

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
MISCELLANEOUS APPLICATION NO.213 OF 2025
(ARISING FROM TAT APPLICATIONS NO 169 OF 2024)

ALLIED BEVERAGES COMPANY LTD.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MS. PROSCOVIA R NAMBI,
MRS. STELLA NYAPENDI CHOMBO

RULING

I. Introduction

1. This ruling is in respect of an application brought under Section 23(4) of the Tax Appeals Tribunal Act, Cap 341, Rule 31 of the Tax Appeals Tribunal (Procedure) Rules and Section 98 of the Civil Procedure Act, Cap 282, Cap 16 Order 52 rule 1 and 3 of the Civil Procedure Rules as well as Section 33 of the Judicature Act, seeking:

- (i) An order that the proceedings in TAT Application No. 169 of 2024, Allied Beverages Company Limited vs Uganda Revenue Authority, be stayed pending the disposal of the Civil Appeal No.0062 of 2025(Arising from TAT Application No.11 of 2023).

II. Background facts

2. The grounds upon which this application is premised are laid out in the notice of motion and the supporting affidavit deponed by Mr. Arthur Akankwasa, a Director of the Applicant. The grounds are that:

- (i) The Applicant was contracted by the Coca-Cola Export Corporation (TCCEC), a company resident in Atlanta, United States to provide brand marketing, market research and related services.
- (ii) Between 2018 to 2021, the Respondent carried out an audit on the Applicant for the period August 2018 to November 2020 and established that the Applicant treated sales to TCCEC as exports and thus zero-rated for VAT purposes instead of local supplies, which are subject to VAT at the standard rate of 18%.
- (iii) The Applicant filed TAT Applications Nos. 01 of 2019 and 40 of 2021, challenging the reclassification of the services as local supplies.
- (iv) On 3 August 2022, the Tax Appeals Tribunal issued a ruling in ***TAT Application No. 01 of 2019 and No. Application 40 of 2021: Allied Beverages Limited (ABCL) vs. URA***, in which it found that the Applicant misclassified sales of marketing research and promotion services it made to TCCEC as exports and found that the sales were locally consumed. The Tax Appeals Tribunal thus maintained VAT assessments issued against ABCL for the period August 2018 to November 2020.
- (v) The Applicant appealed the decision of TAT to the High Court vide Civil Appeal No. 0039 of 2022.
- (vi) Whilst the Appeal was pending, the Respondent issued further VAT assessments for the periods December 2020 to August 2022 arising from the same issue of purported misclassified exports to TCCEC. The Respondent based its assessments on the decision of the Tax Appeals Tribunal in TAT Application No.01 of 2019 and TAT Application No.40 of 2021 and maintained the assessments. The Applicant then filed TAT Application No.11 of 2023 to review the decision of the Respondent.
- (vii) While TAT Application No. 11 of 2023 and Civil Appeal No. 0039 of 2022 were pending determination, the Respondent issued further VAT assessments for purported misclassified exports to the Applicant for the period October 2022 to August 2023. The Applicant objected to the assessments and on 17 June 2024, the assessments were maintained on the same basis as the previous objection decisions.

