TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL OF UGANDA

TAT APPLICATION NO. 120 OF 2025

GROFIN AFRICA FUND UGANDA LIMITED...APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY..RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. CHRISTINE KATWE,

HON. PROSCOVIA REBECCA NAMBI

RULING

I. Introduction

1. This ruling is in respect of a claim for a tax refund in the sum of Shs. 2,471,271,192, arising from excess income tax paid by the Applicant, Grofin Africa Fund Uganda Limited, in the year 2015.

II. Background Facts

2. The Applicant, Grofin Africa Fund Uganda Limited, carried on the business of providing loan financing and related business support to enterprises in Uganda. The dispute before the Tribunal arises from income tax payments made by the Applicant in 2015, the Respondent's subsequent treatment of the resulting tax credit, and the Applicant's several applications for its refund.

3. In June 2015, the Applicant declared provisional income tax of Shs. 2,100,000,000. During that year, it made income tax payments which, according to the evidence before the Tribunal, amounted in aggregate to

Shs. 2,469,871,192. Upon filing its final income tax return for 2015, the Applicant declared a final income tax liability of Shs. 66,551,704. This resulted in an overpayment, which the Applicant states gave rise to an income tax credit on its account. The evidence places the initial overpayment at Shs. 2,403,319,488.

4. In 2017, the Respondent conducted a tax returns examination covering the period January 2013 to December 2016. The examination concerned, among other matters, withholding tax on interest and management fees and value added tax on imported services. On 30 June 2017, the Respondent issued a Management Letter communicating adjusted liabilities totalling Shs. 3,327,097,388, comprising withholding tax of Shs. 1,773,680,763 and VAT of Shs. 1,553,416,625.

5. On 18 September 2017, the Applicant paid Shs. 709,000,000 towards the assessed liabilities and requested the Respondent to apply part of the income tax credit standing on its account towards settlement of the outstanding balance. The Applicant's request referred to an income tax credit of Shs. 2,145,847,789. On 2 February 2018, the Respondent declined the request to apply the credit against the outstanding liabilities and required the Applicant to settle the balance. Thereafter, on 7 March 2018, the Applicant wrote to the Respondent seeking a refund of the unused income tax credit. According to the Applicant, it received no response to that request.

6. In January 2020, the Respondent's International Tax Team undertook an Associated Party Transaction Review covering the period from January 2015 to December 2019. Following that review, the Respondent communicated a tax position reflecting an income tax credit of Shs. 4,463,420,062, a withholding tax credit of Shs. 617,210,111 and a VAT liability of Shs. 792,819,383. On 31 March 2020, the Applicant challenged aspects of the VAT position and again requested that its existing tax credits be applied against outstanding liabilities.

7. On 10 June 2020, the Applicant submitted a manual application seeking a refund of Shs. 4,463,420,062 in income tax and Shs. 617,210,111 in withholding tax. The Applicant was subsequently advised that refund applications were required to be lodged electronically. It accordingly lodged an online refund application on 21 July 2022. The amount available for application through the Respondent's online system was Shs. 2,906,885,442.

8. The parties thereafter engaged in a series of meetings, requests for information and further refund applications. On 9 August 2022, representatives of the Applicant met officers of the Respondent's Refunds Unit, following which further documentation was requested and supplied. On 9 September 2022, the Respondent acknowledged the Applicant's refund claim of Shs. 2,906,885,442 but deferred its processing pending a review by the International Taxation Office. The Applicant subsequently maintained that the review referred to by the Respondent did not concern it.

9. On 25 April 2023, the Applicant lodged another refund application. Following a meeting held on 4 May 2023, the Applicant was referred to the Respondent's Ledger Reconciliation Unit and was requested to provide further information. On 3 July 2023, the Respondent communicated the outcome of the ledger reconciliation, after which the Applicant furnished further documents to the Refunds Unit. The refund application was nevertheless not concluded.

10. The Applicant thereafter made further applications for refund. Its May 2023 application was declined on the basis that further records and reconciliation were required. On 17 August 2023, the Applicant lodged another refund application. The Respondent subsequently requested additional information and indicated that it would undertake an audit before processing the refund. On 19 September 2023, the matter was referred to the Respondent's Central Operations Office for further audit.

11. On 21 February 2024, the Central Operations Office indicated that it would review the matter and advise on the appropriate course of action. According

to the Applicant, no substantive determination followed, and the matter was subsequently returned to the Refunds Unit. On 27 June 2024, the Applicant lodged a further refund application, this time for Shs. 2,471,271,192.

12. The Respondent continued to seek information in connection with the refund claim. An inspection was conducted in January 2025. The Respondent's position is that the inspection and subsequent review raised concerns regarding the Applicant's physical presence in Uganda, the recovery of outstanding loans, the completeness of revenue declared, receivables reported and bad debts written off, and the sufficiency of the documents available to verify the Applicant's tax position. The Respondent states that documents relating to, among other matters, the management and recovery of outstanding loans were not fully provided.

13. The Applicant, for its part, maintains that it repeatedly supplied the information requested of it and that the Respondent had, over several years, sufficient opportunity to verify the tax credit and determine the refund applications. It contends that the continued referral of the matter between different departments, without a final determination of the refund claim, resulted in an unjustified delay in the release of funds standing to its credit.

14. On 25 March 2025, the Respondent deferred the Applicant's refund claim and referred the matter to its Tax Investigations Department for further review. The Respondent's position is that the referral was necessary to establish the correctness and completeness of the Applicant's tax declarations before any refund could be paid. It maintains that the tax credit remains subject to verification and that the refund was deferred rather than finally rejected.

15. The Applicant was dissatisfied with the continued deferral and instituted the present proceedings seeking, principally, payment of the income tax refund claimed in the sum of Shs. 2,471,271,192, together with interest and costs. The Respondent opposes the claim on the grounds, among others, that the

Applicant did not furnish all the information necessary to complete the refund verification and audit.

