



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL
MISCELLANEOUS APPLICATION NO. 264 OF 2025

(Arising out of Application No. 296 of 2025)

FORTUNA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, HON. PROSCOVIA REBECCA NAMBI,
HON. WILLY NANGOSYAH**

I. Introduction

1. The Applicant brings this application seeking a declaration that S.15(1) of the Tax Appeals Tribunal Act is inapplicable to the pending dispute in TAT Application No. 296 of 2025. The application follows additional Withholding Tax assessments issued by the Respondent, amounting to Shs. 5,233,263,101 for the period January 2021 to December 2023, which the Applicant contests. The Applicant argues that the substantive matter should proceed without the requirement to deposit 30% of the disputed tax, whereas the Respondent maintains that the deposit is mandatory under statute, giving rise to the present application.

II. Background Facts

2. The Applicant operates a casino business trading as Mayfair Casino, which engages in gaming and betting activities. In the course of its business operations, the Applicant facilitates betting activities in which customers place wagers using chips and may subsequently redeem winnings or unused chips.
3. On 20 and 21 May 2025, the Respondent issued the Applicant with additional Withholding Income Tax (WHT) assessments amounting to Shs. 5,233,263,101 for the period January 2021 to December 2023. The

assessments were based on payouts made to customers during the said period, which the Respondent treated as winnings subject to withholding tax under section 118C of the Income Tax Act.

4. Aggrieved by the assessments, the Applicant filed a notice of objection on 18 June 2025, contending that the formula applied by the Respondent in computing the tax liability was erroneous, baseless, and unlawful. The Applicant argued that the assessments were improperly calculated on the basis of total payouts or cash-outs without taking into account that the redemption of unused chips or funds by customers who had not made winnings does not constitute payment of winnings subject to withholding tax.
5. On 24 August 2025, the Respondent issued an objection decision disallowing the Applicant's objection and maintaining the assessments. The Respondent maintained that the withholding tax had been correctly imposed on payouts in accordance with section 118C of the Income Tax Act, and therefore upheld the tax liability assessed against the Applicant.
6. Following the objection decision, the Applicant filed TAT Application No. 296 of 2025 before the Tax Appeals Tribunal on 22nd September 2025, challenging the Respondent's decision maintaining the withholding tax assessments amounting to Shs. 5,233,263,101.
7. Subsequently, on 1 December 2025, the Applicant filed Miscellaneous Application No. 264 of 2025 seeking orders that S.15(1) of the Tax Appeals Tribunal Act does not apply to the dispute in TAT Application No. 296 of 2025 and that the main application be heard and determined on its merits without requiring the Applicant to deposit 30% of the disputed tax.
8. The Applicant contends that the present dispute is substantially similar to the issues previously determined by the Tribunal in ***Fortuna Limited v Uganda Revenue Authority, TAT Application No. 132 of 2020***, where the Tribunal clarified the proper approach to the imposition of withholding tax on casino winnings. The Applicant therefore argues that the current assessments disregard the Tribunal's earlier decision and raise issues that had already been determined.

9. The Respondent, on the other hand, opposes the application and maintains that the Applicant is required under S.15(1) of the Tax Appeals Tribunal Act to pay 30% of the disputed tax before the dispute can proceed. The Respondent further contended that the present dispute constitutes a new cause of action and that the Applicant's failure to comply with the statutory payment requirement renders the application improperly before the Tribunal.
10. It is therefore this disagreement regarding the applicability of S.15(1) of the Tax Appeals Tribunal Act and the requirement to deposit 30% of the disputed tax that has given rise to the present application before the Tribunal.

III. Issues for Determination

11. The following issues have been set down for determination:
 - (i) Whether S. 15(1) of the Tax Appeals Tribunal Act applies to the dispute in TAT Application 296 of 2025.
 - (ii) What remedies are available to the parties?

