

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA**  
**MISCELLANEOUS CAUSE NO. 046 OF 2025**  
**(TAT APPLICATION NO. 275 OF 2024)**

IBB INTERNATIONAL LIMITED..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY ..... RESPONDENT

BEFORE: MS. PROSCOVIA REBECCA NAMBI, MS. GRACE SAFI,  
MS. CHRISTINE KATWE

**RULING**

This ruling is in respect of an application seeking orders for extension of time within which this application may file an application for review.

**1. Background Facts**

This Application was brought by way of notice of motion supported by the affidavit of Immanuel Byaruhanga, the Managing Director of the Applicant, sworn on 2<sup>nd</sup> May 2025.

The Applicant failed to submit the VAT return for the tax period June 2023 by the statutory deadline of 15th July 2023. Consequently, on 23<sup>rd</sup> August 2023 the Respondent issued a penalty assessment amounting to UGX 5,141,608.18 based on invoices worth UGX 1,517,310,277 (Uganda Shillings One Billion Five Hundred Seventeen Million Three Hundred Ten Thousand Two Hundred Seventy-Seven) that the Applicant issued to its client Kampala Capital City Authority. In May 2024, the Applicant issued two credit notes against the original invoices due to non-payment and both credit notes were duly approved by the Respondent. The Applicant then applied for a penalty reversal, arguing that the penalty was incorrectly levied since its dealings with KCCA were on a cash basis, and not on the invoices which had been canceled with the Respondent's approval of the credit notes.

The Respondent declined the application for a penalty reversal. The Applicant failed to apply to the Tribunal for review of the Respondent's taxation decision with the prescribed timelines, hence this Application. The Applicant's reason for the delay is that the notice of the objection decision was sent via email, which email went to junk mail and thus was not seen by the Applicant in time.

The Respondent did not file an Affidavit in reply to the Applicant's application.

## **2. Representation**

The Applicant was represented by Ms. Hajara Namwanga while the Respondent was represented by Ms. Doreen Amutuhaire.

## **3. Issues for Determination**

The primary issue for determination is whether the Tribunal should exercise its discretion to extend the time for filing the review application, based on the circumstances presented.

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

The Applicant submitted that at the time of filing these submissions the Respondent had not served the Applicant with its Affidavit in Reply concluding that it was their belief that the Respondent did not dispute the facts set out in the Application and that it is a legal principle that the Respondent's failure to file an affidavit in reply means the Applicant's averments are admitted or accepted.

The Applicant cited S. 16(2) of the Tax Appeals Tribunal Act and Rule 12(1) of the Tax Appeals Tribunal (Procedure) Rules which grant the Tribunal discretion to extend time to entertain an application.

The Applicant further submitted that the failure to file the Application for review within the prescribed time was as a result of the notice being sent on the email and it was not seen in time by the directors of the company as it went to the junk folder.

The Applicant cited the case of *Mulindwa George William V Kisubika Joseph Civil Appeal 12 Of 2024*, where the Supreme Court of Uganda stated that each application

must be viewed by reference to the criterion of justice and it is important to bear in mind that time limits are there to be observed, and justice may be defeated if there is laxity. Factors to be considered in an application for extension of time are: the length of delay, the reason for delay, and the degree of prejudice to the other party.

Regarding the length of the delay, the Applicant submitted that the delay in this instance was 13 days and therefore minor. They submitted that they were not guilty of inordinate delay in bringing this application for extension of time because the communication of the decision to the Applicant was made on the 19th March 2025 and the Applicant ought to have filed its application for review on the 18th April 2025 but instead did so on the 2nd May 2025.

Regarding the reason for the delay, the Applicant deposed that the failure to file within the prescribed time was due to the notice/communication not being seen in time by the directors of the company. The Applicant did not dispute that the notice was dispatched by the Respondent to the Applicant by posting on the tax profile/account of the Applicant maintained by the Respondent. They cited *Tight Security Limited V Chartis Uganda Insurance Co. Limited Misc. Application 8 Of 2014*, which states that "good cause relates to and includes the factors which caused inability to file within the prescribed period of 30 days. The phrase good cause is however wider and includes other causes other than causes of delay such as the public importance of an appeal and the court should not restrict the meaning of good cause. It should depend on the facts and circumstances of each case and prior precedents of appellate courts on extension of time".

Regarding the possibility or chance of success, the Applicant stated that they deposed that the penalty of Ugx 5,141,608.18/= was wrongly assessed by the Respondent as the dealings with KCCA were on cash-basis, and not on invoices that were cancelled with the Respondent's approval. Furthermore, there is no invoice from 01/06/2023 to 30/06/2023, which warrants examination by the tribunal.

