



THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA

TAT APPLICATION NO. 192 OF 2025

BETT MUSTAFA KIPROP.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITYRESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, HON. PROSCOVIA REBECCA NAMBI,
HON. WILLY NANGOSYAH**

RULING

I. Introduction

1. This ruling is in respect of an application challenging the Respondent's additional income tax assessment of Shs. 24,695,257,104 against the Applicant for the year of income 2023 arising from the disposal of shares.

II. Background

2. The Applicant held 42.5% shares in Stabex International Limited, Uganda ("Stabex Uganda"). On 1 November 2022, the Applicant sold his shares to Mr. Jackson Kiplimo Chebet. In the exit transaction, the Applicant received a total sum of Shs. 80,179,308,188 from Mr. Jackson Kiplimo Chebet for his 42.5% shareholding and interest in Stabex International Limited (Uganda). The Share Purchase Agreement (SPA) stipulated a share consideration of Shs. 14,000,000,000 and a repayment of an outstanding shareholder loan of Shs. 66,179,308,188.
3. The Applicant was paid in kind through the transfer of nine (9) petrol stations and one empty plot of land, with a combined value of Shs. 19,675,905,541. A portion of the payment, totaling Shs. 26,426,425,185 was derived from part of

the company's working capital and the outstanding balance of Shs. 34,076,977,461 was to be paid in 36 monthly instalments of Shs. 946,582,700 each, which payments were to be made via postdated cheques starting 31 January 2023. The Applicant then reinvested the proceeds in another oil marketing business, Texol Energy Limited.

4. During the audit of Stabex Uganda, the Respondent identified the transaction and, on 19 February 2025, issued a capital gains tax assessment treating the entire Shs. 80,179,308,188 as consideration for the shares sold. On 4 March 2025, the Applicant objected to the assessment on the ground that the sum of Shs. 66,179,308,188 was a repayment of the shareholder loan and did not form part of the consideration for the sale of his shares. On 28 March 2025, the Respondent disallowed the objection in its entirety and maintained the assessment on the ground that the alleged shareholder loan could not be traced in the Applicant's previous income tax returns. Aggrieved by that decision, the Applicant filed this Application.

III. Issues for determination

5. At the scheduling of this application, the parties agreed that the issues for determination are:
 - (i) Whether the Applicant is liable to pay the assessed tax?
 - (ii) What remedies are available to the Parties?
6. However, in its written submissions, the Respondent raised a preliminary objection that the Application was not properly before the Tribunal, given the Applicant's partial payment of the mandatory 30% in dispute. Therefore, the issue here is whether this Application is properly before this Tribunal.

IV. Representation

7. The Applicant was represented by Mr. Joel Obua while the Respondent was represented by Ms. Gloria Twinomugisha, Ms. Eseza Victoria Sendege, and Ms. Charlotte Katuutu.

8. The Applicant presented one witness, **Mr. Daniel Kiprop Cherutich (AW1)**, a director and shareholder who provided evidence on the debt conversion and share sale. The Applicant's evidence included Board Resolutions dated 13 May 2022 and 19 October 2022, Debt Assumption and Novation Agreements, Audited Financial Statements for both Stabex Uganda and Stabex Kenya, and the Share Purchase Agreement (SPA) and Share Transfer Forms.
9. AW1 explained that Stabex Kenya supplied fuel products to Stabex Uganda on credit. By June 30, 2022, Stabex Uganda owed roughly Shs. 128 billion to suppliers (Stabex Kenya and Quality Supplies DMCC). He noted that external auditors raised going-concern issues because the company had used proceeds from fuel sales to build petrol stations rather than paying off its trade payables. To restructure the company's finances, the board resolved on 13 May 2022, to convert Shs. 110 billion of these trade payables are converted into long-term shareholder loans. The Applicant assumed Shs. 70,000,000,000 of this debt.
10. AW1 maintained that the separate payment of Shs. 66,179,308,188 received by the Applicant was a repayment of the shareholder loan and was not part of the consideration for the shares. He testified that the Applicant agreed to write off Shs. 3,400,704,699 of the original loan in the spirit of an amicable separation. He pointed out that the Respondent (URA) had already recognised this loan by auditing Stabex Uganda and taxing the written-off portion as business income for the company. The Applicant produced the Respondent's audit management letter and assessment for Stabex Uganda dated 28 November 2024, which recognised the "forgiven" portion of the shareholder loan in contention as taxable income.
11. Under cross-examination, AW1 admitted that the Applicant did not declare the loan in his individual income tax returns. When asked why, he stated there was no gain and attributed the failure to declare it to an "oversight".

12. In re-examination, he explained that it was not practical to declare the transaction in the returns for the year ending June 2022 because the transaction occurred in November 2022, after that tax year had concluded and just as the Applicant was exiting the company. He denied that the Respondent conducted any audit or engagement with the Applicant before issuing the assessment, stating the Applicant "simply received an assessment". AW1 claimed that evidence of the trade receivables existed in correspondence and had been provided during the Stabex Uganda audit, though he admitted some specific documents, like the reconciliation statement, were not provided to the Respondent until the Tribunal stage.
13. The Respondent presented two witnesses: **Mr Godwin Nimwesiga (RW1)**, an Officer in the Domestic Taxes Department, and **Allan Atugonza (RW2)**, a Supervisor in the Domestic Taxes Department. Their evidence included the Applicant's Income Tax Returns (2021-2023), which showed no declared loan, the Audit Management Letter, and the objection. At the submissions stage, the Respondent also attached additional evidence, namely the exchange of Information (EOI) reports from the Kenya Revenue Authority (KRA) and
14. **RW1** testified that he was part of the team that conducted a compliance review of the Applicant's tax affairs for the period of July 2022 to June 2023. During the review, the Respondent noted that the Applicant had disposed of his 42.5% shareholding in Stabex International Limited (Uganda) to Jackson Kiplimo Chebet without declaring Capital Gains Tax. Relying on the Share Purchase Agreement (REX2), he testified that the total consideration for the disposal was Shs. 80,179,308,188.
15. RW1 explained that the Respondent indexed the initial cost base of the shares (Shs. 15,436,000,000) to arrive at an indexed cost base of Shs. 18,441,165,426. After subtracting this from the total consideration, the Respondent derived a taxable gain of Shs. 61,738,142,761.

