



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT GULU
APPLICATION TAT GUL NO. 176 OF 2022

BEBWINE COMPANY LTD.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. PROSCOVIA REBBECA NAMBI

RULING

I. Introduction

1. The Applicant challenges the Local Excise Duty (LED) of Shs.1,286,109,838 issued by the Respondent for the period of January 2021 to December 2021. This followed a compliance review of the Applicant's tax affairs by the Respondent.

II. Background facts

2. The Applicant produces wine and Kombucha in Lira City, Uganda. On 26 January 2022, the Respondent held a meeting with the Applicant where the Respondent observed that:
 - (i) The Applicant had variances between the Local Excise Duty (LED) declaration and the VAT return.
 - (ii) The Applicant was declaring exports in the Local Excise Duty (LED) returns, whereas the said export could not be verified from the ASYCUDA data.
 - (iii) That Applicant was not fully implementing the EFRIS system.

3. On 11 February 2022, the Respondent issued a Local Excise Duty assessment of Shs. 1,096,096,110 for the period of January to December 2021.
4. On 3 March 2022, the Respondent in the LED compliance review findings raised and issued another assessment for Local Excise Duty against the Applicant for the period January to December 2021, totaling Shs. 1,286,109,838. The assessment was again based on:
 - (i) Variances between Digital Tax Stamps and Local Excise Duty filed by the Applicant.
 - (ii) Incorrect exports filed under remissions.
 - (iii) Value Added Tax returned quantities sold but not matching the Local Excise Duty delivery.
5. On 7 and 8 March 2022, the Applicant objected to the assessments on the grounds that the Applicant's damaged and expired products were not considered in the computation of the Local Excise Duty, thereby arriving at a wrong figure.
6. On 19 May 2022, the Respondent sent an email to the Applicant requesting her to provide stock balances for both finished and raw materials by 31 December 2021, which the Applicant did not provide. On 4 June 2022, the Respondent subsequently issued its objection decision upholding its assessments and disallowing Applicant's objections due to non-submission of records to support the objection grounds.
7. On 7 November 2022, the Respondent inspected the Applicants' business premises to verify the damaged products. The Respondent verified and confirmed that the damaged products that they were physically able to verify on that date amounted to Shs. 445,830,000.

8. On 29 December 2022, the Respondent in another meeting with the Applicant allegedly established that the damaged and spoilt products verified by the Respondent's team amounted to Shs. 4,187,702,500. It is against this background that the Applicant filed the present application seeking the Hon. Tribunal's intervention.
9. Subsequently, on the 19 of December 2025, the application was dismissed for want of prosecution. The Applicant on several occasions from 27 October 2022, 21 July 2023, 19 July 2024, 20 September 2024, 15 November 2025, 21 February 2025, 3 October 2025, 19 December 2025 never entered appearance to prosecute their case alleging that he was sick and bedridden yet there was no any evidence of medical report signed by a Doctor filed at the Tribunal Registry.
10. The Applicant, vide miscellaneous application number TAT GUL 001 arising from application number TAT 176 of 2022, applied for the reinstatement of the suit and the same was reinstated by the Honourable Tribunal on 9 March 2026.
11. On 27 March 2026, the matter came up for hearing in the presence of both the Applicant and Respondent's representatives, where the Hon. Tribunal issued the following directives:
 - (i) That the parties proceed by way of affidavit evidence.
 - (ii) That the Applicant should file their Affidavit and submissions by 10 April 2026.
 - (iii) That the Respondent should file their Affidavit and submissions by 4 May 2026.
 - (iv) That the Applicant should file their rejoinder by 8 May 2026.
 - (v) The matter was fixed for ruling on 26 June 2026.
12. By 10 April 2026, when the Applicant was expected to file their Affidavit and submissions to the Registry, the same were neither filed nor served upon

the Respondent until 5 May 2026 and delayed in serving the Respondent with a copy until 22 May 2026.

13. The Respondent, having observed the Applicant's delayed adherence to the directives of the timeline given by the Tribunal, then decided to file their affidavit evidence and submissions on 13 May 2026 and served the Applicant before the Applicant filed theirs.

