

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO.128 OF 2022

CROWN BEVERAGES LIMITED..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MR SIRAJ ALI, MS. CHRISTINE KATWE

RULING

This ruling relates to the tax treatment of promotional items for purposes of VAT and income tax purposes.

1. Background facts

The Applicant is a company incorporated in Uganda whose principal business is the manufacture and sale of non-alcoholic soft drinks under franchise from PepsiCo Inc. As part of its marketing strategy, the Applicant routinely carries out sales promotions. On 11 April 2019, the Applicant commenced a promotion known as `Tukonectinge`.

Under the said promotion, customers participated by buying two glass bottles of Pepsi, Mirinda, or Mountain Dew. Upon purchase the customers were obliged to check under the crowns of each of the sodas for codes. These codes were then sent by SMS to number 7888. Lucky winners could win a free soda which could be immediately redeemed from the distributor. The distributor in turn raised an invoice payable by the Applicant for the free sodas redeemed by the winning customers. The invoices raised by the distributor were supported by winning crowns for verification by the Applicant. Upon verification the Applicant made payment for the invoiced sodas by crediting the distributor's ledger through the issuance of a credit memo.

In August 2021, following a review of VAT and income tax objections made by Lira Resort Enterprises Ltd, the Respondent issued the Applicant with VAT and Income tax assessments totaling to Shs. 9,305,665. The ground for the said assessments was that the Applicant was not entitled to claim a reduction in sales on account of promotional supplies as these had been made to final consumers on the Applicant's behalf.

The Applicant objected to the said assessments claiming that it had purchased the sodas from Lira Resort as part of a sales promotion. The Respondent disallowed the objection on the ground that the Applicant had failed to account for output tax on supplies by way of gift to final consumers.

2. Representation

At the hearing, the Applicant was represented by Mr. Ronald Kalema, Ms. Irene Vanessa Mbekeka and Ms. Rhoda Nakanwagi while the Respondent was represented by Mr. Stuart Aheebwa & Mr. Tembo Abdallah.

3. The issues for determination

At the scheduling, the following issues were set down for hearing.

- (i) Whether the Applicant is liable to pay the tax assessed?
- (ii) What remedies are available to the parties?

The Applicant's sole witness was Mr. Simon Lubuuka, an accountant in its Finance Department. The witness testified that the Applicant's principal business is the manufacture and sale of non-alcoholic soft drinks under the PepsiCo franchise. The witness stated that the Applicant carries out promotions to drive sales for its soft drinks. The witness referred the tribunal to exhibit A1 at page 1 of the joint trial bundle. Exhibit A1 describes a sales promotion for all contracted distributors of the Applicant. The sales promotion is referred to as **TUKONECTINGE**. Under the said promotion, consumers can win free sodas if they find certain codes under the crowns of the sodas bought by them. The witness testified that Lira Resort Enterprises Ltd, is one of the contracted distributors who assists the Applicant in running these promotions. The witness stated that Lira Resort is a taxable person for the purposes of VAT and is also a customer of the Applicant. The witness testified that the Applicant sells its products

to Lira Resort at distributor prices and accounts for output VAT on the sales. The witness stated that during promotions such as `TUKONECTINGE` Lira Resort gives away free sodas to winning consumers and then issues a tax invoice to the Applicant for the market price of the sodas. The witness testified that in actual fact the Applicant incurs the full cost of the soda given away to the consumer and incurs input VAT on the same. The witness stated that the Applicant does not make sales directly to final consumers. The witness stated that the Applicant makes payment for the promotional sodas invoiced by Lira Resort by crediting the account ledger of Lira Resort with the invoiced amount. The witness stated that the document acknowledging this payment is referred to as a `credit memo` and is passed against invoices issued by Lira Resort.

The witness stated that a credit memo is an acknowledgment of payment for the amount invoiced by the distributor to the Applicant. The witness testified that the Applicant then claims the input VAT charged to it during the promotion in its VAT returns for the relevant period. The witness stated that the Applicant purchases the promotional sodas at market value as it does any other promotional items including T-shirts which it purchases from taxable persons and gives to consumers as part of promotions. The witness also stated that the Applicant incurs an allowable deduction as the cost of the promotional sodas is an expense incurred in the production of income. The witness further stated that the Applicant also claims the VAT it is charged by the taxable person, irrespective of whether the taxable person happens to be its distributor or not.