16. RW1 also stated that during the review, the Applicant failed to provide documentation supporting the existence of the purported Shs. 70 billion loan. He further testified that a review of the Applicant's previous income tax returns showed no declaration of a loan to the company. He further noted that the Applicant's 2022/2023 returns showed no income earned as a director or shareholder in Stabex International Limited (Kenya), which the Applicant claimed was the source of the funds converted into the loan.
17. Under cross-examination, RW1 admitted that he never called for a meeting with the Applicant nor requested any information or documents from him specifically before issuing the assessment. When asked what he did to support his assessment apart from relying on the Stabex audit, he replied, "Nothing".
18. He confirmed that his office (Large Taxpayers Office) had previously audited Stabex Uganda and issued an assessment of approximately Shs. 1 billion based on the portion of the loan that was written off (forgiven) by the Applicant. He acknowledged that the Respondent had already collected the tax from Stabex Uganda regarding the forgiven debt. However, when asked if it was a "double standard" to recognise the loan for the company while denying its existence for the individual Applicant, he replied, "It depends". When asked by the Tribunal for the specific basis of the assessment, he admitted that he had simply received the assessment findings.
19. On re-examination, RW1 clarified that the Respondent had sent a letter (REX1) to Stabex Uganda on 5 November 2024, which was copied to the Applicant, advising a self-health review of tax affairs.
20. **RW2, Allan Atugonza, a Supervisor in the Domestic Taxes Department of the Respondent, testified that he was part of the team that handled the Applicant's objection against the capital gains tax assessment of Shs. 24,695,257,104.8. The claim that Shs. 66,179,308,188 was a loan repayment**

that could not be verified. He stated that information obtained through the Automatic Exchange of Information (AEOI) from Kenya confirmed there were no known contracts or payments made between the Applicant and Stabex International Limited (Kenya) regarding receivables in Stabex Uganda.

21. RW2 further stated that upon extracting the Applicant's income tax returns, he found that the Applicant had only declared employment income from Stabex (U) Limited and Texol Energies Limited, with no mention of the purported loan. During the objection stage, he had one meeting with the Applicant's representative, Mr. Joel Obua, and one of the company's directors. RW2 acknowledged that the Applicant provided board resolutions showing the transfer and sale of shares. However, he testified that these influenced his decision only to a "small extent" because, although they were reviewed, the resolutions were reportedly not found when checked later, and therefore the Respondent did not base its final decision on them.
22. Under cross-examination, he admitted that he was not aware that the Respondent's own Large Taxpayers Office had already assessed and collected tax from Stabex Uganda (approximately Shs. 1 billion) on the portion of the loan that the Applicant had forgiven. He testified that, while a loan should be declared on individual income tax returns for business, he admitted that the standard Individual Return for a person without a business does not include a specific field for loan declaration.

V. Submissions of the Applicant

23. The Applicant contends that the debt originated from legitimate trade payables for fuel products supplied on credit by Stabex Kenya. He argues the Respondent is approbating and reprobating because it previously audited Stabex Uganda and taxed the company on Shs. 3,400,704,699 of this same loan, which was written off, thereby recognising the loan's existence. Furthermore, the Applicant asserts procedural impropriety, as the Respondent issued the assessment

without conducting an audit of the Applicant or engaging him to explain the transaction.

24. The Applicant submitted that the Respondent's assessment of Shs. 24,695,257,104 was both factually and legally erroneous. The Applicant contended that the transaction in question did not give rise to a capital gain as alleged by the Respondent. Rather, it was submitted that the disposal resulted in a capital loss, and therefore, no tax was properly chargeable under the Income Tax Act.
25. The Applicant submitted that no capital gain arose because the cost base of the 425 shares, stated to be Shs. 15,436,000,000, exceeded the consideration received of Shs. 14,000,000,000. It was therefore argued that the transaction resulted in a loss rather than a gain. In support of this position, the Applicant relied on the Annual Returns of Stabex Uganda (2022) and the Audited Financial Statements for June 2022 to demonstrate the cost base of the shares. The Share Purchase Agreement was also produced to show that the agreed share price was Shs. 14 billion.
26. The Applicant relied on *Heritage Oil & Gas Limited v Uganda Revenue Authority (HCCA Nos. 23 of 2011 and 3 of 2012)* for the proposition that a capital gain arises only where the consideration received exceeds the cost base of the asset. Reference was also made to sections 2, 49(1) and 50(2) of the Income Tax Act, Cap. 338, which address the definition of disposal and the determination of the cost base of an asset.
27. The Applicant further submitted that the payment of Shs. 66,179,308,188 was wrongly characterized by the Respondent as part of the consideration for the shares. The Applicant argued that this payment represented repayment of a pre-existing shareholder loan and could not properly be treated as consideration for the share transfer. It was submitted that repayment of a loan merely satisfies an

existing legal obligation and does not constitute value given in exchange for an asset.

28. In support of this position, the Applicant relied on supplier payables ledgers which allegedly showed approximately Shs. 128 billion owed to suppliers. The Applicant also produced a Board Resolution dated 13 May 2022 said to have converted that debt into shareholder loans. Further reliance was placed on Debt Assumption and Novation Agreements as evidence of the restructuring of those obligations.
29. The Applicant also contended that the Respondent had taken inconsistent positions in relation to the existence of the loan. It was submitted that during its audit of Stabex Uganda, the Respondent recognized the loan and taxed the portion that was subsequently forgiven as income of the company. However, in the present proceedings, the Respondent was said to deny the existence of the same loan in order to treat its repayment as part of the consideration for the shares.
30. In support of this argument, the Applicant produced the Respondent's Audit Management Letter and tax assessment dated 28 November 2024 issued to Stabex Uganda. He relied on *Uganda Revenue Authority v Kansai Plascon Uganda Limited (HCCA No. 45 of 2023)* and *Verscures Creameries Ltd v Hull and Netherland Steamship Company Limited (1921)* for the proposition that a party cannot accept and reject the same set of facts to its advantage.
31. The Applicant further submitted that the assessment was procedurally improper and contrary to the principles of natural justice. It was argued that the Respondent issued the assessment without conducting any audit of the Applicant, without requesting information from him, and without engaging him prior to issuing the assessment.

