TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 185 OF 2025

ECOBANK UGANDA LIMITED ..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY..... RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE

RULING

I. Introduction

1. This ruling is in respect of an application challenging the Respondent's objection decision confirming additional assessments of withholding tax and Value Added Tax of Shs. 225,843,363.

II. Background facts

2. The Applicant is licensed to provide banking and financial services, including wholesale, retail, investment, and transaction banking to governments, financial institutions, businesses, and individuals. In the course of its business, the Applicant operated card-based payment systems and engaged international service providers, including VISA International, to facilitate electronic payment transaction.

3. The dispute arose from a tax audit conducted by the Respondent into the Applicant's tax affairs for the period January 2021 to December 2022 and up to December 2023.

4. Following the audit, the Respondent issued an audit management letter dated 21 March 2025, in which it found that the Applicant had failed to withhold tax on payments made to VISA International and had not charged Value Added Tax on those payments, which were treated as management services.

5. Subsequently, the Respondent raised additional tax assessments amounting to Shs. 225,843,363, comprising withholding tax and VAT liabilities.

6. The Applicant made a partial payment of Shs. 20,000,000 without prejudice and, on 17 April 2025, lodged an objection against the entire assessment on the basis that the payments to VISA did not constitute taxable management services and, for VAT purposes, related to exempt financial services.

7. The parties thereafter engaged, including an objection meeting held on 23 May 2025, but on 30 May 2025, the Respondent rejected the objection in its entirety and confirmed the assessments. Dissatisfied with that decision, the Applicant lodged the present application before the Tribunal seeking to have the objection decision set aside.

III. Issues for determination

8. The following issues were set down for determination.

   (i) Whether the Applicant is liable to pay the assessed Withholding and Value Added Tax?

(ii) What remedies are available to the parties?

IV. Representation and Evidence

9. Mr. Edwin Echiba and Mr. Noah Opindeni all of BDO East Africa Advisory Services Limited, appeared for the Applicant, while Ms. Eseza Victoria Ssendege of the Respondent's Legal Services and Board Affairs Department appeared for the Respondent.

10. The Applicant filed an affidavit in support of the application, deponed by **Ms. Sophie Busingye**, the Applicant's Tax and Regulatory Manager and sworn on 28 January 2026. The Applicant's evidence is as follows:

    (i) The Applicant is licensed to carry on the business of financial services in Uganda, and the purpose of this Affidavit is to explain in clear and detailed terms the nature of the Bank's card acquiring business, its operational and commercial structure and the role of Visa International within that structure.

    (ii) The Applicant is a member of payment networks operated by card scheme companies such as VISA International (A8) for the purposes of operating its card acquiring business.

    (iii) VISA International establishes and operates global consumer payment systems through which its members are authorised to provide customers with the facility to effect payments, credit, and debit cards.

    (iv) These consumer payment systems are centrally administered and governed by VISA International through integrated networks that connect all members on a worldwide basis.

    (v) The acquiring business is delivered mainly via three channels, namely:

a) Point of sale (POS), eCommerce and QR Codes. Point of sale is a mobile device that is enabled to read and transmit card data and able to capture fields such as amount, authentication PIN, and print a receipt upon transaction processing (either approved or declined)

b) eCommerce is an online link capability where a merchant hosts details on the web and a checkout page with payment acceptance details displayed. The link redirects to the bank gateway on checkout for transaction processing and feedback, whereafter the transaction status is subsequently redirected back to the merchant page to issue an e-receipt

c) QR (Quick Response) Code is a code enabled to accept VISA or any other provider from an equality-enabled bank mobile application. A QR is basically a card displayed as a QR code, and the Mobile bank App is issued with the same to enable card-to-card value transfer.

(vi) The Applicant operates a card acquiring business, which is a distinct banking service where the bank provides merchants, such as supermarkets, retailers, petrol stations, restaurants, etc., with the ability to accept electronic payments from customers using debit or credit cards.

(vii) This tax dispute is centred on the transaction flow in the acquiring business delivered through the Point-of-Sale machine, which is described below.

