

**XYZ Ltd v The Mauritius Revenue Authority, 2007 SCJ 247, 2007 MR 22 R No 91820****VAT on exchange of currencies by a non-authorized dealer****Background/ Facts**

XYZ Ltd had been running a hotel at Belle Mare since 1990 and was VAT registered since September 1998. Its foreign clients paid their bills in foreign currencies and at times they exchange their foreign currencies into Mauritian rupees over the reception counter of the hotel. The rates of exchange at the hotel was higher than those of commercial banks resulting in the company receiving more rupees from the exchange of currencies service. For the period April 2000 to December 2004, the excess or profit made from that service amounted to Rs.5.156m.

**Representation to the Assessment Review Committee ('ARC')**

The ARC found that the company was making a taxable supply of services for a consideration from its exchange of currencies. It considered the consideration to be the difference between the rates of exchange offered to the foreign clients by the hotel and those subsequently offered by the commercial banks to the company. The Committee further found that since the company was not authorised under the law to carry on the business of foreign exchange dealer or money changer, it could not claim exemption contained in the VAT Act for financial services.

**The Law**

In terms of the VAT Act, services provided by foreign exchange dealers and money changers are considered as financial services, the supply of which is exempted from VAT.

**Appeal**

The appeal challenges the findings of the ARC.

The Court found that the exemption provided in the VAT Act is not restricted to authorised money dealers. It is the services provided by them and described in the Foreign Exchange Dealers Act, 1995 as including the buying and selling of foreign currency that are exempted.

In the present case, the ARC has upheld taxation on the excess sum received by the company as a result of the exchange of the currencies. These sums amounted to profits which are already liable to taxation as profits under the Income Tax Act.

The appeal is allowed.