



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO. 08 OF 2021

LEAF TOBACCO & COMMODITIES UGANDA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE

RULING

I. Introduction

1. This ruling is in respect of an application challenging the VAT and Excise Duty assessment of Shs. 3,596,462,462. The Respondent assessed the said taxes on the Applicant on the grounds that the Applicant diverted and sold on the local market, two consignments of cigarettes that were destined for South Sudan.

II. Background Facts

2. The legal facts of this case are more cinematic and gripping than any episode of Netflix's *Narcos*.
3. The Applicant processes and sells tobacco and related products. The Applicant allegedly exported two consignments of Supermatch cigarettes, vide entry numbers E42348 and E52232, on 24 October 2019 and 27 December 2019, from Uganda to Sudan via two border points – Madi Opei and Elegu.

4. The respondent investigated the two consignments and established that they were never exported and that the Applicant deliberately and fraudulently attempted to evade taxes.
5. Consequently, the Respondent found the Applicant liable to taxes of Shs. 3,596,462,462, comprising VAT and excise duty of Shs. 1,797,366,795 on entry No. 42238 and Shs. 1,799,095,667 on entry No. 52232. The Applicant objected to the assessment, and the Respondent disallowed the objection, hence this application.

III. Issues for determination

6. At the scheduling of this application, the parties agreed to the following issues:
 - (i) Whether the Applicant is liable to pay the taxes assessed?
 - (ii) What remedies are available

IV. Representation and Evidence

7. Mr. Laston Gulume and Ms. Christine Byaruhanga of ALP Advocates represented the Applicant, while Ms. Gloria Twinomugisha, Ms. Patricia Ndagire, Ms. Charlotte Katuutu, Mr. Samuel Oseku, Mr. Edmond Agaba and Ms. Rita Nabirye represented the Respondent.

The Applicant's evidence

The Applicant called four witnesses whose testimony is summarised below.

Celestin Ndikuriyo (AW1)

8. Mr. Celestin Ndikuriyo (AW1), the Applicant's Production Manager, was the Applicant's first witness. He testified that on 15 October 2019, he signed off and issued invoice number 2019/061 for an order placed by High Move Import Ltd, purchasing 2,000 cartons of Supermatch cigarettes for export to South Sudan, valued at USD 180,000. This was done after the Applicant received a request from High Move Import Ltd to appoint Bangaruye Clearing & Forwarding Ltd, TIN 1007349550, as the clearing agent for the

consignment. The said request was accepted by the Respondent and the Clearing Agent.

9. On 19 December 2019, AW1 again signed off on another Invoice Number 2019/075 for an order made by CC Connections Limited, purchasing another 2,000 cartons of Supermatch cigarettes for export to South Sudan, worth USD 180,000. This was subsequent to the Applicant's request to appoint All Africa Logistics Solutions Limited of TIN 1009612881 as the clearing agent for the consignment. This, too, was accepted by the clearing agent and approved by the Respondent. The signed invoices were picked from the factory by representatives of the respective consignees purchasing the cigarettes for export.
10. On 31 October 2019, a representative of the consignee, High Move Import Limited, made a cash payment of USD 180,000 for the purchase of 2,000 cartons for export to South Sudan and a payment receipt for Invoice Number 2019/061 was issued. Upon receipt of payment on 31 October 2019, the Clearing Agents for High Move Import Limited, after processing the export documents for the consignment, presented a truck, registration number UAX 136M, at the factory premises to load 2,000 cartons. A gate pass dated 31 October 2019 was issued to allow the truck to exit the factory.
11. On the same day, the transporter of High Move Import Ltd signed a Production Delivery Note for 2,000 cartons of cigarettes loaded on truck number UAX 136M, which left the factory for presentation at URA Multiple ICD Warehouse No. W0078 for verification, inspection and clearance for export. The goods and the truck were in the hands of the clearing agent, Bangaruye Clearing & Forwarding Ltd, who was handling the clearing process.
12. AW1 stated that the Applicant did not play any further role after loading the cartons on the truck for clearance and export to South Sudan, consigned to High Move Import Ltd. Furthermore, copies of the stamped documents (ASYCUDA Form T-1D 41313 dated 2 November 2019, for entry E42348

dated 24 October 2019) were delivered at the factory premises as proof of export of the consignment of 2,000 cartons to High Move Import Limited, declared and cleared by Bangaruye Clearing & Forwarding Ltd as the clearing agent. He further stated that upon receipt of the proof of export documents in respect of the 2,000 cartons consignment to High Move Import Limited, the consignment was duly exported.

