THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA

APPLICATION 1 OF 2019

AND

APPLICATION 40 OF 2021

ALLIED BEVERAGES COMPANY LIMITED .....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY .....RESPONDENT

BEFORE: DR. ASA MUGENYI, MS. CHRISTINE KATWE MR. SIRAJ ALI

RULING

This ruling is in respect of an application as to whether services provided by the applicant to the Coca-Cola Export Corporation (the Coca -Cola company) located in Atlanta, United States of America (USA) are exports under the Value Added Tax (VAT) Act.

The applicant provides services to a foreign company called the Coca-Cola Export Corporation based in Atlanta, USA. The services provided include brand marketing and research. The respondent issued VAT assessments of which the VAT still in dispute is Shs. 17,400,459,133 for the period August 2016 to November 2020. The applicant objected and the objection decisions were disallowed.

The following issues were set down for determination.

1. Whether the applicant is liable to pay the tax assessed?
2. What remedies are available to the parties?

The applicant was represented by Mr. Oscar Kambona, Mr. Bruce Musinguzi and Mr. Thomas Katto while the respondent by Ms. Nakku Mwajuma, Mr. Ronald Baluku and Mr. Alideki Ssali Alex.

On 2nd January 2019, the applicant filed Application 1 of 2019 in respect of objection decisions on VAT assessments and input tax claims. On 22nd January 2020, the parties filed a partial consent settlement order. It was agreed that the applicant was entitled to input credit of Shs. 513,194,597. The applicant also agreed to pay VAT of Shs. 3,249,175,116 for the period August 2016 to March 2018 arising from sales made to Rwenzori Beverages. The issue of services provided by the applicant to the Coca-Cola company was referred to the Tribunal for determination. An issue relating to the correctness on interest computation on the principal tax assessed was also referred to the Tribunal for determination. On 14th May 2021, the applicant filed Application 40 of 2021 challenging a VAT assessment of Shs. 11,465,728,107. On 17th September 2021, both applications were consolidated upon the request of the parties. The amount in dispute in respect of the consolidated applications is Shs. 17,400,459,133 for the period August 2016 to November 2020.

Following the consolidation of the applications, the applicant adopted the evidence of Sarah Edwards and Professor Rene Nicolaas Gerardus Van der Paardt, which had been adduced in Application 1 of 2019.

The applicant`s first witness Ms. Sarah Edwards, was employed by the Coca-Cola Export Corporation (herein after the Coca-Cola Company) from 1983 to 2018 and as a director of finance and strategy from 2005 to 2017. She testified that the Coca-Cola Company develops and grows a branded beverage. She stated that the applicant is registered in Uganda and provides marketing and promotional services including market research under a service agreement with the Coca-Cola company. The applicant provided services to the Coca-Cola company designed to enhance the sale of a concentrate manufactured outside Uganda and thereafter imported into the country. The services included the protection of trademarks and the global universal images of brands like Coca-Cola and Fanta. VAT is imposed on the concentrate including the services provided by the applicant. She testified that concentrate is sold to the bottlers who prepare, package, distribute and sell the ready to drink beverages. She testified that the Coca-Cola company and the concentrate manufacturers are the beneficiaries of the marketing and promotional services provided by the applicant. The decisions regarding marketing strategies are approved by the brand owner who is outside Uganda. She testified further that the applicant is paid for the services as

provided by the service agreement. The applicant`s duties include advising the Coca-Cola Company on the growth, development, and protection of brands within Uganda through recommendation of marketing strategies obtained by gathering information and research on the economic, regulatory, technical, and marketing conditions that impact the promotion of brands. The applicant is not paid by the bottlers or distributors for the services.

The applicant`s second witness, Professor Rene Nicolaas Gerardus Van der Paardtis a lecturer in tax law at the Erasmus University Rotterdam, Nyenrode Business University, and the International Tax Centre at Leyden University, testified that his evidence is limited to his opinion on whether the services provided by the applicant are exported services under the VAT Act in Uganda. He stated that under the Organisation of European Cooperative Development (OECD) VAT Guidelines, VAT neutrality in international trade is achieved through the implementation of the `destination principle` which ensures that the taxing rights on cross border supplies are granted to the country of the recipient of a service. An exported service is not taxed in the country of the supplier of the service. The jurisdiction in which the customer is located has the taxing rights over internationally traded services. He testified that the applicant incorporated and situated in Uganda, provides marketing and promotional services, including specific market-related research, to the Coca-Cola company incorporated and situated in the USA. Both companies are businesses in respect of the OECD Guidelines. The services provided by the applicant and consumed by the Coca-Cola company can be regarded as business-to-business services. The cross-border business to business services should be taxed according to Guideline 3.2, under the tax laws of the country where the customer/recipient of the services is situated. In his opinion, the country with the taxing rights over the services provided by the applicant should be the USA, the export of the services by the applicant should be zero rated in Uganda.

