IN THE COURT OF APPEAL OF BELIZE AD 2015

CIVIL APPEAL NO 19 OF 2014

CRUISE SOLUTIONS LIMITED
DISCOVERY EXPEDITIONS LIMITED Appellants

v

COMMISSIONER OF GENERAL SALES TAX
THE ATTORNEY GENERAL OF BELIZE Respondents

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BEFORE

The Hon Mr Justice Sir Manuel Sosa	President
The Hon Mr Justice Christopher Blackman	Justice of Appeal
The Hon Mr Justice Murrio Ducille	Justice of Appeal

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E A Marshalleck SC, counsel for the appellants.
T Young and A Finnegan, counsel for the respondents.

October 2015 and 24 June 2016 .

SIR MANUEL SOSA P

[1] I have read, in draft, the judgment of Blackman JA in this appeal and concur in the reasons for judgment given, as well as the orders proposed, in it.

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SIR MANUEL SOSA P

BLACKMAN JA

[2] This appeal is against the judgment dated 12th June 2014 by **Young J** in which she held that the appellants were not exempt from the provisions of the General Sales Tax Act (**The Act)** in respect of their business as licensed tour operators for cruise ship passengers, nor were the services so provided, zero-rated. With the consent of the parties the appeal is being determined on the basis of the written submissions.

[3] The background to the issues in this appeal are gratefully adopted from paragraphs 2 to 5 of the judgment of the learned judge.

[4] The appellants are companies registered in Belize and engaged in the licensed tour operation business. The first named appellant provides this service exclusively for cruise ship passengers visiting Belize, while the second named appellant provides inter alia, the same service referred to above, intermittently. For the performance of the said service both companies are engaged and paid directly by international cruise lines visiting Belize. Following the enactment of The Act, the appellants were required to register in accordance with The Act which they duly did by April 2006. From that date, they were assessed and paid General Sales Tax (**GST)** at the rate of 10 percent and following an amendment to The Act, at the rate of 12.5 percent on the services provided to the cruise ship passengers.

[5] From early January, 2009 to the end of November 2010, the appellants were informed by The Commissioner for General Sales Tax **(The Commissioner)** that they were in arrears for the payment of GST. On 5th January, 2011 a final Notice of Arrears was sent which warned that if there was failure to settle or make satisfactory arrangement to settle, legal action would be taken.

[6] On the 22nd August, 2011 both appellants were brought before the Magistrate's Court for enforcement of a judgement debt. The amount due by the first named appellant was $111,584.30, while the second named Claimant had the sum of $152,412.60 outstanding. As both appellants failed to meet the stipulated payments, applications for committal warrants were made in respect of both appellants. The

execution of the warrants have been stayed pending the determination of these proceedings.

[7] In the Court below the following relief was sought by the appellants:

(1) A declaration that by virtue of section 1(6)(ii) and/or section 1(7) of the Second Schedule to The Act tour services provided by the claimants/ appellants directly to international cruise lines visiting Belize constitute zero rated supplies for the purpose of The Act.

(2) A declaration that the defendants/respondents unlawfully assessed charged collected and/or recovered from the claimants **GST** on the supply of tour services provided to international cruise lines visiting Belize.

(3) A declaration that the assessment, charge, collection or recovery of **GST** from the claimants/appellants in respect of the supply of tour services to international cruise lines visiting Belize since enactment of The Act constitute the arbitrary deprivation and/or compulsory acquisition of property of the Claimants in breach of sections 3(d) and 17 of the Constitution of Belize.

(4) An order for an account to be taken of all **GST** unlawfully charged to and/or collected or recovered from the appellants in respect of the tour services over the preceding six years;

(5) An order for the repayment to the Claimants of the total sums found unlawfully assessed, charged, collected or recovered on the above account plus interest thereon;

(6) An injunction restraining the First Defendant or its servants or agents or otherwise howsoever from assessing or charging the Claimants **GST** on the supply of tour services directly to international cruise lines visiting Belize and/or seeking to enforce the collection and/or recover payment for any such GST against the Claimants, its officers or agents, or any of them;

(7) Such further or other relief as the Court considers just; and

(8) Costs.