13. The Applicant also received a cash payment from CC Connections Limited of USD 180,000 for the purchase of 2000 cartons of cigarettes for export to South Sudan. The Consignee's representatives and clearing agent presented truck number UAZ 979P for loading of the purchased cigarettes for export, and the cartons were loaded on the truck, which exited the factory for URA Liberty ICD Warehouse No. W0248 for verification, inspection, and clearance for export. The goods and the truck were in the hands of the clearing agent, All Africa Logistics Solutions Limited, who handled the clearing process.
14. He stated that the Applicant did not play any further role after loading the cartons on truck number UAZ 979P for clearance and export to South Sudan, consigned to High Move Import Ltd. He also stated that copies of stamped documents (ASYCUDA Form T-1 D 49316, dated 27 December 2019, for entry number E52232) were delivered at the factory premises as proof of export of the consignment to CC Connections Limited, declared and cleared by All Africa Logistics Solutions Limited as the clearing agent.
15. AW1 further testified that he is aware that the Respondents investigated the two export consignments with various correspondence between the Applicant and the Respondent. However, the Respondent never provided any report of the investigation conducted on the two export consignments, despite the Applicant having provided all possible information.
16. On 17 December 2020, the Applicant received a demand letter from the Respondent demanding Shs. 3,596,462,462 as taxes, comprising VAT and excise duty, on the grounds of unaccounted-for exports to South Sudan. On

6 January 2021, the Applicant's Lawyers lodged an objection to the demand, having submitted proof of export for both consignments, as received from the respective clearing agents.

17. On 21 January 2021, the Respondent issued an objection decision maintaining the assessment.
18. He further stated that the Applicant's records, which include invoices, payment receipts, gate passes, and cigarettes export sales declared to the Respondent, consistently show that the Applicant sold and received payment for the 2,000 cartons for each of the consignments for export to South Sudan.

Rogers Mweru (AW2)

19. The Applicant's second witness was Mr. Rogers Mweru, a clearing agent with All Africa Logistics Solutions Ltd. He testified that he participated in clearing the consignment T-1 Entry No. 52232 on 27 December 2019, in which the Applicant cosigned 2,000 cartons of cigarettes for export to South Sudan to CC Connections Limited. The consignment was cleared by All Africa Logistics Solutions Ltd, and he worked with his colleague, Mr. Bwire Jackson, to do so.
20. He also stated that the Applicant received an Invoice Number 2019/075 dated 19 December 2019 from a representative of the Consignee CC Connections Limited, to enable them to process the export documents for the consignment of 2000 cartons to South Sudan. An export entry on ASYCUDA, Form EX 8, number 52232, dated 27 December 2019, was made. Subsequently, the goods were loaded at the Applicant's premises in the Namanve Industrial Area, in the presence of the Production Manager, onto truck number UAZ 979P, a Fuso Box Body. The factory issued a gate pass, allowing him to exit with the loaded goods to the customs gazette 2 area for inspection.