III. Preliminary point of law

14. The Respondent, in their affidavit evidence and submissions, raised two preliminary objections.
 - (i) Failure by the Applicant to adhere to Tribunal directives of observing timelines to file affidavit evidence and submissions.
 - (ii) Failure to deposit 30% of the amount of tax in dispute as required by law before entertaining the Application.

IV. Issue for determination

15. The main issue to be determined is whether the Application is proper before the Tribunal.

V. Representation and evidence.

16. The Applicant was represented by Mr. Jeremiah Dai while the Respondent was represented by Desire Muwonge and Mariko Tumwebaze holding brief for Shantal Nalweyiso.

VI. Respondent's Submissions on the preliminary points of law

Whether the parties adhered to the Tribunal Directives on timelines given to file affidavits and submissions.

17. The first preliminary point of law is in paragraphs 21 and 22 of the Respondents' affidavit evidence and paragraph 1.12 in their submission that the Applicant has not adhered to the timelines of filing their pleadings (affidavit evidence) and submissions.

18. Under paragraph 21 of the Respondents' affidavit, it is stated that the matter came up for hearing in the presence of both the Applicant's and Respondent's representatives where this Tribunal reinstated the matter and issued the following directive;
 - (i) That the parties proceed by way of Affidavit evidence.
 - (ii) That the Applicant should file their Affidavit evidence and submissions by 10 April 2026.
 - (iii) That the Respondent should file their Affidavit and submissions by 4 May 2026.
 - (iv) That the Applicant should file their rejoinder by 8 May 2026.
 - (v) The matter was fixed for ruling on 26 June 2026.
19. The Respondent stated in paragraph 22 of their Affidavit and also in their submissions under paragraph 1.14 of their submissions that by 10 May 2026, when the Applicant was expected to file their Affidavit and submissions to the Tax Appeals Tribunal Registry, the same were neither filed nor served on the Respondent to date.
20. The Respondent stated in paragraph 23 of the affidavit in support that in the absence of such material evidence and opportunity to evaluate evidence of the Applicant, it is evident that the Applicant does not have sufficient grounds to sustain this Application as they did not adduce any evidence to justify that the assessment by the Respondent was excessive or erroneous.
21. The Respondent submitted in citing section 26 (3) of the Tax Appeals Tribunal Act, Cap 341, that the Tribunal may dismiss an application if the Applicant fails within reasonable time to proceed with the Application or comply with a direction by a tribunal in relation to the Application.
22. The Respondent prays in their submission in paragraph 1.15 that since the Respondent has not filed their submissions without having an opportunity to evaluate the evidence of the Applicant and submissions and respond to

the same, the Tribunal should not allow the Applicant's submissions as allowing the same will be prejudicial to the Respondent.

23. The Respondent further prays under paragraph 1.17 of their submissions that the dilatory conduct of the Applicant, his continued absence without reasonable cause and failure to adhere to tribunal timelines should not be entertained and this Application should accordingly be dismissed.

Whether the Applicant deposited the 30% of the tax in dispute or that part not in dispute, whichever is greater.

24. **The second preliminary point of law** is raised in the Respondents' Affidavit in support in paragraph 27 that the Applicant has not paid 30% of the Tax in dispute as required by the law and that this Application should be dismissed with costs to the Respondent.
25. The Respondent submitted under paragraph 26 of the Respondent's affidavit in support that the Applicant has not complied with the provisions of **Section 15 (1) of the Tax Appeals Tribunal** despite several demands.
26. Respondent cited **section 15 of the Tax Appeals Tribunal Act, Cap. 341**, which provides that a taxpayer who has lodged a notice of objection pending final resolution of the objection **MUST** pay 30% of the tax assessed, or that part not in dispute, whichever is greater.
27. Respondent further submitted that in ***Elgon Electricity v Uganda Revenue Authority HCCA 11 of 2007***, Justice Geoffrey Kiryabwire held that the provisions of Section 15 (1) are mandatory.
28. Further, in ***Uganda Projects Implementation and Management Centre v Uganda Revenue Authority Constitutional Appeal 2 of 1999***, the Supreme Court ruled that the requirement to pay 30% of tax assessed, or

that part which is not in dispute, whichever is greater, is constitutional and did not infringe on the right to a fair hearing.

