



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 081 OF 2023

JUMA ISABIRYE.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, HON. KENNETH A. BAGAMUHUNDA,
HON. REBECCA NASSIMBWA NSUMBA**

RULING

I. Introduction

1. The Applicant, Mr. Juma Isabirye, filed this application claiming an informer reward from the Respondent in respect of the information he alleges to have provided regarding tax evasion by twelve (12) fish maw exporting companies.
2. The Respondent considered and acted upon the Applicant's report by investigating the twelve (12) companies and collected taxes from four (4) of them totalling Shs. 666,665,103. The Respondent paid the Applicant an informer reward of Shs. 62,666,519, being 10% of the principal tax recovered less 6% withholding tax

3. The Applicant now seeks to recover additional commission arising from the alleged tax payments by the remaining eight (8) companies.

II. Background facts

4. In March 2017, the Applicant reported to the Respondent tax evasion and a case of concealment of illegal wildlife products by twelve (12) Fish maw exporting companies and they include XURI International Ltd, OSI International Ltd, Kitebi Brothers, East African Bladders, Rong Zang International Ltd, Hongli Zonghua, Quang Sea Foods, Lusango International and Weishe International Ltd.
5. On 13 December 2017, the Respondent carried out a joint search and raid operation in collaboration with Interpol and the Criminal Investigation Department on the twelve (12) companies, resulting in an audit.
6. Following a search, operation and investigations, and audit compliance checks, the Respondent's informer officer filed TIF Form No. 0712. The Applicant was afterwards issued another TIF Form.
7. On 14 December 2018, the Applicant was paid a commission of Shs. 62,666,519 being 10% of Shs. 690,960,765 less 6% withholding tax recovered from four (4) companies, to wit XURI International Ltd, OSI International Ltd, Hongli Zonghua and Migda International Ltd.
8. The remaining eight (8) companies were excluded from the reward computation on the grounds that no specific and actionable intelligence was provided by the Applicant regarding tax evasion by the eight companies, the companies were either already under audit, had been audited, or were scheduled for routine compliance audits, all of which was information within the Respondent's domain.
9. The Applicant alleges that the Respondent went ahead and recovered over Shs. 5,800,000,000 in taxes from the remaining eight (8) companies and has failed to pay his commission.

10. On 6 March 2023, the Applicant, through his lawyers, wrote to the Respondent and demanded his 10% commission from the taxes collected from the eight (8) companies. On 22 March 2023, the Applicant also submitted his Bank Account details to receive payments of the commission, but no payment was made; hence the Applicant's application before the Tribunal for review.

III. Issues for Determination

11. At the joint scheduling, two issues were raised.
 - (i) Whether the Applicant is entitled to an informer reward in respect of the remaining eight (8) Companies?
 - (ii) What are the remedies to the parties?

IV. Representation and Evidence

12. The Applicant was represented by Mr. Sydney Ojwee, Ms. Lynn Martha Amoding, and Ms. Favor Kirabo of M/S Loi Advocates, while the Respondent was represented by Mr. Agaba Edmond, Ms. Franklin Kamagyezi, and Mr. Sam Kwerit of the Respondent's Legal Services & Board Affairs Department.

V. Submissions of the Applicant

13. The Applicant submitted that he is entitled to the payment of a reward and commission at a rate of 10% of the principal tax that was recovered from the remaining 8 companies on account of the information on tax evasion given to the Respondent that led to the recovery of taxes to a tune of over five billion Uganda shillings.
14. He stated that the Respondent's witness, Mr. Kabagambe Douglas, confirmed that he received information from Mr. Juma Isabirye sometime in March of 2017 through a colleague who told him that the Applicant had information, and he asked and invited him to the office to share the same with him. He confirmed that, based on the same information provided, he was part of the investigating team and went to Lusango Real, which was based at Kitgum House.

15. The Applicant submitted that the Tribunal's witnesses, Mr. Ogutu Moses and Mr. Tawu Bumali, both confirmed that the Respondent received information from the Applicant, carried out investigations, eventual raid, and recovered taxes to a tune of about five billion Uganda Shillings. He further stated that the Tribunal's witnesses were officers of the Respondent and participated in the investigation and eventual recovery of taxes.
16. The Applicant cited Section 94(2) of the Tax procedure Act which provides that:
- "the Commissioner General shall pay to a person who provides information leading to recovery of unassessed tax or duty, five percent of the tax recovered or duty recovered or one hundred million shillings whichever is less."*
17. He further cited the case of Whistleblower (**Ref. TID 1708319150**) **v Uganda Revenue Authority TAT Application No. 158 of 2020**, in which the Tribunal held as follows:
- "The right of an informer arises at the point of tax incidence. That is when the tax liability of a taxpayer rises or when the Respondent becomes aware that tax is due from the taxpayer. There can be no recovery unless there is a liability. The information the informer provides assists if not establishes there is a liability. The point where tax is recovered is important in only determining what amount is due to the informer".*
18. The Applicant submitted that in this case the right to the commission arose at the time of reporting, which was in March 2017 and therefore ordinarily the law applicable to him would be the Finance Act 2014, which was the law applicable at the time since Section 94 (previously Section 74A) came into force in July 2019 after the Applicant had availed information to the Respondent and recovered taxes.
19. The Applicant cited Section 8 of the Finance Act 2014, which provides as follows:

"The Commissioner General shall pay a person who provides information leading to the recovery of a tax or duty, the equivalent of ten (10%) of the principal tax or duty recovered".

