



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO. 111 OF 2022

BOLEX LIMITED APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. STELLA C NYAPENDI, HON. EDWARD BIRYETEGA, HON.
CHRISTINE KATWE**

RULING

I. Introduction

1. This Application arises from the Respondent's objection decisions upholding additional VAT and Corporate Income Tax assessments of Shs.702,192,942 against the Applicant for the period July 2019 to October 2020. The Tribunal is called upon to determine whether the impugned assessments were correctly raised and maintained in law and fact.

II. Background facts

2. The applicant is a limited liability company engaged in the business of providing engineering services, and trading in electrical transmission and distribution materials. The Respondent conducted a review of the Applicant's tax affairs for the years covering the period January 2019 to October 2020.
3. Arising from the audit, the Respondent disallowed specific procurement transactions allegedly made by the Applicant from M/s Hard Steel Limited amounting to Shs. 1,469,966,864/=, consequently raising the disputed VAT and Corporate Income Tax (CIT) assessments. The Applicant lodged an objection

to the said assessments, which objection was disallowed by the Respondent, hence this Application.

III. Issues for determination

- i. Whether the Applicant is liable to pay the tax arising from the additional Value Added and Income Tax Assessments;
- ii. What remedies are available to the parties.

IV. Representation and evidence

4. Ms. Specioza Mureketete of M/s Ortus Advocates appeared for the Applicant, while the Respondent was represented by Mr. Tonny Kalungyi, a Legal Officer from the Respondent's Legal Services and Board Affairs Department.

Applicant's evidence

5. The Applicant led evidence through its Managing Director, Mr. Mureema Boaz Hashaka (PW1), who deponed that the Applicant carries on a construction business and procured construction materials from M/s Hard Steel Limited.
6. PW1 stated that between March and May 2020, the Applicant purchased goods valued at Shs. 1,469,966,864/= from M/s Hard Steel Limited, comprising cement, BRC, gutters, PVC pipes, plywood, ridges, and nails. He asserted that these were bona fide business purchases executed in the ordinary course of business, supported by original tax invoices, delivery notes, cash receipts, cash book records, and purchase ledger records. He added that upon the commencement of investigations, the Applicant furnished these requested supporting documents to the Respondent on 25th January 2021.
7. Under cross-examination, PW1 stated that the Applicant's tax returns were prepared and filed by an accountant, one Mr. Fidel Mubangizi, whose firm's name he could not recall. PW1 maintained that he personally managed the transactions with M/s Hard Steel Limited, assisted by his staff. He stated that all payments for the purchases were settled entirely in cash, and added that he was unaware of any communication from M/s Hard Steel Limited to the Respondent denying the existence of the transactions.
8. Upon re-examination, PW1 stated that M/s Hard Steel Limited had provided a supplier ledger confirming the supplies made to the Applicant. He added that

the Respondent did not provide any feedback after receiving the documents submitted by the Applicant during the investigation. The witness re-affirmed that the physical goods were delivered to the Applicant and that matching delivery notes existed to verify receipt.

Respondent's evidence

9. The Respondent presented the testimony of Mr. Godfrey Adukule Tabu (RW1), a Supervisor in the Domestic Taxes Department of the Uganda Revenue Authority. He testified that he previously served as a Supervisor in the Tax Investigations Department, where he was part of the team that investigated the Applicant's transactions with M/s Hard Steel Limited.
10. RW1 stated that during the investigations, he obtained and analysed the business records of M/s Hard Steel Limited, including its cash books and bank statements. He found that M/s Hard Steel Limited recorded daily cash sales from several clients and deposited the aggregate daily sales into its bank account, with some deposits bearing narrations that referred to Bolex Limited.
11. He testified that M/s Hard Steel Limited's manager, Mr. Keyur Chandrankant, would sometimes direct clients to deposit money into his personal bank account before transferring the funds to M/s Hard Steel Limited's bank account with narrations indicating payments from Bolex Limited. He added that funds collected from accounts belonging to employees of M/s Hard Steel Limited were similarly deposited under the narration "cash deposits from Bolex Ltd."
12. RW1 further testified that the cash receipts provided by the Applicant completely lacked serial numbers and could not be traced to M/s Hard Steel Limited's cash books. He stated that he requested the Applicant to provide its cash books and bank statements, but those documents were not submitted. Based on these record inconsistencies, he concluded that the transactions were fictitious and disallowed them, thereby upholding the resultant assessments.

