

ARC Tax Rulings 2025

Summaries

Assessment Review Committee Rules in Favor of CDL Knits Limited on Investment Tax Credit Eligibility

Case: CDL Knits Limited v Director General, MRA

(ARC/IT/381-21 & ARC/IT/572-22)

The Assessment Review Committee ("ARC") has delivered a significant ruling in the case of **CDL Knits Limited v Director General, MRA (ARC/IT/381-21 & ARC/IT/572-22)**, clarifying the "year of acquisition" for investment tax credit purposes under the Income Tax Act (ITA). The Committee found that **capital expenditure on new plant and machinery** qualifies for the tax credit based on the **commissioning date** rather than the shipment or ownership transfer date of unassembled parts.

CDL Knits Limited, the Applicant, had claimed investment tax credits for machines MO327 and MO328 in their income years ended 30 June 2017 and 30 June 2018. The Respondent, the Mauritius Revenue Authority (MRA), had disallowed these claims, contending that the expenditure was incurred in the income year ending 30 June 2016, prior to the eligible period (01 July 2016 to 30 June 2020).

The ARC applied the "functional test," drawing guidance from established jurisprudence, to determine what constitutes "plant and machinery." It emphasised that individual, unassembled parts, reported as **Work in Progress (WIP)**, do not qualify until they are assembled, commissioned, and "used in that activity" of manufacturing. The Committee also noted consistency with **International Accounting Standard 16 (IAS 16)**, where assets are recognised only when probable future economic benefits will flow to the entity and the cost can be reliably measured.

Consequently, the ARC ruled in favour of CDL Knits Limited, mandating the MRA to revise its **Notice of Determination** to allow the investment tax credit on MO327 and MO328, as their commissioning occurred post 01 July 2016. This decision provides crucial clarity on the timing of capital expenditure recognition for tax incentive eligibility.

Baker Tilly Insights:

The CDL Knits Limited case involved a relatively simple issue regarding when unassembled parts should be recognised as plant and machinery. Despite the straightforward nature of the matter, the taxpayer had to seek assistance from both tax experts and legal counsel to resolve it. This illustrates the burden taxpayers face when resolving interpretational uncertainties, often requiring expert and legal support.

Tax Authority Prevails: Zambezi Tourism Investments' Shareholder Advances Deemed Loans, Not Dividends

Case: Zambezi Tourism Investments v Director General, MRA

(ARC/IT/470-23)

Assessment Review Committee ("ARC") has sided with the Director-General, Mauritius Revenue Authority ("MRA"), in a dispute over the tax treatment of advances made by Zambezi Tourism Investments to its shareholders. The ruling, **Zambezi Tourism Investments v Director-General, MRA (ARC/IT/470-23)**, affirms the MRA's application of "deemed interest" under Section 75 of the Income Tax Act.

Zambezi Tourism Investments (the "Applicant") contended that the advances were in the nature of "dividends" and were later reclassified as "preference dividends" via a Board Resolution in January 2023, following an inability to perform a solvency test earlier due to financial impact from COVID-19.

However, the MRA (the "Respondent") maintained that the advances were "loans" based on the company's own Audited Financial Statements, which described them as "unsecured, interest-free, and repayable on demand." The MRA argued these were not at arm's length and the Applicant had failed to discharge its burden of proof to demonstrate otherwise.

The ARC's decision upheld the Notice of Determination, concluding that the Applicant's financial statements consistently characterised the advances as loans. The Committee found that the subsequent reclassification as dividends could not retroactively alter the nature of the initial transactions. Furthermore, the Applicant's challenge to the 11% interest rate, a technical aspect of the Notices of Assessment, was not adequately pleaded in its Representations, leaving no basis for the Committee to review it.

This ruling has significant financial implications for Zambezi Tourism Investments, affirming the MRA's assessment of additional tax liability arising from the deemed interest on the shareholder advances.

