



# LANDMARK CLARIFICATION ON FOREIGN TAX CREDIT POOLING

UPL Corporation Ltd v The Revenue Tribunal  
& Anor (2026 SCJ 161)

April 2026

# Executive Summary

This summary outlines the Supreme Court's ruling on the FTC pooling method, clarifying if actual and presumed foreign tax credits can be combined in one claim. The ruling has major implications for taxpayers' FTC strategies.

## The Judgment

- The Supreme Court of Mauritius issued a landmark decision in *UPL Corporation Ltd v The Revenue Tribunal & Anor* (2026 SCJ 161), interpreting the FTC regime under the Income Tax (Foreign Tax Credit) Regulations 1996.
- The case concerned taxpayers electing the pooling method under Regulation 6(3)(a), allowing aggregation of foreign-source income for FTC calculation.
- The Court emphasised a purposive interpretation of the FTC regulations, rejecting narrow readings that restricted taxpayer options.
- The decision clarifies that the pooling method can mix actual foreign tax credits and presumed credits across income streams.
- This ruling impacts Global Business Companies and multi-jurisdictional taxpayers relying on Mauritius' FTC regime.

## Core Finding

- The Supreme Court ruled in favour of UPL, overturning the restrictive interpretation by the Assessment Review Committee (ARC).
- Taxpayers using the pooling method may combine actual foreign tax credits with presumed credits in a single FTC pool.
- The Court clarified that "or" in Regulation 6(1)(a) does not require a uniform credit type across all income in the pool.
- The ruling resolves uncertainty that hindered optimal FTC planning, especially for Global Business Companies.
- This judgment supports a more flexible, pragmatic approach to FTC claims under Mauritius law.

**The Supreme Court of Mauritius delivered a definitive ruling in *UPL Corporation Ltd v The Revenue Tribunal & Anor*, clarifying the application of the Foreign Tax Credit pooling method under the 1996 regulations. This decision resolves longstanding ambiguity affecting Global Business Companies and multi-jurisdictional taxpayers, enabling more flexible and accurate FTC claims.**

# Statutory Framework: Section 77 ITA & Regulation 6 FTC Regulations

**Mauritian tax law allows taxpayers to claim foreign tax credits on foreign-source income under a clearly defined statutory framework. Section 77 of the Income Tax Act 1995 and Regulation 6 of the Foreign Tax Credit Regulations 1996 establish the basis, methods, and limits for claiming these credits, ensuring taxpayers can avoid double taxation while adhering to strict caps.**

## **Section 77 ITA 1995 & Reg. 6 FTC Regs 1996**

- Mauritian taxpayers may claim a credit for foreign tax paid on foreign-source income to avoid double taxation.
- The foreign tax credit (FTC) is limited to the amount of Mauritian tax attributable to the same foreign-source income.
- Section 77 ITA 1995 provides the legislative authority for FTC claims.
- Regulation 6 FTC Regulations 1996 detail the rules and procedures for claiming the credit.
- The credit applies only to foreign-source income, excluding exempt income streams.

## **Regulation 6(1)(a) — The Credit Basis**

- The FTC equals the higher of actual foreign tax paid or a presumed foreign tax amount.
- The presumed foreign tax amount is set at 80% of the Mauritian tax on the foreign income (the '80% deemed credit').
- Taxpayers may use either actual foreign tax suffered or the presumed amount for each income stream.
- The credit cannot exceed the Mauritian tax liability attributable to that specific foreign-source income.
- This dual basis provides flexibility, especially where actual foreign tax documentation is unavailable or unreliable.

## **Regulation 6(3) — Two Computational Methods**

- Pooling method (Reg. 6(3)(a)): FTC is computed by aggregating all foreign-source income (except exempt income) and related foreign taxes for the year.
- Source-by-source method (Reg. 6(3)(b)): FTC is computed separately for each individual foreign-source income item.
- Taxpayers must elect one method for the entire tax year; the methods are mutually exclusive.
- The chosen method affects how foreign tax credits are calculated and applied.
- This election impacts tax planning and compliance strategies for multi-jurisdictional income.