V. Submissions of the Applicant

13. Issue one: Whether the Applicant is liable to pay the tax arising from the additional VAT and Income Tax assessments?

14. The Applicant submitted that it was not liable to pay the additional VAT and Income Tax assessed by the Respondent. It argued that the assessments arose from the Respondent's erroneous decision to disallow purchases made from M/s Hard Steel Limited, which were genuine transactions incurred in the ordinary course of business and supported by documentary evidence. The Applicant therefore contended that the impugned assessments were unlawful and ought to be set aside.

Value Added Tax assessments

15. The Applicant submitted that it was entitled to claim input VAT under Sections 28(3) and 28(4)(a) of the Value Added Tax Act, having satisfied all statutory requirements. Relying on *Uganda Revenue Authority v Enviroserv Uganda Limited* UGCommC 433, the Applicant argued that a taxpayer is entitled to an input tax credit upon proving that it is a taxable person, that taxable supplies were made to it during the relevant tax period, and that the supplies were acquired for use in its business. The Applicant noted that its status as a taxable person was undisputed and that the supplies were not exempt.

16. The Applicant further submitted that the Respondent wrongly disallowed the input VAT claim based on unsubstantiated allegations that the transactions were fictitious. It contended that the Respondent relied solely on its analysis of M/s Hard Steel Limited's books and banking records to conclude that the transactions did not occur—specifically regarding mismatched deposits, funds channelled through the manager's personal account, and unserialized cash receipts. The Applicant argued that these internal supplier discrepancies do not establish that supplies were not made to the Applicant.

17. The Applicant contended that it discharged its burden of proving the existence of the disputed transactions by producing extensive documentary evidence, including certified copies of original tax invoices issued by M/s Hard Steel Limited, certified cash receipts, supplier statements, and evidence of payment.

It relied on thirty-four tax invoices issued between March and April 2020, totaling Shs. 1,469,966,864/=, as direct proof that taxable supplies had been made.

18. The Applicant also submitted that the supplies were corroborated by evidence of delivery and payment through tax invoices, receipts, and delivery notes before the Tribunal. It maintained that the Respondent failed to challenge the authenticity of these invoices or demonstrate that the reflected transactions did not occur.
19. Regarding the Respondent's contention that the cash receipts lacked serial numbers, the Applicant submitted that the allegation was unsupported by evidence and incapable of displacing its documentary proof. It argued that the Respondent failed to prove that the receipts were fraudulent, forged, or invalid, and thus failed to rebut the evidence of delivery.
20. The Applicant further submitted that once it adduced evidence of taxable supplies, the evidential burden shifted to the Respondent to disprove that evidence. Relying on Section 103 of the Evidence Act and *Tasco Industries Limited v Uganda Revenue Authority*, the Applicant argued that the Respondent failed to discharge this burden because it neither disproved the authenticity of the Applicant's documents nor established that the transactions were fictitious.
21. The Applicant challenged the evidential value of the records obtained from M/s Hard Steel Limited, submitting that the Respondent's reliance on them amounted to hearsay and offended Sections 58, 59, 66, and 67 of the Evidence Act. It argued that those records merely reflected the supplier's internal treatment of transactions and did not demonstrate that supplies were never made. The Applicant contended that it could not be held responsible for the manner in which M/s Hard Steel Limited maintained its accounting records.
22. On the allegation of fraud, the Applicant submitted that fraud must be specifically pleaded and strictly proved. Relying on *Shreeji Chemicals Ltd v Commissioner of Investigations and Enforcement* and *Kampala Bottlers Ltd v Damanico (U) Ltd* (SCCA No. 22 of 1992), it argued that fraud cannot be inferred from surrounding circumstances and that the burden shifted to the Respondent. The Applicant maintained that the Respondent failed to prove that

the Applicant participated in, had knowledge of, or benefited from any fraudulent scheme involving M/s Hard Steel Limited.

