

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO. 131 OF 2022

ASTEL DIAGNOSTICS UGANDA LTD.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE, MS. GRACE SAFI

RULING

This ruling is in respect of an application challenging an administrative assessment income tax for the period 2019/2020, arising from a variance in retained earnings, undeclared sales, related party loans and unexplained advertising expenses.

1. Background Facts

The Applicant manufactures and supplies diagnostic testing kits. The Respondent conducted a compliance review of the Applicant's tax matters and raised tax assessments totaling Shs. 1,794,787,394. On 11 February 2022, the Applicant objected to the assessment and on 22 February 2022 the Respondent upheld the decision on the grounds that the Applicant had:

- (i) Variances in its retained earnings;
- (ii) Undeclared sales;
- (iii) a variance between sales declared and sales as per withholding tax returns;
- (iv) Unsupported advertising expenses; and

(v) An unsupported related party loan.

The Applicant being aggrieved with the decision of the Respondent filed this application before this Tribunal for review of the Respondent's objection decision.

2. Representation

The Applicant was represented by Mr. Gerald Agaba Kakima, Mr. Eliphaz Amooti, Ms. Hellen Katushabe while the Respondent was represented by Mr. Donald Bakashaba, Mr. Derrick Nahumuza and Mr. Samuel Oseku.

3. Issues for Determination

The issue for determination by the Tribunal is whether the Applicant is liable to pay the tax assessed.

Mr. Robinson Kalanzi (AW1), the Finance Manager of the Applicant, in his witness statement stated that the assessment was based on allegations of undeclared sales, related party transactions, retained earnings variance, and disallowed deductions.

On the issue of undeclared Sales of Shs. 916,774,900, AW1 stated that the Respondent claimed there was a variance between withholding tax (WHT) data and declared sales, while the Applicant asserts that the sales were declared in the 2018/19 period based on invoice dates, not payment dates.

Regarding the related party loan of Shs. 2,895,005,000, AW1 stated that the Respondent added back a loan, citing insufficient documentation, even though the Applicant provided evidence of loans guaranteed by directors and the liquidation of director-owned properties to settle debts.

With regard to variances in the retained earnings, AW1 the Respondent miscalculated retained earnings by using profit before tax instead of the correct figure yet and the Applicant demonstrated that there should be no variance.

The witness also explained that the advertising expenses of Shs. 142,000,000, were commissions paid to individuals under a sales arrangement, which the Applicant argues were legitimate expenses. AW1 also confirmed that they paid agents for the adverts on cash basis. He confirmed that the Applicant did not withhold tax on the payments to the commission agents.

During cross examination, when asked about the relationship between Mr. Kenneth Lubega and the Applicant, the witness confirmed that Mr. Lubega was no longer the Director of the Applicant and that there was no consideration for him offering his property as security for a loan. He was initially the Director and gave his property as security.

Ms. Akello Catherine (RW1), an officer in the Respondent's Domestic Taxes Department was the Respondent's sole witness. She testified that the Applicant declared sales of Shs. 1,535,588,800 yet the withholding tax showed Shs 2,452,363,700. After reconciling invoices, a variance of Shs. 916,774,900 was identified and added back to taxable income.

RW1 stated that the Applicant declared Shs. 1,703,541,894 in retained earnings but did not amend their returns despite acknowledging errors. The Applicant also failed to provide supporting supporting documentation and adjusted figures.

With regard to advertisement Expenditure, RW1 stated that the payment vouchers lacked supporting evidence, and some were in the name of a staff member rather than promoters, yet the Applicant did not account for withholding tax on these payments or provide contracts and TINs for recipients.

With regard to the related party loan, the Applicant claimed a loan guaranteed by Mr. Kenneth Lubega, whose property was allegedly sold to settle the debt though the Respondent found no proof of Mr. Lubega's directorship in the Applicant company or ownership of the assets sold thus the supporting documentation for the loan and its repayment was insufficient.

4. The Submissions of the Applicant

The Applicant submitted that the figures added back were largely reconcilable but the Respondent ignored the justifications. The Applicant submitted as follows in respect of the added back items.

(i) Undeclared sales: Shs. 916,774,900

The Applicant submitted that the Respondent deduced the alleged sales variance as the difference between WHT supplies data (gross figure) of Shs. 2,452,363,700 as seen at AEX3 of the joint trial bundle (JTB) and the declared sales at the time amounting to Shs. 1,535,588,800 as seen in the Applicant's return AEX 12.