Baker Tilly Insights:

The Zambezi case underscores the critical importance of consistent financial record-keeping and precise articulation of legal grounds in tax disputes.

Navigating Tax Objections

Case: BWSC A/S v Director General, MRA

(ARC/IT/270-20; ARC/VAT/131-20)

The Assessment Review Committee (ARC) has issued a significant procedural ruling in the dispute between **BURMEISTER & WAINE SCANDINAVIAN CONTRACTOR A/S (BWSC A/S)**, a Danish company, and the **Director General, Mauritius Revenue Authority (MRA)**. The case centres on substantial **Income Tax** and **Value Added Tax (VAT)** assessments totalling over MUR 1.17 billion levied against BWSC A/S for an **Engineering, Procurement, and Construction (EPC)** contract related to a power plant project.

BWSC A/S had filed objections against these assessments, which the MRA subsequently deemed lapsed due to the company's failure to make the **statutory 10% upfront payment** required by law. BWSC A/S challenged this lapsing before the ARC, arguing that the assessments were "grossly exaggerated and exceptionally unfair," thereby providing a "good reason" to waive the upfront payment.

The MRA, conversely, maintained that BWSC A/S derived income from "onshore activities" in Mauritius and characterised the contract splitting with its local subsidiary (BWSC-M) as a "tax avoidance scheme" rather than a legitimate **transfer pricing** exercise.

After reviewing the submissions, the ARC did not delve into the **merits** of the tax assessments themselves. Instead, recognising that BWSC A/S presented an "arguable case on the merits involving substantial questions of facts and law," the Committee ordered BWSC A/S to **pay MUR 10 million or provide a bank guarantee for the same amount within one month**.

This decision allows BWSC A/S a pathway for its objections to be formally entertained by the MRA, which would then be required to determine the objections within four months. The ARC emphasised that this ruling is specific to the "circumstances of the present case" and **does not constitute a precedent** for future tax disputes. Failure to comply with the MUR 10 million requirement would result in the MRA's original decision to lapse the objections remaining valid.

Baker Tilly Insights:

The BWSC case, while not precedent setting, demonstrates that procedural discretion can play a key role in enabling fair tax review.

ARC Rejects MRA's Procedural Objection, Cathay Capital Case to Proceed

Case: Cathay Capital Company Ltd v Director General, MRA

(ARC/IT/681-17 & ARC/IT/506-18)

The Assessment Review Committee (ARC) has set aside a preliminary objection raised by the MRA against Cathay Capital Company Ltd. The MRA had sought to dismiss Cathay Capital's appeal, arguing non-compliance with "Section 19(1) of the Mauritius Revenue Authority Act 2004" regarding the clear submission of "grounds of representation."

Cathay Capital successfully argued that its Representation Forms utilised "incorporation by reference" to a comprehensive Statement of Case, which meticulously detailed its 7 grounds of grievances. The ARC, referencing binding Supreme Court precedents such as "Varcity Mauritius Ltd" and "Coca-Cola Indian Ocean Islands Ltd," reiterated that tribunals should maintain minimal "formality and technicality" to facilitate taxpayer access to justice. The Committee found that "shutting out a taxpayer altogether" on such procedural grounds, when the appeal's substance is clearly documented, is an extreme measure.

Consequently, the case will now be heard on the merits, allowing the substantive dispute between Cathay Capital and the MRA to be addressed.

Baker Tilly Insights:

The Cathay case reaffirms the ARC's role in prioritising substantive review over strict procedural formalism in tax appeals.

ARC Sides with Taxpayer on Evidentiary Scope in case: CAYLUS LTD V DG, MRA

(ARC/VAT/100-21)

The Assessment Review Committee (ARC) has dismissed an objection by the Director General, Mauritius Revenue Authority (MRA), in the case of CAYLUS LTD V DG, MRA ARC/VAT/100-21. The ruling allows CAYLUS LTD (the Applicant) to present evidence concerning disputed turnover and taxable supplies related to a Rs 400,000 transaction with Caylus Motors Ltd, which the Applicant claims was erroneously included in its Income Tax Return and VAT assessment.

