

VATR 59 (Govt Gazette No. 16 of 23 February 2013)

Facts

ABC is a company incorporated in UK and it carries out banking business through a branch in Mauritius, hereinafter referred to as Company Z. The branch is duly registered in Mauritius as a foreign company and holds a banking licence under the Banking Act. D Ltd is a Mauritian incorporated company and is wholly owned by ABC.

Company Z and D Ltd have approved a scheme under which D Ltd would undertake the banking business currently being operated by Company Z from both a commercial and legal standpoint. The scheme has been presented to the Bankruptcy Division of the Supreme Court in the form of a petition in accordance with Sections 261 to 264 of The Companies Act. The implementation of the scheme would involve the transfer of the whole of the current business of Company Z to D Ltd and the latter shall issue shares to ABC in consideration for the transfer of the business.

Points at Issue

Whether the implementation of the scheme will imply the payment of any output tax by Company Z under the VAT Act.

Rulings

Company Z does not have to charge output tax as the business of banking has been transferred as a going concern and will continue to operate in the foreseeable future and the provisions of Section 63 of the VAT act will apply.