Sales totaling to Shs. 1,005,442,900 were declared in the income tax return of 2018/2019, in the sales schedule as indicated in AEX 5(a) at page 9 of the JTB with invoice number 432 (AEX5(d) at page 12 with Shs.499,216,900) and invoice number 434 (AEX5(e) at page 13.

This is also corroborated by the Applicants income tax return AEX11 where the figure of sales was quoted as Shs.1,827,950,500 as indicated in the schedule. The Applicant argued that the Respondent erroneously considered the period when the invoices were paid and not when they were raised despite the Applicant using accrual accounting and not cash accounting.

Sales were reported in the return of 2018/19 because that is the period when they were invoiced (Refer to AEX5(a)(e), which is different from the payment date / period,

The Applicant submitted that Section 40 of the Income tax Act provides:

"(1) A taxpayer who is accounting for tax purposes on an accrual basis- a) Derives income when it is receivable by the taxpayer; and b) Incurs expenditure when it is payable by the taxpayer.

(2) Subject to this Act, an amount is receivable by a taxpayer when the taxpayer becomes entitled to receive it, even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments".

The Applicant submitted that withholding tax is reported to the Respondent by the 15th day of the month following payment. It would be erroneous for the Respondent to use withholding tax as a basis of computation of sales for tax purposes for a taxpayer on accrual/invoice accounting.

The Respondent disregarded the law and considered the period 2019/2020 when the invoices were paid and a withholding return filed. The Applicant's evidence further indicates that items 8,9 and 10 considered by the Respondent were not sales for the Applicant but for Dembe Fan's club as indicated in their withholding tax schedule. Therefore, all Applicant's income for the year 2019/2020 was duly declared.

(ii) Related party loan of Shs. 2,895,005,000

The Applicant submitted that the Respondent added back the loan on the grounds of insufficient documentation. The Applicant finances its capital requirement through loans sourced from related parties or third party loans which are guaranteed by the directors. The witness pointed out an example of such transactions as seen in the second legal mortgage agreement dated 26 November 2009 where the Mortgagor was Director Kenneth Lubega in favour of Diamond Trust Bank and the Principal Debtor was the Applicant.

By the letter dated 14 June 14 2014, Diamond Trust Bank renewed and enhanced an existing overdraft facility for the Applicant from Shs.1,673,174,126 to Shs.2,030,000,000 and this facility was guaranteed by the Directors too. The Applicant had earlier in 2012 and 2016 obtained loan facilities of USD 1,500,000 and USD 1,215,000 from Diamond Trust Bank and USD 500,000 from Transroads Company which it failed to pay in time.

The Applicant entered a settlement agreement to settle a loan of USD 1,331,252 with Diamond Trust Bank which was concluded by liquidation of properties associated to the one of the directors at the time. Though the loan with Diamond Trust was offset, the liability of the loan in the books of the Applicant remained reflecting a debt to the related parties hence the figure Shs. 2,895,005,000.

The Applicant submitted that whereas the Respondent does not deny that this figure was actually a loan, it wishes to rely on the technicality that once there was no fresh

documentation, the figure translates into sales. This would only avoid the application of the doctrine of substance over form. The substance is that this figure was a loan and though the Bank liquidated properties for related parties, such related parties continued to demand from the company. This was corroborated by the Applicant's Bank statements showing the loans received and interest paid. At no point can such a figure translate into sales for tax purposes.

(iii) Variance of Shs. 1,703,541,894 in retained earnings for the year 2019/2020

The Applicant submitted that the Respondent recomputed retained earnings and came up with an erroneous variance of Shs. 1,703,541,894. The Respondent made an error on the Expected Retained Earnings in the Balance sheet when they simply took the Profit Before Tax figure of Shs. 565,372,065 (Refer to AEX4, AEX 11 and AEX 12 of the JTB). The appropriate figure for expected retained earnings in balance sheet would have been $(-1,703,541,894 + 565,372,065) = 1,138,169,829$. The resulting variance would rightly be zero. The computation should have appeared as below.

