TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 96 OF 2025

CHAMPION WINNERS LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. REBECCA NASSIMBWA NSUMBA, HON.GERALD AGABA KAKIMA, HON. CHRISTINE KATWE

RULING

I. Introduction

1. This Ruling is in respect of an application challenging a local Excise Duty penal tax assessment of Shs. 50,000,000 in respect of seized products which it claimed were counterfeited and produced by its former employee. The Respondent, on the other hand, contended that the products were unstamped and similar to the Applicant's genuine products upon forensic examination.

II. Background Facts

2. The Applicant is a company engaged in the manufacture and sale of alcoholic and non-alcoholic beverages, including Power Bank, Boss, Alcoholic Kumbucha and Champion Alcoholic Drinks. The Applicant stated that its products are genuine products manufactured in the ordinary course

of its business and have been subjected to quality assurance by the Uganda National Bureau of Standards (UNBS).

3. The dispute arises from the discovery of products which the Applicant maintains were counterfeited products and were not manufactured, possessed, or distributed by the Applicant. The Applicant's case is that it was itself the victim of an unlawful scheme in which its trademarks and branding were allegedly being used by a former employee, Amwon Oscar, to duplicate and circulate products purporting to be those of the Applicant.

4. The Respondent contended that it found the Applicant's unstamped alcoholic beverages at Obua Moses' shop in Oyam District and consequently assessed penal Excise Duty tax of Shs. 50,000,000 on the Applicant. The Applicant on the other hand claimed the products were counterfeit, but the Respondent insisted that the forensic scientific tests found them to be similar to its genuine products. The Respondent maintained that the assessment is payable and raises objections on non-payment of 30% of the tax. The Applicant submitted that the Respondent did not avail the Applicant or this Tribunal with the laboratory test results.

III. Issues

5. The following are the issues for determination;
   a) Whether the Applicant is liable to pay the penal tax assessed?
   b) What remedies are available to the parties?

IV. Representation

6. The Applicant was represented by Mr. Samuel Higenyi while the Respondent was represented by Ms. Christine Mpumwire and Ms. Doreen Amutuhaire of the Legal Services and Board Affairs Department of the Respondent.

V. The Applicant's Submissions

Whether the products manufactured by the Applicant are genuine products?

7. The Applicant submitted that it is a legitimate manufacturer of alcoholic and non-alcoholic beverages and has been engaged in the manufacture and sale of its products for a considerable period and that Its products are not concealed nor unknown. They are manufactured as part of the Applicant's established business and have been subjected to quality assurance by the Uganda National Bureau of Standards.

8. The Applicant further stated that the genuine products manufactured by it are distinguishable from the products which were allegedly being duplicated and circulated by its former employee. It argued that counterfeit products, by their very nature, are products made to imitate genuine products such that a counterfeiter will use the name, trademark, packaging or other identifying features of a genuine manufacturer precisely to create the impression that the product originates from that manufacturer.

9. The Applicant submitted that the mere fact that a product bears the Applicant's trademark or resembles the Applicant's genuine product cannot, by itself, establish that the Applicant manufactured or distributed that product. The Applicant claimed that it did not introduce the alleged counterfeit products into the market but became aware of the problem after its sales representatives began receiving complaints from consumers in Oyam and Alebtong Districts concerning the taste and quality of products believed to be the Applicant's products.

10. The complaints were reported to management, which undertook its own investigations in order to establish what had gone wrong. These investigations allegedly revealed that the Applicant's former employee, Amwon Oscar, was duplicating the Applicant's products and using its trademarks. The matter was thereafter reported to Lira City West Police Station.

11. The Applicant submitted that it would be unfair to infer that because counterfeit products bearing the Applicant's trademarks existed in the market, then the Applicant must necessarily have manufactured or distributed them. In its opinion, such an inference would effectively make a genuine manufacturer automatically responsible for every counterfeit product bearing its trademark, regardless of who actually manufactured, possessed, or distributed it. Such a conclusion would be contrary to the ordinary principles of evidence and would unfairly impose liability on a person without first establishing the necessary factual connection.

