Legal 500 Asia-Pacific (2024)**
Highlighted in the Hall of Fame for Tax
- **The Legal 500 Asia-Pacific (2023 and 2024)**
Highlighted in the Hall of Fame for Antitrust and Competition
- **The Legal 500 Asia-Pacific (2019 - 2023)**
"Leading Individual" in Tax
- **The Legal 500 Asia-Pacific (2019 - 2023)**

“Leading Individual” in Antitrust and Competition

- **The Legal 500 Asia-Pacific (2010 - 2012, 2014, 2016 - 2018)**
“Recommended Lawyer” in Tax
- **International Tax Review World Tax Ranking (2024)**
“Highly Regarded” in World TP
- **International Tax Review (2019 - 2022)**
“Highly Regarded Practitioner” in Indirect Tax and Tax Controversy
- **International Tax Review (2022)**
“Highly Regarded Practitioner” in Transfer Pricing
- **International Tax Review (2017)**
Asia Tax Litigation and Disputes Practice Leader of the Year
- **International Tax Review (2013 - 2018)**
Tax Controversy Leader
- **International Tax Review (2017 and 2018)**
Indirect Tax Leader
- **Global Law Expert (2018 - 2019)**
Competition Lawyer of the Year for Malaysia Jurisdiction
- **Who’s Who Legal (2013 - 2018)**
“Expert” in Competition
- **Who’s Who Legal (2019 - 2021)**
“Global Leader” in Competition
- **Who’s Who Legal (2016 and 2018)**
“Expert” in Corporate Tax Advisory
- **Who’s Who Legal (2019 - 2021)**
“Global Leader” in Corporate Tax Controversy and Corporate Tax Advisory
- **Who’s Who Legal (2021 - 2023)**
“National Leader (Southeast Asia)” in Competition and Corporate Tax
- Numerous other recognitions since 2003

Client quotes and testimonials:

“Attended to the project with very much attention and seriousness. Took a lot of time to understand the issue before suggesting potential solutions. Solutions proposed were very well thought through, outside the box

and workable. Very high standards of preparing decks and ensuring everything was in proper order before sending it to them. Amenable to accommodating our last-minute meeting requests. Extremely knowledgeable, quite brilliant, actually, in his area of expertise, and he managed to impress extremely fussy leaders in the company with his broad wealth of understanding of the laws not just in Malaysia, but in APAC.”
- Benchmark Litigation 2024

“My employer company tends to select experts in the field and so for competition law, we believe Anand Raj is an expert in the area. He is very persistent and this helps in putting through our arguments in court etc.”
– Asialaw Profiles 2022

“He is very experienced and keeps up to date with the law. He is firm despite facing objections and stands his ground on his legal position.” – Asialaw Profiles 2021

“The go-to guy for competition law. Keeps abreast with developments in Malaysia and abroad. Prompt and delivers sound legal advice. Very commercial.” – Asialaw Profiles 2021

“Responsive, highly skilled, practical and engaging. Very experienced in competition law and relates well to the business in ensuring compliance by the business.” – Asialaw Profiles 2021

“Knowledgeable, able to give a strong argument to defend the business.” – Asialaw Profiles 2021

“Good analytical and negotiation skills.” – Asialaw Profiles 2021

“He provides professional service with excellent idea and solutions. His has strong negotiation skills.” – Asialaw Profiles 2020

“Anand is a very responsive lawyer and is bold to put across his arguments despite any objections. He is a subject matter expert and very professional in the discharge of his duties.” – Asialaw Profiles 2020

“The solicitor in charge Anand Raj is a subject matter expert in this area and is readily available to assist whenever contacted.” – Asialaw Profiles 2020

The “creative litigator” Anand Raj, commended for being “tactical in dealing with appeals and disputes”. – Asialaw Profiles 2018

Anand is praised for his “entrenched knowledge on Malaysia tax law”, while the practice is commended for its “reliable, thorough and assured service”. – Asialaw Profiles 2015

“Anand Raj and his team of lawyers are all very professional and Anand in particular is a subject matter expert in the field.” - The Legal 500 Asia-Pacific 2023

