REPUBLIC OF SOUTH AFRICA

IN THE TAX COURT OF SOUTH AFRICA

(HELD AT CAPE TOWN)

Case No.: **VAT 32679**

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES / NO
(3)	REVISED.

18 December 2025
DATE

_____
SIGNATURE

In the matter between:

TAXPAYER ABC **APPELLANT**

and

THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE **RESPONDENT**

J U D G M E N T

MORRISSEY AJ:

[1] This is an appeal in terms of section 107 of the Tax Administration Act, 28 of 2011 ("the TAA"). It is directed at additional assessments raised by the respondent ("SARS") in May 2020 in respect of three VAT returns submitted by the Taxpayer ABC ("Appellant") during 2018.

[2] The central dispute in the appeal is the date from which Appellant should be treated as a VAT vendor for purposes of calculating its VAT obligations to SARS. Appellant contends the relevant date is 28 June 2018. SARS says it is 1 February 2018.

[3] In my assessment, that dispute ultimately falls to be determined by considering the proper interpretation of a so-called "reactivation letter" SARS sent Appellant on 28 June 2018, how Appellant interpreted that document, and the reasonableness of its interpretation.

The Facts

[4] Appellant was first registered as a VAT vendor in 2003. Somewhere between 2008 and 2010 its business was transferred to a different entity and it became dormant (Mr Witness A, Appellant's sole director, described the company as having been "shelved"). During May 2010, and presumably pursuant to its ceasing to trade, it was deregistered as a VAT vendor.

[5] Appellant was revived from its dormant state during 2017 when it was used as a corporate vehicle to bid for a tender offered by The City ("the City"). The tender concerned the provision of green waste management and collection services. That essentially entailed managing garden waste drop-off sites operated by the City and processing the waste received into compost instead of sending it to landfill sites.

[6] Appellant was successful in its bid and was awarded the tender in about December 2017. It was valued at approximately R60 million and was due to commence in February 2018. Mr Witness A stated in his cross-examination that those facts made it necessary for Appellant to register as a VAT vendor "… [s]omewhere in February [2018]".

[7] There was no dispute that Appellant was aware that it had to complete a VAT101 form in order to become a registered VAT vendor. A VAT101 form is a *pro forma* document requiring certain information to be supplied, including details of the applicant and its representative. An applicant is also required to indicate a "VAT liability date" and its "… actual/expected total value of taxable supplies for a period of 12 months…".

[8] Mr Witness A testified that he hand-delivered a completed VAT101 form to personnel at SARS's Paarl office during January 2018. I will refer to it as the "January VAT101 form". SARS disputed that evidence and put it to Mr Witness A that it was a fabrication.

[9] Mr Witness A said he did not retain a copy of the January VAT101 form. He nevertheless testified that the date of 1 February 2018 was inserted as the "VAT liability date" and that the expected value of Appellant's 12-month taxable supplies was reflected as R60 million. He said that the date of 1 February 2018 was selected because that was the commencement date of the tender.

[10] Appellant had not received any feedback on the January VAT101 form by the time it commenced rendering services to the City under the tender. SARS contended that that was the case because no such form was ever submitted. Whatever the case may be, Appellant needed to invoice the City. It did so by issuing invoices that did not levy VAT and which indicated that its VAT number was "pending". The evidence was that that was done because Appellant was waiting on SARS to respond to its VAT registration application.

[11] Mr Witness A said that he instructed follow-ups to be made with SARS regarding the January VAT101 form. He directed those missives to Appellant's internal accountant, one Ms Madam, and later to Mr Witness B, her successor. Ms Madam did not testify. Mr Witness B confirmed that he was told by Mr Witness A that a VAT101 form had been filed and that he was instructed to follow up with SARS. Mr Witness B said that he contacted SARS over the telephone "… at least a handful of times". SARS disputed his evidence on that score, on the basis that its records do not reflect any such enquiries being made.

[12] Mr Witness B said that he had some success with his enquiries during June 2018 when a SARS representative told him over the phone that Appellant was already registered for VAT, but that the registration had been deactivated several years earlier. The consultant went on to explain that in order to reactivate the registration, it was necessary for Appellant to complete a VAT101 form. Mr Witness B did not explain, nor was he asked, why he did not simply tell the SARS consultant that Appellant had already completed and submitted such a form.

[13] Mr Witness B said he followed the advice he received and prepared a fresh VAT101 form. It was signed by Mr Witness A. It is dated 15 June 2018, reflects the "VAT liability date" as 1 February 2018, and records that Appellant's expected 12-month turnover was R60 million. I refer to it as the "June VAT101 form".

[14] Mr Witness A was cross-examined on why the date of 1 February 2018 was selected as the VAT liability date. He said that was because that date had been selected on the January VAT101 form. He also suggested that Mr Witness B might have been told by SARS to select that date. Mr Witness B gave no evidence to that effect. My impression is that the date was selected because Appellant considered that it was obliged to be registered as a VAT vendor from 1 February 2018.

[15] There was no dispute that the June VAT101 form was delivered to SARS and that Mr Witness A attended an interview with a SARS official on about 28 June 2018 as part of a risk assessment. On the same date, 28 June, SARS sent Appellant what came to be referred to as the "reactivation letter". Given its prominence, I reproduce the salient aspects of it here:

> "**VAT**
> _____
> **Request for Reactivation**
>
> Enquiries should be addressed to SARS
> **Contact Details:**
> …
> **Details:**
> Taxpayer Reference Number: […]
> Case Number: […]
> Issue Date: 2018/06/28
>
> Dear Taxpayer
>
> **REQUEST FOR REACTIVATION**
>
> The South African Revenue Service (SARS) has approved your request for reactivation.
>
> Should you have any queries please call the SARS Contact Centre on […]. Remember to have your taxpayer reference number at hand when you call to enable us to assist you promptly.
>
> Sincerely
>
> **THE SOUTH AFRICAN REVENUE SERVICE**"

[16] Mr Witness B said that upon receipt of the reactivation letter he instructed one Ms SH to start levying VAT on Appellant's invoices to the City. His evidence on that aspect is important and I set out some of the material portions of it here:

> "With The City after receiving the activation notice, I gave the VAT number to Ms SH, who is the lady who usually invoices The City. We invoiced them…, Ms SH invoices them, or the company invoices them on a weekly basis, wherefore services rendered, for chipping and what not.
>
> And for that last week, I have instructed her to add the VAT number to the invoices, since we are now registered for VAT; add the VAT number to the invoice and of course then obviously, add VAT to those invoices. And then she submitted those invoices to The City.