IV. Representation and Evidence

12. The Applicant was represented by Mr. Brian Cooper Rubihaya and Mr. Gad Wilson while the Respondent was represented by Ms. Doreen Amutuhaire and Ms. Christine Mpumwire.
13. In support of the application, the Applicant presented the testimony of **Mr. Shyam K. Manandhar**, its General Manager. He testified that the company operates slot machines and gaming tables where customers place bets with the expectation of winning payouts. He stated that the Applicant previously filed TAT Application No. 132 of 2020, Fortuna Limited v Uganda Revenue Authority, challenging withholding tax (WHT) assessments imposed on betting winnings on the basis that the formula used by the Respondent to compute the tax was incorrect.
14. The witness stated that the Tribunal determined that the application in favour of the Applicant on 7 October 2021, holding that the taxing point for WHT on gaming winnings arises at the point of final payout to the player and not on

the stake or interim winnings during gameplay, and it approved the computation method proposed by the Applicant. He further stated that although the Respondent appealed that decision in **Civil Appeal No. 47 of 2022, Uganda Revenue Authority v Fortuna Limited**, the appeal was later withdrawn before judgment.

15. The witness further stated that the Applicant thereafter complied with the Tribunal's decision by filing withholding tax returns using the formula approved by the Tribunal. However, according to the witness, on 19 May 2025, the Respondent issued a fresh tax assessment for the period January 2021 to December 2023, amounting to Shs. 5,233,263,101, alleging failure to file and remit WHT on customer winnings, which assessment he described as being in disregard of the Tribunal's earlier ruling.
16. The witness again stated that the Applicant objected to the assessment on the ground that the formula used by the Respondent contradicted the ruling in TAT Application No. 132 of 2020, but the Respondent rejected the objection. He explained that the Applicant subsequently filed TAT Application No. 296 of 2025, Fortuna Limited v Uganda Revenue Authority, challenging the legality of the formula used to compute the assessment.
17. The witness stated that the Applicant had been advised by the Applicant's lawyers that the dispute raises questions already determined by the Tribunal and that the requirement to deposit 30% of the disputed tax under section 15 of the Tax Appeals Tribunal Act should not apply since the dispute concerns the legality of the assessment formula rather than the amount of tax assessed.
18. In reply to the application, the Respondent presented its testimony by way of an affidavit deposed by Mr. Samuel Oseku, an officer in the Legal Services and Board Affairs Department of the Respondent. He stated that on 22 September 2025, the Applicant filed TAT Application No. 296 of 2025 challenging the Respondent's objection decision of 24 August 2025, which maintained a withholding tax (WHT) assessment of Shs. 5,233,263,101 for the period January 2021 to June 2023. The witness testified that this dispute

constituted a new cause of action not previously determined in TAT Application No. 132 of 2020, and thus the matter before the Tribunal was distinct and pending determination.

19. The witness further stated that the Applicant's obligation to pay 30% of the disputed tax arose when the objection was filed, but the Applicant had not complied, noting that this requirement is mandatory under Ugandan tax law. He further averred that since the 30% payment had not been made, the Applicant had no prima facie case likely to succeed. The witness testified that the Applicant's claim was res judicata and clarified that the current assessment and dispute were not part of TAT Application No. 132 of 2020 and thus had not been determined.

V. Submissions of the Applicant

20. The Applicant submitted that they were not liable for the tax assessed. They argued that the matter was heard and determined by the Tribunal on 7 October 2021, and the Tribunal ruled in its favour.
21. According to the Applicant, the Tribunal held that the taxing point arose at the time of payment to the player and clarified that winnings should only be determined at the final cash-out stage, not while a player continued to wager the same funds. The Tribunal also observed that winnings did not include the wager or stake and therefore rejected the Respondent's approach of taxing all wins.
22. The Applicant further stated that the Respondent had appealed the Tribunal's decision in High Court Civil Appeal No. 47 of 2022, Uganda Revenue Authority v Fortuna Limited, but later voluntarily withdrew the appeal. The Applicant explained that, following the Tribunal's decision, it continued to file and remit withholding tax in accordance with the formula approved by the Tribunal. The Applicant submitted that, however, on 19th May 2025, the Respondent issued a new assessment covering the period January 2021 to December 2023, alleging non-filing and non-remittance of WHT on customer winnings or payouts amounting to Shs. 5,233,263,101.

