TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 390 OF 2024

EQUATORIAL AVIATION LIMITED...APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY...RESPONDENT

BEFORE:HON. STELLA NYAPENDI CHOMBO, HON.KENNETH A.BAGAMUHUNDA, HON. REBECCA NASSIMBWA NSUMBA

RULING

I. Introduction

1. This is an application challenging an objection decision of the Respondent in respect of additional assessments for Income Tax of Shs.92,205,766 and Value Added Tax (VAT) of Shs.32,069,055. The Respondent partially allowed the Applicant's objection but confirmed the foregoing amounts as payable, giving rise to the present Application before the Tribunal.

II. Background Facts

2. The Applicant is a company incorporated in Uganda carrying on the business of transport and logistics. The Respondent issued additional tax assessments on 26 March 2024 comprising Value Added Tax of Shs.32,069,055, Withholding Tax of Shs.6,555,898, and Income Tax adjustments resulting in a liability of Shs.352,430,141 for the year 2022.

3. The Applicant objected to the assessments on 9 May 2024 on the grounds that it had duly complied with its tax obligations, including payment of VAT, remittance of withholding tax, and incurring allowable business expenses.

4. On 11 November 2024, the Respondent issued objection decisions partially allowing the Income Tax objection and amending the corresponding assessment, while confirming the VAT assessment in full.

5. The Respondent set aside the Withholding Tax assessment entirely upon reviewing the Applicant's reconciliation evidence demonstrating that the variance arose from foreign exchange differences and not undeclared dividends.

6. The Respondent partially allowed the objection and revised the Income Tax position but maintained the VAT assessment. Following the objection decisions, the outstanding assessments were Income Tax of Shs.92,205,766 and VAT of Shs.32,069,055. Dissatisfied with these decisions, the Applicant lodged the present Application before this Tribunal for review.

7. The dispute before the Tribunal arose mainly from the Respondent's disallowance of certain expenses relating to car hire, fuel, and vehicle repairs, as well as the treatment of VAT on transactions involving disposal of assets and timing differences in revenue recognition.

III. Issues for determination

8. The Tribunal identified the following issues for determination:
   (i) Whether the Applicant is liable to pay the assessed Income Tax and VAT?
   (ii) What remedies are available to the parties?

IV. Representation and evidence

9. The Applicant was represented by Ms. Linda Mugisha and Ms. Jackie Aturinda from Birungyi, Barata & Associates, while Mr. Tonny Tukei, a Legal Officer from

the Respondent's Legal Services and Board Affairs, appeared for the Respondent.

10. The Applicant's case was supported by the affidavit of James Mutabazi, its Tax Advisor, who stated that the variances between the Applicant's VAT and Income Tax returns arose from truck disposals that were recorded in different periods and were not properly reconciled. He maintained that the variances had been disclosed to the Respondent through correspondence and that invoices were issued for the disposals, payments were received through the Applicant's bank accounts, and the corresponding VAT was duly accounted for and paid.

11. He further explained that the Applicant operated an accrual accounting system and, with the Respondent's approval, maintained its books of account in United States Dollars which were periodically converted into Uganda Shillings for tax reporting purposes.

12. The witness further stated that the disputed fuel, vehicle repair and maintenance expenses were incurred in the course of the Applicant's business and were supported by invoices, receipts, bank records and suppliers' Tax Identification Numbers. He contended that most fuel suppliers had not yet been designated under the electronic invoicing system during the period under review and that conventional invoices were therefore compliant.

13. He maintained that all relevant supporting documents were provided to the Respondent during the objection process but were not properly considered. The Applicant relied on the documentary evidence contained in the Joint Trial Bundle, including bank statements, invoices, receipts, ledgers, VAT returns, EFRIS records and correspondence with the Respondent.

14. The Respondent's case was supported by the affidavit of **Mr. Peter Masaba** Nangayi, an officer attached to its Independent Ruling of Objections Office, who stated that the impugned Income Tax and Value Added Tax assessments arose from adjustments made during a review of the Applicant's tax affairs, including

unsupported expenses, undeclared sales, unverified loans and other discrepancies identified in the Applicant's tax computations. He maintained that upon review of the Applicant's objection, the Respondent partially allowed some adjustments but retained assessments where the supporting documentation was inadequate.

15. The witness further stated that the Applicant failed to provide sufficient evidence to support certain expenses and to reconcile discrepancies between its VAT and Income Tax declarations. He maintained that the VAT assessment was justified because the disputed transactions related to the 2021 year of income when VAT became due under the law, notwithstanding the Applicant's reliance on timing differences.

16. He further explained that a Withholding Tax variance initially treated as undeclared dividends was subsequently found to arise from foreign exchange differences and was accordingly set aside. The Respondent therefore maintained that the objection decisions were lawful and prayed that the Application be dismissed with costs.

V. Submissions of the Applicant

17. The Applicant submitted that they were not liable for the tax assessed. They argued that the assessments were erroneous as the Respondent had wrongly disallowed legitimate business expenses and raised Value Added Tax on transactions for which tax had already been declared and paid.

18. On Income Tax, the Applicant contended that the disallowed expenses, namely car rental, fuel, and vehicle repairs and spare parts, were wholly and exclusively incurred in the production of income and were therefore deductible under S.22(1)(a) of the Income Tax Act. It maintained that it had furnished sufficient supporting documentation, including invoices, receipts, bank statements, payment vouchers, requisition forms, and expense ledgers, which established

a clear audit trail demonstrating that the expenses were genuinely incurred in the course of its transport and logistics business.