Period	2018-2019	2019-2020
Expected RE in b/sheet	1, 725, 306, 492	1,138, 169, 829
Actual Retained earnings C/F	1,703, 541, 894	1,138, 169, 829
Retained Earnings variance	21, 764, 598	0

Further, in accordance with IAS 1 requirements, while calculating changes of equity, the previous profit should be added to current year profit demonstrated as below:

Previous year profit/loss 2018/2019	Shs-1,703,541,899
Current year profit/loss 2019/2020 Total	<u>Shs. 565,372,065</u>
Total	Shs-1,138,169,829

Variance would therefore be the implied profit/loss minus the figure derived above as demonstrated below:

Actual: Shs. (1,138,169,829)

Expected as above: Shs. (1,138,169,829)

Variance: (1,138,169,829) -(1,138,169,829) =0

The Applicant maintained that there was no variance in retained earnings and therefore no chargeable amount arising.

(iv) Advertising: Shs. 142,000,000

In the year 2019/2020, the company had an arrangement with individuals to market the Applicant's products at their own cost and earn commission upon sale. The commissions were signed for and taken by various individuals who would successfully make a sale under this arrangement. The relevant records were provided to the Respondents but the same were rejected. The Applicant submitted that the assessment by the Respondent was high handed and arbitrary.

The Applicant submitted that in the case ***URA Vs Tembo Steels Ltd HCCA No.09 of 2006*** at page 43. His Lordship Christopher Madrama quoted with approval the case of ***Customs and Excise Commissioners Versus Pegasus Birds Ltd [2004] STC 1509***, Judgement of the UK Court of Appeal Civil Division as follows;

"...in going about its duties, the Tribunal has to determine whether the defect in the assessment is so grave that the justice of the occasion requires the whole assessment to be set aside or whether that justice can be done by simply correcting the amount the tribunal finds to be a fair figure on the evidence before it. In cases of serious defect, the assessment would be treated as a nullity..."

The Applicant prayed that the Tribunal makes a finding that the assessment was arbitrary and the same is set aside.

5. The Submissions of the Respondent

The Respondent made the following submissions regarding each disallowed item.

(i) Undeclared sales of Shs. 916,774,900

The Respondent submitted that it established sales as per the withholding tax data amounted to Shs. 2,452,363,700 for the period 2019/2020. However, the Applicant's sales declaration in their income tax returns were Shs. 1,535,588,800 which led to an unexplained variance of Shs. 916,774,900. The variance was computed as undeclared sales and added back to the Applicant's tax computation to derive the income tax liability.

(ii) Retained earnings

The Respondent submitted that the Applicant declared Shs. 1,703,541,894 as its retained earnings for the period 2018/2019. It established a variance in retained earnings of Shs. 2,081,685,824 for the period 2019/2020 as per the e-hub schedules.

The Applicant's returns showed wrong retained earnings carried forward which were arising from the subsequent years. Despite the error in their returns, they did not take any steps to rectify the same. The Respondent requested the Applicant to amend her returns to reflect the accurate retained earnings and also provide audited financial accounts, but the Applicant did not.

The Respondent cited Section 16 of the Tax Procedures Code Act which requires a person to furnish a tax return and submit the same in a prescribed form and manner determined by the Commissioner.

In ***Dennis Murray V Commissioner of Taxpayer Appeals Civil Appeal No. 70/2007***, the Supreme Court of Jamaica held:

"It is incumbent on every taxpayer to deliver a true and correct return of the whole of his income from every source."

The Respondent submitted that it's the duty of the taxpayer to furnish all particulars in respect to incomes earned for that year of income to enable the tax body to act on the same in determine the taxes due. It is pertinent to note that the duty to file returns in a correct and honest manner is a statutory obligation, which a prudent taxpayer must respect. The Applicant in the instant case filed returns, which the Respondent reviewed and established had underdeclared her sales. In its objection to the assessment, the Applicant realized errors were made in their returns and despite admitting that there were errors made, the Applicant failed to take any measures to rectify the said errors.

The Respondent submitted that in respect to WHT data which revealed the Applicant had underdeclared her sales. The Applicant despite being granted an opportunity to explain the variance, adamantly refused to adduce any documentation or evidence to challenge the assessments raised by the Respondent by adducing documentation to support and rectify its purported errors made in the filing of the returns.

The Respondent cited the case of ***Uniworks Transporters and Logistics Ltd V Uganda Revenue Authority, App No. 62 of 2018***, where the Tribunal held:

"The purpose of a financial audit is to provide assurance that financial statements are accurately presently and in conformity with generally accepted accounting principles (GAAP) allowing business owners to make confident business decisions. They are supposed to be relied on by third parties who want to make decisions in respect of the company."

