

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL OF UGANDA**  
**TAT APPLICATION NO. 98 OF 2024**

**G4S SECURE SOLUTIONS UGANDA LIMITED.....APPLICATION**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT**

**BEFORE: MS. CRYSTAL KABAJWARA, MS. PROSCOVIA R. NAMBI,  
MRS. STELLA NYAPENDI CHOMBO**

**RULING**

This ruling is in respect of an application challenging a tax assessment of Shs.1,795,735,201 in respect of PAYE arising from meals provided for security guards of the Applicant.

**1. Background Facts**

The Applicant is a provider of security solutions in Uganda. The Respondent carried out a comprehensive audit on the Applicant for the period of January 2018 to December 2022 and issued the Applicant with its audit report by way of a management letter dated 5 October 2023. The Respondent communicated administrative additional tax assessments to a tune of Shs. 7,518,961,948 comprised of Income Tax, VAT, PAYE, and withholding tax (WHT). The Applicant objected to the assessments comprised of Income tax of Shs. 2,808,763,904, PAYE of Shs. 2,723,662,597, VAT of Shs. 1,106,443,992 and WHT of Shs. 672,188,036 for the period January 2018 to December 2022.

The Respondent disallowed the Applicant's objection on the grounds that the Applicant did not provide information to support the grounds for objection. Being dissatisfied, the Applicant filed this application.

During TAT guided mediation, the parties agreed to resolve issues concerning VAT, WHT, Income Tax. However, the parties disagreed on the PAYE liability of Shs. 1,795,735,201 arising from meals provided to its security guards that the Applicant disputes.

## 2. Issues

The main issue for determination is whether the Applicant is liable to pay the PAYE of Shs. 1,795,725,201 and whether there are any remedies available to the parties.

## 3. Representation

Ms. Dorcus Kabaaho and Ms. Sheila Ainembabazi represented the Applicant while Ms. Charlotte Katuutu and Mr. Simon Peter Orishaba represented the Respondent.

The Applicant's first witness was Mr. Fred Mugenyi, their Chief Operating Officer (**AW1**). He stated that the Respondent conducted a comprehensive audit of the Applicant's tax affairs for the period January 2018 to December 2022. The Respondent established a PAYE liability, which stems from variances identified between the staff costs filed in the PAYE returns and the employment costs declared in the audited financial statements for the period January 2018 to December 2022. Specifically, the Applicant disagrees with the Respondent's assessment of PAYE liability of Shs. 1,795,735,201 in respect of meals supplied to a certain category of guards.

AW1 stated that the meals do not form part of the employees' employment income because the Applicant does not provide meals to its staff. However, some of the Applicant's clients opt to have meals provided to guards deployed at their premises. For such clients, the cost of the meal is embedded in the rate for each guard supplied. The witness further stated that independent third-party service providers supply the meals.

AW1 further testified that every guard has an opportunity to be deployed to such clients' premises on a rotational basis, and whichever guard is deployed at the premises is provided a meal as per the supplier contract with the client without discrimination in ranking. Therefore, the Applicant is merely a middleman who connects the supplier to the clients.

AW1 further testified that the guards are given food while at the client's premises and the Applicant invoices the clients for the actual cost of food. The Applicant then remits the amount to the service providers. As a result, the Respondent's assessments and objection decisions are misconceived and erroneous in law and fact.

AW1 also stated that the Applicant's employees earn an average monthly salary of between Shs. 120,000 to Shs. 150,000, which puts them in the second band of the PAYE schedule, whose tax rate is 10% and not 30% as imposed by the Respondent. The witness prayed that the Tribunal finds that the Respondent incorrectly disallowed the Applicant's costs in relation to staff meals and an order setting aside the PAYE assessments that are in issue. The Witness further prayed that the Costs of the application be awarded to the Applicant.

The Respondent called Mr. Angus Arinaitwe (**RW1**) an Ag. Supervisor in the Respondent's Large Taxpayers' office as the first witness. He stated that the Applicant disputed PAYE of Shs. 1,795,735,201 for the period January 2018 to December 2022.

He testified that during the review of the Applicant's tax compliance, it was established that the Applicant expensed staff welfare costs totaling Shs. 6,905,424,000 for the years 2018 to 2022. The costs were incurred in respect of meals provided to guards working at specific client premises.