19. In respect of car rental expenses, the Applicant submitted that the amounts represented genuine tractor hire costs incurred to facilitate transportation of cargo for its clients. It argued that the expenses were supported by supplier invoices, payment records, and accountability documents, and that its suppliers possessed valid Tax Identification Numbers. The Applicant further contended that the Respondent failed to verify this information and therefore erred in disallowing the expenses under Section 22(3)(l) of the Income Tax Act.

20. Regarding fuel expenses, the Applicant submitted that these were operational costs supported by invoices, receipts, and bank records evidencing payment to suppliers. It argued that the Respondent misapplied S.22(3)(m) of the Income Tax Act, as the requirement for e-invoices or e-receipts only applies to suppliers designated to use the electronic invoicing system. The Applicant relied on Gazette Notice issued on 25 July 2025 and S.92(2) of the Tax Procedures Code Act to contend that fuel stations were only designated for mandatory e-invoicing after the period under review, and therefore conventional invoices were valid for the years 2021 and 2022.

21. The Applicant submitted in regard to vehicle repairs and spare parts that, the expenses were incurred in maintaining its fleet and were supported by invoices, receipts, payment vouchers, and bank records. It maintained that these documents demonstrated a complete audit trail confirming that the expenses were genuinely incurred for business purposes and should not have been disallowed.

22. The Applicant further argued that the Respondent erred in disregarding documentary evidence and maintained that all relevant records had been provided during the objection process, including through email correspondence.

It contended that the Respondent's assertion that supporting documents were not submitted was incorrect and not supported by the evidence on record.

23. In support of its position, the Applicant relied on ***Independent Publications Limited v Uganda Revenue Authority, Tax Appeal No. 155 of 2018***, for the principle that expenses are allowable where a taxpayer proves that they were incurred in the production of income.

24. The Applicant's submission on Value Added Tax was that it was not liable to pay the assessed VAT as the tax relating to the disposal of motor vehicles had already been declared and paid, albeit in a later period. It argued that the Respondent's assessment effectively amounted to double taxation, as it imposed tax on the same transactions twice. The Applicant relied on Section 39 of the Value Added Tax Act, submitting that the law provides for interest and penalties in cases of delayed declaration, rather than re-assessment of the principal tax.

25. In conclusion, the Applicant maintained that it had sufficiently demonstrated that the assessments were wrongly raised and prayed that the Tribunal sets aside the Income Tax and VAT assessments, orders a refund of any tax paid, and awards costs in its favour.

VI. Submissions of the Respondent

26. The Respondent submitted that the Applicant was liable for the tax assessed. It argued that the assessments were lawful and justified, and that the Applicant had failed to discharge the burden of proof under Section 28 of the Tax Procedures Code Act, Section 19 of the Tax Appeals Tribunal Act, and Section 101 of the Evidence Act.

27. In support of its position, the Respondent cited the case of ***Williamson Diamonds Ltd v Commissioner General [2008] 4 TTLR 167***, where it was

held that the burden of proving that an assessment is excessive lies with the taxpayer and does not shift to the revenue authority.

28. The Respondent went ahead to submit that the additional liability arose from disallowed expenses which reduced the Applicant's loss carried forward to 2022. It argued that although Section 22(1)(a) of the Income Tax Act, permits deduction of expenses incurred in the production of income, the Applicant failed to meet the statutory requirements under Section 22(3)(l) and 22(3)(m) of the Act on proof of supplier TINs and use of e-invoicing.

29. According to its submissions, it further relied on ***New Vision Printing & Publishing Corporation v Uganda Revenue Authority, HC Civil Appeal No. 78 of 1999 and Commissioner of Income Tax v Buhemba Mines Ltd, CA No. 77 of 1955*** for the principle that deductible expenses must be supported by sufficient evidence and must not be prohibited by statute.

30. The Respondent emphasized that much of the documentation relied upon by the Applicant at the hearing was not provided during the objection process and therefore could not be used to fault the objection decisions. It maintained that the reduction of the original assessment from Shs.352,430,141 to Shs.92,205,768 demonstrated that it had duly considered and allowed the objection to the extent justified by the material presented at that stage.

31. Regarding car rental expenses, the Respondent submitted that the Applicant failed to provide credible supporting evidence. It pointed out that the ledgers reviewed did not contain supplier TINs and reflected payments through a single individual without proof of underlying suppliers.

32. The Respondent further argued that some invoices related to earlier periods contrary to Section 40(1)(b) of the Income Tax Act, and that certain transactions exceeded Shs.5,000,000 without proof of supplier TINs as required under

Section 22(3)(l). It also contended that some expenses were unsupported by e-invoices or e-receipts contrary to Section 22(3)(m).

33. On fuel expenses, the Respondent submitted that the Applicant failed to prove that its suppliers were not designated to use the e-invoicing system, as required under Section 22(3)(m) of the Income Tax Act, and that the expenses could not be verified at objection stage due to lack of primary documentation.

34. The Respondent's submissions with regards to vehicle repairs and spare parts were to the effect that, several payments exceeding Shs.5,000,000 lacked evidence of supplier TINs and were therefore non-deductible under Section 22(3)(l) of the Income Tax Act. It further submitted that certain items, including the purchase of an engine, constituted capital expenditure not deductible as revenue but allowable only under Section 26(2) of the Income Tax Act.