Whether the alleged counterfeit products were manufactured, possessed, sold or distributed by the applicant?

12. The Applicant submitted that the Respondent had failed to establish that the alleged counterfeit products were manufactured, possessed, sold or distributed by the Applicant.

13. The Applicant accepts that its trademarks were allegedly used on counterfeit products. What the Applicant disputes is that it was responsible for the manufacture or distribution of those products. The Respondent was required to establish a factual connection between the alleged counterfeit products and the Applicant.

14. The Applicant submitted that such connection could, for example, have been demonstrated by evidence that the products were recovered from the Applicant's manufacturing premises, warehouse, vehicles, employees, agents or other premises or persons under the Applicant's control. However, the Applicant's position is that the alleged counterfeit products were not found in its possession, custody or control. There is therefore no basis upon which the Respondent can simply assume that the Applicant manufactured or distributed the products merely because the products bore the Applicant's trademarks.

15. The Applicant contended that the Respondent cannot exercise statutory powers against a taxpayer merely on the basis of suspicion or an

unsupported conclusion: the factual circumstances justifying the action must be established by evidence. It would be unjust to hold the Applicant liable for the acts of a third party without evidence establishing that the Applicant authorized. participated in, benefited from, or had knowledge of those activities. The Respondent has failed to establish the necessary connection between the Applicant and the alleged counterfeit products.

Whether the Respondent has established a sufficient evidential basis to hold the Applicant liable?

16. The Applicant submitted that it was mindful of the provisions of Section 19 of the Tax Appeals Tribunal Act, which places the burden on a taxpayer challenging an assessment to prove that the assessment is excessive or erroneous. The Applicant stated that it did not seek to avoid this burden and had discharged it by placing before the Tribunal evidence explaining the circumstances under which the alleged counterfeit products came into existence and demonstrated that they were neither manufactured nor possessed by the Applicant.

17. The Applicant argued that the burden under Section 19 did not permit the Respondent to sustain a tax liability on the basis of suspicion or unsupported inference. It emphasized that the assessment or decision of the Respondent must have a proper factual and evidential foundation.

18. The Applicant submitted further that the issue was whether the Respondent's investigations produced sufficient evidence establishing that the Applicant was responsible for the seized goods. In their view, the Respondent failed to demonstrate that the alleged counterfeit products were recovered from the Applicant's premises or possession and had therefore not sufficiently established that the Applicant manufactured, sold, or distributed the alleged counterfeit products.

19. The Applicant submitted that its position was not that the alleged counterfeit products did not exist, but rather that the counterfeit products were not its products. The Respondent was required to do more than establish the

existence of counterfeit products bearing the Applicant's trademarks; it had to establish, through sufficient evidence, why those products should legally and factually be attributed to the Applicant.

20. The Applicant also submitted that there was no basis for attributing the former employee's or any third party's actions to the Applicant without evidence that the Applicant authorized, participated in, knew of, or benefited from the activities. It argued that the mere existence of counterfeit products in the market did not establish wrongdoing or liability on the part of the genuine manufacturer

21. The Applicant argued that the Respondent had not established a sufficient evidential link between the Applicant and the counterfeit products, rendering the impugned decision erroneous. The Applicant prayed that the Tax Appeals Tribunal;

a) sets aside the Respondent's impugned taxation decision against the Applicant arising from the alleged counterfeit products.

b) Finds that the Applicant is not liable for the alleged counterfeit products which were not manufactured, possessed, sold or distributed by the Applicant.

c) Orders the Respondent to withdraw the liability imposed upon the Applicant in respect of the alleged counterfeit products.

d) Awards the Applicant the costs of the Application

VI. The Respondent's Submissions

Whether the Applicant is liable to pay the assessed penalty?

22. The Respondent submitted that the Applicant is liable to pay the assessed penalty for unstamped alcoholic products seized from the market. The Respondent relied on *Black's Law Dictionary*, 8th Edition, page 376, which defines counterfeiting as the unlawful imitation or reproduction of an item with the intention of deceiving buyers into believing that it is genuine. The Respondent further relied on the definitions of "copy," "genuine" and

"imitation" on pages 360, 708 and 764, respectively, to establish that counterfeit goods are imitations intended to pass as original products.