RW1 stated that the meals are taxable employment benefits because the Applicant contracts with the clients to provide meals to the guards operating at their premises and independently sources and pays the suppliers of the meals. The cost is not incidental to being deployed in the field but rather a selective benefit accorded to particular guards deployed at particular locations for which PAYE should have been computed.

RW1 further stated that the Applicant executes contracts with their clients and is paid the full value of the contract, inclusive of all costs related to the provision of guarding services, including accommodation, meals, which are taxable employment benefits. The meals were provided only to the guards operating at specific locations. Staff and guards not operating at the premium locations were not provided with the said meals.

The witness also testified that the meals provided to guards were taxable employment benefits because they were provided to selected guards employed by the Applicant. The Applicant did not include the meals benefit in the submitted PAYE returns for the periods 2018 to 2022. Therefore, the PAYE assessments of Shs. 1, 795, 735, 201 are lawful and the Applicant's case ought to be dismissed with costs to the Respondent.

#### 4. Submissions of the Applicant

The Applicant submitted that the dispute arises from a variance between staff costs filed in the PAYE returns and the employment costs declared in the audited financial statements for the period January to December 2022.

The Applicant submitted that the dispute stems from whether the meals constitute a benefit to the guards and ought to have been included in the PAYE computation under section 19(1) of the ITA. It was the Applicant's position that it did not provide meals to the staff and that it did not constitute a benefit.

The Applicant submitted that some of its clients provide meals to guards at their premises and request the Applicant to engage suppliers to deliver these meals. The Applicant invoices its clients for the cost of the food, and it pays the service providers. The Applicant contends that the food does not constitute taxable employment income under section 19 (2) of the ITA. The section provides:

*"Notwithstanding subsection (1) the employment income of an employee does not include the value of any meal or refreshment provided by the employer to the employee in premises operated by or behalf of the employer solely for the benefit and which is available to all full-time employees on equal terms"*

The Applicant submitted that third-party suppliers provide the meals to the guards at the client premises. The suppliers are sourced by the Applicant as required by the contract with its clients.

The Applicant argued that the Respondent, during the audit, assessed the Applicant under a mistaken belief that the Applicant provides the meals on its own volition without any request from the client. The Applicant contended that they are merely a middleman between the suppliers and the clients.

The Applicant further submitted that the meals are provided on an equal basis. This is because the guards are randomly deployed, subject to routine changes and rotation after 3-4 working days, while others are rotated after a period of more than one month.

The Applicant further submitted that where a guard is deployed at a duty station where the client contracted for food, they will be given food. However, where no food is provided, the

guard will not be given food. The Applicant further submitted that whereas the Respondent assumed that the meals are provided to high-end clients, this was not the case. The Applicant rotates its employees for security purposes, which means they can be deployed at the premises where food is provided and later where food is not provided.

The Applicant also submitted that the employment contracts with its employees do not provide for meals. Further, the Applicant does have a policy for the provision of meals to its employees and the Respondent assessed the Applicant without ascertaining whether the Applicant has a policy that allows for the provision of meals to employees or whether the Applicant contracts with the employees, entitling the employees to meals.

The Applicant submitted that in the case of *Guarantee Trust Bank vs URA, TAT App No. 20 of 2024*, the Tribunal held that the Respondent did not have the right to tax income that is not earned or received.

Secondly, the Applicant submitted that the assessment was erroneous because it did not consider the PAYE threshold of the security personnel. Section 6 (1) of the Income Tax Act provides that the chargeable income of an individual for the year of income is charged to a tax at rates in part 1 of the 4<sup>th</sup> Schedule to the Act.

Part 1 of the 4<sup>th</sup> Schedule provides that where chargeable income does not exceed Shs. 2,820,000 but does not exceed Shs. 4,020,000, the rate of tax shall be 10% of the amount not exceeding Shs. 2,820,000.

The Applicant further submitted that during cross-examination, the witness testified that the security personnel are paid between Shs. 150,000 to Shs. 250,000, which places them in a range of Shs. 1,800,000 to Shs. 3,000,000, which is within the 10% threshold. The threshold for 30% captures those who earn Shs. 4,920,000 to Shs. 120,000,000.

The Applicant submitted that the Respondent subjected the entire cost of meals to income tax at a rate of 30% and assumed that all security guards fall within Shs. 4,920,000 per annum to Shs. 120,000,000, which was not the case.

The Applicant prayed for a declaration that the meals do not constitute a taxable benefit for income tax purposes. The Applicant also prayed that the Tribunal sets aside the PAYE assessment and award costs to the Applicant.