And what happened then is, we received pushback from The City, stating that they cannot determine when we…, when the reactivation occurred of our VAT number.

Of course, then there was a to and from between myself and Ms SH, and The City officials regarding the exact date. This document in particular… [the reactivation letter], was also sent to them as evidence that we have been registered.

Unfortunately, because of the …, for lack of a better word, vagueness of the document; there is no specific date that states what the starting date of reactivation was, which caused a lot of debate between myself and Ms SH and The City.

At the end of the day, we came to a compromise where any services rendered before the 28th [of June 2018] would still be without VAT; and services rendered after the 28th, between the 28th and 30 June, would include VAT. That was the compromise that was reached at the end of the day."

[17] Mr Witness B gave the following evidence under cross-examination:

"Mr Witness B: The only thing we received was the notice of reactivation.

SARS Counsel: Now, besides the notice of reactivation as I understand the evidence there was a dispute with the City as to the precise date upon which the vendor had been reactivated.

Mr Witness B: That is correct.

SARS Counsel: And you were part of that discussion?

Mr Witness B: That is correct.

SARS Counsel: Now, what did you use to convince the City?

Mr Witness B: In lack of any other evidence, we submitted the notice of reactivation.

SARS Counsel: That is it, you did not attempt to get a copy similar to what we have today at pages 301 and 311 of the trial bundle [a reference to a notice of registration for VAT]?

Mr Witness B: I do not recall if I requested it directly from SARS.

SARS Counsel: Because if you look at that document it seems to have been obtained via e-filing. Did you attempt to draw and seek a confirmation via e-filing?

Mr Witness B: As mentioned earlier our e-filing profiles prohibits us from getting any registration certificates from the e-filing website, so no, I was unable to.

SARS Counsel: And it did not occur to you to ask Mr Thomson [the external accountant] who had access to draw such for you?

Mr Witness B: I do not recall.

SARS Counsel: So, neither can you recall whether if you did that, he gave it to you?

Mr Witness B: If we received something similar to this it would have most definitely been handed into the City because it would have saved us a lot of back and forth and drama regarding our invoice towards the City. So, I would definitely recall if we received something like this because I would most definitely include it as evidence."

[18] The following exchange followed shortly afterwards:

"SARS Counsel: Okay. There is evidence in this court that the …, the taxpayer or the vendor was of the view that its registration only became effective on the 28th June 2019 [this was clearly intended as a reference to 2018, and interpreted as such by Mr Witness B]?

Mr Witness B: Correct.

SARS Counsel: Did you share such view?

Mr Witness B: Well, that was the safest assumption we could make based on the date of the reactivation letter that we carried on as if we were registered from the 28th June.

SARS Counsel: So, that was an inference made, I am not talking about other people, I am talking about your observations and your thoughts, by you from those two documents which relates to the reactivation which was seen to the …., the company.

Mr Witness B: Yes. That reactivation letter, ja, there is only…, I am only aware of the one.

SARS Counsel: Although no date is stated in said notification?

Mr Witness B: Not the date of liability or the date of registration, only the date of the letter itself."

[19] Although no-one from the City testified, certain contemporaneous correspondence between it and Appellant was placed before me. That includes an email dated 23 July 2018, where a representative of the City wrote as follows:

> "Good day to you, I've just consulted our Supplier Management Offices, the Appellant became vat registered as per the second page on 28th June and therefore the city is liable for the vat portion only from that date."

[20] On the face of it, this correspondence contradicts Mr Witness B's evidence that there was a dispute about the reactivation date. On the contrary, it suggests that both Appellant and the City were of the view, by inference or otherwise, that the reactivation letter indicated that Appellant was a VAT vendor from 28 June 2018.

[21] Reading the correspondence between Appellant and the City as a whole, it seems to me that the dispute with the City did not concern the date on which Appellant became liable to levy VAT, but rather whether it was the date of the invoice or the date of the supply of the goods/services underlying it that were determinative of whether VAT had to be levied. This assessment also aligns with the "compromise" referred to in the last paragraph of Mr Witness B's evidence cited in paragraph [16] above.

[22] Appellant thus seems to have adopted the position that it was obliged to levy VAT on any invoices issued on or after 28 June 2018, even if the goods and services being invoiced were supplied before that date. The City seems to have adopted the view that VAT could only be levied on invoices where both the invoice and the goods and services underlying them were supplied after 28 June 2018. As I understood Mr Witness B, Appellant ultimately accepted the position adopted by the City.

[23] It emerged during the cross-examination of Mr Witness A that Appellant did not adopt the compromise position regarding its input VAT. In that regard, Mr Witness A was presented with five invoices totalling approximately R21.9 million and issued to Appellant by a company called Appellant Group Trading (Pty) Ltd. All of them are dated 30 June 2018. Mr Witness A accepted that the goods and services supplied in respect of those invoices were supplied between 1 February 2018 and 30 June 2018, and that Appellant Group Trading was an associated company in what can be loosely referred to as the Appellant "group". Essentially, Appellant had retained an associated company to do certain work relating to its tender with the City, and that entity had waited until 30 June 2018 before invoicing Appellant almost R22 million for the goods/services it supplied over the previous five months.

[24] Mr Witness A adopted the view that Appellant was entitled to treat the VAT raised on those invoices, some R2.85 million, as input VAT because the invoices post-dated Appellant's VAT registration date:

> "SARS Counsel: Okay. Now at stage, according to you or to the vendor, the vendor was not liable for VAT?
>
> Mr Witness A: No, on 30 June the vendor was liable for VAT.
>
> SARS Counsel: 30 June?
>
> Mr Witness A: Yes.
>
> SARS Counsel: But these services were rendered prior to that date?
>
> Mr Witness A: Yes, but VAT is charged on invoice.
>
> SARS Counsel: Yes?
>
> Mr Witness A: And not on delivery.
>
> SARS Counsel: But it is relating to invoices and services rendered… ?
>
> Mr Witness A: It is irrespective, delivery date."

[25] Almost two years later, during February 2020, SARS notified Appellant that it had been selected for a VAT audit for certain tax periods in 2018, including 2018/3 (February to March 2018), 2018/5 (April to May 2018), and 2018/7 (June to July 2018).