23. The Applicant maintained that the assessment in dispute disregarded the Tribunal's earlier ruling because it was based on the same legal dispute that had already been resolved. The Applicant contended that the legal dispute in TAT Application No. 296 of 2025 was identical to the dispute previously determined in TAT Application No. 132 of 2020, and therefore, the matter was res judicata. It argued that the Respondent had already litigated the issue of how withholding tax on casino winnings should be computed and that the Tribunal had conclusively determined the matter.
24. The Applicant relied on S. 7 of the Civil Procedure Act, which bars courts from trying matters that have already been directly and substantially determined in a former suit between the same parties. In support of its position, the Applicant cited the decision in ***Hon. Maj. Gen. (Rtd) Kahinda Otafiire v New Vision Printing and Publishing Corporation & 2 Others HCCS No. 505 of 2019***, where the court outlined the essential elements of res judicata, including the existence of a previous suit between the same parties, determination by a competent court, and the presence of the same subject matter in the subsequent suit.
25. The Applicant also argued that several subsequent Tribunal decisions had followed the earlier Fortuna decision. They cited *Mena Sports Consulting v Uganda Revenue Authority* (TAT Application No. 155 of 2020), where the Tribunal emphasised that withholding tax on casino winnings arises at the point of payment.
26. The Applicant further referred to ***Massalia SMC Ltd v Uganda Revenue Authority (TAT Application No. 251 of 2024)***, where the Tribunal reportedly reaffirmed that winnings refer to amounts actually won and paid out, not amounts that are re-wagered. On that basis, the Applicant asserted that the Respondent was bound by the earlier Tribunal ruling and that failure to follow it amounted to disregard of a binding decision.
27. The Applicant further submitted that the Respondent's conduct was inconsistent with the provisions of the Tax Appeals Tribunal Act. They referred to S.20(6) of the Act, which provides that decisions of the Tribunal

are enforceable as if they were decisions of a court. It also relied on S.28(2) of the Act, which permits appeals to the High Court only on questions of law. According to the Applicant, because the Respondent withdrew its appeal before the High Court, the Tribunal's decision remained binding. The Applicant therefore maintained that issuing a new assessment based on the same dispute amounted to disregard of the Tribunal's decision and could amount to contempt.

28. Regarding the applicability of S.15(1) of the Tax Appeals Tribunal Act, which requires a taxpayer to deposit 30% of the assessed tax before the Tribunal can hear the matter, the Applicant argued that the provision did not apply in the present circumstances. They cited ***Fuelex Uganda Limited v Uganda Revenue Authority, Constitutional Petition No. 3 of 2009***, in which Justice Kakuru reportedly held that S. 15(1) does not apply where the dispute concerns whether the taxpayer is liable for the tax at all. The Applicant stated that, in such cases, the Tribunal must first determine the legal question of liability before requiring payment of the deposit.
29. The Applicant also relied on ***James Mansa v Uganda Revenue Authority, MA No. 23 of 2022***, where the Tribunal reportedly held that the requirement to deposit 30% of the disputed tax did not apply because the dispute concerned whether the applicant was liable to pay the tax in the first place.
30. According to the Applicant, the Tribunal first had to determine the legal question before imposing any payment requirement. Drawing from this reasoning, the Applicant submitted that its dispute similarly concerned the legality of the formula used to compute withholding tax on casino winnings, which had already been determined by the Tribunal.
31. In conclusion, the Applicant argued that the Respondent's assessment was unlawful because it disregarded a binding Tribunal decision and reintroduced a dispute that had already been determined. The Applicant therefore prayed that the Tribunal declare S.15(1) inapplicable to the present matter, allow TAT Application No. 296 of 2025 to proceed on its merits, and grant costs of both the present application and the main application in its favour.