16. It is against that factual background that the Tribunal is called upon to determine the parties' respective contentions concerning the Applicant's entitlement to the refund, the legality and justification of the Respondent's continued deferral, and the relief, if any, to which the parties are entitled.

III. Issues

17. The following are the issues for determination;

(i) Whether the Applicant is entitled to a refund of Shs. 2,471,271,192?

(ii) Whether the Respondent's deferral of the refund for the last nine years is justified

(iii) Whether there any remedies available to the parties?

IV. Representatives

18. The Applicant was represented by Mr. Frank Robin Wadidi and Ms. Barbra Natukunda from M/S Ligomarc Advocates, while the Respondent was represented by Mr. Sam Kwerit, Ms. Eseza Victoria Ssendege, Ms. Charlotte Katuutu and Mr. Masiko Tumwebaze from the Legal Services and Board Affairs Department of the Respondent.

Summary of the evidence

19. The Applicant called two witnesses, Mr. Vialli Nukeri and Mr. Gerald Sebandeke. The Respondent called Mr. John Bosco Kamugumya, an officer in its Domestic Taxes Department, Refunds Unit.

Evidence of the Applicant

20. Mr. Vialli Nukeri, who had served as a Tax Manager and later as a consultant for the Grofin Group, testified that in June 2015 the Applicant declared provisional income tax of Shs. 2,100,000,000. He stated that the business subsequently performed below projections due to, among other factors, increased competition, reduced borrowing and declining loan repayments. The Applicant nevertheless paid income tax totalling Shs. 2,469,871,192

during 2015. Upon filing its final return, its income tax liability for that year was Shs. 66,551,704, resulting in an overpayment of Shs. 2,403,319,488.

21. Mr. Nukeri testified that in 2017 the Respondent conducted a tax return examination covering January 2013 to December 2016, principally concerning withholding tax on interest and management fees and VAT on imported services. Following that examination, the Respondent issued a Management Letter dated 30 June 2017 assessing liabilities totalling Shs. 3,327,097,388, comprising withholding tax of Shs. 1,773,680,763 and VAT of Shs. 1,553,416,625.

22. He stated that on 18 September 2017 the Applicant paid Shs. 709,000,000 towards those liabilities and requested that an income tax credit of Shs. 2,145,847,789 be applied against the remaining balance. The Respondent rejected that request on 2 February 2018 and demanded payment of the outstanding liability. The Applicant subsequently applied, by letter dated 7 March 2018, for a refund of the unused income tax credit. According to the witness, the Respondent did not respond to that refund request.

23. Mr. Nukeri further testified that the Respondent's International Tax Team reviewed the Applicant's tax accounts in January 2020. The review resulted in a position showing an income tax credit of Shs. 4,463,420,062, a withholding tax credit of Shs. 617,210,111 and a VAT liability of Shs. 792,819,383. The Applicant thereafter disputed aspects of the VAT liability and requested that its existing credits be applied against outstanding liabilities.

24. On 10 June 2020, the Applicant submitted a manual refund application for Shs. 4,463,420,062 in income tax and Shs. 617,210,111 in withholding tax. It was later advised that manual applications were no longer accepted and, on 21 July 2022, it applied through the Respondent's online portal. According to the witness, the system permitted an application for only Shs. 2,906,885,442.

25. The Respondent acknowledged that the application was made in September 2022 but deferred its processing on the ground that a review by the International Taxation Office remained outstanding. The Applicant subsequently lodged another application for Shs. 2,915,885,442 on 25 April 2023. Mr. Nukeri stated that the review relied upon by the Respondent concerned another Grofin entity. The April 2023 application was subsequently rejected on the ground that further information was required.

26. A further application for Shs. 2,915,885,442 was made on 17 August 2023 and rejected on 19 September 2023, when the matter was referred to the Respondent's Central Operations Office for a comprehensive audit. On 27 June 2024, the Applicant submitted another refund application for Shs. 2,471,271,192, which Mr. Nukeri described as the figure then reflected on the Respondent's system. Following an inspection of the Applicant's registered office in January 2025, the Respondent again deferred the refund and referred the matter to its Tax Investigations Department in March 2025.

27. In cross-examination, Mr. Nukeri acknowledged that he had not personally attended the meetings with the Respondent's Refunds Unit. He stated, however, that he was aware of the requests for documents and that the supporting evidence of the Applicant's responses was contained in the record. He explained that he had coordinated the preparation of refund applications and supporting information and had advised the Grofin Group on developments in the matter.

28. The Applicant's second witness, Mr. Gerald Sebandeke, its tax adviser, gave evidence concerning his direct involvement in the refund process. He confirmed the June 2020 manual refund application and the subsequent online application made in July 2022. He testified that the 2022 application was placed on hold because a review later found it related to another entity.

29. Mr. Sebandeke stated that following another application in April 2023, the Applicant was asked to provide additional information and undertake a ledger reconciliation. The reconciliation subsequently showed an income

tax credit of Shs. 2,915,885,443. He testified that he provided further information between July and August 2023, but the subsequent refund application was rejected and referred for further audit.

30. He further confirmed the refund claim of Shs. 2,471,271,192 lodged on 27 June 2024 and the later referral of the matter to the Tax Investigations Department following the January 2025 inspection. He stated that he participated in discussions concerning the refund and that he submitted documents to the Respondent, some electronically. He explained that because the matter passed through different officers over time, certain documents were resubmitted.

31. Significantly, Mr. Sebandeke acknowledged in cross-examination that not all the documents requested by the Respondent had been submitted. He also confirmed that no formal decision finally denying the refund had been made and that no formal objection had been lodged. In re-examination, he stated that the documents supplied in response to the most recent request were contained in the trial bundle and that no feedback had been received. He also referred to the Respondent's records as showing an income tax credit of Shs. 2,375,840,379.

