THE INTERMEDIATE COURT OF MAURITIUS
Financial Crimes Division

CN: FR/L45/2023

In the matter of:

THE INDEPENDENT COMMISSION AGAINST CORRUPTION

V

FAMILY WORLD LTD

SENTENCE

The Accused Company stands convicted with wilfully, unlawfully and criminally being in possession of property which, in whole or in part, directly or indirectly represented the proceeds of a crime and where the Company had reasonable grounds for suspecting that the property was derived, in whole or in part, directly or indirectly from a crime, in breach of **sections 3(1) (b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act**.

The Accused company was represented in Court by Mr Abhtar Hussen Dhurrun, its Chief Operating Officer. He was duly authorised to represent the company as confirmed by the extract of the written resolutions of the Board of Directors (**Document A)**.

The statements recorded from him were read and produced.

Mr Dhurrun deposed to the effect that during the year 2014/2015, the Mauritius Revenue Authority came for spot checks in the supermarket trading under the name of Intermart, belonging to the Company. The MRA concluded that the Company was using a system which influenced the monthly cash flow, resulting in an incorrect declaration of sales and which in turn, influenced the payment of the VAT. Consequently, there was a reassessment for three consecutive years and the Company made the necessary payment in respect of all amount due.

He added that the amount of Rs 2,828,086.97 was found in the bank account of the company where all proceeds of sales were being credited and that the charge dates back to December, in the midst of the Assessment year 2014-2015.

Learned Senior Counsel for the Company, Mr Glover, submitted that the Court should weigh in the balance for mitigation, the timely guilty plea, the amount of 17 million rupees was settled with the MRA over 3 assessment years, the clean record of the Company and the amount involved as laid down in the information.

In **G Lin Ho Wah v The State 2012 SCJ 70,** the Court commented on the need to individualize sentences, at paragraph 9:

"...A just sentence which fits the offender gives greater public confidence to the public in our judicial system. Sentencing an offender was never a mechanical and willy-nilly application of the general penalty prescribed with reference to the numbers and the letters of the law. The judicial discretion to sentence inherent in our court system should not be taken for granted and honoured more in the ignorance than in its application. While the formulation and application of general principles assist in obtaining a coherence in sentencing amongst the various courts of the land and while the principle of proportionality assists in obtaining a just balance between what the law prescribes and what the particular facts of the case exact, the principle of individualization concretizes the rights and freedoms guaranteed by the Constitution to the individual. A just sentence is an essential part of a citizen's right to a fair trial."

I have considered that the accused company has offered a timely guilty plea, which in view of Section **69B of The District and Intermediate Courts (Criminal Jurisdiction) Act** is, a mitigating factor. I take into account that the company has a clean record and is not involved in any enquiry by the MRA.

I also bear in mind that the system put in place only affected the amount of VAT payable and had no impact on the revenue declared for the payment of Income Tax. All amount due as per assessment made by the MRA has been settled. I take note that the offence dates back to 2014 and the information was lodged nearly 10 years after.

But on the other hand, I have given due consideration to the seriousness which the offence deserves. The company had put in a system to create fictitious return of goods, which in fact never occurred, resulting in a reduction of the VAT amount payable to the MRA.

I find relevant to quote the following from **Abongo v The State 2009 SCJ 81,** with regard to the rationale of sentencing measures:

"*The Financial Intelligence and Anti-Money Laundering Act was enacted essentially for the purpose of combating money laundering offences which had the potential of adversely affecting the social and economic set up, both at national and international level to such an extent that they may constitute serious threats not only to the financial system but also to national security, the rule of law and the democratic roots of society. By enacting sections 5, 6 and 8 of the Act, the policy of the legislator was clearly designed to achieve the compelling objective of safeguarding the national and international financial systems against any disruptive intrusion which may be caused by the perpetrators of certain criminal activities."*

I have borne in mind the seriousness of the offence, but as well the mitigating factors laid down above. **Section 8** of the Act provides for a fine not exceeding 2 million rupees and to penal servitude for a term not exceeding 10 years. Bearing in mind that the Accused is a company, I consider that a fine is suitable.

I therefore sentence the Accused Company to pay a fine of 350,000 rupees.

The Accused Company is ordered to pay 500 rupees as costs.

B.R.Jannoo- Jaunbocus (Mrs.)
Ag President
Intermediate Court (Financial Crimes Division)
This 9th February 2024.