35. Regarding the position on Value Added Tax, the Respondent submitted that VAT arose from disposal of motor vehicles in 2021 and was payable in that period in accordance with Section 14(1)(c) of the Value Added Tax Act, which fixes the time of supply at the earliest of delivery, payment, or invoicing. It argued that since delivery and payment occurred in 2021, the VAT liability crystallised in that year notwithstanding that the invoice was issued in 2022.

36. In its submissions, the Respondent rejected the claim of double taxation, submitting that any VAT declared in a later period could be corrected through amendment of returns and that delayed declaration attracts interest and penalties under Section 39 of the Value Added Tax Act, rather than extinguishing the original liability. The Respondent therefore prayed that the application be dismissed with costs and the assessments upheld.

37. The Applicant, however, did not file a rejoinder to its submissions. The Tribunal therefore proceeded to determine the application.

VII. Determination

38. Having considered the pleadings, affidavit evidence, oral testimony and submissions of the parties, this is the determination of the Tribunal

39. The Income Tax dispute arises principally from the Respondent's disallowance of expenditure relating to car or tractor hire, fuel, vehicle repairs and spare parts. The Respondent maintained that the disputed expenditure did not satisfy the statutory requirements governing deductibility, particularly the provisions concerning supplier Tax Identification Numbers, electronic invoicing, the timing of deductions and the treatment of capital expenditure.

40. The VAT dispute concerns the disposal of motor vehicles and trucks. The principal question is whether the VAT arising from those disposals was correctly assessed in the 2021 tax periods and, if so, what legal consequence follows from the Applicant's evidence that VAT relating to the same transactions was subsequently declared and paid in 2022.

Statutory Framework

41. Section **22(1)(a) of the Income Tax Act** provides that:

"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."

42. That general provision is subject to the restrictions under section 22(3). Section **22(3)(l)** disallows:

"Any expenditure above five million shillings in one transaction on goods and services from a supplier who does not have a taxpayer identification number"

While **section 22(3)(m)** disallows:

"Expenses of a person who purchases goods or services from a supplier who is designated to use the e-invoicing system unless the expenses are supported by e-invoices or e-receipts."

43. Section **26(1) of the Income Tax Act** further provides that:

"A person is allowed a deduction for expenditure incurred during the year of income for the repair of property occupied or used by the person in the production of income included in gross income."

44. The Applicant accounts on an accrual basis. Under section 40(1)(b) of the Income Tax Act, an accrual-basis taxpayer incurs expenditure when it becomes payable. Section 40(4) further provides that an amount is treated as payable when all events determining liability have occurred, the amount can be determined with reasonable accuracy, and economic performance has occurred.

45. With respect to VAT, section 14(1)(c) of the Value Added Tax Act provides that a supply occurs on the earliest of the date on which the goods are delivered or made available, payment is made, or a tax invoice is issued.

46. It is against these provisions that the Tribunal considers whether the Applicant has discharged its burden in relation to the Income Tax and VAT assessments.

Income Tax Assessment

47. The Income Tax assessment before the Tribunal is Shs. 92,205,766. It arose after the Respondent partially allowed the Applicant's objection to the original assessment and maintained adjustments relating principally to car or tractor hire, fuel, vehicle repairs and spare parts. The question for the Tribunal is whether the Applicant has established, on a balance of probabilities, that the expenditure was deductible under the Income Tax Act and that the statutory

grounds upon which the Respondent maintained the disallowances do not apply.

48. The Applicant's case was that these were operational expenses incurred in carrying on its transport and logistics business. Mr. James Mutabazi testified that the Applicant produced invoices, receipts, payment vouchers, bank statements, ledgers and supporting schedules and that the records could be traced to the underlying expenditure. He further testified that the Applicant maintained its accounting records in United States Dollars with the Respondent's approval.

49. The Respondent did not contend that expenditure on hired transport, fuel or maintenance is, by its nature, unrelated to the Applicant's business. Its case was principally that the particular expenditure claimed failed the statutory conditions for deduction. Mr. Peter Masaba Nangayi testified that certain transactions above the statutory threshold lacked supplier TINs and that other expenditure was unsupported by fiscalised invoices. The Respondent also raised questions concerning the year in which some expenditure was incurred and the capital nature of certain vehicle expenditure.

50. The Tribunal therefore considers that it would be erroneous to determine the Income Tax assessment by asking generally whether the Applicant "produced documents". Section 22(1)(a) requires proof that expenditure was incurred in the production of income, but sections 22(3)(l) and 22(3)(m) impose additional statutory restrictions. A taxpayer may prove that an expenditure was commercially genuine and nevertheless fail to obtain a deduction where an express statutory prohibition applies.

51. This is consistent with the approach in ***New Vision Printing & Publishing Corporation v Uganda Revenue Authority, HC Civil Appeal No. 78 of 1999***, relied upon by the Respondent. The relevance of that authority to the present

dispute is that deductibility ultimately depends upon compliance with the governing statute and not merely upon proof that money was spent.

52. The Respondent also relied upon ***Commissioner of Income Tax v Buhemba Mines Ltd, CA No. 77 of 1955,*** for the proposition that the taxpayer must sufficiently establish the expenditure claimed. Those authorities therefore require the Tribunal to examine the evidence relating to each category of expenditure against the particular statutory restriction relied upon. The Respondent expressly advanced those authorities in support of its case.