23. The Applicant also rejected the Respondent's reliance on Section 10(5) of the Contracts Act, 2010, contending that the transactions were sufficiently evidenced by commercial documentation. It argued that the issue before the Tribunal was whether taxable supplies had been made, rather than the enforceability of an underlying contract. It further maintained that the absence of matching bank withdrawals did not negate the physical delivery of supplies and urged the Tribunal to grant the reliefs sought.

24. Finally, the Applicant submitted that the construction materials procured from M/s Hard Steel Limited were acquired exclusively for use in executing its construction projects, thereby satisfying the statutory requirement that taxable supplies be utilized in the course of the taxpayer's business. The Applicant consequently urged the Tribunal to find that it had proved the occurrence of the supplies, that no fraud had been established, and that the Respondent unlawfully disallowed the input VAT credit.

Income Tax assessments

25. The Applicant submitted that the Respondent erred in disallowing the purchases from M/s Hard Steel Limited for income tax purposes, contending that the disputed purchases constituted allowable deductions under Section 22(1)(a) of the Income Tax Act as expenses incurred in the production of gross income.

26. The Applicant submitted that the certified tax invoices, cash receipts, supplier statements, and evidence of payment produced before the Tribunal established that the expenses were genuinely incurred and paid for during the relevant year of income. The Applicant maintained that the Respondent did not adduce any evidence capable of disproving the existence of these transactions.

27. The Applicant further submitted that the expenditures were directly connected to the derivation of business income, as the supplies were utilized in the execution of engineering and distribution projects that generated income forming part of its gross income.

28. The Applicant consequently argued that the disputed transactions satisfied all requirements for deductibility under the Income Tax Act, and urged the Tribunal to find that the Respondent unlawfully disallowed these business expenses.

Issue two: What remedies are available to the parties?

29. The Applicant submitted that having demonstrated that the impugned VAT and Income Tax assessments were unlawfully raised, the appropriate remedy is for the Tribunal to set aside the Respondent's objection decision and substitute it with its own decision pursuant to Section 20(1)(c) of the Tax Appeals Tribunal Act and Section 27 of the Tax Procedures Code Act.

VI. Submissions of the Respondent

Issue One: Whether the Applicant is liable to pay the tax arising from the additional VAT and Income Tax assessments?

30. The Respondent maintained that the Applicant was liable to pay the tax arising from the additional VAT and Corporate Income Tax assessments. It submitted that tax investigations into the Applicant's dealings with M/s Hard Steel Limited established an elaborate input VAT fraud and revealed that the impugned purchases could not be verified. The Respondent therefore contended that the additional assessments totaling Shs. 702,192,942/= were lawfully raised and remained due and payable.

Value Added Tax assessments

31. The Respondent submitted that the Applicant claimed input VAT on transactions whose authenticity could not be verified. Relying on the testimony of its investigator, Mr. Godfrey Adukule Tabu, the Respondent maintained that irregularities in the documentation relied upon by the Applicant fully justified the disallowance of the subject transactions.

32. The Respondent stated that during the objection process, it established clear inconsistencies that cast doubt on the occurrence of the alleged purchases. Specifically, an analysis of M/s Hard Steel Limited's cash books revealed that while it recorded cash sales from disparate clients, the aggregate proceeds were deposited into its bank account under narrations falsely attributing the funds to Bolex Limited.