VI. Submissions of the Respondent

32. The Respondent submitted that the Applicant was liable for the tax assessed, hence the additional Withholding Tax of Shs. 5,233,263,101. The assessments were computed on payouts to customers for January 2021 to December 2023 in accordance with section 118(c) of the Income Tax Act, and the Respondent maintained this position in its objection decision of 24th August 2025.
33. The Respondent submitted that the Applicant's subsequent filings, that is, TAT Application No. 296 of 2025 and Misc. Application No. 264 of 2025, do not suspend the statutory obligation to deposit 30% of the disputed tax, which, in the Respondent's view, arose upon the lodging of the objection on 18th June 2025 and remains unmet.
34. The Respondent further contended that the issues the Applicant sought to ventilate (such as the lawfulness of taxing winnings/payouts and res judicata) go to the merits of the main appeal and are improperly raised in this interlocutory application. The Respondent accordingly prays that the Tribunal confine itself to whether the Applicant is liable to deposit 30% of the disputed tax and, upon finding in the affirmative, dismiss the application with appropriate orders as to costs.
35. On the issue of the 30% payment, the Respondent submitted that the Applicant had neither paid 30% of the tax in dispute nor the undisputed portion of the tax as required under S.15(1) of the Tax Appeals Tribunal Act. It emphasised that the provision requires a taxpayer who lodges a notice of objection to pay 30% of the assessed tax or the undisputed tax, whichever is greater, pending the final resolution of the objection. It is on the above premise that the Respondent argued that the Applicant's obligation to comply with this provision arose upon filing the objection and that failure to comply with the requirement rendered the application defective.
36. The Respondent also argued that the constitutionality of S.15(1) had long been settled by the courts. It relied on the decision in ***Uganda Projects Implementation, and Management Centre v Uganda Revenue Authority***,

Supreme Court Constitutional Appeal No. 2 of 2009, where the Supreme Court upheld the legality of statutory provisions requiring payment of a portion of tax before a dispute is resolved. The Respondent noted that the Supreme Court affirmed the “pay now and argue later” principle, which ensures that government revenue is collected promptly while disputes are resolved through legal processes.

37. The Respondent further relied on the decision in **Elgon Electronics v Uganda Revenue Authority, High Court Civil Appeal No. 11 of 2007**, where Justice Geoffrey Kiryabwire reportedly held that the provisions of S.15(1) of the Tax Appeals Tribunal Act are mandatory. It also cited **Samuel Mayanja v Uganda Revenue Authority, HCT-00-CC-MC-0017-2005**, in which the court held that once a taxpayer lodges an application for review, the taxpayer is obliged to deposit at least 30% of the assessed tax. Based on these authorities, the Respondent maintained that the Applicant was legally required to pay the deposit before pursuing the dispute before the Tribunal.
38. The Respondent further argued that the assessment forming the subject of the dispute is a distinct taxation decision that is properly before the Tribunal in TAT Application No. 296 of 2025 and should be determined through the normal adjudicative process. It contended that the Applicant has a constitutional obligation as a taxpayer to pay taxes promptly to enable government operations and development activities. The Respondent emphasised that failure to comply with the statutory requirement undermines the tax system and frustrates the timely collection of revenue.
39. The Respondent submitted that the present application amounted to an abuse of the Tribunal’s process and relied on the definition of abuse of court process provided in **Uganda Land Commission v James Mark Kamoga, Supreme Court Civil Appeal No. 8 of 2004**, where Justice Mulenga described it as the use of judicial process for an improper purpose or for purposes beyond the scope for which the process was intended. The Respondent also referred to Black’s Law Dictionary (11th Edition), which

defines abuse of process as the improper use of a legitimately issued legal process to obtain an unlawful or unjustified result.

40. The Respondent submitted that the application was frivolous, misconceived, and an abuse of the Tribunal's process. It therefore prayed that the Tribunal find that the Applicant is liable to pay Shs. 1,569,978,930, being 30% of the tax in dispute, before proceeding with the main application. The Respondent further requested that the application be dismissed and that the costs of the application be awarded to the Respondent.

VII. Submissions of the Applicant in rejoinder

41. In rejoinder, the Applicant reiterated that the Respondent failed to address the issues framed by the Applicant and instead introduced its own, thereby diverting the focus of the application. The Applicant maintained that the proper issues concern whether the dispute in TAT Application No. 296 of 2025 is res judicata, whether exceptional circumstances justify the non-application of S.15(1) of the Tax Appeals Tribunal Act, and the appropriate remedies.

VIII. The Determination

42. Having carefully considered the pleadings, affidavits and submissions of the parties, the Tribunal proceeds to determine the issues. The central issue for determination is whether section 15(1) of the Tax Appeals Tribunal Act applies to the dispute in TAT Application No. 296 of 2025, thereby requiring the Applicant to deposit 30% of the tax in dispute before the main application can proceed.