[8] The learned judge denied the first two declarations sought and further held at paragraph 31 of her decision that the issues as to constitutionality and the like fell away, and consequently did not require a determination.

[9] The appellants have not challenged the finding relating to constitutionality in their grounds of appeal which have been confined to two grounds, namely that:

(i) The learned trial judge erred in law and misdirected herself in construing sections (1)(6)(ii) and/or (1)(7) of the Second Schedule to **The Act** to exclude tour services provided by the Claimants directly to the cruise lines in respect of cruise ships visiting Belize.

(ii) The learned trial judge erred in law and misdirected herself in ordering costs to be paid by the Claimants without any consideration as to whether or not the Claimants in any way acted unreasonably in making application or in the conduct of the application.

[10] The Respondents in their written submissions dated 27th May 2014 conceded that there was no unreasonableness in the application by the claimants or in their conduct of the application and that, consequently they were unable to support the costs order made by the learned judge. In light of that concession, the appeal in so far as it relates to costs, is allowed. Accordingly, I now consider the submissions of the appellants on the remaining issue.

The Case for the Appellants.

[11] The essence of the submissions by Counsel for the appellants Mr. Andrew Marshalleck SC is that the learned trial judge erred in construing the relevant provisions of **The Act** in relation to the services "***provided directly in connection with the operation or management"*** of the visiting cruise ships of Royal Caribbean or Norwegian Cruise Lines.

[12] In as much as the provisions of **The Act** are material to the issues under consideration, I consider it useful at this juncture to reproduce the **relevant** provisions. There are:

INTERPRETATION

Section 2. (1) In this Act, unless the context requires otherwise,-

"export," in relation to a supply of goods, means the goods are delivered to, or made available at, an address outside Belize, and for this purpose evidence that goods have been exported includes evidence of -

(a) the consignment or delivery of the goods to an address outside Belize, or

(b) *the delivery of the goods to the owner, charterer, or operator of a ship or aircraft engaged in international transport for the purpose of carrying the goods outside Belize;*

"goods" means any tangible property, whether real or personal, but does not include money;

"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;

"supplier," in relation to a supply of goods or services, mean the person by whom the goods or services are supplied;

"zero-rated," in relation to a supply or import, means -

(a) A supply or import that is specified as zero-rated under the First Schedule, the Second Schedule or the Third Schedule to this Act, or the Regulations; or

(b) A supply of a right or option to receive a supply that will be zero-rated.

SECOND SCHEDULE

ZERO-RATING: EXPORTED SERVICES

(1) 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 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.*
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 -*
   (i) Consist of the handling, pilotage, salvage, or towage of a ship or aircraft engage in international transport; or

(ii) 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, or 5,6 in paragraph(1) of the First Schedule, or item 5 or 6 of this paragraph including a supply that consist of arranging for, or is ancillary or incidental to, such supply.

8. ...

SERVICES CONSUMED OUTSIDE BELIZE

9. A supply of services that are physically performed outside Belize, if the services are of a kind that are effectively used or enjoyed at the time and place where they are performed.

10. A supply of services to a non-resident person who is outside Belize at the time the services are supplied, other than a supply of services

(i) directly in connection with land, or improvements to land, situated in Belize;

(ii) directly in connection with goods situated in Belize at the time the services are performed;

(iii) that consist of refraining from or tolerating an activity, a situation, or the doing of an act in Belize, if the restraint or toleration is effectively used or enjoyed in Belize.

11,12,13 ....

(3) A supply of services is not zero-rated under item 10, 12 or 13 in paragraph (1) if the supply is a supply of a right or option to receive a supply of goods or services in Belize, unless the supply to be received would be zero-rated if it were made in Belize.

DEFINITION OF A SUPPLY OF GOODS OR SERVICES 5(1):

5. (1) a "supply of goods" means a sale, exchange, or other transfer of the right to dispose of goods as owner but does not include a supply of money.