Evidence of the Respondent

32. The Respondent called Mr. John Bosco Kamugumya, an officer in its Domestic Taxes Department, Refunds Unit. He testified concerning the Applicant's provisional and final income tax returns over several years. In respect of 2015, he confirmed that the Applicant had declared provisional income tax of Shs. 2,100,000,000 and a final liability of Shs. 66,551,704, and that advance tax payments made on the basis of the provisional return formed the basis of the later refund claims.

33. Mr. Kamugumya testified that the Applicant's 2022 refund claim was rejected because an audit by the Large Taxpayers Office, International Tax Unit was ongoing. He stated that the Applicant later reapplied in August 2023 and was referred to the Central Operations Office for a deactivation

audit after it declared that it had ceased operations in 2022. According to him, that audit did not proceed because the Applicant's operations were expected to continue for some time before ceasing entirely.

34. He further testified that another refund claim of Shs. 4,463,420,062 was lodged in November 2023 but was rejected for failure to provide supporting documentation. The Applicant thereafter lodged the June 2024 refund claim of Shs. 2,471,271,192.

35. Mr. Kamugumya stated that an inspection conducted in January 2025 established that the Applicant had no physical presence in Uganda and was being represented by S&L Advocates. He testified that the Applicant's legal representatives informed the Respondent that recovery of outstanding loans had been transferred to them as credit managers. The Respondent requested contracts relating to those arrangements, but according to the witness, those contracts were not provided.

36. The witness stated that the Respondent required additional information to verify the completeness of the Applicant's declared revenue, receivables, bad debts and overall tax compliance. He identified documents requested at a meeting of 5 September 2024, including funding agreements, tenancy agreements, schedules of receivables, debt-recovery progress reports, bank statements, documents concerning a sold mortgaged property and trading licences.

37. According to Mr. Kamugumya, the Applicant failed to provide all the requested documentation, thereby preventing completion of the refund audit. The matter was consequently referred to the Tax Investigations Department to investigate the correctness and completeness of the Applicant's tax declarations.

38. In cross-examination, Mr. Kamugumya was unable to provide figures supporting the assertion that the Applicant had operated at a loss since inception. He acknowledged that taxpayers may underestimate provisional

tax and thereby incur penalties, and confirmed that the Applicant had incurred a penalty of Shs. 165,253,173 for the 2014 period. He also accepted that the 2022 refund application was not the Applicant's first refund claim and confirmed receiving correspondence from the Applicant. He was unable, however, to produce a formal written rejection stating that the information supplied by the Applicant was insufficient.

39. In re-examination, Mr. Kamugumya maintained that the refund could not be processed because relevant documentation remained outstanding, specifically debt-recovery progress reports required to verify the Applicant's bad debt claims. He stated that the matter was referred to the Tax Investigations Department after the refund audit could not be completed.

V. The Applicant's Submissions

40. The Applicant submitted that it is entitled to a refund of the income tax credit of Shs. 2,471,271,192. It contended that the credit arose from excess income tax payments made in respect of the 2015 year of income, when it paid Shs. 2,469,871,192 against a final income tax liability of Shs. 66,551,704. According to the Applicant, the evidence established that a substantial income tax credit had remained on its account since 2017.

41. The Applicant argued that the Respondent did not dispute the existence of the tax credit. It relied, in particular, on the evidence of the Respondent's witness, Mr John Bosco Kamugumya, who acknowledged the relevant correspondence and the Respondent's tax ledger. The ledger reflected an income tax credit of Shs. 2,375,840,379 as at 5 February 2026. The Applicant observed that although the amount reflected on the Respondent's system had changed over time, the credit had consistently remained above Shs. 2 billion.

42. The Applicant further submitted that whereas a taxpayer may incur penal tax for understating provisional tax, an excess payment gives rise to a tax credit. It relied on section 123 of the Income Tax Act, which permits a taxpayer to apply for a refund of tax paid in excess of the tax liability due,

requires the Commissioner General first to apply the excess against other tax liabilities, and thereafter to refund any remaining balance. The Applicant also relied on section 123(4), which provides for interest on amounts required to be refunded.

43. On that basis, the Applicant submitted that a taxpayer who has overpaid income tax is entitled, within the statutory period, to apply for a refund and to receive a decision from the Commissioner General either applying the excess against identified outstanding tax liabilities or refunding the remaining balance. The Applicant's case was that, despite having applied for its refund within the prescribed period, the Respondent had neither applied the credit against identified outstanding liabilities nor refunded the balance.

44. The Applicant acknowledged that section 123(6) of the Income Tax Act permits the Respondent to request additional information in relation to a refund application. It nevertheless contended that, in its case, that power had been used through a succession of requests for information, repeated deferrals and several audits and reviews without a final determination of the refund claim. The Applicant maintained that information previously supplied was repeatedly requested and that the findings of the various reviews were generally not communicated to it.

45. The Applicant pointed to the Respondent's earlier communications as confirming the existence of the credit. These included the Management Letter of 30 June 2017, the International Tax Team's communication of March 2020 reflecting an income tax credit of approximately Shs. 4.46 billion and a withholding tax credit of Shs. 617 million, and the July 2023 reconciliation reflecting an income tax credit of approximately Shs. 2.915 billion. It argued that, notwithstanding these reviews, no final decision on the refund was made.

46. The Applicant also relied on Mr Kamugumya's evidence in cross-examination that no tax assessment had been issued following the various pending reviews relied upon by the Respondent as grounds for deferring

the refund. It further submitted that no officer from the departments to which the matter had been referred, including the Tax Investigations Department, was called to explain the outcome or status of those reviews. The Applicant therefore maintained that it had established its entitlement to the refund claimed.

47. On the question whether the Respondent's continued deferral of the refund was fair and rational, the Applicant repeated that the Respondent had adopted shifting positions, made repeated requests for additional information and conducted several reviews without communicating an outcome. It argued that this conduct, despite the Respondent's repeated acknowledgement of the existence of the tax credit, resulted in an unjustified failure over several years to determine the refund application.