20. The Applicant submitted that according to section 8 of the Finance Act 2014, he was entitled to a commission at a rate of 10% due to recovery of taxes by the Respondent from the remaining 8 companies. The law gives an informer the right to bring an action to recover an informer's award.

21. In the case of Whistleblower (**Ref. TID 1708319150**) **V Uganda Revenue Authority TAT Application No. 158 of 2020**, the Honourable Tribunal further held that:

"The right of an informer award is a propriety right; it is an intangible property. The informer's right being a propriety right, he cannot be deprived of it by the legislature as it would infringe on his constitutional right to property."

22. The Applicant also submitted that he provided information to the Respondent that led to recovery of unassessed taxes and duty and is therefore entitled to commission payment of 10% of the Taxes that were recovered as a result of his information.

23. The Applicant further submitted that he had evidence of Tax Evaders Information Forms (TIF) numbers 0712 and 1029 and Witness Testimonies.

24. He submitted that the issuance of the Tax Evaders Information Forms was proof that the Respondent received this information and used it to recover tax. He argued that as a matter of practice and policy by the Respondent, a TIF is only given to an informer upon verification and confirmation that the information given will lead to recovery of taxes.

25. The Applicant stated that according to section 6.4 of the Informer Management and Rewards Policy attached to the supplementary Joint Trial

- Bundle as REX6, it provides for processing of information in line with the following criteria;
- (i) The information should be relevant and reliable to be used during tax audits or investigations or operations.
 - (ii) The information should not be available in the Uganda Revenue Authority domain.
 - (iii) The information should not be available in the public domain. Where information is in the public domain, the information should be detailed and specific on violations or leads not known to the Uganda Revenue Authority about the taxpayer.
 - (iv) The information should not be generic rather, it should indicate specific non-compliance issues for a particular person.
 - (v) Any other reason which the Commissioner General may deem fit.
26. Where the information submitted does not meet the above criteria, the informer will be notified in writing. Where information submitted meets the criteria above, and the need arises for additional information to be submitted, the informer will be requested to provide additional information to be submitted.
27. Furthermore, where the information submitted meets the above criteria, a Tax Evaders Information Form (TIF) will be generated, capturing detailed information, date of receipt of information, number and specific information concerning the persons to have complied with tax laws which may lead to recovery of taxes.
28. The Applicant submitted that according to the Respondent's Informer Management and reward policy, an informer is only issued a Tax Evaders Information Form upon meeting the above criteria. Among the criteria to be met is that the information should not be generic rather should indicate specific non-compliance issues for a particular person, and that the information was not in the Respondent's domain.
29. According to the Applicant, the implication therefore would be that an informer can only be issued the form upon confirming that his or her

information is specific and that the information was not within the domain of the Respondent, and yet for some reason the Respondent alleged that the information was not specific and that it was already known to it (**Paragraph 12 of the Respondent's Witness statement**).

30. The Applicant further submitted that it was impossible that the Respondent carried out a full investigation and search on these companies and issued Tax Evaders Information Forms when there was no tax to be collected. These forms were issued long after the investigation of the companies, therefore confirming that there were taxes to be collected.
31. The Applicant added that the assertion and allegations by the Respondent that the 8 companies were dropped because the information was not specific and that the information was already in its domain is illogical, for it does not explain why the Respondent issued the Applicant the Tax Evader's information forms. The Applicant further stated that the Respondent obtained an advantage from the Applicant and cannot now turn around and claim otherwise.
32. The Applicant further testified that following his report, on 18 October 2018, the Respondent carried out an operation at the premises of the companies and discovered that the companies reported were not paying taxes, made seizures and arrests.
33. The Applicant added that during the cross-examination of the Respondent's witness, he admitted that he knew Juma Isabirye, that he received information from him at his office, and that he participated in the raid that resulted from the information provided. He confirmed that companies can evade taxes even when the Respondent is fully aware of their existence and is auditing them.
34. The Applicant further added that the Respondent also confirmed the TIF form was given to the Applicant after the investigation of the information

provided by him. He also stated that they paid commission for the four companies without any specific information being provided by the Applicant.