[26] Ms Witness C, who was called by SARS, confirmed that she had been appointed to conduct that audit. She explained that it had been triggered because at some stage during 2018 Appellant had claimed an input tax refund where there was no corresponding output tax.

[27] Although not entirely clear from the record, that situation may have arisen due to Appellant adopting its compromise position with the City regarding output tax (only charging VAT in respect of goods and services supplied and invoiced on or after 28 June 2018) and its alternative approach regarding input tax (claiming input VAT if the invoice was issued on or after 28 June 2018, even if the relevant goods and services were supplied before that date).

[28] Ms Witness C's audit concluded that Appellant had underpaid VAT in the amount of almost R3.3 million during the three periods mentioned above. Her findings can be summarised as follows:

a. Appellant paid no output VAT in respect of some R10.9 million of income it received in February and March 2018, whereas it ought to have paid approximately R1.3 million.

b. Appellant paid no output VAT in respect of some R8.6 million of income it received in April and May 2018, whereas it ought to have paid approximately R1.1 million.

c. Appellant only paid output VAT on approximately R1.2 million of its R4.6 million of income in June 2018, thereby underpaying VAT in an amount of some R450,000.00.

d. Appellant paid output VAT of some R234,000.00 in July 2018, whereas its own working papers calculated the output VAT to be some R612,000, a difference of approximately R377,000.00.

[29] The underpayment of output VAT referred to in paragraphs (a)-(c) was a function of Ms Witness C conducting her audit on the basis that Appellant was a VAT vendor with effect from 1 February 2018. The underpayment in paragraph (d) appears to have been the result of a calculation error by Appellant. Although there was not much evidence on that score, the following appears in an email Mr Witness B sent Ms Witness C on 26 March 2020, commenting on the audit findings:

> "We are in agreement with the R377,505.70 difference, which was an oversight on our side."

[30] That passage was discussed with Mr Witness A in his evidence in chief:

> "Appellant Counsel: And at the bottom under the heading "July," it states there…, it is dealing with different tax periods: "We are in agreement with the R377,505.70 difference, which was an oversight on our side".
>
> Do you see that?
>
> Mr Witness A: Yes.
>
> Appellant Counsel: It is a small part of this matter, but can you just explain to the court what that relates to? Can you recall? I can always ask Mr Witness B if you are not sure?
>
> Mr Witness A: Ja, I cannot recall.

Appellant Counsel: I am just placing on record that as far as that amount which is state, is a small part of the dispute between SARS and The Taxpayer in all material time, and indicated that there is no dispute from our side."

[31] When Mr Witness B came to testify he said the following:

"Appellant Counsel: Can you recall what that R377 000.00 difference what that was about?

Mr Witness B: To the best of my knowledge that would be…, that would have been a calculation error which resulted in the R377 000.00 discrepancy.

Appellant Counsel: Yes, okay. That is…, that is a matter that will be dealt with in argument how to deal with that in the context of this case."

[32] The audit ultimately led to the three additional assessments that are the subject of this appeal. As will by now be apparent, aside from the R377,000.00 amount just discussed, the central question is whether Appellant should have been treated as a VAT vendor from 1 February or 28 June 2018.

[33] I mention four additional aspects arising from the evidence before considering that issue.

[34] First there is the evidence of Ms Witness C regarding why she selected the date of 1 February 2018 as the date on which Appellant was registered for VAT:

"SARS Counsel: … Did you at any stage make a determination as to the VAT liability date of the vendor?

Ms Witness C: No, that was already on the system, I did not decide what that date is.

SARS Counsel: So, you exercised no discretion from your part?

Ms Witness C: No, I am not…, I do not have the power to do that.

SARS Counsel: You say on the system?

Ms Witness C: Yes.

SARS Counsel: What did the system show the date of liability to be with reference to the vendor in question?

Ms Witness C: If I remember correctly, it would be the 1st February 2018.

SARS Counsel: And that is the date you proceeded to determine the further liability which may be due by the vendor?

Ms Witness C: Ja."

[35] The second aspect is Mr Witness B's response to the audit findings in his email of 26 March 2020 (the same email in which he discussed the R377,000.00 and referred to above), where he said the following:

> "After submitting the required documentation, we only received the attached letter (VAT reactivation). This letter did not confirm any liability date or even the tax period which the company falls under. As we received no further information regarding this matter, the date of the letter (28 June 2018) served as our activation date. This is why there was nil returns submitted for these two periods."

[36] The third aspect I flag is certain statements of fact made on behalf of Appellant in its objection to the assessments, its notice of appeal and its Rule 32 statement of appeal.

[37] Per the notice of objection:

> "Following the refusal by the City to pay any VAT prior to the so-called reactivation date of 28.6.2018, **various calls were made to SARS but no reaction was received on why our client could not be provided with an effective date of reactivation** as it would only be logic that the Vendor was entitled to receive formal and correct documentation in terms of its VAT101 application. **As no response or explanation was ever received from SARS**, the Vendor could not, and still cannot force the City to pay any VAT prior to 28.6.2018 and any attempt to force them would be fruitless and a straight forward waste of time **if SARS continue to refuse to inform the Vendor of the effective date of registration i.e. 1.2.2018**."

[38] Per the grounds of appeal:

> "The city interpreted the VAT registration notice as reflecting that SARS had registered the Taxpayer for VAT with effect from 28 June 2018, and that the Taxpayer was not a 'vendor' prior to that date. The city required confirmation in writing from SARS that the Taxpayer was a 'vendor' prior to 28 June 2018, as it is usually indicated on VAT registration notifications if the effective date is different from the registration date.
>
> **The Taxpayer contacted the SARS call centre requesting confirmation of the effective date from which the Taxpayer would be considered a 'vendor' for the purposes of the VAT Act**. The Taxpayer had not received the standard VAT103 registration notification that SARS usually issued to taxpayers who applied to register for VAT, which explicitly stated the effective date from which a taxpayer would be deemed a "vendor".
>
> **The Taxpayer was advised by a SARS consultant that the only VAT registration notification that SARS would issue to the Taxpayer regarding its VAT registration was the VAT registration notification of 28 June 2018**."

[39] Per the rule 32 statement of appeal:

> "The City refused to pay VAT on any of the services prior to the reactivation of the taxpayer's VAT registration on 28 June 2018. The position adopted by the City, a well-run metro which presented as being fully compliant with the VAT Act, bolstered the taxpayer's view that it was not legally permitted to levy VAT before the reactivation of its VAT registration. A stream of correspondence between the City and the taxpayer confirming the City's position is annexed as Annexure 'RCP5'."

