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Facts

S, a company incorporated under the laws of Mauritius and tax resident in Mauritius, will enter into an agreement with K, a company registered in United Arab Emirates (“UAE”) as a Free Zone Limited Liability Company, to carry out the refurbishment, renovation and major repair works to the existing buildings owned by S.

S will also enter into a separate contract with the same K for the design and construction of residential villas in Mauritius.

In order to finance the development projects of refurbishments and construction of villas, S will contract loans from F. The latter company is tax resident in UAE and can avail from treaty benefits under the Double Taxation Agreement (“DTAA”) between Mauritius and UAE.

The conditions of the loans, including the rate of interest to be charged will be at arm’s length.

S, K and F are all related companies within the same Group the ultimate beneficiary of which is the Investment Corporation of Dubai, the principal investment arm of the Dubai Government.

Point at issue

Whether S can claim the interest payable to F as a tax deductible expense under Section 19 of the Income Tax Act?

Ruling

On the basis of the facts mentioned above, S will be entitled to claim the interest payable to F as a tax deductible expense by virtue of Section 19 of the Income Tax Act.