29. The Respondent also submitted that the importance of prompt payment of tax was emphasised in the case of **Commissioner General Uganda Revenue Authority v Meera Investments Ltd. Civil Appeal 22 of 2007**, where Justice Kanyeihamba stated that:

“The Government needs taxes paid expeditiously, in the national interest.”

30. The Respondent lastly cited the case of **Samuel Mayanja v Uganda Revenue Authority HCT 0017 of 2005**, Justice Egonda Ntende held:

“Once a taxpayer has lodged an application for review under S.15 of the Tax Appeals Tribunal Act, he is obliged to deposit at least 30% of the tax assessed”.

31. The Respondent submitted and prayed that this Application be dismissed for nonpayment of 30% as required by law.

VII. The Applicant’s reply to the preliminary point of law

32. The Applicant neither made any rejoinder nor reply to the affidavit and submissions of the Respondent concerning the preliminary points of law which are raised despite being served by the Respondent.

VIII. Determination of preliminary point of law

33. The Tribunal analysed the affidavit evidence and submissions of both parties, and the main issue in respect of the preliminary point of law for determination is whether the Application is proper before it.
34. The principle guiding a preliminary objection is that it must raise a pure point of law that disposes of a suit without requiring the Court to ascertain facts, evaluate evidence, or exercise judicial discretion. The seminal legal authority for the principal is the case of **Mukisa Biscuit Manufacturing Company Ltd V West End Distributors Ltd [1969] EA 696**.

35. When a matter is standing for a ruling on a preliminary objection, the Tribunal is bound by the following rules.
- (i) Assumed facts. The Tribunal must presume that all the facts pleaded in the opposing party's documents, such as the affidavit, are true and correct.
 - (ii) No evidence of disputed facts. If the Tribunal must look at affidavits, call witnesses, or weigh evidence to decide the issue, the objection cannot succeed as a preliminary objection. Evidence evaluation is reserved for the main trial.
 - (iii) Disposal of the suit. The point of law must be substantial enough that it will either entirely dismiss or stay the proceedings, or strike out the pleading.
36. The common law doctrine established in ***Mukisa Biscuit Manufacturing Company Ltd V West End Distributors Ltd [1969] EA 696*** and codified under **Order 0.6, rules 28 and 29 of the Civil Procedure Rules, which allows** a point of law to be determined before a hearing on the merits. The same doctrine was established in ***Mwene Kahima Mwesigye V Ambo Financial Services (CACA 56 of 2015)***.
37. In ***NAS Airport Services Ltd V A.G of Kenya [1959] EA 53***, it was held that though the essence of a preliminary objection is expedition, the point of law must be one which can be decided fairly and squarely one way or the other, on facts agreed or not in issue on the pleadings and not one which will arise if some fact or facts in issue should be proved.
38. In ***Eng. Yashwant Sipra and Another V Sam Ngude Odaka and 4 others, HCCS No. 365/2007***, Justice Kiryabwire, referring to ***Odger: Principles of pleadings and Practice in Civil Actions in the High Court of Justice***, stated:
- "... it is best not to apply to have any point of law argued before trial, unless the objection is one which will dispose of the whole action."*

39. **Order 15 rule 2 of the Civil Procedure Rules (CPR) SI 71-1** empowers the Court to try the issues of law if it deems that the case or any part of it may be disposed of on the issues of law only.
40. The case of ***Mukisa Biscuit Manufacturing Co. Ltd V West End Distributors Ltd [1969] EA 696*** summarised the law on a preliminary point of law as:
“A preliminary objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit”
41. In the case of ***Musoke Mike V Kalumba James, HCRC 9/2019***, it was stated:
“Issues of law can be raised at any time, and in this case, the point of law could be raised in submissions, and the court would determine it pursuant to Order 15, Rule 2”
42. The Respondent raised the first preliminary point of law that the Respondent did not adhere to the Tribunal Directives on timelines given to file Affidavit evidence and submissions. The Tribunal relies on Section 26(3) of the Tax Appeals Tribunal Act, which provides that the Tribunal may dismiss an application if the Applicant fails, within a reasonable time, to proceed with the Application or to comply with a direction by the Tribunal in relation to the Application.
43. It is also trite law under Section 98 of the Civil Procedure Act and Order 17, Rule 4 of the Civil Procedure Rules that Courts may dismiss a suit if a party fails to take necessary steps to enable the case to move expeditiously.
44. The Tribunal also relies on ***Bilal Mawa v Ahmed Idris Nzeronge (Civil Appeal No. 12 of 2019) – [2025] UGHC 969 (26 August 2025)***. The Appellant’s failure to comply with filing directions and prosecute the Appeal resulted in dismissal for want of prosecution.

