TAX APPEALS TRIBUNAL

Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO. 258 OF 2025

(Arising from TAT. Application No. 112 of 2024)

KAPS IMPEX UGANDA LIMITED...APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY..RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. GRACE SAFI, HON. WILLY NANGOSYAH

RULING

I. Introduction

1. This is an application for a declaration that the Respondent is in contempt of the tribunal for refusing, neglecting, and failing to honour the consent settlement dated 11 June 2024 in TAT Application No.112 of 2024. The application is brought under section 37(d) of the Tax Appeals Tribunal (TAT) Act, Section 98 of the Civil Procedure Act, Order 52, rules 1 and 2 of the Civil Procedure Rules, and Rule 30 of the TAT(Procedure) Rules 2012.

II. Background facts

2. The Applicant is an importer and trader of rice processed and sourced from within the East African Community. The application is supported by an affidavit deponed by Mr. Allan Leeds, the Managing Director of the Applicant, and sworn on 24 November 2025. The grounds of the application are as follows:

(i) On 11 June 2024, the Applicant and the Respondent entered into a consent settlement in the matter of ***Kaps Impex(U)Limited versus Uganda Revenue Authority, TAT Application No.112 of 2024***, under which the Applicant agreed to withdraw the application on the terms and conditions set out therein. The settlement further provided that the Applicant would make payment of 30% of the withholding tax (WHT) assessed on the entries captured, upon which the Respondent would immediately release the Applicant's goods.

(ii) On 10 November 2025, the Applicant's counsel wrote to the Respondent to enforce the said consent settlement order in its entirety in vain.

(iii) On 11 November 2025, the Applicant extracted an order from the consent settlement and served it upon the Respondent for enforcement.

(iv) However, to date, the Respondent, without any lawful reason, has since failed, neglected and breached to honour the said order, which arose from consent settlement, thus in contempt of this Honourable Tribunal's order.

3. The Respondent filed their affidavit in reply, deponed by Mr. Desire Mulindwa Muwonge on 3 December 2025, opposing the application on the following grounds:

(i) The Applicant and Respondent were parties to TAT Application No.112 of 2024, wherein the Applicant challenged the imposition of Withholding tax (WHT) on its rice imports from the United Republic of Tanzania.

(ii) The parties, by consent, entered into a settlement in TAT Application No. 112 of 2024, wherein the Applicant agreed to pay 30% of the WHT assessed on each disputed entry.

(iii) Following the execution of the consent, it was incumbent upon the Applicant to present the respective consignments to the Respondent for clearance at the Mutukula One Stop Border Post, which the Applicant failed to discharge.

(iv) There is no evidence that the Applicant has ever presented any of the said consignments to the Respondent for clearance.

(v) The Applicant has failed to adhere to the terms of the consent agreement and is in breach thereof, as it now seeks to clear consignments that were never presented before the Respondent's customs offices.

(vi) The Applicant has not provided any proof of payment of the requisite thirty per cent (30%) tax on the entries covered under the consent settlement agreement.

4. The Applicant filed an affidavit in rejoinder deponed by Mr. Allan Leeds on 9 December 2025, in which it reiterated the statements in the affidavit in support of this application, stating that:

(i) The Respondent suspended the Applicant's TIN, thereby bringing the whole clearance process to a halt.

(ii) Consequently, the Applicant could not make the necessary payments since its TIN was already suspended and the Respondent had issued public notices stopping clearance of rice consignments which had not paid full withholding tax, contrary to the consent settlement, which required payment of 30% of withholding tax.

III. Issues for determination

6. The following issues were set down for determination:

(i) Whether the Respondent is in contempt of this Honourable Tribunal's order, which arose from the consent settlement, in TAT Application No.112 of 2024?

(ii) What are the remedies available to the Applicant?

IV. Representation

7. At the hearing of this application, Mr Aggrey Mpora Mushagara and Mr Brian Byamugisha represented the Applicant, while Ms Nalweyiso Shantal Agaba and Nuwaha Barnabas represented the Respondent.