- (viii) In July 2024, the Applicant filed TAT Application No. 169 of 2024 challenging the Respondent's objection decisions.
- (ix) While TAT Application No. 11 of 2023 and TAT Application No. 169 of 2024 were pending, on 27th September 2024, the High Court issued Judgment in Civil Appeal No. 0039 of 2022 overturning the decision of the TAT in TAT Application No.01 of 2019 and TAT Application No.40 of 2021. The High Court ruled that the services supplied by the Applicant of marketing, research and promotion under the agreement between the Applicant and TCCEC were consumed by TCCEC in the United States of America and thus zero-rated. Consequently, the High Court vacated the VAT Assessments for the period 2018 to 2020.
- (x) While TAT Application No. 169 of 2024 was pending, on 30 May 2025, the Tax Appeals Tribunal delivered its ruling in TAT Application No. 11 of 2023, dismissing the Application. The Tax Appeals Tribunal maintained the VAT assessments for the period December 2021 to August 2022 on the grounds that the services provided by the Applicant to TCCEC were consumed in Uganda.
- (xi) On 1st June 2025, the Applicant filed Civil Appeal No. 0062 of 2025 against part of the decision of the Tax Appeals Tribunal TAT Application No. 11 of 2023, particularly the decision to maintain the VAT assessments on purported misclassified sales.
- (xii) That whilst Civil Appeal No. 0062 of 2025 is pending hearing and final determination, TAT Application No. 169 of 2024 is yet to be heard and determined.
- (xiii) It is in the interests of justice and equity that TAT Application No. 169 of 2024 is stayed pending the determination of the Appeal in Civil Appeal No.0062 of 2025. The Appeal raises serious questions of law which will likely impact the decision of the Tax Appeals Tribunal in TAT Application No.169 of 2024. The decision of the High Court on Appeal would thus materially dispose of TAT Application No.169 of 2024 and avoid conflicting decisions of TAT and the High Court.

3. The Respondent filed an affidavit in reply deposed by Christine Mpumwire, a Legal Officer in the Legal Services and Board Affairs Department of the Respondent, sworn on 15th September 2025, opposing the Application on the following grounds:

- (i) That the Tribunal is vested with original jurisdiction to hear and determine tax disputes, such as TAT Application No. 169 of 2024, to which either party has a right to appeal in case of dissatisfaction.
- (ii) That the instant application for stay of proceedings has no merit as it is misconceived and intended to delay the expeditious disposal of the matter before the Tribunal.
- (iii) That the Applicant states in paragraph 9 of the affidavit in support that Civil Appeal No. 62 of 2025 is also pending hearing and final determination and there is uncertainty on when the hearing is to commence.
- (iv) Therefore, the Respondent stands to suffer undue prejudice and delay in the execution of its legal mandate of revenue collection if the proceedings are stayed considering the disputed amount in TAT Application No. 169/2024 is over Shs. 10,000,000,000.
- (v) It is in the interest of justice and finality that the Tribunal proceed to hear and determine TAT Application No. 169 of 2024 without awaiting the outcome of Civil Appeal No. 0062 of 2025.
- (vi) The Applicant has not demonstrated how it will be prejudiced if the Tribunal is to proceed with the main application.
- (vii) The application is brought in bad faith and is an abuse of court process, and it is therefore in the interest of justice that it is dismissed with costs to the Respondent.

III. Issues for Determination

4. The issue to be determined is whether the proceedings in TAT Application No.169 of 2024 should be stayed pending the determination of Civil Appeal No.0062 of 2025.

IV. Representation

5. Mr. Bruce Musinguzi and Mr. Thomas Kato represented the Applicant by while the Respondent was represented by their Legal and Board Affairs Department.

V. Submission of the Applicant

6. The Applicant submitted that section 98 of the CPA grants this Tribunal the inherent power to make such orders as may be necessary for the ends of Justice or to prevent abuse of court process. It is trite law that this section gives courts inherent powers to make decisions which are pertinent to the ends of justice (**Singh versus Runda Coffee Estates Ltd [1966] EA**)
7. This provision, read together with **Section 33** of the **Judicature Act**, vests the Tribunal wide discretionary and inherent powers respectively to grant absolutely or on such terms and conditions as it thinks just, all such remedies as any of the parties to a cause or matter is entitled to in respect of any legal or equitable claim properly brought before it.
8. The word '**discretion**' connotes necessarily an act of judicial character, and, as used with reference to discretion exercised judiciously, it implies the absence of a hard and fast rule and it requires an actual exercise of judgement and a consideration of the facts and circumstances which are necessary to make a sound, fair and just determination and a knowledge of the facts upon which the discretion may properly operate (*Corpus Juris Secundum, vol 27, p.289 as referred in Aero Trader [p] Ltd v Ravinder Kumar Suri (2004) 8 SCC 307*)
9. The Applicant submitted that since the TAT Act does not explicitly provide for a stay of proceedings, the Tribunal is guided by the Civil Procedure Act and rules by virtue of **Section 23(4) of the Tax Appeals Tribunal Act Cap 341 and Rule 31 of the Tax Appeals Tribunal (Procedure) Rules,2012.**
10. The Applicant submitted that since the Civil Procedure Act and Rules provide for a stay of proceedings, it follows that the Tribunal has the requisite authority to order the same where justice so demands, as it does in this case. The present application squarely calls for such an exercise of inherent power to prevent an abuse of process (parallel litigation over identical issues) and to ensure the ends of justice are met.