The Transaction Flow of the Card Acquiring Business

(viii) The Applicant stated that the key participants in the transaction flow are as follows:

a) The Merchant is a business that sells goods or services and wishes to accept card payments

b) The Acquiring Bank (Ecobank) is the bank that contracts with the merchant, provides and maintains the point-of - sale terminal or payment gateway, and facilitates the settlement of funds from card transactions into the merchant's account.

c) The Cardholder is the customer of an issuing bank who uses a debit or credit card to pay for goods or services

d) The Issuing Bank is the financial institution that issued the card to the cardholder. It is responsible for authorising the transaction and ensuring the cardholder has sufficient funds or credit

e) The Card Scheme (VISA International) is a global payment financial technology company that operates the payment network (the switch). It sets the rules, provides the technological infrastructure, and facilitates secure communication and routing of transaction information between the acquiring and issuing banks.

(ix) The Applicant also explained the steps that are undertaken when executing the payment instructions. These are as follows:

a) A customer, the cardholder, presents a VISA-branded card to pay for goods or services at a merchant's store

b) The VISA card is swiped, inserted, or tapped on the merchant's POS machine supplied by Ecobank, the Applicant – the Acquiring Bank.

c) The acquiring bank's POS machine sends the transaction details securely through the VisaNet network (operated

by VISA International) to the cardholder's issuing bank for authorisation.

d) Upon receipt of the transaction details, the issuing bank conducts due diligence checks by verifying the presence of funds on the cardholder's account and assessing the fraud risk on the transaction, whereafter the issuing bank shall proceed to either approve or decline the transaction.

e) This response (approved or declined) is routed back through VisaNet to the Acquiring Bank's machine.

f) If approved, the merchant completes the sale and issues a receipt to the cardholder.

Clearing and Settlement

g) At the end of the business day, the Acquiring Bank (Ecobank-Applicant) receives all approved transactions and submits all approved transactions to Visa for settlement.

h) VISA International facilitates the settlement process by creating clearing files and calculating the net transactions available to the different banks, and orchestrates the movement of funds.

i) VISA International then instructs the issuing bank to send the transaction amount, minus an interchange fee, to the Acquiring bank (Ecobank-Applicant) via the settlement system. The interchange fee is an inter-bank remittance paid by an acquiring bank to the issuing bank to subsidise the cost of issuing the card, and to compensate a member for costs incurred as a result of the transaction.

j) The Acquiring bank then deposits the funds, minus a Merchant Service Commission (MSC), into the

merchant's account. The MSC is a fee levied on merchants for costs incurred as a result of the transaction.

k) The Acquiring Bank then deposits the funds, minus a Merchant Service Commission (MSC) into the merchant's account. The MSC is a fee levied on merchants as a percentage based on transaction value.

l) The MSC retained by an acquiring bank (Ecobank-Applicant) is its revenue for providing the acquiring service (safe cash collection, terminal provision, risk management, and settlement). This MSC is paid by the merchant, not by the bank.

(x) The Applicant also stated that in the acquiring business, the card scheme companies provide a technological utility and a set of standardised rules that enable interoperability in a global payment system.

(xi) The essential tasks /services necessary to the commencement and management, and completion of a card transaction such as conducting due diligence checks, verifying the presence of funds on the cardholder's account, assessing the fraud risk on the transaction, and approving or detecting the transaction, are not carried out by VISA International but rather by the acquiring / issuing banks.

(xii) The issuing and acquiring banks simply use VISA International's network (VisaNet), as a driver uses a toll road but remains the driver of the car and ensures that the car is serviced, fueled, and moves from point A to B.

The Fees

(xiii) The Applicant also stated that for the provision of access to their network, VISA International earns transaction-based fees, which are fees paid to VISA International tied directly to the transactions carried out by the cardholder as a percentage of the transaction value. Every time a transaction occurs, a transaction fee is payable.

(xiv) The true recipient of the underlying transaction service is the merchant or cardholder. The entire card payment ecosystem exists to provide a service to end users, such as the merchant (who wants to receive payment safely) and the cardholder (who wants to pay conveniently).

(xv) The Applicant, as an acquirer, is an intermediary facilitating this service for the merchant. VISA's network enables the Applicant to provide payment services to the merchant. The applicant does not consume VISA's services for its own internet management; it integrates VISA's network to deliver a commercial service to its customers.