53. Equally, the Tribunal does not understand those authorities to mean that the Respondent's characterization of a transaction as non-deductible is conclusive. Where the taxpayer produces records capable of establishing the transaction, the Tribunal must evaluate those records and determine whether the statutory prohibition relied upon has been established on the facts. That approach is consistent with the High Court's emphasis in ***M-KOPA Uganda Limited v Uganda Revenue Authority, Civil Appeal No. 7 of 2021***, upon proper and objective evaluation of material evidence. The Tribunal therefore considers each disputed category separately.

Car and tractor hire expenditure

54. The first category concerns expenditure described in the Applicant's records as car rental. The Applicant explained that the expenditure principally represented the hire of tractors used in facilitating the transportation of cargo for its clients. It relied upon supplier invoices, payment records and accountability documents and maintained that the relevant suppliers possessed valid TINs.

55. The Respondent did not accept that evidence as sufficient. It submitted that the ledgers reviewed did not contain supplier TINs and that some payments were channeled through a single individual without evidence identifying the underlying suppliers. It further contended that some transactions exceeded

Shs.5,000,000 without proof of the supplier's TIN and that some expenditure was unsupported by electronic invoices or receipts.

56. There are therefore three distinct questions under this head. First, whether the hire expenditure was actually incurred. Secondly, whether it was incurred in the production of the Applicant's income. Thirdly, whether any of the transactions were rendered non-deductible by sections 22(3)(l) or 22(3)(m).

57. On the first question, the Applicant's evidence was not confined to ledger entries. It produced invoices, receipts, payment evidence, bank statements and ledgers. Significantly, although the Respondent's witness statement suggested that primary documentation had not been furnished, the witness accepted during cross-examination that the Applicant had supplied invoices, receipts, payment evidence, bank statements and ledgers.

58. That concession does not establish deductibility, but it materially narrows the dispute. The case before the Tribunal is not one in which the taxpayer merely posted an expense to its ledger and produced nothing to substantiate it. The existence of the underlying transactions was supported by more than one category of contemporaneous business records.

59. On the second question, the Applicant's explanation that the tractors were hired to move cargo for its clients is consistent with the nature of its transport and logistics business. The Respondent did not identify any particular hire transaction which it contended was private, fictitious or unrelated to the Applicant's business. On the evidence before it, the Tribunal is satisfied that the supported tractor-hire expenditure bears the necessary nexus with the production of the Applicant's income.

60. The more difficult question concerns section 22(3)(l). That provision is transaction-specific. The prohibition applies where expenditure exceeds Shs.5,000,000 in one transaction and the supplier does not have a taxpayer identification number. It was therefore necessary to identify the particular

transaction exceeding the threshold and establish whether the supplier to that transaction possessed a TIN.

61. The Respondent asserted that the ledgers did not disclose the required TINs. The Applicant, however, maintained that its suppliers possessed TINs and that the supplier information was ascertainable from the supporting records. The evidential difficulty is that the Respondent's witness repeatedly referred to samples of invoices used in reaching the objection decision, but those samples were not produced before the Tribunal. Neither was an adjustment schedule tendered identifying the supplier, invoice, amount and TIN deficiency in respect of each transaction disallowed. The witness acknowledged that the sample invoices and written analysis upon which he relied were not contained in the trial bundle.

62. The Tribunal does not consider that this omission transfers the legal burden to the Respondent. ***Williamson Diamonds Ltd v Commissioner General [2008] 4 TTLR 167,*** relied upon by the Respondent, is authority for the proposition that the taxpayer bears the burden of demonstrating that the assessment is excessive. That burden remains with the Applicant.

63. However, there is an important distinction between the legal burden of proof and the Tribunal's assessment of the weight of competing evidence. Once the Applicant produced the underlying invoices, payment records, bank records and supplier information relied upon to establish the transactions, the Tribunal was required to weigh that evidence against the specific reason advanced for disallowance. Where that reason was said to arise from particular sample invoices, the absence of those samples leaves the Tribunal without the primary material by which the Respondent's assertion can be tested.

64. The Tribunal cannot infer, merely because a TIN was not displayed in a ledger entry, that the supplier itself did not have a TIN. Section 22(3)(l) is directed at expenditure on goods or services from a supplier who does not have a taxpayer

identification number. The statutory question is therefore the status of the supplier, not simply whether the Applicant reproduced the supplier's TIN in every internal ledger entry.

65. On the evidence before us, the Applicant has established the underlying hire transactions, their payment and their connection to its income-producing activities. The Respondent has not identified before the Tribunal the particular supported transaction exceeding Shs.5,000,000 in which the supplier has been shown not to possess a TIN.

66. In those circumstances, the Tribunal is satisfied, on a balance of probabilities, that the Applicant discharged its burden in relation to the supported car and tractor hire expenditure. The disallowance cannot be maintained merely upon a general assertion that the ledgers did not display supplier TINs.

Timing of the car and tractor hire expenditure

67. The Respondent separately contended that some invoices related to earlier periods and relied upon section 40(1)(b) of the Income Tax Act. That objection raises a question distinct from whether the expenditure itself was genuine. Under section 40(1)(b), an accrual-basis taxpayer incurs expenditure when it becomes payable. The statutory enquiry is therefore not resolved solely by looking at the date appearing on the face of an invoice. Regard must also be had to when the liability became payable and, under section 40(4), when the events determining liability and economic performance occurred.

68. The Respondent did not identify in the evidence before the Tribunal the particular invoices said to have been claimed in an incorrect year, the year to which each invoice allegedly related, or the factual basis upon which liability was said to have arisen in the earlier period. A general assertion that "some invoices related to earlier periods" is insufficient to enable the Tribunal to determine a timing adjustment under section 40.