The witness testified that on the review of its returns, the Respondent disallowed the input VAT and raised assessments amounting to Shs. 2,592,841 and income tax amounting to Shs. 4,321,404 on the allegation that the supply had been made to a final consumer and that the Applicant had over claimed a business expense. The witness stated that the Applicant disagreed with the position taken by the Respondent as the Applicant incurs the VAT claimed on the promotion and it is the recipient of the supply from Lira Resort and not a final consumer. The witness explained that the fact that the Applicant then uses the purchased product in a marketing promotion to boost sales that give rise to more taxable supplies is the very reason that such expenses are allowed as deductions. The witness stated that no valid reason exists for the issuance by the Respondent of an income tax assessment as the expense in question is an allowable business expense.

The Respondent's sole witness was Mr. Lwettute Samuel, an officer in the Respondent's Large Tax Payer's office. The witness testified that between 30th August and 1st September 2021, the Respondent issued the Applicant with additional VAT and income tax additional assessments. The witness stated that the basis of the additional income tax assessments for the financial year ending 31st December 2019, was the reduced/undeclared income in respect of sales of sodas to Lira Resort.

The witness also stated that the basis of the additional VAT assessments was the reversal of output tax relating to soda sales to Lira Resort represented by credit memos 38029, 160437 and 38261 for the periods June 2019, July 2019 and August 2019 respectively. The witness stated that the Applicant objected to the said assessments on the grounds that it purchased the sodas from Lira Resort to facilitate its promotional activities and that the credit claimed as part of the output within the VAT return relates to the input VAT incurred by the Applicant on the transaction that was misclassified as part of the sales and not the purchases. The witness testified that he reviewed the VAT and income tax objections made by the Applicant and established that Lira Resort made promotional supplies on behalf of the Applicant and that the Applicant issued and filed credit memos in respect of the promotional supplies made by Lira Resort on its behalf. The witness stated that following the objection, the Respondent issued objection decisions disallowing the objections on the grounds that the Applicant did not account for output tax in respect of the supplies extended to the winners at the promotion and that the reported income tax sales for the period under review were less by the credit memo values issued to Lira Resort.

4. Submissions by the Applicant

4.1 Submissions on the deductibility of the costs for income tax purposes

In respect of whether the Applicant is entitled to claim a deduction for the costs incurred on their promotional activities for income tax, the Applicant submitted that the disallowance by the Respondent of the amounts in the credit memos and tax invoices issued to the Applicant, as expenses for income tax purposes, was illegal.

The Applicant cited S. 22 of the Income Tax Act which provides for deductions in respect of expenditures and losses incurred by a person during a year of income. The Applicant submitted that the Respondent reversed the credit memos declared by the Applicant in its tax return and assumed that it was a reduction of sales yet these were

payments made by credit memos that were offset from the amounts due and payable by Lira Resort Enterprises Ltd. The Applicant submitted that payment takes many forms and need not always be in cash. In support of this argument the Applicant cited the definition of payment under S. 2(xx) of the Income Tax Act, wherein 'payment' is defined as including any amount paid or payable in cash or kind and any other means of conferring value or benefit on a person.

The Applicant submitted that the credit memos issued by it include the tax invoice number, the purchase order number and a description of Tuckonectinge. For instance, under Exhibit A3 at page 5 of the joint trial bundle, a tax invoice is issued by Lira Resort to the Applicant for the promotional sodas while at page 6, the Applicant makes payment for the said tax invoice by issuing a credit memo which has a corresponding tax invoice number. The Applicant submitted that it was not in dispute that it incurred the expense for the promotional sodas in full. The Applicant submitted that the promotion was intended to drive sales of the Applicant by encouraging purchases by the distributors who in turn sold more sodas to the final consumers. The Applicant submitted that the promotional activities fitted well within the scope of business activities and that the revenue from the sales were declared in the income tax returns of the Applicant. The Applicant submitted that the promotional sodas did not amount to a gift. In support of this argument the Applicant relied on the following definition of a gift under **Black's Law Dictionary 5th Edition** at page 30.