V. Submissions of the Applicant

8. The Applicant submitted that the parties entered into a consent settlement on 11 June 2024 in full settlement in the matter of ***Kaps Impex Uganda Limited V URA TAT Application 112 of 2024.*** The terms of the consent were as follows:
   (i) The Applicant withdraws the Application and any other claims arising from TAT Application No.112 of 2024 against the Respondent.
   (ii) The Applicant pay 30% of all withholding tax (WHT) assessed on the entries captured and forming the dispute under TAT Application No.112 of 2024.
   (iii) Each party shall bear its own costs for this Application and the entire claim arising from Tax Appeals Tribunal Application No.112 of 2024.
   (iv) The Consent settlement Order shall not form a binding precedent, shall not be relied upon by third parties, and is in full and final settlement of TAT. Application No.112 of 2024.

9. The Applicant submitted that pursuant to the settlement, the Applicant withdrew the application and undertook to pay 30% of the assessed withholding tax on the entries specified in the consent. The Applicant extracted the consent order and served it on the Respondent on 11 November 2025, and also wrote to the Commissioner, Legal and Board Affairs, and the Commissioner, Customs, requesting implementation of the settlement.

10. The Applicant contended that despite full knowledge of the consent order, the Respondent failed and refused to implement it. Instead, the Respondent suspended the Applicant's Tax Identification Number (TIN) and issued notices stopping the clearance of the Applicant's rice consignments until the full withholding tax was paid. As a result, the Applicant's goods remained stranded, and the business allegedly suffered substantial financial loss.

11. The Applicant argued that the Respondent's actions were inconsistent with the consent settlement, which only required payment of 30% of the assessed withholding tax. It was further submitted that by suspending the Applicant's TIN and halting the customs clearance process, the Respondent effectively prevented the Applicant from performing its obligations under the consent settlement and cannot rely on the consequences of its own actions to allege non-compliance by the Applicant.

Whether the Respondent is guilty of contempt of the Tribunal's orders

12. Citing ***Uganda Super League v Attorney General, Constitutional Application No. 73 of 2013 and Hon. Sitenda Sebalu v Secretary General of the East African Community, Reference No. 8 of 2012,*** the Applicant submitted that contempt is established where there is a valid court order, knowledge of that order, and deliberate non-compliance, and relied on other authorities in support of the same principle.

13. The Applicant contended that all these elements were satisfied in the present case, namely:
   (i) Existence of lawful order; There was a valid consent order issued by this Tribunal as exhibited in Annexure C;
   (ii) Knowledge of the order: The Respondent was fully aware of the order, having participated in the settlement and been served with the extracted order (Annexure B, D1);
   (iii) Failure to comply, that is, disobedience of the order: The Respondent deliberately disobeyed the order by refusing to implement it, suspending the Applicant's TIN, and blocking the clearance of the consignments (Annexure D3).

14. The Applicant emphasized that court orders are binding and must be obeyed unless and until they are set aside, stayed, or varied by a competent court. It was argued that the Respondent's unilateral issuance of administrative notices contrary to the consent order undermined the

authority and dignity of this Honourable Tribunal and should not be condoned.

Remedies sought

15. On the remedies sought, the Applicant prayed that the Respondent be compelled to comply with the consent settlement, immediately reactivate the Applicant's TIN, and release all affected consignments. Reliance was placed on ***AG Investments Finance Ltd, Aglert Ent Co. Ltd, Agamo Commodities and Bigaaga Importers & Exporters (U) Ltd v Uganda Revenue Authority, Miscellaneous Applications Nos. 149, 151, 153 and 155 of 2025***, where this Tribunal held:

"Suspending or blocking anyone's TIN means curtailing their business and or any other activity. That a TIN is a person's identification and the Respondent should employ other means and or recourse in penalising the applicant in such related tax matters."

