[2018] CCJ 27 (AJ)

IN THE CARIBBEAN COURT OF JUSTICE
Appellate Jurisdiction

ON APPEAL FROM THE COURT OF APPEAL OF BELIZE

CCJ Appeal No BZCV2018/001
BZ Civil Appeal No 19 of 2014

BETWEEN

CRUISE SOLUTIONS LIMITED **DISCOVERY EXPEDITIONS LTD**	**APPELLANTS**

AND

THE COMMISSIONER OF GENERAL SALES TAX & THE ATTORNEY GENERAL OF BELIZE	**RESPONDENTS**

Before The Honourables	**Mr Justice Saunders, President** **Mr Justice Wit** **Mr Justice Hayton** **Mr Justice Anderson** **Mme Justice Rajnauth-Lee**

Appearances

Mr Eamon H. Courtenay, SC for the Appellant

Mr Nigel Hawke, Ms Briana Williams and Ms Agassi A. Finnegan for the Respondent

JUDGMENT
of
The Honourable Justices Wit, Hayton,
Anderson and Rajnauth-Lee

Delivered by The Honourable Mr Justice Hayton

And

JUDGMENT

of

The Honourable Mr Justice Saunders, President

on the 12th day of October 2018

JUDGMENT OF THE HON MR JUSTICE HAYTON

Introduction

[1] International tourism produces good business not just for owners of cruise ships but also for governments and residents of the countries visited by the ship and its passengers and crew. The expectation is that the visitors' expenditures will help the local economy. Cruise ships, bringing thousands of passengers, have thus been encouraged to bring business to Belize by the Belizean Government and have generally been given favourable treatment under the Belize General Sales Tax Act (GSTA), 'A supply of the international transport of passengers' being an exempt service under the Fourth Schedule of the GSTA. The business of the operators of these cruise ships is to provide their passengers with a package holiday including food, drinks, entertainment, comfortable days at sea and pleasant incidental shore excursions for interested passengers. In issue is whether or not GSTSA zero-rating applies to Belize tour operators' charges to cruise lines for providing shore excursions for the cruise lines' passengers.

[2] Norwegian and Royal Caribbean Cruise Lines (the Cruise Lines) arranged with the Appellants, Cruise Solutions Limited and Discovery Expeditions, tours in Belize for many of their passengers on cruises commencing in the United States of America (USA). The passengers would contract with the Cruise Lines for the Lines to arrange for tour companies as independent contractors (paid in US dollars by the Cruise Lines) to take the passengers on particular tours as advertised in the Cruise Lines' paper and online brochures. Most passengers would pay the Lines in advance of the cruises, but some during the cruises at an excursion office maintained on the ship. The Lines had their own shore excursion staff to liaise with tour companies in organising hundreds of passengers disembarking and re-embarking the ships so as to go in groups on the tours. For the vast majority of passengers, the arranged tours would be an integral part of their holiday cruise experience and would have been a telling reason for choosing a particular cruise.

[3] Some intrepid passengers, however, might independently arrange tours from local tour operators where the ships docked, whether hoping to save money or

to visit sites not catered for by the Cruise Lines in their brochures. In such cases the tour operator would clearly be the 'supplier' of services to the passengers, 'supplier' in relation to a supply of services being defined in s 2 of the GSTA as 'the person by whom the services are supplied', while each passenger would be the 'recipient' of such services, 'recipient' being defined as 'the person to whom the services are supplied.' Sales of such services to the passengers would be subject to general sales tax (GST).

[4] In the usual case, however, the Cruise Lines would be contracting with their passengers to supply them with the services of arranging tours for them in Belize (as envisaged by paragraph (c) of the definition of "international transport" in s 2 of the GSTA, set out at [10] below), the supply of such services being exempt by virtue of the Fourth Schedule of the GSTA. To enable the Cruise Lines to discharge their responsibility to arrange tours for their passengers – and, one assumes, make a profit - the tour operators would sell the required tours to the Cruise Lines. The issue then arises whether it is (a) the Cruise Line that is the recipient of the services supplied by the tour operators as 'the person to whom the services are supplied' or whether it is (b) the Cruise Line's passengers that are the persons to whom the services are supplied, GSTA zero-rating applying under the above item 6(ii) to 'A supply of services that are provided directly in connection with the operation or management of a ship or aircraft engaged in international transport.' However, it may be that the issue does not need to be resolved if, whichever is the correct analysis, there is a supply of such services provided directly in connection with the operation of the Cruise Lines. As will be shown, this is indeed the case.

[5] The First Appellant exclusively serves the Cruise Lines, the Second Appellant sometimes serves the Cruise Lines. The Royal Caribbean's standard contract requires tour companies to insure its passengers to a particular level in the names of both the companies and Royal Caribbean. Royal Caribbean also requires the tour companies to allow it to deduct from the money due to the tour companies such amounts as it pays out to mollify passengers dissatisfied with the efforts of a tour company.

[6] Both Appellants duly registered in accordance with the GSTA in April 2006 so as to become liable to charge general sales tax on supplies by them of their services unless zero-rated. The GST scheme, however, enables them to offset their accountability to pay such tax against any GST paid by them in respect of chargeable goods or services supplied to them.

[7] The international Cruise Lines, however, considered themselves to fall outside the net of GST. They did not register under the GSTA and refused to pay any GST in receiving and paying for the supply of tour services from the Appellants. Thus, the Appellants were compelled to try to absorb that GST by paying the due amount to the Commissioner for GST. In the end, they gave up the attempt, so that large GST judgment debts have arisen, and applications for committal warrants have been made which are currently stayed to await the outcome of these proceedings.

[8] In these proceedings the Appellants claim declarations that the supplies of their tour services to international cruise lines visiting Belize constitute zero-rated supplies and that they have been unlawfully charged GST at 10 per cent and, later, 12.5 cent on such supplies. They seek orders for an account to be taken of such unlawfully charged GST and repayment of the total sums found due, with interest.

[9] Everything hinges on the interpretation and application of the relevant provisions of the GSTA to the above unchallenged factual circumstances. A few cases were cited to us but in such different contexts so as to be of little assistance and unworthy of time being taken to distinguish their contexts. Our focus is thus on the ordinary meaning of the English language and its purposive application in a context where the GSTA, concerned with commercial sales, contemplated favourable treatment for commercial sales involving the international transport of passengers by ships. The agreed issues for determination are whether the Court of Appeal, in endorsing the reasoning of Justice Sonya Young, erred or misdirected itself in construing:

"(a) 'international transport' used in items 6 and 7 of paragraph 1 of the Second Schedule of the GSTA as applying to the international transport of goods only and not also of passengers; and

(b) items 6(ii) [now 6(b[1])] and 7 as excluding tour services provided by the Appellants directly to the Cruise Lines in respect of cruise ships visiting Belize."

