

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL OF UGANDA
TAT APPLICATION NO. 021 OF 2025

EBENEZER NURSERY, PRIMARY & SECONDARY SCHOOL.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: MS. CRYSTAL KABAJWARA, MS. PROSCOVIA REBECCA NAMBI,
MS. ROSEMARY NAJJEMBA**

RULING

This ruling is in respect of a preliminary objection raised by the Respondent that the Applicant filed this application out of time.

1. Background Facts

The Applicant is a provider of education services. On 29 January 2020, the Applicant was issued with additional income tax assessments for the period July 2017 to June 2018 amounting to Shs. 677,385,918 on the basis of failure to support a related party loan of Shs. 2,257,953,059.

The Applicant objected to the assessment on the ground that the Shs. 2,257,953,059 was not a loan but accumulated retained earnings of the school since 2007 when it was opened. On 1 May 2020, the Respondent requested the Applicant to submit supporting documentation and on 23 July 2020, the Respondent issued its objection decision maintaining the tax due to the failure to avail the supporting documents.

On 29 January 2025, the Applicant filed this application for review of the Respondent's objection decision. When the matter came up for conferencing on 26 August 2025, the Respondent raised a preliminary objection that this application was out of time. The parties were directed to file submissions for extension of time before determination of the application could proceed.

2. Issues for determination

The main issue is whether the Applicant should be granted the extension of time.

3. Representation

The Applicant was represented by Mr. Brian Akampulira the Accountant of the Applicant, Mr. Meddard Byamukama, the Senior Accountant and Dr. Jova Byarugaba the Managing Director while the Respondent was represented by Mr. Simon Peter Orishaba.

4. Submissions of the Applicant

The Applicant submitted that it is in the interest of justice, the Tribunal should exercise its discretion to enlarge time and deem the application as properly before it. Section 16(2) of the Tax Appeals Tribunals Act which states:

"a tribunal may upon application in writing extend the time for the making of an application to the tribunal for a review of a taxation"

Further, Rule 12 of the Tax Appeals Tribunals (Procedure) Rules provides:

"Where an application is not filed with the Registrar within thirty days from the date the applicant was served with notice of the decision, the Tribunal may, in its discretion, upon the application of the applicant in writing, extend the time for making an application."

The Applicant submitted that the Tribunal ought to look beyond the mere passage of time and evaluate the justice of the matter. The circumstances giving rise to the application

were wholly outside the Applicant's control, and it is in the interests of justice that the application be heard on its merits.

The Applicant submitted that the prolonged COVID-19 pandemic severely disrupted the operations of the school, creating significant financial and administrative challenges which impaired its ability to comply with statutory timelines. This situation was further aggravated by the illness of the school's director, who bore primary responsibility for financial and administrative oversight. These events were both unforeseeable and unavoidable. The delay was not deliberate but the compelling circumstances that merit the Tribunal's indulgence.

The Applicant submitted that the intended application is not frivolous but rests on strong grounds of law and fact. The disputed assessment arises from a related-party loan of Shs. 2,257,953,059 obtained to acquire land for the construction of school facilities. Under the Income Tax framework, such borrowing costs are deductible and should not have been added back by the Respondent. The loan originated from the deceased director's earnings, supplemented by external financing through borrowing, and full supporting documentation has been availed to demonstrate its legitimacy and direct nexus with the Applicant's business operations.

The Applicant submitted that no prejudice will be occasioned to the Respondent should time be enlarged. The Applicant has already complied with the statutory obligation to deposit 30% of the tax in dispute with a payment of Shs. 203,215,775.

The Applicant submitted that the Respondent, as administrator of the tax system, bears a duty to guide taxpayers through the prescribed processes, including the proper timelines for pursuing objections, alternative dispute resolution, and applications before this Tribunal. The Applicant's management acted in good faith and took steps to seek administrative reliefs but inadvertently followed the wrong procedural path. The non-compliance with timelines was therefore not deliberate neglect but the product of excusable missteps in navigating a complex tax regime without adequate guidance.

The Applicant submitted that while ignorance of the law is generally not a defence, the jurisprudence recognises that courts and tribunals should exercise their discretion to enlarge time where failure to comply results from accident, inadvertence, or excusable mistake. In *Banco Arabe Espanol v. Bank of Uganda [1999] 2 EA 22*, the Court of Appeal affirmed that procedural rules are handmaidens of justice and should not be applied rigidly to defeat substantive justice.

The Applicant submitted that it is a small and medium-sized enterprise that has already endured considerable financial hardship to comply with the statutory requirement of depositing 30% of the tax in dispute. To deny the Applicant a hearing on the merits on account of procedural lapses would occasion disproportionate injustice.

The Applicant submitted that even in cases of inordinate delay, Tribunals retain discretion to enlarge time. The Applicant submitted that it has shown compelling reasons for the delay, a strong prima facie case, and minimal prejudice to the Respondent, who has already received partial payment of the disputed tax. The Applicant prayed that this Tribunal exercise its discretion in the interests of justice and grant an extension of time, thereby validating the Application No. 21 of 2025 for determination on its merits.

5. Submissions of the Respondent

In reply, the Respondent submitted that in Section 27 (1) of the Tax Procedures Code Act provides that a person dissatisfied with an objection decision may, within 30 days after being served with a notice of objection, lodge an application with the Tax Appeals Tribunal for review of the objection decision.