16. The Applicant further sought a fine of Shs. 50,000,000 and general damages of Shs. 100,000,000 for the financial loss and distress allegedly suffered as a result of the Respondent's conduct. The Applicant cited ***Okello James v Attorney General, HCCS No. 574 of 2003,*** in which the court held that damages are compensatory and intended to restore the injured party, as far as money can, to the position he or she would have been in but for the wrong.

Costs

17. Lastly, the Applicant prayed for costs of the application pursuant to section 27 of the Judiciary of Uganda and the decision ***in UTC v Outa (1995) HCB 25***, contending that costs ordinarily follow the event. The Applicant accordingly prayed that this Honourable Tribunal grant the application with costs and all the reliefs sought therein.

VI. Submissions of the Respondent

18. The Respondent submitted that by letter dated 10 November 2025, the Applicant alleged that the Respondent had failed to implement the consent settlement.

19. The Respondent replied on 26 November 2025, explaining that, following execution of the consent, the Applicant was required to remove the goods from customs control within fourteen days and that the Respondent had already cleared the consignments in accordance with the consent terms. Despite this, the Applicant filed the present Application on 24 November 2025 seeking orders for contempt of court and release of the consignments.

Whether the Respondent is in Contempt of the Tribunal

20. The Respondent submitted that the Applicant failed to establish the legal requirements for civil contempt. Relying on ***Onen David, Obote Christopher & Others v Otto Ocan, Okwera Albert & Sabino Lukere Misc. Civil Application No. 0131 of 2019***, the Respondent argued that contempt arises where a party, with knowledge of a court order and the ability to comply with it, wilfully and without lawful excuse disobeys that order.

21. The Respondent submitted that in ***Onen David, Obote Christopher & Others v Otto Ocan & others(supra),*** the court noted:

"Civil contempt is a strict liability violation; all that must be proved is that the order was served on the respondent, and that a prohibited action (or a failure to carry out an order) occurred. Once the applicant has proved noncompliance with the court's order by showing the existence of the order and the respondent's noncompliance, the burden then shifts, and the potential contemnor must prove inability to comply or justifiable cause".

22. The Respondent further relied on the case of ***Okwonga George and Ocaka Julius v.Okello James Harrison, Miscellaneous Application No. 132 of 2021***, where the Court stated:

"In summary, therefore, for one to be held in civil contempt, the following requisites must be proved:

(i) *That an order was issued by the court;*

(ii) *That the order was served or brought to the notice of the alleged contemnor (respondent);*

(iii) *That there was non-compliance with the order by the respondent;*

(iv) *That the non-compliance was willful and mala fide."*

Burden of proof

23. The Respondent further submitted that, under section 19 of the Tax Appeals Tribunal Act, the burden rests on the Applicant to prove that the conduct complained of was improper. Citing ***Okello & Others v Hospital Management Board, Lira Regional Referral Hospital and 5 Others Civil Miscellaneous Application No. 0071 of 2018,*** the Respondent argued that contempt proceedings are quasi-criminal in nature and therefore require proof beyond a reasonable doubt.

24. According to the Respondent, although the existence of the consent order was not disputed, the Applicant had not fulfilled the conditions precedent to enforcement of the consent, namely payment of 30% of the assessed withholding tax and presentation of the consignments for customs clearance. The Respondent contended that the Applicant merely alleged non-compliance without demonstrating that she had performed her own obligations under the consent.

25. The Respondent therefore maintained that there was no evidence of any wilful refusal to comply with the consent order and that the application was based on speculation rather than credible evidence.

26. In support, reliance was placed on ***Advocates Coalition for Development and Environment & 4 Others v Attorney General & Another Constitutional Petition No. 14 of 2011***, where the Supreme Court held that: courts act on credible evidence and not conjecture.