Relevant GSTA provisions

"Exported services" as exempt supplies under the Fourth Schedule

[10] By virtue of item 26 (now 16[2]) under the heading "Exported Services" in the Fourth Schedule of the GSTA, one of the services that is exempt for the purposes of the GSTA is "A supply of the international transport of passengers or goods.*"* Section 2 defines "international transport" as meaning the supply of the following types of services:

> "*(a)* the services other than ancillary transport services, of transporting passengers or goods by road, water or air,
>
> *(i)* from a place outside Belize to another place outside Belize, *including part of the transport that takes place in the territory of Belize* [emphasis added];
>
> *(ii)* from a place outside Belize to a place in Belize; or
>
> *(iii)* from a place in Belize to a place outside Belize;
>
> *(b)* the services, including ancillary transport services, of transporting goods from a place in Belize to another place in Belize to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or
>
> *(c)* *the services of* insuring, arranging for the insurance of, or *arranging for the transport of passengers* or goods to which paragraphs (a), (b) or (c) apply; [emphasis added]."

[11] International cruise lines like Norwegian and Royal Caribbean are thus exempt under paragraph (a)(i) from having to charge passengers GST on transporting passengers by road, water or air from a place outside Belize (e.g. Miami) to another place outside Belize (e.g. Mexico or Cuba) "including part of the transport that takes place in the territory of Belize", such as recreational, sight-seeing transport not concerned with getting from A to B and back to A as

[1] The 2011 Revised edition of the GSTA changed 6(i) and (ii) to 6 (a) and (b) in the Second Schedule.
[2] Amended by SI No 123 of 2007.

quickly as possible but enjoyed as part of a vacation journeying from A to B and back to A on a ship engaged in international transport. Transportation from Miami to Belize and Belize to other countries falls within paragraph (a)(ii) and (iii).

[12] What then of the position where passengers, pursuant to a contract with a Cruise Line, paid it for arranging tours for them taking place in Belize and operated by the Appellant tour companies, the Cruise Line then having to carry out its responsibility for arranging tours purchased from it by its passengers by purchasing for itself the services of the tour operators that would discharge its responsibility?

[13] This is covered by paragraph (c) above referring to paragraph (a)(i), so that a Cruise Line does not need to register for GST and account for any GST payment in respect of the contractual amounts it charges its passengers for supplying the service of arranging tours within Belize. Thus, a Cruise Line did not expect to have to pay the Appellant tour operators GST on the services contractually supplied by them to the Cruise Line to enable it to satisfy its obligations to its passengers. After all, the Cruise Line's inability to charge GST on passengers' payments to it for its services will mean that it would not have a GST fund available for it to offset against the amount of any GST charged to the Cruise Line by the tour operators for their services to it. Thus, part of its business would be brought within a GST system when it believed all its Belize-related transport business was intended to escape that system. It would be odd if what the GSTA gave with the one hand as an incentive for a Cruise Line to bring its business to Belize, it took away with the other hand, though if GST is charged by tour operators at the zero rate then this contradiction is avoided. What guidance can be found elsewhere in the GSTA as to matters of international transport?

"Utilities and Public Transport" as exempt supplies under Fourth Schedule

[14] After providing for exempt supplies to be supplies of utilities like electricity to consumers who use up to $150 of electricity per month, supplies of public postal services, domestic sewerage services and water (other than supplied in bottles

or similar containers), item 25 (now 13[3]) of the Fourth Schedule provides for exempt supplies covering –

> "13. A supply of the domestic public transport of passengers on any regular scheduled flight, vehicle, or vessel if, the following conditions (a), (b) and (c) are satisfied:
> *(a)* the transport is for use by any person who pays the required fare and is not provided to a particular class of person, such as, without limitation, an employee of the supplier or a guest at a hotel or similar establishment;
> *(b)* the supply is not provided by a tour operator or as part of a tour; and
> *(c)* the supplier, [is duly licensed by the Air Transport Licensing Authority or by a Road Service Permit or under the Harbour and Merchant Shipping Act]."

[15] It will be seen that supplies fundamental to normal life are exempt supplies but supplies of transport provided by a tour operator or as part of a tour are out of the ordinary run of things and so not exempt from GST. Thus, a Belizean resident who pays for a tour or a foreign passenger of a Cruise Line who chooses to go onto the dock and independently purchase a tour from a tour operator must each pay GST.

Zero-rating: Exported Services under the Second Schedule

[16] The Second Schedule provides as follows.

> "*Zero-Rated: Exported Services*
> The following taxable supplies are zero-rated supplies for the purposes of this Act
>
> *Services Connected with Exported Goods*
>
> 1. A supply of services directly in connection with land, or improvements to land, situated outside Belize.
> 2. A supply of services directly in connection with goods situated outside Belize at the time the services are performed.
> 3. A supply of services directly in connection with goods temporarily imported into Belize under the special regime for temporary imports specified in the Customs and Excise Duties Act, but only to the extent that that the services are consumed outside Belize.
> 4. A supply of services directly in connection with a container temporarily imported under the special regime for temporary imports specified in the Customs and Excise Duties Act…

[3] See n 2 above.

5. A supply of the services of repairing, maintaining, cleaning, renovating, modifying, or treating an aircraft or ship *engaged in international transport.* [emphasis added]

6. A supply of services that,

(a) consist of the handling, pilotage, salvage, or towage of a ship or aircraft *engaged in international transport*; or

(b) are provided directly in connection with *the operation or management of a ship* or aircraft *engaged in international transport.* [emphasis added]

7. A supply of services directly in connection with a supply referred to in item 1,2, 5, or 6 in paragraph (1) of the First Schedule or *item 5 or 6* of this paragraph, including a supply that consists of arranging for, or is ancillary or incidental to, such supply."

The judgments of the Courts below

[17] Sonya Young J in paragraphs 17 and 18 of her judgment mistakenly considered that item 6 (ii) above concerned the "operation *and* management of a ship" as opposed to "operation *or* management of a ship." It was therefore her narrow view that since "and" was "conjunctive" it followed that "management" qualified the scope of "operation" so "that the operation and management would refer to the working, running, handling or performance of the ship which would include the navigation, movement, docking, fuelling, insurance and registration of the ship, stocking of stores, operation of the equipment, technical support as well as the well-being and administration of the crew and the ship. It has nothing to do with the business of the ship."

