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Facts

K Limited is a company incorporated in Mauritius and holds a Category 1 Global Business Licence. It invests in securities in India and has percentage holding in Indian companies which is less than 5%. It derives dividend income from the Indian companies; and on payment of dividends, Dividend Distribution Tax (DDT) is payable to the tax authorities.

Points in issue

Whether K Limited is eligible to claim the DDT as a credit against Mauritius tax payable.

Rulings

DDT, being tax paid out of the profits/reserves of the company declaring dividend, cannot be considered as a withholding tax suffered by the recipient of the dividend. In fact the liability to DDT rests with the paying company and not with the shareholder.

DDT will therefore be treated as an underlying tax in accordance with the provisions of Regulation 7 of the Income Tax (Foreign Tax Credit) Regulations 1996.