32. In this regard, the Applicant relied on the testimony of AW1 and the Respondent's own assessor RW1, who were said to have confirmed during cross-examination that no information had been requested from the Applicant before the assessment was issued. The Applicant also relied on ***Salomon v Salomon & Co. Ltd [1897] UKHL 1*** to argue that Stabex Uganda Limited, being a separate legal entity, could not be equated with the Applicant personally. Reference was also made to ***Alnoor Tiles and Ceramics Ltd v URA (TAT Application No. 103 of 2023)*** concerning the Respondent's alleged failure to follow its Client Service Charter.
33. The Applicant also submitted that the Respondent had improperly introduced the allegation that the transaction constituted a tax avoidance scheme. It was argued that this allegation had not been raised in the assessment or objection decision and therefore amounted to a departure from the Respondent's pleadings. Reliance was placed on ***Interfreight Forwarders (U) Ltd v East African Development Bank (SCCA No. 13 of 1993)*** and ***Century Bottling Co. Ltd v URA (TAT Application No. 33 of 2020)*** for the principle that a party cannot succeed on a case that has not been properly pleaded.
34. Finally, in response to the Respondent's preliminary objection, the Applicant submitted that the requirement to pay 30% of the assessed tax under section 15(1) of the Tax Appeals Tribunal Act was not applicable in the present circumstances. The Applicant argued that the challenge before the Tribunal concerned the legality and factual basis of the assessment rather than merely disputing its arithmetic.
35. The Applicant relied on the principle derived from ***Fuelex Uganda Limited v Uganda Revenue Authority (Constitutional Petition No. 3 of 2009)***, as applied in ***James Mansa v Uganda Revenue Authority (TAT Application No. 376 of 2024)***. It was submitted that compelling payment of the disputed tax in

such circumstances would unjustifiably restrict the taxpayer's right of access to justice.

VI. The submissions of the Respondent

36. The Respondent contends that the Applicant is liable for Capital Gains Tax (CGT) of Shs. 24,695,257,105 arising from the disposal of his 42.5% shareholding in Stabex International Limited (Uganda). The Respondent's detailed case is built on the following grounds.
37. As a preliminary matter, the Respondent submitted that the Application is not properly before the Tribunal for failure to comply with section 15(1) of the Tax Appeals Tribunal Act, which requires payment of 30% of the tax in dispute prior to lodging an application. The Respondent argued that the tax in dispute is Shs. 24,695,257,104, requiring a deposit of Shs. 7,408,577,131, however, the Applicant paid only Shs. 600,000,000. On this basis, the Respondent contends that the Application is incompetent.
38. In support of this position, the Respondent relied on *Uganda Projects Implementation and Management Centre v Uganda Revenue Authority (Constitutional Petition No 40 of 2011)*, where the Supreme Court upheld the requirement to pay 30% of the disputed tax. The Respondent also invokes the principle articulated in *Mecash Trading Ltd v Commissioner for the South African Revenue Service 2001 (1) SA 1109 (CC)*, to the effect that a taxpayer is generally required to pay the assessed tax pending resolution of the dispute.
39. On the merits, the Respondent argued that the burden of proving that the impugned tax assessment is erroneous lies squarely on the Applicant and this position is based on Section 19(a) of the TAT Act, Section 28 of the Tax Procedures Code Act, and Section 101 of the Evidence Act (Cap 6). The

Respondent relied on *Williamson Diamonds Ltd VS. Commissioner General*, which states the burden "in no way may it be shifted to the Respondent"

40. The Respondent contends that the total consideration received by the Applicant for the disposal of his shares was Shs. 80,179,308,188, as detailed in Clause 3 of the Share Purchase Agreement (REX2). It submitted that the agreement used the terms "shareholding" and "interest" interchangeably, valuing the Applicant's entire stake at 42.5% of the company's mutual valuation of approximately Shs. 188.6 billion. It further submitted that after indexing the cost base from Shs. 15,436,000,000 to Shs. 18,441,165,426, the Respondent calculated a chargeable capital gain of Shs. 61,738,142,761.
41. The Respondent submitted that the purported shareholder loan in the sum of Shs. 66,179,308,188 was a "book entry" lacking economic substance, created to "mislead" and fortify a tax avoidance scheme. It further submitted that under Section 117 of the Income Tax Act (ITA), the Commissioner General is empowered to recharacterize or disregard transactions that lack substantial economic effect or whose form does not reflect their substance.
42. The Respondent contends that, properly characterised, the alleged loan is in substance an equity contribution. In support, the Respondent relies on *Re Tudor Sales Ltd [1967] 2 AC 196 (HL)*, concerning the distinction between enforceable debt and equity risk capital.
43. The Respondent submitted that the alleged loan lacked the hallmarks of a genuine debt: a legal commitment to repay with interest by a stated maturity date. The Respondent argued that no independent lender would accept terms where a loan is non-interest-bearing, has no fixed maturity date, and repayment is contingent upon board approval and the satisfaction of external creditors. It is contended that such terms are not consistent with commercial lending

arrangements between independent parties and are indicative of an equity contribution.

44. The Respondent further submitted that the transaction was not conducted at arm's length, given that the parties involved were common and controlling shareholders in both the Ugandan and Kenyan entities. On that basis, the Respondent contends that the arrangement falls within the scope of section 117 of the Income Tax Act.
45. Referring to the Board Resolution (REX3), the Respondent argued that the reference to "registration of additional share capital" in paragraph 2 proves the intention was an equity contribution rather than a loan.
46. The Respondent argued that Note 5 in the Stabex Kenya accounts does not explicitly link the receivables to the Applicant and that the "appropriate treatment" for a debt transfer would be a "loan advanced to shareholders," not "trade receivables." The Respondent also invites the Tribunal to disregard the Debt Assumption and Novation Agreements on the basis that they were neither stamped nor registered. It further relies on information obtained through the Automatic Exchange of Information (AEOI) framework from the Kenya Revenue Authority. The Respondent submitted that this report "confirmed that there were no known payments made or contract between Bett Mustafa Kiprop and Stabex International Limited" in Kenya. The Respondent also submitted that the Applicant failed to declare the loan in his individual tax returns for 2021/22 (REX4) and 2022/23 (REX5).
47. In response to the Applicant's reliance on the doctrine of approbation and reprobation, the Respondent submits that section 25(1) of the Tax Procedures Code Act empowers the Commissioner General to issue additional assessments where new information becomes available, notwithstanding any earlier audit or administrative position. Citing *Salomon v Salomon & Co. Ltd*,

the Respondent maintained that an audit on the company (Stabex Uganda) is separate from the tax obligations of the individual shareholder.

