TAX APPEALS TRIBUNAL

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO.193 OF 2024

INTERNATIONAL HOSPITAL KAMPALA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. STELLA NYAPENDI CHOMBO, HON. GRACE SAFI

RULING

I. Introduction

1. This is an application challenging the Respondent's assessment of income tax and Value Added Tax (VAT) arising from the Respondent's treatment of meals supplied to in-patient clients as taxable supplies and the disallowance of a deduction for bad debts.

II. Background Facts

2. The Applicant is a multi-specialty hospital that provides advanced medical care. On 8 September 2023, the Respondent conducted an audit of the Applicant for the period July 2018 to June 2022 and raised an assessment of Shs. 1,963,022,706, comprising:

   (i) Income tax of **Shs. 1,289,287,222** on the basis that the Applicant did not take all reasonable steps to recover the bad debts.

   (ii) VAT of Shs. 356,508,843 on the grounds that the provision of meals to inpatients is taxable.

   (iii) WHT of Shs. 317,226, 641, which was subsequently settled.

3. The Applicant objected to the assessment on the grounds that the meals provided to the inpatients are incidental to medical care services and form part of the overall treatment that patients receive, necessary for full recovery. The Applicant further contended that the bad debts were rightly written off after exhausting all the reasonable steps to recover the debts owed to it.

4. Upon review, the Respondent partially allowed the Applicant's objection in respect of capital deductions but disallowed the bad debts claim. The revised tax liability after the objection decision stood at Shs. 1,518,054,764 comprising:
   (i) Income tax of Shs. 1,161,545,921
   (ii) VAT of Shs.356,508,843

III. Issues

5. The following are the issues for determination.
   i. Whether the Applicant is liable to pay the assessed income tax and VAT?
   ii. What remedies are available to the parties?

IV. Representation and Evidence

6. Mr. Edwin Echiba and Mr. Noah Opindeni represented the Applicant, while Edmond Agaba and Mr. Rodney Amanya Mishambi represented the Respondent.
7. **Mr. Dominic Ogwal Savio (AW1),** the Head of Nursing of the Applicant, stated that the income tax assessment was premised on the fact that they had bad debts. Further, the Respondent contended that the Applicant did not exhaust all the reasonable steps to recover the debts. He stated that the VAT assessment was premised on the grounds that the provision of meals to inpatients is a vatable supply.
8. AW1 testified that the meals provided to inpatients are prescribed by nutritionists as part of the comprehensive treatment and are essential to recovery, particularly where food-drug interactions or specialized feeding requirements are necessary to support their recovery.
9. The witness also testified that patients require continuous monitoring at all material times during treatment. Therefore, careful consideration must be given to food-drug interactions in order to prevent adverse side effects and to

ensure optimal recovery outcomes. AW1 also testified that certain patients require specialized tube feeding, rendering it unsafe and medically inappropriate for them to leave hospital premises to obtain meals.

10. AW1 submitted that caretakers and other non-patient persons, however, have the option to obtain meals either from the restaurant operating on the Applicant's premises, owned by an independent third party, Kamaka Holdings Ltd, trading as Dinners Restaurant or from outside the premises.

11. The Witness further testified that the Applicant operates a centralized billing system for all patients, which provides a detailed and transparent breakdown of all the services offered to the patient from consultation, medication, admission, meals and nursing care. AW1 also stated that the inclusion of meals in the consolidated bill underscores that these meals are not independent supplies but rather an integral component of the overall medical service provided to the patients.

12. Furthermore, AW1 also testified that the preparation and service of meals for inpatients are conducted in accordance with strict hospital standards, which differ from typical restaurant or hotel meals. For example, some of the meals provided to critical patients, such as those in the Intensive Care Unit (ICU) are specialized and cannot be found on any typical restaurant or hotel menus.

13. He also stated that the Applicant's main revenue streams are derived from outpatient and inpatient services. The charges for meals form part of the inpatient income earned by the Applicant, as they arise directly from the provision of medical care. Imposing VAT on such meals would increase the cost of medical care by 18%, a burden ultimately borne by patients in the form of higher medical costs.

