

VATR 25

Facts

S (Mauritius) Ltd carries on the activity of refuse disposal in Mauritius. As a pioneer of the cleaning industry, it has been constantly renovating its plant and machinery and kept pace with the changes in technology. It operates four stations around the island where all garbage and waste are disposed. The present trend is to collect garbage and waste around the island in compactors and trailer compactors and send these to the station units for final disposal.

The compactors and trailer compactors are machinery mounted on trucks or lorries, and even if these trucks are not moving, the compactors keep compacting the waste. The compactor engine can only run if the engine of the truck is continuously running, thus consuming fuel. The trailer compactors also keep compacting all the way to the stations. The concept in this project is to avoid trucks and lorries taking several trips to the disposal units, thus also avoiding polluting the island and traffic congestion. At the stations there are machineries consuming diesel which are fixed and remain on site.

Points in issue

Whether the Company can be allowed to claim a credit of 50% of the input tax paid on diesel against output tax in respect of the compactors and trailer compactors mounted on trucks and lorries?

Ruling

Section 21 (2) (e) states as follows:

"No input tax shall be allowed as a credit under this section in respect of -

petroleum oils and other oils or preparations of heading No 27.10 of Part I of the First Schedule to the Customs Tariff Act, except-

- a. fuel oils;
- b. oils or preparation used for resale; and
- c. gas oils for use in stationary engines, boilers and burners"

In view of the above provisions, no input tax can be allowed for diesel used in respect of compactors and trailer compactors which are machinery consuming diesel mounted on trucks and lorries, being given that these are not 'stationary engines'.

However, diesel used on machinery which are fixed and remain on site can be claimed by the Company as credit for input tax against output tax.