

Tax Alert

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Supreme Court Judgement on eligibility to claim partial exemption on interest income

Summary of the case

- Alteo Energy Ltd (“Alteo”) primarily produces electricity but also earns interest income from depositing excess cash with its sister company.
- For the financial year 2019, Alteo claimed 80% tax partial exemption regime (“PER”) on its interest income.
- The Mauritius Revenue Authority (“MRA”) denied the PER, arguing that the interest income was not derived from the Core Income Generating Activities (“CIGA”).
- Alteo appealed to the Assessment Review Committee (“ARC”), which upheld the MRA's decision, stating that the interest income was unrelated to its CIGA.
- Dissatisfied with the ARC ruling, Alteo took the case to the Supreme Court of Mauritius (“SC”), which overturned the previous decision and confirmed that Alteo is entitled to the 80% PER on interest income.

Key takeaways from the SC's judgement

- The 80% PER on interest income is not restricted to specific types of businesses. However, certain businesses, such as banks and insurance companies, are expressly excluded from benefiting PER on interest income.
- Unlike what is provided in the Statement of Practice (SP 22/21) issued by the MRA on PER, the 80% PER is not restricted to a company whose core activity (or one of its core activities) is to generate interest income. In fact, the SC emphasised that for a company to be eligible for PER, it has to meet the prescribed conditions which are as follows:
 - The company should carry out its CIGA in Mauritius;
 - The company should employ, directly or indirectly, an adequate number of suitably qualified persons to conduct its CIGA; and
 - The company should incur a minimum expenditure proportionate to its level of activities.

Impact of the SC's judgement on your business

- This judgement clarifies that companies (whether domestic or global business) providing funds/loans to related entities within the same group and receiving interest from those entities are eligible to claim PER, provided they fulfil the prescribed conditions.

Next steps

- Review your prior years' tax returns and current year tax return to assess if the interest income derived is eligible for the 80% PER. If your company is eligible for the PER, you may consider adjusting your tax returns accordingly and maintain the required documentation to substantiate your claim.
- Our team can help assess your current business structure and guide you on how to optimise your tax position in line with the new judgement.

We expect that the SP 22/21 issued by the MRA on PER to be revised following the outcome of the Alteo case unless the MRA intends to appeal to the Judicial Committee of the Privy Council.



Wasoudeo Balloo
Partner, Head of Tax
KPMG in Mauritius
T: (230) 406 9891
M: (230) 5940 2367
E: wballoo@kpmg.mu



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This document is based on our interpretation of the current tax laws and international tax principles. These laws and principles are subject to change occasioned by future legislative amendments and court decisions. You are therefore cautioned to keep abreast of such developments and are most welcome to consult us for this purpose.

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