23. The Respondent submitted that the burden rested on the Applicant to prove that the assessment was incorrect. It relied on section 19 of the Tax Appeals Tribunal Act, and sections 101(1) and 102 of the Evidence Act, which places the burden of proving asserted facts on the party making the assertions. The Respondent also cited ***Wabulungu Multipurpose Estates Ltd v Uganda Revenue Authority, Civil Appeal No. 0026 of 2015***, in support of the principle that he who asserts must prove.

24. The Respondent argued that the Applicant adduced a single police investigation report stating that the Applicant's sales representatives received consumer complaints about the quality of the goods and upon conducting their own investigation, discovered that Amwon Oscar was duplicating the Applicant's products. Therefore, the above claim is only sustainable after a determination by the Ugandan courts of judicature since neither the Tribunal nor the Respondent is in the habit of determining tortious matters.

25. The Respondent submitted further that upon receiving the Applicant's objection, it conducted forensic examinations of the seized products and samples supplied by the Applicant. They stated that the examination established that the contents of the two sets of products were the same and that their labels and packaging were similar. The Respondent therefore concluded that the seized products had not been shown to be counterfeited and that the forensic findings supported the inference that they were products of the Applicant.

26. The Respondent relied on ***Ndungo Seti & 2 Others v Sekiziyivu Sammy Jones & Another, HCCS No. 286 of 2011***, in which the Court discussed an employer's liability for acts committed by employees or agents in the course of employment. The Respondent submitted that an employer may be liable even where an employee acts contrary to instructions, negligently,

deliberately or for personal benefit, provided the conduct falls within the scope of his employment. The Respondent argued that the Applicant could not escape liability merely by attributing the manufacture of the products to its former employee.

27. The Respondent addressed the Applicant's reliance on *Uganda Revenue Authority v Remigious Patrick Paul*, HCCA No. 0008 of 2005, concerning the need to establish a connection between the taxpayer and goods subject to a penalty. It argued that the Applicant had misunderstood and misapplied that decision because the Court's finding was made in the context of the then sections 132, 173 and 174 of the East African Community Customs Management Act (EACCMA).

28. According to the Respondent, the former section 174, which was subsequently omitted by EACCMA Act No. 1 of 2005, imposed an evidentiary obligation on the Commissioner General to establish that an offence had been committed. The Respondent maintained that the applicable burden in the present tax dispute rested on the Applicant to demonstrate that the assessment was incorrect.

29. The Respondent cited **Eco Bank Uganda Limited v Uganda Revenue Authority, TAT No. 122 of 2025**, page 16, for the proposition that although the legal burden of proving an assessment incorrect rests on the taxpayer, the evidential burden shifts once credible documentary evidence is produced. It argued that the Applicant had not produced sufficient credible evidence to displace the assessment, whereas the Respondent's forensic findings supported its position

30. Further, the Respondent submitted that the unstamped alcoholic products locally manufactured by the Applicant were seized from a shop belonging to Obua, the Applicant's sales agent and distributor, at Otwai Railway Station Trading Centre. It maintained that the Applicant acknowledged Obua as its distributor and that the location of the seized products, together with the routine inspection findings and forensic evidence, supported the conclusion

that the products were attributable to the Applicant. The Respondent relied on section 21(1) of the Tax Procedures Code Act, in support of its position that the penal assessment was justified.

31. The Respondent also argued that the Applicant had not demonstrated the steps it took to prevent or stop the alleged counterfeiting by its former employee. It observed that the Applicant had merely reported the matter to the police and that the allegations remained unresolved. The Respondent also relied on ***Camat Foundation Uganda Limited v Uganda Revenue Authority, TAT Application No. 114 of 2022***, for the proposition that the taxpayer bears a substantial burden to rebut the presumption that an assessment is correct and that a taxpayer may remain liable for administrative tax non-compliance or penalties arising from the acts of employees or representatives committed within the scope of business operations, notwithstanding the directors' alleged ignorance.