48. Finally, the Respondent argued that the failure to engage the taxpayer prior to issuing an assessment does not invalidate the assessment if there is sufficient information to conclude that a tax avoidance scheme exists. Nonetheless, the Respondent maintained that the Applicant was afforded adequate notice and opportunity to be heard during the administrative process. It states that correspondence was issued to the Applicant and that further engagement took place at the objection stage.

49. The Respondent therefore prays that the application be dismissed with costs.

VII. The Applicant's rejoinder

50. In rejoinder, the Applicant contends that the allegation of a "tax avoidance scheme" was neither pleaded nor raised at any stage during the audit or objection process, and should therefore not be entertained at this stage. He further submits that the Respondent's reliance on information obtained from the Kenya Revenue Authority constitutes material that was not disclosed during the administrative process, thereby denying him an opportunity to verify or respond to it. In his view, this amounts to the introduction of "evidence from the bar" and is inconsistent with the requirements of a fair hearing.

51. In rejoinder, the Applicant maintained that the requirement under Section 15(1) of the TAT Act to pay 30% of the tax in dispute was inapplicable in this instance. Citing the decisions in *James Mansa v Uganda Revenue Authority, TAT Application No 43 of 2018* and *Fuelex Uganda Ltd v Uganda Revenue Authority, TAT Application No 63 of 2019*, the Applicant contended that this provision should not be applied in a manner that unjustifiably restricts access to justice, particularly where the dispute concerns the legality and foundation of the assessment rather than its computation. He further submitted that the

Respondent had issued a massive assessment of Shs. 24 billion without conducting any prior audit or engaging him in any manner, a matter he claimed was confirmed during cross-examination of the Respondent's witness.

52. On the merits, the Applicant reiterated that he realised a capital loss rather than a gain, asserting that the indexed cost base of his shares (Shs. 18,337,258,027) exceeded the consideration received (Shs. 14,000,000,000). He relied on the Share Purchase Agreement (AE17), which he submitted clearly distinguishes between the consideration for the shares and the sum of Shs. 66,179,308,188 described as repayment of a shareholder loan. The Applicant further invokes the doctrine of approbation and reprobation, arguing that the Respondent is precluded from denying the existence of the loan, having previously recognised it and subjected part of it to tax during an audit of Stabex Uganda.
53. The Applicant also objected to the Respondent's reliance on an alleged tax avoidance scheme on the basis that it represents a departure from the Respondent's pleaded case. He relied on *Interfreight Forwarders (U) Ltd v East African Development Bank [2009] UGCommC 6* and *Century Bottling Co Ltd v Uganda Revenue Authority [2019] UGHC 55* to argue that a party ought not to succeed on a case that has not been properly pleaded or advanced. He maintained that the issue of tax avoidance was not raised at any stage of the assessment, objection, or scheduling.
54. Finally, the Applicant challenged the introduction of new evidence from the Kenya Revenue Authority (REX10) and meeting minutes (REX11), contending that these were introduced at the submissions stage without prior disclosure. He submitted that this approach is inconsistent with the principles of natural justice and the Respondent's own Client Service Charter, and deprived him of a fair opportunity to test or respond to the evidence.

55. In this regard, he relies on the broader principle of fair hearing as articulated in *Pastoli v Kabale District Local Government Council and Others [2008] 2 EA 300 (HC Uganda)*. He also pointed out that the dates on these letters were inconsistent with the Respondent's timeline and with the loan's previous recognition in the Stabex Uganda audit. He concluded that he had discharged the evidential burden of proving the assessment was erroneous and based on "mischief".

VIII. The Determination

56. This dispute, though narrow in form, is of considerable consequence. The question is whether the Applicant, upon exiting Stabex International Limited (Uganda), received Shs. 80,179,308,188 as consideration for the disposal of his shares, as contended by the Respondent, or whether he only received Shs. 14,000,000,000 as consideration for the shares and the balance of Shs. 66,179,308,188 is a repayment of a separate shareholder loan, as the Applicant asserts.

57. The distinction is material. The Income Tax Act imposes tax on gains arising from the disposal of an asset, not on every sum received in connection with a transaction. The statutory inquiry is therefore one of proper legal characterisation. The question is whether the impugned payment was made in exchange for the disposal of the shares or whether it arose from an independent legal obligation, namely, the repayment of a loan. Only the former constitutes consideration for purposes of capital gains taxation.

The Preliminary Objection

58. The Respondent raised a preliminary objection on the basis that the Applicant did not comply with section 15(1) of the Tax Appeals Tribunal Act, which requires payment of 30% of the tax in dispute prior to lodging an application. The Respondent contended that whilst the 30% of the tax in dispute is SHS.

7,408,577,131, the Applicant only paid SHS. 600,000,000, contrary to the requirement.

59. A preliminary objection, properly understood, is one that raises a pure point of law capable of disposing of the matter at the outset. As explained in *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd [1969] EA 696*, such an objection must be raised timeously and not as an ambush after evidence has closed.
60. In the present case, although the Respondent alluded to the point in its Statement of Reasons form, it did not pursue its determination. The matter proceeded to a full hearing, evidence was taken from both sides, and the Tribunal issued directions for submissions. The objection was only substantively advanced at the stage of the Respondent's final written submissions.
61. In those circumstances, the objection loses its procedural character. It would not be consistent with orderly case management to permit a party to fully litigate the merits and then, at the end, rely on a procedural bar.
62. In any event, the Applicant challenges the legal foundation of the assessment, not merely its computation. In line with the decision in *Fuelex Uganda Limited (Supra)*, the requirement to pay 30% cannot be applied to bar access to justice when a taxpayer challenges the very legal basis or jurisdiction of the assessment rather than its arithmetic accuracy. In this case, the Applicant asserts that the Respondent taxed the wrong thing altogether by treating a debt repayment as share consideration.
63. Therefore, the Applicant challenges the very existence of a taxable gain and the legality of the re-characterization of a loan repayment. That is a challenge to the legal character of the transaction and therefore to the legal foundation of the assessment, to which the *Fuelex* exception applies (also see this Tribunal's

recent ruling in *Fortuna Limited vs URA Miscellaneous Application NO. 264 OF 2025*)

64. We therefore find that this application is properly before the Tribunal.

Issue 1: Whether the Applicant is liable to pay the assessed tax?

Burden of Proof

65. The burden of proof lies with the Applicant under section 19 of the Tax Appeals Tribunal Act to show the assessment is excessive or erroneous. Section 19(a) of the TAT Act provides that:

"In a proceeding before a tribunal for review of a taxation decision, the applicant has the burden of proving that— (a) where the taxation decision is an objection decision in relation to an assessment, the assessment is excessive; or (b) in any other case, the taxation decision should not have been made or should have been made differently."