48. The Applicant accordingly prayed for an order directing the Respondent to refund Shs. 2,471,271,192, together with interest at the rate of 2% per month from 18 September 2017 until payment in full, and costs of the Application.

VI. The Respondent's Submissions

Preliminary Objection

49. The Respondent raised a preliminary objection to the competence of the Application, contending that it was filed prematurely. It relied on section 14(1) of the Tax Appeals Tribunals Act and submitted that the Tribunal's jurisdiction to review a taxation decision arises only upon a proper application being made before it.

50. The Respondent further relied on section 123(9) of the Income Tax Act and submitted that a taxpayer dissatisfied with the outcome of a refund claim is required to challenge that decision through the objection and appeal procedure prescribed under the Tax Procedures Code Act. In its view, that procedure is mandatory.

51. The Respondent submitted that section 26 of the Tax Procedures Code Act required the Applicant, if dissatisfied with the relevant tax decision, to lodge an objection with the Commissioner General within the prescribed period. It argued that the Applicant did not take that step before approaching the Tribunal. Further, under section 27 of the Act, an application for review before the Tribunal ordinarily follows an objection decision. The Respondent therefore maintained that, in the absence of an objection decision arising from the refund claim, the Application was prematurely before the Tribunal.

52. In support of the preliminary objection, the Respondent relied on ***Imba Foods (U) Ltd v URA, Miscellaneous Application No. 182 of 2024***, for the proposition that, in the absence of a decision by the Respondent, the Tribunal is not clothed with jurisdiction to entertain the matter. It accordingly prayed that the Application be rejected for want of an objection decision.

Whether the applicant is entitled to the refund

53. On the merits, the Respondent acknowledged that there had been an overpayment by the Applicant in respect of the 2015 period. It nevertheless submitted that the Applicant had not fulfilled all the requirements necessary to process the refund claim.

54. The Respondent relied on section 123(1) and (3) of the Income Tax Act. It submitted that although a taxpayer may apply for a refund of tax paid in excess of its assessed or actual liability, the Commissioner General must first be satisfied that there has been an overpayment. Once satisfied, the Commissioner General is required to apply the excess against any other tax due, then against any other undisputed outstanding tax liability or provisional tax payment, before refunding any remaining balance. The Respondent's position was that an audit was necessary to establish these matters before the refund could be paid.

55. The Respondent also relied on section 123(6) of the Income Tax Act, which provides that where additional information is requested, a refund application is deemed to have been submitted when that information is received by the

Commissioner General. It submitted that the additional documentation requested from the Applicant was required to facilitate the audit contemplated before processing the refund.

56. In explaining the history of the refund claim, the Respondent submitted that in 2022 the Applicant lodged an income tax refund claim of Shs. 2,915,885,443, which was rejected because an audit by the Large Taxpayers Office, International Tax Unit was ongoing. In August 2023, the Applicant lodged another claim of Shs. 2,915,885,442, which was deferred and referred to the Central Operations Office for a deactivation audit after the Applicant declared that it had ceased operations in 2022. According to the Respondent, the deactivation audit did not proceed because the Applicant's operations were expected to continue for some time before ceasing entirely.

57. The Respondent further submitted that the Applicant subsequently lodged another refund claim of Shs. 4,463,420,062 in November 2023, which was rejected for want of supporting documentation. The Respondent's position was that the Applicant was required to provide all requested documents to enable it to undertake the necessary audit before processing the refund.

58. The Respondent stated that on 27 June 2024, the Applicant lodged a further refund claim of Shs. 2,471,271,192. An inspection conducted in January 2025 established, according to the Respondent, that the Applicant no longer had a physical presence in Uganda and was being represented by S&L Advocates. The Respondent was informed that recovery of the Applicant's outstanding loans had been transferred to its legal representatives in their capacity as credit managers. The Respondent requested copies of the contracts relating to the management and recovery of those loans, but maintained that these were not provided.

59. The Respondent submitted that further information was required to verify the completeness of the Applicant's declared revenue, reported receivables and bad debts written off, as well as its overall tax compliance. Its witness,

Mr John Bosco Kamugumya, testified that at a meeting held on 5 September 2024 the Applicant was requested to provide, among other documents, funding agreements, tenancy agreements, schedules of receivables, debt-recovery progress reports, bank statements, documents relating to the sale of mortgaged property and trading licences.

60. The Respondent acknowledged that the Applicant supplied some of the requested documents but maintained that other documents considered material to the audit, including progress reports on debt recovery, were not furnished. It relied in this regard on the evidence of the Applicant's witness, Mr. Gerald Sebandeke, who admitted in cross-examination that not all the documents requested by the Respondent had been provided.

61. According to the Respondent, the absence of those documents prevented completion of the refund audit and led the Refunds Unit to refer the matter to the Tax Investigations Department for an investigative audit. The Respondent stated that the investigation remained ongoing and that, because the Applicant was no longer physically present in Uganda, it had engaged the Applicant's shareholder in Mauritius to obtain further information concerning the correctness and completeness of the Applicant's tax declarations.

62. The Respondent's position was therefore that an audit was necessary upon receipt of the refund claim to establish whether the Applicant had any outstanding tax liabilities for purposes of section 123(3) of the Income Tax Act. It submitted that the audit depended upon documentation in the Applicant's possession and that the Applicant's failure to provide all the requested information prevented completion of that exercise and, consequently, processing of the refund.

Interest and relief sought

63. On the claim for interest, the Respondent referred to section 123(4) of the Income Tax Act, which provides for simple interest at the rate of 2% per month on an amount required to be refunded. It read that provision together

with section 123(6) and submitted that, where the Commissioner General requests additional information, the refund application is deemed to have been submitted when that information is received. On that basis, the Respondent argued that the computation of interest could not commence until the requested documentation had been furnished.