32. The Respondent concluded that the Applicant had failed to discharge either its legal or evidential burden of proving that the penal assessment was incorrect. It maintained that the assessment was based on a logical inference that the products are the Applicant's based on forensic test results.

33. The Respondent submitted that this application ought to be dismissed because of the Applicant's failure to discharge its burden of proof and therefore not entitled to any of the reliefs sought.

Remedies

34. The Applicant claimed the seized products were counterfeit. Forensic tests found them identical to the Applicant's own samples. The Respondent therefore prayed that the Tribunal find that the Applicant failed to prove that the products were counterfeits and not manufactured or distributed by it, and accordingly:

    (a) dismiss the application;

(b) uphold the penal tax assessment as properly grounded and payable by the Applicant; and

(c) award costs to the Respondent.

VII. Determination

Having heard the parties, this is the ruling of the Tribunal;

35. The Applicant contends that the products seized by the Respondent were counterfeit products which were neither manufactured nor possessed by it, and that they were duplicated and circulated by its former employee, namely, Amwon Oscar. Secondly, the products were recovered from the premises of a third party, and the Applicant reported the matter to the Police and disputed the penal assessment based on conversion by its former employee.

36. The Respondent, on the other hand, contended that the seized products were unstamped, locally manufactured alcoholic beverages found in the shop of Obua, at Otwai Railway Station Trading Centre, whom the Respondent identified as the Applicant's sales agent and distributor. Upon receiving the Applicant's objection, it stated that it subjected both the seized products and samples supplied by the Applicant to forensic scientific examination, which established that the contents were the same and that the labels and packaging were identical or similar, and concluded that the products were not counterfeit but the Applicant's own.

37. The Respondent further submitted that conversion is a tortious and criminal matter outside the Tribunal's tax jurisdiction, and that the Applicant took no steps to stop the alleged counterfeiting beyond an unresolved Police report.

38. The Tribunal has considered section 19 of the Tax Appeals Tribunals Act, which places the burden of proving that a taxation decision is excessive or ought not to have been made, or ought to have been made differently, on the applicant. The Tribunal has also considered sections 101, 102 and 103 of the Evidence Act, which establish the general principles that the burden

of proof lies on the party asserting a fact and on the party who would fail if no evidence were adduced.

39. While section 19 of the Tax Appeals Tribunals Act places the statutory burden upon the Applicant to demonstrate that the taxation decision was excessive or ought to have been made differently, the Respondent must nevertheless establish the factual matters upon which the liability it seeks to impose is founded. Once the Applicant disputed having manufactured or possessed the seized products, the evidential burden shifted to the Respondent to adduce sufficient evidence linking those products to the Applicant.

40. The Tribunal considered Section 20(1) of the Tax Procedures Code Act, which provides that:

> *"A person dealing in goods, whether locally manufactured or imported, shall affix a tax stamp on any goods locally manufactured or imported as may be prescribed by the Minister under subsection (3)."*

41. Section 21(3) provides that:

> *"Any person found in possession of goods prescribed under section 20(3), on which a tax stamp is not affixed, is liable to pay a penal tax equivalent to double the tax due on the goods or two thousand five hundred currency points, whichever is higher."*

42. Liability under section 21(3) attaches to "any person found in possession" of the prescribed unstamped goods. It was therefore incumbent upon the Respondent, in seeking to impose the penal tax upon the Applicant, to establish the factual basis that the Applicant was the person in possession of the particular goods in respect of which the assessment was raised.

43. The evidence before the Tribunal establishes that the goods were discovered at the premises of Obua Moses at Otwai Railway Station Trading Centre in Oyam District. There is no sufficient evidence demonstrating that the Applicant was in possession, custody or control of those particular goods. The Respondent has not sufficiently established that the goods were

recovered from the Applicant's premises, warehouse, vehicles, agents or employees. The mere assertion that Obua was the Applicant's distributor, without more, does not establish that the Applicant was in possession of the specific unstamped goods found on those premises.

