



THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 359 OF 2024

KAZINGA CHANNEL OFFICE WORLD LTD.....APPLICANT

VERSUS

COMMISSIONER GENERAL,

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. KABAKUMBA MASIKO, HON. ROSEMARY NAJJEMBA,

HON. WILLY NANGOSYAH

RULING

I. Introduction

1. This ruling is in respect of an application challenging the Respondent's continued enforcement of tax assessments that had already been quashed by the High Court and its failure to implement the court's judgment delivered on 28 October, 2020. The Applicant is seeking orders that:

- (i) The Tribunal makes a declaration that the Respondent's action of demanding the tax liability that has been quashed by the court is illegal.
- (ii) The Tribunal orders that the Respondent implement the court judgment dated 28 October 2020 by her Lordship Hon. Elizabeth Jane Alividza.
- (iii) The Tribunal orders that the Respondent issue new assessments as ordered by the court in the judgment of her Lordship Hon. Elizabeth Jane Alividza.

- (iv) The Tribunal orders that the Applicant is awarded general damages for the losses incurred.
- (v) Costs of the application should be provided for.

II. Background facts

2. In February 2014, the Respondent conducted a comprehensive audit of the Applicant's tax affairs covering the period January 2007 to December 2012 and issued an audit report dated 12 February 2014. The Respondent raised tax assessments amounting to Shs. 18,293,141,279 as the Applicant's alleged tax liability.
3. After several reconciliation meetings and explanations furnished by the Applicant, the Respondent reviewed the audit findings and issued fresh assessments on 27 April 2014, reducing the Applicant's tax liability to Shs. 2,784,501,279.
4. The Applicant objected to the revised assessments on 22 May 2014 in respect of Corporation Tax, Value Added Tax (VAT), and Pay As You Earn (PAYE). The Applicant contended that the assessments were unlawful and excessive. The Respondent, however, rejected the Applicant's objections. Consequently, the Applicant instituted Civil Suit No. 606 of 2014 before the Commercial Division of the High Court.
5. The Applicant sought, inter alia, declarations that the audit report and resultant tax assessments were null and void, orders for fresh assessments, injunctive relief, general damages, and costs.
6. On 28 October 2020, the High Court, presided over by Her Lordship Hon. Justice Elizabeth Jane Alividza, entered judgment in favour of the Applicant. The Court held that VAT charged on the sale of land was unlawful as it was an exempt supply. Further, the court ruled that assessments relating to periods prior to 2009 were time-barred, and that interest should not be imposed on the

Respondent's over-assessments. The court further ordered the Respondent to issue new assessments to determine the correct tax payable.

7. The Respondent was fully aware of the said judgment, which was delivered in the presence of its counsel. Notwithstanding this knowledge, the Respondent failed and/or refused to implement the Court's orders. The Respondent continued to maintain, on the Applicant's tax ledger, assessments and interest for the years 2007 to 2010, which had been extinguished by the Court, and failed to issue fresh assessments as directed.
8. Despite repeated written requests, meetings, and a formal notice of intention to sue issued by the Applicant in January 2024, the Respondent persisted in demanding payment of the disputed sums and invoked enforcement measures, including agency notices and a notice for issuance of a customs Lien dated 26 November 2024 demanding Shs. 3,853,332,089. Aggrieved by these actions, the Applicant lodged the present application before this Honourable Tribunal, challenging the Respondent's demand for taxes that had been quashed by the High Court.

III. Issues

9. At the scheduling of this application, the parties agreed on the following issues:
 - (i) Whether the Tribunal has jurisdiction to hear and determine this application.
 - (ii) Whether the Applicant is required to pay 30% of the assessed tax?
 - (iii) What remedies are available?

