

VATR 96

Facts

M is a VAT-registered domestic company, incorporated and domiciled in Mauritius. It is engaged in water engineering consulting services and project management including works supervision and technical assistance. M is a wholly owned subsidiary of N, a company incorporated and domiciled in France. Both the holding and subsidiary company are in the same line of business.

M has been awarded a contract as the sub-consultant from D, a domestic company with regard to the Cap Marina project in providing consulting engineering services. Besides, its own local employees on its payroll does, for the purpose of executing the contract, hire the local services of consultants (mainly engineers) who are resident in Mauritius and also the services of its foreign holding company, N.

The scope of the work does entail both the physical presence of the employees of N in Mauritius for the proper execution of the work and also off-site work, that is work handled in the Office in France. The employees will be present in Mauritius for over 183 days.

Accordingly, N does send its own engineers and technicians to Mauritius for the relevant tasks involved. These employees are remunerated in France by N. There is no formal arrangement or contract between M and N; the latter owns 100% shares of the former. M has been set up mainly to tap the local market and that of the Indian ocean region.

N is to charge a fee for services rendered to M. The former is to also charge a management fee to the latter. Being the holding company, N is to provide financial assistance to M as and when required by way of inter-company loan with a reasonable rate of interest.

Points at issue

1. Whether N is to charge VAT to M for services rendered?
2. Does the place where the services are provided to M have any relevance to the obligation to charge VAT, that is, services in the office in France (online

services/design and the like) and physical presence in Mauritius (supervisory activities, for example) ?

Ruling

On the basis of information provided, it is ruled that –

1. As N sends its engineers and technicians to provide services to M, N is a taxable person making taxable supply in Mauritius in the course or furtherance of its business. It will have to apply for VAT registration and upon its registration, it will have to charge VAT on the services rendered to M.
2. To the extent, the services rendered by N to M are from outside Mauritius, that is, its office in France, the reverse charge mechanism shall be applied by M pursuant to section 14 of the VAT Act. Under this provision, it will be deemed as if M had itself supplied the services in Mauritius and that supply were a taxable supply. Consequently, M may claim the VAT on the supply of the services as input tax in accordance with section 21 of the VAT Act.

As regard the services that will be provided by the engineers and technicians of N who will be physically present in Mauritius, N will have to register as a VAT-registered person in Mauritius by virtue of section 15(2)(i) of the VAT Act and charge VAT on those services rendered to M.