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Facts

A foreign parent company, issued zero coupon bonds to its subsidiary, which is incorporated in Mauritius. The bonds were issued for a subscription amount of GBP 243.7 million and the amount payable on maturity would be GBP 297 million.

On the early redemption of the zero coupon bonds, the bonds had appreciated to GBP 265.9 million. In addition a late payment fee of GBP 0.76 million was paid since the redemption date as per the agreement was set on 5 April or 5 October whereas the redemption took place on 28 April 2006.

Point of Issue

A ruling is being sought as to whether

a) the appreciation of the bonds, of GBP 22.2 million; and
b) the late payment fee of GBP 0.76 million

will be subjected to income tax in the hands of the subsidiary.

Ruling

The subsidiary, being resident in Mauritius is liable to tax on its worldwide income. Pursuant to section 51 of the Income Tax Act, the gross income of a company includes the income referred to in section 10(1) (b), (c), (d) and (e).

In the present case the sum of GBP 22.2 million is the return on the bonds subscribed by the subsidiary. It is an income which is in the nature of interest and will fall under section 10(1)(d) of the Income Tax Act.

As regards the GBP 0.76 million, although described as a penalty fee, it is a return for holding the investment for a further 23 days and again falls under the purview of section 10(1)(d) of the Income Tax Act.