IV. Representation and evidence

10. Mr. Sydney Ojwee represented the Applicant, while Ms. Eseza Victoria Sendege and Mr. Simon Perter Orishaba represented the Respondent.
11. The Applicant presented the testimony of **Mr. Amin Manji**, its tax consultant. He stated that in 2014, the Respondent conducted a comprehensive tax audit on the Applicant covering the period from January 2007 to December 2012,

which culminated in assessments for VAT and PAYE amounting to Shs. 18,293,141,219, inclusive of penalties.

12. The witness testified that the Applicant objected to these assessments in May 2014, but the objection was disallowed in June 2014, prompting the Applicant to file Civil Suit No. 606 of 2014 in the Commercial Division of the High Court seeking declarations that the assessments were unlawful and orders for fresh assessments.
13. The witness further stated that on 28 October 2020, judgment was delivered in favour of the Applicant, in which the Court held that VAT on the sale of land was unlawful, the audit extension to 2007 was time-barred, and interest should not be imposed due to over-assessment, although PAYE on directors' income was properly assessed. He stated that the Court ordered the Respondent to issue a fresh assessment to determine the correct tax payable.
14. He stated that despite the clear court orders, the Respondent failed or refused to implement the judgment. He explained that the Applicant wrote to the Respondent in January 2024 requesting for the implementation of the judgment, but the request was not acted upon, resulting in continued accrual of interest on the Applicant's ledger and the demand of a substantial liability.
15. The witness added that no assessment for the interest and penalties demanded was ever issued to the Applicant, and that several meetings held to reconcile the ledger were unsuccessful.
16. The witness concluded by stating that the Respondent continued to demand taxes that had been quashed by the court and commenced enforcement measures in disregard of the judgment, thereby distorting the Applicant's tax ledger and causing unnecessary costs and inconvenience.

V. Submissions of the Respondent

17. The Respondent raised a preliminary objection and submitted that it conducted a comprehensive tax audit on the Applicant for the period January 2007 to

December 2013, which culminated in assessments totalling Shs. 2,784,501,279 comprising Income Tax, VAT, and PAYE. The Applicant objected to the assessments on 22 May 2014, but the objection was disallowed. Dissatisfied, the Applicant instituted Civil Suit No. HCT-00-CC-CS-0606 of 2014, wherein the High Court delivered judgment declaring VAT on the sale of land unlawful as it was an exempt supply, extinguishing time-barred assessments prior to 2009, upholding PAYE assessed on directors' income, and ordering the Respondent to issue a fresh assessment to determine the correct tax payable.

18. The Respondent submitted that in compliance with the High Court judgment, it adjusted the Applicant's tax ledger by vacating the VAT assessment relating to the sale of land and reversing all assessments relating to periods prior to 2009, revising those assessments to zero. Consequently, the Applicant's outstanding tax liability stood at Shs. 3,906,784,070 inclusive of principal tax and accrued interest.
19. When the matter came up for hearing, the Respondent raised two preliminary objections: first, that the Tribunal lacked jurisdiction to entertain the Application as it arose from alleged non-enforcement of High Court orders amounting to contempt of court; and second, that the Applicant had failed to pay the mandatory 30% of the disputed tax as required under Section 15 of the Tax Appeals Tribunal Act.
20. The Respondent submitted that preliminary objections are governed by Order 6 rule 28 of the Civil Procedure Rules and must raise pure points of law capable of disposing of the matter without recourse to evidence. Reliance was placed on *Yaya Farajallah v Obur Ronald & 3 Others, HCCA No. 081 of 2018*, where the court held that a preliminary objection consists of a point of law arising from the pleadings, which, if successfully argued, may dispose of the entire suit.
21. On the issue of jurisdiction, the Respondent contended that jurisdiction is a creature of statute and cannot be assumed. It relied on *Desai v Warsama*

(1967) EA 351, where it was held that a court acting without jurisdiction renders its proceedings a nullity.