33. The Respondent further submitted that investigations revealed instances where money collected from accounts belonging to employees of M/s Hard Steel Limited was deposited into the company's bank account under the narration "cash deposits from Bolex Ltd." The Respondent contended that this systemic manipulation undermined the credibility of the transaction trail.
34. The Respondent also pointed out that M/s Hard Steel Limited's manager, Mr. Keyur Chandrankant, occasionally directed cheque-paying clients to deposit money into his personal bank account before transferring the funds into the company's bank account as "payments from Bolex Ltd." The Respondent argued that this illicit arrangement permitted the Applicant to claim input VAT on transactions executed by separate, un-related third parties, thereby facilitating a fraudulent scheme to siphon tax revenue.
35. Furthermore, the Respondent submitted that the cash receipts produced by the Applicant completely lacked serial numbers, eliminating any baseline traceability or verification of the transactions.
36. The Respondent highlighted that a review of the Applicant's bank statements revealed no corresponding cash withdrawals matching the multi-million cash payments allegedly made to M/s Hard Steel Limited. It argued that the Applicant's failure to demonstrate the movement of funds from its accounts to the supplier was fatal to its claim.
37. The Respondent contended that the Applicant's evidence was inconsistent and unreliable. Relying on *Constantino Okwel alias Magendo v Uganda* (SCCA No. 12 of 1990) as cited in *Equity Bank Uganda Ltd v Musolo* UGHCCD 132, the Respondent argued that unexplained inconsistencies warrant the outright rejection of a witness's evidence. It further cited *Aziz Kalungi Kasujja v Nauni Tebekanya Nakakande* (SCCA No. 63 of 1995) as cited in *Byamarwa v Karuga* UGHCCD 19, for the proposition that material inconsistencies going to the root of a case render a party's evidence worthless.
38. The Respondent additionally relied on *Nakiranda v Musoke Mbidde & 7 Others* UGHCCD 121, which applied *Shokatali Abdulla Dhalla v Sadrudin Meralli* (SCCA No. 32 of 1994) and *Anthony Barugahare v Marits Ntaratambi* HCB 95, to argue that contradictory and inconsistent evidence that is not satisfactorily

explained must be disregarded. Citing *Ojera v Labeja* UGHCCD 61, the Respondent argued that manifestly false evidence completely erodes witness credibility and prayed that the Applicant's testimony be rejected under these established principles.

39. The Respondent emphasized that the legal burden of proof remains on the Applicant throughout the proceedings. Relying on Section 19 of the Tax Appeals Tribunal Act and Section 28 of the Tax Procedures Code Act, the Respondent argued that it was incumbent upon the Applicant to prove that the assessments were excessive or incorrect, a burden it failed to discharge.
40. The Respondent further argued that there was no objective proof that the Applicant ever dealt with M/s Hard Steel Limited, noting that the Applicant failed to adduce any corroborative evidence from the supplier confirming the transactions.
41. Relying on Section 10(5) of the Contracts Act, 2010 and *Kagwa v Kolin Insaat Turizm & 2 Others* (2013), the Respondent submitted that any contract whose subject matter exceeds Shs. 500,000 must be reduced into writing to be enforceable. It argued that because the Applicant failed to produce a written contract governing transactions valued at over Shs. 1.4 billion, there was no lawful proof of a transactional relationship.
42. The Respondent distinguished the present case from *Target Well Uganda Limited v Uganda Revenue Authority* (HCCS No. 751 of 2015), arguing that unlike in *Target Well* where the underlying purchases were admitted, the very existence of the purchases in this matter is aggressively disputed.
43. The Respondent consequently maintained that the Applicant failed to establish any entitlement to input VAT credits and urged the Tribunal to uphold the assessments in their entirety.

Income Tax assessments

44. The Respondent submitted that the additional Corporate Income Tax assessment arose directly from the disallowance of purchases allegedly made from M/s Hard Steel Limited. It maintained that because the Applicant failed to

prove that the disputed purchases occurred, they could not rely on them as allowable business deductions.

46. The Respondent argued that the documentary evidence relied upon by the Applicant was contradictory, ambiguous, and unreliable. It contended that expenses founded on unverified, disputed transactions do not qualify as allowable deductions and that the disallowance was fully justified.

47. The Respondent consequently urged the Tribunal to find that the Applicant failed to prove that the disputed expenditures were genuinely incurred, and to hold that the resulting income tax assessment was lawfully raised.

Issue two: What remedies are available to the parties?

48. The Respondent submitted that having properly established that the transactions between the Applicant and M/s Hard Steel Limited were fictitious, the Tribunal ought to uphold the additional VAT and Income Tax assessments in their entirety.

49. Accordingly, the Respondent contended that the objection decision was lawful and prayed that the application be dismissed with costs.

VII. Submissions of the Applicant in rejoinder

50. In rejoinder, the Applicant reiterated that it had discharged the burden of proving that the transactions with M/s Hard Steel Limited were genuine and supported by contemporaneous documentary evidence.

51. It contended that the Respondent failed to answer key aspects of its case, including its reliance on *Uganda Revenue Authority v Enviroserv Uganda Limited* UGCommC 433, its challenge to the admissibility of M/s Hard Steel Limited's internal records under the Evidence Act, its arguments regarding the burden of proving fraud, and its submissions on the deductibility of expenses under Section 22(1)(a) of the Income Tax Act. The Applicant argued that these matters should be treated as uncontroverted.

