TAX APPEALS TRIBUNAL
Justice in Taxation

**THE REPUBLIC OF UGANDA**
**IN THE TAX APPEALS TRIBUNAL OF UGANDA**
**MISCELLANEOUS APPLICATION NO. 011 OF 2026**
**(Arising out of TAT Application No. 376 of 2024)**

**JAMES MANSA.............................................................................APPLICANT**

**VERSUS**

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

**BEFORE: HON. CRYSTAL KABAJWARA, HON. STELLA NYAPENDI CHOMBO, HON. PROSCOVIA REBECCA NAMBI**

**RULING**

## I. Introduction

1. This application is brought under section 26(4) of the Tax Appeals Tribunal Act, section 98 of the Civil Procedure Act and Order 52, rules 1 and 3 of the Civil Procedure Rules. The Applicant seeks orders that:
   (i) The order dismissing TAT App No. No. 376 of 2024 be set aside.
   (ii) TAT Application No. 376 of 2024 be reinstated.

## II. Background Facts

2. The Applicant's case is contained in the affidavit of Mr. Brian Kupper Rubihayo, an Advocate, sworn on 27 January 2026, together with his supplementary affidavit sworn on 9 July 2026. He depones that the Applicant filed TAT Application No.

376 of 2024 challenging the Respondent's tax decision. The matter was scheduled for hearing on 22 January 2026. However, on 19 January 2026, Counsel in personal conduct received instructions to represent the Electoral Commission in Presidential Election Petition No. 1 of 2026, which required immediate preparation under strict timelines imposed by the Supreme Court.

3. Counsel states that the assignment required extensive consultations, collection of evidence, preparation of affidavits and pleadings, and compliance with court directions requiring service and filing within a matter of days. Owing to those obligations, he was unable to attend the Tribunal hearing. Another advocate from his chambers appeared before the Tribunal on 20 January 2026 to explain his absence, and on 21 January 2026 the firm formally sought an adjournment. Notwithstanding those efforts, the application was dismissed on 22 January 2026 for non-attendance.

4. Counsel further avers that the Applicant has always intended to prosecute the substantive application, that the failure to attend was occasioned by exceptional circumstances beyond Counsel's control rather than any intention to disregard the Tribunal's process, and that the Applicant should not be denied an opportunity to be heard because of Counsel's absence. He therefore prays that the dismissal order be set aside and the application reinstated.

5. The Respondent opposes the application through the affidavit of Ms. Christine Mpumwire sworn on 13 July 2026. The Respondent states that TAT Application No. 376 of 2024 was dismissed after the Applicant failed to attend the hearing, with the result that the assessed tax liability of Shs. 13,164,405,548 became due and payable to Government. The Respondent further states that no stay of execution was obtained and that the recovery measures undertaken thereafter were lawful. It contends that the Applicant has not established sufficient grounds to warrant reinstatement and that the application should be dismissed with costs.

## III. Issues for determination

6. The issue for determination is whether the order dismissing TAT Application No. 376 of 2024 should be set aside and the application reinstated.

## IV. Representation

7. The Applicant was represented by Mr. Edgar Ayebazibwe and Ms. Shamim Kitimbo, while the Respondent was represented by Ms. Gloria Twinumugisha Akatuhurira. Both parties made oral submissions.

## V. The Applicant's Submissions

8. Counsel for the Applicant submitted that this application is brought under section 26(4) of the Tax Appeals Tribunal Act, which empowers the Tribunal to reinstate an application dismissed under section 26(2) or (3) where it considers it appropriate to do so.

9. Counsel submitted that the Applicant's failure to attend the hearing on 22 January 2026 arose because, on 19 January 2026, Counsel in personal conduct of the matter received instructions to represent the Electoral Commission in Presidential Election Petition No. 1 of 2026. The petition was governed by strict timelines requiring the preparation and filing of responses within a very limited period, which involved extensive consultations with the Electoral Commission, the Attorney General, other stakeholders and the preparation of pleadings and supporting evidence.

10. It was submitted that the non-attendance was neither deliberate nor intended to delay the proceedings, but was occasioned by exceptional circumstances beyond Counsel's control. The Applicant therefore urged the Tribunal to exercise its discretion under section 26(4) and reinstate the application.

