

VATR 38 (Govt Gazette No.105 of 13 November 2010)

Facts

T Limited is a company engaged in construction works. It entered into a contract with a contracting authority which provided that if the contractor suffers delays, and or incurs costs from failure to be in possession of the site, the amount of such costs shall be added to the contract price.

Pursuant to arbitration relating to a dispute in respect of costs incurred due to delays and extension to the time of completion of the contract, an award was made for the payment by the contracting authority of an amount of Rs 31,000,000 which includes interest to the tune of Rs 6,000,000. In addition, the contracting authority was ordered to pay the costs of arbitration amounting to Rs 9,516,843.20, out of which Rs 8,091,843.20 were inclusive of VAT.

Point in issue

Whether VAT is chargeable on the amount of the award?

Ruling

Part of the award (Rs 25,000,000) is in relation to the additional costs incurred by the contractor. By virtue of the conditions of the contract, it is part of the contract price and therefore subject to VAT.

As regards the items of arbitration costs which are inclusive of VAT, being given that the contractor has already taken credit for input tax in respect thereof, it has to make an adjustment for the VAT element in its VAT return for the period in which payment is received.