52. The Applicant maintained that the Respondent's allegations of falsehood were unsupported by any specific identified contradiction. It argued that fraud remained unproven, relying on *Kampala Bottlers Ltd v Damanico (U) Ltd* (SCCA

No. 22 of 1992) for the proposition that fraud must be specifically pleaded and strictly proved.

53. The Applicant also rejected the Respondent's reliance on Section 10(5) of the Contracts Act, 2010, contending that the transactions were sufficiently evidenced by commercial documentation. It argued that the issue before the Tribunal was whether taxable supplies had been made, rather than the enforceability of an underlying contract. It further maintained that the absence of matching bank withdrawals did not negate the physical delivery of supplies and urged the Tribunal to grant the reliefs sought.

VIII. Determination of issues by the Tribunal

54. Having carefully considered the pleadings, affidavits, documentary evidence and parties; submissions, this is the ruling of the Tribunal.

55. The central question before the Tribunal is whether the procurement transactions amounting to Shs. 1,469,966,864/= undertaken between the Applicant, Bolex Limited, and M/s Hard Steel Limited between March 2020 and May 2020 were bona fide commercial transactions giving rise to allowable input Value Added Tax (VAT) credits and Corporate Income Tax (CIT) deductions, or whether they were fictitious transactions properly disallowed by the Respondent.

56. The Respondent disallowed the disputed purchases following an investigation by its Tax Investigations Department. It subsequently raised additional VAT assessments, namely Assessment No. ID012200193010 for May 2020 in the sum of Shs. 254,428,765/= and Assessment No. ID012200193056 for October 2020 in the sum of Shs. 23,716,236/=. It also raised additional Income Tax Assessment No. ID012200193108 for the period 1 July 2019 to 30 June 2020 in the sum of Shs. 424,047,941/=. The assessments totaled Shs. 702,192,942/=.

Burden of proof

57. The burden of proof in proceedings before the Tribunal is governed by section 19 of the Tax Appeals Tribunals Act and section 28 of the Tax Procedures Code

Act. Section 19 of the Tax Appeals Tribunals Act places upon an applicant challenging an objection decision relating to an assessment the burden of proving that the assessment is excessive.

58. Similarly, section 28(a) of the Tax Procedures Code Act places the burden upon the taxpayer to prove that a tax assessment is incorrect. Those provisions place the legal burden upon the taxpayer. They do not, however, prevent the evidential burden from shifting in the course of the hearing once a party has adduced evidence sufficient to establish a prima facie case.

Nature of the Applicant's business and entitlement to input VAT

59. The record contains some variation in the manner in which the Applicant's business is described. In Form TAT 1, the Applicant described its business as the "provision of engineering services and trading in electrical transmission and distribution materials." In its Statement of Facts and Reasons in Support of the Application, the Applicant stated that it was engaged in the provision of engineering services and the trading of electrical transmission and distribution materials in East Africa, serving, among others, engineering, procurement and construction companies and utility companies. The same statement indicates that the Applicant locally sourced materials such as cement, reinforcing fabric of steel (BRC), gutters, PVCs, plywood, ridges and nails from Ugandan suppliers, including M/s Hard Steel Limited.

60. PW1, Mr. Mureema Boaz Hashaka, the Applicant's Managing Director, stated that the Applicant carries on a construction business and that it procured construction inputs including cement, BRC, gutters, PVC pipes, plywood, ridges and nails for use in construction projects undertaken by the Applicant. The Applicant's submissions similarly describe the materials procured from M/s Hard Steel Limited as having been acquired exclusively for use in the execution of its construction projects and ordinary engineering operations.

61. The question, therefore, is whether the different descriptions of the Applicant's business as involving engineering services, construction business, trading in

materials and construction projects create an evidential inconsistency sufficient to defeat the claim for input VAT. The Tribunal finds that they do not.