21. On that same day, the truck was taken to the URA Liberty ICD WO248, declared as the location of goods in Form EX8 number 52232 dated 27 December 2019, in Namanve industrial area for physical inspection and verification of the loaded goods and clearing for export. The truck was allocated to an Officer called Ms. Angella Tino, who inspected and verified the loaded goods. She verified that the inspected goods tallied with the declaration, sealed the truck with electronic seal number 60D5005393, and forwarded the information to the Document Processing Centre (DPC) for transit release.
22. Upon finding the declaration and verification documents tallying by the DPC, a release of the goods was made, and an ASYCUDA Form T-1 Number D 49316 dated 27 December 2019 was generated, releasing the consignment for export.
23. He further testified that the Respondent's officer activated the electronic seal number 6005005393 for monitoring the movement of the truck. The truck was assigned a physical escort, an armed soldier, to accompany the sealed truck. The customs transit documents (ASYCUDA Form T-1 Number D 49316 dated 27 December 2019) were handed over to the armed physical escort by the Respondent's Officer in charge of the Liberty ICD, with express instructions to deliver the documents and the goods to the officer in charge at Elegu Customs exit border point.
24. The goods were transported to Elegu exit border point, and received by the Respondent's Customs Officer, Ms. Aber Lydia, who physically inspected them, acknowledged receipt and cross-checked with the ASYCUDA Form T-1 Number D 49316 dated 27 December 2019. After confirming that the transit documents tallied with what she had inspected, sighted and verified, she issued an Outward Rotation Number OR/00/12/2019/5052, allowing the transit truck to exit into South Sudan.
25. He testified that the security bond for the consignment was retired upon issuance of the Outward Rotation Number by the Customs Officer at Elegu

border point. He reiterated that there is no outstanding security bond in force for the 2,000 cartons of cigarettes exported under consignment Form T-1 Number D 49316. He also stated that the cleared transit truck and goods were received in South Sudan on 1 January 2020, with the export documents Form 49316 stamped as confirmation.

26. He also stated that upon exit of the goods at the Elegu border point, the clearing agent photocopied the export documents, which were delivered to the factory premises for accountability of the export. The original export documents were retained by the consignee in South Sudan to further clear the goods in the country of import.
27. He further stated that clearing agents are registered, licensed and regulated by the Respondent after undergoing thorough training and examinations before being issued with a license and the system password. Consignees are free to request services from the clearing agent of their choice, who then provides the consignee with their TIN so the consignee can request that the exporter make the appointment in the system. Upon appointment and acceptance, the clearing agent makes all ASYCUDA declarations using the ASYCUDA password provided by the Respondent as the regulator. He also stated that the Respondent retires the security bond in force in respect of a consignment upon being satisfied that the consignment was exported.

Bwire Jackson (AW3)

28. The Applicant's third witness was Mr. Bwire Jackson, a clearing agent with All Africa Logistics Solutions Ltd. He testified that he participated in the clearing of consignment T-1 Entry Number 52232 on 27 December 2019, in which the Applicant consigned 2,000 cartons of cigarettes for export to CC Connections Limited, South Sudan. He testified that the consignment was cleared by All Africa Logistics Solutions Ltd and that he worked with Mr. Mweru Rodgers throughout the process, a fact that mirrored AW2's testimony.

Godfrey Mukaaga (AW4)

29. Mr. Godfrey Mukaaga (AW4), a data entrant, was the Applicant's fifth witness. He testified that he participated in entering data for consignment T-1 Number 42348, comprising 2,000 cartons of cigarettes for export to High Move Import Limited, under Invoice Number 2019/061 dated 15 October 2019. He stated that Barunganye C&F, the appointed declarant, captured the entry on the ASYCUDA system, raised an assessment, and the system generated an entry number E 42348, which was sent to Wandera Isaac to attach the Verification Account. Later, the T-1 Entry Number SE 42348, dated 2 November 2019, was generated for further processing of the clearing process. He also stated that they then waited for the T1 to depart the system; however, it took a long time, and when he inquired why, Mr Wandera informed him that he was following up with the Respondent.