14. AW1 also testified that the Applicant sought guidance from the Ministry of Health, which guided and confirmed that the meals given to patients in hospitals are part of medical care. Furthermore, the Applicant is part of the Council of Health Service Accreditation of South Africa (COHSASA), a regional

body of health care professionals. COHSASA Standards on Inpatient Care (second Edition) expressly provides that hospital meals should be managed by a qualified dietician employed by the hospital, whose role is to ensure that the specific nutritional and medical needs of patients are adequately met. This further affirms that such meals are an intrinsic element of medical treatment, rather than a separate taxable supply.

15. The Applicant's second witness was **Mr. Hillary Nankunda (AW2),** the Finance Manager of the Applicant. AW2 testified that the Applicant provides healthcare services to both individual and corporate clients. The individual patients include walk-in patients who settle their medical bills on their own, while the corporate clients comprise patients whose bills are settled by insurance companies or their employers.

16. He also testified that, during the audit period, several individual patients defaulted on payment of their medical bills. Following this, the Applicant undertook various recovery efforts, including follow-ups through known telephone contacts, places of residence and their next kin, but all were in vain. Consequently, the Applicant engaged JL Holga Ltd, an independent debt collection company, to manage and recover outstanding debts. AW1 further testified that the debt collection company made calls, traced and tracked the physical residence of the debtors, followed up with their next kin and respective embassies, and managed to recover some amounts.

17. He further testified that the outstanding debtors were subsequently forwarded to the Applicant's management for further consideration, which was escalated to the Board of Directors.

18. In addition, he stated that with respect to insurance arrangements, the Applicant enters into agreements with various insurance companies under which insured patients receive treatment at the Applicant hospital, and the respective insurance companies subsequently settle the medical bills. Upon receiving a patient under an insurance scheme, the Applicant verifies and confirms the patient's coverage with the relevant Insurance provider. Upon

confirmation, treatment is provided, and the corresponding bills are recorded in the Applicant's system under the respective insurer's ledger.

19. The witness testified that the Applicant offered treatment to various patients under the insurance scheme, and despite various reconciliation meetings and follow-ups with the Insurance companies, the Applicant failed to recover certain debts owed by the insurance companies.

20. AW2 explained that some claims submitted to insurance companies were delayed due to the Applicant's extensive internal review and reconciliation processes prior to submitting the claims. Additionally, some claims related to services covered under the policy were erroneously billed to patients. As a result, insurers rejected such claims, rendering them unrecoverable and forming part of the bad debts in issue. The Applicant's Board of Directors subsequently resolved to write off the bad debts after exhausting all reasonable recovery options.

21. During cross-examination, AW2 reiterated that individual patients had defaulted on payment and that the Applicant made recovery attempts through telephone contacts, visits to places of residence, and next of kin. However, he confirmed that he did not have documentary evidence of the specific individuals contacted, calls made, or residences visited. He further confirmed that the Board resolutions authorizing the write-off of the debts were duly recorded and filed with the Registrar of Companies in the minutes.

22. AW2 also confirmed that the debt collector indicated that the information provided was insufficient for effective recovery and that insurance companies were not included in the debt collector's report. AW2 further acknowledged that the Applicant failed to comply with certain terms of its insurance agreements.

23. Additionally, AW2 testified that the Applicant did not institute any legal proceedings against the insurance companies, as it was established that the outstanding balances largely arose from billing errors or non-compliant insurance claims.

24. In re-examination, AW2 testified that patient details are manually captured at billing stations, which occasionally resulted in errors and inaccuracies attributable to administrative staff. Such errors include missing doctors' or patients' signatures on forms, and billing for services excluded under insurance policies. Therefore, due to the manual nature of the process, some exclusions were overlooked by billing personnel, leading to the submission of claims that did not meet contractual requirements and were therefore rejected by insurers.