## 5. Submissions of the Respondent

In reply, the Respondent submitted that the Applicant is liable to pay the assessed PAYE of Shs. 1,795,735,201 on meals provided to its guards stationed at several client premises.

The Respondent submitted that section 4 (1) of the ITA provides:

*“(1) Subject to, and 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”.*

The Respondent cited Section 19 (1)(a) and (b) of the ITA which provides:

*“Subject to this section, employment income means any income derived by employees from any employment and includes the following amounts, whether of a revenue or capital nature:*

*(a) Any wages, salary, leave pay, payment in lieu of leave, overtime pay, fees, commission, gratuity, bonus, or the amount of any travelling, entertainment, utilities, cost of leaving, housing, medical, or other allowance.*

*(b) The value of any benefit granted”.*

Section 19 (6) of the Act states that a benefit is derived in respect of employment if it is:

*(a) Provided by an employer or by a third party under an arrangement with the employer or an associate of the employer;*

*(b) Provided to an employee or to an associate of the employees;*

*(c) Provided in respect of past, present or prospective employment.”*

The Respondent submitted that the **Oxford Dictionary** defines the term benefit to mean:

*“a thing that one gains from something; an advantage that something gives.”*

The meals provided to the Applicant's employees during the period are benefits as they are provided to select guards deployed at premises of the Applicant's clients.

The Respondent submitted that during the audit, the Applicant's financial statements established that the Applicant's expensed staff welfare costs totaled Shs. 6,905,424,000 for the period 2018 to 2022 provided to a guard working at a specific client's premises. The Respondent submitted that these meals are taxable under section 19 (6) of the ITA.

The Respondent submitted that the Applicant contracts and pays independent suppliers who provide food to its security guards at selected premises. The Respondent submitted that it was not in contention that the said benefit was provided to the Applicant's security guards, who it employs. The meals are therefore a taxable benefit.

### **Non-Applicability of section 19 (2)**

The Respondent submitted that the meals are taxable as they do not fall within the ambit of section 19 (2). The Respondent submitted that the selective provision of meals based on deployment violates the equal terms requirement under section 19 (2) of the ITA.

### **PAYE Threshold**

The Respondent submitted that the 30% tax rate which covers individuals who earn annual incomes ranging from Shs. 4,920,000 to Shs. 120,000,000 was the applicable rate. The Respondent contended that scrutiny of the invoices issued by the Applicants to its clients indicates that the meals are a benefit to the security guards and are not part of the salary earned by the guards.

The Respondent gave an example: The tax invoice to CNOOC Uganda Ltd for August 2018, indicated that all employees deployed were 17, including 2 senior supervisors, 2 drivers and 13 guards for whom Shs. 25,988,489 was charged for meals. This brings the amount down to Shs. 1,528,734 per person.

The above, when added to the monthly salary of Shs. 150,000 for a guard, totals up to Shs. 1,678,734 for August 2022, which places the said guard within the taxable rate of 30% as it would mean that the annual taxable employment income would approximately be Shs. 20,000,000. This exceeds the threshold of Shs. 4,920,000. The Respondent maintains that they applied the correct rate in assessing the PAYE liability of Shs. 1,795,735,201.

The Respondent prayed that this application be dismissed with costs to the Respondent.

## **6. The determination of the Tribunal**

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

This dispute arises from a PAYE assessment of Shs. 1,795,735,201 issued by the Respondent against the Applicant in respect of meals allegedly provided to the Applicant's

security guards at specific client premises for the period January-December 2022. The dispute is whether the meals constituted a taxable benefit under the Income Tax Act.

Section 19 (1)(a) and (b) of the Income Tax Act provides:

*“Subject to this section, employment income means any income derived by employees from any employment and includes the following amounts, whether of a revenue or capital nature:*

- (a) Any wages, salary, leave pay, payment in lieu of leave, overtime pay, fees, commission, gratuity, bonus, or the amount of any travelling, entertainment, utilities, cost of leaving, housing, medical, or other allowance.*
- (b) The value of any benefit granted”.*

According to section 19 (2) (b) of the ITA, the value of any benefit granted forms part of a person's employment income and is subject to income tax.

### **What is a benefit?**

The ITA does not define the term “benefit”. Therefore, we shall defer to the literal meaning of the term.

