TAX APPEALS TRIBUNAL

Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO.36 OF 2026

(Arising from TAT. Application No. 347 of 2024)

ABA CONSTRUCTION COMPANY LIMITED..................................APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY...RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. GRACE SAFI, HON. WILLY NANGOSYAH

RULING

I. Introduction

1. The application was brought under Section 98 of the Civil Procedure Act, Section 33 of the Judicature Act Cap 16; Order 9 Rule 12 and Order 52 Rules 1 and 2 of the Civil Procedure Rules S71-1.
2. The Applicant filed an application seeking review and setting aside of the consent settlement order issued on 21 January 2026 in **TAT Application Nos. 347 of 2024**. It contends that the Consent Settlement Order entered into by the parties be set side in regards to interest that was payable on the principal Value Added Tax (VAT) refund of Shs.1,979,880,624.

II. Background facts

3. The Applicant is a company involved in the business of rice trading imported from the United Republic of Tanzania within the East African Community.

4. Between 2016 and 2023, It imported rice from Tanzania and paid VAT allegedly unlawfully imposed and collected by the Respondent amounting to Shs.1,979,880,624.

5. That the Applicant, dissatisfied with the Respondent's imposition of VAT on the imported rice filed a case in the High Court of Uganda vide HCT Civil Suit No.331 of 2020; ***ABA Construction Company LTD V Uganda Revenue Authority*** challenging the continued collection of VAT from the Applicant.

6. That in a letter dated June 2022, the Attorney General issued guidance to the Respondent on taxation of rice imports from Tanzania, which guidance was to the effect that all rice imported into the Country from partner states of East Africa Community should be accorded the same treatment.

7. That following the Attorney General's guidance on 23 April, 2024 the Applicant, together with other members of Rice Business Sector Association and the Respondent, executed a Memorandum of Understanding (MOU) under which the VAT refund claims were to be paid subject to verification.

8. That it was agreed that all claims currently lodged with court be withdrawn pursuant to the execution of the MOU, and subsequently the Applicant withdrew its application with High Court Civil **Suit No.331 of 2020**; **ABA Construction Company LTD V Uganda Revenue Authority**.

9. That the Respondent did not implement that above MOU, but instead issued a management letter dated 21 October, 2024 to the effe3ct that the Applicant had already utilised its VAT by charging input to a tune of Shs.599,444,155 and the remaining balance if Shs.1,385,466,469 as marked up by 6% margin to give rise to net payable of Shs.83,126,188 and concluded that there was no VAT refund payable to the Applicant.

10. That the above decision compelled the Applicant to lodge **TAT Application No.347 of 2024**; **ABA Construction Company LTD V Uganda Revenue Authority** seeking ordered, inter alia, that the Respondent refund the sums illegally collected in VAT plus statutory interest on the said sums.

11. The application is supported by an affidavit sworn by Mr. Turyasingura Marvin the Operations Manager of the Applicant; deponed on 23 March 2026, stating as follows:

    i. That while the proceedings of the TAT **Application No.347 of 2024** was on going pending ruling, the Applicant's previous lawyers of Nexus Solicitors and Advocates informed me that they had been invited by the Respondent's Legal team for discussions aimed at reaching an amicable settlement of all rice matters in the Tribunal
    ii. That he was later informed that the said meeting was attended by all Representatives of Rice importers pending VAT refund with matters before the Tribunal.
    iii. That the Applicant's lawyer, in personal conduct, developed a medical emergency during the negotiation meeting and had to leave before the meeting had been concluded, causing a delay in the Applicant's issue among other Rice traders.
    iv. That early January 2026, he was informed by my former lawyer that the Respondent legal team reached out with an offer that the Respondent was willing to settle the Applicant's claim only on the same terms as the terms agreed upon by the other Rice traders, to wit; refund of principal with interest as the rate of 6% per annum from 4 July 2024 to January 2026.
    v. That the Respondent's legal team further stated that if the Applicant did not accept the offer, the Legal Team was ready to litigate the matter until the Supreme Court.
    vi. That the Applicant had been pursuing this VAT refund from the Respondent since 2019 with no success, and was further informed that to litigate the matter until the Supreme Court would take another 10 -17

years on average. Thus, the Applicant was left with no choice but to sign the consent.

vii. That still dissatisfied, subsequently I sought the counsel of current lawyer M/S Premier Advocates, that the interest on VAT refunds was statutory and that the VAT Act provides for a prescribed rate of 2% per month compounded from the date the Respondent erroneously collected the tax amount ending on the day of the month in which the refund is made-capped to the refundable amount.

viii. That the Applicant was informed by the current lawyer that the 6% interest offered by the Respondent in the consent Settlement was contrary to the law.

ix. That the Applicant's previous lawyers did not advise its directors prior to signing about the above position of the law with respect to statutory interest payable by the Respondent under law on VAT refunds.

x. That the Applicant would not have consented to the settlement of **TAT Application No. 347 of 2024**, had it been duly advised by the previous lawyers on the effect of the 6% interest dictated by the Respondent.

xi. That in the interest of justice and equity, the consent judgment is set aside.

12. The Respondent replied by way of an affidavit in reply deponed by Mr. Sam Kwerit an Officer in the Legal Services and Board Affairs Department of the Respondent, and sworn on 27 July 2026, stating that;

i. The Respondent admits that between 2016 and 2023, it imposed and collected VAT from the Applicant on rice imported from the United Republic of Tanzania in the total sum of Shs. 1,979,880,624. Consequently, the Applicant lodged a refund claim for VAT paid on rice imports from the United Republic of Tanzania.

ii. Following guidance from the Attorney General, to the effect that rice imported from EAC partner states ought to be accorded similar treatment as cereals grown and milled in Uganda, the Respondent acknowledged the Applicant's entitlement to a VAT refund subject to verification and audit.

iii. While TAT Application No. 347 of 2024 was pending before this Honourable Tribunal, the parties engaged in TAT-guided mediation, pursuant to which the Applicant and the Respondent freely and voluntarily agreed to mutually resolve the dispute.

