

## **VATR 44 (Govt Gazette No.55 of 26 May 2012)**

### **Facts**

A Ltd is a private limited company incorporated and domiciled in Mauritius. It is engaged in the processing of by-products from fishing and canning industries for the production of animal feed. B Ltd, another private limited company incorporated and domiciled in Mauritius, is engaged in the processing of tuna loins and its by-products. B Ltd is the principal supplier of raw materials of A Ltd. Both A Ltd and B Ltd are wholly owned by C Ltd.

Management is considering the transfer on a going concern basis of all activities actually carried out by A Ltd to B Ltd, the objective being to benefit from synergies which will:

- enhance production efficiency and effectiveness
- mitigate production, administrative and financial costs
- improve the use of financial resources amongst others

The above scheme will not give rise to loss of employment but will rather facilitate the mobility of human resources within the operations. Following the transfer, A will cease all its activities and will eventually be wound up.

### **Point at Issue**

Whether the transfer on a going concern basis of the land and building from A Ltd to B Ltd shall be treated under Section 21 (7) (a) or Section 63(3) of the VAT Act?

### **Ruling**

On the basis of facts provided, since the transfer of all the activities of A Ltd to B Ltd will be made on a going concern basis, it is confirmed that the said transfer should be treated under Section 63 (3) of the VAT Act.