(xvi) The fees in the system are ultimately borne by the transacting parties. The Merchant Service Commission paid by the merchant covers the cost of the entire chain, including the share that flows to VISA (via the interchange mechanism)

(xvii) The Applicant does not pay VISA out of its own revenue for a service consumed internally. It is part of a multi-party settlement process for a consumer–facing transaction.

11. The Respondent filed an affidavit in reply, deponed Ms. Lilian Kabanyoro, the Respondent's Tax Officer, and sworn on 18 February 2026, stating as follows:

(i) The Respondent reviewed the Applicant's payments made to international service payment providers and requested the Contracts between the Applicant and its international payment service providers; their respective schedules of payments made with a clear breakdown of transactional fees, subscription fees, licenses, royalties or franchise fees for the period of January 2021 to 2023.

(ii) The Applicant provided a contract between the Applicant and VISA International Service Association, a summary of how VISA works and a summary of payments made to VISA International Service Association with a breakdown of Transactional Fees and Annual Numeric Licensing.

(iii) The Applicant explained the nature of payments made to VISA International and stated that the underlying transactions are initiated by a customer and are cleared through settlement accounts and that it is at this point that the charge paid by the customer is actualized and later shared among different players and that these charges are borne by the customer and therefore are transactional charges and should be VAT and WHT exempt.

(iv) Non-transactional charges are subject to withholding tax because the customers are not privy to the agreement between VISA International and Ecobank. Furthermore, the Applicant remits the portion of the earned income to VISA, thereby incurring the obligation to withhold tax on international payments, which must be remitted to the Respondent.

(v) She further stated that the Respondent agreed with the Applicant that the Annual Numeric Licensing fee (Subscription) is a non-transaction charge and is therefore subject to VAT.

(vi) On reviewing the VISA fee guide, the Respondent noticed a number of non-transactional charges like Association one-off service fees, Quarterly Service Fees, International Service fees, VisaNet Technology fees, Risk management services fees, Regulatory fees, Business education fees, and other operational fees out of which the Applicant provided information only on annual numeric licensing fees and it was on this only that VAT was charged.

V. Submissions of the Applicant

12. The Applicant submitted that they were not liable for the tax assessed. They argued that the Respondent erroneously assessed the Withholding Tax of Shs. 217,159,866 and Value Added Tax of Shs. 8,683,498 on payments made to VISA International, on the mistaken basis that such payments constituted taxable management charges and non-exempt services respectively. The Applicant contended that the assessments were contrary to both the Income Tax Act and the Value Added Tax Act, and were therefore unlawful and ought to be set aside.

13. The Applicant submitted that the central issue for determination was whether the payments made to VISA International were subject to withholding tax under S.82(1) of the Income Tax Act, and whether the said payments attracted VAT under the VAT Act.

Withholding tax

14. The Applicant submitted that it was not liable to pay withholding tax on the payments made to VISA International because the said payments were purely transaction fees and did not fall within the

categories of taxable international payments provided under S.82(1) of the Income Tax Act. S.82(1) imposes tax on payments made to non-residents in the form of dividends, interest, royalties, rent, natural resource payments, agency fees in Islamic finance, or management charges. The Applicant submitted that the payments in question did not fall within any of these categories.

15. The Applicant further submitted that the Respondent failed to discharge its statutory duty to demonstrate how the payments made to VISA International fell within the definition of any taxable category under the Act. In support of this proposition, the Applicant relied on the decision of the Supreme Court of Kenya in ***Barclays Bank of Kenya Limited (Now ABSA Bank Kenya PLC) v. Commissioner of Domestic Taxes Supreme Court Petition No. 12 (E014) of 2022***, where the Court held that it is the duty of the taxing authority to clearly identify the nature of the transaction and demonstrate how it falls within the charging provisions of the statute.

16. The Applicant submitted that the payments could not be characterised as royalties. It relied on the definition of a royalty under S.2 of the Income Tax Act and argued that the payments did not constitute consideration for the use of intellectual property or similar rights. The Applicant further relied on ***Barclays Bank of Kenya Limited (Now ABSA Bank Kenya PLC) v. Commissioner of Domestic Taxes Supreme Court Petition No. 12 (E014) of 2022***, where the Court emphasised that the characterisation of payments must be guided by the contractual arrangements between the parties.