# UPL's Position, the MRA Challenge & the ARC Decision

**UPL Corporation Ltd's election of the pooling method and mixed application of actual and presumed foreign tax credits sparked a significant dispute with the Mauritius Revenue Authority. The MRA's insistence on a uniform credit treatment was upheld by the Assessment Review Committee, setting the stage for the Supreme Court's later clarifications.**

## UPL's Approach

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UPL Corporation Ltd, a Mauritian-registered company, earned multiple streams of foreign-source income from diverse jurisdictions.

The company elected the pooling method under Regulation 6(3)(a) of the Income Tax (Foreign Tax Credit) Regulations 1996 to compute its foreign tax credit.

For foreign income streams, such as dividends subject to foreign withholding tax, UPL claimed the actual foreign tax paid as credit.

For other foreign-source income streams, UPL applied the presumed 80% deemed foreign tax credit as permitted under Regulation 6(1)(a).

UPL aggregated these actual and presumed foreign tax amounts into a single pool to offset the Mauritian tax liability on total foreign-source income.

## The MRA's Challenge

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The Mauritius Revenue Authority (MRA) contested UPL's method, arguing that the pooling method requires a consistent approach across all income streams.

MRA asserted that a taxpayer must choose either actual foreign tax credit or presumed foreign tax credit uniformly, not a mix of both.

The MRA relied on the interpretation of the word 'or' in Regulation 6(1)(a) to support a binary choice between actual or presumed credit.

According to MRA, mixing actual and presumed foreign tax credits within the pooled method breaches the statutory scheme.

This interpretation led the MRA to disallow UPL's mixed credit claims and adjust its foreign tax credit computations.

## The ARC Decision

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The Assessment Review Committee (ARC) upheld the MRA's position, endorsing the view that the pooling method must be uniformly applied.

ARC ruled that the pooling method does not permit mixing actual and presumed foreign tax credits across different income streams.

The Committee held that the statutory language and policy intent supported a clear, consistent election of one credit type per tax year.

This ruling created uncertainty for taxpayers using the pooling method who had followed a mixed credit approach.

The ARC's decision was a key trigger for UPL to appeal to the Supreme Court for a definitive interpretation.

# Supreme Court's Reasoning: Three Key Holdings

The Supreme Court decisively clarified the proper interpretation of the Foreign Tax Credit pooling method, affirming taxpayer flexibility to aggregate actual and presumed foreign tax credits across different income streams. This ruling corrects prior restrictive interpretations and strengthens the statutory framework for multi-jurisdictional tax planning.

## The Court's Approach

- The Supreme Court rejected the Assessment Review Committee's narrow and rigid interpretation of the FTC Regulations.
- It emphasised a purposive and coherent reading aligned with the statute's intent to allow reasonable credit aggregation.
- The judgment restores certainty and flexibility for taxpayers using the pooling method under Regulation 6(3)(a).

## Holding 1: Meaning of 'or' in Regulation 6(1)(a)

- The word 'or' does not create an exclusive choice between actual and presumed foreign tax credits for the pooling method.
- Taxpayers may aggregate actual foreign tax amounts with presumed (80%) amounts across different foreign income streams.
- The only conditions are that each credit relates to a distinct income source and the total credit does not exceed Mauritian tax on combined foreign income.

## Holding 2: Nature of Regulation 6(3)(a)

- Regulation 6(3)(a) applies to aggregate foreign-source income and aggregate foreign tax credits rather than individual income items.
- There is no statutory requirement that all income in the pool be treated uniformly as to the type of foreign tax credit applied.
- The pooling method is designed to be flexible and agnostic to the nature of the credits applied to each income stream.

## Holding 3: Overturning the ARC's Restrictive View

- The Court overturned the ARC's interpretation that the pooling method mandates uniform treatment of FTC.
- It affirmed that mixing actual and presumed credits within a single pool is lawful and consistent with the FTC Regulations.
- This ruling removes significant legal uncertainty for Global Business Companies and complex multinational taxpayers.

## Significance and Impact

- The decision clarifies a long-standing ambiguity in the FTC regime, enhancing taxpayer confidence and planning certainty.
- It facilitates more efficient foreign tax credit utilisation, potentially reducing double taxation and optimising tax outcomes.
- The ruling sets a precedent for future disputes and guides tax authorities on appropriate interpretation of the pooling method.