The Tribunal further ruled that;

"Under the income tax act, a revenue authority should be able to rely on audited financial statements to assess and to arrive at the correct tax payable"

The Respondent submitted that upon discovering variances provided the Applicant avenues to address the same, the Applicant adamantly refused to do so. The Respondent prayed that the Tribunal dismisses the Application with costs to the Respondent.

(iii) Related party loan of Shs. 2,895,055,004

The Respondent submitted that in case of outright tax evasion, the Respondent is clothed with the powers to recharacterize transactions in order to determine the tax liability in question in accordance with Section 117 of the Income Tax Act.

The Respondent cited the case of ***Bullion Refinery Limited Vs. Uganda Revenue Authority Civil Appeal No. 67 OF 2023***, Cornelia Kakooza Sabiiti J held:

"In my considered opinion, the documentation relating to the acquisition and transfer or movement of the loan funds into the accounts of the appellant is a significant aspect of the substance of the loan."

The Respondent submitted that the Applicant has not contravened the evidence of the Respondent that they received monies, whose origin or trail the Applicant failed to

disclose. The Applicant claimed Shs. 2,895,055,004 in their returns as an expense relating to a related party loan obtained from DTB bank which loan the company failed to pay prompting the bank to sell the assets tendered in as security by the guarantor Mr. Kenneth Lubega who the Applicant claimed was a director of the Applicant. The Applicant's tax profile does not reflect Mr. Kenneth Lubega as a director of the Applicant, this fact was further conceded by the Applicant's witness in cross-examination.

The Respondent submitted that Section 15 of the Tax Procedures Code Act mandates companies to maintain books of accounts. In the case of ***Commissioner Investigations and Enforcement Vs Kidero (Income Tax Appeal E028 Of 2020 KEHC*** where it was held:

"The burden imposed on the taxpayer did not exist in a vacuum, it was also buttressed by the obligation on the taxpayer to maintain records. Section 54A of the Income Tax Act (ITA) was augmented by section 23(1)(B) of the TPA which imposed a duty on the taxpayer to keep records required under any law to enable the person's tax liability to be readily ascertained."

The Respondent submitted that it was discovered the assets sold by Diamond Trust Bank (DTB) in settlement of the Applicant's loan did not belong to Mr. Kenneth Lubega (guarantor) but another group company. Further, Kenneth Lubega was not a director in the Applicant company as per the tax profile. The Applicant failed to explain the relationship with Mr. Kenneth Lubega and did not provide proof of ownership of the assets that were sold off by DTB. It makes no commercial sense and its unfathomable that people who are not in any way related to companies can offer unsecured loans to companies. The Respondent prayed that the Tribunal finds that the Applicant has failed to prove that the purported loan transaction had substantial economic effect and that the Respondent Was Justified to re-characterize it as income Liable to Tax.

(iv) Advertisement Expenditure of Shs. 142,000,000

The Respondent submitted that Section 22(1) provides:

"(1) Subject to this Act, for the purposes of ascertaining the chargeable income of a person for a year of income, there shall be allowed as a deduction-

- a) *all expenditures and losses incurred by the person during the year of income to the extent to which the expenditures or losses were incurred in the production of income included in gross income"*

The Respondent submitted that ***Black's law dictionary 11th Edition at page 917*** defines "incur" to mean;

"To have liabilities cast upon one by act or operation of law, as distinguished from contract, where the party acts affirmatively"

The Respondent submitted that for expenses to be allowed as deductible expenses, they have to be actually incurred as a form of liability in the production of income. The Applicant claimed Shs. 142,000,000 in their returns as advertisement expenditure which was not supported by evidence.

The Respondent submitted that where evidence in form of receipts, records of the transaction, or evidence relating to circumstances giving rise to the claim for deductions is not availed, the Respondent is justified to disallow such deductions.

The Respondent submitted that it was established that some of the payment vouchers submitted by the Applicant as evidence of advertisement expenses were not in the names of the alleged promoters but one, Kamukama Sarah who is a staff of the Applicant. The Applicant did not account for withholding tax on payments made for the claimed advertisement expenditures as required by the law.