62. First, under Agreed Fact No. 1 of the Joint Scheduling Memorandum, the parties agreed that the Applicant is a limited liability company engaged in the business of providing engineering services and trading in electrical transmission and distribution materials. The Respondent itself pleaded, in paragraph 1 of its Statement of Reasons for the Taxation Decision, that the Applicant is a company dealing in the engineering supply of electrical and construction materials.
63. The Respondent did not audit, assess or plead its case on the basis that the Applicant was disqualified from claiming input VAT because it was a service provider rather than a trader in goods. Its case was that the transactions with M/s Hard Steel Limited were fictitious. The parties are bound by their pleadings and by the facts agreed at scheduling. It would therefore be improper to determine the dispute on a statutory disqualification that did not form the basis of the assessment or the Respondent's pleaded case.
64. Second, section 18(1) and (2) of the Value Added Tax Act recognises a taxable supply as a supply of goods or services made by a taxable person for consideration as part of that person's business activities. An engineering or construction business may necessarily acquire physical materials such as cement, BRC, PVC pipes and plywood for use in executing civil works, engineering contracts or installation projects.
65. Whether the Applicant's ultimate supplies to its customers are characterised as supplies of goods, supplies of services or mixed supplies under section 12 of the VAT Act does not, of itself, alter the statutory test governing entitlement to input tax credit under section 28 of the Act. As stated in *Uganda Revenue Authority v Enviroserv Uganda Limited* UGCommC 433, entitlement to input tax credit requires proof that the claimant is a registered taxable person, that taxable supplies were made to it during the relevant tax period, and that those supplies were acquired for use in its business.
66. The Applicant was a registered taxable person. The materials in issue including cement, BRC, PVC pipes and plywood; are ordinary construction inputs. The

evidence tendered by the Applicant was that those materials were acquired for use in its engineering and construction operations. The VAT Act does not restrict input tax credit to traders who purchase goods solely for resale in their original form. The different descriptions of the Applicant's engineering, construction and trading activities do not, in themselves, defeat its claim to input tax credit.

Hard Steel banking transactions and allegations of fraud.

67. The Respondent's principal justification for disallowing the purchases was the evidence of its investigator, Mr. Godfrey Adukule Tabu (RW1), a Supervisor in the Domestic Taxes Department. RW1 testified that an analysis of the internal records and bank accounts of M/s Hard Steel Limited revealed a number of unusual transactions. He stated that Hard Steel recorded daily cash sales from several customers and deposited the aggregate proceeds into its bank account under narrations referring to "Bolex Limited."
68. RW1 further testified that Hard Steel's manager, Mr. Keyur Chandrankant, at times directed cheque-paying customers to deposit money into his personal bank account. Those funds were subsequently transferred into Hard Steel's company account under the narration "Payments from Bolex Ltd. He also testified that funds originating from accounts belonging to employees of Hard Steel Limited were deposited into the company's bank account under the narration "cash deposits from Bolex Ltd." On the strength of those banking patterns, the Respondent concluded that the Applicant was involved in an input VAT fraud scheme under which it claimed input tax on supplies that had in fact been made to unrelated third parties.
69. The Tribunal has considered whether those banking anomalies, taken together with the other evidence on record, establish that the transactions between the Applicant and M/s Hard Steel Limited were fictitious. The assessments were expressly founded on allegations of input VAT fraud. Fraud must be specifically pleaded and strictly proved to the applicable standard. It cannot be established merely from suspicion or ambiguous circumstances. The Respondent therefore bore the evidential burden of proving the allegation that the Applicant

participated in, knew of, or colluded in the banking arrangements attributed to M/s Hard Steel Limited.

70. M/s Hard Steel Limited was not a party to this Application. Neither Hard Steel nor its manager, Mr. Keyur Chandrankant, was called as a witness by the Respondent. The bank narrations, movements through employee accounts and transfers through the manager's personal account were generated within the affairs of a third-party supplier. In the absence of evidence directly connecting the Applicant to those internal arrangements, the existence of the irregular banking entries, serious as they may be, does not by itself establish that the underlying physical supplies to the Applicant did not occur.