[18] She emphasised, however, the disjunctive "or" in the statutory definition of "international transport" covering "transporting of passengers *or* goods" in the context of the heading in paragraph 1 of the Second Schedule, "Services Connected with Exported Goods." She stated, "Because the Subsection (sic) in question falls under a subheading entitled (sic) 'Services Connected with Exported Goods' we immediately know that International Transport is, here, limited to exported goods - passengers are excluded." Only "a supply of services provided directly in connection with the operation and management of a ship engaged in the international transport of exported goods is zero rated. The legislature has plainly said what it means."

[19] The Court of Appeal was content to endorse her reasoning. We disagree, noting that the courts below did not have the advantage of our judgment in *Speednet Communications Ltd v Public Utilities Regulator*.[4] We pointed out[5], "Where more than one construction of any provision of an Act is possible [on which see [27] below], the principles of interpretation require that a construction which promotes the general legislative purpose underlying the provisions is to be preferred to a construction which would not." We also endorsed the principle against doubtful penalisation, though preferring to call it the "principle against ambiguous governmental imposition"[6], and, in particular, endorsed[7] the remarks of Lord Thankerton[8] as to a taxing provision: "if the meaning of the provision is reasonably clear the courts have no jurisdiction to mitigate harshness. On the other hand, if the provision is reasonably capable of two alternative meanings, the courts will prefer the meaning more favourable to the subject."

Services "*provided directly* in connection with the *operation* or management of a ship engaged in international transport": items 5, 6 & 7 of Second Schedule

[20] It will be seen from [17] above that the trial judge's narrow interpretation of matters covered by item 6(ii) has the odd effect of doubly covering the matters dealt with by items 5 and 6(i) set out in [16] above, which surely cannot have been intended by Parliament; nor does it give effect to the disjunctive "or" in "the operation *or* management of a ship engaged in international transport." The "operation of a ship" is a broader concept than the "management of a ship", though both require taking into consideration the special characteristics of the relevant ship, such as whether it is a freighter, a container ship, an oil tanker, an oligarch's luxury motor yacht or a cruise liner.[9] We have already noted that an integral part of the experience in the package provided by the Cruise Lines for passengers is the opportunity taken by most of its passengers to experience shore excursions arranged by the Lines as well as the luxurious life and entertainment on board the liners. The issue then arises whether a tour operator's

[4] [2016] CCJ 23
[5] Ibid [29]
[6] Ibid [39]
[7] Ibid [35]
[8] *Inland Revenue Commissioners v Ross* [1948] 1 All ER 616,625, HL.
[9] *Port of Geelong Authority v The Ship Bass Reefer* (1992) ALR 505,519.

supply of tour services, purchased for its passengers' enjoyment by an international Cruise Line to benefit the Line by enabling it to fulfil its contractual obligation to passengers who have paid it for arranging the tours, is "A supply of services that … (ii) are provided directly in connection with the operation of a ship…engaged in international transport."

[21] To determine the meaning of the "operation of a ship", which concerns the actions of the operator of the ship, one starts by applying the plain meaning rule of interpretation expressed by Lord Reid as follows.[10]

> "In determining the meaning of any word or phrase in a statute the first question to ask always is what is the ordinary or natural meaning of that word or phrase in its context in the statute. It is only when that meaning leads to some result which cannot reasonably be supposed to have been the intention of the legislature that it is proper to look for some other possible meaning of the word or phrase."

[22] The Full Court of the Federal Court of Australia[11] has endorsed a bifurcated plain meaning for the operation of a ship set out in Brodie's Dictionary of Shipping Terms and Sullivan's Marine Encyclopaedia. Both state,

> "There are two principal aspects of operating a ship: technical and commercial. Technical operation includes crewing and supplying the ship, keeping her machinery and equipment in working order and stowing cargoes safely and efficiently. Commercial operation is concerned with booking cargoes, negotiating freight rates and bunker prices and appointing ship's agents at the ports of call."

In the case of a cruise ship as opposed to cargo ship, it is clear to us that as part of the commercial operation of the ship tours are organised as an integral part of the holiday package provided to passengers by the operator of the ship to make a profit for the operator.

[23] Indeed, just as it is natural to refer to tour companies as tour operators, so it is natural to refer to cruise line companies as cruise line operators. The Oxford English Dictionary 2nd edition 2003 defines "operator" as "a person or company

[10] *Pinner v Everett* [1969] 1 WLR 1266, 1273.
[11] *ASP Ship Management Pty Ltd v Administrative Appeals Tribunal* [2006] FCAFC 23, [92]-[93].

that runs a business" and "operation" as "a business organization" or "an organized activity involving a number of people." On this basis, too, item 6(ii) is concerned with zero-rating supplies of services provided directly in connection with the operation of a ship as a business organization engaged in international transport in providing holiday packages.

[24] Whether the recipients of the tour services supplied by the tour operators are properly to be regarded as the Cruise Lines themselves or the passengers for whom the Cruise Lines had arranged the tours, the tour operators' supplies of tour services were 'provided directly in connection with the operation of a ship engaged in international transport' as required for zero-rating such supplies. This natural interpretation sensibly prevents the contradictory approach to the application of GST mentioned in [13] above that would expose Cruise Lines to liability for GST. Such interpretation in the context of the business of Cruise Line ships is also consistent with the nearest (though still distant) analogous case that counsel for the Appellants could find, *Director of Income Tax v Belaji Shipping UK Ltd*[12], a case concerned with the income of a UK enterprise "from the operation of ships in international traffic" which under article 9 of the UK-India Double Tax Convention "shall be taxable only in the UK."

[25] The respondent UK company was engaged in the carriage of cargo by ship, having chartered two ships for this purpose, but the ships did not operate in the Indian region. Instead, the respondent entered into "slot hire agreements" with other shipping companies. Thereunder, cargo accepted by the respondent for carriage of goods from India would be shipped on ships belonging to the counterparty to the agreements and either carried to the cargo's ultimate destination or carried to a hub port where it would be offloaded and placed on other ships, including the respondent's two ships, to be carried to the ultimate destination.

[26] The Bombay Court held[13] that the "operation of ships" was not restricted to cases where the cargo was carried only in ships chartered or owned by the

[12] Ibid.
[13] Ibid [23]

Respondent. It held[14] that where the Respondent's ships collected cargo from the hub ports the slot hire agreements "are at least indirectly, if not directly, connected and interlinked with, and are an integral part of, the business of operating ships." The other cases also had "a nexus to the main business of the enterprise of the operation of ships" and were ancillary and complementary thereto[15], so as also to be exempt from Indian tax.