11. Counsel relied on ***Saeh Mugadya v Uganda Revenue Authority, Miscellaneous Application No. 1056 of 2025***, where the Court held that the

existence of sufficient cause is determined on the particular facts of each case, taking into account the conduct of the parties and the interests of justice.

12. Counsel further submitted that the matter had previously come before the Tribunal on numerous occasions and that this was the first instance in which Counsel had failed to attend. The Applicant had consistently demonstrated an intention to prosecute the application and remained ready to comply with the Tribunal's directions.

13. Finally, Counsel submitted that the Applicant stood to suffer substantial prejudice if denied an opportunity to challenge the disputed tax assessment because of Counsel's absence. The Tribunal was accordingly urged to excuse the non-attendance, reinstate TAT Application No. 376 of 2024, and allow it to proceed to hearing on its merits.

## VI. The Respondent's Submissions

14. The Respondent opposed the application and relied on the affidavit in reply filed on 13 July 2026 together with its oral submissions. Counsel submitted that before the hearing scheduled for 22 January 2026, the Applicant sought an adjournment, both orally and in writing, on the ground that Counsel in personal conduct of the matter was engaged elsewhere. The Tribunal considered that explanation, found that it did not constitute sufficient cause for an adjournment, and directed that the matter proceed.

15. The Respondent submitted that when the Applicant failed to attend on 22 January 2026, the Tribunal lawfully dismissed TAT Application No. 376 of 2024 under section 26(2) of the Tax Appeals Tribunal Act. The present application merely repeats the same explanation that had already been considered and rejected before the dismissal.

16. It was further submitted that although section 26(4) permits an applicant to seek reinstatement within thirty days of dismissal, reinstatement is discretionary rather

than automatic. The Tribunal must therefore consider whether the Applicant has established a reasonable excuse for the non-attendance, demonstrated a genuine intention to prosecute the matter, acted with due diligence and shown that reinstatement would serve the interests of justice.

17. The Respondent relied on ***National Insurance Corporation v Mugenyi & Co. Advocates, Civil Appeal No. 14 of 1984***, where the Court held that an applicant seeking reinstatement must demonstrate that he or she genuinely intended to attend the hearing and did his or her best to do so. They also relied on ***Rosette Kizito v Administrator General & Others, Supreme Court Civil Application No. 9 of 1986***, in which the Court held that sufficient cause must relate to the failure to take the required procedural step and cannot be established merely by asserting an intention to comply.

18. The Respondent argued that the Applicant had already been informed that Counsel's unavailability did not constitute sufficient grounds for adjournment, yet failed to make alternative arrangements to attend the hearing. The Applicant therefore could not be said to have done everything reasonably possible to prosecute the matter. According to the Respondent, the explanation advanced in support of reinstatement is substantially the same as that previously rejected by the Tribunal and raises no new basis for the exercise of the Tribunal's discretion.

19. Finally, the Respondent submitted that while courts and tribunals retain discretion to excuse procedural defaults where the interests of justice require, that discretion is reserved for deserving cases. In the Respondent's view, the Applicant failed to demonstrate sufficient cause for the default, particularly given the significance of the dispute, and the application should therefore be dismissed with costs.

## VII. The Applicant's Submissions in Rejoinder

20. In rejoinder, the Applicant submitted that the present application is supported by detailed affidavit evidence explaining Counsel's inability to attend the hearing, which was not before the Tribunal when the adjournment was sought. Counsel

maintained that the Applicant had no intention of disregarding the Tribunal's directions and prayed that the dismissal order be set aside so that the substantive application could be heard on its merits.

## VIII. The Determination

21. We have considered the affidavits filed by the parties, the oral submissions of counsel and the applicable law. The issue for determination is whether the order dismissing TAT Application No. 376 of 2024 ought to be set aside, and the Application reinstated.

22. The application is brought under section 26(4) of the Tax Appeals Tribunal Act. The provision empowers the Tribunal, where an application has been dismissed under section 26(2) or (3), to reinstate it if, upon consideration of the circumstances, it considers it appropriate to do so. The power is discretionary and must be exercised judicially. For context, we find it necessary to reproduce Section 26 below.