25. The witness further testified that each claim undergoes a vetting process before submission to the insurer. However, this process can be time-consuming and may exceed the 14-day contractual submission period, resulting in delayed claims. Once the insurance companies reject the claims, the Applicant's credit team engages with the insurers in reconciliation discussions, involving back-and-forth reviews, resubmissions, and confirmations of the rejected claims as part of their recovery efforts.

26. The Repsindnet called a sole witness Mr. Angus Arinaitwe (RW1). He testified that the provision of catering services is not incidental to medical services. He also stated that meals are also provided to caretakers, who are billed separately and make cash payments, thereby creating a separate revenue stream for VAT purposes. However, the meals provided to ICU patients were treated by the Respondent as incidental to medical services and allowed.

27. Regarding income tax, he stated that the Applicant claimed bad debts of Shs. 3,533,315,000, which the Respondent found had not been subjected to reasonable recovery efforts. Of the amount reviewed, Shs. 1,145,998,138 was considered, supported by medical bills, debt collection reports, and a board resolution. Upon review, Shs. 488,680,895 was allowed, being attributable to deceased patients.

28. RW1 further testified that the Applicant failed to provide rejection statements from insurance companies to support reconciliation and confirm the existence of the debts. RW1 testified, however, that debts arising from unpaid corporate medical bills were disallowed on the basis that no reasonable recovery steps had been taken, noting that the companies were still in existence, and recovery remained possible through legal action. Accordingly, this too was disallowed.

29. During cross-examination, Mr. Arinaitwe confirmed that he had no medical training and thus relied on reconciliation meeting minutes as evidence that meals were provided to inpatients. He also confirmed that, during his visit to the Applicant's premises, he did not engage the Applicant's staff for guidance but was informed that meals were prepared for inpatients. He also stated that meals for ICU patients were allowed as incidental because such patients have no option to accept or reject them and are provided with specialized feeding.

30. RW2 also confirmed that he was aware of the Applicant's attempts to recover the debts. Further, he stated that claims for deceased individuals were disallowed when supporting documentation was incomplete, including the absence of death certificates.

31. In re-examination, RW2 stated that the failure to recover debts from insurance companies arose from contractual breaches, including billing above approved limits, unsigned claim forms, late submissions, and claims for excluded services. Such claims were therefore disallowed.

32. RW2 concluded that the Applicant records catering services as a separate item in its revenue ledgers and maintained that such services are not incidental to medical services, noting that inpatients have the option to accept or decline hospital meals.

V. The Submissions of the Applicant

Meals for inpatients

33. The Applicant submitted that section 19 (h) of the 3rd schedule to the VAT Act provides that a supply of goods is an exempt supply if it is specified in the second schedule, and that the supply of veterinary, medical, dental and nursing services is an exempt supply.

34. The Applicant argued that medical care is not restricted to only the provision of treatment through medicine but also extends to prevention, preservation and management of illness by medical and nursing professionals. The services can

include diagnosis, treatment, prevention, preservation and management of illness by medical and nursing professionals.

35. The Applicant submitted that the provision of meals to its inpatients serves as part of the comprehensive treatment that the inpatients receive to ensure their full recovery and as such it is an incidental supply to the medical and nursing services to the hospital inpatients which is an exempt supply and the income derived from provision of food to the inpatients is thus exempt from VAT of Shs. 356,508,843.

36. The Applicant further submitted that the Respondents did not at the time of the audit possess any medical qualifications or training. They also did not consult the Ministry of Health or any medical association to understand the significance of providing meals to inpatients.

37. The Applicant contended that it does not provide meals to its outpatients, caretakers or employees. The caretakers could choose to obtain their meals from the private restaurant owned by an independent party, Kamaka Holdings trading as Dinners Restaurant, which is contracted by the Applicants to serve meals at its premises, and/or to eat outside the Applicants' premises.

