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Facts

Z was incorporated in the Republic of Mauritius on 16 August 1993 under the Companies Act 1984 as a private company with limited liability. The company holds a Freeport Licence from the Board of Investment (BOI) and is engaged in freeport activities. For the year ended 30 June 2015, 32% of the total revenue is derived from physical trading and the remaining 68% of revenue from paper trading.

Physical trade involves importing goods from countries like China, Indonesia, Malaysia to the Freeport Zone in Mauritius. These imported products pertain mainly to candles, seasoning condiments, stationary and cosmetic products and are stored in rented freeport space. These products are later exported to destinations like Madagascar and Comoro Island.

The company also deals in paper trading which relates to the importation of products such as wheat flour, tyres, stainless steel, kitchen items, fabrics, stationary and batteries from countries like India, China, Japan, Korea and Dubai. These goods are then exported to destinations like Madagascar, Tanzania, Johannesburg, Durban and Mombasa without being transited to Mauritius.

The company rents an office space at Rose-Hill where all administration work is carried out. There are 3 permanent employees. It does not possess any fixed assets and does not have any foreign offices. Foreign agents work for the company and receive commission in return.

Point at issue

Whether receipts from paper trading are taxable or not for the following periods:

- Period before 1 July 2003;
- Period starting 1 July 2003 and ending on 30 June 2011;
- Period after 30 June 2011.

Ruling

On the basis of facts given above, it is confirmed that:

- (i) as the concept of « paper trading » did not exist prior to 1 July 2003, it was not considered to be a freeport activity under the Freeport Act 2001. Hence receipts from paper trading prior to 1 July 2003 was taxable.
- (ii) based on Section 161A(13) of the Income Tax Act, receipts derived from paper trading between the period 1 July 2003 and 30 June 2011 is exempt from income tax.

- (iii) in accordance with Section 49(1) of the Income Tax Act, income derived by a freeport operator after 30 June 2011 from the paper trading activities as described in the facts is exempt from income tax .