17. The Applicant submitted that under its Membership and Trademark Licence Agreement with VISA International, the licence granted was expressly royalty-free, and therefore the payments could not constitute royalties.

18. The Applicant further submitted that the payments were not management charges within the meaning of S.77 of the Income Tax Act, which defines a management charge as any payment made as consideration for managerial services. The Applicant submitted that the ordinary meaning of managerial services involves the functions of planning, directing, controlling or administering the affairs of a business.

19. In support, reliance was placed on ***Goal Relief Development Organisation v. Uganda Revenue Authority High Court Civil Appeal No. 50 of 2023***, where the Court adopted the definition of management as involving functions such as planning, organising, staffing, directing and controlling.

20. The Applicant further relied on the decision in ***Jacobsen Uganda v. Uganda Revenue Authority TAT Application No. 11 of 2016***, *as upheld in* ***Uganda Revenue Authority v. Jacobsen Uganda High Court Civil Appeal No. 26 of 2018***, where it was held that not all payments fall within the category of management charges and that the taxing provisions must be strictly construed.

21. Applying the above authorities, the Applicant submitted that VISA International did not render any managerial services to the Applicant. Rather, VISA provided a technological platform that enabled the

routing of transactions between financial institutions, without exercising any control or direction over the Applicant's business.

22. The Applicant submitted that the essential functions of authorisation, fraud checks, customer verification and transaction approval were performed by the Applicant itself and not by VISA International.

23. The Applicant further submitted that the payments in question constituted transaction facilitation fees arising from a four-party payment system involving the cardholder, issuing bank, acquiring bank and merchant, and were therefore not payments for management services.

24. The Applicant also submitted that even if the payments were to be considered taxable, the obligation to withhold tax under S.137(1) of the Income Tax Act lies on the person making the payment. It was contended that the Applicant was merely an intermediary facilitating transaction on behalf of its customers and that the actual payer of the fees was the customer.

25. The Applicant relied on the principle of strict interpretation of taxing statutes as stated in ***Uganda Revenue Authority v. Siraje Hassan Kajura Supreme Court Civil Appeal No. 9 of 2015***, where the Court held that tax liability must be based on clear statutory provisions and cannot be implied.

VAT

26. With respect to Value Added Tax, the Applicant submitted that it was not liable to pay VAT on the fees paid to VISA International because the services in question constituted exempt financial services. The

Applicant relied on S.19(1) and Paragraph 1(c) of the Second Schedule to the VAT Act, which provide that supplies of financial services are exempt from VAT.

27. The Applicant further relied on Paragraph 2(b) of the Second Schedule to the VAT Act, which defines financial services to include transactions concerning payments, transfers, deposit accounts and other financial instruments. The Applicant submitted that its card acquiring business involved the facilitation of payment transfers between cardholders and merchants, and therefore fell squarely within the definition of exempt financial services.

28. The Applicant further submitted that the licence fees paid to VISA International were an integral and inseparable cost of providing the exempt financial service of payment processing, and therefore could not be treated as a separate taxable supply.

29. The Applicant relied on the decision of the European Court of Justice in ***Sparekassernes Data Center (SDC) v. Skatteministeriet Case C-2/95,*** where it was held that services which form an integral part of a financial transaction and fulfil its essential function are to be treated as exempt financial services.

30. In conclusion, the Applicant submitted that the Respondent's assessments were based on a mischaracterisation of the nature of the payments made to VISA International and were therefore contrary to the applicable law. It was contended that the payments were neither management charges nor royalties, and that the

services in question constituted exempt financial services under the VAT Act.

31. The Applicant therefore prayed that the Tribunal find that it was not liable to pay the assessed withholding tax and VAT, and that the Respondent's assessments and objection decision be set aside.

VI. Submissions of the Respondent

32. The Respondent submitted that the Applicant was liable for the tax assessed. The Respondent submitted that the Applicant was properly assessed with the withholding tax of Shs. 217,159,866 on payments made to VISA International and Value Added Tax of Shs. 8,683,498 on licensing fees, and that the said taxes were lawfully due and payable.

33. The Respondent contended that the Applicant had failed to account for withholding tax on payments made to a non-resident service provider and had also failed to charge VAT on imported services.