[40] The emphasis in the first two extracts is mine. It highlights that the notice of objection and notice of appeal aver that Appellant made multiple enquiries with SARS after receiving the reactivation letter in order to get clarity as to the date on which it was registered as a VAT vendor. No such allegation features in the rule 32 statement. As appears from the summary of Mr Witness B's evidence set out above, his cross-examination elicited a lack of recall on his part as to whether there were any engagements with SARS after the reactivation letter was received.

[41] The notice of objection and the grounds of appeal are signed by Mr Thomson, an external accountant engaged by Appellant. Mr Thomson did not testify at the trial. Mr Witness A explained that that was because he was very ill and unable to leave his home. That explanation was not challenged in cross-examination, nor was the apparent inconsistency I have noted between the rule 32 statement and the documents that preceded it.

[42] The final aspect to be mentioned is that the disputed assessments were raised in respect of VAT submissions filed on behalf of Appellant. That is potentially material when considering its version that it did not consider it was registered as a VAT vendor before 28 June 2018. For if Appellant considered it was only registered for VAT from 28 June 2018, why did it file VAT returns for periods prior to that date?

[43] Mr Witness B testified that he submitted a VAT return for June 2018, that being the end of the month in which he considered Appellant had been re-registered for VAT. He was then referred to other monthly VAT returns that were included in the trial bundle for February, March, April and May 2018, and confirmed that he prepared them and submitted them by way of eFiling:

> "Mr Witness B: To the best of my knowledge, at the end of June we …, obviously we had to make sure that…, I make sure that the company's VAT eFiling was registered on the eFiling website, as I submit all the VAT return on eFiling.
>
> So once that was done, I submitted the VAT return for that month of June, as I and everybody who received the activation had assumed that that would be the case, that we would be submitting returns on a monthly

basis because neither I or anybody else received any communication otherwise.

Appellant Counsel: So, if you look at page 7 of the big bundle, the trial bundle, that goes from…, you say 7 through to 26?

Mr Witness B: Correct?

Appellant Counsel: Actually 31, those are VAT returns; VAT201 forms, are you familiar with them?

[pages 7 to 31 of the trial bundle were monthly VAT returns from February to July 2018]

Mr Witness B: Yes, I am.

Appellant Counsel: You will see on page 7 it has your name?

Mr Witness B: Right?

Appellant Counsel: Did you prepare these returns?

Mr Witness B: Yes, I did.

Appellant Counsel: And how were they submitted, I think just to be sure? Was it SARS eFiling?

Mr Witness B: By eFiling, correct."

[44] Mr Witness B went on to testify that he had received "VAT201 rejection letters" in respect of two of those returns. He explained those letters were sent because VAT returns were being filed monthly and SARS required them to be filed bi-monthly. The rejection letters in question referred to the returns filed in April and June 2018.

[45] I understood that the purpose of Mr Witness B's evidence was to highlight what Appellant contended were inadequacies in the reactivation letter: Not only did it not expressly state the effective date of the re-registration, it also did not indicate the frequency with which SARS required VAT returns to be filed.

[46] On the face of it, that evidence also tends to show that not only was Mr Witness B filing VAT returns on behalf of Appellant in respect of periods prior to the date he considered to be its date of re-registration, he also received correspondence from SARS rejecting one of those "pre-registration" returns.

[47] I do not think I can place much weight on that apparent contradiction in Mr Witness B's evidence. Not only was it not discussed with him, there is at least some suggestion on the papers that the pre-June 2018 VAT returns were not prepared by Mr Witness B but were automatically prepared by SARS (they are all "zero returns"). It is also unclear when Mr Witness B received the rejection letters and, more importantly, whether he would have attributed any significance to the fact that SARS had a VAT return for April 2018 on its system, which could potentially have alerted him to a re-registration date earlier than 28 June 2018.

Analysis

[48] Section 1 of the VAT Act, 89 of 1991 ("the VAT Act"), defines a "vendor" as:

> "… any person who is or is required to be registered under this Act: Provided that where the Commissioner has under section 23… determined the date from which a person is a vendor that person shall be deemed to be a vendor from that date".

[49] Section 7 of the VAT Act provides for the imposition of VAT, which is to be levied "… on the supply by any vendor of goods or services supplied by him… in the course or furtherance of any enterprise carried on by him".

[50] Section 23(1) of the VAT Act essentially provides that anyone carrying on an enterprise and who is not registered as a VAT vendor is liable to be so registered: (a) by the end of a 12-month period where the taxable supplies from their enterprise exceeds R1 million; or (b) by the start of a 12-month period in which their enterprise will make R1 million of taxable supplies pursuant to a written contract.

[51] Section 23(4) of the VAT Act distinguishes between situations where a person applies to be registered as a VAT vendor in accordance with the TAA, and where they do not (I have excluded a proviso that it irrelevant for present purposes):

> "(4) Where any person has—
>
> (a) applied for registration in accordance with Chapter 3 of the Tax Administration Act or subsection (2) or (3) and the Commissioner is satisfied that that person is eligible to be registered in terms of this Act, that person shall be a vendor for the purposes of this Act with effect from such date as the Commissioner may determine; or
>
> (*b*) not applied for registration in terms of Chapter 3 of the Tax Administration Act and the Commissioner is satisfied that that person is liable to be registered in terms of this Act, that person shall be a vendor for the purposes of this Act with effect from the date on which that person first became liable to be registered in terms of this

> Act: Provided that the Commissioner may, having regard to the circumstances of the case, determine that person to be a vendor from such later date as the Commissioner may consider equitable…"

[52] Section 22(2)(*a*) of the TAA requires a person who is obliged to register with SARS under a tax Act (which includes the VAT Act) to do so within the period provided for in the relevant Tax Act or, if no such period is provided, within 21 business days or such further period as SARS may approve.

[53] These sections confirm that a person may become liable to SARS for the payment of VAT even though they are not registered VAT vendors. That is because section 7 imposes the liability to pay VAT on a "vendor", which by definition includes someone "required to be registered under this Act", not only persons who are so registered. Without more, the date one becomes liable to SARS for VAT is thus the date either of the thresholds in section 23(1) are met.

[54] The proviso to the definition of "vendor" means that the default position of a person becoming a vendor from the date they are liable to be registered as such can be altered by SARS determining a different date. When SARS does so, the person becomes a vendor from that date.