22. The Respondent further submitted that the jurisdiction of this Tribunal is circumscribed by S. 14(1) and (2) of the Tax Appeals Tribunal Act, which limits the Tribunal's mandate to reviewing taxation decisions made under a taxing Act.
23. The Respondent further defined a taxation decision, as defined under S. 1 of the Act and expounded in **Cable Corporation (U) Ltd v Uganda Revenue Authority, Civil Appeal No. 1 of 2011**, refers to an assessment, determination, decision, or notice. In the present matter, the Respondent argued that there was no taxation decision being challenged; rather, the Application stemmed from alleged non-compliance with High Court orders.
24. The Respondent submitted that allegations of failure to implement or disobedience of court orders amount to civil contempt, which falls within the exclusive jurisdiction of the court that issued the orders. In support of its position, the Respondent relied on **Betty Kizito v Dickson Nsubuga & Others, Supreme Court Civil Application 25 & 26 of 2021**, where the Supreme Court, citing Halsbury's Laws of England, held that civil contempt consists of disobedience of judgments or orders of court and must be brought before the court that issued those orders. The Respondent therefore argued that the proper forum for the Applicant's grievance was the High Court, Commercial Division, and not this Tribunal.
25. Without prejudice to the foregoing, the Respondent submitted that the Application was incompetent for failure to comply with Section 15 of the Tax Appeals Tribunal Act, which mandatorily requires payment of 30% of the disputed tax or the undisputed portion, whichever is higher, before lodging an application.
26. The Respondent further argued that the constitutionality of this requirement was conclusively settled by the Supreme Court in **Uganda Projects**

Implementation and Management Centre v Uganda Revenue Authority, Constitutional Appeal No. 2 of 1999, where the Court upheld the “pay now, argue later” principle and emphasised the constitutional duty to pay taxes under Article 17 of the Constitution.

27. The Respondent further relied on ***Commissioner General Uganda Revenue Authority v Meera Investments Ltd, Supreme Court Civil Appeal No. 22 of 2007***, which affirmed that S. 15 of the TAT Act is mandatory and non-compliance renders an application incompetent. The Respondent asserted that the disputed taxes amounted to Shs. 3,906,784,070 and the Applicant was therefore required to pay Shs. 1,172,035,221, which it failed to do, notwithstanding an interim Tribunal order directing such payment.
28. The Respondent prayed that the Tribunal uphold the preliminary objections and dismiss the Application for want of jurisdiction and failure to comply with Section 15 of the Tax Appeals Tribunal Act, with costs awarded to the Respondent.

VI. Submissions of the Applicant in Reply to the Preliminary Objection

29. In response, the Applicant submitted that when the matter came up for hearing, the Respondent raised preliminary objections alleging lack of jurisdiction and failure by the Applicant to pay 30% of the disputed tax.
30. The Applicant submitted that the issue of jurisdiction was conclusively determined by this very Tribunal in ***Kazinga Channel Office World Ltd v Uganda Revenue Authority, Miscellaneous Application No. 207 of 2024***, arising from the same substantive application. The Tribunal expressly held that a demand notice and a notice of customs lien constitute a taxation decision under S.1 of the Tax Appeals Tribunal Act, thereby vesting the Tribunal with jurisdiction. Accordingly, the Respondent is therefore estopped from re-litigating an issue already determined, and the objection amounted to an abuse of Tribunal process.