The Respondent submitted that Section 16 (1) (c) of the Tax Appeals Tribunal Act provides that an application to the Tribunal for review shall be made within 30 days of being served with notice of the decision. The Respondent submitted that it is clear that an application for review of the Respondent's decision is to be made within 30 days of service of the objection decision.

The Respondent submitted that in the case of ***Uganda Revenue Authority Vs Consolidated Properties Ltd Court of Appeal. Civil Appeal No. 31 of 2000***, the court held:

"Timelines set by statutes are matters of substantive law and not mere technicalities and must be strictly complied with".

The Respondent submitted that the Applicant had up to 23 August 2020 to file its application for review before this Tribunal. However, where there is justifiable reason for delay in filing an application for review, the Tribunal has discretion under law to grant the Applicant an extension of time within which to file an application for review.

The Respondent submitted that Rule 12 of the Tax Appeals Tribunal (Procedure) Rules provides that where an application is not filed with the registrar within thirty days from the date the applicant was served with notice of the decision, the Tribunal may, in its discretion, upon application of the applicant in writing, extend the time for making an application. The Respondent submitted that it should be noted that this application can only be granted if it is made within 6 months after being served with the objection decision.

The Respondent cited the case of ***Lifeway Pharmaceutical Industries Limited vs Uganda Revenue authority TAT Misc. cause No. 32 of 2025***, which was dismissed by the Tribunal where the Tribunal stated:

"While the law mandates that an application must be filed within 30 days of being served with the notice of the objection decision, it also allows a six-month window for filing".

The Respondent contended that the instant Application was filed on 4 June 2025, whereas the objection decision has been served on the Applicant on 23 July 2020, which is over 4 years, 10 months and 12 days later, and no Application for extension of time was ever made by the Applicant. This deems the main application improper before this Tribunal, and ought to be dismissed with costs to the Respondent.

The Respondent argued that the Applicant had not adduced any justifiable reason or evidence for the delay in filing its main application, neither has it advanced any reason for failing to apply for extension of time. The Respondent submitted that it is judicially noticed that the Covid-19 lockdown was lifted in 2022, and therefore the Applicant cannot rely on the same to justify the delay in filing their main application or failing to apply for extension of time, as after 2022, it still took the Applicant three years to file its main application on 23 July 2025.

The Respondent prayed that the application be dismissed with costs to the Respondent.

6. Determination of the Tribunal

The Respondent raised a preliminary objection that this application was time barred. On 26 August 2025, when this matter came up the Applicant was guided to file an application for extension of time by 2 September 2025. However, both parties proceeded and filed submissions.

The Applicant submitted that the prolonged COVID-19 pandemic severely disrupted the operations of the school, creating significant financial and administrative challenges which impaired its ability to comply with statutory timelines. This situation was further aggravated by the illness of the school's director, who bore primary responsibility for financial and administrative oversight. The Applicant stated that the events were both unforeseeable and unavoidable and that the delay was not deliberate.

In response, the Respondent submitted that it is judicially noticed that the Covid-19 lockdown was lifted in 2022, and therefore the Applicant cannot rely on the same to justify the delay in filing their main application or failing to apply for extension of time, as after 2022, it still took the Applicant three years to file its main application. The Respondent submitted that the Applicant has failed to prove any justifiable reasons for the delay.

Section 16 (1) (c) of the Tax Appeals Tribunals Act provides that:

*"(1) An application to a Tribunal for review of a taxation decision shall-
(c) be lodged with the tribunal within 30 days after the person making the application has been served with notice of the decision".*

Section 16 (2) of the Tax Appeals Tribunals Act provides:

"A Tribunal may, upon application in writing, extend time for the making of application to the Tribunal for a review of the taxation decision."

Further, **Section 16(7) of the Tax Appeals Tribunals Act** provides:

"An application for review of a taxation decision shall be made within six months after the date of the taxation decision."

In the case of ***Uganda Revenue Authority V Consolidated Properties Ltd (Court of Appeal Civil Appeal No. 31 of 2000)***, it was stated:

"That is why the Respondent filed a second application dated August 12 1999, which was thrown out by the Tribunal for being time barred. Clearly, that application was filed after over 50 days from June 17 1999 instead of within 30 days as required by the law. Time limits set by statutes are matters of substantive law and not mere technicalities and must be strictly complied with."

In light of the above, the Tribunal finds that this application is fatally defective, having been filed more than 4 years after the date of the objection decision. The Applicant was issued with an objection decision on 23 July 2020 and filed this application on the 29 January 2025. It took the Applicant years to realize that they now intend to challenge the Respondent's decision. The delay is so inordinate that any reasonable court or tribunal would be constrained to exercise its discretion in favour of the Applicant.

Furthermore, the Applicant alleged that the reason for the delay was the Covid 19 pandemic and illness of its director. The Applicant also alleged that he was he lacked guidance which he should have got from the Respondent. These reasons do not stand as the lockdown was lifted and operations went back to normal in 2022. The Applicant could have sought redress from this Tribunal in the following year and did not. There was more than ample time for the Applicant to consult and make the right decision but the Applicant chose to sit on its rights.

Regarding the illness of its Director, the Applicant could not avail any evidence to support the assertion. When did the illness start, when did it end?

In the circumstances, this application is hereby dismissed and costs are awarded to the Respondent.

Dated at Kampala this 19th day of September 2025.

Crystal Kabajwara
MS. CRYSTAL KABAJWARA
CHAIRPERSON

Rebecca Nambi
MS. PROSCOVIA REBECCA NAMBI
MEMBER

Rosemary Najjemba
MS. ROSEMARY NAJJEMBA
MEMBER