# Technical & Practical Implications for Global Business Companies

**The Supreme Court's ruling affirms flexibility in applying the pooling method for foreign tax credits, enabling taxpayers to optimise foreign tax credit claims across diverse income streams. This decision disrupts prior restrictive interpretations, encouraging reassessment of earlier disputes and strategic planning for multinational companies.**

## Pooling Method Confirmed as Flexible

- Taxpayers may apply actual foreign tax credits on some foreign-source income streams and presumed (80% deemed) credits on others within the same pool.
- Aggregation into a single foreign tax credit pool is permitted, subject to the overall statutory cap based on Mauritian tax attributable to total foreign-source income.
- No requirement exists for uniform treatment across all income streams—mixing actual and presumed credits is explicitly allowed.

## Impact on Prior Disputes & Assessments

- Taxpayers who faced disallowed assessments based solely on the ARC's restrictive interpretation should explore procedural options to reopen or appeal these cases.
- In practice, qualified corporations may no longer be in a position to submit amended tax returns based on the Supreme Court's ruling, given that the year ended 30 June 2021 was the last year for which the presumed foreign tax credit was available. Nevertheless, qualified corporations that have not yet submitted their tax returns should consider the implications of this judgment for any applicable period up to 30 June 2021.

## Strategic Significance for Multi-Jurisdictional Taxpayers

- Multi-jurisdictional companies can leverage the pooling method's flexibility to optimise foreign tax credit utilisation across varied income types and tax regimes.
- It is yet to be seen whether the MRA will appeal to the Judicial Committee of the Privy Council.
- The Court held that the FTC Regulations must be construed as an integrated and self-contained framework, such that no additional limitations may be imposed by way of interpretation. It further affirmed that, where ambiguity exists, the interpretation most favorable to the taxpayer should prevail.

# Illustration of Foreign Tax Credit Computation - Pooling Basis



Assume a Mauritian-resident GBL entity is computing FTC for a grandfathered period in which the 80% presumed FTC remains available.

Step	Particulars	Formula	Amount (USD)
1	Foreign dividend income	Assumption	100
2	Foreign service income	Assumption	200
3	<b>Total pooled foreign-source income</b>	100 + 200	<b>300</b>
4	Mauritius tax rate	Given	15%
5	<b>Mauritius tax on pooled foreign-source income</b>	300 x 15%	<b>45</b>
6	Actual foreign tax on dividend income	Assumption	22
7	Mauritius tax on service income	200 x 15%	30
8	Presumed FTC on service income	30 x 80%	24
9	<b>Total FTC pool</b>	22 + 24	<b>46</b>
10	Total FTC pool	From Step 9	46
11	Mauritius tax on pooled foreign-source income	From Step 5	45
12	<b>Allowed FTC</b>	Lower of 46 and 45	<b>45</b>
13	<b>Residual Mauritius tax payable</b>	45 - 45	<b>0</b>
14	Actual foreign tax on pooled basis	Assumption	22
15	Presumed FTC on pooled income	45 x 80%	36
16	<b>FTC under restrictive approach</b>	Higher of 22 and 36, capped at 45	<b>36</b>
17	Mauritius tax on pooled foreign-source income	From Step 5	45
18	<b>Residual Mauritius tax under restrictive approach</b>	45 - 36	<b>9</b>

Assumptions used in the illustration: foreign dividend income USD 100; foreign service income USD 200; actual foreign tax on dividends USD 22; presumed foreign tax credit available on service income; Mauritius tax rate 15%.

Basis	Allowed FTC (USD)	Residual Mauritius tax (USD)
Post-UPL pooled method	45	0
Earlier restrictive method	36	9
<b>Additional FTC under post-UPL approach</b>	<b>9</b>	<b>(9)</b>

## Key takeaway

The total foreign tax credit is computed by combining:

- actual foreign tax on some income streams
- presumed foreign tax credit on other streams

subject to a cap at the Mauritius tax on the pooled foreign income.

## CONTACT US

moore-mauritius@intnet.mu

(+230) 490 3560



Nexera Block C, Lot 7, Côte d'Or Technopole, Minissy,  
Moka, Mauritius

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