The MRA had argued that this specific point was not included in the Applicant's initial grounds of representations.

However, the quasi-judicial body emphasized its statutory mandate to minimize procedural technicalities and ensure fairness, noting that the issue was already a "live issue" during prior objection proceedings. Consequently, the case will now proceed on its merits, allowing a comprehensive review of the taxable supplies computation.

Baker Tilly Insights:

The ARC's decision in the CAYLUS case sets a strong example of how procedural discretion can uphold justice in tax appeals.

ARC Nullifies MRA Assessment in Foreign Tax Credit Dispute Case: E-Outsourcing International V DG, MRA

(ARC/IT/531-23)

The Assessment Review Committee has set aside a tax determination by the Director-General, Mauritius Revenue Authority (MRA), concerning E-Outsourcing International's claim for Foreign Tax Credit.

E-Outsourcing International, a Global Business Company, sought to simultaneously claim both "presumed foreign tax credit" (80% of Mauritian tax) and "Underlying Tax" credit for the Assessment Year 2019/2020. The MRA maintained that under Regulations 3 and 6 of the Income Tax (Foreign Tax Credit) Regulations 1996 (as amended by Regulation 10 of 2018), these are mutually exclusive, allowing only the more advantageous of the two.

While the Committee concurred that the Applicant could not claim both types of credits concurrently, it ruled that the MRA's initial assessment was invalid ab initio. The MRA had erroneously relied on a repealed provision, Regulation 8(3) of the 1996 Regulations, instead of Regulation 10(1) of the Income Tax (Foreign Tax Credit) (Amendment) Regulations 2018. Despite the MRA rectifying its legal basis in its Notice of Determination, the Committee deemed the original defect fatal to the assessment's validity, emphasizing that an assessment must be founded on applicable law from its inception. The Committee also noted a breach of Section 7C of the Mauritius Revenue Authority Act due to the MRA's failure to address the Applicant's objection regarding the repealed law.

Consequently, the determination dated 14 November 2023 was set aside, necessitating a new, legally compliant assessment by the MRA.

Baker Tilly Insights:

The ARC's decision in the E-Outsourcing case reinforces safeguards for taxpayers against flawed assessments, ensuring fairness in tax administration.

Tax Tribunal Rules Legal Services to Foreign Clients are Zero-Rated VAT

ETUDE GUY RIVALLAND LTD v THE DIRECTOR GENERAL, MRA

(ARC/VAT/029-23)

In a significant decision delivered by the Assessment Review Committee (ARC), Etude Guy Rivalland Ltd has won its appeal against an assessment by the Mauritius Revenue Authority (MRA) concerning Value Added Tax (VAT). The case centred on the VAT treatment of services provided by the law firm to overseas clients.

The ARC upheld the taxpayer's position based on the following legal and factual grounds:

1. Recipient Location Matters

Under Item 6(a) of the Fifth Schedule, services are zero-rated if:

"The supply of services to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed."

The ARC confirmed that the clients were foreign companies, domiciled outside Mauritius, and not present in Mauritius when the services were rendered.

2. Definition of "Belongs in a Country Other Than Mauritius" The law defines this as:

- No permanent establishment in Mauritius, or
- Place of abode outside Mauritius

The foreign companies met this definition.

3. Taxable Supply vs. Zero-Rated Supply

The ARC clarified that zero-rated supplies are still taxable supplies, but no VAT is charged under section 11(1)(a) of the VAT Act:

"Where a taxable person supplies goods or services and the supply is zero-rated - no VAT shall be charged on the supply."