35. The Applicant submitted that the Tribunal's Witness Mr. Ogutu Moses was invited by the Tribunal upon the request of the Applicant to come and clarify his role in the handling, processing and application of information given by the Applicant. He testified that he knew the Applicant and that the Respondent had used the information to recover over Shs. 7 billion in taxes. He testified that he personally participated in the raid and made the arrest of the tax evaders.
36. The Applicant further submitted that the Tribunal's witness Mr. Tawu Bumali was invited by the Tribunal upon the request of the Applicant to come and clarify his role in the handling, processing and application of information given by the Applicant. He testified that he knew the Applicant and that the Respondent had used the information to recover over Shs. 4 billion in taxes.
37. The Applicant added that the Respondent's witness testified that he personally participated in the raid and that compliance had recommended that the Applicant be paid his commission. The Applicant therefore submitted that he is entitled to receive 10% commission as is provided under the law.
38. The Applicant cited the case of ***Mansseh Kamugisha v Uganda Prefabricated Building Industry, HCCS No. 115/1994*** in which Justice G.M. Okello held as follows;

".....if a party by his voluntary concession led, the other party on the faith of that concession to shape his conduct, court shall estop him from retracting that concession to the detriment of the other party".

39. The Applicant also cited ***DFCU Bank Limited v John Magezi Civil Suit No. 0547 of 2017***, where Justice Stephen Mubiru held that estoppel is an equitable remedy that gives the courts discretion in its application to enforce

a promise only to avoid injustice. The remedies available to someone who has relied on a promise to their detriment are equitable. With the equitable underpinnings of good faith, conscience, honesty and equity in promissory estoppel, the court will enforce a promise only to avoid injustice.

40. The Applicant submitted that in this case, it is undisputed that the Respondent issued two Tax Evaders Information Forms to the Applicant and therefore an admission that the Applicant gave useful information, and it is settled law that facts admitted need not be approved.
41. The Applicant submitted about the contradictions by the Respondent that they paid the Applicant 10% commission for the four companies and according to the Respondent's witness the remaining 8 companies were dropped for different reasons.
42. The Respondent went ahead under paragraph 13 of its witness statement to detail reasons as to why each company was dropped. For almost all the remaining eight companies, the Respondent alleged that the same were already undergoing audits and others were scheduled for audit and that there was no specific information given.
43. The Applicant submitted that the said audits did not in any way confirm that the information was within the domain of the Respondent. In addition, all the above stated contradictions in the Respondent's evidence only establish the unwillingness by the Respondent to pay the Applicant his commission.
44. The Applicant invited the Honourable Tribunal to look into the credibility of the Respondent's witness. There were several contradictions between what he stated in court and what he swore in his witness statement.
45. The Applicant reasoned that Mr. Kabagambe Douglas' appearance as a witness constitutes a conflict of interest. This is on the basis that during the

hearing of the Respondent's case, Mr. Kabagambe Douglas, the Respondent's witness, was asked if he underwent disciplinary proceedings in regard to how he handled this matter, which he admitted to. The Respondent's witness therefore had a personal interest in this matter in so far as he was more interested in clearing his name based on the allegations against him than his duties. The Applicant invited the Honourable Tribunal to treat the Respondent's evidence with close scrutiny and attention.

46. The Applicant in conclusion, submitted that the Respondent received information from the Applicant, that the information was used to recover taxes, and that taxes were recovered as a result of the information given, and the Applicant therefore should be paid all the commission that is due to him.

What remedies are available to the parties

47. It is trite law that costs follow the event and the successful party is entitled to costs as is provided under Section 27 of the Civil Procedure Act 282. The effect of the above provision is that a Judge or Court dealing with the issue of costs in any suit, action, cause or matter has absolute discretion to determine by whom and to what extent such costs are to be paid.
48. In the case of ***Godfrey Katunda Vs. Betty Atuhairu Bwesharjre and Another, Court of Appeal Civil Appeal No. 5 of 2006***, it was held that determining as to who should bear the costs is a discretionary matter which, like any discretion, must be exercised judicially, and the court ought not to exercise it against a successful party, except for good reason connected with the case
49. The Applicant submitted that the Respondent has been so disrespectful to all orders of the Tribunal and should be fined in the form of exemplary damages to avoid reoccurrences of such disregard of the Tribunal.
50. The Applicant also submitted that he had proved that it provided information to the Respondent that was used to recover taxes and therefore the

Tribunal should order the Respondent to pay it commission of at least UGX.580,000,000/= from the taxes which it has recovered. The justification was that the Respondent must have collected much more, having blatantly refused to produce PRNs showing the taxes collected from the 12 companies despite being ordered upon application by the Applicant and further orders by the Tribunal.

51. The Applicant prayed that the Tribunal grants this application and makes orders that:
- (i) The Application is allowed.
 - (ii) The Applicant is paid commission of Shs. 580,000,000 from the taxes recovered.
 - (iii) Costs of this application be awarded to the Applicant.