Whether S. 15(1) of the Tax Appeals Tribunal Act applies to the dispute in TAT Application 296 of 2025

43. Section 15(1) of the Tax Appeals Tribunal Act requires a taxpayer who lodges an objection to an assessment to pay 30% of the tax in dispute (or the undisputed portion, whichever is greater) pending final resolution of the objection.

44. The constitutionality and purpose of this provision were considered by the Supreme Court in *Uganda Projects Implementation, and Management Centre v Uganda Revenue Authority, Supreme Court Constitutional Appeal No. 2 of 2009*, where the Supreme Court held that the 30% deposit is constitutional and affirmed the principle of “pay now, argue later.” The Supreme Court held that such statutory mechanisms are designed to ensure that the collection of public revenue is not unduly delayed while tax disputes are being resolved.
45. However, the Constitutional Court in *Fuelex Uganda Limited v Uganda Revenue Authority* clarified that while section 15(1) of the Tax Appeals Tribunal Act remains valid, its rigid application may, in certain circumstances, impede the constitutional right of access to justice. The Court held that where a dispute raises a pure question of law concerning liability to tax, the Tribunal should first determine that legal question before insisting on payment of the statutory deposit.
46. The majority decision of the Constitutional Court, in departing from the precedent set by the Supreme Court, distinguished the two cases and held that the Supreme Court’s decision was made without attaching sufficient weight to the non-derogable constitutional rights to a fair hearing and to access to justice. While UPIMAC was premised on Article 21 of the Constitution, which addresses non-discrimination, the Fuelex Case concerned Article 28, which addresses the right to a fair hearing.
47. Consequently, in its majority decision, the Constitutional Court held that section 15 of the TAT Act refers to a dispute arising from the amount of tax assessed and did not extend to a situation where the taxpayer, for example, contends that he or she is exempted from a tax upon which the assessment is based, where a waiver has been obtained, the objector is not a taxpayer in Uganda or where the tax was assessed under a wrong or non-existent law.
48. Therefore, the decision of the Constitutional Court in Fuelex was made in full knowledge of the previous Supreme Court decision in UPIMAC. The Fuelex case distinguished the facts and arguments in the UPIMAC case and

departed from it on that basis. Therefore, until the Fuelex decision is appealed and set aside by the Supreme Court, it remains a legally binding precedent insofar as it created an exception to the UPIMAC Case.

49. Accordingly, the applicable principle that emerges from the authorities is that section 15(1) remains valid and mandatory in ordinary tax disputes, but its application may be moderated where the dispute raises a fundamental legal challenge to the basis of the assessment itself.
50. Therefore, we shall proceed to determine whether the dispute in TAT Application No. 296 of 2025 concerns (i) the quantification or computation of tax, in which case section 15(1) applies; or (ii) a pure question of law regarding liability to tax, in which case the Tribunal may determine the legal question before requiring the statutory deposit.
51. The record shows that the Respondent issued additional WHT assessments amounting to Shs. 5,233,263,101 for the period January 2021 to December 2023 based on the Respondent's position that payouts/cash-outs made to casino customers constituted "winnings" subject to withholding tax under section 118C of the Income Tax Act.
52. The Applicant challenges the assessment on the ground that the Respondent incorrectly treated all payouts or cash-outs as taxable winnings, including situations where players redeemed unused chips or cash-outs that did not represent actual winnings. The Applicant, therefore, contends that the Respondent misapplied the legal meaning of "winnings" under the Income Tax Act.
53. The Applicant further relies on the Tribunal's earlier decision in ***Fortuna Limited v Uganda Revenue Authority (TAT Application No. 132 of 2020)***, where the Tribunal considered the proper interpretation of withholding tax on casino winnings and clarified the point at which the withholding obligation arises. The Applicant contends that the Respondent's assessment ignores this legal framework by treating undifferentiated cash-outs as winnings, which is a question of legal applicability, not merely arithmetical recalibration.