Richard Lakony (AW5)

30. Mr. Richard Lakony, an Officer in the Respondent's Customs Department, testified that on 2 November 2019, while deployed at Multiple ICD, he was requested to depart and validate Export Entry No. E42348 dated 24 October 2019. Upon inquiry from one, Nabitalo, a Customs Field Officer of the Respondent, she confirmed that the vehicle no. UAV 136M was sealed, and the export entry no. E 42348 had a generated T1 No. 41313. He used the information as per the submitted hard copy of export entry E42348 and T1 No. D 41313, which had an invoice no. 2019/061 attached, together with the information declared by the declarant, and the T1 generated in the ASYCUDA system to depart the entry.
31. He testified that on 11 November 2019, he received a call from the Transit Monitoring Unit informing him that the entry he departed in the system had not yet reached the border. He immediately called Multiple ICD to find out from the clearing agent what had happened, and the agent explained that the truck reached the border but did not cross because the client, High Movers Limited, had not obtained the Import Certificate from South Sudan.

He was also informed that High Movers Limited had applied for the cancellation of the T1 entry No. D4131 (E42348) .

32. He immediately asked the agent who presented a cancellation letter dated 5 November 2029. When he inquired about the whereabouts of the goods, the agent informed him that they had been returned to the factory. He asked the factory for the Goods Received Note and the Delivery Notes for the goods that had left the factory before arriving at the Multiple ICD, and the agent uploaded the documents under the URA Customs Help Tool System ticket no. 191106240.

The Respondent's witnesses

33. The Respondent called 11 witnesses whose testimony is summarised below.

Basomba Charles (RW1)

34. The Respondent's first witness was Mr. Basomba Charles, a Manager in the Respondent's Customs Department was the Respondent's first witness. He testified to the Respondent's Customs Export Process as follows:

- (i) He stated that the export process begins when an exporter prepares transactional documents that include invoices and packing lists. He then, through the URA Web portal, electronically appoints a customs Clearing Agent to make an export declaration on his behalf in the Customs Management System (CMS).
- (ii) Further, the exporter then, through an appointed licensed customs agent, captures and assesses a declaration in the URA system (ASYCUDA) through the pre-declaration process. Upon declaration, the consignment can either be released directly in the Customs Management System ("CMS") or, in the case of the red channel, be subjected to examination/sighting.
- (iii) For red lane entries, the cargo proceeds to the bonded warehouse for examination/sighting, attaching of the metallic customs seal,

uploading of the examination account in the CMS and re-routing to the yellow lane for the Document Processing Centre (DPC) process to commerce. The Officer in the DPC quality-assures the declaration for correct particulars and releases it in the CMS.

- (iv) With regard to exports, where a transit bond isn't required (non-bonded), goods are allowed to exit the bonded warehouse after release by the DPC. For bonded exports, the DPC Officer generates a Transit movement document (T1). After the DPC Officer generates the T1, the agent accesses our system to print the T1 and presents a copy to the Customs Officer in the bonded warehouse to validate the departure.
- (v) For sensitive items like cigarettes, the officer may attach an electronic seal, physical escort, or inform the destination station of the release of such a consignment. The officer then validates the T1's departure in CMS before the truck exits the bond gate and proceeds to the exit customs station. Upon the truck's arrival at the declared exit customs station, the Officer receives the truck. The driver of the truck hands over the customs declaration to the customs officer to confirm the arrival and to validate it in the CMS.
- (vi) The Customs Officer at the exit station confirms the details of the truck and seal numbers on the physical truck in relation to the declared details. The Officer registers the truck details and the T1 in the register, rotates the T1, and validates the T1 in the CMS. He then releases the truck to the country of destination, confirming that the goods have exited the country of export and entered the country of destination.
- (vii) He concluded by stating that while handling the different customs processes, the Respondent's customs team interfaces with their clients, that is, the exporters, importers and other stakeholders, through various avenues, which include the Customs Help Tool, which was rolled out in 2017 and decommissioned in September 2023. This was then replaced with the Touch point, which was rolled out in June 2023 and is currently in use.