iv. The parties entered into a Consent Settlement Order endorsed by this Honourable Tribunal on 21 January 2026 wherein it was agreed, inter alia, that the Respondent would refund the principal VAT amount to the Applicant and that interest would be computed at 6% per annum from 4 July 2024.

v. The Respondent denies that the Applicant was coerced or threatened into accepting the Consent Settlement Order. Negotiations naturally involve proposals, counter-proposals, and concessions. The Respondent's indication that it was prepared to defend its position up to the Supreme Court was a legitimate expression of its legal right and does not constitute duress, compulsion, or undue influence in law.

vi. That at all material times during the negotiations and signing of the Consent Settlement Order, the Applicant was represented by its own lawyers who were legally competent and duty bound to advise the Applicant on all material aspects of the settlement. The Respondent cannot be held responsible for any alleged failure by the Applicant's former lawyers to advise their client.

vii. The Consent Settlement Order dated 21 January 2026 was freely, voluntarily, and knowingly entered into by both parties, each of whom was ably represented by counsel. The Applicant's counsel actively participated in the negotiations leading to the Consent Order, signed and stamped the same, thereby confirming their full involvement and agreement with the terms thereof.

viii. The parties appeared before this Honourable Tax Appeals Tribunal and confirmed the agreed terms before the Tribunal endorsed and sealed the Consent Order.

ix. The Applicant's contention that the interest rate of 6% per annum agreed upon in the Consent Settlement Order is contrary to law is misconceived.

x. The Respondent has fully complied with its obligations under the Consent Settlement Order and the Application herein is, therefore, an attempt to unilaterally reopen a matter that has been conclusively settled between the parties.

xi. This Application herein is without merit, is an abuse of the process of this Honourable Tribunal, and ought to be dismissed with costs to the Respondent.

III. Issues

i. Whether the Tribunal has jurisdiction to grant the relief sought.

ii. Whether the Consent Settlement Order endorsed by this Tribunal on 21 January 2026 should be reviewed and set aside.

iii. What remedies are available to the Applicant?

IV. Representation

13. M/s Nexus Solicitors and Advocates represented the Applicant, while Mr. Agaba Edmond and Mr. Desire Muwonge Mulindwa represented the Respondent.

V. Submissions of the Applicant

Issue One: Whether the consent settlement order should be reviewed and set aside

14. The Applicant submitted that it is settled law that a consent judgment or order is binding on the parties and that upon passing judgment, a court or Tribunal generally becomes functus officio. However, this principle is subject to well-recognized exceptions under both statute and common law. Under **Section 82 of the Civil Procedure Act Cap. 282 and Order 46 Rule 1 of the Civil Procedure Rules SI 71-1**.

"a court or tribunal may review its own decree or order on grounds of mistake or error apparent on the face of the record, or for any other sufficient reason"

15. The Applicant quoted the case of ***Hirani v Kassam (1952) 19 EACA 15,*** where the Court of Appeal for Eastern Africa held that;

    "A consent judgment may be set aside on grounds of fraud, collusion, an agreement contrary to the policy of the court, or where consent was given without sufficient material facts or in misapprehension or ignorance of material facts, which principle has been consistently applied in Uganda".

16. ***In Brian Onyango v The Registered Trustees of Soroti & Opondo John, Miscellaneous Application No. 45 of 2024***, the court stated, that

    "A consent judgment may be vitiated, varied and/or set aside where it is proved that it was entered into without sufficient material facts, with misapprehension or in ignorance of material facts, or if actuated by illegality, fraud, mistake, contravention of court policy, or any reason that would enable a court to set aside an agreement".

17. The Applicant quoted the ***Linda v Nakandi & Anor, Miscellaneous Application No. 464 of 2019,*** the court set out the two-limb test for setting aside a consent judgment:

    "first, that the Applicant is an aggrieved person; and second, that there is a sufficient reason for doing so".

18. The Applicant contended that the Applicant satisfies both limbs as elaborated below.

<u>Whether the Applicant Is an Aggrieved Person</u>.

19. The Applicant quoted ***Re Nakivubo Chemist (U) Ltd [1979] HCB 12,*** which defined an aggrieved person as one who has suffered a legal grievance and as such may be a party to a suit or any third party.

20. The Applicant argued that in paragraph 14 of the affidavit in support, the Applicant consented to the Respondent's settlement terms in respect to TAT Application No. 347 of 2024, which included Shs. 177,199,316 being 6% interest per annum from 4 July 2024 to 23 January, 2026. The

Applicant stated that the Consent Settlement Order has a direct financial loss consequence to the Applicant and is therefore, an aggrieved person.

Whether There Are Sufficient Grounds for Setting Aside the Consent Settlement Order Illegality

21. The Applicant submitted that the interest term in the Consent Settlement Order fixing interest at 6% per annum is illegal on two independent and cumulative grounds, either of which would suffice to render it void. Firstly, it contravention **of S. 44 (1) of the Value Added Tax Act, Cap 344.**

22. The Applicant contended that the Respondent committed an illegality by contracting contrary to its statutory obligations. An illegality was defined by **Black's Law Dictionary, Deluxe 10th Edition on page 864** as,

    1. *"An Act that is forbidden by law.*
    2. *The state of not being legally authorized.*
    3. *The quality, state or condition of being unlawful."*

23. The Applicant maintained that the term on interest in the Consent Settlement order was in conflict with the Respondent's own published administrative policy. The Respondent's official website which provides for interest on the refund amounts at a rate of 2% per month. The Respondent has not provided reasons why it departed significantly from its own standard by offering 6% per annum instead of the published 2% per month, without explanation. The consent settlement order that contravenes the law is illegal.

Fundamental Mistake of Law

24. The Applicant contended that the Applicant's former counsel did not advise the Applicant that S. 44 of the VAT Act sets a mandatory statutory interest rate, which influenced the Applicant's representatives to therefore believe that the 6% per annum rate was reasonable and lawful. This was a fundamental legal mistake affecting the core of the consent settlement. A

lawyer's mistake must not be visited upon the client, meaning the Applicant should not bear the consequences of its former counsel's failure to advise it correctly on the applicable law.