“Anand Raj who leads the competition practice at Shearn is decisive and firm in his views.” - The Legal 500 Asia-Pacific 2023

“Anand Raj’s advocacy skills make him a force to reckon with when challenging the decisions of the local Competition law regulator.” - The Legal 500 Asia-Pacific 2022

“Confident, strategic approach, good knowledge of the industry.” - The Legal 500 Asia-Pacific 2021

“Anand Raj is able to present highly technical and complicated industry information to a lay-person in a manner that the lay-person can understand, while ensuring no loss to the accuracy of the facts.” - The Legal 500 Asia-Pacific 2020

A client notes that *"he is brilliant at his work, and he is specialised in the areas of tax and competition law"*
- Chambers Asia-Pacific 2023

Clients also appreciate that Anand is *"an excellent practitioner when it comes to competition and tax matters and very knowledgeable in this field, He is also an experienced tax lawyer who is able to appreciate the tax dispute and provide several resolution options to taxpayers."* - Chambers Asia-Pacific 2023

A client describes him as *"technically very strong and on top of developments."* Chambers Asia-Pacific 2023

A client appreciates that he is *"practical and good in terms of technical advice."* - Chambers Asia-Pacific 2022

A client says that he is *"very knowledgeable in his area of expertise and leaves no stone unturned in seeking recourse for his clients."* - Chambers Asia-Pacific 2022

A client describes him as *"very knowledgeable, with good professional relationships in the Inland Revenue Board, and the interests of the clients are foremost to him."* - Chambers Asia-Pacific 2021

Anand Raj is *"a standout individual and an expert who is prompt and responsive,"* according to a client. - Chambers Asia-Pacific 2021

Anand Raj is "very well regarded" by market commentators for his experience of handling high-profile tax disputes, including judicial review applications. - Chambers Asia-Pacific 2020

One interviewee reports: "He is impressive due to his extensive experience in tax litigation matters and how he was able to assist us with the negotiation process with the tax authority to reach an amicable settlement."- Chambers Asia-Pacific 2019

The "very prolific" Anand Raj of Shearn Delamore & Co earns healthy market recognition for his extensive experience in this area of practice. -Chambers Asia-Pacific 2018

Sources describe him as "a smart guy" who is "able to understand exactly what the issues are and how to move forward." - Chambers Asia-Pacific 2017

Partner Anand Raj gains praise for his "very professional, very knowledgeable" outlook. -Chambers Asia-Pacific 2012

APPOINTMENTS/MEMBERSHIPS

- Vice President, Malaysian Bar
- Co-Chairperson, Malaysian Bar Council Corporate and Commercial Law Committee (CCLC)
- Chairperson of the Bar Council Tax and Customs Committee
- Co-Chairperson of the Bar Council Strategic Litigation Committee
- Chairperson of the Competition Law Sub-Committee under CCLC
- Chair of LAWASIA's Anti-Trust & Competition Law Committee

- International Ambassador of the American Bar Association's ("ABA's") Antitrust Committee
- Member of the ABA's Antitrust Committee and Tax Committee
- Former Co-Chair of the Inter-Pacific Bar Association's Competition Law Committee
- Chairperson, CCLC Competition Law Subcommittee
- Former Chair, International Fiscal Association (IFA) Malaysian Branch
- Chair, Tax Sub-Committee of the Malaysian Bar Council
- Member, Competition Law Sub-Committee of the Malaysian Bar Council
- Member, International Bar Association (IBA)
- Member, Inter-Pacific Bar Association (IPBA)
- Former Co-chair, IPBA Competition Law Committee
- Former Chairperson, American Malaysian Chamber of Commerce (AMCHAM)'s Tax Committee
- Rapporteur for Malaysia, International Bar Association (IBA) Antitrust Committee

PUBLICATIONS

Anand is one of the authors of Bloomberg BNA's Business Operations in Malaysia. He has also contributed to various domestic and international tax and accounting journals such as:

- Tax Nasional published by the Malaysian Institute of Taxation
- Akauntan Nasional (now known as Accountants Today) published by the Malaysian Institute of Accountants
- The Asia-Pacific Tax Bulletin published by the International Bureau of Fiscal Documentation in Amsterdam