The witness testified further that the OECD Guidelines consider that each country may have a different system for taxing goods and services. This is based upon the general accepted principles that consumption is taxed according to the laws of the country where the consumption takes place. In this case, the Coca-Cola company situated in the USA has no presence in Uganda, therefore the imported services can only be

taxed according to the laws of the USA. According to the OECD Guidelines, the reallocated services are not taxable in the country of the supplier. He testified that the costs of services such as marketing and promotional services including marketing-related research are included in the price of the concentrate that is exported to a bottler in Uganda in which case Ugandan VAT on importation is due.

The respondent`s sole witness, Ms. Nsiime Juliet, formerly an officer in the respondent`s Objections and Appeals Unit of the Domestic Taxes Department testified that the applicant is incorporated in Uganda and contracted by the Coca-Cola company to provide support services in relation to branding, marketing, promotion, and other ancillary services. On 17th January 2017, the applicant made a private ruling with respect to the VAT treatment of the services provided by the applicant. The private ruling was to the effect that the services by the applicant do not qualify as exports and therefore attract VAT. She testified that the applicant failed to show its services were consumed outside Uganda. She testified that the applicant made sales to the Coca-Cola company of Shs. 32,593,473,192 which it classified as zero rated for the period December 2017 to March 2018. She testified further that these sales were reclassified as standard rated on the grounds that the applicant works with third party advertising and marketing services providers. She testified that the third parties hired also outsource the services of marketing and branding to media houses and outdoor advertising companies and that none of the services rendered by the applicant are consumed in the USA by the Coca-Cola company or its affiliates. She contended that the services were entirely consumed in Uganda and were standard rated because they were not exports under the VAT Act.

The applicant submitted that the services rendered by it to the Coca-Cola company were not locally consumed but were exported and hence subject to a zero rate of VAT. It submitted that S. 24(4) of the VAT Act provides that the rate of tax imposed on supplies specified in the Third Schedule is zero. S. 1(a) of the Third Schedule specifies a zero rate of VAT for supplies of goods or services where the goods or services are exported from Uganda as part of the supply. Regulation 13 of the VAT Regulations states that where services are supplied by a registered tax payer to a person outside Uganda, the services shall qualify for a zero rate only if the taxpayer can show evidence that the services are used or consumed outside Uganda, which evidence

can be in the form of a contract with a foreign purchaser and shall clearly specify the place of use or consumption of the services to be outside Uganda.

The applicant submitted that the relationship between the applicant and the Coca-Cola Company is governed by a service agreement. The agreement sets out the company's principal office as located at One Coca Cola Plaza N.W, Atlanta, Georgia 30313, USA while the applicant`s offices is located in Uganda. The applicant submitted that under clause 1 the services to be provided under the agreement are advice and market studies conducted by it for consumption by the Coca-Cola Company. The service agreement shows that it is paid a fee by the Coca- Cola company to provide services to an entity located outside Uganda. This was confirmed by the respondent`s witness Juliet Nsiime and Ms. Sarah Edwards. Regulation 13 does not define what amounts to use or consumption or when services are deemed to be exported. The applicant cited the Kenyan decision of *LG Electronics Africa Logistics FZE Branch v The Commissioner Domestic Taxes* Tax Appeal 359 of 2018 where it was held that in establishing whether services are exported, the place and or location of the performance of the services is not material but where the consumption of the services is located. The applicant contended that like LG Electronics Africa Logistics it had a contract with the Coca-Cola company, a foreign purchaser, to whom it provided marketing and promotion services. The applicant also cited the decision of the High Court of Kenya in *Coca-Cola Central East and West Africa Limited v The Commissioner Domestic Taxes* Income Tax Appeal 19 of 2013 where it was held that the services offered by Coca-Cola Central East and West Africa Limited were consumed/used outside Kenya and therefore qualify as exported services for VAT purposes. The applicant also cited *3M Kenya Limited v Kenya Revenue Authority, Apollo Hotel v URA and Coca-Cola Central East and West Africa v URA* (supra). The applicant submitted that the place of supply is immaterial to the question as to whether the services in question were exported. Regulation 13 requires that for a service to be considered as exported, the service should be used or consumed outside Uganda based on evidence in an agreement.