71. In *Medisell Uganda Limited v Uganda Revenue Authority*, TAT Applications Nos. 051 and 072 of 2023, the Tribunal considered supplier-side ledger discrepancies and related accounting irregularities. Such discrepancies do not, without more, establish that the underlying physical transaction was fictitious where the taxpayer has produced primary commercial documents evidencing the transaction. In the present case, the Respondent did not adduce direct evidence showing that the construction materials in issue including cement, BRC, PVC pipes, plywood, ridges and nails; were never delivered to the Applicant's project sites. Nor did it produce evidence showing that the 34 tax invoices issued by Hard Steel Limited were forged, altered, cancelled in the E-VAT system or issued by an unauthorised entity.

72. The Tribunal has also considered whether the apparent gaps in the Respondent's investigation would justify remitting the matter to the Respondent for a further audit or investigation of third-party records, including utility or project records. Under section 20(1) of the Tax Appeals Tribunals Act, the Tribunal is required to review the taxation decision on the evidence placed before it. Before raising the assessments, and during the proceedings, the Respondent had statutory powers under sections 48 and 49 of the Tax Procedures Code Act and section 22 of the Tax Appeals Tribunals Act to inspect records, require the production of documents and summon witnesses, including officers of M/s Hard Steel Limited and relevant third parties.

73. The Respondent did not call the relevant officers of Hard Steel or the project owners. In those circumstances, remitting the matter after the close of the hearing would afford the Respondent another opportunity to cure deficiencies in the investigation after the evidence had closed. The Tribunal considers that the dispute must be resolved on the evidential record before it.

The documentary discrepancies

74. RW1 testified that, during the investigation, the cash receipts presented by the Applicant did not bear serial numbers, could not be traced to Hard Steel's cash books and that the Applicant had failed to provide its bank statements and cash books when requested. On the other hand, the Joint Trial Bundle contains serially numbered E-VAT tax invoices, delivery notes, cash receipts, the Applicant's 2020 cash book and its purchase ledger.

75. The Tribunal has examined the chronology of the documentary evidence. On 21 December 2020, the Respondent's Tax Investigations Department formally requested documents relating to the Applicant's transactions with Hard Steel Limited for the period January 2019 to October 2020. The documents requested included tax invoices, delivery notes and proof of payment.

76. On 25 January 2021, the Applicant submitted, under a cover letter received and stamped by the URA Central Registry, certified copies of 34 E-VAT tax invoices totaling Shs. 1,469,966,864/=, together with corresponding delivery notes and payment receipts. The Applicant subsequently produced its 2020 cash book and purchase ledger, which were incorporated into the Joint Trial Bundle.

77. Section 28(11)(a), read together with section 29 of the VAT Act, requires an original tax invoice containing the prescribed statutory particulars in support of a claim for input tax credit. The 34 invoices relied upon by the Applicant were E-VAT invoices bearing individual serial numbers, supplier and recipient TINs, applicable tax rates and descriptions of the construction materials supplied. The cash receipts issued by Hard Steel were acknowledgements of the payments said to have been made.

78. It is also significant that the Respondent did not challenge the authenticity of the 34 E-VAT invoices at the hearing. It did not plead that they were forged or

falsified and did not produce electronic or forensic evidence from its own E-VAT system showing that they were fake, cancelled or otherwise invalid.

79. PW1 was cross-examined on the fact that purchases exceeding Shs. 1.4 billion were allegedly settled in cash without corresponding bank withdrawals. He nevertheless maintained that payment was made in cash, that the goods were physically delivered and that the deliveries were supported by the accompanying delivery notes.

80. Section 28(4)(a) of the VAT Act provides that, where section 28(1) applies, an input tax credit arises on the date on which the goods or services are supplied to the taxable person. The mode by which the purchaser subsequently settles the supplier's account does not, by itself, determine whether a taxable supply occurred. The evidence of delivery therefore remains material to the determination of the input tax claim.

81. The Applicant produced 34 E-VAT tax invoices, corresponding delivery notes, payment receipts, purchase ledgers and supplier ledger confirmations in support of the transactions. Once that contemporaneous commercial documentation was placed before the Tribunal, an evidential burden arose upon the Respondent to produce sufficient evidence to displace it.

Value Added Tax assessments

82. The Applicant produced documentary evidence supporting its claim for input VAT amounting to Shs. 278,145,001/=, comprising Assessment No. ID012200193010 for Shs. 254,428,765/= and Assessment No. ID012200193056 for Shs. 23,716,236/=.

