

## VATR 77

### Facts

J Ltd is a limited liability company domiciled in France. It has been awarded three contracts in Mauritius as follows:

#### **(1) Contract with K Ltd- RDP Project.**

J Ltd (as a subcontractor) was awarded a contract in association with L Ltd- the main contractor) for the provision of consultancy services to K Ltd for the feasibility study, design and preparation of bid document for the upgrading of the Intake structure and review of treatment process at the plant.

A sub-consultancy agreement was made between L and J Ltd to provide part of the services relating to the main contract.

J Ltd will also enter into contracts with other local sub-contractors in connection with the above project.

The duration of the main contract is estimated to be between 9 to 12 months.

J Ltd's personnel will effect on-site visit in Mauritius to meet J Ltd's clients and collect information at the plant for the provision of services in France.

J Ltd estimates the number of days to be spent by its personnel in Mauritius as follows:

The project manager 28 days

Engineer No 1 28 days

Engineer No 2 5 days

#### **(2) Contract with M Ltd- SC Project**

J Ltd was awarded a contract for the provision of technical assistance services to M Ltd in connection with a Smart City project at Cap Tamarin.

J Ltd will also enter into contracts with other local sub-contractors including L in connection with the above project.

The duration of the contract is estimated to be between 9 and 10 months.

J Ltd estimates the number of days to be spent by its personnel in Mauritius as follows:

The project manager	28 days
Engineer No 1	28 days
Engineer No 2	15 days
Engineer No 3	15 days
Engineer No 4	15 days

**(3) Contract with K Ltd - La Nicolière Project.**

J Ltd (as a main contractor) was awarded a contract in association with L (the sub-contractor) for the provision of consultancy services to K Ltd for the feasibility study on the rehabilitation and extension of La Nicolière treatment plant and associated works inclusive of the concept design for rehabilitation works.

J Ltd will also enter into contracts with other local sub-contractors in connection with the above project.

The duration of the contract is estimated to be between 9 to 12 months.

J Ltd estimates the number of days to be spent by its personnel in Mauritius as follows:

The project manager	28 days
Engineer No 1	28 days
Engineer No 2	5 days
Engineer No 3	5 days

**Points at issue**

- (i) Whether J Ltd ought to charge VAT to :
  - a) L in connection with RDP Project;
  - b) M Ltd in connection with the SC Project; and
  - c) K in connection with La Nicolière Project?
- (ii) Whether TDS ought to be withheld by :
  - a) L from payments made to J Ltd in connection with RDP Project;
  - b) M Ltd from payments made to J Ltd; and
  - c) K from payments made to J Ltd in connection with La Nicolière Project?
- (iii) Whether the local sub-contractors should charge VAT to J Ltd?
- (iv) Whether TDS ought to be withheld by J Ltd from payments made to local sub-contractors?

## **Ruling**

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

- (i) J Ltd needs not charge VAT to its clients namely L, M Ltd and K Ltd which are all VAT registered. On the other hand, in accordance with Section 14 of the VAT Act, the latter ought to apply reverse charge on the supply of services received from J Ltd abroad.
- (ii) No TDS ought to be withheld by L, M Ltd and K Ltd as J Ltd does not have a permanent establishment in Mauritius.
- (iii) By virtue of item 6(a) of the Fifth Schedule to the VAT Act, the supply of services by the local sub-contractors to J Ltd are zero-rated supplies.
- (iv) Since J Ltd is a foreign company which does not have a permanent establishment in Mauritius, it needs not withhold TDS from payments made to local sub-contractors.