34. The Respondent submitted that the issue for determination was whether the payments made by the Applicant to VISA International constituted income derived from sources in Uganda and were therefore subject to withholding tax, and whether the licensing fees attracted VAT as taxable imported services.

Withholding tax

35. The Respondent submitted that the Applicant was liable to withholding tax under Section 84(1) of the Income Tax Act, which imposes tax on every non-resident person deriving income under a

Ugandan-source services contract. A Ugandan-source services contract was defined under Section 84(4) as a contract whose principal purpose is the performance of services giving rise to income sourced in Uganda.

36. The Respondent submitted that the Applicant entered into a contractual relationship with VISA International under which VISA provided payment processing services to facilitate transactions for the Applicant's customers. The Respondent contended that the payments made by the Applicant to VISA International constituted consideration for the use of VISA's payment platform and the services provided thereunder.

37. The Respondent further submitted that the said payments amounted to income derived from sources in Uganda within the meaning of S.78(d) (i) and S.78(r) of the Income Tax Act, as they were fees paid by a resident person for services rendered in Uganda. The Respondent argued that the Applicant charged customers for the use of VISA-enabled services and remitted a portion of those fees to VISA International, thereby generating Ugandan-source income.

38. The Respondent submitted that the nature of the payments made to VISA International could not be confined to transaction fees alone, and that the payments included both transactional and non-transactional charges such as licensing fees, VisaNet access fees and other service-related charges. The Respondent contended that these payments constituted consideration for services rendered and were therefore taxable.

39. The Respondent further submitted that under S.137(1) of the Income Tax Act, any person making a payment to a non-resident under a Ugandan-source services contract is required to withhold tax. The Respondent contended that the Applicant, as the person making the payments to VISA International, was under a statutory obligation to withhold tax and remit the same to the Commissioner General.

40. The Respondent relied on the decision in ***Intertek Testing Services International Ltd v. Uganda Revenue Authority (Civil Appeal No. 5 of 2002) [2003] UG CommC 21***, where it was held that payments made to foreign entities under a service contract can constitute taxable income sourced in Uganda, and that the substance of the transaction takes precedence over its form. The Respondent also relied on ***Kuehne and Nagel Uganda Limited v. Uganda Revenue Authority (2022)*** to support the proposition that services rendered under a contract connected to Uganda give rise to taxable income.

41. The Respondent further relied on the principle stated in ***Uganda Revenue Authority v. Siraje Hassan Kajura, Supreme Court Civil Appeal No. 9 of 2015***, that tax liability arises where the subject clearly falls within the charging provisions of the law, and that the obligation to pay tax is mandatory unless expressly exempted. The Respondent also cited ***Cape Brandy Syndicate v. IRC (1921) K.B 64*** in support of the strict interpretation of taxing statutes.

VAT

42. On Value Added Tax, the Respondent submitted that the Applicant was liable to VAT under Section 4 of the VAT Act, which imposes tax on the supply of imported services unless the service is

specifically exempt. The Respondent contended that the licensing fees paid by the Applicant to VISA International constituted consideration for access to the VISA platform and therefore amounted to taxable imported services.

43. The Respondent submitted that the licensing fees were paid prior to the execution of transactions and were therefore not directly linked to financial services such as payment transfers, and accordingly did not fall within the exemption for financial services under the VAT Act. The Respondent argued that such fees were akin to subscription fees and were subject to VAT at the standard rate.

44. In conclusion, the Respondent submitted that the payments made by the Applicant to VISA International constituted income derived from Uganda under a Ugandan-source services contract and were therefore subject to withholding tax. The Respondent further submitted that the licensing fees constituted taxable imported services and were not exempt from VAT. The Respondent prayed that the Tribunal uphold the assessments and dismiss the application with costs.

VII. Submissions of the Applicant in rejoinder

45. In rejoinder, the Applicant reiterated its main submissions and added that the payments did not arise under a Ugandan-source services contract within the meaning of Section 84(4) of the Income Tax Act, as the contract with VISA International did not give rise to income sourced in Uganda.

46. Further, the Applicant submitted that the Respondent had mischaracterised the nature of the payments by conflating

transactional and non-transactional charges, whereas the impugned assessment was based solely on transaction fees.

