

**Judgment issued by the Supreme  
Court of Mauritius**

**The Director-General Mauritius  
Revenue Authority (“Appellant” or  
“MRA”)**

**v/s**

- 1. Mauritius Freeport  
Development Co. Ltd (“First  
Respondent” or “MFD”)**
- 2. The Assessment Review  
Committee (“Second Respondent”  
or “ARC”)**

**2025 SCJ 153**

On 14 April 2025, the Supreme Court ruled in favour of the Appellant with regards to the First Respondent's claim of annual allowances.

## Facts of the case:

- MFD is a third party freeport developer and has made a claim of capital allowances in the year of assessment ("YOA") 2012 on assets acquired during the income years ended 31 December 1995 to 31 December 2005. MFD had a tax loss in the YOA 2012.
- In the ruling issued by the ARC, the First Respondent's claim of annual allowance was allowed on the basis that a taxpayer may choose to claim annual allowance at the rate of 0% and it is optional to claim or not to claim annual allowance in and for each year.
- You may refer to our previous newsletter based on the ruling dated 9 March 2023 issued by the ARC [here](#).
- Dissatisfied with the ARC's ruling, the MRA appealed to the Supreme Court.
- On 14 April 2025, after making its analysis, the Supreme Court made its judgment and based on Section 24 of Income Tax Act 1995 ("ITA"), ruled in favour of the Appellant.

## Our analysis

In the ARC's ruling, the literal rule was interpreted to allow the taxpayer the choice to claim or not to claim annual allowance in and for each year.

The interpretation of the above literal rule was based on Section 7(1)(b) of the Income Tax Regulations, "the rate of annual allowance shall, in respect of each of the items specified in Column 1 of the Fourth Schedule to these Regulations, not exceed the rate corresponding to that item specified in Column 2 of that Schedule."

The above allowed taxpayers to plan their tax position for future years.

The MRA was not satisfied with the ARC's judgment and lodged an appeal to the Supreme Court. As per MRA's arguments in the ARC case, the *noscitur a sociis* rule meant that annual allowance should operate as a deduction of capital expenditure incurred, based on depreciation under the normal accounting principles. The ARC held that rules like *noscitur a sociis* and *eiusdem generis* (which help interpret statutes) are only relevant when the literal meaning of a law leads to ambiguity or absurdity.

The MRA was adamant that the ARC misunderstood how legal interpretation rules should be applied and wrongly mixed them up with internal guidelines used to help understand the law.

However, upon the appeal of the MRA, the Supreme Court took a rather harsh approach.

Section 24 of the ITA states "... where, in an income year, a person has incurred capital expenditure on electronic, high precision or automated machinery or equipment on or after 1 July 2020, he shall be allowed, in that income year, a deduction of that capital expenditure..."

The Supreme Court took the literal meaning of Section 24 and stated that there is no room for equity. Based on the literal interpretation of Section 24 of the ITA, no annual allowance on an asset shall be provided in an income year if that asset was not acquired in that income year.

The Supreme Court also mentioned that nothing is to be read in, nothing is to be implied. The law has to be read in as it is.

## Conclusion

Based on the literal meaning of Section 24, the MRA was hence correct not to allow the First Respondent's claim of the annual allowance on assets acquired during the years 1995 to 2005 in the year 2012.

As a consequence of the above, MFD goes back to its previous position where the revision of the loss brought forward to the YOA 2013 results in a tax liability for the company.

## Supplementary remarks

This Supreme court case might have come as a disappointment to many taxpayers since based on the previous ARC ruling, they could have the opportunities to devise new tax planning schemes with the choice of claiming annual allowances in later years. However, this might no longer be possible. Annual allowance should only be claimed in the year in which the asset was acquired.

Since deferred claims are no longer possible, businesses should now optimise their investments plans to claim deductions in the year of purchase.

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