(2) Anything that is not a supply of goods or money is a "supply of services", including, without limitation

(a) the grant, assignment, termination, or surrender of a right;

(b) the making available of a facility, opportunity ,or advantage;

(c) refraining from or tolerating an activity, a situation, or the doing of an act;

(d) the issue of a licence, permit, certificate, concession, authorisation, or similar document;

(e) the lease, hire, or rental of goods, or any other supply of a right to use goods;

(f) the production of goods by applying a treatment or process to goods belonging to another person, which shall be regarded as a supply of services to the other person;

(g) the supply of water, other than water in a container ,or the supply of natural gas or any form of power, refrigeration or air-conditioning; or

(h) anything that is deemed to be a supply of services by this Act or by Regulations.

IMPOSITION OF GST

8(1) a tax to be known as "general sales tax" or "GST", shall be charged in accordance with this Act on –

(a) taxable importations; and

(b) taxable supplies

RATE OF TAX

9. The rate of GST applicable to a taxable supply or importation is -

(a) if the supply or import is zero-rated under the First Schedule , the Second Schedule or the Third Schedule, 0%; or

(b) in any other case 10% (amended by the General Sales Tax Amendment Act No. 15 of 2010) 12.5%.

[13] Mr. Marshalleck further submitted that the provision of tour services to visiting cruise ship passengers is an external trade in services (consumption abroad) and amounted to the exportation of tour services. He referred to the evidence of Mr. David Gegg that shore excursions were a part of a cruise ships' operations and the appellants' tour services were a part of those shore excursions. As a consequence, he was of the view that the tour services of the appellants' came within the provisions of section (1)6(ii) of the Second Schedule to **The Act** as they are services provided "***directly in connection with the operation or management"*** of the visiting cruise ships of Royal Caribbean or Norwegian Cruise Lines. Consequently, as such services were directly connected to the "operations" of the cruise ships, they should, on a true construction of the provisions of section (1)6(ii) of the Second Schedule to **The Act,** be zero-rated.

[14] Counsel further submitted that the combined effect of Section 2 of **The Act** and Section 1(6) of the Second Schedule made it clear that the activities undertaken by international cruise lines such as Royal Caribbean and Norwegian Cruise Lines in the transport of passengers by water from a place outside Belize to another place outside Belize, including part of the transport which takes place in the territory of Belize, fell squarely within the definition of "international transport" as provided in **The Act.**

[15] Counsel further noted that as the words "***directly in connection with the operation or management of a ship"*** are not defined by the Act, they should be given their natural and ordinary meanings unless the context suggests otherwise. In that regard, it was his contention that the natural and ordinary meanings of the words "***operation or management***" of a cruise ship must in that context include, not only the operation or management of the vessel itself, but also the conduct of all activities of the cruise line necessarily connected to the voyage of the vessel. It was the totality of such activities that properly comprised the "operations" of the ship, as opposed to only the motoring function of the motor vessel, and therefore fell within the ambit of the "***operation or management***" of the ship as used in section 1 (6)(ii) and/or section 1(7)

of ***The Act***, as exported services "incidental" or "ancilliary" to the operation or management of cruise ships engaged in international transport.

[16] Mr. Marshalleck further submitted that when construing a taxing statute such as **The Act** the general principles of statutory construction are applicable and consequently where parliament did not convey its intention clearly, expressly and completely, the Court is required to spell out that intention.

[17] In that regard, Counsel noted that historically, at common law, the general approach of the Courts where the meaning of a charging provision in a statute was capable of two or more reasonable interpretations, the provision was to be strictly construed in favour of the citizen. In support of this statement, Counsel has cited the House of Lords decision of *Inland Revenue Commissioners v. Ross and Coulter and Others (Bladnoch Distillery Co. Ltd.)* [1948] 1 All ER 616 at page 624 where **Lord Thankerton** stated the approach to the interpretation of a charging position, as follows:

> *"I cannot think that there can be much doubt as to the proper canons of construction of this taxing section. It is not a penal provision; counsel are apt to use the adjective "penal" in describing the harsh consequences of a taxing provision, but, if the meaning of the provision is reasonably clear, the courts have no jurisdiction to mitigate such 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. If the provision is so wanting in clarity that no meaning is reasonably clear, the courts will be unable to regard it as of any effect".*