`A voluntary transfer of property to another made gratuitously and without consideration. Essential requisites of a gift are capacity of donor to make gift, completed delivery to or for donee, and acceptance of gift by donee. In tax law a payment is a gift if it is made without conditions, from detached and disinterested generosity, out of affection, respect, charity, or like impulses, and not from the constraining force of any moral or legal duty or from the incentive of anticipated benefits of an economic nature, involuntary transfer of a benefit without any need for compensation`.

The Applicant submitted that it carried out the promotion with the sole purpose of economic growth in its sales. The Applicant submitted further that the promotional sodas were given out on the condition that a purchaser of a soda was the lucky winner of a soda as established by checking under the crown. The Applicant submitted therefore that the Respondent was wrong to contend that the sodas were a gift which did not qualify for a deduction for the purposes of ascertaining chargeable income.

The Applicant submitted that the expense claimed in its income tax returns qualifies as a deductible expense as it meets all the requirements under S. 22(1) of the Income Tax Act. The Applicant submitted that the promotional expenses are shown in the invoices and credit memos exhibited as A3 at pages 3 to 17 of the joint trial bundle and should be allowed as deductions for the purposes of ascertaining the Applicant's chargeable income. The Applicant submitted further that the said expenses should be allowed as deductions owing to the admission by the Respondent's witness that an expense incurred on promotional items qualifies as an allowable deduction.

In support of these arguments the Applicant cited the decision in ***Independent Publications vs. Uganda Revenue Authority (TAT No. 55 of 2018), (2022) UGTAT 3***, where the tribunal held that marketing expenses worth Shs. 57,087,380, included in audited financial statements, were expenses that were deductible for the purposes of ascertaining chargeable income. The Applicant submitted therefore that the promotional sodas purchased from the distributor and used by the Applicant for achieving its business goal of boosting sales amounted to a business expense deductible for tax purposes. The Applicant prayed that this business expense be allowed as a deduction and the assessment set aside.

4.2 Submissions on entitlement to input tax credit on promotional sodas

The Applicant submitted further that it is entitled to the VAT input credit paid on the promotional sodas. The Applicant submitted that it paid market price for the promotional sodas and claims the VAT input paid to Lira Resort as a registered taxable person and Lira Resort also remits the output VAT. The Applicant submitted that Taxable supplies are defined under S. 18(1) of the VAT Act as a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities. The Applicant submitted that the promotional sodas are taxable goods on which the Applicant paid VAT invoiced by Lira Resort Enterprises Ltd, a taxable person. Citing S. 28 of the VAT Act, the Applicant submitted that the supply in question is the supply made by Lira Resort to the Applicant for the market price of the soda used in the promotion. As a taxable person, the Applicant is entitled to claim this input tax credit. The Applicant cited the decision in ***Warid Telecom Uganda Limited vs. Uganda Revenue Authority Civil Appeal No. 24 of 2011***, where the court held that a credit is allowed on all taxable supplies made

to the taxable person provided that the supply is for use in the business of the taxable person. The Applicant also cited the decision of the tribunal in ***Enviroserve (U) Ltd vs. URA TAT24 OF 2017***, where the tribunal stated that for persons to claim input tax credit, they have to prove that they are a taxable person, taxable supplies have been made to the Applicant during the tax period, and the taxable supplies were for use in the business of the Applicant. The Applicant also relied on the decisions in ***East African Property Holdings (U) Ltd v. Uganda Revenue Authority Civil Suit No. 247 of 2013*** and ***Target Well Uganda Ltd vs. Uganda Revenue Authority***.

The Applicant submitted that it adduced evidence in the joint trial bundle of the invoices and credit memos/proof of payment which were issued to Lira Resort Enterprises Ltd. The Applicant submitted that disallowing the credit claimed would occasion hardship to its business as it relies on promotional activities of this nature to boost its business. The Applicant submitted that it would be absurd for the Respondent to assume that because the sodas are manufactured by the Applicant, in this case they are the final consumer or it has been supplied for own use. The Applicant submitted that it purchases the sodas at market price and incurs VAT input on the same. The Applicant submitted therefore that it cannot be deemed to be making supplies to self as the sodas are bought from a third party. The Applicant submitted that the output VAT was paid by Lira Resort Enterprises Ltd who charged the Applicant for it. The Applicant concluded its submissions by stating that;

- i) It is a taxable person for VAT purposes and is entitled to claim VAT on purchases made for its business activities.
- ii) It paid VAT on the purchases from Lira Resort Enterprises Ltd as part of its business activities, at market and not reduced prices.
- iii) The sodas purchased by the Applicant are taxable supplies made by a taxable person.
- iv) The output VAT was paid by Lira Resort Enterprises Ltd which made the supply.
- v) The Applicant did not under declare sales as the amount due and payable to Lira Resort Enterprises Ltd were offset by credit notes issued by the Applicant to Lira Resort Enterprises Ltd.

