

VATR 111**Facts**

A is a domestic company incorporated in the Republic of Mauritius on 21 July 2021.

A holds a yearly licence issued by the Mauritius Revenue Authority ("MRA") to trade in bunker fuel which was issued to it on 10th October 2022 .

A is registered for VAT purposes since 1st August 2021.

A conducts business in the import and sale of bunker fuel.

The Purchasing model

A purchases most of its fuel from B based in Dubai and a small percentage from C, based in Mauritius. No VAT is charged to A by C on fuel acquired locally as A does not sell its products on the local market.

The fuel is stored by A either on its own bunker barge called D or in a bonded tank which is leased from C. Both D and the bonded tank are under Customs control.

A is exempted from 'Custom Duty, Excise Duty and other taxes' under section 105(a) of the Customs Act on its purchases of fuel.

Fuel delivered by B to D is therefore free of Customs Duty, Excise Duty and all taxes on the basis of an application made to the Director General of the MRA prior to delivery to the Company.

The Sale Model

B has contracted A to supply fuel to its fleet of ships using A's bunkering facilities and logistics. In accordance with Section 94 of the Customs Act, the ships which enter the Mauritian waters for bunkering are exempted from the obligation to obtain a 'clearance certificate'.

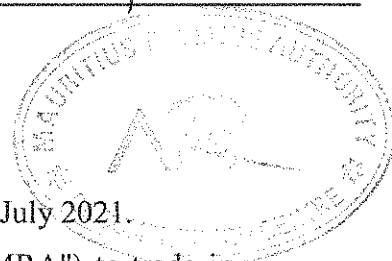
They however need to obtain permission from the Mauritius Port Authority to enter the Port region.

A issues a Customs Bill upon delivery to the incoming ships. Once fuelling is done, the ships leave Mauritian waters.

A raises its invoices to B on a delivery-to-delivery basis for all fuelling done.

Points at issue

- (1) Whether the sale of bunker fuel by A from its facilities and logistics to foreign vessels which enter the Port of Mauritius for the purpose of re-fuelling is a zero-rated supply within the meaning of section 11 and the Fifth Schedule to the VAT Act 1998?
- (2) In case the supply referred to in Question 1 above qualifies as a zero-rated supply, what is the time period within which A can make a claim for repayment of the VAT input under section 24 of the VAT Act as incurred by it in the normal course of its business in respect of its running expenses which qualify as taxable supply?



Ruling

On the basis of the facts mentioned above, it is ruled that –

- (1) The sale of bunker fuel by A from its facilities and logistics to foreign vessels which enter the Port of Mauritius for the purpose of re-fuelling is deemed to be export under Customs control and therefore is a zero-rated supply within the meaning of section 11 and the Fifth Schedule to the VAT Act 1998.
- (2) A may take credit for input tax of the VAT incurred on its running expenses by virtue of section 21 of the VAT Act and subsequently make a claim for repayment thereof in accordance with section 24 of the VAT Act as from the date of its VAT registration.