83. The Respondent relied principally on the banking and accounting irregularities discovered in the affairs of M/s Hard Steel Limited. Those matters legitimately called for investigation and explanation. They were capable of casting doubt on the manner in which Hard Steel recorded and banked its receipts. They did not, however, establish that the particular supplies evidenced by the Applicant's tax invoices and delivery notes did not occur. Nor did they establish, to the required

standard, the allegation that the Applicant participated in a fraudulent arrangement involving supplies made to third parties.

84. The Tribunal accordingly finds that the Respondent did not adduce sufficient evidence to displace the Applicant's primary commercial documentation. The disallowance of the input VAT credits was therefore not sustained on the evidence before the Tribunal.

Corporate Income Tax assessment

85. The Corporate Income Tax assessment must be considered separately. Section 22(1)(a) of the Income Tax Act permits a deduction for expenditure or loss incurred by a person during a year of income to the extent that it is incurred in the production of income included in gross income.
86. The additional Corporate Income Tax assessment, Assessment No. ID012200193108 in the sum of Shs. 424,047,941/=, arose from the Respondent's disallowance of purchases amounting to Shs. 1,413,493,136/= from M/s Hard Steel Limited on the ground that the purchases were fictitious.
87. The materials in question including cement, BRC, PVC pipes and plywood; are ordinary construction inputs. The Applicant's evidence was that they were used in its business operations and in the execution of its engineering and construction projects. Having found that the evidence did not support the Respondent's conclusion that the underlying purchases were fictitious, the foundation upon which the expenditure was disallowed for income tax purposes cannot be sustained. The expenditure therefore qualifies for deduction under section 22(1)(a) of the Income Tax Act.

Matters giving rise to suspicion

88. The Tribunal has not overlooked the matters which gave rise to the Respondent's concerns. The alleged settlement of purchases exceeding Shs. 1.469 billion entirely in cash, in circumstances where the Applicant did not produce corresponding bank withdrawals, is unusual and was properly a matter for investigation. The transactions through Hard Steel's manager's personal account, the use of employee accounts, the aggregation of unrelated

customers' receipts and the use of bank narrations referring to Bolex were also matters capable of raising legitimate suspicion.

89. Suspicion, however, is not proof. The Tribunal must determine the tax liability on the evidence placed before it and in accordance with the applicable burden of proof. The irregularities identified by the Respondent were not sufficiently connected to the specific invoices and deliveries relied upon by the Applicant to establish that those transactions were fictitious.

90. The Tribunal has also taken into account that some of the Applicant's fuller accounting records, including its cash book and purchase ledger, were produced in the course of the proceedings rather than during the initial investigation. Those documents were nevertheless admitted in evidence and formed part of the record upon which the Tribunal was required to determine the Application.

Findings

91. On the totality of the evidence, the Tribunal finds, on a balance of probabilities, that the Applicant proved that the disputed purchases occurred. The Respondent did not adduce sufficient evidence to establish that the 34 transactions relied upon by the Applicant were fictitious or that the Applicant participated in the alleged fraudulent banking arrangements attributed to M/s Hard Steel Limited.

92. It follows that the Respondent wrongly disallowed the Applicant's input VAT credits and the corresponding expenditure for Corporate Income Tax purposes. The Application therefore succeeds.

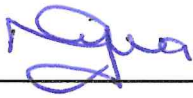
Orders of the Tribunal

93. The Tribunal makes the following orders:

- a) The Application is allowed.
- b) The Respondent's Objection Decision dated 12 May 2022 is set aside.
- c) The additional Value Added Tax assessments, namely Assessment No. ID012200193010 in the sum of Shs. 254,428,765/= and Assessment No. ID012200193056 in the sum of Shs. 23,716,236/=, are vacated.
- d) The additional Corporate Income Tax Assessment No. ID012200193108 in the sum of Shs. 424,047,941/= is vacated.

- e) The Applicant is entitled to the input VAT credits claimed in respect of the purchases made from M/s Hard Steel Limited.
- f) Each Party shall bear their own costs.

Dated and delivered at Kampala this 1st day of October 2026.



HON. STELLA C. NYAPENDI

CHAIRPERSON



HON. EDWARD BIRYETEGA

MEMBER



HON. CHRISTINE KATWE

MEMBER