44. In the case of ***Mountain Beverages Limited v Uganda Revenue Authority, TAT*** Application ***No. 104 of 2024***, the Tribunal held that section 21(3) imposes a duty on persons in possession of the goods, such as retailers, to ensure that all goods in their possession bear the necessary digital stamps, and that a retailer found in possession of offending goods ought to be penalised for failure to carry out that duty.

45. The Tribunal also stated that:

"It is also worth noting that the offending goods were found in possession of Pick Yo Choice Supermarket. However, the Respondent chose to penalise the Applicant and not the retailer".

46. The fact that goods were found at the premises of a third party does not conclusively exclude the Applicant from liability, but a connection must be established by evidence. In the present case, the Respondent has not placed sufficient evidence before the Tribunal to establish that connection.

47. It is a settled principle that, in tax matters, the burden of proof rests upon the taxpayer in line with section 19 of the Tax Appeals Tribunal Act to prove that the assessment is excessive or should have been made differently. However, once the Applicant has exhausted its burden, the burden shifts to the Respondent. In the case of ***Safe Gears Limited v Uganda Revenue Authority, TAT App No. 91 of 2024***, the Tribunal ruled that;

"Section 19 of the Tax Appeals Tribunal Act places the legal burden on a taxpayer challenging an assessment to prove, on a balance of probabilities, that the assessment is excessive or erroneous. However, once the taxpayer adduces credible evidence supporting its position, an evidential burden shifts to the tax authority to justify the assessment".

48. The Tribunal has considered the Respondent's reliance on the forensic examination report received on 27 October 2026, marked as REX 3 on page 8 of the Respondent's Trial bundle, which it contends established that the seized products were similar to the genuine samples supplied by the Applicant.

However, the Respondent failed to discharge the burden of proving that the said products were in the possession, custody, or control of the Applicant.

49. The similarity of the goods to the Applicant's genuine products does not establish that the Applicant was in possession of, or was the manufacturer or distributor of, the said unstamped goods. The Applicant's case is that the products were counterfeit and that a third party, including its former employee Amwon Oscar, who was even reported to the Police, was responsible for duplicating and circulating products bearing its trademarks. The existence of products bearing trademarks similar to the Applicant's cannot be treated as proof that those products were manufactured or distributed by the Applicant.

50. The Tribunal is also unable to independently confirm the methodology employed by the Respondent, the samples analysed, the actual findings made, or the conclusions arrived at through the forensic examination. Sections 101, 102 and 103 of the Evidence Act require the party asserting a particular fact to prove it. The forensic report, standing alone and without evidence of its methodology or of the chain of custody of the samples, is insufficient to discharge the Respondent's evidential burden of linking the seized goods to the Applicant.

51. The Tribunal has considered the Respondent's submission on vicarious liability, that an employer may be vicariously liable for the acts of an employee within the scope of employment. That principle presupposes that the products in question are in fact the Applicant's products or were dealt with by the employee in the course of executing his duties for his employer.

52. The Respondent has not established the fact that the person found in possession was the Applicant's employee. The Police report identifying

Amwon Oscar as the alleged counterfeiter provides an explanation for the presence of products similar to those of the Applicant in the market, and the Respondent did not adduce evidence to displace that fact.

53. The Tribunal has also considered the Respondent's submission that the Applicant took no steps to stop the alleged counterfeiting and merely reported the matter to the Police. This, however, does not relieve the Respondent of its evidential burden of linking the specific seized goods to the Applicant.

54. Although the Respondent established that unstamped products bearing trademarks similar to the Applicant's were found at the premises of a third party, it failed to establish that the Applicant was the person found in possession of those particular goods as contemplated under section 21(3) of the Tax Procedures Code Act. The presence of similar trademarks, or similarity between the seized products and the Applicant's products, was insufficient to establish possession, custody, manufacture, or distribution by the Applicant.

55. In the circumstances, the Tribunal orders as follows:
    (a) The Penal Tax Assessment of Shs. 50,000,000 is set aside.
    (b) Costs to the Applicant.

Dated at Kampala this 30th day of October 2026.

HON. REBECCA NASSIMBWA NSUMBA
CHAIRPERSON

HON. GERALD AGABA KAKIMA
MEMBER

HON. CHRISTINE KATWE
MEMBER