64. The Respondent maintained that the documents requested at the meeting of 5 September 2024 had not all been supplied. It therefore contended that the Applicant's claim for interest was not tenable.

65. The Respondent accordingly prayed that the Tribunal find that the Applicant was not entitled to the refund sought because it had failed to provide the documentation necessary to complete the refund audit, and that the Application be dismissed with costs.

VII. The Determination

66. Having carefully considered the submissions of both parties, the evidence adduced at the hearing, and the applicable law, the Tribunal proceeds to determine the issues framed above.

67. This dispute is in respect of a claim for a tax refund in the sum of Shs. 2,471,271,192, arising from excess income tax paid by the Applicant, Grofin Africa Fund Uganda Limited, in the year 2015. The Applicant contends that it has held a valid tax credit for nearly a decade, having repeatedly applied for a refund since 2017, only to face different deferrals, shifting requests for documents, and repeated referrals between departments within the Uganda Revenue Authority.

68. The Respondent does not dispute that an overpayment occurred but opposes the claim, asserting that the Applicant has not provided all documentation required to complete verification and audit, and that the matter is currently pending investigation.

Preliminary Objection: Whether the Application is properly before the Tribunal

69. The Respondent contends that the Applicant approached this Tribunal prematurely because it did not first lodge an objection with the Commissioner General under section 26 of the Tax Procedures Code Act, Cap. 343 ("TPCA"). According to the Respondent, section 123(9) of the Income Tax Act, Cap. 338 ("ITA") requires a taxpayer dissatisfied with a refund decision to proceed through the objection and appeal procedure under the TPCA. In the absence of an objection decision, the Respondent argues, there is nothing properly before this Tribunal for review.

70. The Applicant in turn contends that there was no substantive decision approving or rejecting its refund claim against which it could meaningfully object. Rather, the Respondent repeatedly deferred determination of the application and ultimately, by its communication of March 2025, declined to determine the refund pending a further investigation by the Tax Investigations Department. The Applicant contends that the formal deferral itself is a taxation decision capable of review under the Tax Appeals Tribunals Act.

71. The starting point is ***section 14 of the Tax Appeals Tribunals Act, Cap. 341 ("TAT Act")***. It permits a person aggrieved by a decision made under a taxing Act by the Uganda Revenue Authority to apply to the Tribunal for review. The expression "taxation decision" is broadly defined to include any assessment, determination, decision or notice. The breadth of that language is important. Parliament did not limit the Tribunal's review jurisdiction to assessments or objection decisions alone.

72. That conclusion is reinforced by section 16(4) of the TAT Act, which specifically provides for the situation *"[w]here an application for review relates to a taxation decision that is an objection decision"*. The qualification would be unnecessary if every taxation decision reviewable by the Tribunal necessarily had to be an objection decision. The statutory structure

therefore recognises a distinction between an objection decision and the wider category of taxation decisions.

73. The High Court drew essentially the same distinction in ***International School of Uganda Ltd v Commissioner General, Uganda Revenue Authority*** **[2016] UGCommC 62.** The Court recognised that an objection decision is a particular species of taxation decision and that there may be taxation decisions directly reviewable under the TAT Act which are not objection decisions.

74. That proposition must, however, be applied with care. Where a taxing Act expressly prescribes an objection procedure as a condition preceding Tribunal review, neither the taxpayer nor the Tribunal may bypass that procedure. In ***Atacama Consulting Services Ltd v Uganda Revenue Authority [2021] UGTAT 3,*** the Tribunal emphasised the importance of following the statutory objection and review mechanism and declined jurisdiction where the necessary statutory foundation was absent. Likewise, ***Kahamutima v Uganda Revenue Authority [2021] UGTAT 14*** affirms the broader principle that a statutory appeal or review route prescribed by tax legislation must be respected.

75. The question, therefore, is not whether objection procedures matter. They plainly do. The narrower question is whether section 123(9) of the ITA required an objection in the circumstances of this case.

76. Section 123(8) requires the Commissioner General, within thirty days **of** making a decision on a refund application, to serve the applicant with written notice of that decision. Subsection (9) then provides that a person dissatisfied with "a decision referred to in subsection (8)" may only challenge that decision through the objection and appeal procedure under the TPCA.

77. In our view, the words used by Parliament are significant. Section 123(9) is directed at a decision made on the refund application under subsection (8). It presupposes that the Commissioner General has determined the refund

application and has communicated that determination. That substantive refund decision must first pass through the objection machinery.

78. That is not what happened here. The Respondent's position throughout these proceedings has been that the refund has neither been finally allowed nor finally rejected. Its case is that the application remains deferred pending investigation. Indeed, the Applicant's witness confirmed that no final decision denying the claim had been made, while the Respondent maintained that the credit remained subject to verification.

79. The Respondent cannot, in our respectful view, have it both ways. It cannot contend, for purposes of section 123(9), that there is a completed refund decision against which the Applicant should have objected, while at the same time maintaining on the merits that no final refund decision has yet been made because the matter remains under investigation.

80. We are nevertheless satisfied that the formal deferral was a taxation decision for purposes of the TAT Act. It was not mere internal correspondence. It communicated to the Applicant that its refund would not be processed and that the matter had been referred to another department for further investigation. It therefore had an immediate and practical legal effect upon the Applicant's asserted entitlement.

81. A decision need not finally determine every underlying tax question before it becomes a reviewable administrative decision. Where an authority formally decides that an asserted statutory entitlement will not presently be granted, and that decision has continuing legal consequences for the taxpayer, the Tribunal must examine the substance and effect of the communication rather than its label.

