



THE REPUBLIC OF UGANDA
TAX APPEALS TRIBUNAL AT MBARARA

TAT APPLICATION NO. 81 OF 2024

ETA ENGINEERING WORKS & SUPPLY CO. UG LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE,
HON. GRACE SAFI**

RULING

I. Introduction

1. This is a ruling in respect of an application arising from a tax review in which the Respondent assessed Income Tax of Shs. 69,745,707 against the Applicant.

II. Background facts

2. The Applicant is a limited liability company engaged in the construction business. The Respondent conducted a review of the Applicant's tax affairs and established a variance between IFMIS payments and the income declared for income tax purposes, and an unsupported loan, which the Respondent added back as income.
3. On 25 October 2023, the Respondent issued an Income Tax assessment of Shs. 69,745,707 for the period 1 July 2021-30 June 2022. The Applicant objected to the assessment on the grounds that its sales were recorded under the accrual method, not on a cash basis. The Applicant was requested by the Respondent to furnish supporting documents, but none were provided. On 7 October 2024, an objection decision was issued confirming the assessment; hence, this application.

III. Representation

4. CPA Frank Oyesige represented the Applicant, while Mr. Agaba Edmond and Ms. Amutuhair Doreen represented the Respondent.

IV. Issues for Determination

5. The following issues were set down for determination:
 - i) Whether the Applicant is liable to pay the tax as assessed?
 - ii) What remedies are available to the parties?

V. Submissions of the Applicant

6. The parties were directed to file written submissions; the Applicant was supposed to file by 12 December 2025 and the Respondent by 5 January 2026. However, the Applicant did not comply with the Tribunal's directives.

VI. Submissions of the Respondent

7. The Respondent submitted that the Applicant was liable for the tax assessed. They argued that upon reviewing the Applicant's tax affairs, they established a variance between IFMIS payments and the Applicant's declared income; and an unsupported loan, which the Respondent consequently added back as income.
8. The Respondent stated that, on 25 October 2023, it issued the Applicant with an Income Tax assessment for the period 01/07/2021 to 30/06/2022, amounting to Shs.69,745,707. The Respondent further contended that the Applicant objected to the assessment, alleging that its sales were declared using the accrual method rather than the cash basis.
9. The Respondent argued that, in response to this objection, it requested the Applicant to provide supporting documentation, but the Applicant never availed any.
10. The Respondent submitted that due to the absence of supporting evidence, it issued an objection decision on 7 October 2024, disallowing the Applicant's objection. The Respondent maintained that both the assessment and objection decision were properly issued and that the Applicant remained liable for the tax assessed.

11. The Respondent submitted that the matter proceeded to Tribunal-guided mediation, which is conducted strictly on a without-prejudice basis. The Respondent further emphasised that it does not rely on the substance of the mediation discussions. However, it highlighted, purely as procedural history, that the Applicant produced new documents during mediation that had not been provided earlier, namely: a loan agreement dated 15 September 2021 and a Standard Chartered Bank statement for Account No. 0102008328700.
12. The Respondent argued that the bank statement showed no movement of loan funds to the Applicant. The Respondent also contended that although the loan agreement alleged that materials worth Shs. 343,000,000 were advanced to the Applicant, no valuation documents or evidence substantiating the materials were provided.
13. The Respondent further submitted that the loan agreement bore several deficiencies as it stipulated no interest, was not registered with URSB, and it carried no proof of actual transfer of value. The Respondent contended that the deficiencies mentioned above rendered the alleged loan arrangement unsupported and devoid of evidentiary value.
14. The Respondent reiterated that the Tribunal had already directed that the matter be determined strictly based on documents filed at the objection stage and stated its full compliance with that directive.

VII. The Determination

15. Having carefully considered the Respondent's submissions and having noted that, despite directions of this tribunal, the Applicant did not file their submissions.
16. The central issue for determination, arising from the Respondent's findings of a variance between IFMIS payments and declared income, as well as an unsupported loan added back as income, is whether the Applicant is liable to pay the Income Tax assessment of Shs. 69,745,707 issued for the period 01/07/2021 to 30/06/2022
17. Section 19 of the Tax Appeals Tribunal Act places the burden of proving that an assessment is excessive or erroneous upon the taxpayer, and it states:

"In a proceeding before a Tribunal for review of a taxation decision, the Applicant has the burden of proving that;

(a) Where the taxation decision is an objection decision in relation to an assessment, the assessment is excessive; or

(b) In any other case, the taxation decision should not have been made or should have been made differently."