VI. Submissions of the Respondent

52. The Respondent submitted that the burden of proof lies squarely on the Applicant in accordance with Section 101 (1) of the Evidence Act. Furthermore, the standard of proof is on the balance of probabilities. The Respondent cited ***Miller v Minister of Pensions [1947]2 ALL ER 372***, which held:

"...the plaintiff's evidence must carry a reasonable degree of probability but not too high as is required in a criminal case. If the evidence is such that the Tribunal can say we think it more probable than not, the burden is discharged, but if the probabilities are equal, it is not...."

53. The Respondent submitted that it is incumbent upon the Applicant to prove that:
- (i) he provided specific and actionable information to the Respondent regarding tax evasion by the remaining 8 companies.
 - (ii) the specific information was received following due process; and
 - (iii) the information led to a direct recovery of tax from those eight (8) companies.

54. The Respondent submitted that the Applicant had failed to discharge the burden.
55. The Respondent also submitted on the legal framework governing informer rewards as follows:
- (i) Section 8 of the Finance Act 2014 (applicable law) provides that "*the Commissioner General shall pay to a person who provides information leading to the recovery of a tax or duty, equivalent of 10 % of the principal tax or duty recovered*". The elements are, a person must have provided information, information must have led to recovery of tax, and the payment is 10% of the principal tax recovered.
 - (ii) Further, in the case of ***Whistle Blower (Ref. TID 1708319150) v Uganda Revenue Authority, TAT Application No. 158 of 2020*** it was held that '*the right of an informer arises at the point of tax incidence; that is when the tax liability of a taxpayer arises or when the respondent becomes aware that tax is due from the taxpayer*'.
 - (iii) Under section 94 (1) of the Tax Procedure Code Act, the Commissioner General shall pay five percent 5% of the tax recovered or duty recovered, or one hundred million shillings, whichever is less, to a person who provides information leading to recovery of unassessed tax or duty. This provision requires that information must lead to recovery of tax.
 - (iv) The Respondent's informer Management and Rewards Policy; establishes specific criteria that information must meet before a TIF is issued and before any reward becomes payable.
Section 6.4 of the policy, processing information, provides that information submitted by an informer shall be evaluated against the following criteria:
 - a) Information should be relevant and reliable to be used during tax audits or investigations or operation.
 - b) The information should NOT be available in URA's domain;
 - c) The information should NOT be available in the public domain; and where it is in the public domain, it should be detailed and

specific on violations or leads not known to URA about the Taxpayer.

- d) The information should NOT be Generic. It should indicate specific non-compliance issues for a particular person; and
- e) Any other reason which the Commissioner General may deem fit.

56. Where information submitted meets the above criteria, a TIF is generated capturing detailed information and Section 7 of the policy provides that "the informer's reward shall relate to recovery of tax that directly relates to information provided under TIF excluding penalties and interest provided by law."
57. The reward only relates to tax directly recoverable from information provided under the TIF. Where there is no casual nexus between the specific information provided and the tax recovered, no reward is payable.
58. The Respondent submitted that the Applicant failed to provide specific and actionable tax evasion information regarding the eight (8) Companies. The Respondent contended that the Applicant reported concealment of illegal wildlife products, not tax evasion. This was a wildlife crime report, not a tax evasion report. The joint operation on 18 October was specifically to detect these illegal wildlife products, and none were found. The Respondent's witness RW1 Mr. Kabagambe Douglas, and the Tribunal's witness confirmed that the report involved wildlife concealment.
59. The Respondent also submitted that the Applicant admitted that he has no training in tax. Therefore, a person untrained in tax matters cannot reasonably be said to have provided specific actionable intelligence on the nature of tax evasion or the mechanisms employed.
60. The Respondent further submitted that there was no evidence that tax was collected from the eight (8) companies because of the Applicant's information. The Applicant alleged that Shs. 5.8 billion was recovered from

the eight (8) companies, yet during cross-examination he admitted having no evidence of the amount allegedly collected by the Respondent. The Tribunal's witnesses Mr. Tawu Bumali and Mr. Ogutu Moses both were not sure about the speculation of the alleged collection of UGX 4 billion and Shs. 7 billion respectively. No single witness produced evidence that Shs. 5.8 billion was collected from the eight (8) companies.

61. The Respondent added that the Applicant only provided the location of the companies and admitted this during cross-examination. This was generic and non-specific information contrary to the Informer Management and Rewards Policy. Providing a list of companies without specifying how much and when tax was being evaded did not satisfy this requirement.
62. The Respondent also stated that the remaining eight (8) companies were dropped for valid reasons, namely:
 - (i) Lusango Real Uganda Ltd: the Large Taxpayer's Office had already scheduled an audit for this company, and all export records were duly declared in the URA domain.
 - (ii) Kitebi Enterprises Ltd: the company had undergone a comprehensive audit that had already been completed before the search (as per REX 1 of the Joint Trial Bundle). The audit commenced on 9 September 2017 and was completed on 9 March 2018. The Applicant's report was dated 18 October 2017 after the audit had commenced. The purpose of the audit was to verify a VAT cash refund, and no specific tax evasion information was provided by the applicant.
 - (iii) Rong Zhang Ltd: the company had an audit report for the relevant period. The audit commenced on 9 May 2017, two months after the Applicant's report in March 2017 (R.EX2 of the Joint Trial Bundle). The information was already within the Respondent's domain to establish underdeclared sales.
 - (iv) RUNFA Uganda Ltd: This company was already scheduled for a routine compliance audit.

