

# Bhurtun Chambers

ARC Rulings/Decisions Update No. 3 of 2024:

**VAYRES INVESTMENTS LTD V/S DIRECTOR GENERAL-MRA**

**ARC/IT/235-18 & ARC/IT/243-20**

18 June 2024

## **FACTS**

The Director-General (DG) MRA issued a Notice of Assessment to the Applicant on 19 June 2018 for the income year ending 30 June 2014.

## **ISSUE**

The issue was whether the Assessment was time barred in light of **s.130 Income Tax Act (ITA)**.

## **CONCLUSION AND REASONING OF THE ARC**

The Assessment Review Committee (ARC) took the view that the Assessment was not time barred.

In reaching this decision, the ARC looked at **Sections 116, 118A, & 130 ITA** and observed that the DG of the MRA cannot raise an assessment on a company for a period beyond three years preceding the year of assessment.

In this matter, since the Notice of assessment was issued on 19 June 2018, the committee reasoned this would be in the year of assessment: 01 July 2017 to 30 June 2018 (Reference point).

The Committee then noted that the return was made in December 2014 which corresponds to the income year ending 30 June 2014 (as per **S.118 ITA**) and would be on the year of assessment: 01 July 2014 to 30 June 2015.

Accordingly, the committee reasoned, the three years preceding the assessment of 01 July 2017 to 30 June 2018 are:

First year – 01 July 2016 to 30 June 2017

Second year – 01 July 2015 to 30 June 2016

Third year – 01 July 2014 to 30 June 2015

The Committee pointed out that the phrase “beyond 3 years of assessment preceding the year in which a return is made” should not be interpreted as 3 years preceding the date the return is made. Rather, the DG of the MRA cannot go beyond a period of 3 years from the date the assessment is raised in cases where a return has been made under section 112, 113, 116 and 119.

In the present matter, i.e. once the return was made in December 2014, time started running for the DG of the MRA to issue the assessment within a period of 3 years from the corresponding year of assessment which would be the year of assessment 01 July 2014 to 30 June 2015, otherwise **S.130 ITA** would not serve any purpose.

The Committee therefore took the view that the assessment would not be time barred as from when the date of assessment was issued since the DG of the MRA made an assessment in the year of assessment 01 July 2013 to 30 June 2014.

**Ahmed Richard Bhurtun**

Barrister and Founder of Bhurtun Chambers

**Mohammad Nasheerl Nadir**

Paralegal, Bhurtun Chambers

**Email: [info@bhurtunchambers.com](mailto:info@bhurtunchambers.com)**

**Phone: +230 260 6030**

**Website: [bhurtunchambers.com](http://bhurtunchambers.com)**