4. MRA's Argument Rejected

The MRA argued that services were performed and utilized in Mauritius, and therefore taxable. However, the ARC found this interpretation flawed, especially since:

- The MRA's own witness admitted the clients were foreign and outside Mauritius.
- The MRA introduced new arguments (e.g., agency under the Industrial Property Act) after the hearing, which were not part of the original assessment or determination.

5. Precedent Cited

The ARC relied on the Supreme Court decision in *Mega Design Ltd v MRA* [2010 SCJ 53], which held that services supplied to a foreign company outside Mauritius were zero-rated, even if performed locally.

Consequently, Etude Guy Rivalland Ltd will not be liable for the additional VAT originally assessed by the MRA.

Baker Tilly Insights:

The decision reinforces the importance of the territorial scope of services for VAT purposes and highlights that the performance of services within Mauritius does not automatically render them taxable if the criteria for zero-rating are satisfied.

Construction Cost Consultants Ltd Wins Appeal Against MRA

CONSTRUCTION COST CONSULTANTS LTD V DIRECTOR GENERAL, MRA

(ARC/IT/350-17)

In a significant ruling by the Assessment Review Committee (ARC), Construction Cost Consultants Ltd (CCCL) has emerged victorious in a tax dispute against the Mauritius Revenue Authority (MRA). The case centered on disputed tax assessments concerning three key financial amounts: Rs 4,509,454, Rs 2,536,232, and Rs 399,027.71.

The Applicant, CCCL, maintained that these sums were not taxable because no services were rendered, no invoices were issued, and no payments were received. They argued that the MRA's assessments lacked a basis in earned or accrued income, citing a lack of enforceable right to payment. Furthermore, the Applicant highlighted procedural irregularities by the MRA, including a lack of transparency and fairness in the objection process.

The Respondent, the MRA, contended that the income had "accrued" under Section 5 of the Income Tax Act 1995, implying it was legally due even if not physically received. They based their argument on broader contractual terms and accounting principles, asserting that the Applicant had an unconditional right to receive the funds.

The Committee found that the MRA failed to provide sufficient and reliable evidence to support its claim that the disputed amounts constituted earned or accrued income. Crucially, the Applicant successfully demonstrated a lack of "enforceable right to receive payment," a key legal threshold for taxable income. Additionally, the fact that a related company, EPB Quantity Surveyors Ltd, was defunct meant any potential debt was irrecoverable and thus a "bad debt," not taxable turnover. The Committee also acknowledged the MRA's procedural shortcomings, which further contributed to the ruling.

Baker Tilly Insights:

The decision reinforces the principle that tax authorities must present concrete evidence to substantiate assessments and adhere to procedural fairness. It also clarifies that income owed from defunct entities cannot be treated as taxable.

Court Upholds MRA's EPF Assessment Against Holiday Villages Management Services

HOLIDAY VILLAGES MANAGEMENT SERVICES (MAURITIUS) LTD V THE DIRECTOR GENERAL, MRA

(ARC/IT/123-16)

The Assessment Review Committee has ruled in favour of the MRA affirming an additional Environment Protection Fee (EPF) assessment against Holiday Villages Management Services (Mauritius) Ltd (HVMS).

The dispute arose when HVMS, the applicant, objected to an MRA assessment claiming an additional Rs 30,160,112 in EPF, inclusive of penalties and interest, for the 2014 and 2015 assessment years. The MRA's assessment was based on an adjusted turnover figure previously agreed upon between the parties for corporate income tax and Value Added Tax (VAT) purposes.

HVMS contended that EPF liability should be determined solely from its audited accounts, arguing that the upliftment of revenue from the earlier agreement was a tax adjustment specific to income tax and VAT and should not impact EPF. However, the MRA, the respondent, maintained that the EPF was calculated in strict accordance with Section 66(2) of the Environment Protection Act (EPA). They argued that the earlier agreement established the correct turnover for the hotel, which is the statutory basis for EPF calculation for designated establishments like hotels, at a rate of 0.85% as per the EPA's Eighth Schedule.