66. In *Williamson Diamonds Ltd v Commissioner General (Tanzania Revenue Authority) [2003] TLR 89 (Court of Appeal of Tanzania)*, a decision frequently relied upon in East African tax litigation, it was stated that:

"The burden of proving that the assessment is excessive rests upon the taxpayer and does not shift."

67. That burden requires more than assertion. In regard to the nature of the dispute before the Tribunal, the burden requires the Applicant to present a coherent and credible explanation supported by evidence, demonstrating that the Respondent's characterisation of the transaction is incorrect. At the same time, this Tribunal and the courts have recognised that the burden is not discharged in a vacuum. Tax assessments must themselves be grounded in cogent and consistent factual findings, and cannot be sustained where the evidential foundation is incomplete or internally inconsistent.

68. Accordingly, while the legal burden rests with the Applicant, the Tribunal must evaluate whether the Respondent's position is supported by sufficient evidence. The Tribunal must then determine, on a balance of probabilities, whether that account is more consistent with the evidence than the position advanced by the Respondent.

Characterisation of the Shs. 66,179,808,188

69. The central issue is whether the sum of Shs. 66,179,308,188 formed part of the consideration for the disposal of shares or constituted repayment of a pre-existing debt. The legal test is whether the payment was made in exchange for the disposal of the asset, or whether it arose from an independent legal obligation. Only the former falls within the scope of consideration for purposes of capital gains taxation under the Income Tax Act.
70. The Respondent contends that the entire sum of Shs. 80,179,308,188 constituted consideration for the shares and that the alleged loan was a "book entry" lacking economic substance, created as part of a tax avoidance scheme. The Respondent invoked section 117 of the Income Tax Act, contending that the transaction should be recharacterized as part of a tax avoidance scheme.
71. Section 117 empowers the Commissioner to recharacterise or disregard transactions that are artificial or lack economic substance or forms part of a tax avoidance scheme. For context, we have reproduced the provision below.

117. Re-characterisation of income and deductions

(1) For the purposes of determining liability to tax under this Act, the Commissioner General may—

(a) re-characterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;

(b) disregard a transaction that does not have substantial economic effect; or

(c) re-characterise a transaction the form of which does not reflect the substance.

(2) A "tax avoidance scheme" in subsection (1) includes any transaction one of the main purposes of which is the avoidance or reduction of liability to tax.

72. This provision reflects the well-established principle that tax liability must be determined by reference to the real substance of a transaction, and not merely the form in which it is presented. Where a taxpayer constructs a transaction that is artificial, commercially empty, or merely a façade for reducing tax, the Commissioner General is entitled to look beyond labels and give effect to the real substance.
73. However, because that power is exceptional and potentially far-reaching, it must be exercised judiciously and rationally. The power must be exercised on the basis of clear evidence demonstrating that the transaction is not what it purports to be.
74. Ugandan tax jurisprudence consistently reflect a consistent reluctance to permit the Respondent to disregard the legal form of a transaction in the absence of a clear statutory or evidential basis for recharacterisation. In ***Global Woods AG (Under Liquidation) v Uganda Revenue Authority (TAT Application No 280 of 2022)***, the Tax Appeals Tribunal emphasised that an assessment cannot be sustained where it is not supported by a clear evidential and legal foundation, observing in substance that the Commissioner must demonstrate, through the evidence on record, a proper basis for the characterisation adopted. The Tribunal cautioned that conclusions unsupported by the documentary record, or based on perception/ inference without adequate factual grounding, cannot displace a taxpayer's explanation where that explanation is consistent with the evidence.
75. This approach is consistent with the High Court's decision in ***MTN Uganda Ltd v Uganda Revenue Authority (Civil Appeal No 126 of 2019)***, where it was emphasised that tax assessments must be based on evidence and proper

statutory interpretation, and that the Commissioner cannot rely on assumptions or speculative reasoning in determining tax liability.

76. We also refer to this Tribunal's decision in *Explorer Limited v Uganda Revenue Authority (URA) TAT Application No. 87 of 2023*, in respect to URA's powers to recharacterize a transaction. This Tribunal held:

"Such powers are statutory but must be exercised judiciously and rationally. They should not be wantonly abused. Importantly, the URA must have a basis for recharacterizing a transaction from both legal and accounting perspectives. Where URA alleges that a transaction's form does not conform with its substance, URA should be able to show the form and substance that it contends are not consistent. The URA should not merely make allegations."

77. Taken together, these decisions affirm that while the Commissioner is empowered to interrogate and, where appropriate, challenge the substance of transactions, such intervention must be exercised within the confines of the law, supported by evidence, and applied consistently. Recharacterisation under section 117 of the Income Tax Act requires the Commissioner to demonstrate that the transaction forms part of a tax avoidance scheme and that obtaining a tax benefit was a main purpose of the arrangement; or that the transaction lacks economic substance or is artificial. That is not established by doubt, unease, or suspicion. It must be supported by evidence showing that the statutory threshold in section 117 has actually been met.
78. From these authorities and section 117, we distil a number of relevant indicators of economic substance, including:
- (i) Whether the transaction has a genuine commercial purpose beyond tax advantage;
 - (ii) Whether it produces real legal rights and obligations;
 - (iii) Whether it results in a meaningful change in the economic position of the parties; and

(iv) Whether it has practical commercial effect, as opposed to being merely a paper arrangement.

79. It is against this framework that we have carefully considered and weighed the totality of the evidence placed before us by both parties, including the credibility, consistency, and probative value of the witness testimony presented by the parties. The Applicant's case is supported by a structured body of documentation, including corporate records, financial statements, and formal agreements which together provide the primary evidential basis for assessing the nature and substance of the impugned transaction.

The corporate records and shareholding.

80. In particular, we have considered the corporate records relating to the Applicant's shareholding in Stabex Uganda. The Applicant produced the Annual Returns of Stabex Uganda for 2022 and 2024 (AE2, AE4) which establish that he held 425 ordinary shares, representing 42.5% of the company, valued at Shs. 15,436,000,000. He also presented the Registered Share Transfer Form (AE3) which confirms the transfer of those shares to Mr Jackson Kiplimo Chebet.