"*Courts of law act on credible evidence adduced before them and do not indulge in conjecture, speculation, attractive reasoning or fanciful theories.*"

27. The Respondent submitted that the Applicant had failed to demonstrate the Respondent's refusal to comply with the court order granted by the tribunal and only sought to present and argue its case based on speculation and conjecture. The Applicant, in support of its argument, relied on the case of ***Mulindwa George William v Kisubika Civil Appeal No. 12/2014***, where the Supreme Court held that;

"Justice must be administered according to the law, not on the basis of sympathy."

Remedies and Costs Available to the Respondent

28. The Respondent submitted that, since contempt had not been established, the Applicant was not entitled to any of the reliefs sought. The Respondent accordingly prayed that the application be dismissed with costs.

29. The Applicant filed submissions in rejoinder in which they reiterated the position set out in the main submissions.

VII. The Determination

30. Having examined and considered the pleadings, affidavits on record, and the submissions of both parties, this is the decision of the Tribunal.

31. Section 37 of the Tax Appeals Tribunal provides for Contempt of the Tribunal as follows:

"Any person who—

(a) insults a member in, or in relation to, the exercise of his or her powers or functions as a member;

(b) interrupts the proceedings of a tribunal;

(c) creates a disturbance, or takes part in creating a disturbance in or near a place where a tribunal is sitting; or

(d) ***does any other act or thing that would, if a tribunal were a court of record, constitute a contempt of that court, commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points or to imprisonment not exceeding six months or to both."***

32. ***Black's Law Dictionary, 11th Edition, at page 390*** defines contempt of court as conduct that defies the authority or dignity of a court and obstructs

the administration of justice. The principles governing contempt are well settled. In ***Hon. Sitenda Sebalu v Secretary General of the East African Community (Ref. No. 8 of 2012),*** the Court held that contempt is established upon proof of:

(i) The existence of a valid and clear court order;
(ii) Knowledge of the order by the alleged contemnor;
(iii) Ability to comply with the order; and
(iv) Willful and mala fide disobedience of the order.

33. In ***Prof. Frederick Ssempebwa & Others v Attorney General (Civil Application No. 5 of 2019),*** the Supreme Court of Uganda reiterated that contempt requires deliberate and intentional disobedience of a court order and cannot be inferred from mere inability, ambiguity, or dispute as to implementation.

The quasi-criminal nature of contempt proceedings requires strict proof

34. In ***Hon. Sitenda Sebalu v Secretary General of the East African Community (supra),*** the Court observed that contempt must be proved at a level above the balance of probabilities but below proof beyond a reasonable doubt, in view of its quasi-criminal character. Further, in ***Attorney General v Tom Kyahurwenda (Supreme Court, 2022),*** the Court stated that where compliance is contested, courts must be satisfied that disobedience is wilful before making a finding of contempt.

Undisputed Facts

35. The Tribunal finds that it is not in dispute that:

(i) The parties entered into a consent settlement ***(annexure A)*** on 11 June 2024 in ***Kaps Impex Uganda Limited V URA TAT Application 112 of 2024***;
(ii) The consent was adopted as an order of this Tribunal on 11 November 2025;

(iii) The terms required payment of 30% withholding tax by the Applicant and release of the Applicant's consignments upon such payment;

(iv) The Respondent had knowledge of the consent order.

36. Accordingly, the elements of existence of a valid order and knowledge thereof are satisfied. The remaining question is whether the Respondent failed to comply with the consent order and, if so, whether such failure was wilful and in bad faith, thereby constituting contempt.

Whether the Respondent willfully and in bad faith failed to comply with the order of this Honourable Tribunal

37. The Tribunal notes that the Applicant produced documentary evidence showing that it wrote to the Respondent on 10 November 2025, complaining of non-compliance with the consent settlement (Annexure A) and, on 20 November 2025, requesting implementation thereof **(Annexure B).**

38. The Applicant also annexed the Respondent's Public notices and Memorandum, which indicate the following:

(i) A notice dated 5 August 2025, revoking import permits for rice, maize, and sorghum and specifically halting clearance of rice consignments unless full withholding tax was paid **(Annexure D2).**

(ii) A declaration notice dated 3 September 2025 of 6% withholding tax payable on processed rice **(Annexure D1).**

(iii) A computer-generated screenshot dated 2 December 2025 between 11.19 am and 11.59 am showing the error message in red colour, stating:

"A problem occurred while auto-converting the T1.COD Company is suspended." (Annexure C)

39. On the face of these documents, the Respondent's administrative actions appear inconsistent with the consent settlement, which expressly provided for payment of only 30% of the assessed withholding tax as a condition for release of the goods.