54. In our view, the issues raised by the Applicant concerning the interpretation of section 118C and the scope of taxable winnings are matters that go to the substantive merits of the main application, including the correctness of the Respondent's interpretation of the taxing provision and the evidential basis of the assessment. The Tribunal notes that the Respondent's assessment is founded on section 118C of the Income Tax Act, a statutory provision that imposes withholding tax on gaming winnings. The existence of this statutory charge is not in dispute. The Applicant's complaint is that the Respondent incorrectly treated certain payouts or cash-outs as taxable winnings. In essence, the Applicant contends that the Respondent mischaracterised certain transactions within the casino gaming system and thereby arrived at an incorrect assessment.
55. In the Tribunal's view, this contention does not challenge the existence of the statutory tax liability under section 118C itself. Rather, it concerns whether the Respondent correctly applied the provision to the Applicant's transactions and whether the resulting assessment accurately reflects the taxable winnings arising from those transactions. Such questions, which involve the characterisation of transactions and the computation of the resulting tax liability, fall within the ordinary adjudicative process of the Tribunal and are appropriately determined during the hearing of the substantive appeal.
56. The Tribunal is mindful that many tax disputes involve both legal interpretation and issues of computation. However, the exception recognised in *Fuelex* applies only where the dispute goes to the core of the very existence of a tax liability itself in the first place, such as where the taxpayer contends that the tax was imposed under an inapplicable law, that the taxpayer is not subject to the tax, or that the assessment is founded on a non-existent legal obligation.
57. In determining whether the exception recognised in *Fuelex* applies, the Tribunal considers whether the dispute concerns the very existence of liability to tax or the application of the taxing provision to the taxpayer's transactions. Where the taxpayer challenges the legal foundation of the tax liability itself, the Tribunal may determine that legal question before insisting on the

statutory deposit. However, where the tax liability arises under an existing statutory provision and the dispute concerns the manner in which the assessment was computed or applied to the taxpayer's transactions, the requirement under section 15(1) of the Tax Appeals Tribunal Act remains applicable.

58. In the present case, the Applicant does not dispute the existence of the statutory obligation under section 118C of the Income Tax Act. Rather, the Applicant challenges the manner in which the Respondent applied that provision to the transactions in question and the formula used to compute the resulting assessment.
59. Consequently, the Tribunal is satisfied that the present dispute does not fall within the narrow category of disputes contemplated in ***Fuelex Uganda Limited v URA***, where the statutory deposit requirement should be deferred pending the determination of a purely legal question.
60. We have taken note of the Applicant's argument that the present case is on all fours with a previous decision of this Tribunal in ***Fortuna v Uganda Revenue Authority, TAT Application No. 132 of 2020*** which directly and substantially determined a prior dispute between the same parties regarding the same subject matter, and in result, the Respondent is bound by that decision.
61. We agree with the Respondent's position that the above arguments go to the merits of the main application. The question as to whether the present dispute is indeed barred by res judicata involves a substantive examination of the scope and effect of the earlier decision, which is more appropriately addressed in the main application. Therefore, we will not determine the res judicata argument at this interlocutory stage.

Remedies available to the parties

62. Having found that section 15(1) of the Tax Appeals Tribunal Act applies to the present dispute, the Applicant is required to deposit 30% of the tax in

dispute, which amounts to Shs. 1,569,978,930, before the main application can proceed.

64. We note that the Tax Procedures Code Act provides mechanisms for a taxpayer to engage the Respondent regarding payment arrangements, including instalment plans where appropriate.
65. This application is hereby dismissed with the orders that:
- (i) TAT Application No. 296 of 2025 shall proceed to be heard and determined on its merits, subject to the Applicant depositing 30% of the disputed tax with the Respondent;
 - (ii) The Applicant shall make the required deposit within thirty (30) days from the date of this ruling or within such extended period as may be agreed upon with the Respondent under the applicable provisions of the Tax Procedures Code Act; and
 - (iii) The costs of this miscellaneous application shall abide the outcome of the main application.

It is so ordered.

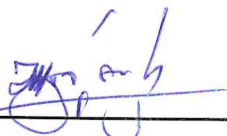
Dated at Kampala this 11th day of **March** 2026.



HON. CRYSTAL KABAJWARA
CHAIRPERSON



HON. PROSCOVIA REBECCA NAMBI
MEMBER



HON. WILLY NANGOSYAH
MEMBER