81. The Board Resolution dated 13 May 2022 (AE11) records the conversion of Shs. 110 billion of trade payables into long-term shareholder loans, of which Shs. 70 billion was attributed to the Applicant. On its face, this reflects the creation of a creditor relationship distinct from the Applicant's position as a shareholder. The Resolution further indicates that the underlying funds had been applied in the development of the business (rapidly establishing new Petrol stations) and were not expected to be repaid in the short term.

82. From a commercial perspective, such a restructuring is not inherently unusual. The audited accounts point to a company experiencing financial strain, and the conversion of supplier obligations into longer-term shareholder liabilities is a

recognised means of addressing liquidity constraints. We therefore consider this explanation to be, at least, commercially plausible.

Financial Records and Accounting Treatment

83. The trade payables ledgers (AE7, AE8) indicate that Stabex Uganda had accumulated substantial liabilities to suppliers of about Shs. 128 billion arising from petroleum transactions. The audited financial statements for the years 2022 and 2023 (AE9, AE10) are consistent with a company facing financial constraints. Following the restructuring, the shareholder loan ledger (AE29) records the relevant amounts as long-term obligations.
84. Taken together, these records indicate that the liability originated from trading activities, was recognised in the company's accounts as a payable, and was subsequently reclassified as shareholder debt. While these matters are not determinative in themselves, they are capable of supporting a coherent account of the transaction which is consistent with the contemporaneous documentation and the financial position disclosed in the audited statements.

Financial Statements of Stabex Kenya (AE15 & AE16)

85. Next, we consider the evidential value of the audited financial statements of Stabex International Limited (Kenya) for the years ended 31st December 2022 and 2023 (AE15 and AE16), in particular the entry in Note 5 of these financial statements, where the company reported "trade receivables from shareholders." The Applicant relies on these accounts as corroborative of the debt restructuring, whereas the Respondent challenges both their interpretation and classification.
86. The Applicant's position is that these statements confirm that the amounts previously owed by Stabex Uganda to Stabex Kenya were, following the restructuring, assumed by the Applicant and Jackson Kiplimo Chebet as shareholders. The Respondent, on the other hand, contends that these entries do not expressly attribute any specific amount to the Applicant and that any linkage to him is speculative or a matter of "imagination." The Respondent

further argued that there are inconsistencies in the movement of balances between the 2021, 2022 and 2023 financial statements, and that the figures do not precisely correspond to the amount asserted by the Applicant.

87. It is well established that audited financial statements, while not conclusive, constitute prima facie evidence of a company's financial position. Their evidential weight depends on the extent to which they are consistent with the broader documentary and factual matrix. Note 5 records receivables from shareholders amounting to KES 3,080,952,515, which, when converted, while not identical in figure, the amounts are not inconsistent in scale to the liabilities said to have been assumed by the shareholders. The absence of specific attribution to individual shareholders does not, in the Tribunal's view, render the entry inadmissible; rather, it is a factor to be taken into account in assessing the weight to be attached to the evidence, particularly given that related party balances are frequently presented in aggregated form. This approach is consistent with the Tribunal's general treatment of documentary evidence, namely that such evidence must be assessed in the context of the entire evidential record and not in isolation.
88. The Respondent further argued that, even if the underlying transaction were to be accepted, the classification of the amounts as "trade receivables" is technically incorrect, and that the entries ought instead to have been recorded as a "loan to shareholders" rather than "trade receivables," because the shareholders never made any physical supplies of goods to Stabex Kenya. We accept that this raises an accounting question. However, the issue before the Tribunal is not the correctness of accounting classification in the abstract, but whether the evidence discloses the existence of real legal rights and obligations and a transaction with commercial effect. Accounting treatment is therefore relevant but not determinative.
89. Misdescription in accounting records does not, of itself, render a transaction fictitious where the underlying obligation is otherwise supported by evidence. In

this regard, the Tribunal is guided by the principle that tax consequences are to be determined by reference to the legal and commercial substance of the transaction, rather than the labels attached to it. This position has been recognised in Ugandan tax jurisprudence, including in *Heritage Oil and Gas Limited v Uganda Revenue Authority (Civil Appeals No. 23 of 2011 and No. 3 of 2012 (Consolidated))*, where the courts considered the legal nature of the transaction in determining tax liability.

90. We further note that the Respondent did not adduce evidence to demonstrate that the audited accounts were unreliable, that the audit process was materially flawed, or that the underlying transactions recorded therein were fictitious. Nor was expert or other evidence presented to contradict the Applicant's explanation of the entries.
91. When the Stabex Kenya accounts are considered alongside the Board Resolution (AE11), the Debt Assumption Agreements (AE12, AE13), the Stabex Uganda financial statements (AE9, AE10), and the shareholder loan ledger (AE29), they form part of a broader evidential matrix. Read together, these documents are capable of supporting a coherent account of a transaction in which liabilities initially recorded as payables in Stabex Uganda were restructured and assumed by shareholders, ceased to be reflected as payables in the company's books, and were thereafter reflected, from the perspective of the Kenyan entity, as receivables due from those shareholders.
92. We however emphasise that this account is not determinative in itself, but must be weighed against the Respondent's alternative explanation in light of the totality of the evidence.
93. In the circumstances, the Tribunal does not consider the Kenyan financial statements in isolation. Rather, it considers them as part of the wider evidential record. When so viewed, they are consistent with the Ugandan records and the

transactional documents and provide a degree of external corroboration of the restructuring. The Tribunal therefore attaches probative weight to AE15 and AE16, while recognising that their evidential value is to be assessed alongside the entirety of the evidence. They lend support to the Applicant's case that he assumed a liability which, on the material before the Tribunal, is capable of being characterised as a genuine commercial obligation.

The transactional documents

94. The Debt Assumption and Novation Agreements (AE12, AE13) indicate that the shareholders, including the Applicant took over the liability for the company's debts. The restructuring of liabilities through shareholder assumption is not, in itself, unusual. It is a recognised commercial mechanism by which shareholders intervene to stabilise a company's financial position. In the present case, there is no evidence before us that these agreements were a sham or that they were incapable of creating legally enforceable obligations. The Respondent did not call evidence from the counterparties to challenge their validity. On the contrary, AW1 a director of one counter parties testified and confirmed the transaction and the Respondent did not rebut his testimony during cross examination.
95. The Share Purchase Agreement (AE17) distinguishes, on the face of it, between the stated share consideration of Shs. 14 billion and repayment of the shareholder loan of Shs. 66.17 billion. We consider this distinction clear and unambiguous. From a legal and commercial perspective, arrangements in which shareholder debt is addressed alongside a transfer of shares are not uncommon, particularly in closely held companies. The existence of such a structure is therefore not, in itself, indicative of artificiality.
96. The Loan Reconciliation and Mutual Release (AE20) sets out the adjustment of the loan amount from Shs. 70 billion to Shs. 66.17 billion. On its face, this appears consistent with a negotiated settlement of an outstanding obligation. The bank statements (AE5 and AE27) record movements of funds which are, at

a general level, consistent with the structure described by the Applicant. The weight to be attached to this evidence is considered in the context of the record as a whole.