The Respondent submitted that Section 22 (2) (1) of the Income Tax Act prohibits deductions and grant of expenses above five million shillings from a supplier who does not have a TIN. An analysis of the cash payment vouchers marked exhibit REX1 on pages 99 to 105 of the JTB indicates that the expenses being claimed are above five million shillings, yet the Applicant does not attach the TIN details of the suppliers of the advertising service.

The Applicant did not adduce any contracts or agreements entered into with the purported advertising entities or individuals to prove engagement of the purported service providers. The Applicant did not withhold on the purported payments made to the purported suppliers of the advertising service. The Applicant failed to prove that the purported

advertising expenses were incurred. The Respondent prayed that the Tribunal upholds the assessments in respect to the disallowed claimed expenses. The Respondent prayed for the following:

- (i) The Application is dismissed and the assessment of Shs. 1,697,211,539 is upheld.
- (ii) Costs awarded to the Respondent.

6. The determination of the issues

Having listened to the evidence and studied the submissions of the parties, this is the decision of the Tribunal.

- (i) Undeclared sales of Shs. 916,774,900

According to the Respondent, the Applicant under declared their sales as the Applicant's sales as per their withholding returns exceeded the sales declared in the income tax returns. The variance was computed as undeclared sales and added back to the Applicant's tax computation.

The Applicant stated that the sales are included in the return of 2018/19 indicated in the Applicant's sales schedule and income tax return, AE11 on page 58 of the JTB. **Section 4(1) of the Income Tax Act** states:

"(1) Subject to and in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income."

The Applicant maintains that the discrepancy arises due to timing differences between invoice dates and payment dates as the accounting method used is accrual basis. The Tribunal notes that the Applicant mentions an amount of Shs. 1,827,950,500 in the return and the Respondent states that it is Shs. 1,535,588,800 as indicated in the return.

The Applicant accounts on accruals basis. This means that they earn income when it is receivable, that is, upon invoicing and incur expenses when they are payable. On the other hand, withholding tax is accounted for, not upon invoicing, but upon payment.

Therefore, there will always be a difference between sales per income tax returns which are on accrual basis and sales / income per the withholding tax returns, which are declared on a cash basis.

The Applicant provided a plausible explanation for the variances and the Respondent should have taken this into consideration.

Therefore, the assessment arising from the undeclared sales is hereby set aside.

(ii) Retained Earnings of Shs. 1,703,541,894

Retained earnings are the profits left over for a business after it has paid out dividends to its shareholders. They are a cumulative balance, representing the accumulated profits a company has retained over time rather than distributing them as dividends.

We have reviewed the Respondent's recomputation of retained earnings at AEX 4 at page 8 of the JTB. We observed that:

- (i) There is no accumulation of prior years' earnings i.e. balances brought forward from previous years. For example, in 2018/19, the balance brought forward from previous year is not included. This also applies to 2019/2020.
- (ii) There are no adjustments for dividends;
- (iii) For both 2018/19, we see the same figure, i.e., Shs. 676,419,508 being shown as the profit before tax, profit after dividend and balance carried forward. This shows that the Respondent's workings are flawed.

The reconciliation should have been carried out using the following formulae.

RE for the year = (Beginning retained earnings + Net income / loss – dividends):

- Where RE for the year is the current year's balance
- Beginning retained earnings is the balance brought forward from the previous year
- Net income is the profit before tax or loss before tax as the case may be
- Dividends is the dividends paid during the year

Further, the above balance is found on the balance sheet within the equity section.

Therefore, the reconciliation of retained earnings requires audited financial statements which depict the balances over the years and from which the movement / changes over a period of time can be determined.

In the present case however, the Applicant did not avail the Respondent nor this Tribunal with their financial statements. It is perplexing that a business with sales revenue in billions of shillings and has been in operation for over ten years to not have financial statements.

In the circumstances, the issue concerning retained earnings is a reconciliation matter that we are remitting back to the Respondent. The Applicant should furnish the Respondent with their financial statements to enable the Respondent carry out the reconciliation. Further, the reconciliation should be carried out in line with the formular explained above.

(iii) Related Party Loan of Shs. 2, 895,005,000

The Respondent classified Shs. 2,895,005,000 as taxable sales, arguing that the Applicant failed to provide sufficient documentation to prove it was a loan.

