TR 180

Facts

A is a private company incorporated in Mauritius. A holds a Category 1 Global Business Licence (“GBC 1”) and is tax resident in Mauritius. The principal activity of A is investment holding and it currently holds a 99.99% investment in B, a company incorporated and tax resident in Thailand, and 100% in C, a company incorporated in Singapore.

B was incorporated as a limited company in Thailand and is engaged in the business of providing information technology and e-commerce marketing services.

B was granted rights and privileges as a promoted industry under the Investment Promotion Act to support commerce and investment business and to be a regional headquarters (“ROH”). The ROH regime is a special scheme set up by the Board of Investment (“BOI”) to attract foreign and local investment for the promotion of the economic and social development and security of Thailand. Under this regime, B enjoys a reduced rate of corporate tax. Further, a company under the ROH regime also benefits from exemption on withholding tax on dividend it distributes to its foreign shareholders, otherwise payable at 10%.

Point at issue

Whether A can claim underlying tax credit and withholding tax credit under the tax sparing credit?

Ruling

Based on the above facts, it is confirmed that A will be entitled to claim foreign tax credit for the amount of withholding tax and underlying tax spared in respect of dividend receivable from B for set-off against its Mauritian tax payable on its foreign source income.