The Committee's decision emphasised that while corporate tax, VAT, and EPF are distinct forms of tax with different legal frameworks, they can all relate to the same revenue or turnover. Therefore, any changes in the agreed turnover for Income Tax and VAT purposes would, by operation of law, impact the EPF calculation.

The ruling sets aside HVMS's representations, confirming the MRA's assessment.

Baker Tilly Insights:

The HVMS Case underscores the importance of holistic tax planning and inter-tax consistency. Taxpayers must treat turnover adjustments with caution and anticipate their multi-tax consequences. From a compliance and risk management standpoint, this case highlights the need for proactive engagement with the MRA and robust documentation of all tax-related agreements.

Tax Ruling Upholds MRA's Assessment on Intercompany Loan

MANIPAL ACADEMICS SERVICES INTERNATIONAL LTD V/S DIRECTOR GENERAL, MAURITIUS REVENUE AUTHORITY

(ARC/IT/412-18)

The Assessment Review Committee (ARC) has upheld a tax assessment by the Mauritius Revenue Authority (MRA) against Manipal Academics Services International Ltd (MASI) regarding an interest-free loan granted to its holding company, MEMGI International (Mauritius) Ltd. The ruling clarifies the broad application of the arm's length principle under Section 75 of the Income Tax Act 1995.

The case stemmed from a tax audit by the MRA on MASI, a holder of a Global Business License (GBL), for the assessment years 2015 to 2018. The MRA contended that the interest-free loan to MEMGI, a related resident company, was not conducted at arm's length, leading to deemed interest and tax assessments totaling USD 1,254,219, inclusive of penalties and interests.

MASI argued that Section 75 was primarily for cross-border transactions and did not apply to transactions between two Mauritius resident companies. They also claimed the loan was tax neutral and secured by guarantees from MEMGI, leading to a lower interest rate on their external borrowings. Hence, the issue in contention was whether the MRA had the authority to impute

deemed interest on the loan between MASI and MEMGI (given that it is between resident companies) and whether the loan provided was at arm's length.

The ARC rejected MASI's arguments, referencing the recent *Innodis Ltd v The Director General of the MRA (2023 SCJ 73)* case. This precedent firmly established that Section 75 applies to both domestic and international transactions, irrespective of the residency status of the entities involved.

The Committee emphasised that without adequate documentation to demonstrate that the intercompany transaction was at arm's length, the MRA was justified in imputing interest. Consequently, MASI's representations were set aside, meaning the original tax assessment by the MRA stands.

Baker Tilly Insights:

This decision carries significant financial implications, underscoring the necessity for all related-party transactions in Mauritius to adhere strictly to the arm's length principle, supported by robust evidence and documentation, to avoid potential adjustments by tax authorities.

Assessment Review Committee Upholds Taxpayer's Housing Loan Interest Relief Claim

MR. DHOOBALSINGH DABEESINGH V DIRECTOR GENERAL, MRA

(ARC/IT/89-20 and RC/IT/163-18)

The Assessment Review Committee has delivered a significant ruling, upholding Mr. Dhoobalsingh Dabeesingh's claim for interest relief on a secured housing loan for the tax years 2017/2018 and 2018/2019. The Applicant, an employee of Deloitte and Associates, had sought relief under Section 27A of the Income Tax Act 1995, for a loan from Barclays Bank used to acquire his first residential property.

The Respondent, the Mauritius Revenue Authority, had initially disallowed the relief. Their position was predicated on a strict application of the Salomon principle, asserting that the loan's purpose was the acquisition of shares in Deenad Investment Ltd., which legally held the property, thereby maintaining a separate legal entity between Mr. Dabeesingh and the property ownership.

