

VATR 121

Facts

A notice of assessment was issued to the company A, in May 2024 on the basis that its turnover of taxable supplies exceeded the prescribed threshold of Rs 6m for the years 2022 and 2023 and that it was not VAT registered.

The assessment for VAT covered the quarters ended June 2023 to March 2024. The company applied for VAT registration and was registered in May 2024.

In relation to the VAT assessment for the quarters ended June 2023 to March 2024, the company made an objection and the assessment was maintained.

During the concerned periods, the main client of the company was B and, given that the company was not yet VAT registered, it issued invoices without charging VAT.

Given that the VAT assessment has been maintained on objection and that the company has decided not to appeal against the decision of the Objections, Appeal and Dispute Resolution Department, the company has had to pay the VAT that would have been charged to B had the company been VAT registered.

Point at issue

1. Would it be legally in order for the company to issue additional invoices to B to charge the amount of VAT for which the company has been liable for the quarters ended June 2023 to March 2024?
2. If question no. 1 is answered in the affirmative, whether B would be entitled to claim that amount of VAT as input VAT in its VAT return?

Ruling

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

1. A cannot now charge VAT and issue VAT invoices for supplies made during the period it was not registered for VAT by virtue of Sections 9(8) and 20(5) of the VAT Act.
2. B would not be entitled to claim input tax in respect of supplies purchased from A by virtue of Section 21(5) as during the period June 2023 to July 2024 A was not legally authorised to issue VAT invoices and charge VAT.