47. On the obligation to withhold tax, the Applicant reiterated that under S.137(1) of the Income Tax Act, the duty falls on the person making the payment. It maintained that, on a proper analysis of the transaction structure, the customer was the actual payer of the amounts ultimately remitted to VISA International, while the Applicant merely acted as an intermediary.

48. The Applicant further distinguished the authorities relied upon by the Respondent, including ***Absa Bank Uganda Ltd v. Uganda Revenue Authority TAT Application No. 57 of 2021***, ***Kuehne and Nagel Uganda Limited v. Uganda Revenue Authority (2022)***, *and* ***Intertek Testing Services International Ltd v. Uganda Revenue Authority (Civil Appeal No. 5 of 2002) [2003] UG CommC 21***, on the basis that they involved materially different facts and were therefore inapplicable to the present dispute.

49. With respect to Value Added Tax, the Applicant reiterated that its card acquiring business constituted the provision of financial services, specifically payment and transfer services, which are exempt under S.19(1) and Paragraph 2(b) of the Second Schedule to the VAT Act. It maintained that the licence fees paid to VISA International were an integral and inseparable cost of providing these exempt services and could not be treated as a separate taxable supply.

50. The Applicant rejected the Respondent's argument that the timing of the licence fee payment rendered it taxable, and submitted that the applicable test is whether the cost is directly connected to the provision of an exempt financial service.

51. In conclusion, the Applicant maintained that it had discharged its burden of proof and that the Respondent had failed to rebut its evidence. It therefore prayed that the Tribunal find that the assessments were erroneous in law and set aside the Respondent's objection decision in its entirety.

VIII. The determination

52. Having heard the evidence and read the submissions of the parties, this is the decision of the Tribunal. Before determining this application, it is important to explore and understand the payment platform system and the role it plays in facilitating financial transactions globally.

What is Visa?

53. Visa is a global payment technology company and card network. It provides the digital infrastructure that connects consumers, merchants, and financial institutions to process electronic funds transfers.

54. Visa is not a bank, and it does not issue credit, debit, or prepaid cards, nor does it set interest rates or determine credit limits. These are done by the financial institutions that issue customer cards. For example, when an individual purchases groceries in the supermarket and pays with a Visa card issued by their bank, Visa's network

facilitates electronic communication between the supermarket's bank and the individual's bank to authorise and settle the funds.

55. Visa charges transaction fees for its payment facilitation services. It is these very fees that are at the heart of this dispute, specifically whether they are subject to withholding tax and VAT.

56. We shall address each tax head separately.

Withholding tax

57. The Applicant has argued that the transaction fees are outside the scope of withholding tax since they are neither management fees nor royalties under section 82 of the ITA. In addition, the Applicant stated that transaction fees are paid by its customers and that the bank is merely an intermediary. Therefore, the withholding tax obligation, if any, lies with the customers.

58. On the other hand, the Respondent has argued that the fees are taxable under section 84 of the ITA, which deals with income derived from a Uganda-source services contract.

59. Section 82 of the Income Tax Act provides for tax on international payments, and it states;

> *(1) Subject to this Act, a tax is imposed on every non-resident person who derives any dividend, interest, royalty, rent, natural resource payment, agency fee in case of Islamic financial business or management charge from sources in Uganda.*
>
> *(2) The tax payable by a non-resident person under this section is calculated by applying the rate prescribed in Part V of Schedule 4 to*

this Act to the gross amount of the dividend, interest, royalty, rent, natural resource payment, agency fee in case of Islamic financial business or management charge derived by a non-resident person.

60. Furthermore, Section 77 of the ITA defines a management charge to mean:

> *"Any payment made to any person, other than a payment of employment income, as consideration for any managerial services, however calculated".*

61. We are inclined to agree with the Applicant that visa payment charges are not management fees. The decision in ***Goal Relief Development Organisation v. Uganda Revenue Authority, High Court Civil Appeal No. 50 of 2023,*** is instructive insofar as it defined management as involving functions such as planning, organising, staffing, directing and controlling.