- (v) Weish AST (U) Ltd: The company was already scheduled for routine compliance audit by the Domestic Taxes Department, which commenced on 16 March 2021 (REX 3 of the Joint Trial Bundle) years after the Applicant's information was received and the information was already in the Respondent's domain to establish underdeclared sales.
 - (vi) East African Fish Bladder Processing (U) Ltd@ A routine audit was conducted on 9th April 2021 (REX 4 of the Joint Trial Bundle). The audit scope and period was unrelated to the Applicant's report.
 - (vii) Yong Qiang Sea Food Trade Ltd. The Certificate of Registration (R. EX7) confirms that the company's TIN was registered as a non-Individual entity effective 2 April 2023. Therefore, it was already fully captured within URA's system well before the Applicant's report.
 - (viii) D and B Sea Bladders (U) Ltd: No specific intelligence on tax evasion was provided.
63. The Respondent submitted further that the foregoing demonstrated that for each of the eight companies, the Respondent had an independent basis for any compliance activities undertaken and those were not triggered or caused by the Applicant's information. The conditions precedent to an informer reward, that is, receipt of specific actionable intelligence outside the Respondent's domain leading to tax recovery, were not met.
64. The Respondent submitted that Courts and Tribunals have repeatedly emphasised that not every piece of information qualifies an informer for a reward. There must be a direct causal nexus between the specific information provided and the tax recovered.
65. The Respondent cited ***Edward Turyarugayo v Uganda Revenue Authority Civil Appeal No. 98 of 2013*** where the Court held:

"Having subjected the evidence on record to a fresh scrutiny, it appears to me that only conclusive evidence of proof that binds URA with the informants is the TIF, being the official document issued by URA in acknowledgement of the information supplied. Any information given without first filing the TIF

is deemed whistleblower's information with which URA is under no duty to pay 10% for the tax recovered. The TIF prescribes the kind of specific information which must be supplied including, name of the alleged tax evader, type of tax evaded, period of evasion, place of evasion and estimated amount of evasion".

66. The Court further held that:

*"It is important to note that it is not only a matter of just giving information, but the same information also has to be of such significance that it must have led to recovery of the said tax, See **URA v Rwakashaija and 2 Others: Civil Appeal No. 07 of 2007 (SCU)**. I am unable to conclude from the mere assertion of the appellant, without more, that the audit of the tax evaders was prompted by information supplied by the appellant".*

67. The Respondent further cited the High Court case of **KB Serial No. 0561 v Uganda Revenue Authority HCCS No. 274 of 2008** where the Court held:

"It is not enough to merely show that an informer gave information and produced receipts to show that the information given led to recovery of taxes. There should be direct evidence to show that the information given led to recovery of taxes".

68. The Respondent also cited **David Olaka v Uganda Revenue Authority, HCCS No. 92 of 2014** where the Court held:

"URA, as a revenue collector, receives payment from taxpayers on a regular basis and so in a claim by an informer, if the evidence is not properly evaluated, there is a danger of awarding a 10% award on a normal tax recovery or taxes recovered based on information given by another informer or even tax recovered on the basis of routine audit by the defendant. [...] Mere receipt of information is not enough, it must be received following due process, and it must be new and substantial in the collection of revenue in question".

69. The Respondent submitted that for the eight (8) companies, any compliance activities undertaken were based on the Respondent's own

domain knowledge, independent audits and routine compliance measures, not on specific information provided by the Applicant. No tax has been shown to have been recovered from the eight companies as a direct result of the Applicant's information. The Applicant cannot simply point to taxes collected from these companies during routine audits and claim them as arising from his whistle-blowing stint.

70. The Respondent also submitted that the credibility of the Applicant's witness must be treated with circumspection. The Tribunal's witness Mr. Tawu Bumali stated in evidence that by 2019 URA had collected 4 billion shillings, and in cross-examination he admitted having no information and that the 4 billion was speculative. Therefore, his witness testimony was unreliable and not credible.
71. In addition, the Tribunal's witness Mr. Ogutu Moses confirmed that he was terminated from employment with the Respondent in 2021. Therefore, his testimony could not have been objective. Further, he testified that the information provided by the Applicant was in respect of concealment of wildlife products, not tax evasion.
72. The Respondent also submitted that the issuance of TIF Forms does not automatically entitle the Applicant to a reward in respect of all twelve companies. The Respondent's witness R.W1, Mr. Kabagambe Douglas explained the significance during his testimony. He stated that the first TIF (AEX 1 of the Joint Trial Bundle) was issued when the Applicant first reported concealment of wildlife items before any tax implications were established.
73. The second TIF (AEX4 of the Joint Trial Bundle) was issued after the investigations established that there were no wildlife products but that the companies were registered taxpayers exporting fish maws, whereupon the Respondent inquired with its Domestic Taxes Department whether they were paying taxes. Therefore, while the TIF is confirmation that a person

reported a case of alleged tax evasion, it is not an entitlement to reward across all entities named.