The applicant submitted that OECD guidelines are important in determining the place of use and consumption where it is not apparent that a service was used or consumed in Uganda. It submitted that the services supplied by it are regarded as business to

business services under the OECD guidelines. Since the two companies are situated in different countries the cross-border business to business services should be taxed according to Guideline 3.2, that is subject to the tax laws of the country where the customer/recipient of the services is situated. The country with the taxing rights over the services is the United States of America with the export of these services is at zero rate VAT in Uganda.

In reply, the respondent submitted that a supply of services is defined in S. 11(a) of the VAT Act, as a supply of goods or money, including the performance of services for another person. S. 18 defines a taxable supply as a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities. Citing *Elma Philanthropies v URA*, Application 46 of 2019, the respondent submitted that the test for export of services under the VAT Regulations is whether the services are used or consumed outside Uganda. It submitted that in order to ascertain when VAT is due, one may have to look at the tax point, the time the service is delivered or availed, and using the tax point, determine the location or place the service was performed. The respondent submitted that the applicant is based in Uganda and provides services of promotion, advertising, research and marketing studies to the Coca-Cola company in the USA. The respondent submitted that it is not in contention that the Coca-Cola company is located in Atlanta, USA, and is therefore not a taxable person. It is not in contention that the applicant has a physical location in Uganda and physically performs the services of advertisement, branding and research in relation to advertising on billboards, radio, T.V and media in Uganda. The respondent submitted that the performance of making recommendations was completed as soon as the reports were made ready and availed to the consumer at the offices of the applicant located in Uganda. Therefore, that the supply of the services by the applicant to the Coca-Cola company are taxable in Uganda.

The respondent submitted that S. 2(b) of the Third Schedule to the VAT Act provides that the test for determining an export of services, is in `use or consumption` outside Uganda which should be backed up by documentary evidence acceptable to the Commissioner. It submitted further that Regulation 12 of the VAT Regulations provides that for a transaction to qualify as an export and thus zero rated, the taxpayer must

show evidence in the form of a contract with a foreign purchaser that the services are used or consumed outside Uganda. It submitted also that the service agreement of the applicant does not stipulate that the place of use or consumption of the services will be outside Uganda or USA. The respondent submitted that the services supplied by the applicant cannot qualify for a zero rate for the reason that they fall short of the standard set under the VAT Act and the VAT Regulations. The respondent cited *Aviation Hanger Services Ltd v URA*, Application 21 of 2019 and contended that if there is a local component on the use or consumption of the services, it shall be deemed to be a supply of services in Uganda. It also cited *Master Currency (PTY) Ltd v Commissioner for the South African Revenue Services* (2013) 3 ALL SA 135 (SCA) para 17, where it was held that unless the place of consumption can be determined by an after-sales relationship between the supplier and the customer, or through an application of a practical test, the actual place where the benefits of the services are experienced cannot be determined. The respondent argued that in order to determine whether the services rendered by the applicant were used outside or in Uganda, the services by the applicant should be outlined in the service agreement with a demonstrable after sales relationship between the applicant and the Coca-Cola Company.

In the alternative, the respondent submitted that the place and time of supply is in Uganda which overrides the consumption test, as per S. 16 of the VAT Act and cannot therefore be an export. The respondent cited *Elma Philanthropies v URA*. Having established that the place of supply is Uganda as the services were physically performed in Uganda, VAT is payable in Uganda.

The respondent submitted that the Kenyan decisions are based on Kenyan Law on VAT on exports which is different from that in Uganda. It submitted further that the OECD Guidelines were also inapplicable as the VAT Act is clear and unambiguous. The VAT Act takes precedence over the OECD VAT/GST Guidelines, which are not ratified or consented to by Uganda. It submitted that the Coca-Cola company is not a taxable person. The respondent submitted that applicant did not adduce any evidence to show that VAT was paid in Atlanta or elsewhere in the USA.