18. The Tribunal notes, however, that the Applicant in this matter filed an objection without supporting evidence, failed to provide documentation when requested by the Respondent, as indicated in the Objection Decision Notice dated 7 October, 2024 and also failed to file written submissions despite Tribunal directions.
19. In ***Pathways Advocates v URA, TAT Application No. 014 of 2026***, the Tribunal held that failure to file submissions deprives the Tribunal of material necessary to evaluate the Applicant's claim and leaves the Respondent's position wholly unchallenged. The Tribunal emphasised that where a party defaults on submissions, the Tribunal is entitled to resolve the matter based solely on the Respondent's record.
20. Applying that principle, the Applicant's failure to prosecute its own case meant that the Respondent's account remained uncontested, and the burden had not been discharged. The Respondent submitted that the Applicant was liable to pay Shs. 69,745,707, the total assessed Income Tax. The Respondent argued that the assessment was premised on:
 - (i) A clearly established variance between IFMIS payments and declared income;
 - (ii) An unsupported loan added back as income.
21. The Respondent contended that although the Applicant asserted the use of the accrual method, it failed to provide any documentary evidence. The Respondent submitted that its objection decision was appropriately issued on 29 June 2024 due to a lack of supporting documents.
22. The Respondent relied on Section 4(1) of the Income Tax Act, which imposes income tax on persons with chargeable income and it states;

“(1). Subject to an in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income”.

23. The Respondent further referred to Section 117(1) of the ITA, granting the Commissioner power to re-characterise or disregard transactions lacking economic substance and it states;

“Section 117. Recharacterisation of income and deductions

(1). For purposes of determining liability to tax under this Act, the Commissioner General may-

(a) Re-characterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme”;

24. The Respondent argued that the alleged loan lacked all hallmarks of a genuine loan transaction, including: proof of funds movement, valuation documents, corporate approvals, and commercial terms.
25. The Commissioner is empowered to re-characterise a transaction where its form does not reflect its substance, particularly where the taxpayer provides no credible evidence to support the alleged transaction. This principle was affirmed in ***East African Breweries International Ltd v Uganda Revenue Authority, TAT App. No. 14 of 2017*** and later applied in ***Bullion Refinery Ltd v Uganda Revenue Authority, TAT App. No. 87 of 2021***, where the Tribunal held that unsupported loans, undocumented advances, or unexplained credits may properly be treated as undeclared income when the taxpayer fails to produce satisfactory evidence of their existence or movement of funds.
26. A similar approach was taken in ***Global Woods AG (In Liquidation) v Uganda Revenue Authority, TAT 280 of 2022***, where the Tribunal disregarded an amended loan arrangement that lacked commercial substance and treated it as part of a tax avoidance scheme. The Tribunal reaffirmed that transactions without real economic effect may be re-characterised for tax purposes.

Conclusion

27. In the circumstances, the Tribunal finds that the Respondent's assessment was properly issued and grounded in law. The Applicant, having failed to provide supporting documentation at the assessment and objection stages, and further having failed to file written submissions as directed, did not discharge the statutory burden placed upon it to demonstrate that the assessment was excessive or erroneous.
28. The variance between the IFMIS payments and the Applicant's declared income remained unexplained, and the alleged loan, unsupported by any credible evidence, was rightly re-characterised as income for tax purposes. The Respondent's position, therefore, stands unchallenged. Accordingly, the Tribunal concludes that the Application lacks merit and must fail.
29. The Tribunal accordingly orders that:
- (i) The Income Tax assessment of Shs. 69,745,707 is upheld, and the Applicant is liable to pay the tax assessed.
 - (ii) The Application is dismissed, and the costs of this application are awarded to the Respondent.

Dated at Mbarara this 13th day of May 2026.



**HON. CRYSTAL KABAJWARA
CHAIRPERSON**



**MS. CHRISTINE KATWE
MEMBER**



**HON. GRACE SAFI
MEMBER**