The Applicant submitted that the Respondent will not be prejudiced if the Application is granted.

The Applicant referred the Tribunal to Section 16(7) of the TAT Act, which provides that an application for review of a taxation decision shall be made within 6 months after the date of the taxation decision; Section 25(1) Tax Procedure Code Act and Section 16(1)(c) of the TAT Act and Section 16(1)(C) of the TAT Act which provide for filing an application for review within 30 days after being served with the notice of the objection decision. The Applicant concluded that these provisions enjoin the Tribunal to exercise its discretion to extend time within 6 months upon sufficient cause being proved.

The Applicant prayed that the Honorable Tribunal finds the application meritorious and grants it, with each party bearing its own costs.

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

The Respondent opposed the application asserting that the application is not only misconceived but also amounts to an abuse of court process. The Respondent highlights that the objection decision, which forms the basis of the intended review, was communicated to the Applicant on 19th March 2025 via the Applicant's tax profile.

The Respondent stated that the prescribed period for filing a review is 30 days, as provided under section 16(2) of the Tax Appeals Tribunal Act. Further, the Respondent added that the Applicant filed this Application on 2nd May 2025, well outside the allowed window, without demonstrating sufficient cause for the delay.

The Respondent stated that section 16(7) of the Tax Appeals Tribunal Act limits the Tribunal's jurisdiction to extend time to a maximum of six months following the date of the objection decision.

According to the Respondent's submissions, it stated that whereas discretion exists to extend time under this provision, it must be exercised judiciously and not to absolve litigants of negligence. The Respondent argued that the Applicant bore the burden of proving that they were unable to act within time despite acting diligently, which the Respondent submitted as having not been established.

The Respondent further argued that the Applicant was aware or ought to have been aware of the objection decision in due time, but failed to act. The Respondent added that

no adequate justification had been presented for this inaction, and the failure to promptly file the Application for review reflected lackadaisical conduct rather than genuine procedural hardship.

In support of its position, the Respondent cited Cable Corporation (U) Ltd vs Uganda Revenue Authority HCCA No. 1 of 2011, wherein the High Court affirmed that time for filing an application for review starts from the date the decision is communicated not necessarily when received, and emphasized the importance of respecting statutory deadlines.

In addition to the above, the Respondent cited the case of Eriga Jos Perino vs Vuzzi Azza Victor & Others (HCM No. 9 of 2017) and reaffirmed that timelines are not mere formalities and that prolonged delay without explanation constitutes abuse of process.

The Respondent further submitted that, although the Applicant claimed that the notice was not accessed on time due to internal lapses, these reasons are unconvincing. The Applicant's failure to monitor official communications and act accordingly would not become the Tribunal's burden. The attempt to shift blame to previous counsel or internal procedures did not amount to sufficient cause within the meaning of the law.

The Respondent pointed out that its right to respond was also prejudiced. The Applicant served the Application only on 27th May 2025, yet filed its submissions on 12th June 2025 leaving no meaningful window for an affidavit in reply. Despite this, the Respondent asserts that the burden of proof remained with the Applicant, and it has failed to make out a case justifying extension of time.

The Respondent concluded by submitting that that the Application does not disclose sufficient grounds for the grant of an extension of time, nor has it specified which objection decision they are applying for review and therefore this application should be dismissed with costs to the Respondent.

## **6. Applicant's submissions in rejoinder**

In rejoinder, the Applicant maintained that the application was validly filed pursuant to a taxation decision dated 19th March 2025. Although the Respondent was duly served on

27th May 2025 and acknowledged receipt, no affidavit in reply had been filed at the time of submissions. Consequently, the Applicant asserts that the unchallenged factual claims stand uncontested and, under established legal principles, are deemed admitted.

The Applicant countered the Respondent's assertion that the Applicant was guilty of a 5-year delay, labeling it a "misconception of the actual Taxation Decision in issue" in this Application. The Applicant explained that the Respondent had scanned tax records and assumed that VAT Objection Decisions from 2019 and 2022 were the subject matter. They clarified that the VAT Objection Decisions of 2019 annexed by the Respondent are not in issue in this Application. The Tax Decision in issue before the Tribunal is the one where the Respondent rejected/disallowed the Applicant's objections to penalties, and issued a decision on March 19th, 2025.

The Applicant argued that a Taxation Decision does not need to be explicitly titled "Objection Decision Notice" to be subject to proceedings before the Tribunal.

Furthermore, the Applicant submitted that the Respondent had not addressed the Tribunal on the Taxation Decision dated March 19th, 2025, which is the actual subject of the application. The Applicant contended that the penalty sought to be reversed is not associated with the Objection Decisions that the Respondent had annexed to its submissions.