[18] Mr. Marshalleck conceded that the strict application of the historical presumption in favour of taxpayers has been relaxed in favour of a more balanced approach by giving due weight to the interest of the state in raising revenue. Where however, an ambiguity in a taxing Act could not be resolved by reference to the intention of the legislature as gathered from the words of the enactment, the old presumption in favour of the taxpayer still applied. Learned Counsel cited the decision of the Nova Scotia Court of Appeal in *Municipal Contracting Limited v. Nova Scotia (Attorney General),*

2003 NSCA 10 (CANLII) at paragraph 53, where the Court stated the position as follows:

> *"The rules formulated in the preceding pages, some of which were relied on recently in Symes v. Canada, 1993 CanLII 55 (SCC), [1993]4S.C.R 695, may be summarized as follows:*
>
> *The interpretation of tax legislation should follow the ordinary rules of interpretation;*
>
> *A legislative provision should be given a strict or liberal interpretation depending on the purpose underlying it, and that purpose must be identified in light of the context of the statute, its objective and the legislative intent; this is the teleological approach;*
>
> *The teleological approach will favour the taxpayer or the tax department depending solely on the legislative provision in question, and not on the existence of predetermined presumptions;*
>
> *Substance should be given precedence over form to the extent that this is consistent with the wording and objective of the statute;*
> *Only a reasonable doubt, not resolved by the ordinary rules of interpretation, will be settled by recourse to the residual presumption in favour of the taxpayer."*

[19] Counsel also placed reliance on the decision of The Supreme Court of Ireland in *Revenue Commissioners v. O'Flynn Construction & ors.* [2011] IESC 47, where the applicable principles, which are to similar effect, are that:

> *"From this quick survey of the above authorities and those to which they refer, the resulting position relative to taxing statutes may thus be summarized:-*
>
> *(i) the duty of the court is to establish the intention of the Oireachtas [Parliament] by reference to the language used;*
> *(ii) in so doing, as such provisions are directed to the public at large (at least generally), the normal rules of interpretation apply, which means that the words should be given their ordinary and natural*

meaning, having regard where appropriate, to the context in which they are employed;

(iii) to create a tax charge the same must be founded within the clear, unambiguous and express terms of the provision relied upon: if the liability comes within the "wording" of the provision, that is an end to the matter: the taxpayer must be taxed;

(iv) the principle last mentioned equally applies where an exemption to tax is asserted: such exemption and its scope must likewise be so founded, as otherwise the basis of liability may be impermissibly enlarged;

(v) if the suggested charge is not within the "wording" of the provision as so understood, the taxpayer is not liable: Principles of construction based on or derived from equity or approaches based on inferences or analogy or fairness have no part to play in this exercise;

(vi) if there is doubt or ambiguity attaching to the language used, the same should be construed strictly so as to prevent the imposition of fresh liability or the extension of existing liability;

(vii) in essence, the legal effect has primacy."

[20] Mr. Marshalleck concluded his submissions by stressing that the term "international transport" in **The Act** included the international transport of passengers by ship, and that that definition could not be cut down by reference to the sub-headings as was done by **Young J** throughout the judgment. He contended that the heavy reliance placed on the headings by the learned judge, in interpreting the sections under consideration to be manifestly misguided. He further submitted the international transport of passengers could not be extricated from the international transport of goods as a matter of practicality when it is recognised that passengers invariably travel with luggage which would include a variety of goods. In the circumstances, he urged the Court to allow the appeal by granting the declaration sought that the supply of services by the appellants to cruise lines are zero-rated.