[55] Section 23(4) sets out the circumstances where SARS may determine a date marking the commencement of a person's "vendorship". Where a person has applied for registration in accordance with Chapter 3 of the TAA, they will be a vendor from such date as SARS may determine. Where there has been non-compliance with Chapter 3, they will be a vendor in accordance with what I have referred to as the default position, unless SARS determines a later date on equitable grounds.

[56] Being an unregistered vendor may be an invidious position. Such a person bears a liability to pay VAT but is precluded from issuing tax invoices as contemplated in section 20(4) of the VAT Act, as those invoices require the supplier's VAT registration number. Section 64(1) of the VAT Act provides that any price charged by a vendor shall be deemed to include VAT, even if it is not included in the price. While those difficulties may be overcome by a vendor adjusting their prices to take account of section 64 pending registration, or by levying and recovering VAT once registration is achieved, both of those options may present practical or commercial difficulties.

[57] I understood the parties to accept that, had Appellant delivered the January VAT101 form, it would have applied for registration as a VAT vendor in accordance with chapter 3 of the TAA. I had anticipated that SARS would contend that, as a matter of fact, Appellant had only delivered the June VAT101 form, and had thus not complied with chapter 3 of the TAA.

[58] It emerged during argument that both parties accepted that the case fell within section 23(4)(*a*). I understood that consensus to be on the premise that section 23(4)(*b*) only applied if there was no attempt to register, not merely where registration was late (that is, outside of the 21-day period contemplated in section 22(2) of the TAA). For the reasons stated, I have difficulty with that proposition. In my view, the express wording of section 23(4)(*a*) and (*b*) makes compliance with the registration requirements of the TAA the determining factor, not the presence or absence of an attempt to register at all.

[59] It is possible that the consensus was arrived at on the basis that, as a matter of fact, the January VAT101 form was submitted. In my view, that would be a correct assessment of the evidence.

[60] The evidence Mr Witness A provided regarding the submission of the January VAT101 form was of limited assistance given his inability to recall most of the details surrounding his visit to SARS. While I do not find it surprising that his recall was poor given the innocuous nature of that event and the passage of time since it occurred, that lack of recall coupled with the absence of contemporaneous evidence proving the submission of the January VAT1010 form would tend the promote the need for Appellant to call Ms Madam. Although Ms Madam was not involved in the delivery of the January VAT101 form, Mr Witness A said that she prepared it, and her evidence to that effect would have provided some corroboration of his account. Indeed, the failure to call Ms Madam tends to point in the other direction, something potentially exacerbated by a pre-trial minute included in the dossier recording that Appellant intended to call her, and would approach the court to request that her evidence be tendered virtually.

[61] Mr Witness A explained during his evidence in chief that Ms Madam was based in the United Kingdom. He said that she would not be testifying because he was not prepared to call her as a witness due to certain health issues she had experienced. As I understood him, he did not want to expose Ms Madam to the stress of testifying at the proceedings.

[62] While the motivation for not calling Ms Madam may be a noble one, I do not think it can alter the consequences of that decision. Appellant elected not to call Ms Madam as an act of benevolence, not because she was incompetent or incapable of testifying. In my view, the consequences of that decision must fall at its door, not that of SARS.

[63] Be that as it may, I consider that two other factors establish that Appellant discharged its onus of establishing that, on the probabilities, the January VAT101 form was in fact delivered to SARS.

[64] Firstly, and despite Mr Witness A being unduly argumentative in his exchanges with SARS Counsel and having so vague a recollection of facts regarding his visit to SARS in January 2018 as to render a serious question mark over the reliability of that aspect of his evidence, I do not consider he was actively fabricating a version regarding the submission of the January VAT101 form. At worst for him, his recollection of such submission was an honest but faulty one.

[65] Secondly, and more importantly, Mr Witness B confirmed Mr Witness A' testimony that he asked him to follow up with SARS regarding the January VAT101 form. Although he immediately conceded that he could not recall the date of that request, he said that:

> "His request was to…, for me to find out why it is taking so long for the VAT return…, for the VAT application form that was submitted in January why it is taking so long for us to receive any communication from the Receiver of Revenue regarding the registration."

[66] I considered that Mr Witness B was a careful and honest witness and I have no difficulty in accepting his evidence on this issue. While it is of course not direct evidence of the January VAT101 form being submitted, in my view it would be unrealistic to consider that Mr Witness A would have lied to Mr Witness B about the submission of the January VAT101 form in about April/May 2018. It would have taken a remarkable insight on the part of Mr Witness A to predict that at some time in the future the question of whether a VAT101 form was delivered before 1 February 2018 would take on the significance it has.

[67] That brings me to the core issue to be decided.

[68] Simply stated, the attitude of Appellant can be summarised as follows:

a. It timeously delivered a VAT101form to SARS in January 2018, several weeks before needing to issue its first invoice to the City. For whatever reason, SARS did not process its application. It was only during June 2018, after repeated follow-ups, that SARS explained that a further VAT101 form was required because Appellant simply needed to be re-registered, not registered for the first time, a distinction unknown to Appellant and a concept foreign to the VAT Act. Appellant promptly completed and submitted a new VAT101 form, which was met by the reactivation letter on 28 June 2018.

b. The reactivation letter did not specify a reactivation date, and Appellant assumed that it was deemed to be registered as a vendor with effect from the date of the letter. That assumption appears to have been based in part on the premise that the delayed registration of Appellant as a VAT vendor was due to SARS's ineptitude in not responding to the submission of the original VAT101 form. It was thus only fair,

contends Appellant, that it should be registered as a VAT vendor from the date of the reactivation letter, and Appellant acted appropriately in assuming that was the case.

[69] The contention advanced in the latter part of this summary emerges from the following extract of the cross-examination of Mr Witness A, who did not hold back his contempt for SARS:

> "Sir, I am going to say the last comment I am going to make and I am going to state it now, because I am not going to answer any more of your questions.
>
> I did not take one cent from SARS. No one stole from SARS. SARS is trying to steal from me. SARS has not made a cent loss with or without VAT. They are trying to claim something they are not entitled to.
>
> So, I do not know why I have to waste my time anymore here. This has gone for seven years. It has costs me thousands; hundreds of thousand of Rand; and business deals **and everything because of your failure to act on a simple question; give me a VAT number in February when I asked it in January, and you could not give it to me. Now you are arguing we had it; we had it, we just did not give it to you**.