38. The Applicant explained that the classification of meals provided to inpatients as a separate supply from the provision of medical services erroneously assumes that the Applicant is also in the catering business. The Applicant submitted that the VAT assessments were based on invoices issued by the Applicant to its patients for medical services rendered while the patients were inpatients at the Applicant's facility.

39. The Applicant submitted that the meals are tailored to the specific needs of the patient. Once the patient has been reviewed and assessed, the Applicant's Hospital nutritionist prescribes a menu of foods based on the patient's nutritional needs to support their recovery and sustenance. Inpatients may be restricted from eating certain foods if their consumption would inhibit their recovery.

40. The Applicant further argued that some patients require specialised feeding, such as those in the intensive care unit, and it is therefore unsafe to have them move out since some may not be in an appropriate physical state to move.

41. The Applicant argued that the Respondents' imposition of VAT on meals provided to patients at hospitals will only serve to further increase the cost of health care. The Applicant cited ***UAP Old Mutual Insurance Limited v. URA TAT Application No. 105 of 2023,*** where the Tribunal held:

"This would lead to an increase in the cost of medical insurance, which in turn reduces access to health services for several Ugandans. This would also make the sector unattractive to private sector participation, which is expected to play a critical role in the formation and sustainability of the universal health insurance system".

Bad debts

42. The Applicant submitted that Section 22(1)(a) of the Income Tax Act provides that there shall be allowed as a deduction:

"(a) All expenditures and losses incurred by the person during the year of income to the extent to which the expenditures or losses were incurred in the production of income included in gross income".

43. Therefore, all expenditures and losses of a business nature, such as the business loss incurred by the Applicant to the tune of Shs. 3,533,315,000 in the production of gross income are allowed as deductions.

44. The Applicant submitted that in the case of ***Sai Office Supplies Limited v. URA TAT Application No. 12 of 2024***, it was stated:

"The general rule of thumb is that all expenditure and losses incurred by a taxpayer during a year of income are allowable deductions save for those specifically mentioned under Section 22(2) as non-allowable. In effect, Section 22(1) set down the general principle for allowable deductions".

45. The Applicant further submitted that taxpayers are allowed a deduction for bad debts pursuant to Section 24 of the Income Tax Act:

"(1) Subject to subsection (2), a person is allowed a deduction for the amount of bad debt written off in the person's accounts during the year of income;

(2) A deduction for a bad debt is only allowed –

a) If the amount of the debt was included in the person's income in any year of income; b) If the amount of the debt claim was in respect of money lent in the ordinary course of a business carried on by a financial institution in the production of income included in gross income.

c) If the amount of the debt claim was in respect of a loan granted to any person by a financial institution for the purpose of farming, forestry, fish farming, bee keeping, animal, and poultry husbandry or similar operations."

46. The Applicant explained that individual clients who settle their medical bills and bills belonging to insured patients are settled by the insurance companies. In the audited period, July 2018 to June 2022, a number of individual and insurance clients defaulted on payments of their medical bills. The Applicant had already recorded the treatment as revenue and corresponding receivables, and expected to receive payment.

47. The Applicant submitted that the insurance sector and the Applicant's own system had not developed to their current level of technology. Verifications were performed manually by a single individual, and the documents reviewed were voluminous. In some instances, gaps existed in the onboarding process at the Applicant's premises, including addresses, contact details, and billing information. Delays in verification due to the manual process led to late claim submissions to insurance companies. As such, the Applicant had bad debts arising from non-payment of medical bills by both individual and insurance clients in periods prior to 2018.

48. With regard to the reasonable steps taken, the Applicant submitted that they tried to follow up and engage with their individual clients. They also engaged JL Holga Limited, an independent debt collection company. The company made calls to contacts, tracked debtors' physical residences, followed up with next of kin, and even contacted the embassies of some clients. They were able to recover some Shs. 454,774,051, which was 42% of the total debt.