69. Accordingly, insofar as the disallowance of the car or tractor hire expenditure was maintained merely because an invoice bore a date associated with an earlier period, without establishing when the expenditure became payable under section 40, that disallowance cannot be sustained.

Fuel expenditure

70. The second category concerns fuel expenditure. The Applicant maintained that fuel was consumed in the ordinary course of its transport operations and relied upon invoices, receipts and bank records evidencing payment to the relevant suppliers. Again, the Respondent did not contend that fuel was inherently unrelated to the Applicant's business. Its principal objection was statutory. It submitted that the Applicant had not established that the relevant suppliers were outside the category of persons designated to use the electronic invoicing system and that the expenditure could not be verified at objection stage because primary documentation was lacking.

71. The latter proposition must first be considered against the oral evidence. As already observed, the Respondent's witness eventually accepted that invoices, receipts, payment evidence, bank statements and ledgers had been supplied. The Tribunal therefore does not accept an unqualified proposition that the fuel expenditure was unsupported by primary documentation. The question then becomes whether section 22(3)(m) nevertheless prohibited the deduction.

72. The wording of section 22(3)(m) is important. It does not disallow every expense for which the taxpayer lacks an electronic invoice. It applies to a person who purchases goods or services from a supplier "who is designated to use the e-invoicing system" unless the expenditure is supported by an electronic invoice or electronic receipt.

73. The designation requirement is therefore an element of the statutory prohibition. Section 92(2) of the Tax Procedures Code Act further provides for the

Commissioner General, by notice in the Gazette, to specify taxpayers for whom use of electronic invoices or receipts is mandatory.

74. The Applicant relied upon a Gazette Notice dated 25 July 2025 and contended that fuel stations were only designated for mandatory electronic invoicing after the periods presently under review. Its case was consequently that conventional invoices remained capable of supporting the expenditure during 2021 and 2022.

75. The Respondent's answer was that the Applicant had failed to prove that its suppliers were not designated. That submission effectively places the issue in negative terms. The Tribunal considers that the proper enquiry under section 22(3)(m) is whether the evidence establishes that the supplier from whom the relevant goods or services were purchased was within the class designated under the statutory scheme at the material time.

76. This does not reverse the Applicant's burden under section 19 of the Tax Appeals Tribunals Act. The Applicant still has to establish its entitlement to the deduction. However, where the Respondent invokes section 22(3)(m) as the particular statutory prohibition defeating otherwise evidenced expenditure, the Tribunal must be able to identify the factual condition upon which that prohibition operates.

77. No Gazette Notice applicable to the 2021 or 2022 periods was identified in the Respondent's evidence before the Tribunal showing that the particular fuel suppliers in question had then been designated for mandatory electronic invoicing. Nor was evidence identified demonstrating the date upon which the particular suppliers became designated.

78. In those circumstances, the Tribunal would be extending section 22(3)(m) beyond its language if it were to hold that every conventional fuel invoice was automatically incapable of supporting a deduction. The provision itself makes designation material.

79. The Applicant produced conventional invoices and receipts together with banking evidence. The expenditure is of a kind ordinarily and necessarily associated with the Applicant's transport operations. There was no evidence identifying any particular supported fuel transaction as fictitious, private or unrelated to those operations.

80. The Tribunal therefore finds that the Applicant has proved, on a balance of probabilities, that the supported fuel expenditure was incurred in the production of its income. In the absence of evidence establishing that the relevant supplier was designated to use the electronic invoicing system during the material period, section 22(3)(m) does not provide a sufficient basis upon which to maintain the disallowance.

Vehicle repairs and spare parts

81. The third category concerns vehicle repairs and spare parts. The Applicant relied upon invoices, receipts, payment vouchers and bank records and maintained that the expenditure was incurred in maintaining vehicles used in its transport and logistics business.

82. The Respondent raised two distinct objections. First, it contended that several payments exceeding Shs.5,000,000 lacked evidence of supplier TINs and were therefore prohibited by section 22(3)(l). Secondly, it contended that certain expenditure, including the purchase of an engine, was capital in nature and should not have been deducted as ordinary revenue expenditure.

83. As regards ordinary repairs and spare parts, section 26(1) expressly allows a deduction for expenditure incurred during the year of income for the repair of property occupied or used by a person in the production of income included in gross income. The current Income Tax Act placed before the Tribunal states that rule expressly.

84. The evidence linking the ordinary repair expenditure to the Applicant's fleet is consistent with its transport operations. As with the hire expenditure, the Respondent did not identify a particular supported repair expense as personal, fictitious or unrelated to the Applicant's business.

85. The TIN objection must, however, still be considered. For the reasons already given in relation to car and tractor hire, proof of the underlying expenditure does not dispense with section 22(3)(l). But neither does the absence of a TIN from an internal ledger entry, without more, establish that the supplier did not have a TIN.

86. The Respondent did not place before the Tribunal a transaction-by-transaction schedule identifying the repair or spare-parts invoice exceeding Shs.5,000,000, the supplier concerned and the basis upon which that supplier was found not to possess a TIN. The samples said to support that conclusion were not tendered.

87. Having reviewed the Applicant's invoices, payment and banking evidence against the Respondent's general assertion, the Tribunal is satisfied that the Applicant discharged its burden in respect of the supported ordinary repairs and spare-parts expenditure. The section 22(3)(l) objection, as presented in the evidence before us, is insufficiently particularized to displace that evidence.