45. In *The Board of Governors Ombatini Secondary School v Stephen Maima (Civil Appeal No. 16 of 2019) [2025] UGHC 973 (26th August 2025)*, the Appeal was dismissed for want of prosecution after the Appellant failed to file the record and submissions.
46. The Tribunal, in addressing the preliminary objection, finds that the Applicant exhibited a history of a lot of laziness and was reluctant to prosecute their case, as evidenced by their records of non-appearance on the dates fixed for hearing.
47. The Tribunal further finds it true that, under paragraph 21 of the Respondents' affidavit, the matter came up for hearing in the presence of both the Applicant's and Respondent's representatives, where this Tribunal reinstated the Applicant's Application and issued directives for the filing of affidavits and submissions.
48. On 9 March 2026, the application was reinstated, and the Tribunal gave a directive of timelines to the parties to file affidavit evidence, submissions and rejoinder.
49. The Tribunal also finds in paragraphs 21 and 22 of the Respondents' affidavit evidence and paragraph 1.12 of their submission that the Applicant has not adhered to the timelines of filing their pleadings (affidavit evidence) and submissions as the Tribunal had directed.
50. The Tribunal further finds in the Respondents' Affidavit paragraph 22 and also in their submissions under paragraph 1.14 that by 10 May 2026 when the Applicant was expected to file their affidavit and submissions to the Tax Appeals Tribunal Registry, the same were filed very latently on the 5 of May 2026, served on the Respondent on 22 May 2026 where time lines were not adhered to by the Applicant.

51. The Tribunal finds that there is noncompliance in the part of the Applicant on the directives that were issued regarding the time line to file affidavit and submissions contrary to section 26 (3) of the Tax Appeals Tribunal Act which states that the Tribunal may dismiss an application if the Applicant fails within reasonable time to proceed with the Application or comply with a direction by a Tribunal in relation to the Application.
52. It is also worth pointing out that the Applicant has had a history of dilatory conduct. The Applicant, on several occasions, from 27 October 2022, 21 July 2023, 19 July 2024, 20 September 2024, 15 November 2025, 21 February 2025, 3 October 2025, and 19 December 2025, never entered an appearance to prosecute their case, alleging that they were sick and bedridden, yet provided no evidence of a medical report.
53. Subsequently, on 19 December 2025, the application was dismissed for want of prosecution and subsequently reinstated on 9 March 2026.
54. The Applicant's dilatory conduct and history of absenteeism and non-appearance in prosecuting their case that led to the dismissal of their application, which was later reinstated, showed a lack of seriousness.
55. The Tribunal gave directives and timelines to both parties to file affidavit evidence, submissions and rejoinders, which the Applicant did not adhere to until the Respondent filed theirs.
56. The Tribunal finds that the issue of noncompliance is a point of law under the Tax Appeals Tribunal Act, hence capable of disposing of the Application without hearing it. Therefore, the preliminary objection is hereby sustained.
Whether the Applicant deposited the 30% of the tax in dispute or that part not in dispute, whichever is greater
57. The Respondent also raised the second Preliminary point of law about the deposit of 30% of the amount of tax in dispute.