49. The Applicant submitted that despite the Applicant's efforts and reasonable steps to recover debts, the Applicant failed to recover the debts owed by the insurance companies that rejected the Applicant's claims through the rejection letter as seen in AEX13.AEX14,AEX15and AEX16. The outstanding debtors were forwarded to the Applicant's management and board of directors, and it was agreed to write them off. The Applicant maintained that it incurred a business loss pursuant to section 22 of the ITA, which requires that expenditures and losses be incurred by the taxpayer in the production of income included in gross income in order to be allowed as a deduction for tax purposes.

50. The Applicant prayed that the Tribunal order that the Applicant is not liable to pay the income tax assessment of Shs. 1,161,545, 921 and VAT assessment of Shs. 356, 508, 843. The Applicant also prayed for a refund of 30% deposit and the costs of this application be awarded to it.

VI. The submissions of the Respondent

51. In reply, the Respondent submitted that the provisions of meals by the Applicant constitute a distinct and taxable supply under the VAT Act. Section 4 of the VAT Act imposes VAT on every taxable supply by a taxable person. Section 18 of the VAT Act defines a taxable supply as:

"a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities."

52. The Respondent further cited Section 19 of the VAT Act, which stated that a supply of goods and services is an exempt supply if it is specified in Schedule 3 to this Act.

Paragraph 1 (h) of Schedule 3 to the VAT Act exempts

"The supply of veterinary, medical and dental nursing services"

53. The Respondent submitted that the scope of the exemption does not extend to commercial or ancillary services provided alongside an exempt service unless the services are integral, inseparable and incapable of independent existence from the principal exempt service. The Respondent submitted that

the issue is whether the provision of catering services is incidental to exempt medical supplies or constitutes a separate, taxable supply.

54. The Respondent submitted that the Applicant's reliance on section 12 to treat meals as incidental to medical services is misconceived and does not apply.

Meals are a separate revenue stream from medical services

55. The Respondent submitted the VAT assessment of Shs. 356,508,843 arose from undeclared income derived from catering services, amounting to Shs. 1,617,833,684. This represents a separate and commercially operated revenue stream distinct from the Applicant's provision of exempt medical services.

56. The Respondent submitted that the Applicant's own records and ledgers reflect catering income as a separate revenue line. They record an income of Shs. 1,617,833,684 independent from medical services. The Respondent argued that the Applicant also issued separate invoices to inpatients, with a column labelled 'meals and catering'. The Respondent submitted that AW1 testified that when the patient rejected meals due to a lack of appetite, they were not billed for those meals and, therefore, they were not an integral part of the medical services.

57. The Respondent submitted that the Applicant outsourced the catering services from Kamaka Holdings Ltd trading as Dinners Restaurant under a formal agreement (AEX 21, PAGES 793-813 JTB). Under the Agreement, the Applicant receives 75% of the gross monthly catering revenue, and Kamaka Holding retains 25% share.

58. The Respondent submitted that the Applicant operated its catering services as a standalone business unit, with separate revenue reporting, independent invoicing, an external contractual partner and optional service offerings to the patients.

59. The Respondent further submitted that in ***Pegram v Hedrich, 530 U.S. 211 (2000),*** the USA Supreme Court recognised "*Medical services as professional*

decisions and treatments, differentiating them from administrative or eligibility decisions under health plans."

60. The Respondent argued that in the Ugandan VAT Act, the exemption specifically applies to medical services and not the broader category of health care services. The implication is that ancillary services that do not constitute medical services provided by licensed medical practitioners fall outside the scope of the exemption. The Respondent prayed that the Tribunal find the VAT assessment of Shs. 356,508,843 payable.

Income Tax Assessment of Shs. 1,161,545,921

61. The Respondent submitted that the assessment arose from unsupported deductions and misclassified assets of Shs. 248,155,648 and disallowed bad debts of Shs.913,390,273.

62. The Respondent submitted that following the objections stage, the revised amount in respect of capital deductions and misclassified assets was Shs. 248,155,648. He further stated that the Applicant did not contest the Respondent's findings in respect of capital deductions and misclassified assets.