The Applicant prayed for the tribunal to find that it is entitled to claim VAT on purchases made for its business activities.

5. Submissions by the Respondent

5.1 *Submissions on the deductibility of the costs for income tax purposes*

The Respondent submitted that it issued the Applicant with additional income tax assessments based on the reduced/undeclared income in respect of the sale of soda to Lira Resort Enterprises Ltd for the year ended 31st December 2019. Relying on S. 22 of the Income Tax Act and the decision in ***Ntale vs, Uganda Revenue Authority, HC-00-CC-CS-303 of 2008***, the Respondent submitted that for one to claim a deduction for income tax purposes, one must prove that the expense was used in the production of income in a given year of income. The Respondent submitted that no evidence was adduced by the Applicant to prove that there was income generated as a result of this particular expense. The Respondent submitted that in the absence of such evidence the Applicant had failed to discharge the burden that the assessment had been wrongly issued or that it should not have been issued at all.

5.2 *Submissions on entitlement to input tax credit on promotional sodas*

The Respondent submitted further that it issued VAT assessments against the Applicant on the ground that the Applicant did not account for output tax in respect of the supplies extended to the winners of promotional sodas. Citing Ss. 4 and 18 of the VAT Act, and the decision in ***Multiple ICD Limited vs. Uganda Revenue Authority TAT Application No. 61 of 2021***, the Respondent submitted that it was not in dispute that the supply of sodas is not an exempt supply under the VAT Act. The Respondent rejected the argument by the Applicant that since the promotional sodas were given away in a promotion by Lira Resort on behalf of the Applicant, the lack of consideration automatically extinguished the requirement to pay VAT. The Respondent submitted that neither the VAT Act nor the Regulations suggest that free promotional items are not subject to VAT. The Respondent relied on S. 1(1) and S.28 of the VAT Act and on the decision in ***Margaret Rwaheru Akiiki & 13945 Others vs. URA Civil Suit No. 117 of 2013***, for the argument that a taxable person must account for input tax and output tax in respect of all taxable supplies. The Respondent submitted that the Applicant had failed to account for output tax and claimed that the sodas in issue were promotional items given away by Lira Resort Enterprises Ltd to the Applicant's customers. The Respondent submitted that the sodas given away during the promotion are taxable supplies for which the Applicant ought to have accounted for

output VAT. The Respondent submitted that in the absence of such output VAT the Applicant had been rightly assessed for VAT. The Respondent submitted that the Applicant is liable to pay the taxes as assessed.

6. Resolution of the application by the tribunal

Having carefully read and considered the evidence and submissions of both parties. The following is the ruling of the tribunal.

Whether the Applicant is liable to pay the tax assessed?

Since the tax liability is made up of two different tax heads we will resolve the above issue under the following sub-issues.

- i) Whether for income tax purposes, the Applicant is entitled to claim a deduction for the costs incurred on their promotional activities?
- ii) Whether the Applicant is entitled to the VAT input tax credit arising from the promotional sodas?

6.1 Whether for income tax purposes, the Applicant is entitled to claim a deduction for the costs incurred on their promotional activities

Allowable deductions are provided for under S. 22 of the Income Tax Act. S.22 provides as follows:

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

(a) All expenditures and losses incurred by the person during the year of income to the extent to which the expenditures or losses were incurred in the production of income Included in gross income.

(b) the amount of any loss as determined under Part VI, which deals with gains and losses on the disposal of assets, incurred by the person on the disposal of a business asset during the year of income whether or not the asset was on revenue or capital account; and

(c) In the case of rental income, 20 percent of the rental income as expenditures and losses incurred by the individual in the production of such income”.