82. The Tribunal notes that the cases relied upon by the Respondent (***Imba Foods (U) Ltd v URA Misc. Application No. 182 of 2024***; ***Mobitex Engineering Co. Works v URA TAT Application No. 91 of 2023***; ***Caroline Kahamutima v Commissioner Customs Misc. Application No. 51 of***

2021; and ***Royal Van Zanten Limited v URA TAT Application No. 35 of 2022***, largely arise in the context of tax assessments, where a taxpayer is dissatisfied with an objection decision and seeks review of that decision before the Tribunal. The present Application does not concern a tax assessment. It arises from the Respondent's persistent failure over a period of nine years to render a final decision on the Applicant's refund applications.

83. Where the Commissioner General makes a substantive decision granting, refusing or determining a refund application under section 123, the objection procedure prescribed by section 123(9) and the TPCA must be followed. However, where the Authority makes a separate interlocutory or deferral decision which has present legal effect but does not amount to the substantive refund decision contemplated by section 123(8), that decision may constitute a taxation decision directly reviewable under section 14 of the TAT Act, unless the applicable taxing Act expressly provides otherwise.

84. This construction preserves both statutory regimes. It respects the objection machinery where Parliament has required it, but it also prevents a situation in which an administrative authority could indefinitely insulate its conduct from review merely by declining to make the very final decision that would activate the objection procedure.

85. The preliminary objection is accordingly dismissed. The Tribunal has jurisdiction to review the Respondent's decision to continue deferring the Applicant's refund claim.

Issue 1: Whether the Applicant is entitled to a refund of Shs. 2,471,271,192

86. The Applicant bears the burden of proving that the taxation decision should not have been made or should have been made differently. This burden of proof is not discharged merely because a taxpayer believes that money is owed to it. Nor is a historical credit automatically equivalent to the amount presently refundable in cash. Section 123 establishes a statutory sequence.

87. Under section 123(1), a taxpayer may seek a refund of tax paid in excess of its liability. Under subsection (3), once the Commissioner General is satisfied that tax has been overpaid, the excess must first be applied against any other tax due from the taxpayer, then against any other undisputed outstanding liability or provisional tax payment, and only the remainder is refundable.

88. Accordingly, there are three concepts that must be kept distinct - a historical overpayment, a credit standing on a taxpayer's account, and the net amount presently refundable after lawful offsets. They may coincide, but they need not.

89. On the evidence before us, the fact of overpayment is established. The Applicant's 2015 provisional tax payments substantially exceeded its final income tax liability. The evidence records payments totalling Shs. 2,469,871,192 against a final liability of Shs. 66,551,704, producing an initial overpayment of Shs. 2,403,319,488.

90. The existence of a continuing credit is also confirmed by the Respondent's own records. The International Tax Team recorded an income tax credit of Shs. 4,463,420,062 in 2020. A later reconciliation in July 2023 showed Shs. 2,915,885,443. The Applicant's June 2024 application was made for Shs. 2,471,271,192, which the evidence describes as the figure reflected by the Respondent's system at that stage.

91. Most importantly, the evidence before the Tribunal records that the Respondent's own ledger subsequently reflected an income tax credit of Shs. 2,375,840,379. The Applicant's witness relied on that figure and the existence of that current credit was not displaced by the Respondent's witness.

92. Once a taxpayer produces the Respondent's own ledger and reconciliations demonstrating a credit, while the legal burden remains with the taxpayer, an evidential burden arises upon the Respondent to explain any debit, adjustment or reduction appearing exclusively within its own accounting

system. The burden of proof does not require a taxpayer to prove matters peculiarly and exclusively within the Respondent's records where the taxpayer has first produced credible evidence establishing the relevant credit.

93. In refund proceedings, the taxpayer bears the legal burden of establishing the existence and amount of the overpayment. Once the taxpayer produces credible evidence, including the Revenue Authority's own reconciled ledger, showing a credit, the Respondent must place before the Tribunal a coherent explanation for subsequent adjustments or debits within its peculiar knowledge.

94. The Applicant claims a sum of Shs. 2,471,271,192 as refundable. The latest identified ledger balance, however, is Shs. 2,375,840,379. The difference is Shs. 95,430,813. Neither party has satisfactorily reconciled that difference in the evidence placed before us. We would therefore fall into error if we simply selected the larger figure because it was pleaded, or the smaller figure merely because it appeared later in time.

95. What has been proved beyond any serious controversy is that the Respondent itself recognises a subsisting income tax credit of at least Shs. 2,375,840,379. To that extent, the Applicant has discharged its burden.

96. As regards the remaining Shs. 95,430,813, the Applicant has established that Shs. 2,471,271,192 was at one time reflected as the refund claim/system figure, but the record before us does not sufficiently establish why the later ledger is lower. Equally, the Respondent has not proved any lawful assessment, offset or adjustment explaining the reduction.

97. The Tribunal will therefore order immediate payment of the amount established and admitted by the Respondent's records and require a limited reconciliation of the difference.

Issue 2: Whether the Respondent's deferral of nine years was Lawful, Fair, and Rational?

98. The Respondent's main argument is that it required further documentation before completing the refund audit. This argument has a proper statutory foundation. Section 123 does not compel the Commissioner General to blindly refund every figure appearing on a taxpayer's return or ledger. The Respondent must be satisfied that tax has been overpaid and must determine whether there are other liabilities against which the credit is first to be applied. The Respondent was therefore entitled to conduct reasonable verification and to request information relevant to determining the correctness of the refund.

99. We also note that the evidence does not support the Applicant's broader suggestion that every document requested by the Respondent was supplied. Mr Gerald Sebandeke expressly accepted in cross-examination that not all documents requested by the Respondent were furnished. The Respondent identified, among other matters, missing debt-recovery progress reports and documentation concerning arrangements with the law firms recovering outstanding loans.

100. This admission matters. The Respondent has the power to seek additional information before paying a refund. A taxpayer seeking a tax refund has a corresponding duty to cooperate with a lawful and relevant verification exercise. A taxpayer cannot withhold material information and simultaneously complain that the Commissioner General has not completed a process which genuinely depends upon that information.