Discovery of New and Important Matter

25. The Applicant quoted ***Order 46 Rule 1 of the Civil Procedure Rules SI 71-1*** which expressly provides that an application for review may be brought upon "discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the Applicant's knowledge or could not be produced at the time when the decree was passed or the order made. "This ground is independently established on the facts of this case.

26. The Applicant argued that at the time the Consent Settlement Order was entered into the Applicant was unaware of the material fact that the VAT Act provides for a mandatory interest of 2% per month compounded on the tax refunded. This material fact was discovered by the Applicant only after the consent order was entered and when the Applicant sought legal advice from its current lawyers. The Applicant contended that they exercised the due diligence reasonably expected of a lay taxpayer, by instructing counsel and relying upon that counsel's advice on the applicable interest rate.

Misrepresentation and Material Non-Disclosure

27. The Applicant submitted that during negotiations with the Applicant's lawyer, the Respondent's legal team stated that only the terms agreed with other rice traders were available, to wit, a refund of principal plus interest at 6% per annum. The Respondent therefore withheld information about the statutory interest on VAT refund payments.

28. The Respondent also indicated that it would pursue all levels of appeal if the Applicant declined the offered terms. While appealing is not illegal/wrongful, using this as leverage against a party who has been

pursuing justice since 2020 coupled with the fact that the said party lacked accurate Information about the interest rate, exploited an information imbalance created by the Respondent.

Irregularity in the Consent Process

29. The Applicant contended that the Tribunal should set aside the Consent Settlement Order because it was entered under a fundamental mistake of law, was procured by misrepresentation and material non-disclosure, and is further impeachable on the ground of discovery of new and important matter, namely the statutory interest on VAT refunds, which interest rate was unknown to the Applicant at the time the consent settlement was entered.

Issue Two: Whether the Applicant is entitled to interest on the principal value added tax refund amount, and if so, at what rate?

30. The Applicant submitted that the Applicant's entitlement to interest on the Value Added Tax refund amount is beyond dispute. In **Canaan Sites Limited Vs URA (TAT Application No, 228 of 2022)** the Honourable Tribunal found that the Respondent should pay interest on the refundable amount at the prescribed rate of 2% per month from the date the Respondent erroneously collected the tax amount and ending on the day of the month in which the refund is made-capped to the refundable amount. Likewise, we pray that Interest be awarded to the Applicant in the same terms.

31. The Applicant argued that the Applicant is entitled to interest on the principal VAT amount refunded at the prescribed rate of 2% per month compounded from the date the Respondent erroneously collected the tax amount (the year 2023) and ending on the day of the month in which the refund is made-capped to the refundable amount.

<u>Issue Three: Whether the T5ribunal has jurisdiction to grant the relief sought.</u>

32. The Applicant submitted that Section **98 of the Civil Procedure Act Cap. 282 and Order 46 Rule 1 of the Civil Procedure Rules SI 71-1** empowers the Tribunal to review its own orders for sufficient cause, including mistake or error apparent on the face of the record.

33. The Applicant argued that this application has been brought without undue delay. The Consent Settlement Order was entered on 21 January 2026, and this application was filed on 23 March, 2026, within a reasonable time after the Applicant discovered the true legal and administrative position upon obtaining fresh legal advice. There has been no inordinate delay, and the Tribunal has full jurisdiction to grant the relief sought.

VI. Submissions by the Respondent

<u>Issue 1: Whether the Consent Settlement Order was freely and voluntarily entered into</u>

34. Counsel for the Respondent submitted that the legal threshold for setting aside a consent order on the ground of compulsion is a high one. Bare allegations do not suffice; there must be clear, cogent, and compelling evidence that the consent was vitiated. The law is settled in Uganda and beyond. In ***Ismail Sunderji Hirani v Noorali Esmail Kassam [1952] EA 131***, Court held that;

> *"A consent judgment may be set aside on grounds of fraud, collusion, an agreement contrary to the policy of the court, or where consent was given in misapprehension or ignorance of material facts".*

35. The Supreme Court of Uganda confirmed the same principles in ***Attorney General & Uganda Land Commission v James Mark Kamoga & James Kamala, Civil Appeal No. 8 of 2004, [2008] UGSC 4***, where it was restated that a consent decree may be impeached only where it was entered into

without sufficient material facts, in misapprehension or ignorance of material facts, or where it was actuated by illegality, fraud, or mistake.

36. Counsel for the Respondent argued that in the present case, the parties are legally represented and consent to an order after negotiation was conducted under judicial supervision, the resulting order has the full force and effect of a judgment of the Tribunal and cannot be lightly disturbed.

37. As the editors of ***Seton on Judgments and Orders, 7th Edition, Vol. 1, p. 124***, state in the passage cited with approval in both ***Attorney General & Uganda Land Commission v James Mark Kamoga & James Kamala, Civil Appeal No. 8 of 2004, [2008] UGSC 4*** and ***Kakoza Yasin V Kaweesa Nicholas Misc. Application No. 888 of 2021(Arising from Civil Suit No. 26 of 2014)***:

> "*Prima facie, any order made in the presence and with consent of counsel is binding on all parties to the proceedings or action, and cannot be varied or discharged unless obtained by fraud or collusion, or by an agreement contrary to the policy of court, or if the consent was given without sufficient material facts, or in misapprehension or in ignorance of material facts, or in general for a reason which would enable a court to set aside an agreement.*"

38. Counsel for the Respondent contended that the Applicant was at all material times represented by its own lawyers. The signature of the Applicant's counsel appears on the face of the Consent Order. A party that was represented by counsel during the very negotiations it now impugns carries an exceptionally heavy burden in asserting that those negotiations were tainted by compulsion.

39. Counsel for the Respondent further argued that the Consent Order was not signed in a moment of pressure. The parties engaged in TAT-guided mediation. The Tribunal would not have endorsed terms procured by duress or compulsion. The Applicant also appeared before the Registrar on 21 January 2026, confirmed the agreed terms, and raised no complaint of

impropriety at that hearing. It had every opportunity to alert the Tribunal to any irregularity. It did not do so.