62. In addition, ***Black's Law Dictionary, 10th Edition, page 1104***, which the Respondent also cited, defines a management service to mean the act or system of controlling and making decisions for a business or department. Visa may dominate the global payments system, but it surely does not control the Applicant's decision-making. Furthermore, the Respondent has not adduced any evidence to this effect.

63. Therefore, the management services argument is not sustainable.

64. We now turn to section 84 of the ITA. Section 84(1) imposes tax on every non-resident person deriving income under a Ugandan-source services contract. Section 84(4) defines a Ugandan-source services contract as:

"a contract, other than an employment contract, under which the principal purpose of the contract is the performance of services which give rise to income sourced in Uganda."

65. In ***Esri Eastern Africa Ltd v Uganda Revenue Authority*** and ***Rwenzori Commodities Ltd v Uganda Revenue Authority***, the Tribunal held that two conditions must be satisfied before section 84 applies:
    (i) the non-resident must derive income from Uganda; and
    (ii) that income must be derived under a Ugandan-source services contract.

66. In the present case, the Applicant pays visa transaction fees to Visa in respect of payment processing services. Therefore, the first condition is satisfied, as Visa derives income from Uganda in the form of transaction fees paid to it by the Applicant. This is evidenced by remittances made by the Applicant to Visa. This is evidenced by a schedule of payments made by the Applicant, which is annexed (A10) to the Applicant's affidavit.

67. The second condition is whether the income is derived under a Ugandan source services contract. A Ugandan source services contract is defined in section 84(4) to mean a contract, other than an employment contract, whose principal purpose is the performance of services that give rise to income sourced in Uganda.

68. The elements of this provision are that there must be:
    (i) A contract
    (ii) whose principal purpose/ aim/ objective is the performance of services, and

(iii) the above must give rise to income sourced in Uganda.

69. In the present case, there is:

(i) A membership and trademark licensing agreement between Visa and the Applicant, executed on 28 April 2010 and its addenda. The agreement provides for various fees payable by the Applicant, including visa membership licence fees, merchant fees, service fees, and card fees.

(ii) Income sourced in Uganda. Section 78 of the ITA lists various ways in which a non-resident person will be deemed to have sourced income from Uganda. One of these is section 78(c), which provides that income derived from sources in Uganda is to the extent that it is a fee for the provision of services paid by a resident person. In the present case, the transaction fees are collected by the Applicant and paid to Visa for transactions undertaken by the Applicant's end customers. Therefore, the second condition is met.

The obligation to withhold tax

70. We would like to address the Applicant's contention that the obligation to withhold tax under S.137(1) of the Income Tax Act rests with the person making the payment. The Applicant argued that they are merely an intermediary facilitating transactions on behalf of their customers and that the customers are the actual payers of the fees.

71. However, the Applicant's evidence contradicts this. The Applicant stated:

(i) At the end of the business day, the Acquiring Bank (Ecobank-Applicant) receives all approved transactions and submits all approved transactions to Visa for settlement.

(ii) *VISA International facilitates the settlement process by creating clearing files and calculating the net transactions available to the different banks, and orchestrates the movement of funds.*

(iii) *VISA International then instructs the issuing bank to send the transaction amount, minus an interchange fee, to the Acquiring bank (Ecobank-Applicant) via the settlement system. The interchange fee is an inter-bank remittance paid by an acquiring bank to the issuing bank to subsidise the cost of issuing the card, and to compensate a member for costs incurred as a result of the transaction.*

(iv) *The Acquiring bank then deposits the funds, minus a Merchant Service Commission (MSC), into the merchant's account. The MSC is a fee levied on merchants for costs incurred as a result of the transaction.*

(v) *The Acquiring Bank then deposits the funds, minus a Merchant Service Commission (MSC), into the merchant's account. The MSC is a fee levied on merchants as a percentage based on transaction value.*

(vi) *The MSC retained by an acquiring bank (Ecobank-Applicant) is its revenue for providing the acquiring service (safe cash collection, terminal provision, risk management, and settlement). This MSC is paid by the merchant, not by the bank.*

72. It is clear from the above steps that at all material times, the Applicant is working together with Visa to settle the payments. At no point does the end customer interface with Visa. It is clear that the person paying the transactional fees for the purposes of S. 137(1) of the ITA is the Applicant, not the customer. Therefore, the Applicant was duty-bound to withhold tax, which they did not.