58. The principle of law is that failure to deposit 30% of the tax in dispute, or that part of the tax assessed not in dispute, whichever is greater, renders the application before the Tribunal incompetent.
59. It is trite law under section 15(1) of the Tax Appeals Tribunal Act that a taxpayer who has lodged a notice of objection to an assessment shall, pending final resolution of the objection, pay 30% of the tax assessed or that part of the tax assessed not in dispute, whichever is greater.
60. The Constitutionality of the principle of law under Section 15 (1) of the TAT Act was set in the supreme Court decision in the case of ***Uganda Projects Implementation and Management Centre V URA SCCA No. 2 of 1999 (“UPIMAC”)*** where it was ruled that the statutory requirement in the then VAT Act (similar to section 15 of the TAT Act), requiring a tax payer who has lodged a notice of objection to an assessment to, pending final resolution of the objection, pay 30% of the tax assessed or that part of the tax assessed not in dispute, whichever is greater, is constitutional and did not infringe on the right to a fair hearing, under the constitution of Uganda and the right to equal treatment before and under the law.
61. However, the Constitutional Court in ***Fuelex Uganda Limited v Uganda Revenue Authority, Constitutional Petition No.3 of 2009*** clarified that while section 15(1) of the Tax Appeals Tribunal Act remains valid, its rigid application may, in certain circumstances, impede the constitutional right of access to justice. The Court held that where a dispute raises a pure question of law concerning liability to tax, the Tribunal should first determine that legal question before insisting on payment of the statutory deposit.
62. The majority decision of the Constitutional Court, in departing from the precedent set by the Supreme Court, distinguished the two cases and held that the Supreme Court’s decision was made without attaching sufficient weight to the non-derogable constitutional rights to a fair hearing and to access to justice. While UPIMAC was premised on Article 21 of the

Constitution, which addresses non-discrimination, the Fuelex Case concerned Article 28, which addresses the right to a fair hearing.

63. Consequently, in its majority decision, the Constitutional Court held that section 15 of the TAT Act refers to a dispute arising from the amount of tax assessed and did not extend to a situation where the taxpayer, for example, contends that he or she is exempted from a tax upon which the assessment is based, where a waiver has been obtained, the objector is not a taxpayer in Uganda or where the tax was assessed under a wrong or non-existent law.
64. In the present case, the Applicant does not challenge the legal basis of the assessment. The taxpayer clearly objected to the tax assessment of Shs. 1,286,109,838 on 11 February 2022. The Assessment of 1,286,109,838 resulted from a Local Excise Duty compliance review for the period January to December 2021. The assessment was based on:
 - (i) Variances between DTS and LED filed by the Applicant.
 - (ii) Incorrect exports filed under remissions.
 - (iii) VAT returned quantities sold but not matching the LED delivery.
65. On 7 and 8 March 2022, the Applicant objected to the assessments on the grounds that the Applicant's damaged and expired products were not considered in the computation of the LED, thereby arriving at a wrong figure.
66. The above facts show that the Applicant's dispute is primarily arithmetic, involving the computation of the resulting tax liability. This falls within the Tribunal's ordinary adjudicative process and is appropriately determined during the hearing of the substantive appeal.
67. The exception recognised in Fuelex applies only where the dispute goes to the core of the very existence of a tax liability itself in the first place, such as where the taxpayer contends that the tax was imposed under an

inapplicable law, that the taxpayer is not subject to the tax, or that the assessment is founded on a non-existent legal obligation

68. During the reinstatement of the application, the Tribunal raised the issue of the deposit of the 30%, and the Applicant submitted that they had paid the deposit, and the Applicant was advised to furnish the Respondent with proof of payment. However, upon perusing the files, the Tribunal finds that there is neither a receipt nor a deposit slip reflecting payment of the deposit. This also shows that the Applicant is not truthful.
69. Therefore, the Tribunal accordingly finds that the Applicant's failure to pay 30% of the tax in dispute contravenes section 15 of the Tax Appeals Tribunal Act and renders the Application incompetent before the Tribunal.
70. Having carefully analysed the preliminary points of law, we therefore find that the Application is incompetent before the Tribunal and has no merit.
71. The Application is accordingly dismissed with costs to the Respondent.

Dated at Gulu this 30th day of June 2026.



HON. CRYSTAL KABAJWARA
CHAIRPERSON



HON. REBECCA PROSCOVIA NAMBI
MEMBER

Note: Following the departure of one of the panel members, the parties agreed that the proceedings would be completed by the tribunal composed of the two remaining members in accordance with section 13 of the TAT Act.