In rejoinder, the applicant submitted that it was erroneous for the respondent to focus on the place of supply for the services rather than the place of consumption for the services. It submitted that under the OECD Guidelines, reliance must be made on the destination principle. It submitted further that the respondent has not addressed the destination principle but focused on the effect of the applicant`s services to the Coca-Cola company. The applicant submitted that the respondent`s submissions were also erroneous in so far as it interpreted S. 16 of the VAT Act in isolation of S. 24(4). The applicant submitted that under Rule 12 of the VAT Regulations and Rule 2(b) of the 3rd Schedule, the test for whether a service is an export depends wholly on where the service was used or consumed and not where the service was performed.

Having heard the evidence and perused the exhibits and read the submissions of the parties, this is the ruling of the tribunal.

On 2nd July 2016, the applicant entered an agreement with the Coca-Cola company for the provision of the following services.

"a. working with third party marketing service providers in the areas of marketing, advertising and promotion within the strategic guidelines and initiatives developed by EXPORT for the brands including advising on the funds necessary for the promotion and advertising of the beverages sold under the Brands.

b. recommendations to EXPORT with respect to EXPORT'S or its affiliate's participation, if any in the bottler's marketing or promotion expenditures and or in the conduct of EXPORT'S own marketing or promotion expenditure.

c. performance of other marketing related services to EXPORT including gathering information and preparing documentation related to researching and determining economic, regulatory, technical and marketing conditions that impact upon the promotion and marketing of the brands.

d. advice in coordinating technical and quality control services to ensure that the beverages bearing the brands manufactured to the specifications of Coca Cola.

e. advice in coordinating technical and quality control services to ensure that beverages bearing the brands are manufactured to the specifications of Coca-Cola, SHL and AI.

f. advice to EXPORT in implementing the rights and obligations of Coca-Cola, SHL and AI in the territories and to provide any other services related therein."

In the agreement "EXPORT" is the Coca-Cola Export Corporation which had its address as N.W. Atlanta, Georgia, 30313, United States of America. SHL is Schweppes Holding Limited and AI is Atlantic Industries whose addresses are unknown. The agreement mentions territories but does not specify their location. However, under the agreement the applicant is supposed to assist the Coca-Cola company, SHL and AI by contracting with service providers for the performance of services on the continent of Africa.

The dispute between the parties is whether the services provided by the applicant to the Coca- Cola company are exports. The applicant`s argument is that the respondent misdirected itself when it found that the services were locally consumed whereas they were exported and thus subject to a zero rate of VAT under the VAT Act.

The respondent contends that the applicant made taxable supplies within Uganda. S. 4 of the VAT Act reads that:

"A tax, to be known as valued added tax, shall be charged in accordance with this Act on-

(a) every taxable supply in Uganda made by a taxable person.

(b) Every import of goods other than an exempt import; and

(c) The supply of imported services, other than an exempt service, by any person"

Under S. 4(a) VAT is charged on every taxable supply by a taxable person. The applicant is VAT registered and it is not in dispute that it is a taxable person. As regards "taxable supply", S.18(1) states "A taxable supply is a supply of goods or services, other than an exempt supply, made in Uganda for consideration as part of his or her business activities". S. 16(2)(a) provides as follows;

> "Notwithstanding subsection (1), a supply of services shall take place in Uganda if the recipient of the supply is not a taxable person and the services are physically performed in Uganda by a person who is in Uganda at the time of supply."

In this case, the Coco-Cola Company is a not a taxable person and the respondent contends that the services in question were physically performed in Uganda by the applicant who is in Uganda.

In *Golden Leaves Hotels and Resorts Limited and Apollo Hotel Corporation v Uganda Revenue Authority* Civil Appeal *64 of 2008* the Court of Appeal referred to the definition of VAT in *Black's law Dictionary* 6th Edition where VAT was defined as:

"A tax assessed on goods and services on the value added by each producing unit. The value added is generally the sum of all wages, interest, rent and profits. Otherwise stated it is the total sale price of output minus the cost of raw materials and intermediate goods purchased from other firms. The amount of the tax is a percentage of the value of the goods or services."

In *Metcash Trading Limited v The Commissioner for the South African Revenue Service* CCT 3 of 2000 the court said:

"VAT is, as its name signifies, a tax on added value. It is imposed on each step along the chain of manufacture and distribution of goods or services that are supplied in the country in the course of business; and it is calculated on the value at the time of each step."