63. The Respondent submitted that during cross-examination, the Applicant's witness, Hillary Nankunda, conceded that this portion was properly revised and remained unchallenged evidence. The Applicant's contention was limited to disallowed bad debts. The Respondent prayed that the uncontested assessed amount of Shs. 248,155,648 be upheld.

64. Regarding the bad debts, the Respondent submitted that Section 24 of the Income Tax Act ***(supra)*** and stated that the Applicant did not take reasonable steps to recover the debts, and legal requirements for deductibility were not met. Therefore, the Applicant failed to discharge the burden in respect of debts arising from insurance companies and debts from individual patients.

Insurance companies

65. Regarding the insurance companies, the Applicant could not prove that there existed an enforceable debt claim and did not provide sufficient evidence to show that it had taken all steps to pursue recovery as required under section 24 (3) of the Income Tax Act.

66. The Respondent submitted that the Applicant contracted insurers include UAP Insurance, Liberty Insurance, Jubilee Insurance, Sanlam Insurance and GA Insurance. Most of the contracts imposed specific timelines, typically fourteen days, within which claims were to be submitted. The Applicant did not adhere to this procedure, leading to the rejection of the claims by the insurers.

67. The Respondent submitted that the Applicant's witness AW2 admitted that the claims were rejected due to breaches of contracts by the Applicant, particularly submitting claims outside agreed timelines, lack of pre-authorizations for services rendered, submissions of claims not covered under the insurance policy and failure to provide complete and proper documentation.

68. The Respondent submitted that these admissions are material as they establish that the Applicant had no legal right to payment under the respective contracts. The Respondent argued that, as established in Section 24 (3) of the Income Tax Act, a debt claim means the right to receive payment. Where that right has been extinguished through the claimant's own breach, no valid debt claim exists to be claimed as a bad debt. The Respondent cited the case of ***Standard Chartered Bank v URA, HCCS No. 810 of 2015***, where it was held: *"For a debt claim to be deductible, it must involve a legally enforceable claim".*

69. The Respondent concluded that the Applicant's claim for bad debts arising from insurance companies was properly and lawfully disallowed.

Individual Patients

70. The Respondent submitted that they allowed Shs. 488,680,895 attributed to confirmed deaths by valid death certificates. The rest was disallowed because the Applicant did not take the required steps to recover the debts.

71. The Respondent argued that there was no evidence of call logs, physical visits, contacting the next of kin, engagement letters of JL Holga Ltd to recover debts, or death certificates for some. The Respondent submitted that there was no escalation to legal recovery even for debts that may have been legally recoverable. Therefore, the Applicant lacked diligence.

VII. The Submissions of the Applicant in rejoinder

72. In rejoinder, the Applicant reiterated its earlier submissions. However, they confirmed that the issue regarding the capital deduction on Shs. 248,155,648 is not in contest and has been resolved; its contention is limited to bad debts.

VIII. The determination

73. Having considered the pleadings, affidavits, and submissions of both parties, this is the ruling of the Tribunal.

74. Section 4(a) of the VAT Act provides:

"A tax, to be known as a value added tax, shall be charged in accordance with this Act on –

(a) every taxable supply made by a taxable person; .....".

Further, Section 5(1)(a) specifies the persons liable to pay the tax as follows:

(a) "in the case of a taxable supply, is to be paid by the taxable person making the taxable supply;...".

75. Section 18(1) of the VAT Act defines a taxable supply as:

"a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities."

Preliminary: Burden and Standard of Proof

76. The burden of proof lies on the taxpayer to prove, on a balance of probabilities, that a tax assessment is excessive, erroneous, or unlawful. This is in accordance with the provisions of section 28 of the Tax Procedures Code Act and section 19 of the Tax Appeals Tribunal Act. It is also settled law that tax exemptions and deductions must be strictly proved, as affirmed by the Supreme Court in ***URA v Siraje Hassan Kajura, SCCA No. 14 of 2017.*** However, once the taxpayer adduces credible evidence, the evidential burden

shifts to the Respondent to rebut it ***(Noorbrook Uganda Ltd v URA (TAT App No. 18 of 2018).***

77. The main issue before this Tribunal is whether the applicant is liable to pay the income tax and VAT assessed by the Respondent. We have broken this into the following sub-issues as argued by both parties.