THE RESPONDENTS SUBMISSIONS

[21] In rebuttal, Counsel for the respondents submitted that the Commissioner had not erred in construing ***The Act*** and further that from the time of its implementation in January 2006, the Commissioner had applied the proper criteria to determine the rate at which **GST** was to be calculated. Moreover, Section 1(6)(ii) of the Second Schedule of **The Act** was specific that the taxable supplies which are zero-rated supplies for the purposes of **The Act** are for services connected with exported goods, while shore excursions were neither goods nor an exported food, as defined by **The Act.**

[22] Counsel further submitted that the supply of tour guide services to the passengers of a cruise line, was not directly connected with a supply referred to in item 1(6)(ii) of the Second Schedule of The Act. Consequently, the supply of tour guide services was not included as a supply that consists of arranging for, or is ancillary or incidental to, such supply as is necessary to bring it within the ambit of section 1(7) of the Second Schedule of The Act.

[23] Counsel further submitted that in order to ensure that a statute is properly construed, the Court must take into consideration the statute as a whole, including headings, and give the statute its ordinary meaning unless upon construing the statute, an inconsistency or absurdity is discovered.

[24] In support of the foregoing, Counsel cited the observations made by **Lord O'Haggan** in the House of Lords decision of *River **Wear Commissioners v. Adamson*** [1877] 2 AC 743 at page 756 that:

> *"Your Lordships, exercising your appellate jurisdiction, act as a Court of Construction. You do not legislate, but ascertain the purpose of the Legislature; and if you can discover what that purpose was, you are bound to enforce it,..."*and those of **Lord Blackburn,** at page 763*:*
>
> *"...and I shall therefore state, as precisely as I can, what I understand from the decided cases to be the principles on which the Courts of Law act in construing instruments in writing. In all cases the object is to see what is the intention expressed by the words used. But from the imperfection of*

language, it is impossible to know what that intention is without inquiring further, and seeing what the circumstances were with reference to which the words were used, and what was the object appearing from those circumstances, which the person using them had in view; for the meaning of words varies according to the circumstances with respect to which they are used."

[25] Counsel further submitted that clarity and a lack of ambiguity are even more relevant where matters concerning the construction of a revenue statute are concerned.

[26] Counsel for the respondents noted that the critical words or phrase relied upon by the appellants, both in their claim and in the written submissions in this appeal, are the words '***operation or management of a ship'***. In that regard, Counsel submitted that as the words ***operation or management*** came immediately before the phrase '**of the ship'**; one could logically construe that the words *operation or management* meant the functioning and the control or dealing with the ship, and not the business carried on the ship. Moreover, it was their submission that the business of providing cruises is separate and apart from the *'operation or management of the ship.'*

[27] The attorneys for the respondents relied on the remarks of Lord Hailsham in the House of Lords case of ***Gosse Millerd Ltd. V. Canadian Government; Merchant Marine Ltd; The Canadian Highlander [1928] All ER Rep 97*** in deciding on the meaning to be placed upon the expression *'management of a ship.'* At page 100, he stated:

'the words in question first appear in an English statute in the Act now being considered, but nevertheless they have a long judicial history in this country. The same words are to be found in the well-known Harter Act, 1893, of the United States, and as a consequence they have been incorporated in bills of lading which have been the subject of judicial consideration in the courts in this country. I am unable to find any reason for supposing that the words used by the legislature in the Act of 1924 have any different meaning from that which has been judicially assigned to

them when used in contracts for the carriage of goods by sea before the date, and I think that decisions which have already been given are sufficient to determine the meaning to be put upon them in the statute now under discussion."

[28] Reliance was also placed on the remarks by **Atkin LJ** in ***Brown & Co., Ltd v Harrison, Hourani v Harrison (1927) All ER Rep 195*** at page 202 where he stated:

'That there is a clear distinction drawn between goods and ship; and when they talk of the word '*ship' they mean the management of the ship, and they do not mean the general carrying on of the business of transporting goods by sea."*

[29] Counsel further submitted that **Section 64 of the Interpretation Act, CAP 1 of the Laws of Belize** specifically provided that matters which may be considered for the purpose of construction includes cross-headings, punctuations and side-notes and the short title of the Act. In that regard, reliance was placed on the observations by **Viscount Simonds** in ***Attorney General v HRH Prince Ernest Augusts of Hanover*** [1957] 1 All ER 49 at page 53 and adopted by Lord Wilberforce in ***Maunsell v. Olins*** [1975] 1 All ER 16 at pages 21 and 22:

'For words, and particularly general words, cannot be read in isolation; their colour and content are derived from their context. So it is that I conceive it to be my right and duty to examine every word of a statute in its context, and I use context in its widest sense, which I have already indicated as including not only other enacting provisions of the same statute, but its preamble. The existing state of the law, other statutes in pari material, and the mischief which I can, By those and other legitimate means, discern the statute was intended to remedy.'