74. The Respondent submitted that the Applicant, by invoking the doctrine of promissory estoppel in support of his claim, cannot found an entitlement where none exists in law. This reliance is misplaced.
75. The Respondent prayed that the application be dismissed in its entirety because the Applicant's claim to a commission of Shs. 580 million is not only unsupported by evidence but is mathematically speculative, which no witness was able to confirm. They also prayed for the costs of the application.

VII. The Applicant's Submission in Rejoinder

76. In rejoinder, the Applicant reiterated his main submissions and added that:
- (i) There is no legal requirement for a whistleblower to have any training in tax for him or her to qualify as an informer and cited Section 94 of the Tax Procedure Code Act.
 - (ii) Contrary to the Respondent's allegations, he not only provided the location of the companies but also provided the names of the companies, Directors and other paperwork as evidence of tax evasion.
 - (iii) The inconsistencies in the amounts recovered did not point to deliberate untruthfulness as the witnesses were not the Applicant's witnesses as they were summoned by the Honourable Tribunal.

VIII. The Determination

77. We have considered the pleadings, the evidence on record, the authorities and submissions of both parties. This matter is determined as follows.

Whether the Applicant is entitled to an informer reward in respect of the remaining eight (8) Companies?

78. The burden of proof lies squarely on the Applicant as required by Section 101 (1) of the Evidence Act, which provides that whoever desires to get

judgment as to any legal rights or liability depending on the evidence of facts which he or she asserts must prove that those facts exist.

79. The standard is proof is on the balance of probabilities, and this requires that the evidence is such that the Tribunal can think it more probable than not that the Applicant's case is believable.

Inconsistencies in the Respondent's account

80. The Applicant submitted the Tax Evaders Information Forms (TIF) as the main proof that they provided the requisite information for the informer reward. They prayed for discovery of additional information that was in custody of the Respondent which would provide more support for their case. Pursuant to the order by the Tribunal, the Respondent only provided the Audit Reports and Certificate of Registration while it maintained that it did not possess the management report arising out of the raid and search warrants.
81. Further, the Respondent asserted its inability to produce the officers concerned as witnesses because they had since left employment.
82. The nature of the information provided was another area of contestation by the two parties. On one hand, the Respondent claimed that the Informer provided information in March 2017 that 12 Fish Maw companies were concealing illegal wildlife and narcotics, upon which a joint raid and search with Interpol and CID was undertaken on 18 October 2017, while the Applicant asserts that he provided information on tax evasion on domestic taxes and customs.
83. However, the Respondent went ahead to undertake further investigations and zeroed on 4 companies where it was established there were tax liabilities against which a TIF was generated and an award of 62 million was paid to the Applicant less withholding tax. The Respondent in its submission confirmed that the TIF (AEX1) was issued in respect of the reported case on concealment before any tax implication were established. It further

asserts that the second TIF was issued after establishing that there was no concealment and the companies were registered taxpayers.

84. The Tribunal finds this argument lacking to support the issuance of the TIFs, yet the information provided was not related to the tax recovery. Further, the Respondent admitted that the initial payment was made without specific information, claiming it was mere generosity which cannot be extended to the eight companies. Given that the Respondent treats the payment as having been made in error, the Tribunal wonders why the Respondent is not keen to make a counterclaim of moneys purportedly paid in error. However, the Tribunal did not delve further in this matter as it was not an issue for determination.

Inconsistencies in the Applicant's account

85. The Respondent contends that the informer only provided the location of the fish exporting companies, rendering the information generic and non-specific, devoid of the how, when, or how much tax was being evaded. According to the pleadings, the informer reported all 12 companies, and despite the claim that the information was generic, the Respondent went ahead to generate two TIFs and pay award for the tax recovery on 4 companies premised on the same claimed generic information.
86. The two TIFs AEX1 (1023) and AEX4 (0712) are dated June 2018, with the former indicating tax evaded as domestic taxes (Income tax, VAT and customs taxes) while the latter indicates income tax for the 2014 –2017. There no documentary evidence that was submitted in respect of the two TIFs. TIF No 0712 shows the estimate evaded tax of 700,000,000 and no documentary information was provided by the Applicant to the Respondent.
87. The same TIF does not indicate the specific companies as required. TIF 1023 relates to the 8 companies and neither reflects the gross estimated tax evaded nor the estimated tax attributable to each company as provided

in the policy. It is indicated on the form that the information was verbal. This gap regarding the information provided by the Applicant hindered the Tribunal from ascertaining any linkage between the purported information provided for the 8 companies and the tax evaded.