Nevertheless, is zero-rating excluded by the Second Schedule sub-heading "Services Connected with Exported Goods" not mentioning passengers?

[27] Despite the apparent plain meaning of item 6(ii), if the sub-heading, "Services Connected with Exported Goods" controlled the meaning of all the items underneath it, including the items 5, 6 and 7 in [16] above, Young J and the Court of Appeal would be absolutely right that zero-rating applied only to a supply of services directly connected with the operation of a ship engaged in the international transport *of goods* and not of passengers. While a heading needs to be considered[16] in construing a provision of an Act, as stated in section 16.7 of *Bennion on Statutory Interpretation* [17] "due account is taken of the fact that its function is merely to serve as a brief guide to the material it governs and that it may not be entirely accurate." Moreover[18], "A heading can only be an approximation, and may not cover everything falling within the provision to which it is attached." Indeed, Lord Reid has stated[19] that a section heading "is a poor guide to the scope of a section, for it can do no more than indicate the main subject with which the section deals." Therefore, one must particularly focus on the precise items within the heading as the legislators must do, since they do not specifically consider and vote on the headings.

[28] Since the definition of "international transport" (set out at [10] above) expressly concerns "transporting *passengers or goods* by road, water or air", with passengers perhaps foremost in the drafter's mind, the reference to "international transport" in items 6 and 7 clearly covers services connected with

[14] Ibid [24]
[15] Ibid [27]
[16] Interpretation Act s 64
[17] 7th edition
[18] ibid p 444, being a passage endorsed in *Liebert Corp Australia Pty Ltd v Collector of Customs* [1993] FCA 525, [24]
[19] *DPP v Schildkamp* [1971] AC 1, 10.

passengers or goods. If the framers of the legislation in referring to "goods" in their heading had really intended all items under that heading only to cover "goods" and so discriminate against passengers, then why did they not simply limit "international transport" to "international transport *of goods*" when, otherwise, it patently covers *passengers and goods*? On reflection, however, what justified purpose could there be for such a limitation when it appears that the business of the international transport of passengers was to be encouraged by favourable GSTA treatment as explained in [13] above, yet there would be an exceptional exposure to GST for one aspect of such business if the sub-heading prevailed, and the natural presumption is that the legislature would not intend to take away with the one hand what it had given with the other except very clearly as by restricting "international transport" in items 6 and 7 to "international transport of goods"?

[29] Thus, in the light of application of the interpretative principles expressly set out in *Speednet* at [19] above that favour a purposive construction and a meaning more favourable to the subject if a provision were reasonably capable of two alternative meanings, the tour services provided cruise line passengers by the Appellants under contracts with cruise lines visiting Belize in the business operation of their ships are zero-rated supplies for the purposes of the GSTA.

JUDGMENT OF THE HON MR JUSTICE SAUNDERS, PRESIDENT

Introduction

[30] The dispute in this case is between the tax authorities and two local tour operators. The appeal hinges on the interpretation of provisions in the General Sales Tax (or GST) Act. The local tour operators say that under the provisions of the Act, they are not liable to pay any GST on the services they supply to cruise line passengers. The authorities say that the tour operators must pay normal GST (now 12.5%) on the services they supply.

[31] My colleagues are of the view that, on two separate grounds, the local tour operators are not liable to pay GST. Firstly, it is said that the local tours are a

Belize-related transport business of the cruise lines and as such are exempt from liability to GST. Alternatively, or additionally, the majority say that the local tour services fall under a zero-rating head of the GST Act because they are services that are directly connected to the operation or management of a ship engaged in international transport. I disagree with each of these conclusions. In my opinion, the local tours are just that, local tours that are not part of any international transport service. And I do not accept that these local tours are directly connected to the operation or management of a ship engaged in international transport.

Brief factual Background

[32] This dispute between the authorities and the tour operators did not always exist. When the GST Act was passed in 2006, the tour operators were informed that they were required to register their businesses in accordance with the Act's provisions. They readily accepted then that the GST Act obliges them to charge, collect and pay GST on their local tours. Between the years 2006 and 2008 or so, they faithfully paid the tax. But, over time, they began falling into arrears. The reason for this was twofold. First of all, the cruise lines, on behalf of their passengers who took the local tours, refused to allow the local tour operators to pass on the tax. They short-paid the local tour operators. Secondly, the cruise lines and/or their passengers refused to agree to any upward alteration in the price of the local tours. The cruise lines inserted a clause in their contracts with the tour operators that it was the latter who should pay local taxes. Presumably, the tour operators were so grateful for the regular and voluminous business of the cruise lines and their passengers that they felt they had no choice but themselves to absorb the tax.

[33] The obvious question is that if these local tours provide such good value to a cruise passenger's cruise experience, why are the tour operators unable to overcome the refusal of the cruise lines to agree to a modest rise in the price of the tours at least to accommodate the liability of the local tour operators to pay GST? It is obviously an unsustainable business model for a customer, the recipient of a service, to dictate and hold steady an unreasonable price for a service supplied. Worse, it is unlawful for the recipient of a service to refuse to

pay a tax that the legislature states must be passed on to him or her. Of course, the awkwardness that this business model produces is of no concern to the tax authorities in these proceedings. Nor should it influence a judge's interpretation of the GST Act.

[34] At any rate, over time, the absorption by the tour operators of the tax payable caused serious financial hardship. The position of the tour operators worsened when the GST rate was increased from 10% to 12.5%. The tour operators fell into arrears with the authorities. The authorities repeatedly demanded payment by the tour operators of the outstanding taxes. The authorities went to court to collect the arrears. Judgments were obtained. By 22nd August 2011, one tour operator owed BZ$111,584.30 in GST. The other operator owed BZ$152,412.60. The tax authorities commenced enforcement proceedings in the Magistrate's Court. When the tour operators would not satisfy the amounts due, the authorities asked the court to commit their directors to prison for failure to pay.

[35] It is at this juncture that the tour operators' counsel devised an ingenious plan. One that only a lawyer could conceive. The notion was advanced that the tour operators were not liable to pay anything whatsoever, whether arrears or future GST. The tour operators were advised that they were providing a service that was *directly connected to the operation or management of a ship engaged in international transport*; that such services were zero-rated; and that, far from owing the authorities any arrears, it is the authorities who had been wrongly collecting from the tour operators taxes the latter should not be paying.