40. Counsel for the Respondent maintained that the Applicant's pleaded case on compulsion rests entirely on the allegation that the Respondent threatened to litigate up to the Supreme Court if the offered terms were not accepted. With respect, the bare threat to exercise a lawful legal right, the right to defend one's position before a court of law cannot constitute duress or undue influence in any recognised legal sense. This indication that it was willing to do so was nothing more than a legitimate expression of its legal rights.

41. Counsel for the Respondent submitted that the timing of this Application speaks for itself. The Application was not filed when the alleged pressure was being applied. It was not filed on the day the Consent Order was signed, nor in the days immediately following. It was filed on 24 March 2026, two months after the Consent Order was endorsed, and after the Respondent had already paid the agreed sums in full and final settlement. The two-month delay between the Consent Order and this Application, bookended by the receipt of full payment, is impossible to reconcile with a genuine claim of compulsion.

Issue 2: Whether the interest clause in the Consent Order is contrary to law

42. Counsel for the Respondent contended that **Section 36 of the VAT Act** provides a statutory mechanism for the payment of interest on VAT refunds that are delayed. However, those provisions operate in the absence of an agreement between the parties. They do not and cannot prohibit parties from agreeing to resolve their dispute, including the quantum of interest, on negotiated terms.

43. The doctrine of party autonomy is a foundational principle of contract law. In ***Kakoza Yasin V Kaweesa Nicholas Misc. Application No. 888 of 2021(Arising from Civil Suit No. 26 of 2014)*** Hon. Justice Ssekana Musa J(as he then was) restated that parties to a commercial dispute are

free to agree on the terms of settlement of their dispute, and that such agreement, once reduced to a consent order, is binding and enforceable as a judgment of the court.

44. Furthermore, Counsel for the Respondent submitted that **Section 27 of the Tax Appeals Tribunal** empowers the Tribunal to endorse consent orders arrived at by the parties. The statutory basis for a consent order is precisely the parties' agreement. It does not require that every term of the agreement mirror the default statutory position.

45. Counsel for the Respondent submitted that the Consent Order expressly provides that it is "in full and final settlement" of the TAT Application. The full and final settlement clause is a deliberate and informed agreement between the parties that all claims, including interest claims are resolved by the Consent Order. It would be contrary to the principle of finality and commercially absurd to permit any Applicant to resurrect a claim that it expressly agreed was finally settled.

46. Counsel for the Respondent contended that the doctrine of illegality renders void those contracts whose very performance requires the commission of an illegal act. The Consent Order does not require either party to do anything illegal. It requires the Respondent to pay an agreed sum, which the Respondent has done. The mere fact that the parties agreed on a negotiated rate of interest, rather than the statutory default, does not make the object of the agreement unlawful. The Applicant's characterization of this as an illegality is a category error.

Issue 3: Whether the Consent Order ought to be set aside on the grounds advanced Illegality

47. Counsel for the Respondent reiterates that this ground has been fully addressed under Issue 2 above.

Fundamental Mistake of Law

48. Counsel for the Respondent submitted that the doctrine of mistake as a ground for setting aside a consent order requires that the mistake be shared or induced, that is, either a mutual mistake as to a fundamental matter of fact or law, or a unilateral mistake induced by the other party. The Applicant's complaint is not of a shared mistake but of a unilateral one, that its own lawyers did not advise it correctly. A unilateral mistake caused by the negligence of one's own counsel is not, without more, a ground for setting aside a consent order.

49. Counsel for the Respondent maintained that the law is clear that a solicitor's or advocate's mistake is generally attributable to the client. As the Court of Appeal for Eastern Africa observed in ***Hirani v Kassam***, once counsel agrees to terms in the presence of the court, the client is ordinarily bound. The Applicant cannot, by pointing to its counsel's alleged professional shortcoming, seek to improve its contractual position at the expense of the Respondent, who had no knowledge of, nor any responsibility for, the internal dynamics of the Applicant's lawyer-client relationship.

50. Counsel for the Respondent submitted that the Applicant's case is not one of mistake at all, it is a case of regret. The Applicant made a commercial decision, through its lawyers, to settle at 6% per annum. It now regrets that decision. As Lord Denning MR held in ***Purcell v FC Trigell Ltd [1971] 1 QB 358***: "*mere regret, dissatisfaction, or a change of mind after settlement does not suffice*" to set aside a consent order.

Discovery of New and Important Matter

51. The Respondent submitted that the "new matter" which the Applicant says it discovered after the Consent Order is the existence and content of Section 36 of the VAT Act, a provision of a statute that has been in force for years and is publicly available. The Applicant cannot seriously contend that the VAT Act, and the interest provisions within it, were matters of which

it was ignorant and which could not, with due diligence, have been ascertained before or during the mediation.

Misrepresentation and Material Non-Disclosure

52. The Respondent contended that the Respondent had no obligation to volunteer to the Applicant information about provisions of a public statute that the Applicant's own lawyers were duty-bound to research and advise upon. Each party is responsible for informing itself of the legal position.

53. The Respondent submitted that the offering refund of the principal with interest at 6% per annum was a settlement offer. The Applicant was free, through its lawyers, to research the applicable statutory rate, to counter-propose the rate under Section 36, and to reject the Respondent's offer if it found it unsatisfactory. The Applicant chose not to do any of these things. The responsibility for that choice, made through experienced counsel, lies with the Applicant alone.

General Observations on the Application

54. The Respondent argued that If consent orders of this Tribunal can be reopened whenever one party subsequently calculates that a contested hearing might have yielded a more favourable result, the entire purpose of TAT-guided mediation is undermined. Taxpayers and the Revenue alike must be able to rely on settled outcomes.

55. Additionally, Counsel for the Respondent submitted on the doctrine of estoppel. Each party is entitled to full payment under the Consent Order. The Respondent has paid the agreed principal and interest in full. The Applicant received those funds. Having accepted and appropriated the benefits of the Consent Order, the Applicant is in equity estopped from turning around and asserting that the same agreement under which those benefits were obtained is invalid or ought to be varied.