VAT is charged on the value added by a taxable person on each stage in the course of production and distribution. The above decision emphasis that VAT is on taxing value addition to transactions and not consumption. S. 16(2) of the Act provides that VAT is charged where the services are physically performed or supplied and not where there is consumption.

The applicant contends that it made an export of services under the VAT Act. S. 24(4) of the VAT Act states that the rate of tax imposed on taxable supplies specified in the Third Schedule is zero. The relevant provision in the Third Schedule the applicant is relying on is Clause 1(a) which reads:

"1. The following supplies are specified for the purposes of Section 24(4) –
a supply of goods or services where the goods or services are exported from Uganda as part of the supply."

Paragraph 2(b) of the Third Schedule of the VAT Act states as follows;

"For the purposes of paragraph 1(a), goods or services are treated as exported from Uganda, if;

(b) In the case of services, the services were supplied by a person engaged exclusively in handling of goods for export at a port of exit or were supplied for use or consumption outside Uganda as evidenced by documentary proof acceptable to the Commissioner General".

Paragraph 2(b) of the Third Schedule has to be read in line with S. 16(2) of the VAT Act which provides that a local supply is where services are physically performed in Uganda. If a supply is physically performed in Uganda it is deemed to be a local supply. Therefore, for a service to qualify for an export it must not have been physically

performed in Uganda. For instance, if Coca-Cola company contracted the applicant to advertise, but the adverts to be an export there should be done abroad. The applicant has to show that the marketing, advertising and promotion services were not physically performed in Uganda. They were performed abroad. There is no evidence that adverts or promotions were made in the United States of America. Exhibits RE2 and RE5 shows that the applicant carried out adverts on Capital FM which is located in Uganda. The recommendations by the applicant are supplied as soon as they are availed to the consumer at the offices of the former located in Uganda.

Regulation 12 of the VAT Regulations defines an export of service as follows:

> `Where services are supplied by a registered taxpayer to a person outside Uganda, the services shall qualify for zero-rating only if the taxpayer can show evidence that the services are used or consumed outside Uganda, which evidence can be in the form of a contract with a foreign purchaser and shall clearly specify the place of use or consumption of the service to be outside Uganda or that the service is provided for a building or premises outside Uganda`.

Regulation 12 provides that the Zero-rate specified under the Third Schedule shall only apply if the taxpayer in Uganda can provide evidence that the services in question were used or consumed outside Uganda. The evidence in question can be in the form of a contract with a foreign purchaser of the service. This contract shall clearly specify the place of use or consumption of the service to be outside Uganda.

The applicant provided a contract between it and the Coca-Cola company, exhibit AE1. The first requirement was met by the applicant. The second requirement for a clear specification in the contract setting out the place of use or consumption of the service as a place outside Uganda can only be determined through a perusal of the contract. A perusal of the contract does not indicate the place of use or consumption of the service, whether it is in or outside Uganda. Though the applicant stated that the contract was for the provision of services in the United States of America, where the Coca-Cola Company is located, the contract states that the applicant is supposed to assist the Coca-Cola company, SHL and AI by contracting with service providers for the performance of services on the continent of Africa. The Tribunal does not think that the United States of America is located in Africa. The location of SHL and AI cannot be determined in the agreement. Under the agreement the applicant is

supposed to work with third party marketing service providers in the areas of marketing, advertising and promotion. The location of the said third party market service providers is not stated. However, the Tribunal notes that the physical location of a supplier cannot be the overriding determinate of where service or goods are consumed. It merely means one's offices are located in the specified location or that is where one resides. A service or a good can be consumed outside one's premises. For instance, when one goes to an Automated Teller Machine (ATM), services are supplied at where the ATM is located and not where the person resides. This depends on the nature of services. S. 16(2) of the VAT Act emphasizes that a supply of services shall take place in Uganda if the recipient of the supply is not a taxable person and the services are physically performed in Uganda by a person who is in Uganda at the time of supply. The services provided by the applicant were physically performed in Uganda.