(i) Whether Meals Provided to Inpatients are incidental to Supply of Medical Services or not?

78. VAT is imposed on every taxable supply made in Uganda by a taxable person under sections 4 and 18 of the VAT Act, Cap. 344, unless the supply is expressly exempt. Section 19(1) of the VAT Act states:

"A supply of goods or service is an exempt supply if it is specified in Schedule 3 to this Act."

79. Paragraph 1(h) of Schedule 3 to the VAT Act expressly lists the supply of veterinary, medical, dental and nursing services as exempt. Further, Section 12 of the VAT specifies for mixed supplies as:

"(1) A supply of services incidental to the supply of goods is part of the supply of goods.

(2)A supply of goods is incidental to the supply of services is part of the supply of services.

(3) A supply of services incidental to the import of goods is part of the import of goods.

(4) Regulations made under Section 51 may provide that a supply is a supply of goods or services."

80. The Cambridge Dictionary defines the word incidental to mean:

"directly connected with something or happening as a result of it"

Further, the Black's Law Dictionary refers to incidental as something that is:

a. *Subordinate to or connected with a main activity, and*
b. *Occurs as a minor or secondary part of something else, nor as the primary purpose.*

81. The VAT Act does not define the term incidental, but in practice, it follows this principle: where a supply is ancillary, subordinate, or necessary to the main

(principal) supply, it takes the VAT treatment of the principal supply. To this end, we have considered the composite/ancillary supply doctrine, as articulated by the Court of Justice of the European Union in ***Card Protection Plan Ltd v Customs and Excise Commissioners*** and adopted in Ugandan tax jurisprudence, including ***Diamond Shipping Co Ltd v URA, TAT App No. 93 of 2016***.

82. The governing test is to establish whether the supply is part of an exempt supply or a separate taxable supply. In other words, if viewed objectively from the perspective of the typical consumer, the disputed element constitutes an end in itself, or is ancillary, meaning it is a means of better enjoying the principal supply and has no independent economic purpose.

83. To decisively determine whether meals to inpatients are incidental to medical services, the following questions are asked:

Is there a principal supply?

84. It is not disputed by both parties that the principal supply provided by the Applicant is the supply of medical services to both inpatients and outpatients. The contentious issue is whether the meals to inpatients are incidental to the principal supply. The Applicant submitted that the principal supply is medical care to admitted patients, including treatment, supervision, and recovery. The Applicant argued that meals provided to inpatients are part of this principal supply because they are necessary for recovery and cannot be separated from the medical services.

Is the other service integral or necessary to that principal supply?

85. Whereas the Respondent agreed that the meals for ICU patients are incidental to the provision of medical services and accordingly assume the VAT treatment of the principal exempt supply under the Act, they, on the other hand, argued that the meals to other admitted patients are optional or separately billed, and therefore should be treated as separate supplies.

86. The Tribunal notes that the Respondent accepted that meals provided to patients in the ICU are incidental to medical services. This position is properly grounded in the recognition that in such circumstances, nutrition forms an inseparable element of medical care.

87. The issue is whether this treatment should only apply to ICU patients or other inpatients admitted by the Applicant. The Tribunal is guided by the settled principle that characterisation of a supply as incidental does not depend on the categorization of the recipient, but on the nature of the supply and its nexus to the principal service. Accordingly, the Tribunal finds that the treatment of meals for VAT purposes should not depend on the type of patients, but on the nature of the services and how closely they are connected to medical care/services.

88. The evidence on record shows that admitted patients are under continuous medical care, which is the principal supply, whether in ICU or not, and their recovery includes proper nutrition, continuous supervision, treatment and the necessary support, regardless of whether they are in the general ward, the High Dependency Unit or the ICU. Therefore, meals as a whole for inpatients during the course of treatment are incidental to the care delivered to all inpatients.