88. In cross-examination, the Applicant affirmed that he provided information on location and names of the companies which is generic and non-specific. No evidence was submitted to support the claim that the Applicant provided information relating to the tax information such as financial records, tax computations and export data. The Tribunal considered and upheld the contention by the Respondent that the Applicant failed to provide specific and actionable Tax Evaders information regarding the 8 companies.

The proof required of the Applicant

89. It is incumbent upon the Applicant to prove:
- (i) That he provided information to the Respondent regarding tax evasion by the remaining 8 companies,
 - (ii) That the information was received, and
 - (iii) The information led to a recovery of tax by the Respondent.

90. This is as per Section 8 of the Finance Act, 2014, which provides:

“The Commissioner General shall pay to a person who provides information leading to the recovery of a tax or duty, equivalent to 10% of the principal tax or duty recovered”.

91. Therefore, an informant must have:

- (i) provided information,
- (ii) The information must have led to recovery of tax, and
- (iii) the payment is 10% of the principal tax recovered.

92. In the case of ***Whistle Blower (Ref. TID 1708319150) v Uganda Revenue Authority, TAT Application No. 158 of 2020***, it was held:

"The right of an informer arises at the point of tax incidence. That is when the tax liability of a taxpayer arises or when the respondent becomes aware that tax is due from the taxpayer".

93. This is further supported by section 94 (1) of the Tax Procedure Code Act, which inextricably links the award to the information that directly leads to recovery of taxes. This provision requires that the information must lead to recovery of tax. The question in the present case is whether the information provided by the Applicant about the tax evasion of the 8 remaining Companies led to the recovery of taxes.

The Respondent's Informer Management and Rewards Policy

94. The Respondent's Informer Management and Rewards Policy establishes specific criteria that information must meet before a TIF is issued and before any reward becomes payable. Specifically, Section 6.4 of the policy, processing information, provides that information submitted by an informer shall be evaluated against the following criteria:
- (i) Information should be relevant and reliable to be used during tax audits or investigations or operations.
 - (ii) The information should NOT be available in URA's domain;
 - (iii) The information should NOT be available in the public domain; and where it is in the public domain, it should be detailed and specific on violations or leads not known to URA about the Taxpayer.
 - (iv) The information should NOT be generic. It should indicate specific non-compliance issues for a particular person; and
 - (v) Any other reason which the Commissioner General may deem fit.
95. Where information submitted meets the above criteria, a TIF is generated capturing detailed information. Section 7 of the policy provides that:

"the informer's reward shall relate to recovery of tax that directly relates to information provided under TIF excluding penalties and interest provided by law".

96. However, it is worth highlighting that the Respondent's policy is an internal document that is not available to the public. During the hearing of this application, the Tribunal interrogated the Respondent's witnesses about the availability of the policy in the public domain. While the witnesses alleged that the policy is available on the Respondent's website, they failed to demonstrate this to the Tribunal when asked to. Therefore, the Tribunal places limited weight on the policy in the determination of this application and has considered the totality of the other evidence that was placed before it.

The Tax Evaders Information Form ("TIF")

97. For example, the Tribunal has considered the Applicant's reliance on the TIF. In ***Edward Turyarugayo v Uganda Revenue Authority Civil Appeal No. 98 of 2013***, it was held that a TIF issued by URA is the official document issued by it in acknowledgement of the information supplied. The court further held that the only conclusive evidence of proof that binds URA with the informants is the TIF, being the official document issued by URA in acknowledgement of the information supplied. The TIF prescribes the kind of specific information which must be supplied, including the name of the alleged tax evader, type of tax evaded, period of evasion, place of evasion and estimated amount of evasion.
98. Further, in ***Uganda Revenue Authority v Rwakashaija and 2 Others (supra)***, the Court held that the audit of and recovery from the tax evaders should be prompted by information supplied by the informant. Therefore, it is not enough to merely show that an informer gave information and produced receipts to show that the information given led to recovery of taxes; there should be direct evidence to show that the information given led to recovery of taxes (***KB Serial No. 0561 v Uganda Revenue Authority HCCS No. 274 of 2008***).
99. Based on the above authorities, it is the Tribunal's finding that, much as the Applicant gave information about the eight companies, there was no direct

evidence given by the Applicant to show that the actual tax recovered by the Respondent was directly linked to the information they provided.

100. The Applicant's claim for payment of the reward relied on the TIFs issued by the Respondent. According to the Informer Management and Reward Policy, the TIF is issued where the information meets the criteria specifically:

- (i) its relevance,
- (ii) not available in the URA domain,
- (iii) Not available in the public domain,
- (iv) Not generic rather, indicates specific non-compliance issues, and
- (v) Any other reason by the Commissioner General.

101. The process flow of rewards, however, does not make issuance of TIF an automatic confirmation of payment. A rejection of a claim can be made at approval levels after the TIF generation based on reasons that may include the authenticity and adequacy of information provided. The Tribunal finds the Applicants' reliance on the issued TIFs not sufficient proof of entitlement to the payment. This is further compounded by the lack of information specificity indicated on the TIFs.