The engine expenditure

88. The engine requires separate consideration. It would be unsafe to treat it together with ordinary repairs merely because the expenditure was recorded under vehicle repairs and spare parts.

89. Section 26(1) allows expenditure incurred for the repair of property used in producing income. Section 26(2), however, separately addresses expenditure incurred in acquiring a depreciable asset below the prescribed threshold, while section 27 governs depreciation deductions for depreciable assets outside section 26(2). The statutory distinction is apparent from the Act itself.

90. The Respondent's submission that the purchase of an engine was necessarily "capital expenditure allowable only under section 26(2)" therefore requires closer examination. Section 26(2) is not a general provision governing all capital expenditure. It concerns a depreciable asset whose cost base falls below the statutory threshold and, under subsection (4), only applies where the asset normally functions in its own right and is not an individual item forming part of a set.

91. It follows that the mere fact that an engine was purchased does not conclusively determine its tax treatment. The Tribunal would have to know, among other things, whether the expenditure represented replacement of a worn component in restoring an existing vehicle to working condition, whether it resulted in the acquisition of a separate depreciable asset capable of functioning in its own right, or whether it constituted an improvement of a capital nature.

92. The evidence presently identified in the record does not disclose the value of the engine, the vehicle into which it was installed, the condition that necessitated its acquisition, whether the engine could function independently for purposes of section 26(4), or the extent to which the expenditure restored or improved the underlying vehicle.

93. The Tribunal therefore considers that neither party has provided an adequate basis for the categorical treatment advanced. The Applicant cannot obtain an ordinary repair deduction merely by placing the engine expenditure under the heading "repairs and spare parts"; equally, the Respondent cannot establish the particular treatment under section 26(2) merely by describing the item as capital expenditure. The proper tax treatment follows from the statutory character of the expenditure rather than the accounting description attached to it. The Tribunal must therefore apply the provision appropriate to the expenditure proved by the evidence.

94. Accordingly, while the ordinary supported repair and maintenance expenditure is allowable, the engine component should not be included within that finding unless the evidence establishes that it was repair expenditure within section 26(1). Its proper treatment must be separately determined by reference to the underlying invoice, cost, nature and use of the engine and the applicable provisions governing depreciable assets.

95. On the totality of the evidence, the Tribunal finds that the Applicant has established, on a balance of probabilities, that the supported car and tractor hire expenditure, fuel expenditure and ordinary vehicle repair and maintenance expenditure were incurred in the production of its income. In respect of those transactions, the Respondent has not identified evidence before the Tribunal sufficient to sustain the specific statutory prohibitions upon which the disallowances were maintained.

96. The Tribunal accordingly finds that the Applicant has discharged the burden imposed by section 19(a) of the Tax Appeals Tribunals Act and section 28(a) of the Tax Procedures Code Act in respect of those categories.

97. This finding does not extend automatically to the engine expenditure. That item requires separate characterization under sections 26 and 27 upon the underlying evidence. Nor does the Tribunal's finding prevent a timing adjustment in respect of any specifically identified expenditure which, upon application of section 40, was incurred in a different year of income. What cannot be sustained is a general timing disallowance unsupported by identification of the particular expenditure and the statutory point at which it was incurred.

98. The Income Tax objection decision of Shs. 92,205,766 therefore cannot stand in its present computation. It must be varied to exclude the disallowances relating to the supported car or tractor hire, fuel and ordinary repair and maintenance expenditure, subject only to the separate determination of any

specifically identified engine/capital component and any properly established timing adjustment.

Value Added Tax Assessment

99. The VAT assessment before the Tribunal is Shs.32,069,055 and arises from the disposal of motor vehicles, tractors and other transport equipment. The Applicant does not dispute that the disposals took place. Its case is that the transactions were subsequently accounted for and the corresponding VAT declared in 2022.

100. The Respondent's position is that the VAT arose in 2021 and remained properly assessable in that period. The evidence therefore presents a narrower dispute than the parties' submissions may initially suggest. It is not principally a dispute as to whether the disposals were taxable; it is a dispute concerning the proper tax period and the amount of principal VAT which remained outstanding after the subsequent declaration.

101. The Tribunal considers that three questions arise.

a) When did the liability of VAT arise?

b) Has the Applicant established that VAT subsequently declared in 2022 related to the very transactions giving rise to the assessment?

c) If so, what amount of principal VAT remained payable after taking that later declaration and payment into account?

Time of supply

102. On the first question, section 14(1)(c) of the Value Added Tax Act is clear. The time of supply is the earliest of delivery or availability of the goods, payment for the goods, or issuance of a tax invoice. Mr. James Mutabazi's evidence was that the variance arose from disposals of identified vehicles which were recognized in different reporting periods. He referred to disposal ledgers, invoices and bank statements evidencing the sales and receipt of the sale

proceeds. The Respondent's evidence was that the disposals and payments occurred in 2021. That factual position was not materially displaced by the Applicant.

103. We therefore agree with the Respondent that the VAT liability arose in 2021. The fact that the Applicant subsequently recognized or declared the transactions in 2022 could not postpone the statutory time of supply. The tax period is determined by the Act and not by the taxpayer's later accounting treatment. That conclusion, however, answers only the question of when the tax arose. It does not answer the separate question of how much principal tax remained outstanding after the Applicant subsequently declared the same transactions.