Is the service independently charged or consumed?

89. The Applicant contended that although meals may be itemized on the hospital bill, they are not optional or independently purchased; patients cannot refuse them without refusing care. Therefore, they are part of the principal service. On the other hand, the Respondent argued that meals for other admitted patients are separately billed and can be purchased independently, making them distinct supplies.

90. Having established that the supply of meals to all admitted patients is part of the hospital's standard care package, the itemization for billing clarity alone does not make an incidental supply a separate supply. However, meals provided to attendants or visitors, or optionally purchased by patients, remain

distinct supplies and are properly subject to VAT, since they have an independent economic existence and constitute a separate taxable supply.

91. Accordingly, the Tribunal finds that the Applicant has discharged its burden of proving that meals supplied to inpatients constitute an exempt composite supply within the meaning of section 19 and Schedule 3 to the VAT Act. The VAT assessment of Shs. 356,508,843 is therefore set aside.

B. Whether the Applicant Is Entitled to Deduct Bad Debts

92. Deductions for bad debts are governed by section 24 of the Income Tax Act, which is a specific provision overriding the general deduction rule under section 22(1)(a). Under section 24(3), a deductible bad debt must:

a) constitute a debt claim (a legally enforceable right to payment); and

b) be one in respect of which the taxpayer has taken all reasonable steps to pursue recovery and reasonably believes it will not be satisfied.

See Platinum Credit Ltd v URA, TAT App No. 28 of 2018 and Standard Chartered Bank (U) Ltd v URA, HCCS No. 810 of 2015.

93. We now address the two components of the bad debts.

Individual patient debts – Shs. 246,023,217

94. The evidence shows that the Applicant:

(i) Conducted internal follow-ups.

(ii) Engaged JL Holga Ltd, a professional debt collection agency;

(iii) Recovered approximately 42% of the outstanding balances;

(iv) Escalated irrecoverable debts to the Board, which resolved to write them off.

95. The debt collector's report documents failed recovery due to inaccurate contact details, untraceable next of kin, foreign residency, and confirmed settlements. The Tribunal recognizes that recovery measures need not be exhaustive but only reasonable.

96. The Tribunal therefore finds that the Applicant took all reasonable steps to recover individual patient debts. The income tax assessment relating to Shs. 246,023,217 is set aside.

Debts in respect of insured patients – Shs. 667,367,056

97. The evidence is materially different. The Applicant admitted that claims were rejected due to:

    (i) Late submission beyond contractual timelines;

    (ii) The lack of pre-authorization;

    (iii) Submission of excluded services;

    (iv) Incomplete documentation.

98. Based on the above, claims were rejected not due to an inability on the part of the insurance companies to pay, but due to a failure by the Applicant to meet certain pre-conditions for payment as required by the contractual arrangements between the Applicant and the insurance companies. Therefore, where contractual conditions are not satisfied, no legally enforceable right to payment arises. As held in ***Standard Chartered Bank (U) Ltd v URA***, a debt that is not legally enforceable cannot qualify as a "debt claim" under section 24.

99. Administrative inefficiencies and manual systems, while unfortunate, cannot convert a non-existent legal right into a deductible bad debt. The disallowance of Shs. 667,367,056 relating to insurance companies is therefore upheld.

100. In the circumstances, this Tribunal orders as follows:

    (i) The VAT assessment of Shs. 356,508,843 is set aside.

    (ii) The income tax assessment relating to individual patient bad debts of Shs. 246,023,217 is set aside.

    (iii) The income tax assessment relating to insurance company debts of Shs. 667,367,056 is upheld.

(iv) The uncontested income tax assessment of Shs. 248,155,648 remains payable.

(v) Each party shall bear its own costs.

Dated at Kampala this 10th day of April 2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. STELLA NYAPENDI CHOMBO
MEMBER

HON. GRACE SAFI
MEMBER