

CASE BRIEF: ORICA GHANA LIMITED v. THE COMMISSIONER-GENERAL, GRA**Court:** Court of Appeal, Accra**Citation:** [2026] Suit No. A.O. 2026**Date:** 2nd January, 2026**Coram:** Mensah-Datsa (Mrs.), JA (Presiding); Ahmed (Mrs), JA; Armah-Tetteh, JA**FLYNOTE****Tax Law – Location Incentive – Manufacturing Business – VAT Relief Purchase Orders**

Income tax – Location incentive for manufacturing businesses – Whether provision of ancillary services (transportation and filling) constitutes separate non-manufacturing activity – Whether all activities of a company are treated as single business – Income Tax Act, 2015 (Act 896), section 58(4) and paragraph 3(6) of First Schedule – Appeal dismissed.

Value Added Tax – Admissibility of photocopied VAT Relief Purchase Orders (VRPOs) – Whether photocopies constitute valid "copies" under tax law – Whether authenticated photocopies are admissible – Revenue Administration Act, 2016 (Act 915), section 91 and Evidence Act, 1975 (NRCD 323), sections 164-166 – Photocopies held admissible.

PARTIES

Appellant/Respondent: Orica Ghana Limited (manufacturing company)
Respondent/Appellant: The Commissioner-General, Ghana Revenue Authority

FACTS

1. Orica Ghana Limited is a manufacturing company engaged in manufacturing, assembling, and selling bulk commercial explosives.
2. In 2017, GRA conducted a tax audit of Orica for the 2010-2016 assessment years.
3. GRA apportioned Orica's business income into:
 - o Income from manufacturing activities (sale of explosives)
 - o Income from non-manufacturing activities (management services - transportation and filling of explosives)
4. GRA limited the location incentive (50% tax rebate for businesses outside regional capitals) to only the manufacturing portion of income.
5. GRA also rejected photocopied VAT Relief Purchase Orders (VRPOs) worth US\$6,620,789.87, despite having earlier authenticated and initialed them.
6. Orica objected and appealed to the High Court, which ruled in its favour on 19th July, 2022.
7. GRA appealed to the Court of Appeal.

ISSUES

1. Whether the High Court erred in accepting photocopied VRPOs as authentic despite them being photocopies rather than originals.
2. Whether the High Court erred in holding that GRA wrongly apportioned Orica's business income into manufacturing and management service activities.
3. Whether the judgment was against the weight of evidence.

RELEVANT LEGAL PROVISIONS**Income Tax Act, 2015 (Act 896)**

Section 58(4): "Subject to this Act, all activities of a company are treated as conducted in the course of a single business of that company."

Paragraph 3(6), First Schedule: Provides location incentive of 50% tax rebate for manufacturing businesses located outside regional capitals.

Section 34: Anti-avoidance rules - permits re-characterization of arrangements that are fictitious, lack substantial economic effect, or whose form does not reflect substance.

Section 133: Defines "business" to include a trade.

Revenue Administration Act, 2016 (Act 915)

Section 91(1)(a) and (c): Officers of GRA authenticate documents by initialing them.

Section 92(1): The burden of proof in tax proceedings is on the taxpayer to show compliance with tax law provisions.

Value Added Tax Act, 2013 (Act 870)

Section 41(1), (2), (6)-(8): Requirements for tax invoices and retention of duplicates.

Section 48(1)(a)(ii): Requires possession of tax invoice to claim input tax.

Section 65: Defines "input tax" as tax payable by a taxable person in respect of acquisition of taxable supply of goods and services or import.

Evidence Act, 1975 (NRCD 323)

Section 164: Definition of "duplicate" documents.

Section 165-166: Admissibility of copies and duplicates.

Section 26: Presumptions regarding authenticated documents.

Minerals and Mining Regulations, 2012 (L.I. 2177)

Regulation 15(4)(a)(iii) and (b): Authorizes holders of certificates of competency to manufacture, store, transport and deal commercially with explosives.

Constitution of Ghana, 1992

Article 296(c): Requirements for exercise of discretionary powers.

HELD

Appeal dismissed. The High Court judgment affirmed.

On Photocopied VRPOs:

The Court held that the photocopied VRPOs were admissible because:

- The photocopies met threshold requirements under the Evidence Act
- GRA officers had earlier authenticated the originals by initialing them pursuant to section 91(1)(a) and (c) of Act 915
- Nothing in Act 870 defines "copy" to mean duplicate and exclude photocopy
- VRPOs are not tax invoices under section 41 of Act 870, so stricter requirements for tax invoices do not apply
- Section 48 relating to input tax claims does not affect recognition of VRPOs since VRPOs result from exempt supplies, not taxable acquisitions

On Apportionment of Business Income:

The Court held that GRA erred in apportioning Orica's income because:

- Section 58(4) of Act 896 expressly states that all activities of a company are treated as conducted in the course of a single business
- "Manufacturing business" refers to the nature of the entity's business, not individual activities
- Transportation and filling services are integral, ancillary, and incidental to the manufacturing business
- L.I. 2177, Regulation 15(4) specifically authorizes explosives manufacturers to store, transport and deal commercially with explosives
- No evidence of fictitious transaction or tax avoidance scheme under section 34 of Act 896
- Location incentive applies to the entire manufacturing business, not just manufacturing activity

On Weight of Evidence:

The Court found:

- The High Court Judge applied correct legal principles
- The judgment was supported by adequate evidence on record
- No basis to disturb the learned Judge's findings
- GRA failed to demonstrate lapses in the judgment

RATIO DECIDENDI

1. All activities of a company are treated as part of a single business under section 58(4) of Act 896. Ancillary services that are integral to a manufacturing business cannot be artificially separated for tax purposes.
2. Location incentives apply to manufacturing businesses based on the nature of the entity's business, not limited to specific manufacturing activities alone.
3. Authenticated photocopies are admissible in tax proceedings where the originating authority has verified and initialed the original documents, and authenticity is not disputed.
4. Tax authorities cannot exercise discretion to re-characterise business activities absent evidence of tax avoidance schemes under section 34 of Act 896.

SIGNIFICANCE

This case clarifies that:

- Tax authorities must consider the holistic nature of a business rather than artificially fragmenting integrated activities
- Manufacturing businesses providing ancillary services integral to their core operations are entitled to full location incentives
- Authenticated photocopies have evidentiary value in tax proceedings
- The exercise of discretion by tax authorities must comply with statutory requirements and constitutional principles

Counsel:

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