In the instant case, the Applicant claims for a deduction under S. 22(1) (a) above. For the Applicant to be entitled to a deduction under S. 22(1)(a) above, it must prove the following:

- i. The amount sought to be deducted must either be an expenditure or a loss.
- ii. This amount should have been incurred by the Applicant during the year of income.
- iii. The amount in question ought to have been incurred by the Applicant in the production of income included in gross income.

We will proceed to look at each of the above conditions in detail to determine whether the amount claimed by the Applicant as a deduction falls within the ambit of the above provision.

The term `expenditure` was defined as follows in ***Oram (Inspector of Taxes vs. Johnson (1980) 2 All ER 1.***

“...that it is perhaps a matter of first impression that the word “expenditure”, “expensed”, “expenses” and so on and so forth, in a revenue context, mean primarily money expenditure and secondly, expenditure in money’s worth, something which diminishes the total assets of the person making the expenditure...”

The Applicant’s witness Simon Lubuuka testified that the expenditure incurred by the Applicant was the amount of money the Applicant paid to Lira Resort for the promotional sodas. The witness referred the tribunal to exhibit A3 at pages 3-17 of the joint trial bundle. Exhibit A3 is a collection of invoices issued by Lira Resort for the promotional sodas and credit memos issued by the Applicant as payment for the same. A perusal of both the invoices and the credit memos shows that the Applicant made payment to Lira Resort for the promotional sodas. By making payment to Lira Resort for the said promotional sodas the Applicant incurred an expense. Relying on the above definition of expenditure, it is clear that the amount of money paid by the Applicant to Lira Resort for the promotional soda, had the effect of diminishing the total assets of the Applicant in equal proportion to the amount spent in purchasing the said sodas.

The invoices and credit memos referred to above show that the expenditure in question were all incurred between May to June 2019. This shows that the expenditure was incurred by the Applicant during the year of income in which the deduction is sought.

The authorities show that not all expenses incurred by a company are incurred in the production of income. Expenses incurred in acquiring capital assets are capital

expenditures and are incurred in the production of capital. Only expenses of a revenue nature are incurred in the production of income. Was the expense incurred by the Applicant in purchasing the promotional sodas, an expense incurred in the production of income?

The following excerpt from the decision in *Ralli Estates Ltd vs. Commissioner of Income Tax 1961 1 EA 48 (PC)* will help us determine whether the expenses incurred by the Applicant in purchasing the promotional sodas amount to expenses incurred in the production of income.

“Their lordships prefer therefore to turn back to the words of the Act and ask whether the payments were expenses wholly and exclusively incurred “in the production of the income” of the payer: and this means that you must look at the purpose of the payments. Were they paid in order to acquire a capital asset? Or for a capital purpose? If so, they are capital expenditure. But if for an income purpose, they are revenue expenditure. For instance, if a price is paid for freehold land, or a premium (properly so called) is paid for a long lease, it is not an expense incurred in the production of income, but in the production of capital. It is not deductible as revenue expenditure, no matter whether the price or premium is paid by a lump sum or by instalments. And this is true even when the lease is of a wasting asset, such as a coal mine, see Mallett v. Staveley Coal and Iron Co. Ltd. (3) (1928), 13 Tax Cas. 772, at p. 778 by Rowlatt, J. Again, if a manufacturer expends money on machinery or plant which is used again and again in his manufacturing operations, it is capital expenditure, and is not deductible in assessing his income, no matter whether he pays for it cash down or by instalments. But if a trader pays money for trading stock which he means to sell to customers as soon as he can, it is an expense incurred in the production of income, no matter whether it is paid in a lump sum or by instalments: and it is deductible. Likewise with a rent, properly so called, which is paid for a lease out of which the lessee gets an income. It is a revenue expenditure and deductible”.

In the present case, the main objective of the Applicant in paying for the promotional sodas, was to boost its sales and earn an income. This is clear from exhibit A1 where the Applicant informs its distributors about the **Tukonectinge** promotion and states that “...this UTC promotion will drive your glass sales for the next 3 months...”

The Applicant is no different from the trader referred to in the above case who pays money for trading stock which he means to sell to customers as soon as he can. In the present case, the Applicant is in the business of manufacturing and selling non-

alcoholic beverages including sodas. Promotional activities aimed at boosting sales are integral to the Applicant's business. Therefore, the expense incurred by the Applicant in purchasing the promotional sodas from Lira Resort is therefore an expenditure of a revenue nature that was incurred in the production of the Applicant's income.