VII. Rejoinder by the Application

56. The Applicant submitted that the Applicant reiterates his earlier submissions, prayers, and the remedies sought for and hastens to pray that the Application be heard and determined in his favour.

VIII. The Determination

57. The Tribunal has carefully considered the application, the affidavits on record, the submissions, and the authorities relied upon by both parties. This is the ruling.

58. The application raises an important question concerning the extent to which a consent settlement endorsed by this Tribunal may be reviewed where it is alleged to contravene mandatory statutory provisions governing tax interest.

59. The dispute before the Tribunal arises from a Consent Settlement Order endorsed on 21 January 2026 in **TAT Application No. 347 of 2024**.

60. The Applicant seeks review and partial setting aside of that Consent Settlement Order on grounds, inter alia, of illegality, mistake of law, misrepresentation, and contravention of the mandatory provisions of the Value Added Tax Act regarding statutory interest on VAT refunds.

61. Preliminary **Objection: Whether this Tribunal has jurisdiction to review and set aside the Consent Settlement Order endorsed on 21 January 2026.**

62. The Respondent contended that the Consent Settlement Order was voluntarily entered into by legally represented parties, endorsed by the Tribunal, and fully executed through payment of the agreed sums. It was further argued that, upon endorsement and execution of the consent order, the Tribunal became *functus officio* and lacks jurisdiction to reopen the

matter, as doing so would undermine the principle of finality in litigation and the integrity of TAT-guided mediation.

63. The Applicant, however, submitted that this Tribunal retains jurisdiction under Section 98 of the Civil Procedure Act and Order 46 Rule 1 of the Civil Procedure Rules to review its own orders where sufficient cause is established, including illegality, mistake, discovery of new matter, or error apparent on the face of the record.

64. The Tribunal agrees with the Applicant. The power of review is statutorily preserved and is not extinguished by the mere fact that a decision was entered by consent.

65. It is well settled that the doctrine of functus officio does not operate to shield illegality. A tribunal retains inherent and statutory jurisdiction to ensure that its processes are not used to perpetuate unlawful outcomes

Effect of Section 27 when Parties reach agreement

66. The Tribunal further considers Section 27 of the Tax Appeals Tribunal Act, which permits parties at any stage of proceedings to agree in writing on the terms of a decision of the Tribunal. Where such agreement is reached, the Tribunal may make a decision in accordance with those terms provided it is satisfied that the decision is within its powers.

67. The Respondent argued that once the consent settlement was endorsed under Section 27, adopted as a decision of the Tribunal, and subsequently executed, the matter became final and binding.

68. However, the Tribunal notes that the power granted under Section 27 is not absolute, it does not confer automatic validity on consent terms. The Section itself conditions the Tribunal's endorsement upon the Tribunal being satisfied that the agreed terms are "**within the powers of the Tribunal.**" The requirement is therefore not merely procedural but jurisdictional and legal in character. Endorsement under Section 27

therefore presupposes legality; it does not validate terms that are inconsistent with mandatory statutory provisions.

69. The Respondent's reliance on endorsement as conclusive finality is further addressed by Section 23(4) of the Tax Appeals Tribunal Act, which provides enforcement authority for the Tribunal comparable to those of a court in carrying out its writs, processes, orders, decrees or commands, but expressly qualifies them as "lawful". The provision underscores that only lawful decisions attract enforcement consequences.

> *"Section 23(4)n states that; 'The tribunal shall have such assistance in carrying out its lawful writs, processes, orders, rules, decrees or command as is available to a court in Uganda."*

70. The qualification "lawful" is critical in statutory interpretation. It means that although an endorsed consent settlement becomes an order or decision of the Tribunal, enforcement powers attach only to legally valid orders and consistent with the governing statutory framework. It follows that the Tribunal cannot enforce, protect, or treat as final an order that is substantively unlawful merely because it was procedurally endorsed.

71. Consequently, Section 23(4) does not sanitise illegality; it reinforces that only lawful Tribunal decisions attract enforcement consequences. Similarly, endorsement under Section 27 does not cure or validate a term that is inconsistent with mandatory statutory provisions. An order tainted by illegality cannot derive legality merely because it was adopted through consent or procedurally endorsed by the Tribunal.

72. The Tribunal thus rejects the contention that endorsement alone conclusively validates every term of a consent settlement irrespective of legality. Where it subsequently emerges that an endorsed term is inconsistent with mandatory statutory provisions, the Tribunal retains jurisdiction to review and set aside the unlawful portion of the decision.

73. Conclusively, the Tribunal therefore finds that, the objection to jurisdiction is without merit. Accordingly, the jurisdiction to review is especially necessary where it is alleged that an order of the Tribunal sanctions or perpetuates an illegality. The doctrine of functus officio cannot be invoked to shield an unlawful order or outcome from correction where statutory illegality is alleged.

74. Accordingly, endorsement and execution of a consent settlement do not prevent the Tribunal from reviewing a term alleged to be unlawful. The Tribunal therefore finds that it has jurisdiction to review the impugned Consent Settlement Order notwithstanding its prior endorsement and execution

75. In **Attorney General & Uganda Land Commission v James Mark Kamoga & Another, Civil Appeal No. 8 of 2004**, the Supreme Court reaffirmed that a consent order may be impeached where it was entered into under mistake, illegality, fraud, or ignorance of material facts.

76. Similarly, in **Hirani v Kassam (1952) 19 EACA 15,** the Court held that a consent judgment may be set aside where it is contrary to the policy of the court or where consent was given in misapprehension or ignorance of material facts.

77. The Tribunal therefore finds that it has jurisdiction to review the impugned Consent Settlement Order notwithstanding its prior endorsement and execution.

Whether the Consent Settlement Order should be reviewed and set aside in respect of the interest clause

78. It is settled law that a consent judgment or order is not merely procedural in character; it has contractual effect between the parties and is binding and conclusive between the parties unless set aside on recognized legal

grounds or circumstances such as illegality, fraud, misrepresentation, mistake, or other sufficient cause.

