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Facts:

X is a private limited company incorporated and domiciled in Mauritius, and is engaged in property development for the benefit of companies within a Group. It holds an appropriate licence as land promoter and property developer from the relevant authority. Y is another private limited company incorporated and domiciled in Mauritius and operates a chain of supermarkets throughout the island. X and Y are wholly owned subsidiaries of Z and are both VAT registered. All land and buildings belonging to X are presently rented to Y under an operating lease. The Management of X is considering the sale of all X's properties to Y. The capital expenditure incurred by Y will be exclusively incurred in the production of gross income.

Points in issue

1. In case the disposal of the land and buildings by X is treated in accordance with Section 21 (7) (a) of the VAT Act, whether-
 - a) the profit arising on disposal of the said assets in the books of X will be treated as a capital gain; and
 - b) the credit for input tax will be allowed as a deductible expense for the purpose of corporate tax.
2. Whether Y will be able to claim capital allowances on the amount attributable to the buildings?

Ruling:

1. It is confirmed that the sale of land and buildings is subject to VAT in view of item 48 (b) of the First Schedule to the VAT Act which reads as follows:
 - for any other purposes except land with any building, building or part of a building, apartment, flat or tenement together with any interest in or right over land, sold or transferred by a VAT registered property developer to a VAT registered person.
 - On the basis of the ruling given above, the issues raised do not arise.
2. It is confirmed that Y will be entitled to claim annual allowance on the amount attributable to the buildings, in accordance with the provisions of Section 24 of the Income Tax Act 1995.