Media Summary – MASTER CURRENCY v CSARS

The Supreme Court of Appeal today dismissed an appeal from the Tax Court, Johannesburg against the revised assessment of the appellant, Master Currency (Pty) Ltd, in respect of the October 2003 to January 2005 tax periods, on the basis that the commission and transaction fees received by the two bureaux de change operating in the duty free area of the then Johannesburg International Airport should be standard rated in terms of section 7(1)(a) of the Value-Added Tax 89 of 1991. The Supreme Court of Appeal could find no basis for the appellant's contention that there were areas at international airports where services supplied were not subject to VAT. There was no basis for judicial notice to be taken of such a usage, if any. Nor could the appellant rely on the maxims contemporanea expositio and subsecuta observatio because it could not identify any specific provision of the Value-Added Act 89 of 1991 on which it relied in this respect. The services of the appellant were mostly cash transactions concluded with departing non-resident passengers in possession of a boarding pass and a passport. These passengers would present South African Rand to the appellant either in cash, travellers' cheques or cheques received from the VAT refund administrator. The appellant would then convert the rand into foreign currency, calculate the exchange rate margin and the commission and transaction fee and present the departing passengers with an invoice. The latter would then pay over a Rand amount to the appellant in exchange for the equivalent in foreign currency less commission and a fee. The two bureaux dealt with non-residents only in view of an instruction by the Reserve Bank that residents were not allowed to purchase foreign currency as part of their travel allowance once they had passed through passport and immigration. The appellant made a margin on the foreign exchange based on the difference

between the rate it bought and the rate it sold at. It also charged a commission on the transaction as a percentage of its value, and levied a fee per transaction. The Supreme Court of Appeal found that the services rendered by the appellant fell under the provisions of s 11(2)(l)(iii) of the Value-Added Tax Act and should therefore be standard and not zero rated. The appeal was thus dismissed.