The term is defined by the ***Black's Law Dictionary, 10<sup>th</sup>*** edition on page 188 as:

*“The advantage or privilege; the helpful or useful effect something has”.*

In the present case, the Applicant provides its employees with meals depending on their deployment. The meals are an advantage or privilege that is the Applicant accords the employees.

Therefore, it is reasonable to conclude that meals fall within the definition of the term “benefit”. However, we must determine whether the meals are a taxable benefit.

The Applicant has argued that they are not the provider of the meals and that the meals are provided by third-party suppliers at the Applicant's client premises following a request by the client. The Applicant further stated that they invoice the clients for the cost of the food and they in turn pay the service providers.

However, under the ITA, it is immaterial whether the meals are provided directly by the employer or by third parties under an arrangement with the employer. Section 19 (6) of the ITA provides that

However, **Section 19 (6)** of the Income Tax Act states that a benefit is derived in respect of employment if it is:

- (a) *Provided by an employer or by third party under an arrangement with the employer or associate of the employer;*
- (b) *Provided to an employee or to an associate of the employees; and*
- (c) *Provided in respect of past, present or prospective employment."*

It is our considered view that the Applicant's facts fall squarely within the above provision. Specifically:

- (i) The meals are provided by third parties under an arrangement with the Applicant. The third parties in this case include both the service providers and the clients;
- (ii) The meals are provided to security guards who are employees of the Applicant; and
- (iii) The meals are provided in respect of the guard's present employment. In other words, the only reason that the guards are accorded meals is because they are employees of the Applicant.

The Tribunal finds, as a fact, that the meals were provided to certain employees under an arrangement facilitated and controlled by the Applicant. Even though the Applicant was reimbursed by clients, the Applicant procured the meals, remitted payment to caterers, and managed deployment. These elements constitute an arrangement with the employer within the meaning of section 19(6) of the ITA.

Notwithstanding the above, we considered the exceptional circumstances under which benefits that would ordinarily form part of taxable income are exempt from income tax. Specifically, concerning meals, section 19 (2) (e) of the ITA provides:

*"Notwithstanding subsection (1), the employment income of an employee does not include:*

*(e) the value of any meal or refreshment provided by the employer to the employee in premises operated by or on behalf of the employer solely for the benefit of employees and which is available to all full-time employees on equal terms".*

Therefore, for the meal benefit to be excluded from employees' taxable income, it must be available to ALL full-time employees, on equal terms; in other words, there should be no special treatment for categories of employees over others.

In the present case however, the meals were not made available to all full-time employees on equal terms. For example, at the hearing of this application, the Applicant's witness, Mr. Fred Mugenyi testified to the effect that:

- (i) Operational and administrative staff are not given meals;
- (ii) Not all guards are given meals;
- (iii) Only those guards who are deployed to particular client sites are given meals on request by the client.

Clearly, the 'equal terms' condition was not satisfied as access to the benefit was dependent on deployment to particular client sites where meals were provided, which is contingent upon assignment and not employee status. Rotational deployment does not constitute equality of entitlement as contemplated under Section 19(2)(e). The statute requires equality of entitlement, not chance. Therefore, we find that the meals in issue do not fall under the exception provided for in section 19 (2)(e) of the ITA.

In the case of *Guaranty Trust Bank Uganda Ltd vs URA, TAT App No. 20 of 2024*, the Tribunal ruled:

*"As long as the monies relate to the exercise of their employment in Uganda, and in this particular case, as depicted in the offer letter of the Managing Director, the allowances are taxable as employment income. Therefore, the Applicant ought to have withheld tax and accounted for the same to the Respondent. Therefore, the Respondent acted lawfully when they assessed the Applicant PAYE as section 142 of the ITA makes the employer personally liable for the tax that has not been withheld".*

Further, Section 142 of the Income Tax Act provides:

*"A withholding agent who fails to withhold in accordance with this act is personally liable to pay the Commissioner General the amount of tax which has not been withheld, but the withholding agent is entitled to recover this amount from the payee".*

Therefore, the Applicant is liable to pay the PAYE that they failed to withhold from the employees who received the meal benefit. We have also taken note of the Applicant's arguments that the meals in question are only made available to the employees only on request by the clients and the Applicant merely acts as a broker between the clients and the

service providers. Further, the Applicant submitted that they invoice for the food provided and remit the monies to the suppliers. Our position is that this does not absolve the Applicant from accounting for tax on the value of the benefit. Under section 142 of the ITA, liability attaches to the employer once it facilitates or arranges for a benefit in respect of employment, regardless of whether the employer recoups the cost from third parties. The existence of reimbursement or client funding does not extinguish the employer's withholding duty.