40. The Respondent asserted that it had responded to the Applicant by letter dated 26 November 2025 and had already implemented the consent settlement. However, no copy of the alleged letter of compliance was annexed to the affidavit in reply, nor was any documentary evidence produced to demonstrate that the consignments were in fact cleared or released in accordance with the consent order.

41. The Tribunal also observes that it is an undisputed fact that the Respondent suspended the Applicant's TIN and issued notices restricting clearance of rice consignments, circumstances that are prima facie inconsistent with the terms of the consent settlement.

The burden and standard of proof

42. In contempt proceedings, the burden rests with the Applicant to prove wilful non-compliance to a standard higher than a balance of probabilities but below beyond a reasonable doubt, as reaffirmed in ***Sitenda Sebalu (supra)***.

43. Where competing narratives exist, one alleging administrative obstruction and the other alleging non-performance, the Tribunal must avoid speculation and rely strictly on cogent proof.

44. The record shows that the consent settlement was executed on 11 June 2024. However, the Applicant extracted the order 17 months later on 10 November 2025 and served it on the Respondent on 11 November 2025. We find it inconceivable that the Applicant's goods have been at the border for 17 months awaiting the extraction of an order to enforce a consent! What was happening during these 17 months? Why did the Applicant wait to raise a complaint of non-compliance with the order until November 2025? We find the delay of over one year significant and unexplained.

45. It is also worth pointing out that rice, a perishable commodity, deteriorates in quality when stored for a long period. Therefore, from a commercial and

evidential standpoint, it would be unreasonable for an importer to allow consignments of rice to remain uncleared for seventeen (17) months without taking immediate steps to enforce a settlement intended to secure their release.

46. This prolonged inaction casts doubt on whether the Applicant fulfilled, or promptly attempted to fulfil, its own obligations under the consent settlement within a reasonable time, including payment of the agreed 30% of withholding tax and presentation of the consignments for customs clearance.

47. While the Applicant alleges that suspension of its TIN prevented compliance, the Applicant has not adduced evidence that supports the suspension of the TIN, nor have they demonstrated what steps, if any, they took shortly after the settlement to tender payment or seek implementation.

48. Therefore, if the TIN suspension occurred after the consent order and directly impeded payment and clearance, such conduct would prima facie constitute interference with implementation of the Tribunal's order.

49. The Tribunal therefore finds that, although the Applicant has produced evidence suggesting that the Respondent issued notices inconsistent with the consent settlement, the Applicant's unexplained delay of over one year materially weakens its claim and raises legitimate doubt as to whether the obligations under the consent were pursued in a timely manner.

50. The Tribunal finds that these competing facts create evidential uncertainty. Given the quasi-criminal nature of contempt of court proceedings, contempt must be proved with precision, and liability cannot be grounded on inferences where material doubt remains unresolved. Consequently, any such doubt must be resolved in favour of the alleged contemnor, given the quasi-criminal nature of the proceedings.

51. Accordingly, while the Respondent's conduct raises legitimate concern regarding consistency with the consent order, the Tribunal is not satisfied that the Respondent's conduct amounted to wilful disobedience of an order of this Honourable Tribunal.

Conclusion

52. In the circumstances, the application for contempt is dismissed. Each party shall bear its own costs.

Dated at Kampala this 25th day of May 2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. GRACE SAFI
MEMBER

HON. WILLY NANGOSYAH
MEMBER