

**VATR 105****Facts**

In 2005, M Group, an international fishing group, extended its activities to tropical tuna fishing and this was implemented in Mauritius with the construction of super freezer -40°C tuna purse seiners along with the construction of factories and office premises. The M Group's Mauritian tuna fleet consists of three super freezer purse seiners operating under the Mauritian flag in the Indian Ocean.

The M Group has set up the following –

- N, a public company limited by shares incorporated under the laws of Mauritius. N holds a 'global business licence' ("GBL") issued by the Financial Services Commission in Mauritius.
- O, a private company limited by shares incorporated under the laws of Mauritius and holding a GBL, is wholly owned by N. O holds a tuna purse seiner registered under the Mauritian flag.
- P, a private company limited by shares incorporated under the laws of Mauritius and holding a GBL is also wholly owned by N. P holds a tuna purse seiner registered under the Mauritian flag.

The tuna purse seiners held by O and P are each referred to as a "Vessel" and together, as the "Vessels".

Each of O and P leases its respective Vessel to Q, a private company limited by shares incorporated under the laws of Mauritius which holds a GBL. Q is registered for VAT.

O has entered into a bareboat charter agreement with Q and derives rental income from the leasing of its Vessel.

P has also entered into a bareboat charter agreement with Q and derives rental income from the leasing of its Vessel.

Q uses the Vessels to carry out the tuna fishing activities in international waters. Thereafter, Q sells its catch to R, a private company incorporated under the laws of Mauritius which holds a GBL.

R processes and commercialises the fish on a worldwide basis and an insignificant portion is sold on the local market.

The processing is done via S, a domestic company holding a freeport license. S is held as a joint venture (50% M and 50% U).

**Points at issue**

1. Whether the leasing of the Vessels by O and P to Q falls under item 41 of the First Schedule to the VAT Act ?
2. Whether O and P are required to be registered for VAT under section 15 of the VAT Act, given that the annual turnover of each entity exceeds Rs6 Million?

**Ruling**

On the basis of the facts provided, it is ruled that:

1. The leasing of the Vessels by O and P to Q does not fall under item 41 of the First Schedule to the VAT Act.
2. The leasing of the Vessels operating under the Mauritian flag by O and P to Q constitutes a taxable supply made in Mauritius. As the annual turnover of taxable supplies of O and P would exceed Rs6 Million, both O and P will be required to register for VAT under section 15 of the VAT Act.