101. But that proposition does not resolve this case. The Respondent's statutory power to request information is a power to verify and decide on a refund claim. It is not an independent power to keep the claim permanently unresolved. A request for information must remain connected to an identifiable issue affecting the refund, and the Authority must proceed with reasonable diligence once the information is supplied. Internal referrals,

repeated audits and unparticularized statements that an investigation is pending cannot indefinitely suspend an established credit.

102. Section 123(6), introduced in 2021, provides that where additional information is requested, the application is deemed submitted on the date on which the additional information is received. Subsection (7) nevertheless provides a six-month framework for payment of a refund.

103. Those provisions must be read purposively and harmoniously. If every successive request for information, however repetitive or remote, automatically restarted the refund process indefinitely, subsection (7) would be deprived of practical effect. Parliament cannot have intended to prescribe a time for refund while simultaneously giving one party an unrestricted unilateral power to postpone that time forever.

104. We therefore hold that a request under section 123(6) must satisfy minimum standards. The information sought must be sufficiently identified, objectively relevant to the refund under consideration, reasonably necessary for its determination, and requested in good faith. Where the taxpayer supplies the information, the Commissioner General is expected to act upon it. If it is inadequate, the deficiency should be communicated with reasonable particularity. Serial transfers of a file between departments do not, without more, constitute substantive progress in determining a refund.

105. The evidence in this case demonstrates that the Applicant's affairs were reviewed repeatedly. A Tax Returns Examination occurred in 2017. The International Tax Team conducted a further review and communicated substantial credits in 2020. There were refund-unit engagements in 2022, a ledger reconciliation in 2023, referrals to the Central Operations Office, further refund applications, an inspection in January 2025 and, ultimately, referral to the Tax Investigations Department.

106. The Respondent's own witness was unable to point to a tax assessment issued as a result of these successive reviews. Nor did the Respondent call evidence from the Tax Investigations Department explaining the nature, scope, commencement, progress or anticipated completion of the

investigation relied upon as the present justification for withholding the refund.

107. That omission is significant. A statement that an audit or investigation is "pending" is not evidence that it is being pursued with reasonable diligence. Where a taxpayer challenges a prolonged deferral, the Authority should be able to demonstrate what remains under investigation, why it is material to the refund, what steps have been taken, and why the matter could not reasonably have been concluded earlier.

108. We accept that some information sought in 2024 and 2025 was not furnished. We do not, however, accept that this fact retrospectively validates every prior period of inactivity or every previous deferral stretching back several years.

109. Nor can a pending investigation, without a resulting assessment or other substantive tax decision, be treated as the equivalent of an established liability for purposes of section 123(3). Section 123(3) permits the Commissioner General to offset tax due and other outstanding liabilities. A possible future liability which may or may not emerge from an investigation is not the same thing as an existing tax liability.

110. The TPCA contains elaborate machinery by which the Respondent may make assessments, including additional assessments, and specifies the circumstances and periods within which those powers may be exercised. Where the Authority considers that a taxpayer has understated liability, it must ultimately translate that concern into a lawful tax decision if it wishes that alleged liability to affect the taxpayer's legal position.

111. Investigation is a means to lawful tax administration; it is not an indefinite substitute for decision-making.

112. The Respondent's own current Client Service Charter is consistent with that conclusion. It publishes a service standard of 90 days for a decision on an income tax refund application upon submission of supporting documentation. We do not treat the Charter as creating or overriding

statutory rights; it cannot amend section 123. It is, however, relevant evidence of the Authority's own institutional understanding that refund applications are intended to be determined within defined and reasonable periods rather than left indefinitely unresolved.

113. In the circumstances of this case, we find that the Respondent's decision to continue deferring the entirety of the Applicant's credit was disproportionate and legally unjustified. Even if further investigation was legitimately required in relation to part of the Applicant's tax affairs, the Respondent did not establish why the admittedly existing credit of Shs. 2,375,840,379 had to remain wholly unpaid.

114. The March 2025 deferral decision will therefore be set aside.

The interest claim

115. The Applicant prayed for interest at two per cent per month from 18 September 2017. We are unable to accept that commencement date on the basis of the reasoning advanced by the Applicant.

116. On 18 September 2017, the Applicant requested that an existing credit be applied or transferred against outstanding tax liabilities. The evidence characterises that communication as an offset request. It was rejected on 2 February 2018. The first document in the record expressly described as an application for refund is the Applicant's letter of 7 March 2018.

117. If section 123(4) stood alone, the distinction would be material because that provision fixes the interest rate at two per cent per month and refers to the date on which the refund application was made.

118. However, this refund is now being ordered because of a decision of this Tribunal. The current TAT Act contains a more specific provision governing that situation.

119. Section 31(2) of the TAT Act provides, in substance, that where the Respondent is required to refund tax as a result of a decision of a reviewing body, the tax is to be repaid with interest at the rate specified in the relevant taxing law for the period commencing on the date the person paid the tax refunded and ending on the last day of the month in which the refund is made.

120. The High Court recently applied that provision in the consolidated appeals in ***Heritage Oil and Gas Limited v Uganda Revenue Authority***. The Court applied the rate prescribed by section 123(4) of the ITA but, pursuant to section 31(2) of the TAT Act, directed that interest on the excess tax run from the date the excess tax was paid until refund in full.

121. That authority provides the proper approach here. Section 123(4) supplies the applicable rate; section 31(2), in a refund resulting from a reviewing body's decision, supplies the statutory commencement point.

122. The evidence shows that the payments which generated the 2015 overpayment were made in several tranches rather than on one date. It would therefore be artificial to select 18 September 2017, 7 March 2018 or any other single date unrelated to the actual payments constituting the amount refunded.

123. Interest shall consequently be computed at the statutory simple rate of two per cent per month on the amount ordered to be refunded, from the respective dates on which the payments constituting that refundable excess were made, until the last day of the month in which payment of the refund is made. The Respondent shall prepare the computation by reference to the payment records already appearing on the Applicant's tax account.