(Emphasis added)

[70] The position adopted by SARS was that it received a request to reactivate Appellant's VAT registration, which recorded a VAT liability date of 1 February 2018. It acceded to that request, reactivated the registration with effect from 1 February 2018, and notified Appellant of that fact by sending it the reactivation notice. SARS also contended that Appellant ought to have realised that the reactivation date would be the date it had indicated as the VAT liability date on the June VAT101 form, and that Appellant must have interpreted the reactivation letter that way because it claimed input VAT in respect of periods prior to June 2018 (a submission made on the premise that input VAT may only be claimed in respect of goods and services supplied to an enterprise after it is registered as a VAT vendor).

[71] As stated, SARS accepted that Appellant fell within section 23(4)(*a*). It did not call any witnesses to explain whether they considered Appellant fell within section 23(4)(*a*) or (*b*). The documentary evidence suggests that SARS did not consider the matter with reference to either of those two options. Rather, it treated the matter as a reactivation. While that is a concept that is apparently recognised by SARS's internal systems, it is not one recognised in the VAT Act, at least not as a concept distinct from registration *per se*.

[72] SARS Counsel, who appeared for SARS, stressed to me during argument that the root cause underlying the appeal was not the three additional assessments conducted in 2020, but

rather SARS's decision in 2018 to register (or re-register) Appellant as a VAT vendor with effect from 1 February 2018. A challenge to that decision, he submitted, was beyond the jurisdiction of the Tax Court.

[73] Appellant Counsel, who appeared together with Ms GT for Appellant, resisted this jurisdictional challenge. He submitted that Appellant did not seek the setting aside of SARS's 2018 decision, but rather the proper implementation of that decision, as communicated to Appellant via the reactivation letter and which notified Appellant that it was to be re-registered with effect from 28 June 2018.

[74] Given the potential significance of the jurisdictional issue, I asked the parties to provide supplementary heads on the question. I am grateful to them for their assistance in that regard.

[75] In my view, the jurisdictional issue arises in part due to the wide ambit in which the grounds of appeal and the rule 32 statement were prepared.

[76] For instance, while the grounds of appeal challenge the assessments for treating Appellant as though it were a VAT vendor from 1 February 2018, they proceed to aver that Appellant had a "legitimate expectation" that it would receive a clear notice of the effective date of its re-registration as a VAT vendor, and that the provision of the reactivation letter led to Appellant's "… right to procedurally fair administrative action being materially and adversely impacted".

[77] The principal ground of appeal identified in the rule 32 notice runs over several pages. One component of it is that, as a question of law, section 23(4)(*a*) precludes the Commissioner from selecting a retrospective date as the date from which a taxpayer will be registered for VAT. It is also suggested that it was common cause that SARS never made such a determination, or that it only did so when Appellant was notified of the outcome of the audit. However, that ground of appeal also states that it was reasonable for the taxpayer to have assumed that the reactivation date was 28 June 2018, the date of the reactivation letter.

[78] The Tax Court is a creature of statute and may only exercise the powers conferred upon it by statute. Those powers include neither the review of administrative action or the exercise of public power, not the making of declaratory orders (*United Manganese of Kalahari (Pty) Limited v Commissioner of the South African Revenue Service and four other cases* [2025] ZACC 2 at [47]).

[79] Moreover, and as *SARS Counsel* pointed out in his supplementary heads of argument, section 32(1) of the VAT Act, which sets out the decisions of SARS that are subject to objection and appeal, does not refer to a decision regarding a VAT liability date as contemplated in section 23(4)(*a*). That is material when read with section 104(2) of the TAA, which sets out the decisions that may be appealed in the Tax Court. Section 104(2)(*a*) and (*b*) do not assist Appellant, and paragraph (c) only permits an appeal regarding a decision that may be objected to or appealed under a tax Act.

[80] In my view, the appeal must thus be limited to the challenges directed to the three assessments. *SARS Counsel* submitted that that is the end of the matter because Ms Witness C testified that she had nothing to do with the decision regarding the reactivation of Appellant's VAT registration and that decision has not been reviewed or otherwise set aside. As has been seen above, Ms Witness C testified that she applied the registration date on the SARS system, and considered that it was not within her remit to alter it.

[81] I agree that Ms Witness C was not entitled to alter SARS's decision, at least if she sought to do so on the basis that it stood to be reviewed because it was unlawful or procedurally unfair. I also agree that if Appellant wished to review that decision it could not do so in the tax court (I thus do not embark on a consideration of whether any grounds of review were available to it).

[82] In my view, however, those limitations did not preclude a consideration of the decision insofar as it had an impact on Appellant's tax liability under the VAT Act. Such a consideration entails part of an assessment as defined in section 1 of the TAA.

[83] Section 23(4)(*a*) of the VAT Act contemplates SARS making a determination of the date from which a person applying for registration will be a vendor. To my mind it is implicit in that provision that the vendor must be adequately notified of that date. Stated differently, the date SARS determines as contemplated in section 23(4)(*a*) is the date communicated to the vendor. While that will typically marry with the date SARS intends to determine, that will not necessarily be the case.

[84] To illustrate with an example, assume that the reactivation letter had expressly recorded that SARS had reactivated Appellant's VAT registration with effect from 28 June 2018. Assume further that that was an erroneous statement, in the sense that the decision intended to be communicated was that such re-registration was to be effective from 1 February 2018. In my view, that erroneous notification would have to be taken into account when it came to auditing Appellant's VAT returns and assessing its liability for VAT.

[85] Such an interrogation does not amount to a review or alteration of SARS's decision. It is not a case of the decision being revisited, but rather a case of determining what the decision in fact was, with reference to what was communicated by SARS to Appellant.

[86] The focus on questions of jurisdiction and issues pertaining to the legality of SARS selecting a retrospective date when acting under section 23(4)(*a*) meant the parties made relatively limited submissions regarding the question of what the reactivation letter communicated to Appellant. Their competing positions were essentially as set out in paragraphs [68] and [70] above.

[87] In *DPP v Parker* 2015 (4) SA 28 (SCA) at [9] and [15], the Supreme Court of Appeal found that the VAT Act creates a *sui generis*, debtor and creditor relationship between SARS and vendors. That relationship is not one of agency. Accordingly, a vendor who misappropriates VAT it has collected cannot be charged with the common law crime of theft, on the basis that it has misappropriated money held in trust for another.