23. Section 26 of the Tax Appeals Tribunals Act provides:

*"(1) An Applicant may, by notice in writing lodged with a tribunal, at any time, notify the tribunal that the application is discontinued or withdrawn, and the tribunal shall dismiss the application without proceeding to review the decision.*

*(2) If an applicant fails, without reasonable excuse, to appear at the hearing of the proceeding, a tribunal may dismiss the application without proceeding to review the decision.*

*(3) If an Applicant fails within a reasonable time to proceed with the application or comply with a direction by a tribunal in relation to the application, the tribunal may dismiss the application.*

*(4) Where the Tribunal has dismissed an application under subsection (2) or (3), <u>the applicant may, within thirty days</u> after receiving notification that the application has been dismissed, apply to the Tribunal for reinstatement of the application, and the tribunal may, if it considers it appropriate to do so, reinstate the application and give such directions as appear to be appropriate in the circumstances".*

24. Although section 26(4) does not prescribe the factors that should guide the Tribunal in exercising its discretion, it is well established that judicial discretion must not be exercised arbitrarily or capriciously, but upon settled legal principles. In determining whether reinstatement is appropriate, the Tribunal considers the following non-exhaustive factors to be relevant—

   a) whether the applicant has offered a satisfactory explanation for the default;
   b) whether the application for reinstatement was made promptly;
   c) whether the applicant has demonstrated a genuine intention to prosecute the matter;
   d) whether reinstatement would occasion prejudice to the opposing party that cannot adequately be compensated by an award of costs; and
   e) whether, in all the circumstances, reinstatement would serve the interests of justice.

25. These factors are neither exhaustive nor individually decisive. Rather, the Tribunal must evaluate them collectively in light of the facts of each particular case.

26. It is not in dispute that TAT App No. 376 of 2024 was dismissed on 22 January 2026 after the Applicant failed to attend the hearing. It is equally not disputed that this application for reinstatement was filed within the period prescribed by section 26(4) of the Act. The only question is whether the Applicant has shown sufficient grounds to justify the exercise of the Tribunal's discretion in his favour.

27. The Respondent argued that the Applicant is merely repeating the explanation that was advanced in support of the unsuccessful application for adjournment. According to the Respondent, allowing reinstatement on the same grounds would undermine the Tribunal's earlier decision refusing the adjournment.

28. We agree with the Respondent that an application for reinstatement should not be used to reopen matters that have already been decided. A party cannot simply restate an explanation that has been rejected and expect a different outcome. Nevertheless, section 26(4) creates a distinct procedure following dismissal. It requires the Tribunal to consider whether, in light of all the material placed before it, reinstatement is appropriate. That exercise is different from determining whether an adjournment ought to have been granted.

29. The material before us is more comprehensive than that which was available when the request for adjournment was considered. The supplementary affidavit explains, in detail, the circumstances surrounding Counsel's engagement in Presidential Election Petition No. 1 of 2026. It exhibits the court record confirming the filing of the petition, the Supreme Court's directions issued on 21 January 2026 and the timelines within which the Electoral Commission was required to respond. It also explains the work undertaken in preparing the response, including consultations with the Electoral Commission, the Attorney General and other stakeholders, the preparation of affidavits and the collection of evidence from different parts of the country. Those details were not before the Tribunal when the adjournment was sought.

30. The Tribunal has also considered the conduct of the Applicant before the dismissal. The record shows that on 20 January 2026 another advocate, Ms. Kitimbo Shamira, from Counsel's chambers appeared before the Tribunal to explain Lead Counsel's absence. On the following day, Counsel formally wrote to the Tribunal seeking an adjournment. Although those steps did not justify an adjournment, they demonstrate that the Applicant did not simply ignore the proceedings or abandon the application. There was an effort to keep the Tribunal informed and to obtain its leave before the hearing date.

31. The Respondent further submitted that the Applicant ought to have made alternative arrangements to proceed with the hearing after the application for adjournment was declined. There is force in that submission. Litigants are

expected to comply with the Tribunal's directions, and the refusal of an adjournment ordinarily requires a party to take reasonable steps to ensure that the matter proceeds. However, each case turns on its own facts. In the present case, the explanation given is not one of convenience or preference. It concerns Counsel's engagement in proceedings before the Supreme Court arising from a Presidential Election Petition, where the timelines were both strict and unavoidable. The explanation is supported by documentary evidence and has not been shown to be false or contrived.