The Applicant was under no obligation to adduce evidence to prove that income was generated by it as a result of the expense it incurred. It is sufficient for the purposes of S. 22(1) (a) for the Applicant to show that the expense in question was incurred in the production of income.

We therefore find that the Applicant is entitled to claim a deduction for the costs incurred by it in purchasing the promotional sodas.

6.2 Whether the Applicant is entitled to the VAT input tax credit arising from the promotional sodas

Input tax credits are provided for under **S. 28(1) of the VAT Act**. It states as follows;

"Where Section 25 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for the tax payable in respect of –

- a. All taxable supplies made to that person during the tax period,*
- b. All imports of goods made by that person during the tax period,*

If the supply or import is for use in the business of the taxable person".

The term 'input tax' has been defined under S. 1(l) of the VAT Act to mean the tax paid or payable in respect of a taxable supply to or an import of goods or services by a taxable person. In ***Enviroserve (U) Ltd vs. URA TAT 24 of 2017***, the tribunal held:

"For persons to claim input tax, they have to prove that they are a taxable person, taxable supplies have been made to the Applicant during the tax period, and the taxable supplies were for use in the business of the Applicant".

For the Applicant to succeed in its claim for input tax credit, the following must be proved:

- a) The Applicant is a taxable person.

- b) Taxable supplies have been made to the Applicant during the tax period.
- c) The taxable supplies were for use in the business of the Applicant.

It is not in dispute that the Applicant is a taxable person.

Taxable supplies are defined under S. 18(1) of the VAT Act as follows:

“(1) A taxable supply is a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities”.

The Applicant claims that the promotional sodas that it purchased from Lira Resort constitute taxable supplies made to it during the tax period. In order for the promotional sodas to qualify as taxable supplies it must be proved that:

- i) The promotional sodas were a supply of goods or services.
- ii) The supply was made in Uganda by a taxable person for consideration.
- iii) The supply must have been made by the taxable person as part of his or her business activities.

S. 10 of the VAT Act provides for the supply of goods. It states as follows:

(1) Except as otherwise provided under this Act, a supply of goods means any arrangement under which the owner of the goods parts or will part with possession of the goods, including a lease or an agreement of sale and purchase.

Exhibit A3 which is made up of invoices and credit memos issued by Lira Resort and the Applicant in respect of the promotional sodas shows that the supply in question was a supply of sodas, which under S.1 (i) of the VAT Act, qualifies as a good. The invoices also show that the supplies of the sodas were made in Uganda. There is therefore no doubt that the promotional sodas constituted a supply of goods.

Exhibit A3 also shows that Lira Resort, which is a taxable person, supplied the sodas to the Applicant for consideration.

S. 18(4) of the VAT Act, which provides for supplies made for consideration, states that a supply is made for consideration if the supplier directly or indirectly receives

payment for the supply, whether from the person supplied or any other person, including any payment wholly or partly in money or kind.

In the present case, Lira Resort received a payment in the form of a credit memo from the Applicant for promotional sodas supplied to the Applicant.

It is not disputed that the supply of the promotional sodas was made by Lira Resort as part of their business activities. As the Applicant's distributors, the main business activity of Lira Resort was to sell the Applicant's products.

Having established that the purchase of promotional sodas by the Applicant from Lira Resort constituted taxable supplies made to it during the tax period, we will proceed to determine whether the taxable supplies were for use in the business of the Applicant.

It is common ground that the principal business activity of the Applicant is the manufacture and sale of soft drinks. As shown by Exhibit A1, promotions like `Tukonectinge` constitutes one of the ways through which the Applicant boosts its sales in order to earn income. It is clear therefore that the purchase of the promotional sodas by the Applicant was for use in the Applicant's business as the award of free sodas was the main driver of the `Tukonectinge` sales promotion.

We are accordingly satisfied that the Applicant is entitled to claim the input tax paid by it on the promotional sodas purchased from Lira Resort.

Having determined as above, this application is allowed with costs and the taxes assessed by the Respondent are not payable by the Applicant.

Dated at Kampala this 23rd day of August 2024.


CRYSTAL KABAJWARA
CHAIRPERSON


SIRAJ ALI
MEMBER


CHRISTINE KATWE
MEMBER