The Applicant addressed the Respondent's contention that it was not given ample time to file its affidavit in reply. Directions issued on 30th May 2025 allowed the Respondent time until 17th June 2025 to respond, while the Applicant filed its submissions on 12th June and its rejoinder on 20th June. The Respondent had sixteen days from the date of service within which to file its reply and chose not to. The Respondent's failure to either seek additional time or file an affidavit within the set period should not now be excused.

The Applicant further submitted that it was incumbent on the Respondent to request for more time or even then file the Affidavit in Reply together with the submissions on the 24<sup>th</sup> of June 2025. The Respondent had sixteen (16) days within which to file their Affidavit in Reply before the Applicant filed and served its submissions and as such cannot claim that they were not given ample time.

The Applicant cited case law, specifically *Weldetinsae V Bekunda & Another (Miscellaneous Cause 9 Of 2024) And Kasirye Gwanga and Anor HCMA No.558 Of 2009*, to assert that when a Respondent fails to file an affidavit in reply, it is an indication that they do not intend to challenge the application, and therefore, the facts in the affidavit in support are deemed admitted.

Drawing on *Makerere University Vs St. Mark Education Institute Ltd & Ors [1996] KALR 26*, the Applicant further argued that in an application supported by affidavits, where there is no opposing affidavit, the application stands unchallenged.

The Applicant stated that the Respondent's failure to file an affidavit in reply, as required by law, means the facts presented in the affidavit by Mr. Immanuel Byaruhanga are considered an admission by the Respondent. The Respondent's attempt to challenge the facts in submissions alone, unsupported by affidavit evidence, is procedurally improper. Annexing documents to written submissions, without having filed an affidavit, circumvents established rules and is an abuse of process. The Applicant prays that such material be struck from the record. Additionally, the tax periods reflected in those annexures differ entirely from those forming the basis of this Application.

The Applicant highlighted that it is incorrect for the Respondent to allege that the Applicant sat on its rights for five years. The Application is grounded in a March 2025 decision, and the extension of time was requested promptly on 2nd May 2025, following the lapse of the prescribed 30-day filing window on 18th April 2025. The delay is minimal and satisfactorily explained.

The Applicant submits that this Application has been brought in good faith and without unreasonable delay. The Respondent's failure to challenge the facts by affidavit renders the Applicant's evidence uncontested. The Respondent's submissions are based on irrelevant and misconceived objection decisions. The Applicant prays that this Tribunal finds merit in this Application and grants an extension of time, with each party bearing its own costs.

## **7. Determination by the Tribunal**

The Tribunal has carefully reviewed the submissions, evidence, and case law presented by both Parties and now delivers its ruling.

The Applicant contends that the delay in filing the review application was due to factors beyond its control, specifically that the notification of the objection decision sent via email was unfortunately diverted to the junk email folder, thereby not being seen by the company's directors in time. The Applicant further emphasizes that the core issue pertains to the correctness of the penalty assessment, asserting that dealings with KCCA were on a cash basis and that the original invoices were subsequently canceled with the Respondent's approval of Credit Notes.

The Respondent, on the other hand, argues that the Applicant was aware of the objection decision for a significant period since the notices of objection decisions were served in 2019 and 2022 and failed to act for more than five years, thereby exhibiting laches and unreasonable delay. The Respondent contends that the Application for extension was filed after an inordinate delay and was unjustified, thus warranting dismissal.

### **Legal Framework**

Under Section 16(2) of the Tax Appeals Tribunal Act, the Tribunal has discretion to extend the time for filing a review application upon the demonstration of good cause. Further, Rule 11 (1) of the TAT (Procedure) Rules provides that the Tribunal may, in its discretion, upon the application of the applicant in writing, extend the time for making an application.

The doctrine governing this discretion emphasizes the importance of timely compliance with statutory deadlines but allows flexibility when justified by circumstances beyond the applicant's control, provided that there is no undue delay or prejudice to the respondent.

This discretion has been interpreted by Ugandan courts and this Tribunal to mean that an application for extension must satisfy certain fundamental principles of fairness and justice, including the existence of sufficient grounds or a good cause as to why the Applicant was not able to file the application within time, absence of undue delay, and the absence of prejudice to the respondent.