Testimonial Evidence

97. The Tribunal has also considered the testimony of AW1. As a shareholder in both Stabex Uganda and Stabex Kenya, AW1 was directly involved in the transactions in issue and was therefore well placed to speak to their commercial context and execution. He provided a generally commercially plausible account of the transactions, particularly regarding the origin of the liability from trade payables, the restructuring into shareholder loans, and the subsequent reconciliation of the debt. His evidence is, in several respects, consistent with the contemporaneous documentary record, including the Board Resolution, financial statements, and loan reconciliation documents, and offers a plausible explanation for discrepancies such as the absence of payment records in the Kenyan material due to differing accounting treatment.
98. However, the Tribunal approaches his evidence with appropriate caution. As a shareholder with a direct interest in the transactions, he is not an independent witness, and his testimony must be weighed against the objective record. The Tribunal notes material factors affecting the weight of his evidence, including the admitted non-disclosure of the transaction in the Applicant's tax returns, explained as an oversight based on the belief that no gain arose, and the late production of key documents, which were not provided during the audit or objection stages.
99. While his explanation of differences between Kenyan and Ugandan accounting treatment is plausible, and his assertion that the Respondent had previously recognised the loan is relevant, these matters are not determinative of the legal characterisation of the transaction. In particular, AW1's position that the Shs. 66.17 billion constituted a loan distinct from share consideration is a contested

issue that cannot be resolved solely on his testimony. Accordingly, we find AW1 to be credible in material respects where supported by contemporaneous documentation.

The Respondent's evidence

100. We now turn to the Respondent's evidence. The Respondent's case is grounded largely on inferences drawn from the absence of disclosure in the Applicant's tax returns and the outcome of exchange-of-information inquiries. In support of its position, the Respondent relied on the Applicant's tax returns for the years ended 30 June 2022 and 2023 (REX4, REX5), the Share Purchase Agreement (REX2), the Board Resolution (REX3), the exchange-of-information material from the Kenya Revenue Authority (REX10), and the administrative decisions (REX6–REX9). We have considered this material in its entirety.
101. On the material before the Tribunal, the Respondent's evidence does not directly establish that the alleged debt was fictitious or that the sum of Shs. 66,179,308,188 formed part of the consideration for the shares. Rather, the Respondent's position rests primarily on the absence of disclosure and the absence of independent confirmation through exchange-of-information processes. While these are relevant matters that may properly raise questions as to the reliability of the Applicant's account, they do not, without more, constitute proof that the transaction did not occur.

KRA Exchange of Information

102. The exchange-of-information material obtained from the Kenya Revenue Authority (REX10), presented in the form of a questionnaire response, indicates that the KRA had no record of any transaction relating to the alleged loan. It further indicates that the KRA had no record of a contract between the Applicant and Stabex International Limited (Kenya), nor any knowledge of payments made by the Applicant to that entity. The Respondent relied on these findings to contend that the alleged debt was a "book entry" lacking economic substance.

103. The Applicant's response was that the absence of payment records is not inconsistent with his position. His explanation, supported by witness testimony, is that the obligation arose through a debt assumption and remained outstanding. In those circumstances, no immediate cash movement would be expected, and the obligation would instead be reflected in the accounts as a receivable in Kenya and a corresponding liability in Uganda. He further relied on the audited financial statements of Stabex International Limited, which record receivables from shareholders.
104. We consider it necessary to distinguish between the absence of confirmation and proof of non-existence. RW2 confirmed in his testimony that the KRA report does not state that the transaction did not occur. A proper reading of the material indicates that the KRA was not aware of the transaction, rather than that it had established its non-existence. That distinction is material.
105. In our view, the absence of records within the knowledge of a third-party authority, without more, cannot conclusively determine the existence or non-existence of a transaction. The Applicant's explanation that the obligation remained outstanding and therefore did not give rise to immediate payment records is, in the circumstances, a plausible one. The weight to be attached to the exchange-of-information material must therefore be assessed in the context of the entire evidential record.
106. It is also worth noting that the Respondent obtained the exchange of information report from the KRA in 2024, more than a year before the present proceedings commenced. However, the Respondent neither provided it to the Applicant nor to the Tribunal during the hearing of this application. The Respondent provided the information at the submissions stage by attaching the report to their submissions. Therefore, neither the Applicant nor the Tribunal were given the opportunity to address this information. This, therefore, affects the evidential value of the information.

The nature of the alleged debt

107. The Respondent's position appears to proceed on the assumption that, if the debt were genuine, there would necessarily be evidence of payment from the Applicant to Stabex Kenya. That assumption does not fully reflect commercial practice. The restructuring of liabilities, including through novation or debt assumption, may occur without immediate cash settlement.
108. Where a liability is assumed pursuant to a board-sanctioned arrangement and formalised through appropriate agreements, the legal effect is the substitution of the debtor rather than the extinguishment of the obligation. In such circumstances, the absence of an immediate transfer of funds does not, in itself, negate the existence of a debt. The critical question is whether a real and legally enforceable obligation arose.

Structure of the exit transaction

109. We have further considered the structure of the exit transaction. The Share Purchase Agreement indicates that the consideration due to the Applicant was not paid in cash at the point of exit, but was structured partly in kind through the transfer of nine petrol stations and one undeveloped plot of land valued at Shs. 19,675,905,541. These stations included locations at Namusera, Lubiri, Soya Gaba, Mbuya, Amber Court Jinja, Kyebando, Mutundwe, Namasuba, and Kamuli Road. A further sum of Shs. 26,426,425,185 was to be derived from the company's working capital, with the balance of Shs. 34,076,977,461 payable in 36 monthly instalments of Shs. 946,582,700 commencing on 31 January 2023.
110. It follows that, as at 1 November 2022, the Applicant had not received cash proceeds from the transaction. Even assuming that the instalments were honoured as they fell due, by 19 February 2025, the Applicant would have received only a portion of the total consideration. In those circumstances, the continued existence of an outstanding liability to Stabex Kenya is not inconsistent with the structure or timing of the transaction.