11. The Applicant cited several decisions including ***Attorney General of the Republic of Uganda vs. East African Law Society and others (EAC) Application No. 7 of 2012***), where it was held:

"The questions which the Appellate division is handling in Civil Appeal No. 2 of 2012, do overlap some aspects of Reference No. 3 of 2011 as shown elsewhere above while discussing the nexus between the two cases. The balance of convenience, in our view lies in favour of all parties. It is therefore in the interest of good and equitable justice for this court to await their determination by the Higher Court."

12. The Applicant submitted that the EACJ granted the stay, explicitly to avoid inconsistent outcomes and to serve the interests of justice and stated that the EACJ ruling mirrors the situation in the current facts. There are concurrent proceedings in TAT 169 of 2024 and Civil Appeal 0062 of 2025 on the same issues (one in this Tribunal, one on appeal), and it is in the interest of justice to prevent conflicting or superfluous decisions.
13. The Applicant submitted that in the present case, the outcome of the High Court in **Civil Appeal No. 0062 of 2025** will directly impact the decision of the Tribunal in 169 of 2024 whose facts and issues are directly the same and therefore if the Applicants Appeal is successful and the High Court finds that the services supplied by the Applicant to The Coca-Cola Export Company (TCCEC) were exported services and correctly zero-rated by the Applicant, then the assessments under contention in TAT 169 of 2024 would be deemed unlawful. Conversely, if the appeal is unsuccessful and the TAT's Ruling in TAT 11 of 2023 is affirmed, the Tribunal would be bound to follow that authoritative determination of the law and maintain the assessments in contention. In either scenario, the High Court's determination of the similar facts and issues currently in contention in both the High Court and TAT will dispose of the issues in both courts.
14. Finally, the Applicant submitted that granting a stay is the course that most upholds the interests of justice and fairness. If this Honourable Tribunal were to refuse a stay, it would place the Applicant in the unfair position of having

to litigate directly similar disputes in the High Court and in the Tribunal over the same subject.

VI. Submissions of the Respondent

15. The Respondent submitted that a stay of proceedings allows an appellate court to review the lower court's decision without the possibility of the lower court's actions rendering the appeal moot or futile. Essentially, it preserves the status quo during the appeal process.

16. The Respondent submitted that grounds were laid down by the East African court of Justice in **Reference No.7 of 2012, East Africa Law Society versus Attorney General of Uganda**. In this case, the grounds were held to be:

*"The possibility of conflicting decisions. It is our considered view that a stay may be granted where there are multiple proceedings pending in both Divisions of the Court and **the decision of the Appellate Division might affect the outcome of the other proceedings...**The second consideration is the **balance of convenience**. The final consideration is one of **injury.**" (emphasis added)*

17. The Respondent further submitted that in **Civil Application No. 191 of 2011, Asiimwe Diana & 4 Others v Dr. Aggrey Kiyingi** at Pg 7, it was held:

*"But the court will not interfere if the appeal appears not to be bona fide or where there are other sufficient **exceptional circumstances**".*

The Respondent submitted that the grounds which the Tribunal ought to consider when deliberating this application are:

- (i) The appeal should appear to be bonafide and there should not be exceptional circumstances that can deny the grant;
- (ii) There should not be a possibility of conflicting decisions that will arise;
- (iii) The balance of convenience; and
- (iv) Injury or irreparable damage.