Evidence of the subsequent declaration

104. The Applicant bears the burden of establishing that the later declaration related to the same supplies. A taxpayer cannot defeat an assessment merely by demonstrating that it made some VAT payment in a later period. There must be a sufficient evidential connection between the payment relied upon and the transactions forming the basis of the assessment.

105. On this point, the Applicant's evidence is reasonably particularized. Mr Mutabazi identified the disposals as relating to specific transport assets, referred to the disposal ledgers and sales invoices, identified the bank records through which the consideration was received and testified that the corresponding VAT was subsequently declared in 2022.

106. The Applicant also relied upon VAT returns, EFRIS records, invoices, bank statements, ledgers and correspondence contained in the Joint Trial Bundle. Those documents are relevant not merely because they exist but because, taken together, they permit the disposal transaction to be followed from the asset ledger, through receipt of consideration, to the subsequent tax declaration. The Respondent's witness did not dispute that the sales took place.

Nor did he dispute that VAT was subsequently declared. During cross-examination, he accepted that the Applicant recognized the disposal transactions and accounted for VAT in a later period.

107. We do not treat that evidence as a concession on the law. A witness cannot determine the legal consequences of a VAT return. It is, however, important factual evidence that the later declaration was not invented for purposes of these proceedings.

108. The recent decision in ***Ericsson AB v Uganda Revenue Authority*** is particularly useful here. That matter also involved discrepancies between VAT declarations and Income Tax sales arising from differences in the periods in which transactions were recognized. The Tribunal did not approach the variance as though the existence of a difference between the two returns automatically proved a fresh tax liability. It examined the reconciliation and determined the VAT liability that remained after resolving the timing and recognition differences.

109. We do not suggest that Ericsson AB determines the present dispute on its facts. It does, however, illustrate an important point of tax administration: where an assessment arises from differences between reporting periods, the Tribunal must determine the underlying taxable transactions and reconcile the tax actually accounted for, rather than merely compare totals appearing in different returns.

110. That approach is directly applicable here. The fact that the Applicant incorrectly placed the disposal in the 2022 VAT period does not mean that the payment is irrelevant when determining whether the principal liability arising in 2021 remains outstanding.

111. The same practical principle can be seen in ***Rosmonic Enterprises Limited v Uganda Revenue Authority***. There, tax payments had been made but were reflected under a director's TIN rather than the taxpayer's proper account. The Tribunal did not treat the principal tax as unpaid simply because the payment

had been recorded in the wrong place. It gave effect to the payment and ordered the tax position to be reconciled.

112. Again, the facts are different. Rosmonic concerned an incorrect TIN rather than an incorrect tax period. But the underlying principle is instructive: an accounting or allocation error does not permit tax already received in discharge of a particular liability to be ignored when determining the principal amount remaining payable.

113. The Tribunal therefore considers that the Respondent was entitled to correct the Applicant's reporting period. What it could not do was treat the amount accounted for in 2022 as though it had no bearing at all upon the principal VAT liability attributable to the same transactions.

Whether the Shs.32,069,055 remained outstanding?

114. This brings us to the critical evidential question. The assessment is for Shs. 32,069,055. In order to maintain that amount as outstanding principal tax notwithstanding the Applicant's later declaration, one would expect the evidential record to show how the Respondent reconciled the two periods.

115. In practical terms, that reconciliation would identify the vehicles disposed of, their respective consideration, the VAT attributable to the disposals in 2021, the corresponding transactions declared in 2022, and any residual difference after crediting the later declaration. No such reconciliation was identified in the Respondent's evidence before us.

116. That omission does not mean that the Respondent bears the ultimate burden of disproving the Applicant's case. The significance is different. The Applicant has produced evidence connecting the 2022 declaration to the vehicle disposals. Once the Tribunal accepts that evidence, the question becomes whether there is anything in the record showing that the same amount nevertheless remained unpaid. We find none.

117. A similar concern about assessments founded upon unreconciled data arose in ***MTN Uganda Limited v Uganda Revenue Authority, Application No. 134 of 2023.*** In that matter, the Tribunal rejected an assessment whose underlying methodology did not adequately reconcile the relevant monitoring data with actual payment records. The important point for present purposes is that a tax computation must rest upon a sufficiently reliable reconciliation of the evidence from which the liability is derived; an unexplained variance cannot simply be treated as tax payable.

118. That principle is particularly apt here. A variance between 2021 and 2022 reporting cannot by itself establish that Shs.32,069,055 remains unpaid if the evidence shows that the same underlying transactions were subsequently brought into the VAT account.

119. There is also a distinction between the principal tax liability and the consequences of the Applicant's failure to account for that liability in the correct period. The Applicant was obliged to declare the VAT in 2021. It did not do so. To that extent the Respondent's position is correct. However, the consequence of failing to account for tax at the correct time is not necessarily that the principal amount remains indefinitely payable even after that same principal tax has subsequently been paid.

120. In the case of ***Man Engineering Uganda Limited v Uganda Revenue Authority (TAT*** Application ***2 of 2024) [2026] UGTAT 16*** illustrates this distinction in a different factual context. The Tribunal set aside a default VAT estimate after finding that the evidence did not establish the underlying taxable supplies upon which the estimated principal assessment depended. It nevertheless preserved the statutory consequence arising from the taxpayer's separate failure to file the required VAT returns. The case illustrates that the substantive principal assessment and the statutory consequences of a compliance default are analytically distinct.

