Case Brief

Macana SRL v MIRA

TAT-CA-I/2026/007, TAT-CA-G/2026/008

Facts

1. Macana S.R.L ("Macana") is a company incorporated in Italy which, much like a tour operator, buys Maldivian liveaboard cruise packages from Maldivian tourist vessel operators and sells them to tourists.
2. The Maldives Inland Revenue Authority ("MIRA") took the view that Macana carried on business in the Maldives and had a permanent establishment ("PE"), and required it to register for Income Tax and GST.
3. As Macana did not register as instructed, MIRA itself registered Macana for both Income Tax and GST from 1 January 2020 onwards.
4. At the objection stage, Macana maintained that it does not own, operate, or manage a tourist vessel in the Maldives and has no employees here. MIRA's Objection Review Report however stated that Macana has a service PE in the Maldives.

Issues

Whether MIRA correctly determined that Macana has a service PE in the Maldives under section 79(gg) of the Income Tax Act.

Held

1. That MIRA failed to substantiate that Macana has a service PE in the Maldives and hence is not required to register for income tax or GST. Accordingly, its registration by the MIRA is declared void.
2. TAT tested each of the three elements required to establish a service PE under the Income Tax Act, which are:
    2.1. the furnishing of services in the Maldives,
    2.2. through employees or other personnel engaged by the enterprise,
    2.3. for 183 days or more in any 12-month period commencing or ending in a tax year.

Furnishing of services

3. MIRA claimed, based on Macana's website and other information available online, that Macana operates three vessels in the Maldives. However, the operating licenses of these vessels are held by the Maldivian operators. Apart from the website descriptions such as "Macana Maldives Fleet", MIRA provided no evidence that Macana operates them.

4. In review of two contracts between Macana and the vessel operators, TAT observed that Macana only has marketing and sales rights, while the vessel operators provide the cruise services in the Maldives for the bookings brought in by Macana.
5. Hence, the TAT was not satisfied that Macana furnishes services in the Maldives within the meaning of section 79(gg)(3)(ii) of the Income Tax Act.

Through employees or other personnel

6. MIRA claimed that Macana's employees or persons acting on its behalf are present in the Maldives to operate the vessels and provide services to the tourists. MIRA based this claim on guest reviews on booking platforms and marketing content on Macana's website.
7. However, the contracts between Macana and the vessel operators stipulated that the vessel crew, cooks, assistants, dive guides and marine biologist are to be provided by the respective vessel operator through its own employees. As such, disregarding MIRA's claim that substance over form should prevail, TAT noted that MIRA did not provide sufficient evidence that, contrary to the agreements, Macana's employees or other personnel acting on its behalf were present in the Maldives to provide these services.

Commentary

1. This is the first case decided by the TAT on the issue of taxpayer registration, and whether the presence of a PE has been established.
2. Application of section 79(gg) of the Income Tax Act by the TAT provides vital insights on the evidence that is required to establish a PE. The TAT made it clear that online material, such as descriptions on websites or guest reviews, are insufficient to determine that a service PE is present.

Macana was represented by CTL Strategies.

Contributors

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