[88] I respectfully align myself with the principles endorsed in *Parker*, and I consider it is necessary to explore the nature of that *sui generis* relationship when deciding the proper approach to the interpretation of the reactivation letter.

[89] In my view, and without derogating from the principle in *Parker* that the relationship between SARS and a vendor is not one of agency, I consider that certain principles applicable to the law of mandate can be drawn upon.

[90] In *Steyn v Burger* 1967 (4) SA 561 (A) at 564G-565D the then Appellate Division confirmed the principle that where a mandatory's *bona fide* act can be brought within one possible meaning of the language of the mandate, that construction will be adopted even if it was not the construction intended by the mandator. In other words, an ambiguous mandate will be construed as interpreted by the mandatary, at least where that interpretation is adopted *bona fide*.

[91] A similar principle applies in English Law. In *European Asian Bank AG v Punjab and Sind Bank* [1983] 2 All ER 508 (CA) at 517f-518a, the Court of Appeal commented on the decision in *Midland Bank v Seymour* [1955] 2 Lloyds Rep 147 as follows:

> "Devlin J held that, on a true construction of the relevant documents the defence failed. But he went on to say (at 153):
>
> > 'In my judgment, no principle is better established than that when a banker or anyone else is given instructions or a mandate of this sort, they must be given to him with reasonable clearness. The banker is obliged to act upon them precisely. He may act at his peril if he

> disobeys them or does not conform with them. In those circumstances there is a corresponding duty cast on the giver of instructions to see that he puts them in a clear form. Perhaps it is putting it too high for this purpose to say that it is a duty cast upon him. The true view of the matter, I think, is that when an agent acts upon ambiguous instructions he is not in default if he can show that he adopted what is a reasonable meaning. It is not enough to say afterwards that if he had construed the documents properly he would on the whole have arrived at the conclusion that in an ambiguous document the meaning which he did not give it could be better supported than the meaning which he did give to it.'
>
> In our judgment there must be some limit to the operation of this principle. Obviously it cannot be open to every contracting party to act on a bona fide, but mistaken, interpretation of a contractual document prepared by the other, and to hold the other party to that interpretation. If an offer is made by one person to the other, the offeree has to make up his mind about the meaning of the offer before accepting it and entering into a binding contract; once he enters into a contract by accepting its terms, which (in the event of dispute) will fall to be construed objectively. Furthermore, even in the context of agency and other analogous transactions, the principle in these two cases presupposes, in our judgment, that a party relying on his own interpretation of the relevant document must have acted reasonably in all the circumstances in so doing. If instructions are given to an agent, it is understandable that he should expect to act on those instructions without more; but if, for example, the ambiguity is patent on the face of the document it may well be right (especially with the facilities of modern communications available to him) to have his instructions clarified by his principal, if time permits, before acting on them."

[92] The qualifications *European Asian Bank* imposed on what might be described as the general principle described in *Midland Bank* can be illustrated with a hypothetical example.

[93] Assume a chicken farmer leaves a message for her manager to "slaughter all the chickens in the barn". The manager might reasonably interpret those words, without more, as an instruction to take all the chickens on the farm into the barn and to slaughter them there, without realising that the farmer was in fact only directing the slaughter of the dozen chickens that she had cooped in the barn for that purpose.

[94] In such a situation, the manager would be experiencing what could be described as a latent ambiguity in her instruction. That is because although the instruction was in fact ambiguous, the manager did not identify that ambiguity and believed that it had a singular meaning.

[95] Whether the manager's interpretation was a reasonable one would not only depend on a textual analysis of her instruction, but also with reference to the greater context she found herself in. For instance, it may well be that an instruction perceived to direct the slaughter of all the chickens on a chicken farm is a very unlikely one, which any farm manager would have considered

highly unusual. In such a case the manager may well be found to have breached her mandate if she proceeded to slaughter all the chickens on the farm without first telephoning the farmer to confirm that that was in fact what she was being asked to do. A similar result might entail if she identified the ambiguity in the instruction (rendering it a patent ambiguity) but nevertheless proceeded to adopt her interpretation without seeking clarification.

[96] In seeking to apply those principles to an interpretation of the reactivation letter thus requires an analysis of the wording of the document, considered in the greater context in which it was received and the provisions of the VAT Act (which law Appellant must be expected to know).

[97] In my view the reactivation letter is an ambiguous document on a textual analysis because it does not expressly specify a date from which the reactivation is to be effective. That leaves it open to being interpreted as indicating either that the reactivation date coincides with the date of the letter (described as the "issue date"), or that the reactivation date is some other date, the most obvious alternative being the date on which Appellant was liable to be registered as a vendor.

[98] As I have sought to show in my summary of the evidence, Appellant recognised that the reactivation letter was ambiguous, or at least vague, insofar as it did not expressly indicate the date from which its reactivation was effective. As SARS Counsel extracted from Mr Witness B in cross-examination, Mr Witness B inferred that the reactivation date coincided with the date of the reactivation letter but recognised that that was not expressly indicated.

[99] Mr Witness B was thus faced with a patent ambiguity. That raises the question of whether, in the circumstances, Appellant was entitled to rely on his inference, or whether the ambiguity/uncertainty Mr Witness B identified required Appellant to approach SARS to clarify the position (as SARS in fact invited Appellant to do in the reactivation letter). Given my views expressed above on Mr Witness B's evidence, I accept that he was of the *bona fide* belief that the reactivation letter should be interpreted as rendering Appellant a vendor from 28 June 2018.

[100] While I would expect that in the vast majority of cases where taxpayers experience uncertainty in interpreting correspondence from SARS they will be expected to seek clarification, I consider that the circumstances of this case did not require such a course of action from Appellant. I have come to that conclusion for the following reasons.

[101] First, I consider that the competing interpretations of the reactivation letter are not equally probable, and that Appellant adopted the most likely interpretation of it.

[102] Stated conversely, I think that Appellant acted reasonably in assuming that, if its re-registration as a vendor was to be pegged to a retrospective date, SARS would have expressly said so. There is no suggestion in the reactivation letter that Appellant was in default with its registration obligations, which might reasonably have led it to consider that a retrospective registration as contemplated in section 23(4)(*b*) was contemplated.

[103] Secondly, the interpretation Appellant selected would have been fortified by the fact that the City interpreted the reactivation letter in the same way. While the City's opinion did not bind Appellant or SARS in any way, it would have given Appellant some comfort that its interpretation was a reasonable one. As I have sought to demonstrate, there was apparently no dispute between the City and Appellant as to the date on which the latter was registered for VAT. Rather, the dispute was whether Appellant could levy VAT in respect of goods and services rendered before that date.