[30] Counsel for the respondents further submitted that on a consideration of the meaning of the words found within the first heading **Services connected with exported Goods**, particularly "**export**" and "**goods**", it was apparent that those zero-rated items did not include the provisions of shore excursions or tour services, offered

within Belize. This was particularly the case in considering the definition of **export** in **The Act** which is:

> *'...the delivery of goods to the owner, charterer, operator of ship or aircraft engaged in international transport for the purposes of carrying goods outside Belize.'*

[31] It was further submitted that passengers of a ship could not be construed or considered a good, having regard to the definition in section 2 of The **Act** that goods mean: " *any tangible property, whether real or personal, but does not include money;'*

[32] Counsel for the respondents further submitted that, the Act, when read in its entirety, the construction of the section 1(6)(ii)/1(7) was unambiguous and the trial judge arrived at the proper construction that shore excursions or tour guide services provided to passengers of the cruise line were not zero rated services. In the circumstances, Counsel urged that the order of the learned trial judge, should be upheld.

Discussion and Disposition.

[33] Mr. Marshalleck's concluding submission was that the heavy reliance placed on the headings in **The Act** by the learned judge, in interpreting the sections under consideration, was manifestly in error. No authority was cited for this proposition, and indeed none could have been so cited. In **Bennion on Statutory Interpretation**, 5th edition, at pages 745 and 746, it is noted that "*a heading is part of the Act….and it is the court's duty to take advantage of this aid when arriving at the legal meaning of an enactment."*At page 747 of Bennion (supra) the foregoing statement is reinforced by the statement that a sidenote or heading is part of the Act, and "*no judge can be expected to treat something which is before his eyes as though it were not there."*

[34] I adopt the observation made by the learned judge at paragraph 20 of her decision that: "*Statutory language is not to be construed as mere surplusage. The basic principle is that the court must give effect, if possible to every clause and word of statute, avoiding, if it may, any construction which implies that the legislature was ignorant of the meaning of the language employed. Consequently, the court is not allowed to change or extend a statute by adding language which Parliament has not*

included. This court finds no ambiguity or difficulty with the sub-heading as it relates to the subsections. The subheading indicates that all the zero-rated services outlined beneath it are connected to exported goods."

[35] The definition of the term 'export' at section 2 (b) of the Act as *The delivery of goods to the owner, charterer, operator of ship or aircraft engaged in international transport for the purpose of carrying the goods outside Belize* was further explained by the learned trial judge at paragraphs 22 and 23 of her decision when she noted *"the words 'international transport' properly connects the services provided to the ship to 'exported goods.' International Transport is defined in the interpretation section of The Act. It is the service of transporting passengers or goods, other than ancillary transport services, by road, water or air from a place outside Belize to another place outside Belize including the part of the transportation that takes place in the territory of Belize. It includes the service of transporting goods or passengers from a place outside Belize to a place in Belize or from a place in Belize to a place outside Belize. 'Or' is disjunctive and the specific use of 'or' ensures that the meaning of international transport could be either the special transport of passengers, or the special transport of goods.*

[36] Because the Subsection in question falls under a subheading entitled 'Services Connected with Exported Goods' we immediately know that International Transport is, here, limited to exported goods –passengers are excluded. International transport qualifies the ship and the subtitle 'exported goods' limits that qualification….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."

[37] For the foregoing reasons, the conclusion reached that the tour guide services provided by the appellants were not zero rated, cannot be faulted.

[38] I would accordingly dismiss the appeal. Each party to bear their own costs.

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BLACKMAN JA

DUCILLE JA

[39] I concur.

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DUCILLE JA