

VATR 99

Facts

Q is engaged in the construction and operation of a world- class oceanarium.

Q has been granted a Registration Certificate by the Board of Investment under the Investment Promotion Act for the purpose of carrying out and operating a world class aquarium. The project value of the oceanarium exceeds Rs 400 million. Q is VAT registered.

The mission of Q is, through continuous sharing of knowledge and stimulation of public awareness, to nurture a caring, loving and respectful culture towards the aquatic environment so as to develop in every citizen a natural inclination and readiness for safeguarding and protecting it from degradation. In other words, making people learn to better love and protect the aquatic environment.

Once in operation, Q shall derive its revenue from the following specific streams:

Entrance fees

Entrance fees shall be charged to the public at the ticketing counter of the oceanarium or online on Q's website. Each visitor shall be issued an entrance ticket against payment of an entrance fee.

The value of the entrance fee charged will depend on following factors:

Age group of visitors e.g. kids, adults, senior citizens etc;

Special group visits e.g. students, NGOs, senior citizens, clubs etc; and

Special discount on online purchases.

The 8 different types of entrance fees which will be offered by Q are hereunder labelled as A to H:

Entrance Fee offer A	It is just the normal visit.
Entrance Fee offer B	It is the normal visit, but with a free guide to accompany the visitor across the visit from start to finish. No additional charge during visit.

Entrance Fee offer C	It is the normal visit during which the visitor will be accompanied through the "back of the house" e.g machine room etc, with a free guide for relevant explanations. No additional charge during visit.
Entrance Fee offer D	It is the normal visit during which the visitor will be allowed to step inside one of the outdoor pools in presence of a biologist for interactions with the sharks and explanations. No additional charge during visit.
Entrance Fee offer E	It is a special evening visit following which a group of visitors are allowed to spend a night at the oceanarium under supervision. No additional charge during activity.
Entrance Fee offer F	It is a normal visit during which the visitor will be accompanied through the back of the house and will also be allowed to step inside one of the outdoor pools in the presence of a biologist for interaction with sharks and explanations. No additional charge during activity.
Entrance Fee offer G	It is a full package including a free guided tour, the back of the house visit and the encounter with the sharks. No additional charge during visit.
Entrance Fee offer H	It is a special offer which provides the visitor with an Annual Pass giving him/her the possibility of undertaking a "normal visit" to the aquarium as often as he/she wishes during a period of 12 months. No additional charge.

Food and Beverages service

The oceanarium has a permanent outdoor food counter which will sell refreshments, food and beverages, to its visitors. Q has subcontracted this operation to an independent professional caterer. The latter shall pay to Q a monthly fee calculated on the basis of a fixed amount plus a percentage of food and beverages turnover.

Souvenir photos

Q will operate a photo booth and will sell souvenir photos to the oceanarium's visitors at a determined price. The revenue derived by Q will be from the sale of photos.

Events on site

Q will host different events at the oceanarium, including conferences, workshops, team building sessions, receptions and banquets. Q will derive revenue from such events through rental of the oceanarium's facilities and /or a percentage of the food and beverages turnover of the food and beverages service provider whenever applicable.

Membership programs

Q will offer to the public the possibility of subscribing to membership programs. Such membership programs shall consist of standing privileges including unlimited personal access to the oceanarium's facilities, participation to special events, discounts at the souvenir shop etc. Q will derive its revenue from the sale of such membership programs.

Souvenir / Gift shop

Q will operate a souvenir shop selling articles to visitors of the oceanarium and to the public at large on a retail basis. The articles will include mainly garments, plush toys, educational books, DVDs and other small articles like mugs, key holders and magnets to name but a few. Q will derive revenue from the sale of such articles.

Points at issue

- (1) Whether the entrance fees charged by Q to visitors will be a zero-rated supply?
- (2) Whether the monthly fee calculated as a fixed amount plus a percentage of food and beverages turnover paid by the caterer to Q will be subject to VAT at standard rate?
- (3) Whether supplies made by Q in respect of the photo booth, events and subscription to membership programs will be subject to VAT at standard rate?
- (4) Whether supplies made by Q in the souvenir and gift shop will be subject to VAT at standard rate?

Ruling

On the basis of facts mentioned above, it is ruled that:-

- 1) The entrance fee charged by Q to visitors under offer A will be a zero-rated supply for a period of 8 years as from the start of operation of the oceanarium by virtue of item 30 of the Fifth Schedule to the Value Added Tax Act and Regulations 18A of the Value Added Tax Regulations 1998. Any additional amount charged under offers B to H will be subject to VAT at standard rate.
- 2) The monthly fee calculated as a fixed amount plus a percentage of food and beverages turnover paid by the caterer to Q will be subject to VAT at standard rate.
- 3) The supplies made by Q in respect of the photo booth, events and subscription to membership programs will be subject to VAT at standard rate.
- 4) The supplies made by Q in the souvenir and gift shop will be subject to VAT at standard except for printed books and similar printed matter of heading No. 49.01 which are zero-rated in accordance with item 2(i) of the Fifth Schedule to the VAT Act.