

TR 237

Facts

M is a domestic company engaged in international trading which involves buying and selling of goods overseas without the goods coming into Mauritius or passing through Customs control in Mauritius.

N is another domestic company in Mauritius. It holds a scrap metal exporter licence obtained from the Ministry of Commerce and Industry. As a holder of this special licence, N is authorised to export scrap metal from Mauritius.

M is not holder of a scrap metal licence.

M and N are related companies as some shareholders are common. Both companies are registered for VAT.

M has received an order from a client in India for the supply of scrap metal. M will buy these scrap metal from N to be export to its client in India.

As M is not authorised to export scrap metal, N will export the scrap metal on behalf of M to M's client in India. For the purpose of the export and Customs declaration, N will be the exporter.

N will invoice M for the goods once the Customs export declaration procedures have been completed.

In its books, M will account as purchases the goods purchased locally from N, and the goods sold overseas in India as export sales.

Point at issue

- (1) Whether M will be subject to income tax at the rate of 3% on the profit realised on the specific sales /purchase transaction?

Ruling

On the basis of the facts mentioned above and provided that M is duly authorised to deal in scrap metal, it is ruled that -

As N will be the exporter of the scrap metals, M will not be entitled to pay tax at the reduced rate of 3% as provided in section 44B of the Income Tax Act. It will therefore be liable to pay income tax at the normal rate of 15%.