124. For avoidance of doubt, interest is not a punishment imposed upon the Respondent. It is a statutory incident of the retention of money which the law ultimately determines should be returned to the taxpayer. ***The older decisions in Uganda Revenue Authority v China Jiefang (U) Ltd, AON***

Uganda Ltd v Uganda Revenue Authority and Mandela Auto Spares Ltd v Commissioner Customs, URA similarly recognise, under their respective statutory regimes, the principle that interest follows an established tax refund where the governing legislation so provides.

Obiter Dictum

125. This dispute has revealed a recurring tension between two legitimate concerns. First, the obligation of the Revenue Authority to protect public revenue by verifying refund claims, and then the taxpayer's statutory right to obtain repayment of money which is not lawfully due to Government. Neither can extinguish the other.

126. We therefore consider it appropriate to state the following principles, which flow from the statutory scheme and which should guide the administration in the review of future refund claims:

(i) A tax credit is not automatically a cash refund. Section 123(3) requires lawful liabilities to be offset first, and only the net balance is refundable.

(ii) Tax administration should offer finality as well as accuracy. The duty to collect the correct amount of tax does not include a power to leave a taxpayer's entitlement permanently indeterminate. While verification is legitimate, it must be directed to a decision. The Commissioner General may require material additional information and taxpayers must cooperate.

(iii) Section 123(6) is not an indefinite suspension provision. A request capable of affecting the deemed application date must be specific, relevant and reasonably necessary to determine the refund.

(iv) Repeated internal referrals do not restart statutory time merely by changing the department handling the file. The Uganda Revenue Authority is one statutory Authority. Administrative movement of a file within the Institution does not, by itself, alter the statutory position.

(v) A pending investigation is not an outstanding tax liability. If an investigation establishes additional tax, the Commissioner General must employ the assessment machinery provided by law. Until then, a possible liability cannot automatically be treated as tax "due" for purposes of section 123(3).

(vi) Where part of a credit is admitted and severable from what remains genuinely disputed, the Respondent should consider paying the undisputed amount rather than withholding the whole refund without demonstrated necessity.

(vii) The legal burden remains upon the taxpayer, but evidential responsibility follows access to proof. Once a taxpayer produces the Respondent's own ledger establishing a credit, unexplained adjustments appearing solely in the Respondent's records require a rational evidential explanation.

(viii) A final refund decision and an interlocutory deferral are not necessarily the same thing. A final decision under section 123(8) is challenged through the objection procedure mandated by subsection (9); a separate deferral decision having present legal effect may itself constitute a taxation decision under the TAT Act.

127. These principles do not prevent the Respondent from investigating genuine non-compliance. They require only that investigation, assessment, refund processing and objection be undertaken through the statutory mechanisms Parliament has provided, and within a timeframe consistent with those mechanisms.

Issue 3: Remedies

128. Section 20 of the TAT Act permits this Tribunal, in reviewing a taxation decision, to affirm it, vary it, set it aside and substitute another decision, or remit the matter to the Respondent with appropriate directions. The Tribunal also has power to make orders as to costs, interest and other remedies.

129. We have considered whether the entire matter should simply be remitted to the Respondent for another refund audit. In ordinary circumstances, remittal may be appropriate where essential verification remains outstanding. This case, however, has already passed through several units of the Respondent over several years. An unrestricted remittal would risk reproducing the very problem that brought the parties before the Tribunal.

130. At the same time, the Tribunal should not substitute speculation for proof by awarding the full pleaded sum where the latest ledger before it reflects a different amount. The appropriate remedy is therefore to sever the established amount from the unexplained balance.

Orders

131. In the circumstances, the Tribunal makes the following orders:

(i) The Respondent's preliminary objection is dismissed.

(ii) The Respondent's decision communicated in March 2025 to continue deferring the Applicant's income tax refund pending further investigation is set aside.

(iii) The Tribunal finds that the Applicant has established an immediately refundable income tax credit of Shs. 2,375,840,379, being the subsisting credit established by the Respondent's own ledger evidence before the Tribunal.

(iv) The Respondent shall, within **thirty days** from the date of this ruling, pay to the Applicant the sum of **Shs. 2,375,840,379**.

(v) In relation to the difference of Shs. 95,430,813 between the amount claimed in this Application and the credit established of Shs 2,375,840,379, the Respondent shall, within thirty days, furnish the Applicant with a complete ledger reconciliation identifying each adjustment by date, tax head, legal basis, and source document.

(vi) If the Respondent is unable within that period to demonstrate a lawful adjustment accounting for the whole or any part of the said Shs. 95,430,813, the unexplained amount shall be refunded to the Applicant forthwith.

(vii) Interest on every amount refundable pursuant to paragraphs (c) and (f) shall be paid at the statutory simple rate of two percent per month, computed in accordance with section 31(2) of the TAT Act read with section 123(4) of the ITA from the respective date or dates on which the tax constituting the refundable excess was paid until the last day of the month in which the refund is made.

(viii) For the avoidance of doubt, nothing in this ruling prevents the Respondent from exercising any investigation or assessment power otherwise available under law. Any such investigation or assessment shall, however, proceed independently in accordance with the statutory requirements governing it and shall not, without lawful basis, operate as a further indefinite stay of the refund ordered by this Tribunal.

(ix) The Applicant has substantially succeeded in challenging the prolonged deferral. Although the Applicant did not establish the entirety of the sum claimed as immediately payable and the evidence shows that some requested documentation was not supplied, the proceedings were substantially occasioned by the Respondent's failure over an extended period to bring the refund process to a lawful conclusion. In the exercise of our discretion, the Applicant is awarded costs of the Application.

It is so ordered.

Dated at Kampala this **20th** day of **August** 2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. PROSCOVIA REBECCA NAMBI
MEMBER

HON. CHRISTINE KATWE
MEMBER