79. The Respondent submitted that the Applicant was represented throughout the negotiations by competent counsel, actively participated in TAT-guided mediation, voluntarily executed the consent settlement, and subsequently accepted payment under the settlement, and therefore cannot resile from it. The Respondent argued that mere dissatisfaction or subsequent regret cannot justify setting aside a consent order. Reliance was placed on ***Purcell v FC Trigell Ltd [1971] 1 QB 358 and Hirani v Kassam (supra).***

80. The Applicant, however, argued that the consent was tainted by illegality because the agreed interest rate of 6% per annum contravened the mandatory statutory regime under Section 36 of the VAT Act. The Applicant contended that the interest

81. The Tribunal agrees with the Respondent that ordinarily parties are bound by consent orders freely entered into by themselves and their advocates or representatives. The Tribunal further notes that finality in litigation is an important principle and that consent settlements should not lightly be disturbed.

82. However, the present dispute concerns not merely a negotiated bargain, but whether parties may lawfully contract outside a mandatory statutory framework governing tax refunds and interest regime established by Parliament.

Whether the agreed interest clause contravened Section 36 of the VAT Act and Section 31(2) of the Tax Appeals Tribunal Act

83. With respect, taxation is entirely a creature of statute. Rights and obligations relating to tax refunds, penalties, and statutory interest are governed by legislation and not private arrangements.

84. Section 31 of the Tax Appeals Tribunal Act titled **"Operation and implementation of a decision subject to review or appeal**

(1) of the Act empowers a reviewing body, including this Tribunal, where an application for review or appeal has been lodged, to make orders staying or otherwise affecting the operation or implementation of the impugned tax decision for purposes of securing the effectiveness of the proceedings and determination of the application.

(2) of the Tax Appeals Tribunal Act expressly provides that: *"Where the decision maker is required to refund an amount of tax to a person as a result of a decision of a reviewing body, the tax shall be repaid with interest at the rate specified in the relevant law on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the last day of the month in which the refund is made."*

85. From the reading of Section 31(2) of the TAT Act above, the importance of this provision is that Parliament expressly tied **interest payable** on tax refunds arising from proceedings before a reviewing body to "**the rate specified in the relevant law.**" In the present matter, the relevant law is **the Value Added Tax Act, Cap 344, specifically Section 36(1)** thereof, which provides that where the Commissioner General is required to refund VAT pursuant to a decision of the Tribunal or court, interest "shall" be paid at the rate of 2% per month compounded on the tax to be refunded.

86. **Section 36(1) of the VAT Act provides as follows:**
"Where the Commissioner General is required to refund an amount of tax to a person as a result of a decision of the Tax Appeals Tribunal or court, he or she shall pay interest at the rate of two percent per month compounded on the tax to be refunded."

87. Section 36(5) of the VAT Act further limits the recoverable interest to an amount not exceeding the principal tax.

Section 36(5) further provides that; "Notwithstanding sub sections (1), (2) and (4), *the* ***interest due and payable on overpayments and late refunds shall not exceed the principal tax."***

88. **Schedule 6 titled "Calculation of Interest penalty."** expressly states that; *"The rate of interest chargeable as penalty shall be 2% per annum compounded.*

89. The use of the word "shall" in both Section 31(2) of the Tax Appeals Tribunal Act and Section 36 of the VAT Act denotes a mandatory statutory obligation. Read together, the provisions establish a compulsory and non-derogable statutory framework governing interest payable on VAT refunds arising from proceedings before a reviewing body.

90. The Respondent argued that Section 36 of the VAT Act merely provides a default statutory mechanism applicable in the absence of agreement between the parties and that parties remain free to negotiate alternative settlement terms, including interest.

91. Whereas the Applicant argued that the agreed interest rate of 6% per annum was inconsistent with the mandatory statutory interest regime governing VAT refunds. The Respondent, on the other hand, maintained that the parties were entitled to negotiate and compromise the dispute, including the applicable interest payable under the consent settlement.

92. The Tribunal finds that, once the dispute became subject to proceedings before this Tribunal, any refund arising therefrom became subject to the statutory interest regime prescribed by Section 31(2) of the Tax Appeals Tribunal Act, read together with Section 36 of the VAT Act.

93. The Tribunal is therefore unable to agree with the Respondent's contention that the agreed interest rate of 6% per annum constituted a permissible negotiated compromise. Parties may compromise disputes, but they cannot by agreement vary or displace mandatory statutory obligations imposed by Parliament.

94. This Tribunal is guided by its decision in **David Natweta & 6 Others Miscellaneous Application No. 18 of 2026** where it was held that parties cannot sanitize illegality through consent settlements and that any

agreement inconsistent with mandatory tax provisions is unenforceable to the extent of the inconsistency.

95. This position is consistent with the guidance in ***KM Enterprises Limited & 2 Others v Uganda Revenue Authority,*** where the Court held that URA cannot lawfully agree to collect less tax than is imposed by statute and that statutory tax obligations cannot be displaced by private agreement between parties.

96. Statutory interest on VAT refunds is not a discretionary concession. It accrues by operation of law as compensation for unlawful or delayed retention of taxpayer funds.

97. This position was affirmed in ***Canaan Sites Limited v Uganda Revenue Authority (TAT Application No. 228 of 2022,*** where the Tribunal held that statutory interest accrues from the date of erroneous collection until payment of refund.

98. Accordingly, the Tribunal finds that the clause in the Consent Settlement Order fixing interest at 6% per annum was inconsistent with mandatory statutory provisions of Section 31(2) of the Tax Appeals Tribunal Act read together with Section 36 of the VAT Act and is therefore unenforceable to the extent of that inconsistency.

Whether Counsel error affects enforceability

99. The Applicant further contended that it entered into the settlement under a fundamental mistake of law arising from inadequate legal advice regarding the mandatory statutory interest regime applicable to VAT refunds under the VAT Act.

100. Ordinarily, a litigant is bound by the actions and omissions of its counsel, even where such actions result in disadvantage. However, that principle is not absolute. It cannot be invoked to validate an agreement that is itself contrary to mandatory statutory law.

101. In the present matter, the decisive question is not whether a party made a poor bargain or was inadequately advised. The decisive question is whether the bargain itself is legally capable of enforcement under the governing statute.