As per the joint trial bundle, the Applicant availed the following information to the Respondent:

- (i) bank statements showing the loan disbursements (AEX 14)
- (ii) loan agreements showing Kenneth Lubega as the guarantor(AEX14, AEX15, Joint Trial Bundle),
- (iii) Debt settlement agreement dated 6 December 2017 entered into by Diamond Trust Bank and several borrowers, including Kenneth Lubega;

(iv) A legal mortgage between Kenneth Lubega, the Applicant and Diamond Trust Bank.

At the hearing, the Applicant stated that the related party loan arose from a failure of the Applicant to repay funds borrowed from Diamond Trust Bank. Consequently, the bank sold the assets belonging to Kenneth Lubega to recover the monies due. Therefore, the monies remained owing to Kenneth Lubega.

On the other hand, the Respondent questioned the relationship between Kenneth Lubega and the Applicant. While the Applicant stated that Mr. Lubega was a director of the Applicant, the Respondent stated that Mr. Lubega was not even listed on the Applicant's tax profile (REX2) as the Director.

The evidence adduced shows that there was a loan from Diamond Trust Bank. Further, there was a mortgage agreement entered into between the bank, the Applicant and Mr. Lubega whereby Mr. Lubega's properties were mortgaged as security for a loan that was extended to the Applicant. The Applicant's explanation that they defaulted and Mr. Lubega's properties were disposed of to recover the monies due is plausible.

It is obvious that Mr. Lubega acted as a guarantor of the Applicant, not once, but twice and perhaps several more times as shown by the guarantee agreement for another loan from Transroad Kenya Limited (AEX 16).

While there are documentation gaps regarding Mr. Lubega's directorship, it does not take away the existence of the loans in the first place. Further, it is highly unlikely that a stranger to the Applicant would mortgage their properties or issues guarantees in favour of a business unless they are directors or shareholders. In our view, whether Mr. Lubega was a director or not is inconsequential to the question as to whether there was a legitimate loan in the first place.

The standard of proof in civil matters such as this is on the balance of probabilities and not beyond reasonable doubt. This means that the evidence presented must more likely than not to support the claim. In other words, the likelihood of a claim being true should outweigh the likelihood of it being false.

Therefore, having looked at the evidence presented, we find that on the balance of probabilities, the Applicant has explain the origin of the loan and demonstrated that the amount is not disguised revenue or tax evasion as alleged by the Respondent.

Therefore, the recharacterization of the loan as sales revenue is hereby set aside.

(iv) Advertising Expenses of Shs. 142,000,000

The Applicant claimed Shs. 142,000,000 in advertising expenses and argued that the monies were paid to individuals under a commission-based sales arrangement (AEX3 of the JTB). The Respondent rejected the deductions, citing lack of contracts, receipts, and Taxpayers Identification Numbers (TINs) for payments above Shs. 5,000,000.

According to payment vouchers on pages 100 – 105 of the JTB, payments were made to a one Kamukama Sarah. One of the vouchers shows a payment for Shs. 36 million. However, Ms. Sarah Kamukama is also listed on the Applicant's taxpayer profile at REX 2 of the JTB as the Applicant's contact person.

It is not clear why the Applicant's employee / contact person, was the commission and not the sales agents themselves. Further, the Applicant did not adduce any evidence of onward remittance of the payments from Sarah Kamukama to the sales agents.

Therefore, we are not satisfied that the advertising expenses were incurred by the Applicant in the production of income included in gross income as required by section 22 of the Income Tax Act. Consequently, the Respondent was justified in disallowing the expense.

In view of the above findings, the Tribunal makes the following orders:

- (i) The assessment arising from undeclared sales of Shs. 916,774,900 is set aside.
- (ii) The assessment arising from the retained earnings variance of Shs. 1,703,541,894 is set aside and this matter is hereby remitted to the Respondent for proper reconciliation with the Applicant.
- (iii) The reconciliation in respect of (ii) above should be concluded by 23 June 2025;

- (iv) The assessment arising from the recharacterization of the related party loan of Shs. 2,895,005,000 is set aside;
- (v) The assessment arising disallowed advertising expenses of Shs. 142,000,000 is maintained; and
- (vi) Each party should bear their own costs.

Dated at Kampala this 23rd day of May 2025.


CRYSTAL KABAJWARA
CHAIRPERSON


CHRISTINE KATWE
MEMBER


GRACE SAFI
MEMBER

RULING

