

VATR 88

Facts

L was incorporated in Mauritius and it holds a Global Business Licence (“GBL”). L is wholly owned by G, a French entity.

The business activity of L is to provide payroll management services to the subsidiaries of H operating in Africa, including C, holder of a Global Business Licence. Services rendered to foreign entities represents around 90% of the business activity of L. L manages the payroll of the Group subsidiaries and recharges the salaries/social contributions paid on their behalf with a mark-up of 5% of its operational expenses to those companies. The main source of income of L is in the form of service fees received from the provision of payroll management services. The annual turnover is likely to exceed rupees 6 million.

L carries out its core income generating activities from Mauritius and it employs local staff to carry out these payroll management activities.

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 L to the foreign entities in Africa is a zero-rated supply?
2. Whether the supply of services by L to C is also a zero-rated supply?
3. Whether L can register for VAT purposes?
4. Whether L can claim repayment for any input VAT incurred?
5. Whether VAT of 15% is applicable on the 5% mark-up only or total fees charged in respect of the local entities?

Ruling

On the basis of facts mentioned above,

1. The supply of services by L to the foreign entities in Africa is zero-rated by virtue of Section 11 and Item 6(a) of the Fifth Schedule to the VAT Act.
2. The supply of services by L to C is zero rated provided that the latter is engaged in providing services to foreign entities.
3. Since the turnover of taxable supplies is likely to exceed rupees 6 million, L is liable to register for VAT under section 15 of the VAT Act.
4. As L 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.
5. VAT at the rate of 15% is applicable on the total fee charged to the local entities.