102. Even assuming the Applicant received poor legal advice, inadequate legal representation alone would not ordinarily justify setting aside a consent order. However, where the impugned term itself violates mandatory statutory provisions, the Tribunal cannot enforce it merely because parties consented to it.

103. Consequently, the Tribunal finds that although counsel error is not independently determinative, the illegality inherent in the impugned interest clause renders that portion of the consent order reviewable and unenforceable. We hold that alleged inadequacy of legal advice is not pivotal of this application.

Severability

104. The Tribunal finds that the Consent Settlement Order is severable. The principal VAT refund has already been paid and is not in dispute. The illegality attaches only to the interest clause, which can be excised without disturbing the remainder of the settlement.

Whether the Applicant is entitled to statutory interest notwithstanding payment of the principal sum

105. It is not disputed that the principal VAT refund amount was fully paid and discharged pursuant to the Consent Settlement Order.

106. The question, however, is whether discharge of the principal extinguishes entitlement to statutory interest.

107. The Respondent argued that payment of the principal amount under the consent settlement extinguished any further claim and that the Applicant is estopped from reopening the matter.

108. The Tribunal disagrees. Statutory interest under Section 36 of the VAT Act and Section 31(2) of the Tax Appeals Tribunal Act accrues by operation of

law once the statutory conditions are met. It is not ancillary in a purely contractual sense; it is a substantive statutory consequence of the unlawful or delayed retention of taxpayer funds. It accrues automatically upon the occurrence of the statutory conditions and is independent of subsequent payment of the principal sum.

109. The discharge of principal does not retrospectively extinguish accrued statutory rights unless the statute expressly provides for waiver or extinguishment, which is not the case here

110. The Tribunal is further guided by **Canaan Sites Limited v Uganda Revenue Authority (TAT Application No. 228 of 2022),** (supra) The entitlement is mandatory and arises by operation of law. We therefore reiterate that illegality cannot be validated by consent or cured by subsequent payment of principal where statutory interest has already accrued.

111. Accordingly, we find that, notwithstanding payment of the principal amount, the Applicant remains entitled to statutory interest under Section 36 of the VAT Act and as guided under Section 31 of the Tax Appeals Tribunal Act.

Remedies

112. The principle of severability is applicable. Where a portion of a consent order is found to be inconsistent with statute, the unlawful portion may be excised without disturbing the lawful and executed portions.

113. In the present case, the principal refund obligation has been fully discharged and remains undisturbed. Only the interest clause is affected.

114. As regards costs, the Tribunal was guided by the decision **in David Natweta & 6 Others v URA** (supra) where it was held that;

> *"the Tribunal notes that the Applications arose from a settlement process in which both parties participated. Since the Applicants have succeeded only partially, the interests of justice are best served by ordering each party to bear its own costs."*

115. In the circumstances, and guided by principles of fairness where parties have partially succeeded in a settlement-related dispute, each party shall bear its own costs.

Obiter

116. Before taking leave of this matter, the Tribunal considers it necessary to make certain observations of institutional importance concerning the recurrent presentation for endorsement of settlement terms inconsistent with mandatory statutory tax provisions. Such inconsistencies, if unchecked, risk undermining the legality, predictability, and institutional integrity of the tax dispute resolution framework established under the Act.

117. The settlement and mediation mechanisms under the Act are facilitative in nature and are not intended to operate as a parallel framework through which parties may vary, waive, or disapply mandatory statutory obligations imposed by Parliament. Once a dispute is properly before the Tribunal, all consequential matters relating to tax liability, refunds, penalties, and statutory interest remain strictly governed by statute. Consent of parties, participation of counsel, or endorsement by the Tribunal cannot validate any term inconsistent with mandatory statutory provisions.

118. Accordingly, settlement terms presented for endorsement must, ab initio, conform fully to the governing statutory framework, and the responsibility to ensure such compliance rests upon the parties and their legal advisors. Departure from this obligation exposes settlements to review, partial invalidation, unnecessary litigation, and avoidable delay in the enforcement of lawful entitlements.

119. The Tribunal further observes that while Sections 47 and 40E of the Tax Procedures Code Act permit waiver of interest and penalties in specified circumstances relating to taxpayer obligations, those provisions do not extend to alteration of statutory refund interest obligations imposed under Section 36 of the Value Added Tax Act. Waiver of tax, interest, or penalties is purely statutory in character and cannot arise outside conditions expressly prescribed by law.

120. Accordingly, settlement under the Act is confined to lawful compromise on disputed questions of interpretation, application, or quantification of tax obligations. It is not a mechanism for contracting out of statute or creating extra-statutory exceptions thereto. Any settlement term inconsistent with mandatory statutory provisions is unenforceable and liable to be set aside notwithstanding consent, endorsement, execution, or partial performance.

121. The Tribunal emphasises that strict adherence to these principles is necessary to prevent the formulation and presentation of ultra vires waiver-based settlements at the negotiation stage

Orders

122. Consequently, the Tribunal makes the following orders:

i. The Consent Settlement Order endorsed on 21 January 2026 is hereby reviewed and set aside only to the extent of the interest clause;

ii. The agreed interest rate of 6% per annum is declared inconsistent with Section 36 of the Value Added Tax Act and Section 31(2) of the Tax Appeals Tribunal Act and is hereby set aside;

iii. The Respondent shall pay the Applicant's interest in accordance with Section 36(1) and (5) of the VAT Act, namely interest at the rate of 2% per month compounded on the refunded VAT amounts, calculated from the date the tax was paid until the last day of the month in which the refund was made, subject to the statutory cap.

It is so ordered.

Dated at Kampala this 29th day of May 2026.

HON. GRACE SAFI
MEMBER

HON. WILLY NANGOSYAH
MEMBER

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO.36 OF 2026

(Arising from TAT. Application No.347 of 2024)

ABA CONSTRUCTION COMPANY LIMITED................................APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY....................................... ...RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. GRACE SAFI, HON. WILLY NANGOSYAH

DISSENTING RULING

1. I have read my colleagues' decision, and I wish to dissent as follows:

2. The Applicant filed an application for the review and setting aside of the consent settlement Order issued on 21 January 2026 in TAT Application No. 347 of 2024. The application seeks to set aside the consent only in respect of the interest payable on the principal Value Added Tax (VAT) refund amounting to Shs. 1,979,880,624.