However, the Committee adopted a substance over legal form approach. It determined that despite the corporate structure, the economic reality of the transaction qualified for the relief. Key factors included that Mr. Dabeesingh was the sole shareholder

of Deenad Investment Ltd., the company's sole purpose was to hold his residence, the property was used exclusively as his home, and the loan was secured by a mortgage on the immovable property. The Committee found no evidence of tax avoidance, concluding that a purposive interpretation of Section 27A supported the Applicant's claim.

Baker Tilly Insights:

This ruling emphasises economic reality over strict legal form in the context of tax relief provisions.

Taxpayer Wins Partial Concession in ARC Ruling: MRA Directed to Re-evaluate Assessment

MR. HOK SHUI HAU V DIRECTOR GENERAL, MRA

(ARC/IT/303-16)

In a recent decision, the Assessment Review Committee (ARC) has ordered the Mauritius Revenue Authority (MRA) to adjust a tax assessment against Mr. Hok Shui Hau, an Applicant who is a major shareholder deriving emoluments from companies including Origin Investment Ltd and Microgames Ltd.

The case centred on an MRA assessment of Rs 4,000,000 in undisclosed income for the years of assessment 2008/2009 to 2011, determined through a capital computation exercise. The MRA's methodology highlighted a disparity between the Applicant's total bank lodgements and declared income, citing a lack of documentary evidence and inconsistent explanations regarding the financing of a property. The Applicant had initially faced a lapsed objection under Section 131A (6) of the Income Tax Act 1995 due to non-payment of the required 30% of the assessed amount.

Mr. Hok Shui Hau contended that the funds in his personal bank account were business-related monies from Microgames Ltd, used to defray legitimate business expenses such as business licenses and utility bills. He also asserted that he had not understated his profits, having reinvested them by opening other shops, and that a property purchase was a joint financing effort involving his son, daughter-in-law, and son's father-in-law. The Applicant also presented proforma invoices, commercial invoices, and Bills of Entry related to the importation of game machines, indicating prior business activity.

The ARC's decision favoured the Applicant on two key points. Firstly, the Committee found the MRA's upward rounding of the undisclosed income figure from Rs 3,910,025 to Rs 4,000,000 to

be unfair. Secondly, the ARC allowed an additional opening capital of Rs 300,000, thereby increasing the Applicant's opening net worth figure from Rs 1,853,878 to Rs 2,153,878.

The Committee's reasoning underscored the unfairness of the MRA's arbitrary rounding and acknowledged the relevance of evidence, such as Bills of Entry, in establishing the Applicant's business activities. Consequently, the MRA has been requested to adjust the capital computation accordingly and recalculate the tax payable, which is anticipated to result in a reduced tax liability for Mr. Hok Shui Hau.

Baker Tilly Insights:

The Hok Shui Hau Case sets a positive precedent for reasoned and equitable dispute resolution in Mauritius.

Customs Tribunal Rules "Network Cabinets" are Telecom Equipment, Not Furniture

Seculogix Co Ltd V The Director General, MRA

(ARC/CUS/12-21)

In a ruling with significant implications for import duties, the Assessment Review Committee has sided with Seculogix Co Ltd against the MRA in a dispute over the Harmonized System (HS) classification of "Network Cabinets." The case is hinged on the appropriate HS Code for the imported goods.

Seculogix Co Ltd, the applicant, contended that the "Network Cabinet" should be classified under HS Code 8517.70.00, designated for apparatus for the transmission and reception of voice, images, or other data, which attracts a 15% Value Added Tax (VAT). They argued its technical purpose was to house CCTV and alarm systems. The MRA, following a Post Clearance Review of Declarations Unit (PCRD) and subsequent review by the Objections, Appeals & Dispute Resolutions Department (OADR), reclassified the product under HS Code 9403.20.90, pertaining to "other metal furniture," which incurs a 30% customs duty and 15% VAT.

The Committee ultimately ruled in favour of Seculogix Co Ltd, upholding the initial classification under HS Code 8517.70.00.