31. Without prejudice to the foregoing, the Applicant submitted that this Tribunal had jurisdiction under Article 152(3) of the Constitution and Section 14 of the Tax Appeals Tribunal Act to review any taxation decision made by the URA.
32. The Applicant further submitted that the Respondent's reliance on contempt jurisprudence was misplaced. Accordingly, the reason behind this application is not enforcement of the High Court judgment per se, but the legality of the Respondent's post-judgment conduct in issuing new tax demands contrary to that judgment. The Tribunal in ***Kazinga Channel Office World Ltd v URA (supra)*** rightly held that such demands are appealable taxation decisions when they come for the first time before the Tribunal.
33. On the second objection, the Applicant submitted that the requirement to pay the 30% deposit under S. 15 of the Tax Appeals Tribunal Act does not arise in the circumstances of this case. Section 15 is triggered only where a taxpayer has lodged a notice of objection to an assessment. The present application does not challenge an assessment; rather, it challenges the legality of demand notices issued in respect of taxes that had already been quashed by a competent court.
34. The Applicant cited the case of ***A Better Place Uganda Ltd v Uganda Revenue Authority, Civil Appeal No. 37 of 2019***, where it was held that the obligation to pay 30% arises only upon objection to an assessment. Likewise, the Applicant also referenced ***Alpha Woolen (U) Ltd v URA, TAT Application No. 40 of 2023***, where it was also held that where no assessment has been issued and objected to, a taxpayer is under no obligation to pay the statutory 30%.
35. According to the Applicant, the disputed the sum of Shs. 3,853,332,089 is not based on any fresh or valid assessment but arises from demand notices issued in disregard of a binding High Court judgment. To require payment of 30% in such circumstances would amount to sanctioning an illegality and defeat the very purpose of judicial review of administrative action.

36. In conclusion, the Applicant prayed that this Tribunal dismisses the Respondent's preliminary objections in their entirety, finds that it has jurisdiction to hear the application, holds that S.15 of the Tax Appeals Tribunal Act is inapplicable, and orders that the Application proceed to be heard on its merits, with costs awarded to the Applicant.

VII. The Determination

37. Having carefully read and considered the evidence and submissions of both parties, this is the decision of the Tribunal. The Respondent raised two preliminary objections: first, that the Tribunal lacked jurisdiction to entertain the Application as it arose from alleged non-enforcement of High Court orders amounting to contempt of court; and second, that the Applicant had failed to pay 30% of the disputed tax as required under Section 15 of the Tax Appeals Tribunal Act. The Respondent relied on ***Yaya Farajallah v Obur Ronald & 3 Others, HCCA No. 081 of 2018***, where court held that a preliminary objection consists of a point of law arising from the pleadings, which, if successfully argued, may dispose of the entire suit.
38. The question before us is one of jurisdiction, where the Respondent challenges the Tribunal's authority to entertain a matter said to arise from the enforcement of High Court orders. According to the Respondent, such enforcement alleged by the Applicant to amount to contempt falls outside the Tribunal's mandate.
39. The Honorable MR. Justice James Ogoola in ***Uganda Revenue Authority v Bwama Exports Limited, Civil Suit No.6 of 2003***, while determining a matter that involved jurisdiction stated:
- "Once a tribunal's jurisdiction is challenged, there is simply no way that the tribunal can entertain any other issue between the parties without determining the jurisdictional challenge first, and satisfying itself that indeed it has jurisdiction to proceed with the matter".*
40. Jurisdiction is a threshold issue, and the Tribunal cannot lawfully proceed to any other matter until it is satisfied that it has the authority to hear the case.

Therefore, the Tribunal shall therefore first determine whether it has jurisdiction to adjudicate a dispute grounded in actions purportedly taken in execution of High Court directives or lack of it

41. Section 14 of the Tax Appeals Tribunal Act empowers the Tribunal to review taxation decisions and it states:

"(1) A person who is aggrieved by a decision made under a taxing Act may apply to the tribunal for a review of the decision.

(2) The tribunal has power to review any taxation decision in respect of which an application is properly made".