32. The Tribunal takes into account that 22 January 2026 was the first occasion on which Counsel failed to attend. The Respondent acknowledged as much during the hearing. There is no evidence that the Applicant had persistently failed to comply with the Tribunal's directions or had adopted a pattern of delaying the proceedings. The record instead shows that the matter had previously come before the Tribunal on several occasions without similar default. That history is relevant in assessing whether the non-attendance resulted from indifference to the proceedings or from exceptional circumstances.

33. In ***National Insurance Corporation v Mugenyi & Co. Advocates, Civil Appeal No. 14 of 1984***, the Court of Appeal held that

*"The main test for reinstatement of a suit is whether the applicant honestly intended to attend the hearing and did his best to do so".*

That principle remains instructive. On the material before us, we are satisfied that the Applicant intended to prosecute the application. The steps taken before the hearing, together with the explanation contained in the affidavits, are consistent with that intention.

34. The Respondent also relied on ***Rosette Kizito v Administrator General & Others, Supreme Court Civil Application No. 9 of 1986***, for the proposition that a party must establish sufficient cause for the failure to act within time. We respectfully agree. In our view, the Applicant has done so. The explanation is

supported by evidence, relates directly to the period of default and adequately accounts for Counsel's inability to attend the hearing.

35. We have also considered whether reinstatement would occasion prejudice to the Respondent. Apart from the delay inherent in restoring the application to the cause list, no specific prejudice has been demonstrated. There is no suggestion that evidence has been lost, witnesses have become unavailable or that the Respondent's ability to defend the substantive application has otherwise been impaired. Any inconvenience occasioned by the delay can adequately be addressed by an appropriate order as to costs.

36. The Tribunal is mindful that procedural rules serve an important purpose in ensuring the orderly and efficient disposal of disputes. Parties are expected to comply with the Tribunal's directions and cannot assume that non-attendance will readily be excused. At the same time, the discretion conferred by section 26(4) exists to ensure that, where circumstances genuinely warrant it, a litigant is not permanently shut out from being heard because of an isolated procedural default. Each application must therefore be determined on its own facts.

37. While we emphasise that law firms must manage their resources diligently, the ***Supreme Court in Banco Arabe Espanol v. Bank of Uganda (SCCA No. 8 of 1997)*** has consistently cautioned against visiting the procedural crises or acute scheduling conflicts of legal counsel upon an entirely innocent litigant. This principle aligns directly with the constitutional mandate under Article 126(2)(e) of the Constitution of Uganda, which commands courts to administer substantive justice without undue regard to technicalities. Given that Counsel was caught in unavoidable, strict constitutional timelines before the Supreme Court, driving the applicant out of the seat of justice over an isolated scheduling clash would defeat this constitutional directive and amount to a grave miscarriage of substantive justice.

38. Having considered all the circumstances, including the collosal disputed sum of Shs. 13,164,405,548, we are satisfied that the Applicant has given a satisfactory explanation for the non-attendance on 22 January 2026. The default was isolated, the Applicant demonstrated a continuing intention to prosecute the application, and the Respondent has not established any prejudice that cannot be compensated by costs. This is therefore a proper case for the exercise of the Tribunal's discretion under section 26(4) of the Tax Appeals Tribunal Act.

## IX. Orders

39. Accordingly, the Tribunal orders as follows:

(i) The order made on 22 January 2026 dismissing TAT Application No. 376 of 2024 is hereby set aside.

(ii) TAT Application No. 376 of 2024 is reinstated and shall proceed for hearing on its merits.

(iii) The costs of this application shall abide the outcome of TAT Application No. 376 of 2024.

It is so ordered.

Dated at Kampala this **21st** day of **July** 2026.

**HON. CRYSTAL KABAJWARA**
**CHAIRPERSON**

**HON. PROSCOVIA REBECCA NAMBI**
**MEMBER**

**HON. STELLA NYAPENDI CHOMBO**
**MEMBER**