The Tribunal's decision is guided by relevant case law which includes –

**Mulindwa George William v. Kisubika Joseph (Civil Appeal 12 of 2024)**, the Supreme Court emphasized that *“Extension of time is at the discretion of the Tribunal, and the key considerations include the length of delay, reasons for the delay, and potential prejudice to the other party.”*

The case of **Cable Corporation (U) Ltd v. Uganda Revenue Authority (HCCA No. 1 of 2011)** clarified that *“Notification begins when the letter is received, and delays caused by errors in receipt are sufficient grounds for extension if justified.”*

**Eriga Jos Perino v. Vuzzi Azza Victor (HCMA 9 of 2017)** states that *“Inordinate delays and unexplained conduct by the Applicant weigh heavily against granting extensions, especially where the other party would be prejudiced.”*

In **Tight Security limited v Chartis Uganda Insurance Company Ltd, Miscellaneous Application No. 8 of 2024**, the court held that;

*“Good cause relates to and include the factors which caused inability to file within the prescribed period of 30 days. The phrase “good cause” is however wider, and includes other causes of delay ....”*

In determining whether to grant an extension of time, the Tribunal is guided by the principle that “sufficient cause” must be demonstrated by the applicant, as established in **Farid Meghani v. Uganda Revenue Authority, Misc. Application 185 of 2020**. In that case, the Tribunal accepted that exceptional circumstances such as national lockdowns stemming from the COVID-19 pandemic could amount to sufficient cause, provided they were substantiated and not merely speculative. The applicant in *Farid Meghani(supra)* brought the application beyond the statutory six-month period, but the Tribunal exercised its discretion under Rule 11(1) of the Tax Appeals Tribunal (Procedure) Rules, emphasizing that proof of the impediment was central to the exercise of this discretion.

## **Analysis**

First, The Tribunal acknowledges the discrepancy in the asserted dates of the relevant objection decision. While the Applicant claims the decision is dated 19 March 2025, the

Respondent highlights earlier decisions from 2019 and 2022. However, the Tribunal notes that the Applicant's application and supporting documents make reference to the 19th March 2025, as the basis for the application. Since the Respondent did not file an affidavit in reply, we will consider the dates indicated by the Applicant. It follows therefore that this application was filed approximately 13 days after the statutory period.

While this delay is relatively short, it is significant enough to warrant careful examination, especially considering the Respondent's assertions of a five-year lapse. The Applicant's explanation—that email notification was diverted to the junk folder—is a technical issue; however, technical mistakes or oversight do not automatically qualify as sufficient cause to justify extending time, particularly when there is no clear evidence that the Applicant made timely efforts to address or discover the delay once it occurred.

The applicant did not indicate when they discovered the notification and what they did on discovery. More importantly, the applicant did not bring to the attention of court evidence of the email notification being diverted to the junk mail. In the *Mulindwa George William v. Kisubika Joseph* the Supreme Court emphasized that “*Extension of time is at the discretion of the Tribunal, and the key considerations include the length of delay, reasons for the delay, and potential prejudice to the other party.*”. In the present case, the circumstances under which the applicant discovered its junk mail are not known. This weighs heavily against the Applicant.

As stated by this Tribunal in **King Auto Parts Limited vs URA Misc App No. 004 of 2025**, “*The Tribunal is mindful that the burden of proof lies with the party seeking the indulgence of the Court. Speculative assertions, however persuasive in narrative, do not meet the legal threshold required to displace prescribed timelines.*”

The Tribunal notes that in absence of affidavit in reply, we shall rely on the submission made by the Respondent, to the effect that the penalties were rightly assessed. The Tribunal is mindful that the burden of proof lies with the applicant and the standard of proof is on the balance of probabilities, **Farid Meghani v. Uganda Revenue Authority**. In the present case, the Applicant did not produce before court the relevant taxation decision. This renders the probability of its case being true very low. The applicant

furthermore did not produce evidence of what steps it took upon discovery of its Junk mail after 18 April 2025.

Finally, the Tribunal notes the in absence of the taxation decision that the Applicant is seeking to review, the court cannot determine whether the case is meritorious.

In addition, Section 14 (1)(c) of the VAT Act provides that the time of supply in is the earlier of the date on which the goods are delivered or performance of service is completed; the payment for the goods or services is made or a tax invoice is issued. The Applicant's argument that it was trading with KCCA on cash basis and that it issued credit notes is unlikely to change the tax period within which the supplies in question should have been declared, which is the basis of the penalty in issue. This means that even if the application was to be allowed, chances of succeeding would be extremely low.

In light of the above, the Tribunal finds that the Applicant has not provided compelling or sufficient cause to justify the extension of time for filing the review application. The application is therefore time-barred and is hereby dismissed with costs awarded to the Respondent.

Dated at Kampala this 24<sup>th</sup> day of July 2025.



**MS. PROSCOVIA REBECCA NAMBI**  
**CHAIRPERSON**



**MS. CHRISTINE KATWE**  
**MEMBER**



**MS. GRACE SAFI**  
**MEMBER**