The Respondent's audit reports

102. The Tribunal further considered the tax audit reports submitted by the Respondent and noted that some commencement periods of the audits were before the Applicant reported the tax evasion, others during the period of reporting the matter, while other audits commenced and covered periods after the Applicant reported the evasion. This confirms the assertion by the Respondent that it had already scheduled the audits as part of routine tax audits.

Inconsistencies in the tax recovered

103. The Tribunal also found inconsistencies in the figures of tax recovery provided by the Applicant and the Tribunal's witnesses. The exact tax

recovered is a critical element in the determination of the claim. However, the question of how much tax was recovered is unclear, as the witnesses' figures were at variance, with Ogutu Moses claiming it to be Shs. 7 billion while Tawu Bumali stated a figure of Shs. 4 billion. On the contrary, the Applicant claimed that over Shs. 5.8 billion was collected.

104. The Applicant never adduced any evidence to support the figure of Shs. 5.8 billion. In his affidavit, the Applicant alluded to contrasting figures of over Shs. 5.5 billion and Shs. 2.9 billion as tax assessments and tax recovered for some of the eight companies. The Applicant never provided any basis for these figures to support the assertion. This is a major inconsistency among the Applicant's witness and the Tribunal's witnesses, as they did not state a harmonious amount of money recovered as taxes from the 8 companies. With the glaring gaps, their figures remained unverified and speculative.
105. Another related area of attention the Tribunal established concerns the second TIF dated June 2018, which the Applicant claimed was issued on 22 March 2023 but backdated. This was four years after the initial claim was paid on 14 December 2018. On the second TIF 1023, no estimated tax amount was captured, and yet this was after the investigations and audits had been undertaken in 2017 and early 2018. Why could the Applicant not insist on the figures involved to ascertain the reward due to him rather than rely on speculating the amount recovered in the pleadings? The Tribunal finds this omission unjustifiable to support the amount claimed.

An informed need not have prior tax training or knowledge

106. The Tribunal disagrees with the Respondent's argument that the applicant had no tax training imputing he lacked competence to provide information on tax evasion. The provisions relating to Informer rewards under the Finance Act, the Tax Procedure Code Act and the Reward Policy of the Respondent neither prescribe the requisite qualification nor the experience of an informant.

The Applicant has not discharged the burden of proof

107. Looking at the totality of the evidence, the Applicant has failed to prove that the Respondent actually recovered taxes basing on the information provided. Shifting the evidential burden to the Respondent would have been admissible if the Applicant had fully discharged the legal burden of adducing sufficient proof of the claim. In the circumstances, the Applicant did not produce any evidence to show this honourable Tribunal that indeed the Respondent recovered the taxes from the said 8 companies.

IX. Obiter / Recommendations

108. While in the present case, the Applicant has not discharged the burden of proof, the real problem that the case has highlighted is information asymmetry between the Respondent and the members of the public who would like to participate in the tax informant program. The program is part of the government's broader tax mobilisation strategy. It relies heavily on public participation, whereby members of the public are called upon to disclose incidents of tax evasion or other non-tax compliance in exchange for a reward.

109. To encourage participation, it is important that the public is provided with clear, unambiguous guidelines which clearly lay down the URA's expectations of informants, especially regarding the quality and quantity of information needed. This could, for example, be by way of a practice note. In addition, the Respondent's informer policy should be widely circulated. There is currently sufficient jurisprudence on cases concerning tax informants that can form part of the guidance.

110. To enhance transparency and accountability, we would also recommend that the Respondent publishes data concerning the success of the program, including amounts recovered from taxpayers as well as commissions paid to informants.

X. Remedies

111. It is trite law that costs follow the event and the successful party is entitled to costs as is provided under Section 27 of the Civil Procedure Act 282. In

the case of **Godfrey Katunda Vs. Betty Atuhairu Bweshajire and Another, Court of Appeal Civil Appeal No. 5 of 2006**, it was held that determining as to who should bear the costs is a discretionary matter which, like any discretion, must be exercised judiciously, and the court ought not to exercise it against a successful party, except for good reason connected with the case.

112. Considering the findings that the Applicant did not prove his case on a balance of probabilities, the Applicant is not entitled to any remedies sought in this Application.

113. Although the ruling is in favour of the Respondent based on a balance of probabilities and merits, no costs are awarded to the Respondent.

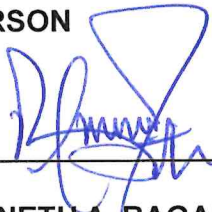
XI. Orders

- a) The Application is hereby dismissed
- b) Each Party to bear its own costs

Dated at Kampala this 11th day of **September** 2026.



HON CRYSTAL KABAJWARA
CHAIRPERSON



HON. KENNETH A. BAGAMUHINDA
MEMBER



HON. REBECCA NASSIMBWA NSUMBA
MEMBER