[36] The tour operators lost no time implementing this brilliant strategy. They filed their own proceedings against the authorities in the High Court. They claimed declarations, orders and injunctions. They stated that collection of GST from them was unlawful. They even submitted that the GST constituted the arbitrary deprivation and/or compulsory acquisition of their property in breach of the Constitution. But they have not pursued that hopeless constitutional argument.

[37] The evidence they gave in the case they filed was that Royal Caribbean and Norwegian Cruise Lines are engaged in the international transport of passengers to and from Belize. These cruise lines do not merely transport passengers. They entertain their passengers royally while on board the cruises. They also arrange shore excursions or local tours for them, during the period the ships are docked at a port. The local tours are sold and marketed to the passengers while on board and sometimes even simultaneously with the booking of the cruise. For some passengers, though by no means all, the organised local tours are a pleasurable aspect of the whole cruise experience.

[38] The cruise lines do not themselves take their passengers on the local tours. So far as I am concerned, in relation to these local tours, the cruise lines perform services akin to those of a middleman. They stand between the passengers and the local tour operators. They make arrangements, reduced into contracts, with both the local tour operators and with those passengers of theirs who sign up with them to take the local the tours. Although, as part of their advertising and marketing to their passengers, they re-sell the local tours as part of the overall cruise experience, they are careful to point out to all and sundry, in the form of written contracts, that the local tour operators are not their agents. The local tour operators are independent contractors.

[39] What occurs in practice is that the local tour operators would pick up the cruise ship passengers from the Tourist Village in Belize City, transport them to various tourist destinations and, when the tourists have had their fill of beautiful Belize, the tour operators will return them to the Tourist Village so that they can re-embark the ship and resume their international cruise. Ever mindful of their passengers' welfare, the cruise lines require the tour operators to maintain liability insurance in both the names of the tour operator and the cruise lines.

The decisions of the courts below

[40] The case filed by the tour operators was heard and decided at first instance by Madame Justice Young. The tour operators then were not suggesting that theirs was a tax exempt service. The argument was that the service they suppled was zero-rated. In addressing this argument, the judge correctly identified the case

to be one purely of statutory interpretation. In her judgment, she first looked at the statutory framework crafted by the GST Act as well as the various principles and canons relating to the interpretation of statutes. Specifically, Justice Young examined the key definitions of 'supply of goods', 'supply of services', 'export', 'goods', 'international transport', 'supplier', and 'zero-rated'. She studied the objects of the tax (taxable importations and taxable supplies), the applicable rates, and the provisions of the Second Schedule.

[41] Justice Young stated that the starting point in statutory interpretation is the language itself. It is what is often referred to as the plain or literal rule. If the language is clear, there is no need to look beyond the statute to ascertain the statute's meaning. When the words are unambiguous, judicial inquiry is complete.[20] She relied on *Duport Steels Ltd v SIRS*[21] in support of this proposition. The judge then focussed on the critical phrase in the legislation under review, namely whether the service supplied was directly connected to the operation and management of a ship engaged in international transport. Unfortunately, throughout the judgment, her analysis spoke to the "operation ***and*** management" of a ship. The phrase used in the legislation, however, is "operation ***or*** management". It cannot be absolutely certain therefore that, had Justice Young correctly referred to the operation *or* management of a ship (as she should have), her conclusions would all have been the same. At any rate, her view was that the 'operation and management of a ship' has to do with the ship itself and nothing to do with *the business* of the ship's operators, as asserted here by the tour operators. The judge made a careful distinction between the business in which a ship's operator may be engaged and the operation and management of a ship. She held that the former was not to be considered a part of a ship's operation and management. She dismissed the claim of the tour operators. The tour operators appealed her decision but, essentially for the same reasons given by her, the Court of Appeal upheld the judgment of Justice Young.

[20] Supreme Court Judgment at [13].
[21] [1980] 1 ALL ER 529

[42] There are at least four broad areas of disagreement that I have with the reasoning and conclusions of the majority. These have to do with our different understandings of the Act and with our respective approaches to interpreting and applying the Act in light of the undisputed facts of the case. The four areas concern respectively:

(1) The nature or essence of the service supply over which the dispute arises (what I shall call "the relevant service supply"), including the true identity of the supplier and the recipient of that service supply
(2) The relationship between the relevant service supply and an "international transport" service supply;
(3) The overall GST payment scheme; and
(4) Whether the relevant service supply is directly connected to the operation or management of a ship engaged in international transport.

The relevant service supply

[43] The central question in this case is about whether a particular service supply is or is not liable to GST. One must therefore first determine and be clear about what is the relevant service supply. Throughout the course of these proceedings, there never was any issue as to what the relevant service supply was. It always was ***a local transport service*** that commenced at Tourist Village, proceeded to one or more domestic tourist destinations, and then ended back at Tourist Village. No one ever doubted this. The question for decision was always whether the relevant service supply was or was not directly connected to the operation or management of a ship engaged in international transport. The majority's conclusions now introduce for the first time the notion that the relevant service supply is not a local transport service at all, but rather a part of international transport. But, we run ahead of ourselves.

[44] Every service supply must have a service supplier and a service recipient. I regarded it an easy task to determine these respective entities with respect to the relevant service. The definition section of the Act helps us to make that determination. That section says that "recipient", in relation to a supply of services, means *the person to whom the services are supplied*. The definition

section also defines the terms "supplier" and "supply". The word "supplier", in relation to a supply of services, means *the person by whom the services are supplied*. The term "supply" is defined to mean a supply of services. A supply of services includes the making available of a facility, opportunity, or advantage.[22]

[45] The terms of the contract entered into between the cruise lines and the local tour operators shed much light on the issue of the identity of the supplier and recipient of the relevant service. For example, the contract between Royal Caribbean Cruises Inc and the local tour operators (referred to in that contract simply as "Operator") plainly states that:

[46] The contract also makes it clear that the local tour operator is not an agent of the cruise line. The contract states:

> "Operator will provide the Shore Excursions to the Passengers that satisfy the highest standards in the industry. Operator acknowledges that the control and responsibility of the Shore Excursion remains exclusively with the Operator, if any Passenger is dissatisfied with the Shore Excursion such that Cruise line, in its sole discretion. Determines that full or partial reimbursement of the Shore excursion ticket is appropriate, the amount mutually agreed upon by both parties shall be deducted by Cruise Line from amounts otherwise due to Operator under this Agreement."