42. Section 1 of the TAT Act defines a taxation decision broadly to include "any assessment, determination, decision, or notice." The Respondent further expounded that this was stated in *Cable Corporation (U) Ltd v Uganda Revenue Authority*, Civil Appeal No. 1 of 2011, arguing that no taxation decision was being challenged; rather, the Application stemmed from alleged non-compliance with High Court orders.
43. On the issue of jurisdiction, the Respondent contended that jurisdiction is a creature of statute and cannot be assumed. In *Desai v Warsama (1967) EA 351*, it was held that a court acting without jurisdiction renders its proceedings a nullity.
44. The Applicant submitted that the Respondent's reliance on contempt jurisprudence was misplaced. That the reason behind this application was not the enforcement of the High Court judgment per se, but the legality of the Respondent's post-judgment conduct in issuing new tax demands contrary to that judgment. The Applicant relied on *Kazinga Channel Office World Ltd v URA (supra)*, which held that such demands are appealable taxation decisions when they first come before the Tribunal.
45. On the second objection, the Applicant submitted that the requirement to pay 30% under S. 15 of the Tax Appeals Tribunal Act does not arise in the circumstances of this case. Section 15 is triggered only where a taxpayer has

lodged a notice of objection to an assessment. The present Application does not challenge an assessment; rather, it challenges the legality of demand notices issued in respect of taxes that had already been quashed by a competent court.

46. The substance of the application before us is not a routine challenge to an assessment or a statutory tax decision amenable to the Tribunal's appellate or original tax jurisdiction. Rather, the complaint is that the Respondent defied or failed to implement orders of the High Court and continued enforcement of tax collection in alleged contempt of that Court's judgment.
47. In ***Uganda Revenue Authority v. Rabbo Enterprises (U) Ltd & Anor, Civil Appeal No. 12 of 2004***, the Supreme Court clarified that tax disputes concerning assessments, tax liability, or taxation decisions fall within the exclusive original jurisdiction of the Tax Appeals Tribunal, pursuant to Article 152(3) of the Constitution and section 14 of the TAT Act. The High Court may only handle such matters on appeal on questions of law under section 27 of the TAT Act. In the instant case, the Applicant opted to file their complaint with the High Court, which issued a ruling and orders in their favour.
48. In its submissions, the Applicant stated:

'The present Application does not challenge an assessment; rather, it challenges the legality of demand notices issued in respect of taxes that had already been quashed by a competent court'.
49. We are inclined to believe that this indeed is a case of failure to execute/implement lawful High Court orders that would amount to contempt of court, which falls within the exclusive jurisdiction of the court that issued the orders. As rightly pointed out by the Respondent relying on ***Betty Kizito v Dickson Nsubuga & Others, Supreme Court Civil Application 25 & 26 of 2021***, the Supreme Court held that civil contempt consists of disobedience of judgments or orders of court and must be brought before the court that issued

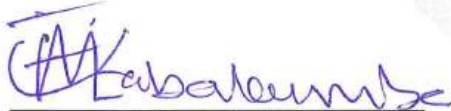
those orders. Therefore, the proper forum for the Applicant's grievance is the High Court, Commercial Division, and not this Tribunal.

50. To assume jurisdiction would invite the Tribunal to police compliance with High Court orders and to grant relief tantamount to contempt enforcement relief that lies beyond the Tribunal's statutory remit. Therefore, the proper forum for grievances grounded in alleged non-compliance with High Court orders is the High Court itself, through execution or contempt procedures, or such other relief as that Court may deem fit.
51. In light of the foregoing, this Tribunal finds that it lacks jurisdiction to entertain the present application. Jurisdiction being a threshold issue, the absence of it renders the Tribunal incapable of considering any of the substantive prayers or ancillary reliefs sought. Consequently, the Tribunal will therefore make no determination on any of the remedies sought, as to do so would be an exercise in excess of jurisdiction.

Orders

- (i) The Tribunal finds it lacks jurisdiction to hear and determine this application.
- (ii) The preliminary objection is upheld.
- (iii) Costs are awarded to the Respondent.

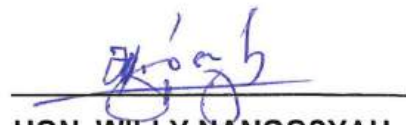
Dated at Kampala this...^{28th}.....day of **April** 2026.



HON. KABAKUMBA MASIKO
CHAIRPERSON



HON. ROSEMARY NAJJEMBA
MEMBER



HON. WILLY NANGOSYAH
MEMBER