121. We adopt the same distinction in the present matter. The Applicant's late declaration did not extinguish the fact that VAT became due in 2021. It may therefore attract whatever interest, penalty or other consequence the applicable legislation lawfully imposes. But once the Applicant proves that the same principal VAT was subsequently accounted for, the Respondent must bring that payment into account when determining the principal amount still recoverable.

Duplicate recovery

122. We would also avoid describing this as "double taxation" in the strict sense. There is only one taxable supply and one VAT charge. What is potentially occurring is duplicate recovery of the same principal liability because the tax was recorded in the wrong period. The distinction is important. We are not holding that URA was prohibited from assessing the 2021 liability. On the contrary, the liability arose in 2021 and an assessment properly identifying it was legally justified.

123. What requires correction is the computation of the amount remaining due after credit is given for tax subsequently declared and paid. In ***Rosmonic Enterprises Limited V Uganda Revenue Authority (Application No 215 of 2024),*** the Tribunal's solution to an incorrectly allocated payment was reconciliation rather than ignoring the payment. In ***Ericsson AB V Uganda Revenue Authority (Application No 60 of 2020),*** the Tribunal similarly worked through VAT and Income Tax reporting variances and substituted the liability which remained after the relevant reconciliation. Those decisions reinforce the practical conclusion that an assessment should reflect the taxpayer's actual outstanding liability, not merely the gross amount arising before payments and adjustments are brought into account.

124. The Tribunal finds that although the VAT on the vehicle disposals properly arose in 2021, the Applicant has established, on a balance of probabilities, that VAT relating to those same transactions was subsequently declared and accounted for in 2022. The evidential record, including the disposal ledgers, invoices,

banking records and later VAT declarations, sufficiently links the 2022 accounting to the 2021 disposals, and the Respondent did not produce a reconciliation showing that the full Shs.32,069,055 remained outstanding after crediting that later declaration.

125. The objection decision therefore cannot be maintained as an unreconciled principal demand for the full amount. The proper course is to vary the assessment, reconcile the principal VAT subsequently declared and paid against the 2021 liability, and preserve any lawful interest, penalty or other statutory consequence arising from the delayed declaration or payment.

Remedies

126. Having reached the foregoing conclusions, the Tribunal must determine the appropriate relief. Under section 20 of the Tax Appeals Tribunals Act, the Tribunal may affirm or vary a taxation decision, set it aside and substitute another decision, or remit the matter to the decision maker for reconsideration in accordance with its directions.

127. In respect of Income Tax, the Tribunal has found that the Applicant discharged its burden in relation to the supported car and tractor hire, fuel, and ordinary repair and maintenance expenditure. The assessment cannot therefore stand to the extent that it disallowed those expenses.

128. The evidence concerning the engine expenditure and any specifically identifiable timing adjustments, however, does not justify treating those items in the same manner. The appropriate remedy is consequently to vary the objection decision and require the Respondent to recompute the Income Tax liability consistently with the Tribunal's findings.

129. With respect to VAT, the Tribunal has found that the liability on the vehicle disposals arose in 2021, but that VAT relating to the same transactions was subsequently declared and accounted for in 2022. The proper remedy is

therefore not to extinguish the 2021 liability, but to require the Respondent to reconcile the VAT subsequently accounted for against that liability. Only the balance, if any, remaining after that reconciliation may be recovered.

130. The Tribunal considers this approach preferable to setting aside both assessments in their entirety. It gives effect to the Applicant's successful challenge while preserving those components of the assessments which may remain legally payable. It also avoids substituting the Tribunal's own figures where the evidence before it does not permit an accurate transaction-by-transaction of recomputation.

Refund or credit of excess tax

131. If the recomputation directed by the Tribunal establishes that the Applicant has paid tax in excess of its properly determined liability, the Respondent must deal with that excess in accordance with the applicable statutory provisions governing refunds or credits. Section 31(2) of the Tax Appeals Tribunals Act further provides for interest where tax is required to be refunded as a consequence of a decision of a reviewing body.

132. The Tribunal therefore directs that the Respondent give full effect to the revised computations, including credit for any amounts already paid or accounted for by the Applicant, so that the resulting tax position reflects only the amount lawfully outstanding after implementation of this decision.

Costs

133. While the Applicant has substantially succeeded in challenging the Income Tax disallowances relating to car and tractor hire, fuel, and ordinary repairs and maintenance, the treatment of the engine expenditure and any properly established timing adjustments remain subject to recomputation.

134. Similarly, although the Applicant has succeeded in establishing that VAT subsequently declared and accounted for in 2022 must be reconciled against

the assessment for 2021, the Tribunal has agreed with the Respondent that the VAT liability arose in 2021 and ought to have been accounted for in the relevant tax periods.

135. In the circumstances, neither party has succeeded wholly in the Application, and the Tribunal considers it fair and appropriate that **each party bears its own costs.**

Orders

a) The Income Tax assessment of Shs.92,205,766 is hereby varied in accordance with the findings of the Tribunal.

b) The VAT assessment of Shs.32,069,055 is hereby varied in accordance with the findings of the Tribunal.

c) Any tax paid pursuant to the impugned assessments shall be dealt with in accordance with the applicable provisions of the tax laws.

d) Each party shall bear its own costs.

Dated at Kampala this **21st** day of **August** 2026.

HON. STELLA NYAPENDI CHOMBO
CHAIRPERSON

HON. REBECCA NASSIMBWA NSUMBA
MEMBER

HON. KENNETH A. BAGAMUHUNDA
MEMBER