Tax Avoidance Argument

111. The Applicant objected to the Respondent's reliance on an alleged tax avoidance scheme on the basis that it was neither pleaded nor raised during the audit or objection process. We agree with the general principle that parties are bound by their pleadings and should not advance a materially different case at a later stage. This principle is well established in authorities such as *Interfreight Forwarders (U) Ltd v East African Development Bank and Century Bottling Co Ltd v Uganda Revenue Authority*.
112. From the record before us, the assessment was framed on the basis that the Applicant realised a capital gain on the disposal of shares at a consideration of Shs. 80,179,308,188. The objection decision similarly focused on non-disclosure and lack of verification. The Respondent did not advance a case grounded in section 117 of the Income Tax Act at those stages.
113. To the extent that the Respondent seeks to rely on a tax avoidance argument as a substantive basis for sustaining the assessment, this would amount to a departure from its earlier position. A taxpayer is entitled to know the case against him. In those circumstances, we are unable to attach determinative weight to that contention.

Non-disclosure in the Applicant's tax returns

114. It is not in dispute that the Applicant did not disclose the transaction in his tax returns. That omission is a relevant factor in assessing the credibility and weight of the Applicant's case. However, non-disclosure, without more, does not establish that a transaction lacked economic substance. We have considered the Applicant's explanation regarding the structure of the return forms and his understanding that no taxable gain arose. While this does not excuse the omission, it provides context. The Tribunal therefore treats non-disclosure as one factor within the broader evidential matrix rather than as determinative.

The Respondent's testimonial evidence

115. We also considered the testimony of the Respondents' witnesses. Their evidence confirms that the assessment was based largely on non-disclosure and the absence of verification through exchange-of-information processes. It also reveals that no direct engagement with the Applicant was undertaken prior to the issuance of the assessment. While we do not fault the witnesses in presenting the Respondent's case, the evidence is largely inferential. It does not, in itself, establish that the transaction lacked economic substance or that the alleged debt was fictitious.
116. We also find it significant that the Respondent did not engage directly with the Applicant before issuing the assessment. RW1 admitted that no meeting was convened and no documents were specifically requested. The admission demonstrates that the Respondent's conclusion was reached without a full inquiry into the facts, and therefore weakens any subsequent attempt to characterise the transaction as a tax avoidance scheme or lacking substance or artificial. In a matter involving complex commercial transactions and substantial sums, that omission is not trivial. It increases the risk that conclusions will be drawn on incomplete information.
117. We further note that the Respondent had, in a separate audit of Stabex Uganda, treated the same liability as real and subjected part of it to tax. While this does not give rise to estoppel, it is a relevant consideration in assessing the consistency of the Respondent's position.

Conclusion

118. Having considered the totality of the evidence, we are not satisfied that the Respondent has established a sufficient evidential basis to invoke section 117 of the Income Tax Act or to characterise the sum of Shs. 66,179,308,188 as consideration for the disposal of shares. On the contrary, the Applicant has an explanation that is commercially plausible and, in material respects, supported

by contemporaneous documentation. While certain inconsistencies and evidential gaps remain, they do not, in our view, displace the overall substance of that explanation.

119. On a balance of probabilities, we find that the sum of Shs. 66,179,308,188 is more properly characterised as repayment of a pre-existing obligation rather than consideration for the disposal of shares.

Remedies

120. For the reasons set out above, the Application is hereby allowed. The additional assessment is set aside to the extent that it treated Shs. 66,179,308,188 as consideration for shares. The Respondent is directed to amend the assessment accordingly. Any overpaid tax shall be refunded or credited in line with the Tax Procedures Code Act, and each party shall bear its own costs.

Obiter Dicta

121. We consider it appropriate to make a few observations arising from the manner in which this matter was handled, which may be of assistance in future cases.

122. This case highlights the importance of proper engagement between the URA and the taxpayer, especially in complex transactions. In the present case, an assessment was issued without direct engagement with the Applicant to clarify the nature of the underlying transactions. While a failure to engage does not, by itself, invalidate an assessment, it increases the risk of factual errors and may weaken the quality and defensibility of URA's decisions. This is especially so when viewed against the requirement under Article 42 of the Constitution that administrative decisions be taken in a fair, lawful, and reasonable manner.

123. We also note that whilst Exchange of Information (EOI) has undoubtedly become an important tool in tax administration, particularly in dealing with cross-border transactions, its value lies not only in the information obtained, but also

in how that information is used. Information obtained from foreign authorities should be shared with the taxpayer in good time to allow a proper response. Introducing such material late in the process - at the stage of hearing or through submissions- undermines fairness and the integrity of proceedings.

124. We further note that the structure of current tax return forms may not adequately capture certain transactions, such as shareholder loans. While taxpayers are expected to make full and accurate disclosures, the absence of a clear reporting mechanism may create uncertainty about how certain transactions should be reported. Therefore, there may be merit in reviewing statutory tax return forms to ensure that they adequately capture the range of financial arrangements encountered in modern commercial practice.
125. Finally, we emphasise the importance of procedural discipline in proceedings before this Tribunal. Parties are expected to present their full case during the hearing. The introduction of new material at the stage of submissions, or attempts to reshape a case after its weaknesses have emerged, are inconsistent with orderly procedure and are unlikely to be entertained.
126. These observations are intended to assist both the Uganda Revenue Authority and taxpayers in the proper administration and resolution of future disputes. They do not, however, affect the outcome of this appeal.

Orders

- (i) The additional assessment is hereby set aside to the extent that it treats the sum of Shs. 66,179,308,188 as part of the consideration for the disposal of shares.
- (ii) The Respondent is directed to revise and amend the assessment in accordance with this decision, taking into account that the said sum constitutes repayment of a pre-existing obligation and not chargeable consideration for capital gains tax purposes.

- (iii) Any tax found to have been overpaid by the Applicant pursuant to the impugned assessment shall be refunded or credited to the Applicant in accordance with the provisions of the Tax Procedures Code Act.
- (iv) Costs are hereby awarded to the Applicant.

It is so ordered.

Dated at Kampala, this 30th day of April 2026.



HON. CRYSTAL KABAJWARA
CHAIRPERSON



HON. PROSCOVIA REBECCA NAMBI
MEMBER



HON. WILLY NANGOSYAH
MEMBER