3. The Applicant contended that, having pursued the refund from VAT refund since 2019 and being informed that the Respondent was willing to litigate until the Supreme Court, which could take an additional 10–17 years, the Applicant alleged that they felt compelled to execute the consent. Upon seeking legal advice, the Applicant was advised that interest on VAT refunds is statutorily prescribed under the VAT Act at a rate of 2% per month, compounded and capped at the refundable amount, and that the 6% interest provided for in the consent settlement was contrary to the law.

4. The Respondent contended that the consent settlement was validly entered by the parties represented by counsel throughout the negotiations. The consent was reached through Tribunal-guided mediation, endorsed by the Tribunal, and confirmed by the Applicant before the Registrar on 21 January 2026 without any complaint. The Respondent argued that its indication that it was prepared to litigate the matter up to the Supreme Court was an exercise of its legal rights and did not amount to undue influence. It also argued that the Applicant's two-month delay in challenging the consent, after receiving full payment under the settlement, undermined its claim of compulsion.

5. A court or Tribunal may set aside a consent judgment only upon proof of circumstances that would justify setting aside a contract, such as fraud, illegality, duress, collusion, mistake, misrepresentation, or any other factor vitiating free consent. This principle was stated in ***Brooke Bond Liebig (T) Ltd v Mallya, Purcell v FC Trigell Ltd, and reaffirmed by the Supreme Court in Attorney General v James Mark Kamoga (SCCA No. 8 of 2004)***, where the court stated that a consent order may only be interfered with were obtained by fraud, collusion, illegality, or where consent was given in ignorance or misapprehension of material facts.

6. The Applicant contended that the interest rate of 6% per annum as provided for in the consent terms contravenes Section 36 of the VAT Act, which requires the Respondent to pay interest at a rate of 2% per month compounded on VAT refunds, where the refund is pursuant to an order of this Tribunal or a court. The Respondent maintains that the 6% interest rate was part of a valid and binding consent settlement voluntarily entered into by the parties during settlement negotiations, and that the parties are generally free to compromise all aspects of a dispute, including interest.

7. While the statute does not confer discretion upon the Commissioner General as to whether interest should be paid or at what rate, the parties entered into negotiations as part of efforts to reach a settlement. Parties are

free to compromise statutory claims and settle disputes on mutually acceptable terms, including claims relating to interest. This forms the bedrock of alternative dispute resolution approaches such as negotiation and mediation in civil matters and plea bargains in criminal matters.

8. The 6% interest rate that is at the centre of this dispute was an offer that the Respondent made to the Applicant. The Applicant agreed to the offer when they appended their signature to the consent agreement. The ***Black's Law Dictionary, 10th Edition, at page 1582***, defines a settlement offer to mean:

> *"An offer by one party to settle a dispute amicably (usu. by paying money) to avoid or end a lawsuit or other legal action."*

9. Such settlements are based on concessions from both sides, in which rights and entitlements are given up or surrendered in the interest of reaching an agreement. Consent settlements pursuant to alternative forms of dispute resolution are critical for a functional judicial system, acting as essential valves. By converting voluntary agreements into enforceable court orders, they reduce case backlogs, reduce litigation costs, and empower parties with mutually satisfactory, binding resolutions. A court will interfere with a settlement only if the parties adduce evidence that vitiates their consent.

10. In the present case, the Applicant, by agreeing to 6% simple interest, gave up their right to a more generous interest rate in exchange for prompt payment. The Applicant appended their signature to the consent settlement agreement. They had full knowledge of the provisions of Section 36 of the VAT Act. There is nothing illegal for a taxpayer to concede or waive statutory interest during settlement negotiations with a tax authority, provided the concession is made as part of a legitimate, mutually agreed-upon compromise.

11. It's noteworthy that the Applicant voluntarily filed the consent settlement agreement, tendering it to the Tribunal for endorsement. This proactive step

indicates that the Applicant was not coerced into reaching a settlement. They had the option to decline to sign the agreement or to withhold it from the Tribunal, yet they chose to proceed. Their change of heart post-factum appears to be a case of buyer's remorse.

12. The Applicant's conduct can be seen as an afterthought, and condoning it would undermine the integrity of alternative dispute resolution processes and risk bringing the process into disrepute.

13. The Applicant further contended that they accepted the impugned terms of interest under economic duress. They alleged that the Respondent insisted that unless they accepted interest at 6% per annum, no payment would be made and that the Respondent was willing to litigate until the Supreme Court, thereby leaving them with no practical alternative but to sign the consent order.

14. The Respondent denied those allegations and argued that the settlement resulted from Tribunal-guided mediation conducted between legally represented parties.

15. The law regarding economic duress requires proof of three essential elements:
    a) illegitimate pressure;
    b) inducement of the agreement by that pressure; and
    c) absence of a practical alternative available to the complaining party.

16. A party alleging duress must present evidence of duress or illegitimate pressure. Other than the allegations of duress, the Applicant did not present evidence of illegitimate pressure. Furthermore, as already mentioned, the Applicant had a practical alternative – they could have declined to sign the consent and opted to refer the matter to the Tribunal for determination. They did not have to take the additional step of walking, riding, or driving to the

Tribunal (depending on their means of transport) to file the contested consent.

17. It appears that the Applicant was in a hurry for a quick payout and made compromises they later regretted. Allowing for a change of heart with the benefit of hindsight would open up the floodgates of litigation that the very system of ADR is meant to prevent.

18. I agree with the Respondent's submission that commercial pressure is a common feature of settlement negotiations and does not necessarily vitiate consent. Furthermore, the Applicant was adequately represented by counsel who is well-versed in such matters. Therefore, I find no evidence of economic duress sufficient to nullify the settlement.

19. Consquently, for the above reasons, I would have dismissed the application in its entirety.

Dated at Kampala, this **29th** day of **May** 2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON