

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**APPLICATION NO. 87 OF 2023**

EXPLORER LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MS. KABAKUMBA MASIKO, MR.  
WILLY NANGOSYAH

**RULING**

This Application is in respect to an additional income tax assessment of Shs. 154,171,395 arising from the recharacterization of the Applicant's related party loan as income.

**1. Background Facts**

The Applicant is engaged in rental business income which is generated from a commercial property located on William Street. On 11 January 2020, the Respondent issued an additional income tax assessment of Shs. 154,171,395 on grounds that the Applicant purportedly had an unsupported related party loan of Shs. 513,904,648. The Respondent proceeded to recharacterise the loan as income, thereby leading to the additional assessment. On 27 March 2023, the Applicant objected to the additional assessment and on 22 May 2023, the Respondent disallowed the objection, maintaining the recharacterization.

**2. Issues for determination**

The main issue for determination by the Tribunal is whether the Respondent was justified in recharacterizing the Applicant's related party loan into income.

### **3. Representation**

The Applicant was represented by Mr. Deus Mugabe while the Respondent was represented by Mr. George Ssenyomo and Ms. Joan Agasha.

Mr. James Sekandi the Applicant's General Manager, in his witness statement, stated that the Applicant owns a property located at Plot 92, William Street. The property is the Applicant's primary source of income. On 11 January 2020, the Respondent issued an administrative additional assessment of Shs. 154,171,395 as tax assessed on a related party loan.

Mr. Sekandi explained that the liability arises from a loan extended to the Applicant by its shareholders Adeneye Shonubi and Alan Shonubi. The witness testified that the loan has been reported in the Applicant's financials statement since 2004 when it was advanced.

Mr. Sekandi further stated that the loan was extended to the Applicant in 2004 pursuant to the loan agreement dated 4 April 2004, repayable in 10 years. On 10 February 2015, the loan was extended by another 10 years. In 2018, when the Respondent assessed the Applicant, the loan was disclosed in the Applicant's financial statements and rental income tax returns. The witness therefore testified that the loan is not new.

During cross examination Mr. James Sekandi confirmed that the company keeps records and that in the present case, there was no additional evidence concerning the loan other than the loan agreements and the financial statements. In re-examination he confirmed that the loan has at all times been disclosed in the Applicant's financial statements.

Mr. Christiopher Baluku an officer in the Respondent's department, in his witness statement stated that the Respondent raised an assessment due to the Applicant's unsupported loans of Shs. 513,904,648. The Applicant objected on grounds that they were willing to provide information to support their objection. On the 22 May 2023, the Respondent issued an objection decision disallowing the objection for failure to provide sufficient evidence to support the related party loan.

### **4. The Submissions of the Applicant**

The Applicant submitted that it operates a rental business and has only one property. At the time when the property was acquired, the Applicant was a new company and did not have the financial resources; it required USD 300,000 to acquire and renovate the property. It decided to acquire the property through debt finance from its shareholders payable in 10 years' time from 2004. The loan was documented by execution of a loan agreement.

The Applicant submitted that the loan has been disclosed in its audited financial statements and income tax returns since 2004. In 2014, when the loan agreement lapsed, the balances became payable. However, due to the Applicant's financial position, the lenders agreed to extend the loan for a further ten years.

The Applicant further submitted that in 2018, the Respondent recharacterised the Applicant's loan as income and raised an additional income tax assessment of Shs. 154,171,395. The Applicant also stated that the Respondent did not provide a legal basis for the recharacterization. The Applicant therefore objected on grounds that that the assessment was based on non-existent income as the Applicant only dealt in rental business and did not have any other source of income.

The Applicant further submitted that the standard of proof in tax matters is on balance of probabilities. Where there is doubt, the taxpayer takes the benefit of it (***Red Concepts v Uganda Revenue Authority, TAT Application No. 36 of 2018***). As such, the Applicant is not under a duty to prove, beyond reasonable doubt that there was a loan. If this Tribunal is convinced, on the balance of probabilities, that the Applicant received a loan, disclosed the loan to the Respondent, and the obligation to pay the loan still exists, this application should be granted.

#### **The assessment was out of time**

The Applicant contended that if the loan was a running loan from 2004, the Respondent could not in 2018, 14 years later raise an additional assessment. Such an assessment was time barred. It had to recharacterise the same within three years. The Applicant relied on ***Kasese Cobalt Company Limited v URA High Court Civil Appeal No. 04 of 2021***.

#### **No evidence as to tax liability**

The Applicant cited *Kabayiza R. Brian versus Uganda Revenue Authority*, Civil Suit No. 208 of 2016 which stated;

*"Therefore, the government's goal to generate more revenue internally should not be pursued without regard to the need to ensure that justice is done to the taxpayer in all circumstances. The balancing act should ensure that the taxpayer is not unfairly obligated to pay disputed tax arbitrarily without regard to the evidence pointing to the tax liability."*

The Applicant submitted that there is no evidence leading to any income other than what appears in the return of the Applicant for the year 2018. No evidence points to an additional tax liability and the Respondent's behavior should not be condoned by this Tribunal.

### **Nature of the Applicant's business**

The Applicant submitted that it has always earned rental income from the building as displayed in the Applicant's tax returns and audited financials from 2004 up to 2018 when the assessments were raised by the Respondent. Section 5 (3) of the Income Tax Act categorically ringfences rental income from all the other income and accords it different tax treatment.

The Applicant submitted that by the Respondent raising an income tax assessment on a taxpayer who solely runs a rental business, this amounted to creating its own tax which is against the core principles of taxation laws in Uganda. The tax raised was illegal, irrational and against the core principles of tax law.

The Applicant submitted that the amounts of Shs. 513,904,684.00 leading to an income tax assessment of Shs. 154,171,395.00 by the Respondent was neither income earned by the Applicant for it to qualify as chargeable income for income tax purposes. It was an interparty loan taken by the Applicant in the year 2004 and one that the Respondent has had knowledge of for the last 20 years.

### **Application of Section 91 of the Income Tax Act.**

The Applicant submitted that the nature of the Applicant's loan is not one characterizable under Section 117 (former 91) of the Income Tax Act. The Applicant argued that this provision is an "Anti-Avoidance" provision. The Respondent did not

follow the applicable rules when it chose to recharacterise the Applicant's loan as income. The recharacterization was therefore illegal.

### **The substance of the Applicant's transaction**

The Applicant submitted that this was a commercial transaction, where the Applicant borrowed money from its shareholders which it is bound to pay by virtue of the Loan Agreement executed in 2004. The Respondent does not deny this fact and has not adduced evidence to the contrary.

It was the Applicant's submission that it is alive to the provisions of Section 17 (3) of the Income Tax Act (ITA) which provides:

*"Unless the Act provides otherwise, Part V of this Act, which deals with tax accounting principles, applies in determining when an amount is derived for purposes of this Act."*

Under Part V of the ITA, section 38 requires a taxpayer to use methods of accounting to conform with the generally accepted accounting principles that deal with loans. The accounting treatment of loans and borrowing under IFRS 9 calls for loans to be provided in the financial statements of the borrower as evidence of indebtedness.

The Applicant submitted that the Tribunal has emphasized that International Accounting Standards may be used if they are in harmony with the ITA in handling matters before the Tribunal. In ***Mukwano Enterprises v Uganda Revenue Authority TAT Application No.06 of 2018***, the Tribunal found that the Applicant followed all the required accounting standards, and the Respondent had no right to re-characterize the Applicant's loan into income from an accounting point of view.

The Applicant submitted that the evidence shows that the substance of the transaction was that there was a loan between the Applicant and its related parties. This was not denied by the Respondent. The Respondent did not adduce any evidence to show what substance of the transaction that it upheld.

The Applicant submitted that the power to re-characterize is statutory. In ***East African Breweries International Limited v Uganda Revenue Authority, Application No.14 of 2017***, the Tribunal stated:

*"The commissioner's power to re-characterize a transaction cannot be faulted unless there were satisfactory explanations. The Tribunal will not interfere with such powers unless it is shown that the decision of the Respondent was illegal, irrational or was made with procedural impropriety".*

The Applicant invited the Tribunal to find that the Respondent has not adduced any evidence to show that the substance and form conflicted. The Applicant prayed that for orders that:

- a) the Applicant's application be granted;
- b) the additional assessment vacated;
- c) the Applicant be granted interest on the amount deposited as 30% of the disputed; and
- d) costs of this Application.

## **5. The Submissions of the Respondent**

The Respondent submitted that Section 117 of the Income Tax Act (ITA) (formerly Section 91) provides:

*"For the purposes of determining liability to tax under this Act, the Commissioner General may:*

- a) Re-characterize a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme.*
- b) Disregard a transaction that does not have substantial economic effect,*
- c) Re-characterize a transaction the form of which does not reflect the substance,"*

The Respondent submitted that the Commissioner General is clothed with powers to re-characterize transactions which do not reflect economic or substantive effect by looking at the substance of the transaction over form.

The Respondent submitted that they reviewed the Applicant's income tax returns and established that the Applicant had an unsupported loan balance of Shs. 513,904,648 purportedly from its shareholders. On the 24 April 2023, the Respondent requested

the Applicant to provide supporting documentation such as the loan agreement, bank statements to support the loan as claimed in the Applicant's returns and financial statements which the Applicant failed to do. Without evidence, the Respondent was entitled to re-characterize the transaction.

The Respondent cited ***East Africa Breweries International Limited (Supra)***, where the Tribunal held:

*"The Commissioner's powers to re-characterize a transaction cannot be faulted unless there are satisfactory explanations. The Tribunal will not interfere with such powers unless it is shown that the decision of the Respondent was illegal, irrational or was made with procedural impropriety".*

Furthermore, in the case of ***Bullion Refinery Limited v Uganda Revenue Authority Application No. 87 of 2021***, the Tribunal while citing the case of Commissioner of ***Income-Tax v Maduri Rajalahgari Kistaiah 1979 120 ITR 294 AP*** stated that;

*"Where the ITO finds unexplained cash credits, it is open to him to add such sums as income from an undisclosed source. The burden of proving the cash credits is always on the assessee, as the source of the unexplained cash credits is within his special knowledge. The ITO need not establish by independent evidence that a particular cash credit pertains to a particular source of income of the assessee. It is open to the assessee within whose special knowledge the source of the credit is, to plead and establish that a particular credit relates to, or has any connection with, the undisclosed income from his known business."*

It was the Respondent's evidence that it re-characterised the Applicant's income on the ground that the transaction (the purported loan) did not reflect the substance but was a mere form.

The Respondent cited ***Downtown Forex Bureau Limited and 2 others v Uganda Revenue Authority Application No. 4 of 2012***, where the Tribunal held;

*"The effect of Section 91 of the Income tax Act (now Section 117) would be to make the relevant English cases on tax avoidance applicable to only Section 91(1)(a) and 91(2). The statutory powers of the Commissioner to recharacterise a transaction under Section 91(1)(b) and 91(1)(c) by looking at its economic effect or substance over form cannot be fettered by decided English cases on tax avoidance. The transactions a Commissioner may query under Sections 91(1)(b) and 91(1)(e) need not be part of a tax avoidance scheme. By looking at the*

*economic effects and or the substance of a transaction some incidences of tax avoidance that would have previously enabled a subject get away tax free are now trapped by Section 91".*

The Respondent submitted that the provision applicable in this matter is Section 117(1) (c) of the ITA wherein the Respondent is challenging the substance of the Applicant's transaction. The Applicant's contention that the money was sourced as a loan is inimical to the doctrine of substance over form. In ***Dominion Taxicab Association v MNR [1954] SCR 82***, the Court held:

*"It is well settled that in considering whether a particular transaction brings a party within the terms of the Income Tax Act, its substance rather than its form is to be regarded".*

The Respondent cited ***Placer Dome Inc v Canada [1992] 2 CTC 98 at 109***, where the Canadian Supreme Court held that:

*"It is the substance of a transaction that must be looked at in order to determine the true legal rights and obligations of the parties. Similarly, it is the commercial and practical nature of the transaction, the true legal rights and obligations flowing from it that must be looked at to determine its tax implications".*

The Respondent submitted that from the above doctrine, the tax consequences of a transaction such as unsupported loans should be evaluated by considering the broader economic substance rather than restricting one's focus on the transaction's legal form. The Applicant failed to justify or substantiate the loan of USD 300,000 by providing the prerequisites for obtaining loans thereby undermining the principle of substance of a transaction.

The Applicant's witness testified that there were no meetings or resolutions for the company to borrow, as it operated a family business and felt such formalities were unnecessary. This raises the question as to whether the shareholders had authority to borrow or transact with the company. It is trite law that a company acts and transacts on the authority, strength and through a resolution duly passed and registered as was held in the case of ***Danish Mercantile v Beaumont and Anor (1951)***.

The Respondent submitted that Regulation 79 of Table A of the Companies Act mandates directors to borrow on behalf of the company. Board decisions are however taken by resolutions. For a decision to borrow USD 300,000, it would necessitate the Applicant to hold a meeting and have a resolution to that effect. In absence of such



procedure and prerequisites, the Respondent was justified to re-characterize the same.

The Respondent submitted that the Applicant claims existence of a loan and therefore has the burden to prove that the amount in question was a loan by providing supporting documentation such as a resolution of the Applicant to borrow, minutes of the company meeting, bank statements to show receipt of the money, receipts to show withdraw and how the money was utilized or to show if the amount was utilized for purpose for which it was purportedly borrowed for.

The Respondent submitted that Dr. Alan Shonubi testified that he and his brother extended the loan to the Applicant to finance the acquisition, renovation and repair of property at Plot 92 William Street Kampala (the property).

However, when he was asked for evidence of purchase and renovation of the property, he testified that the Applicant had many books but the same were not provided with the Respondent.

The Respondent submitted that the Applicant did not adduce evidence to show that the monies were paid to their accounts and failed to provide the documentation in support of their claims. In the absence of the information above, it is impossible to assume that the amount in question was a loan and not a means of avoiding taxes. In the premises the Respondent was justified in its decision. In ***Commissioner Investigations and Enforcement v Kidero (Income Tax Appeal E028 of 2020) (2022) KEHC 52 (KLR)*** that:

*"As I stated earlier S.54A of the ITA, the taxpayer has a duty to maintain records to support its transactions. These records are those expected in the ordinary course of business. It did not offer an explanation why the loan amount advanced by the related party through Family Bank was less than the amount ultimately transferred to his account by the Advocates."*

The Respondent submitted that they are entitled to seek information and use it to establish whether money in the hands of the taxpayer constitutes income subject to tax and the burden is on the taxpayer to show otherwise. It is not enough for the Applicant to provide a loan agreement; the Applicant should also demonstrate how the money was received, utilized, authorisation to borrow and proof of payment of the loan from time to time. If the Applicant cannot show such evidence, then substance of the

purported transaction cannot be determined and the same must be considered income and therefore chargeable to tax.

### **Assessment**

The Respondent argued that the Commissioner is entitled, based on the taxpayer's income return and any other available information, to make an assessment of chargeable income at their discretion/best judgement. This defeats the Applicant's argument that Respondent cannot assess chargeable income simply because the Applicant is in rental business.

The Respondent contended that its decision to re-characterize the Applicant's income was not irrational or in defiance of logic and acceptable moral standards. It exercised its statutory discretion, and the decision was therefore lawful. The Applicant failed to justify the existence of the loan in its financial statements and its returns.

### **Assessment out of time**

The Respondent submitted that it was the Applicant's evidence that the Applicant had the loan running from 2004 and that was declared in its 2018 return. It was the same return which was the basis for the assessment issued. The Respondent can raise assessments from an audit or a return and since the Applicant's 2018 return had an unsupported loan declared, the assessment was rightfully raised. The Respondent relied on section 25 (2) of the TPCA which provides that an additional assessment may be raised within three years from the taxpayer furnished the self-assessment return.

The Respondent contended that the additional assessments were raised on 11 January 2020, 2 years from the self-assessment return for the year 2018. The law provides for three years from the time the Applicant furnished its return. The Applicant filed its return in June 2018 which return included the unsupported loan which was the basis of the assessments. The assessments were within the time prescribed under the law. The Respondent prayed that the Tribunal finds that:

- a) The Applicant is liable to pay the assessed tax of Shs. 154,171,395;
- b) The assessment raised by the Respondent is lawful; and

- c) Dismiss the prayer of the interest on 30% deposited as it has not made in the original application filed in the Tribunal.

## **6. The Applicant's Submissions in Rejoinder**

In rejoinder, the Applicant submitted that the transaction the Respondent recharacterised was both substance and form. There is no evidence to show that it is not a loan.

The Applicant submitted that the Respondent requested for documents in relation to a loan advanced in 2004. This was over 20 years after the documents had been authored. The Applicant submitted that having submitted the documents before the Tribunal it has a right to independently look at them and base on the same to reach their own independent conclusion.

The Applicant submitted that it discharged both legal and evidential burden of proof. It invited this Tribunal to disregard the Respondent's assertion that the burden never shifts.

The Applicant submitted that in cases where the assessment is as a result of recharacterisation, the Respondent must provide the details of the substance and the form to enable taxpayers to defend themselves.

The Applicant contended that Section 117 (1)(c) must be seen in the context of GAARS. The Rules pertaining the invoking of GAARS cannot be overlooked. The Applicant invited the Tribunal to overlook the misinterpretation of the Respondent and look at the law as is.

The Applicant submitted that the true commercial nature of this transaction is that it's a loan, recognizable by the Applicant and payable when due. In such a case, its substance and form all show that it is a loan. The failure to present to the Respondent minutes of the meeting and board resolutions does not negate the fact that this was a loan. The loan is neither denied by the Applicant nor the lenders.

The Applicant submitted that Section 15 of the TPCA requires that documents be kept for five years. The Applicant prayed that the Tribunal does not fault the Applicant on

failure to provide to provide documents as old as twenty years to the Respondent when the law gives a limit of five years.

The Applicant submitted that the Respondent submitted that the Applicant has a right to raise an assessment at any time basing on their discretion. The Applicant submitted that the Respondent is the custodian of tax returns, and the Applicants returns from 2004 clearly reflected the loan. The Respondent cannot come up in 2020 and raise the assessment on the loan almost 20 years from the time it was obtained.

The Applicant submitted that the interest on the 30% deposit is a statutory right under the law and the same cannot be fettered by the Respondent's claim that it was not pleaded (*See Section 22 of the TPCA and IFPRI v Uganda Revenue Authority, App No. 59 of 2023*).

The Applicant prayed that this application is allowed, 30% refunded with interest and costs of this application.

## **7. Determination of the Tribunal**

Having listened to the evidence and read the submissions of the parties, this is the decision of the Tribunal.

On 11 January 2020, the Respondent issued an additional income tax assessment of Shs. 154,171,395 on grounds that the Applicant purportedly had an unsupported related party loan of Shs. 513,904,648 in 2004. The Respondent submitted it reviewed the Applicant's income tax returns and established that the Applicant had an unsupported loan balance of Shs. 513,904,648 as at 2018 purportedly from its shareholders.

On 24 April 2023, the Respondent requested the Applicant to provide supporting documentation such as a loan agreement, bank statements to support the loan as claimed in the Applicant's returns and financial statements which the Applicant did not. Without evidence to support the amounts claimed by the Applicant as a loan, the Respondent re-characterised the transaction and hence the assessments.

The Respondent contends that the Applicant was obtaining income from other sources other than rental income. However, the Applicant disputes this as their business only generates rental income and have no other sources of income.

The Applicant obtained the loan in 2004 from its shareholders. When requested for supporting documentation for the loan, the Applicant provided the loan agreement dated 2 April 2004 (AEX 5) and a letter dated 10 February 2015 from the lender, which extended the term of the initial loan (AEX 6). The Applicant also provided their financial statements which showed that the loan had been disclosed since 2004.

The question for determination by the Tribunal is whether the Respondent was justified in recharacterizing the loan as income.

**Whether the Applicant adequately supported the existence of the loan.**

The Applicant provided the Respondent with financial statements, a loan agreement, and a letter from its shareholder extending the loan term. The Respondent considered this insufficient and requested bank statements and board resolutions dating back to 2004.

The information requested by the Respondent is transactional documentation for a loan that was obtained in 2004, almost 20 years ago. In as much as the loan is still subsisting, it would be unreasonable to expect any person to maintain records for such a period.

In the present case, it would be unrealistic for the Respondent to expect the Applicant, 20 years later, to provide a bank statement showing how the funds were received and spent. The Respondent also requested evidence of receipts for purchases made, receipts for wages paid to the workers who carried out the renovations of the property in 2004. This is not only onerous, but also not practical and is not consistent with sound business management principles.

Section 15 (1) of the Tax Procedures Code Act (TPCA) requires taxpayers to maintain records as may be required to determine the taxpayers' liability under tax law.

It should be noted that the loan is not interest bearing and therefore, it had no effect on the Applicant's tax liability. Had it been interest bearing and the Applicant had been claiming a deduction for the interest payments in their tax returns, then the Respondent would be justified to request for information to support the interest deduction. This is because the interest deduction would have had the effect of reducing the Applicant's tax liability.