73. We therefore find that the Respondent was justified in assessing the additional tax.

Value Added Tax

74. The Respondent imposed VAT on the grounds that the transactional fees and charges are payments for imported services, which are liable to VAT in accordance with section 4 (2) of the VAT Act. The Respondent supports this assertion by citing Visa's non-resident status, as it is a foreign-based entity.

75. On the other hand, the Applicant contends that the visa charges fall within the scope of financial services, which are exempt from VAT under section 19 of the VAT Act.

76. Section 19(1) of the Value Added Tax Act provides for a supply of goods and services as an exempt supply if it is specified in Schedule 3 to the VAT Act.

77. Paragraph b of the Third Schedule to the VAT Act provides a broad scope of what constitutes financial services to mean—

> *"...(ii) Transactions concerning deposit and current accounts, payments, transfers, debts, cheques and negotiable instruments, other than debt collection and factoring..."*

78. As highlighted at the start of this determination, Visa's role in the global financial ecosystem is to provide the digital infrastructure that connects consumers, merchants, and financial institutions to process electronic funds transfers. A bank customer in Kikubo who would like to transact with a supplier in China has two options:

(i) Walk to their branch, withdraw the funds and fly to China with the funds to pay for goods;

(ii) Walk to their bank and initiate a telegraphic transfer to China

(iii) Use their Visa Card to pay for the goods

79. Which part of the above is not a financial service? The global financial system has evolved from cash transactions to cashless transactions. Systems that facilitate cashless transactions are no less of a financial service than physical ATMs.

80. In their submission, the Respondent stated:

> *"It is imperative to note that Visa International owns the platform, which is a payment system that is used to support online payment transactions through the transfer of monetary value for the Applicant's customers."*

81. Who are the Applicant's customers, if not its depositors? Who is making the online payments if not the Applicant's depositors?

82. In other words, any transaction involving the movement of funds from the Applicant's customers' bank accounts and the settlement of inter-bank payments, be it done physically, online or in the cloud, consists of a financial service within the meaning of paragraph 2 of Schedule 3 of the VAT Act. To hold otherwise would lead to an artificial fragmentation of financial services that does not reflect established commercial and business practice.

83. We are also persuaded by the decision of the European Court of Justice in **Sparekassernes Data Centre (SDC) v Skatteministeriet**

(Case C-2/95) regarding the Value Added Tax (VAT) exemption for financial and payment services. It established that to qualify for VAT exemption, a service must functionally alter the legal and financial situation of the parties, rather than merely be a technical or physical data-handling task. Specifically, simple data handling, physical or technical supplies (such as making a computer/processing system available to a bank), or providing preparatory financial information are standard-rated for VAT.

84. The Court established that the VAT exemption for transactions "concerning transfers and payments" is functional rather than institutional, and the exemption depends on the nature of the service provided, not the status or identity of the provider.

85. The case established a two-part test to qualify as an exempt transaction concerning transfers or payments –
    (i) The service must have the effect of transferring funds; and
    (ii) It must bring about changes in the legal and financial situation

86. In the present case, the Visa platform is used to transfer funds from the Applicant's end customers to merchants. Secondly, following the transfer, both parties' legal and financial situations are discharged: the end customer's obligation to make a payment is discharged, and their financial situation changes for the better or worse (depending on the transaction – we shall not indulge you with examples), and so does the merchant's.
87. Consequently, the Applicant succeeds on the VAT point.

Remedies

88. Section 22(6) of the Tax Appeals Tribunal Act grants the Tribunal broad discretionary powers to make such orders as it considers just, including orders as to costs, damages, interest, or any other appropriate relief.

89. In the present case, the Tribunal's finding is that:

(i) The withholding tax assessments were properly raised;

(ii) The VAT assessments are incorrect and cannot be sustained.

Orders

90. In view of the above, the Tribunal makes the following orders:

(i) The withholding tax assessment is upheld.

(ii) The VAT assessment is hereby set aside.

(iii) Each party shall bear their own costs.

It is so ordered.

DATED at Kampala this **26th** day **June** 2026

HON. CRYSTAL KABAJWARA
CHAIRPERSON

MS. CHRISTINE KATWE
MEMBER