Employees are taxed separately from the employer and the other parties in the arrangement. While the Applicant and its clients will be able to claim a deduction for the cost of the meals provided to the guards, the suppliers will be taxed on the income from the sale of food. Likewise, the employees are expected to pay tax on the value of the benefit. Therefore, the commercial arrangements between the Applicant and the suppliers do not diminish the value of the benefit nor the Applicant's duty to account for PAYE on the employees' benefit.

Consequently, the meals constitute a taxable benefit under section 19(6) of the ITA, and the Applicant was required to withhold PAYE thereon. Liability attaches to the employer once it facilitates or arranges the benefit in respect of employment, even if the cost is ultimately borne by a third party.

### **PAYE Threshold**

Secondly, the Applicant submitted that the assessment was erroneous because it did not consider the PAYE threshold of security personnel. Section 6 (1) of the ITA provides that the chargeable income of an individual for the year of income is charged at rates specified in Part 1 of the 4th Schedule to the Act.

Part 1 of the 4th Schedule provides that where the annual chargeable income exceeds Shs. 2,820,000 but does not exceed Shs. 4,020,000, the rate of tax shall be 10% of the amount by which chargeable income exceeds Shs. 2,820,000. The Applicant submitted that the Respondent subjected the entire cost of meals to tax at a rate of 30% on the assumption that all security guards earn above Shs. 4,920,000 per annum, which is not the case.

The Respondent submitted that the 30% rate was applicable as it applies to individuals whose annual income ranges from Shs. 4,920,000 to Shs. 120,000,000. The Respondent

submitted that in August 2018, the Applicant invoiced CNOOC Uganda Ltd Shs. 25,988,489 for 17 guards. This translated into a monthly value per guard of Shs. 1,528,734. When this amount is added to the monthly salary of a guard of Shs. 150,000, it totals to Shs. 1,678,734 for August 2022, which places the employees within the tax bracket that is subject to the 30% rate.

Based on the above submission, we have studied the invoices issued by the Applicant to some of its clients and established among others that:

- (i) In January 2018, the Applicant charged Total E&P a cost of Shs. 7,930,981 in respect of meals provided to 15 guards. This places the monthly cost per person at Shs. 528,732;
- (ii) In March 2019, the Applicant charged CNOOC Uganda Limited Shs. 30,481,399 for food but did not specify the number of guards that were deployed in that month;
- (iii) In August 2018, the Applicant charged CNOOC Uganda Limited Shs. 30,666,417 for food and did not specify the number of guards who benefited from the meals.

Going by the above examples, the taxable value per employee may not be apparent from each invoice. However, the Respondent has adopted an indiscriminate approach, and while this may be convenient, it may not be accurate or complete. Therefore, there is a need for a more comprehensive and logical approach to determining the taxable value of the benefit. This will require the Applicant to provide the Respondent with the details of the employees who benefited from the meals for purposes of determining the PAYE due.

The PAYE liability must be recomputed using the graduated rates in Part I of the Fourth Schedule to the ITA based on the specific income levels, including the value of the meal benefit, of the employees who received the meal benefit.

The Applicant is directed to furnish, within thirty (30) days, a list of affected employees and related documentation to enable accurate recomputation. The Respondent shall, thereafter, within thirty (30) days, recompute and issue a revised assessment reflecting the appropriate PAYE liability.

In the circumstances, the Tribunal dismisses the Applicant's challenge to the liability but sets aside the assessed amount for purposes of recomputation in accordance with this ruling.

**ORDERS**

- (i) The Tribunal confirms the Applicant's liability to account for PAYE on the value of meals provided to its employees as a taxable benefit under section 19(6) of the Income Tax Act.
- (ii) The PAYE assessment of Shs. 1,795,735,201 is hereby set aside for recomputation in accordance with this ruling.
- (iii) The Respondent shall recompute the PAYE based on the actual taxable value per employee as guided herein.
- (iv) Costs are awarded to the Respondent.

Dated at Kampala this ..... 13<sup>th</sup> ..... day of October ..... 2025.

  
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**MS. CRYSTAL KABAJWARA**  
**CHAIRPERSON**

  
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**MRS. STELLA NYAPENDI CHOMBO**  
**MEMBER**

  
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**MS. PROSCOVIA REBECCA NAMBI**  
**MEMBER**