Baker Tilly Insights:

The decision emphasised the Network Cabinet's technical nature and functional intent as specialised IT equipment designed for networking infrastructure, rather than conventional furniture, thereby avoiding the higher duty rates proposed by the MRA.

ARC Upholds MRA's VAT Assessment Against Sweet and Salted Delicacies Co Ltd

SWEET AND SALTED DELICACIES CO LTD V DIRECTOR GENERAL, MRA

(ARC/VAT/182-22)

The Assessment Review Committee (ARC) has affirmed the MRA's Value Added Tax (VAT) assessment, including penalties and interest, against Sweet and Salted Delicacies Co Ltd.

The core of the dispute revolved around whether Sweet and Salted Delicacies Co Ltd qualified as a taxable person and was therefore liable for VAT, despite not being formally registered. The MRA's audit revealed the company's annual turnover exceeded the statutory Rs 6 million VAT registration threshold for the income years ending 30 June 2018 and 30 June 2020. Consequently, a Notice of Assessment was issued for undeclared VAT, penalties, and interest.

Sweet and Salted Delicacies Co Ltd argued it was not a taxable person due to its unregistered status, citing a lack of guaranteed turnover and prior advice from the MRA. It also contended that the MRA's power to assess was limited, particularly in light of subsequent legislative amendments (Sections 15A and 15B of the VAT Act) pertaining to penalties for non-registration.

However, the ARC ruled in favour of the Director General, MRA. The Committee determined that exceeding the turnover threshold automatically rendered Sweet and Salted Delicacies Co Ltd a taxable person under Section 2 and Section 15(1) of the VAT Act. Furthermore, it confirmed that Section 37(1) of the VAT Act lawfully empowered the MRA to raise a retrospective VAT assessment against any person failing to register despite being liable. The ARC clarified that the newer Sections 15A and 15B, introducing fixed monetary penalties for non-registration, operate in parallel and do not nullify the MRA's pre-existing authority to assess the actual VAT due on taxable supplies. The imposed penalties and interest were deemed lawful, especially as a conditional waiver offered by the MRA had not been fulfilled by the Applicant.

The Applicant's representations were dismissed, and the MRA's Notice of Determination was upheld, confirming the company's liability for the outstanding VAT, penalties, and interest.

Baker Tilly Insights:

The case of Sweet and Salted Delicacies Co Ltd is straightforward. The company exceeded the statutory threshold

of Rs 6 million in annual turnover, triggering the requirement for compulsory VAT registration. As such, it is liable to register for VAT and remit the applicable tax to the MRA.

Customs Authority's Value Upliftment Overturned

THE WORLD OF FURNITURE LTD V DIRECTOR GENERAL, MRA

(ARC/CUS/43-12 & ARC/CUS/12-13)

The Assessment Review Committee has ruled in favour of The World of Furniture Ltd, overturning the Mauritius Revenue Authority's (MRA) decision to impose an upliftment of value on imported furniture consignments. The case, officially centered on disputes over customs valuation methodologies.

The World of Furniture Ltd, an importer of stock lot furniture from China, contended that their declared transaction values were accurate and that the MRA's adjustments were baseless. They argued that stock lot purchases inherently lack standard documentation such as catalogues or price lists and that the MRA's comparable goods under Section 18C of the Customs Act were not adequately disclosed or were unsuitable.

Conversely, the MRA's Customs Department asserted that insufficient documentation and a bank record indicating a part payment justified their rejection of the declared values. They applied Section 18C, using a customs database to determine similar goods for valuation, and cited discrepancies in shipping and proforma invoice dates.

The Committee found that the Respondent (MRA) failed to establish valid comparable goods under Section 18C. Key to the decision was the MRA's inability to disclose or allow inspection of the comparable data used. The Committee acknowledged that stock lots do not typically involve standard sales documents and emphasised that the burden of proof for valid comparable values rests with the customs authority when disputing an importer's declared value. It also noted that bulk purchases should be a factor in valuation.

