

VATR 87

Facts

C, a private domestic company is a subsidiary of B, a French entity.

The current business activity of C is the provision of IT support services, administrative support and project management services to related entities within D only, including Mauritian related entities of C. No service is rendered to any unrelated parties. The IT support service is provided by C to D on behalf of B. C invoices B directly for the IT services rendered to the entities in D and B reallocates the fees to the entities as appropriate. However, the invoices for the other services are issued directly by C to the related entities. Service fees charged to the related entities are determined at cost plus 5% mark up on operational cost. Services rendered to Mauritian entities represent less than 5% of the total services rendered to the D and can be tracked from available records/software used. The annual turnover of taxable supplies is likely to exceed rupees 6 million.

C carries out its activities from Mauritius and it locally employs the appropriate personnel with the relevant qualification and experience to be able to provide such services.

It also rents an office, incurs operating expenses such as audit fees, accounting and tax fees, parking fees, etc. on which VAT is charged by VAT registered service providers.

Points at issue

1. Whether the supply of services by C to the foreign entities is a zero-rated supply?
2. Whether the supply of services by C to Mauritian entities is a standard rated supply (i.e. liable to VAT at 15%)?
3. Whether C can register for VAT purposes and claim repayment for any input VAT incurred?
4. Whether VAT at the rate of 15% is applicable on 5% mark-up only or total fees charged to the local entities.

Ruling

On the basis of facts mentioned above,

1. The supply of services by C to the foreign entities is zero-rated by virtue of section 11 and Item 6(a) of the Fifth Schedule to the Value Added Tax Act.
2. The supply of services made by C to Mauritian entities including services rendered to Mauritian entities and invoiced directly to B, is a supply of services performed and utilised in Mauritius and is therefore subject to VAT at 15%.
3. Since the turnover of taxable supplies is likely to exceed rupees 6 million, C is liable to register for VAT under section 15 of the VAT Act. As C is mainly engaged in zero-rated supplies, it may make a claim for repayment of any excess input tax in accordance with section 24(4) of the VAT Act.
4. VAT at the rate of 15% is applicable on the total fee charged in respect of the local entities.