18. The Respondent submitted that the present application does not meet the above tests for reasons that TAT Application No. 169 of 2024 differs from

Civil Appeal No. 0062 of 2025 as the two matters cover different periods. the tax assessment, which the Applicant disputed, that gave rise to TAT No.169 of 2024 relates to the period of January 2019 to August 2023, while Civil Appeal No. 0062 of 2025 relates to the period of December 2020 to August 2022. Further, a stay of proceedings would frustrate revenue collection and create unnecessary backlog on the Tribunal.

19. The Respondent submitted that TAT Application No.169 of 2024 is pending hearing before the Tribunal which has primary jurisdiction to hear and determine appeals from the taxation decisions of the Respondent as per **Section 14 of the Tax Appeals Tribunals Act Cap 341**, and the decision in **Supreme Court Civil Appeal No.12 of 2004 Uganda Revenue Authority vs Rabbo Enterprises (U) LTD & Anor.**
20. The Respondent submitted that the grounds in the Notice of Appeal in Civil Appeal No. 0062 of 2025, are that the Tribunal erred in law in finding that the services rendered by the Appellant were not consumed by The Coca-Cola Export Corporation (TCCEC), and that the Tribunal erred in law in finding that the services provided by the Applicant were not exported services.
21. The Respondent further submitted that however, TAT Application No. 169 of 2024 challenges income Tax assessments of Shs.4,053,368,560 and VAT of Shs.6,697,197,745 on a variety of issues including under-declaration of sales over claimed expenses in relation to brand marketing, promotion and research, over claimed input tax and exports reclassified as standard rated sales.
22. The Respondent submitted that from the above demonstration, it is evident that not only is the assessed period different, but also the issues in both matters differ and as such, it is in the interest of justice that this Tribunal hears the current application on its merits
23. The Respondent submitted that it is sufficing to note that the **TAT Application No. 11 of 2023 Allied Beverages Company LTD v URA** was pending before this Tribunal at the same time when **HCCA 0039 of 2022** was before the High Court. Both cases were heard at the same time and both forums issued decisions in the matters before them. The Applicant, having earlier been unsuccessful in TAT Application No. 01 of 2019 and No.40 of

2021 did not apply to this Tribunal for stay of proceedings in TAT 11 of 2023 pending the decision of the High Court in HCCA No.0039 of 2022.

24. The Respondent submitted that it has since preferred an appeal in the Court of Appeal vide CACA No.0867/2024 challenging the decision of the High Court in HCCA No.0039 of 2022. It is rather perplexing that the Applicant should seek a stay pending determination of HCCA No. 0039 of 2022 and not CACA 0867/2024 which is before a superior court.

(ii) The Respondent submitted that it would be greatly prejudiced and inconvenienced by the time implications of the Applicant's prayers since Civil Appeal No.0062 of 2025 is a new appeal of 2025 which is yet to be fixed for hearing and it is not known when it will be heard. However TAT Application No.169 of 2024 is set to be heard. The said High Court Appeal could be decided 3 years later and either party may appeal to the Court of Appeal which may take 5 years and a further appeal to the Supreme Court could take 7 years.

25. The Respondent submitted that it should be noted that if either party is aggrieved by the decision of the Tax Appeals Tribunal, there is a right to appeal the ruling in the High Court under **Section 28 of the Tax Appeals Tribunals Act Cap 341**. This was the position that was adopted by this Tribunal in **Nile Breweries Limited v URA TAT Misc. Application No. 169/2025**, where the Tribunal found that any party dissatisfied with the Tribunal's decision has a statutory right of appeal to the High Court as enshrined in Section 28 of the TAT Act. This appellate structure mitigates the risk of inconsistent judgements and ensures that the Applicant's Appeal is not rendered nugatory.

(v) **Submissions of the Applicant in Rejoinder**

26. In rejoinder, the Applicant reiterated their earlier submissions and stated that the appeal that is pending before the High Court is on matters of law and it would be appropriate for this Tribunal to stay the proceedings in TAT 169 of 2024 pending the outcome of the second appeal in 0062 of 2025 which concerns the same facts and issues of law. Further, the Applicant has paid substantial sums in billions of shillings to the Respondent on all matters that have been litigated so far. This is in respect of the requirement to deposit

30% of the tax assessed. The Applicant was the unsuccessful party on two applications; on appeal to the first Application, the Applicant was successful but did not receive a refund from the URA since they appealed the decision. The said decision of the High Court has not been overruled, effectively putting the Applicant in a refund position. Therefore, of the two parties, the Applicant stands to suffer more prejudice since it has a lot of its capital stuck in 30% deposits. It is therefore appropriate that this honourable court stays the proceedings in TAT 169 of 2024 pending finality of the appeal in civil appeal 0062 of 2025.