Further, section 15 (c) provides that such records should be retained for a period of five years after the end of the tax period to which it relates. The Respondent has argued that the assessment relates to the 2018 year of income and therefore the Applicant should have kept these records to support the 2018 tax return.

However, the kind of information requested by the Respondent is not information that came into existence in 2018 or thereabouts. This information such as receipts and bank statements as well as a board resolution pre-dating the borrowing goes back almost 20 years ago. The Respondent's request was therefore unreasonable.

### **The standard of proof**

The Applicant was able to demonstrate by way of a loan agreement how the loan came into place. The loan has been disclosed in the Applicant's financial statements since 2004. The Applicant also provided a letter from its shareholder lender extending the term of the loan for a further 10 years after the Applicant had failed to pay back the loan. The Applicant's shareholder lender, Dr. Alan Shonubi testified that he and his brother advanced the funds to the Applicant.

We believe, that on the balance of probabilities, it is reasonable to conclude that the Applicant obtained the loan.

Whilst it is prudent for the Respondent to request taxpayers to provide different kinds of information to support their transactions, income and deductions, we are of the view that in the present circumstance, the Respondent is holding the Applicant to too high a standard, given the passage of time.

Therefore, on the balance of probabilities, we find that the Applicant has ably demonstrated the existence of a loan from its shareholders.

### **Recharacterisation of the loan**

The Income Tax Act empowers the Commissioner General to re-characterize a transaction. These powers are contained in Section 117 (formerly 91) of the ITA. It provides:

*"For purposes of determining liability to tax this Act, the Commissioner General may-*

- (a) *Recharacterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;*
- (b) *Disregard a transaction that does not have substantial economic effect*
- (c) *Or re-characterize a transaction the form of which does not reflect the substance.*

(2) *a tax avoidance scheme in Subsection (1) includes any transaction one of the main purposes of which is the avoidance or reduction of liability to tax”*

The Applicant has argued that powers to Recharacterise should only be exercised where tax avoidance schemes are involved. However, we agree with the Respondent that recharacterization need not be restricted to tax avoidance schemes but can also extend to transactions where the form does not reflect the substance as provided for in Section 117 (c).

Notwithstanding the above, whilst the Respondent's powers to Recharacterise a transaction are statutory, they must be exercised judiciously and rationally. This was the position of the Tribunal in ***East African Breweries International Limited URA TAT App No. 14 of 2017*** where the Tribunal stated:

*“The Commissioner's powers to re-characterize a transaction cannot be faulted unless there are satisfactory explanations. The Tribunal will not interfere with such powers unless it is shown that the decision of the Respondent was illegal, irrational or was made with procedural impropriety”.*

In the present case, the Respondent Recharacterised the Applicant's loan as income. The Applicant submitted that their primary source of income is rental income. It is not enough for the Respondent to Recharacterise a transaction, there must be some basis for the recharacterization from a legal and accounting perspective. For example, why has the Respondent opted to Recharacterise the loan as income/ revenue / sales and not as equity since the funds originated from the shareholders?

Whilst the Respondent has alleged that the loan was income, they have not provided any scintilla of evidence to demonstrate how the purported income arose e.g., did it arise from trading activities not previously disclosed to by the Applicant to the Respondent. Are there unexplained deposits or cash transactions on the Applicant's bank statements? The Respondent alleged that the Applicant has other sources of income but adduces no evidence to this effect. What could be the other sources of

income besides the rental income of the Applicant? It is important that the powers to recharacterise transactions is not wantonly abused. In the present case, we expected the Respondent to provide a nexus or connection between the Applicant and the income that the Respondent alleges the Applicant to have earned. This connection has not been established and in the circumstances, the Tribunal finds that the Respondent's characterization of the loan as income was not done rationally.

In the circumstances, this application is allowed with costs to the Applicant.

Dated at Kampala this 31<sup>st</sup> day of October 2024.

*Crystal Kabajwara*

**CRYSTAL KABAJWARA**  
**CHAIRPERSON**

*Kabakumba Masiko*

**KABAKUMBA MASIKO**  
**MEMBER**

*Willy Nangosyah*

**WILLY NANGOSYAH**  
**MEMBER**

**RULING**