The committee's view was that the Respondent failed to establish valid comparable under Section 18C for reasons and accordingly upholds the representations of the Applicant.

Baker Tilly Insights:

This ruling highlights the need for customs authorities to rely on clear, verifiable evidence and to act within the legal framework, especially in cases involving atypical trade practices like stock lot transactions

ARC Rules Property Option Deals VAT Exempt

V5 Co Ltd v DIRECTOR GENERAL, MRA (ARC/VAT167-15)

In this significant ruling, the Assessment Review Committee (ARC) has determined that V5 Co Ltd, an option dealer in immovable property, is exempt from Value Added Tax (VAT) on its transactions. The case pitted V5 Co Ltd (the Applicant) against the Mauritius Revenue Authority (MRA) (the Respondent), which had sought over Rs. 2.1 million in VAT and penalties.

The MRA argued that V5 Co Ltd's activities constituted taxable supplies akin to estate agency services, attracting a 15% VAT rate. However, V5 Co Ltd contended that its business model, involving the acquisition and assignment of option rights over land, falls under the VAT exemption provisions of Item 47 of the First Schedule to the VAT Act.

Items 47 and 48 of First Schedule to the VAT Act have been replicated below:

47. Subject to item 48, the grant, assignment or surrender of any interest in or right over land or of any license to occupy land.

48. The sale or transfer of an immovable property, a building or part of a building, apartment, flat or tenement –

(a) for residential purposes;

(b) for any other purposes except land with any building, building or part of a building, apartment, flat or tenement together with any interest in or right over land, sold or transferred by a VAT registered property developer to a VAT registered person.

The Committee sided with V5 Co Ltd, reasoning that an option contract grants an equitable interest or right over land. Therefore, the assignment of such a right is specifically exempted from VAT. Further, the ruling also clarified that V5 Co Ltd's operations do not align with the definition of a real estate agent under the Real Estate Agent Authority Act, as the company trades in proprietary rights rather than facilitating transactions for third parties.

Baker Tilly Insights:

The V5 Case has established a precedent for the VAT treatment of property option dealing in Mauritius.

Assessment Review Committee Reverses MRA Ruling Against MHG Signity Asset Holding

MHG Signity Asset Holding (Mauritius) Ltd v Director General, MRA

ARC/IT/617-24

The Assessment Review Committee (ARC) has ruled in favor of MHG Signity Asset Holding (Mauritius) Limited in a significant tax dispute against the MRA. The case, centered on contested tax assessments for the 2020/2021 and 2021/2022 income years.

The core of the dispute involved the MRA's disallowance of interest expenses. The Applicant objected to the MRA's methodology, which shifted from an initial proposal to disallow 6% of interest on a USD 1,741,950 balance to a revised calculation based on an uncommunicated total loan balance of USD 4,332,821. This change in approach was deemed a procedural unfairness by the Applicant.

Furthermore, the Applicant contested the MRA's treatment of a USD 415,637 tax loss carried forward. The Applicant had submitted an amended tax return to rectify a perceived lapse of this loss, arguing it was a genuine claim made without intent to mislead, and that penalties applied were unjustified. The MRA's Objection Directorate had dismissed this ground, stating it was not part of the original assessment, which the ARC found to be an erroneous failure to address the objection.

The ARC upheld the Applicant's grounds, concluding that the MRA's conduct, particularly in recalculating interest expenses based on a new balance and ignoring the amended return for losses, violated principles of procedural fairness and transparency. The ruling emphasizes that tax authorities must clearly communicate their methodologies and properly consider all relevant filings. Consequently, the MRA has been ordered to adjust its determination, likely resulting in a more favourable tax outcome for the Applicant.

Baker Tilly Insights:

The ARC's decision in the MHG case sets a strong example of how procedural discretion can uphold fairness in tax appeals.



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