[104] Thirdly, the interpretation Appellant adopted would also have been reinforced by its view that it had timeously filed a VAT101 form in January 2018, and that the approximately six-month delay in its re-registration as a VAT vendor lay at SARS's door. Without more, I consider it would be unusual for SARS to apply a retrospective registration date where a registration application was filed in good time and SARS was responsible for the registration only being finalised several months after the VAT liability date.

[105] Finally, and perhaps independently of the three reasons I have discussed, I consider that as a matter of policy it is important for SARS to issue clear communications to VAT vendors (at least regarding the date of the commencement of their VAT registration) and that, generally speaking, taxpayers should not bear the brunt of SARS failing to do so. That is precisely what will happen here: Had the reactivation letter been clear, Appellant would have had no grounds for complaint, and the assessments under review might never have arisen.

[106] As alluded to above, I understood *SARS Counsel* to argue that Appellant ought to have interpreted the reactivation letter as indicating a reactivation date of 1 February 2018 because that was the registration date that had been indicated on the June VAT101 form filed just a short while earlier.

[107] While that submission may have carried the day for SARS had the June VAT101 form been the only one submitted, I am not persuaded by that submission on the unusual facts of this case.

[108] In coming to my conclusion on the reasonableness of Appellant's interpretation of the reactivation letter I have considered the fact that it may have been convenient for Appellant not to ask SARS any questions about it in case that resulted in clarification that the date was 1 February 2018. Such a clarification would potentially have caused friction between it and its sole client. As Mr Witness B said in response to a suggestion that Appellant could have issued credit notes for invoices issued prior to 28 June 2018:

> "Well, because if the city would give such a …, kick up such a big fuss over three days, not three days, one week worth of invoicing that had VAT to it all of a sudden, you can only imagine what would happen if we were to credit the whole thing and invoice them, which would force him to pay millions of rands more, they would actually do. I do not know…"

[109] I have also had regard to the statements in the notice of objection and notice of appeal to the effect that SARS was approached for clarification and the lack of any evidence to that effect at the hearing, as well as Mr Witness B's evidence regarding having completed the pre-June 2018 VAT returns and receiving the rejection letters indicating that at least one such return had been submitted.

[110] Those considerations have not altered my view. Ultimately, my assessment of Mr Witness B is that he was a careful and honest witness. I thus accept as truthful his statements that he/Appellant interpreted the reactivation letter as notifying a re-registration date of 28 June 2018, albeit that that conclusion was open to some doubt given the vagaries in the reactivation letter. I also consider that, even if Appellant's interpretation was not the objectively correct one, it certainly was a reasonable one.

[111] I have also had regard to the criticism of Mr Witness B's evidence about his follow-ups with SARS between about April and June 2018, after he took over from Ms Madam. As *SARS Counsel* reminded me, SARS's records do not reveal that any telephonic enquiries were made concerning Appellant during that period. Mr Witness B said he contacted SARS a "handful" of times. It seems that some of those attempts were unsuccessful in the sense that his call was dropped before he spoke to a consultant. The absence of records of any enquiries being made is not insignificant but, I do not consider it serves to undermine Mr Witness B's frank account of how he interpreted the reactivation letter.

[112] As stated above, Ms Witness C appears not to have considered the impact of the reactivation letter on her audit or in the assessments. Rather, she proceeded from the basis that the decision she had to implement was that the reactivation date was 1 February 2018.

[113] In my view, and with the benefit of the evidence placed before me in the appeal, I consider that the reactivation letter failed to notify Appellant that the Commissioner had determined the reactivation date to be 1 February 2018, and that Appellant justifiably understood it to mean that it was re-registered with effect from 28 June 2018. In those circumstances, I consider that Appellant ought to have been audited and assessed as though its VAT registration date was 28 June 2018.

[114] *Appellant Counsel* submitted that were I to come to a conclusion along those lines, the three additional assessments should be set aside.

[115] In my view such a result cannot follow. Even if the effect of my finding is that the assessments for February-March and April-May 2018 should be set aside on the basis that Appellant was not registered before that date, it seems to me that the practical route is to refer all three additional assessments back to SARS in terms of section 129(2)(*c*) of the TAA for further examination and assessment, such to be conducted on the basis that Appellant was registered as a VAT vendor with effect from 28 June 2018.

[116] Such further examination and assessment is certainly necessary in respect of the last additional assessment (for June-July 2018) because it currently treats the input tax Appellant claimed as being deductible, but on the premise that Appellant was registered as a VAT vendor with effect from 1 February 2018.

[117] The debate between SARS Counsel and Mr Witness A concerning whether inputs must be supplied or just invoiced after the date of registration will come to the fore if the VAT registration date is treated as being 28 June 2018 (I express no opinion on that issue as it was not fully argued before me). There is also the question of the undisputed R377,000.00 and the fact that Appellant may have only levied VAT on invoices to the City where goods and services were supplied after 28 June 2018.

[118] A further issue in the appeal was the 25% understatement penalty SARS levied on Appellant. In my view, the decision to impose an understatement penalty, as well as that regarding the levying of interest, need to be revisited once the assessments have been reconsidered on the basis I have proposed. To the extent there is any VAT liability outstanding, that will be as a result of issues over and above those I have directly considered in this judgment, and it would be premature for me to make any further decision on penalties and interest at this stage.

[119] As far as costs are concerned, section 130(1)(*a*) of the TAA permits a costs order to be made against SARS in the event that the grounds of assessment are held to be unreasonable.

While I have upheld the principal challenge to the additional assessments, I do not consider that Appellant met that threshold. Indeed, some of the difficulty in the matter was a result of the manner in which the grounds of appeal and rule 32 notice were framed. In the circumstances I consider there should be no order as to costs.

[120] In the circumstances I make the order appearing at the commencement of this judgment.

Order

1. The three VAT assessments dated 28 May 2020 and that are the subject of this appeal are referred back to the respondent for further examination and assessment in order to determine any VAT, interest and penalties payable by the appellant, with such further examination and assessment to be conducted on the premise that the appellant was registered as a VAT vendor with effect from 28 June 2018.

2. There is no order as to costs.

MORRISSEY AJ
Acting Judge of the High Court

Coram: Morrissey AJ
Heard: 28-29 July and 16 September 2025
Delivered: 18 December 2025