[47] The contract also makes it clear that the local tour operator is not an agent of the cruise line. The contract states:

> "Operator's relationship with Cruise Line during the term of this agreement shall be that of an independent Contractor. Operator shall not have, and shall not represent that it has, any power, right or authority to bind Cruise line or to assume or create any obligation or responsibility, express or implied, on behalf of Cruise Line or in the Cruise line's name. nothing related in this agreement shall be construed as constituting operator and Cruise line as partners, or as meaning the relationships of employer and employee, franchisor and franchisee, master and servant or principal and agent or joint venture between the parties hereto."

[22] Section 5(2)(b)

[48] From all of this, it is a rather straightforward matter to conclude that, for all purposes, and especially as far as the GST Act is concerned, the supplier of the relevant service supply/local tour/shore excursion service, is the local tour operators. They are the ones who "make available the facility" to enable the local transport of the passengers. They own and operate the local transport vehicles. More importantly, the cruise lines, through their written contracts with the local tour operators, expressly disavow any notion that it is they (the cruise lines) who are supplying onshore tours. At no time, whether during these proceedings or otherwise; whether in their written contracts or otherwise, have the cruise lines ever intimated in the slightest fashion that they supply a local transport service.

[49] Equally, the two tour operators themselves (referred to jointly in the court documents as the "Claimant companies" and separately as "the first named claimant" and the "second named claimant"), in their evidence in this case, make it clear that *they* are the suppliers of the local tours. Their testimony is to this effect:

> "The Claimant companies are both licensed tour operators in Belize. The First named Claimant is engaged exclusively in providing tour services to cruise ship passengers visiting Belize. The second named Claimant provides tour services generally including at times to cruise ship passengers visiting Belize. Tour services to cruise ship passengers are provided pursuant to contract with the international cruise lines so that the Claimant companies are engaged and paid by the international cruise lines. Tour services so provided typically include collecting cruise ship passengers from the tourist village in Belize City, transporting them to various tourist destinations with the country of Belize and returning those passengers back to the tourist village for tendering back to the cruise ships."

[50] My understanding of the law and the undisputed evidence in this case, therefore, supports the conclusion that a) the relevant service supply is the provision of a local transport service that commences at Tourist Village and that transports passengers to various tourist destinations in Belize and returns these passengers back to Tourist Village; b) the supplier of this service is the claimant companies, that is, the local tour operators; and c) the recipients of the relevant service are passengers who alight from cruise ships.

[51] The above conclusions are not supported by the majority. Heavily influenced by a consideration of the contractual arrangements the cruise lines have *with their own passengers,* the majority conclude that those contractual arrangements thwart the above conclusions. The majority appear to consider the ultimate author (at least, in law, if not in fact) of the domestic tour as the cruise line. I, on the other hand, regard the cruise lines as a middleman, interposing themselves, for profit and for the enhancement of their passengers' cruise experience, between the service supplier and the service recipient. For my part, the cruise line's role in the provision of the relevant service supply is entirely extraneous to and unnecessary for the essential supply and receipt of the relevant service. The regularity of their patronage might augment the coffers of the tour operators. Their involvement in the overall arrangement might provide some extra comfort and security to their passengers who take the local tours. But without their interposition, the same local shore excursion service can be, and actually is, supplied by the service supplier to and enjoyed by ships' passengers in exactly the same way.

The relationship between the relevant service supply and an "international transport" service supply

[52] Although it was never so claimed in this case by anyone, the majority have taken the view that the relevant service supply is part and parcel of the "international transport" of passengers provided by cruise lines (See [11] above) and is therefore exempt from GST. The divergent views of the majority and myself on this issue result from a difference in statutory interpretation since the GST Act defines what is meant by "international transport".

[53] The phrase "international transport" is defined in the GST Act in the following way:

> "international transport" means the supply of the following types of services,
>
> *(a)* the services, other than ancillary transport services, of transporting passengers or goods by road, water, or air,
>
> *(i)* from a place outside Belize to another place outside Belize, including part of the transport that takes place in the territory of Belize;

(ii) from a place outside Belize to a place in Belize; or
(iii) from a place in Belize to a place outside Belize;

(b) the services, including ancillary transport services, of transporting goods from a place in Belize to another place in Belize to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph *(a)* applies; or

(c) the services of insuring, arranging for the insurance of, or arranging for the transport of passengers or goods to which paragraphs *(a)*, *(b)*, or *(c)* apply;"

[54] My interpretation of (a)(i) is that it references those situations where one transits the territory of Belize while journeying from some place outside Belize to some other place outside Belize. Section (a)(i) captures a situation where, for example, a ship, motor vehicle or aircraft travels, say, from Mexico to Honduras, and part of that travel "takes place in the territory of Belize" as part of the unbroken voyage between Mexico where the service originated and Honduras where it ends. To me, this is very different from a situation where a transport service originating in Mexico enters Belize, its passengers are allowed to disembark and visit Belize for hours or days, and then the service continues on to Honduras. In that latter case, as indeed is the situation with the cruise lines here, the passengers are not, for the purposes of (a)(i), transiting Belize. They have been transported to Belize, and then transported from Belize to somewhere else. The transport that takes place in Belize, in the interval between Mexico and Honduras, is purely of a domestic nature and does not fall under (a)(i) above.

[55] I interpret the definition of "international transport" to mean that the cruise lines may easily fit themselves under (a) above. They provide international transport services under (a)(i), (a)(ii) and (a)(iii). Local tour operators, on the other hand, do ***not*** fall under any of the three limbs of (a). They are not agents of the cruise lines. No part of the service they supply originates from a place outside Belize and is destined to another place outside Belize. Their transport services are exclusively internal to Belize. They transport persons from a place in Belize (usually, from Tourist Village) to another place in Belize. Part (b) of the definition is similarly inapplicable to local tour operators for the simple reason that since the local tour operators cannot fall under Part (a), they are barred from

falling under Part (b). The services described in Part (b) are only applicable if the Part (b) service supplier is the same person who was the service supplier under Part (a). The wording of Part (c) is awkward, but the obvious intent is that where Parts (a) and (b) are inapplicable to a service supplier, then part (c) is also inapplicable. Or, to put it more positively, in order for a service supplier to be able to fall under Part (c), he/she/it must come within (a) and (b). The local tour operators cannot and therefore, in my opinion, there is no warrant whatsoever for linking local tour operators with the provision of "international transport".

[56] I consider that the finding of the majority that the relevant service is part and parcel of the "international transport" of passengers provided by cruise lines and is therefore exempt from GST (See [40] above) does violence to the Act. It specifically seems to contradict section 17 of the Act. Section 17 states:

> "17.-(1) Except as otherwise provided, a supply of goods or services shall be regarded as taking place in Belize if,
>
> *(a)* the supplier is a resident; or
>
> *(b)* the supplier is a non-resident and,
>
> *(i)* in the case of a supply of goods, the goods supplied are located in Belize at the time of the supply; or
>
> *(ii)* in the case of a supply of services, the services are physically performed in Belize by any person who is in Belize at the time the services are performed."