The applicant cited *LG Electronics Africa Logistics FZE Branch v The Commissioner Domestic taxes*, Tax Appeal No. 359 of 2018, *Coca-Cola Central East and West Africa Limited v The Commissioner Domestic Taxes, Appeal 11 of 2013* Coca-Cola entered into a contract with CCEC to promote the Coca-Cola brand in Kenya, Eritrea, Somalia, Uganda, Burundi, Reunion, Djibouti, Rwanda, Madagaşcar, Congo, Seychelles. Mayotte, Democratic Republic of Congo, Malawi, Mozambique, St. Helena, Zambia and Zimbabwe. In respect of the promotional services Coca-Cola organized various functions and promotional activities geared toward the promotion and marketing of the Coca-Cola Brand. Kenya Revenue Authority (KRA) issued an assessment on the grounds that these services were local supplies for which Coca-Cola ought to have charged VAT. Coca- Cola appealed on the grounds that the services were consumed by CCEC which was domiciled in the United States. It was held that: "...consumption or use of services is not determined by reference to the location of the payer or a person requisitioning the service but the location of the consumer of the service. The location of the payer is immaterial." The court noted that "what is material is whether the supplier of the services has established a business or permanent establishment in Kenya and whether the services are consumed in Kenya." In *Commissioner of Domestic Taxes v Total Touch Cargo Holland. Income Tax* Appeal 17 of 2013 the court held that the location where the service is provided does not determine the question of whether the service is exported or not. The relevant factor is the location

of the consumer of the service and not the place where the service is performed. The court noted that:

> "the scanning, cooling and palletizing services provided by KAHL were performed in Kenya. However, the user and consumer of these services being TTC-H and their European customers were based outside Kenya. The services were aimed at ensuring that the horticultural produce and flowers reached Europe in a fresh state fit for consumption by these foreign buyers. Accordingly, despite the services being performed within Kenya it was in actual fact an exported service."

The said decisions were made in Kenya, on the basis of Kenyan VAT law. A common theme running through these decisions is S. 2 of the repealed VAT Act Cap 476, which defined 'a service exported out of Kenya' as 'a service provided for use or consumption outside Kenya, whether the service is performed in or outside Kenya, or both inside and outside Kenya'. Decisions based on the above definition of an exported service cannot be applied in Uganda for the reason that a similar definition is not in Ugandan VAT law. The said law is not in pari materia with the Uganda Law. In *Aviation Hangar v Uganda Revenue Authority* Application 21 of 2019 the Tribunal found that the provision of maintenance services by the applicant to planes that were travelling outside Uganda was not a zero-rated supply. The services were standard rated and therefore attracted VAT

The applicant relied on the 'destination' principle in the OECD guidelines. It argued that the `destination principle` ensures that the taxing rights on cross border supplies are granted to the country of the recipient of a service. It argued that the services provided by the applicant and consumed by The Coca- Cola company can be regarded as business-to-business services which should be taxed according to Guideline 3.2. OECD stands for Organization of European Cooperative Development (OECD). Those guidelines apply to countries in Europe under the OECD arrangement or those that have made provision for the guidelines to apply in their law. Uganda is not in Europe nor is it a party to the OECD. The OECD has 38 members of which Uganda is not a party. S. 76 of the VAT Act provides that

> "To the extent the terms of a treaty of other international Agreement to which Uganda is a party are inconsistent with the provisions of the Act, apart from S. 75, the terms of the treaty or international agreement shall prevail of the Act."

There is no evidence that Uganda is party to the OECD guidelines. The destination principle is not part of the VAT law in Uganda. Without any prejudice, the service agreement between the applicant and the Coco-Cola company stated that it shall be governed by the laws of Uganda. The said service agreement cannot be said to be an international agreement.

There was an element of interest which was in the consent settlement order referred to the Tribunal for determination. The dispute between the parties arose from transactions during the period August 2016 to November 2020. The compliance review report shows that interest of Shs. 6,219,235,359 was waived under S. 40C of the Tax Procedure Code Act. There was a balance of Shs. 1,968,108,295 being interest for the period after 30th June 2020. The applicant has not adduced evidence why it should not pay the said interest. During the Scheduling it was agreed that the respondent issued VAT assessments of which the VAT still in dispute is Shs. 17,400,459,133 for the period August 2016 to November 2020. In Application 1 of 2019 the tax in dispute for the period June 2016 to March 2018 still outstanding is Shs. 5,934,731,026. For Application 40 of 2021 the amount outstanding is Shs. 11,465,728,107

For the reasons stated above, this application is dismissed with costs. The applicant is ordered to pay VAT of Shs. 17,400,459,133.

Dated at Kampala this 31st day of August 2022.

DR. ASA MUGENYI	**MS. CHRISTINE KATWE**	**MR. SIRAJ ALI**
CHAIRMAN	**MEMBER**	**MEMBER**