27. The Applicant reiterated its submission that revenue collection shall not be frustrated since the Respondent has already collected substantial sums in billions as 30% of the taxes in dispute not just in TAT 169 of 2024 but in three previous matters as highlighted appropriate that TAT 169 of 2024 is stayed to allow the appeal be concluded and eliminate the risk of conflicting decisions.

(vi) **The determination by the Tribunal**

28. Having considered the submissions of the parties, this is the ruling of the Tribunal.

29. The Applicant seeks a stay of proceedings in TAT No. 169 of 2024 pending determination of Civil Appeal No. 0062 of 2025, on the ground that the issues before this Tribunal are identical in fact and law to those pending before the High Court.

30. We have examined the pleadings and have established that both matters involve the same parties—Allied Beverages Company Ltd and Uganda Revenue Authority—and raise substantially similar issues concerning the VAT treatment of marketing, promotion, and research services rendered by the Applicant to The Coca-Cola Export Corporation (TCCEC). However, it is also evident that TAT Application No. 169 of 2024 covers a different assessment period (October 2022 – August 2023) and includes additional tax heads such as income tax and input VAT, which are not directly the subject of Civil Appeal No 0062 of 2025.

31. While the issues of law overlap, the Tribunal is mindful of its statutory duty under **Section 14** of the Tax Appeals Tribunal Act to hear and determine tax

disputes at first instance, and of the fact that its decisions are appealable to the High Court under Section 28 of the same Act. It is well established that the existence of a pending appeal in another forum does not automatically bar the Tribunal from exercising its jurisdiction as was held in ***Nile Breweries Ltd v URA; TAT Misc. Application No. 169 of 2025.***

32. The Tribunal further notes that in the Allied Beverages series of disputes, the Applicant has previously pursued parallel proceedings before the Tribunal and the High Court without seeking a stay. The Tribunal therefore finds that the present application is not premised on new or exceptional circumstances warranting departure from that established practice.
33. On the issue of prejudice, the Respondent stands to suffer substantial revenue delay if proceedings are stayed, given the significant tax amount in dispute (Shs 10 billion). Conversely, the Applicant's interests are safeguarded by the statutory right of appeal. Regarding the 30% deposit, should the Applicant's appeal succeed at whatever level, the Applicant will be entitled to a refund of the 30% deposit with interest. We are also mindful of the likelihood of the appeal becoming protracted as the parties have the right of appeal all the way to the Supreme Court. This could take several years and given the commercial importance of resolving tax disputes quickly, both for taxpayers and the government, it is important that disputes that are before this Tribunal are resolved as efficiently as possible.
34. In ***National Housing and Construction Corporation v Kampala District Land Board & Anor Civil Application No.6 of 2002*** it was emphasized stated:

"A stay of proceedings is a discretionary remedy to be exercised sparingly and only where proceeding would result in injustice or abuse of process."

35. The above decision also stated that the stay mechanism exists to prevent injustice not to delay the lawful exercise of jurisdiction by a competent forum but only to avert clear injustice or where proceeding would render a pending appeal nugatory.
36. Balancing all the above factors, the Tribunal finds that it would not be in the interest of justice or commercial expediency to grant the Applicant's request for a stay of proceedings. In the circumstances, the application to stay the

proceeding in TAT Application no. 169 of 2024 is denied. Costs shall abide in the main cause.

Dated at Kampala this 31st day of **October** 2025.



MS. CRYSTAL KABAJWARA
CHAIRPERSON



MS. PROSCOVIA R NAMBI
MEMBER



MRS. STELLA NYAPENDI CHOMBO
MEMBER

RULING