[57] There is no doubt that the cruise lines provide international transport services on their way to Belize and also when they leave Belize. Such international transport service supplies are specifically exempted from GST under Clause 26 of the Fourth Schedule of the Act. Local tour operators, on the other hand, provide domestic transport services. Domestic transport services provided by tour operators or as part of a tour are specifically rendered ineligible from exemption from GST by Clause 25 of the Fourth Schedule of the Act. And the tour operators therefore fall squarely under each limb of section 15 of the Act that states:

> "15.-(1) A supply of goods or services is a "taxable supply" if the supply:
>
> *(a)* is made in Belize;
>
> *(b)* by a taxable person;

(c) in the course or furtherance of a business carried on by that person; and
(d) is not an exempt supply."

[58] The notion that the relevant service supply here is part of international transport obliterates the distinction carefully set out in the Act between the supply of domestic and of international transport services. If cruise lines may now provide local tours themselves, the way is opened for them to compete with and enjoy a competitive edge over local tour operators given the scale on which they operate.

[59] Another consequence to the majority's reasoning is that it results in the artificial bifurcation of a singular service supply. According to the majority, the relevant service supply is exempt, or zero-rated, in relation to some service recipients (that is, those passengers who make payment for the service in a particular way, via the ship's purser). In relation to other service recipients, however, (those who choose to cut out the middleman, the so called "intrepid passengers"), the very same service supply is neither exempted from GST nor zero-rated. I have difficulty with this approach. It is a bit like having someone supply a stream of water to two groups of persons and telling them that depending on which group one belongs to the water is either poisonous or safe to drink. This issue leads nicely to my third area of disagreement.

The overall Scheme of the GST Act

[60] It is section 8 of the Act that imposes the general sales tax. The section declares that GST is charged, in accordance with the Act on ***(a)*** taxable importations; and ***(b)*** taxable supplies. This case is about whether the relevant service constitutes taxable supplies. What is important to note here is that in addressing a transaction involving a service supplier and a service recipient, the Act places the focus on the supply side. Section 10 of the Act states that the GST payable on a taxable supply is *the liability of the supplier*. Neither exemptions from GST, nor the zero-rating of a service, can be conditioned by some activity or inactivity on the part of ***the recipients*** of the service in question. Although ultimately, GST is (or should be) passed on to the recipient, the authorities do not look to the recipient for the tax. Liability to pay GST is not imposed on the

recipient. This is why the authorities, when they instituted proceedings against the tour operators, were entirely un-concerned with whether the cruise lines and/or their passengers were or were not paying the GST owed by the local tour operators. That approach of the authorities of looking to the service supplier for the tax is not unique to cruise lines. It is the responsibility of every service supplier to collect and pay GST on taxable supplies. If the service supplier neglects or is unable to collect GST from the recipient, then that is a matter for the supplier who remains liable to the authorities for the tax.

[61] The consequence of this is that the eccentricities or expectations of a recipient are irrelevant to the liability of the supplier to pay GST. The arrangements made by a service recipient with a middleman are irrelevant. If a service supplier chooses to collect payment for his service, not directly from a recipient, but through some third party (say, from a cruise line whose passengers consume the service supplied), then that too is of no consequence to the supplier's liability to pay the tax. The GST Act places the focus squarely on the ultimate service supplier. The conceptual approach utilised by the majority appears to me to be different. That approach suggests, for example, that the behaviour of a cruise line passenger can determine whether the supplier is or is not liable to pay GST.

Is the relevant service zero-rated because it is directly connected to the operation or management of a ship engaged in international transport?

[62] The First and Second Schedules of the Act list supplies of goods and services that are zero-rated. The First Schedule does so under the Heading "Zero-Rated: Exported Goods".

[63] There then follows the statement that "*The following taxable supplies of goods are zero-rated supplies for the purposes of this Act".* The First Schedule then sets out 9 consecutive paragraphs each of which sets out circumstances where the supply of goods, or in one instance, "ship's stores", is zero rated.

[64] It is The Second Schedule that is pivotal to this case. The Second Schedule addresses zero-rated "Exported Services". It states that "The following taxable

supplies are zero-rated supplies for the purposes of this Act". There then follows a listing of 15 different kinds of services. The first 8 fall under the heading **Services Connected with Exported Goods**.

[65] They read as follows:

> **"Services Connected with Exported Goods**
>
> 1. A supply of services directly in connection with land, or improvements to land, situated outside Belize.
> 2. A supply of services directly in connection with goods situated outside Belize at the time the services are performed.
> 3. A supply of services directly in connection with goods temporarily imported into Belize under the special regime for temporary imports specified in the Customs and Excise Duties Act, but only to the extent that the services are consumed outside Belize;
> 4. A supply of services directly in connection with a container temporarily imported under the special regime for temporary imports specified in the Customs & Excise Duties Act, Chapter 48.
> 5. A supply of the services of repairing, maintaining, cleaning, renovating, modifying, or treating an aircraft or ship engaged in international transport.
> 6. A supply of services that,
>
> *(a)* consist of the handling, pilotage, salvage, or towage of a ship or aircraft engaged in international transport; or
>
> *(b)* are provided directly in connection with the operation or management of a ship or aircraft engaged in international transport.
>
> 7. A supply of services directly in connection with a supply referred to in item 1, 2, 5, or 6 in paragraph (1) of the First Schedule, or item 5 or 6 of this paragraph, including a supply that consists of arranging for, or is ancillary or incidental to, such supply.
> 8. A supply of services to a non-resident who is not a taxable person, if the supply is directly in connection with a supply referred to in item 3 in paragraph (1) of the First Schedule, or items 1, 2, or 3 of this paragraph, including a supply that consists of arranging for, or is ancillary or incidental to, such supply (emphasis added)."

[66] The judge at first instance, guided by the Heading **Services Connected with Exported Goods**, took the position that all the items under that heading had to bear some relation to the export of goods. She used that rationale to conclude that cruise liners, which transport passengers and not goods, were not afforded the exemption. I am prepared to go along with the view that, notwithstanding the Heading, the term "international transport" in 7 above may include the

transport of passengers. The question still arises whether the service provided by the tour operators falls under 6(ii) and/or 7 of the Second Schedule.

[67] The zero-rating category into which the tour operators claim they fall is indicated as "*A supply of services that are directly connected with the operation or management of a ship engaged in international transport".* The thrust of the reasoning in support of that claim is that "a ship", more particularly, a cruise line, is the entity to whom the tour operators supply a service. As previously indicated, this conclusion is not borne out by the provisions of the statute. No "ship" is a recipient of the services provided by the tour operators. I make a distinction between the supply of services to ***a ship***, or to the operators of a ship, and the supply of services to ***passengers*** who have alighted from a ship and who choose to take a local tour. I believe the majority fail to make this distinction. They mis-identify the real recipient of the service provided by the local tour operators.

[68] But even if, as the majority state, the tour operators were part of a scheme to sell these local tours to the cruise lines which then made them available to their passengers by way of re-sale, would the relevant service be directly connected with the ship's operation or management? Is the ship even engaged in international transport when the relevant service is supplied? The second question has previously been answered in the negative. In answering the first question, I bear in mind that the cruise lines have devised the above-mentioned scheme as an optional convenience for *some* of their passengers. No one is required to take a local tour. It is actually a convenience that is spurned by other passengers on the cruise lines. It is common knowledge that when a cruise liner docks in a port, some passengers never get off the ship. They remain on board to enjoy the free and abundant on-board entertainment and the delectable delights of the various dining rooms on the ship. Yet another group of passengers dismiss the ship's pricy, well-advertised, shore excursion promotions, preferring instead to wander off the ship, in their own time, leisurely interact with the local population, explore for themselves the interesting features of the port at which the ship is docked, and perhaps, independently, pay to go on a local tour of their own choice.

[69] What is "directly connected with the operation or management of a ship" ought not to be conditioned or impacted by the pleasurable activity any particular group of the ship's passengers chooses to enjoy. Far from being connected with a cruise ship's operations or management, local tours provided by independent tour operators are simply one of several different options in which some cruise line passengers indulge while visiting Belize. Moreover, as previously indicated, since the tours begin and end in Belize, during an interval of international travel, they are un-related to "international transport".

[70] I agree with Justice Young. We must separate out from the operation or management of a ship, the business in which any particular ship's owner or group of passengers chooses to engage for their own profit or pleasure. Justice Young noted that when we speak of the operation or management of a ship (the judge actually said operation **and** management, but very little should be made of this as it does not alter the accuracy of what she stated) we are referring, for example, to –

> "…the working, running, handling or performance of the ship which would include the navigation, movement, docking, fuelling, insurance, and registration of the ship, stocking of stores, operation of the equipment, technical support as well as the well-being and administration of the crew and the ship."[23]

[71] The judge did not regard this as an exhaustive definition and I agree. I would, for example, suggest that matters involved in the operation or management will extend to the safety and well-being of all passengers or crew members of a ship while on board the ship, or in the course of embarking upon or disembarking it, or when making their way to embarkation or disembarkation points. But after passengers have safely disembarked the ship, what domestic transportation service a group of them chooses to engage (whether by themselves or through the ship's purser via a contract with the ship) is their personal business and is not at all connected with the ship's operation or management. Justice Young was right to note that services that are directly connected with the operation or

[23] Supreme Court Judgment at [18].

management of a ship have to do with the ship itself. Neither the vagaries of some passengers on a ship, nor a profit-making business contrived by ship's owners to cater to the desires of some of their passengers should be confused with the ship's operation or management.

[72] When the tour operators say that their tour activities are "directly connected to shore excursion operations of the international cruise lines which lines are clearly engaged in the international transport of passengers by ship", so far as the GST Act is concerned, that statement is unhelpful. Worse, it is outright misleading. The GST Act carefully distinguishes between and treats differently with domestic and international transport. Transport service supplies must be either domestic or international. The latter is exempt from GST. Domestic transport is not exempt from GST. If a transport service is domestic and linked to a cruise line, it is still domestic and hence liable to GST.

Conclusion

[73] In *Duport Steels Ltd v SIRS*[24], cited by Justice Young, a salutary warning is given to those engaged in statutory interpretation. Judges are not permitted to "invent fancied ambiguities" to circumvent the plain meaning of the text. Artful advocacy should not produce flights of fancy. In ***Smith v Selby***[25], this court stated the following:

> "The principles which the judges must apply include respect for the language of Parliament, the context of the legislation, the primacy of the obligation to give effect to the intention of Parliament, coupled with the restraint to avoid imposing changes to conform with the judge's view of what is just and expedient. The courts must give effect to the intention of Parliament…"

[74] One feels for tour operators who are bullied by powerful international operators into paying a tax the law states must be passed on. But for all the above reasons, I must respectfully disagree with my colleagues. I would dismiss the appeal of the tour operators. In my view, the services supplied by them are not exempt from liability to GST. Nor do they fall within the zero-rating category of section

[24] [1980] 1 ALL ER 529
[25] [2017] CCJ 13.

6(ii) or section 7 of the Second Schedule. I am of the opinion that the correct interpretation and application of the Act lead to the result that these tour operators are liable to charge, collect and pay to the authorities normal GST.

ORDERS OF THE COURT

[75] Having regard to the judgments above, this Court, by a majority decision, makes the following orders:

a) The appeal is allowed, and the order of the Court of Appeal set aside;

b) It is declared that by virtue of paragraph 1 items 6(ii) and/or 7 of the Second Schedule to the General Sales Tax Act the tour services provided by the Appellants directly to international cruise lines (such as Royal Caribbean and Norwegian Cruise Lines) for passengers visiting Belize under contracts with such lines constitute zero-rated supplies for the purposes of the above Act;

c) It is declared that the Respondents have unlawfully assessed, charged and collected from the Appellants General Sales Tax on the supply of tour services directly to international cruise lines visiting Belize under contracts with such lines;

d) It is ordered that an account be taken of all General Sales Tax unlawfully assessed, charged and collected from the Appellants in respect of the above tour services since six years prior to filing of the claim form on 14th February 2013;

e) It is ordered that the Appellants are repaid the amount due each Appellant on the taking of the above account plus interest thereon at the rate of 6% simple interest per annum;

f) Costs are awarded to the Appellants before this Court and the courts below.

/s/ A Saunders

The Hon Mr Justice A Saunders (President)

/s/ J Wit

The Hon Mr Justice J Wit

/s/ D Hayton

The Hon Mr Justice D Hayton

/s/ W Anderson

The Hon Mr Justice W Anderson

/s/ M Rajnauth-Lee

The Hon Mme Justice M Rajnauth-Lee