35. During the cross-examination, Mr. Basomba Charles testified that EXA19 and EXR9 related to the same transaction involving 2,000 cartons on truck UAZ 979P. He explained that the officer named on a T1 is the one who flags off the truck, while cargo examination findings are recorded electronically. He further stated that border officers record their observations on the T1, remove electronic seals at exit, and that the electronic cargo tracking system and monitoring centre should ordinarily detect any seal tampering.
36. In re-examination, Mr. Basomba explained that "citing" cargo at a bonded warehouse or factory involves physically opening the truck, inspecting its contents, and recording observations based on the cargo and supporting export documents. He also testified that, besides metallic seals, other types of seals, including electronic seals, may be affixed to cargo. He stated that electronically sealed cargo cannot move without being monitored.

Ann Nabitalo (RW2)

37. Ms. Ann Nabitalo, Field's Customs Officer in the Respondent's Customs Department, testified that on 1 November 2019, she was assigned Export Entry No. E42348 dated 24 October 2019 at Multiple ICD. She stated that she sighted a vehicle, UAV 136M, carrying Supermatch cigarettes packed in cartons, which were later sealed with a small URA metallic seal number 3516360. She stated that she uploaded the Export Entry No. E42348, to the ASYCUDA system, along with the invoice number No. 2019/061 and an account clearly stating the quantities of 200 cartons. Thereafter, the entry was rerouted to Yellow by the station's person in charge. She stated that she did not generate the T1 on that day. She requested her colleague, Richard Lakony, to assist her in exiting the entry the following day, 2 November 2019.

Jackline Nabweteme (RW3)

38. Jackline Nabweteme, an Officer in charge of Refunds and Reconciliation in the Respondent's Customs Department, testified. She stated that in December 2019, she was deployed in the DPC, where she was responsible for checking documents, assessing taxes on goods declared in different

Customs entries, verifying the details against all accompanying documents in the yellow lane, and releasing them. She stated that she checked the yellow lane entries and handled E-42348 of 24 October 2019 in the ASYCUDA System.

39. She also testified that she checked for the correctness and accuracy of the accompanying documents and established that 200 cartons of cigarettes declared on the entry were found tallying with the verification account uploaded in the information/verification page and the invoice attached. Her findings were that the quantities declared on the SAD tallied with those on the inspection page, the truck number (box 18 on the SAD) was the same, and the invoice value (box 22) tallied with that of the attached export invoice. She thereafter released the entry from the system and generated TI, as was the procedure at that time.
40. In re-examination, Ms. Nabweteme stated that she relied on the documents that were attached to the entry and the verification account that was uploaded in the information page, which is found on the entry. There was an attached export invoice with the invoice value matching the value declared on the entry. The quantities on the export invoice also tallied with those declared in the entries and in the verification filings completed by Ms. Nabitalo. Further, she did not issue the T1 because it's a system action, after the export entry is released, the system generates the T1. Therefore, when you click on that, that's where her action stopped.

Marjorie Nakato (RW4)

41. Ms. Marjorie Nakato, an employee in the Respondent's Information Technology department, testified that on 22 October 2024, she received an email from Mr. Norbert Afya, who had written to her Manager, Mr. Enos Wakoko, requesting information and all documents relating to Ticket No. 191106240 that had been lodged in the Customs Help Tool in November 2019.

42. She stated that the Customs Help Tool had been inaccessible due to its decommissioning in 2023 following the full rollout of the Touchpoint system, which replaced it as the platform used by both internal and external stakeholders to lodge issues requiring the URA's attention.
43. She further testified that she accessed the tool using an alternative link shared by the Deployment Team, downloaded the documents and information relating to the ticket and then requested the Deployment Team to switch off the system again. She stated that she forwarded the documents to the Legal Department, Litigation Division, for further action and use.
44. During cross-examination, Ms. Nakato testified that once a T1 is departed, it cannot be cancelled, and its details are recorded in ASYCUDA. She confirmed that Richard Lakony was the officer who handled the T1 and placed the seal, and that departure time and seal details are automatically captured in the system. She further stated that detailed tracking information would be available in the electronic cargo tracking system, and that no TMU report was attached in the Help Tool records.
45. In re-examination, she stated that she was not able to explain the different types of seals used on consignments, noting that the Transit Monitoring Unit would be better placed to provide that information.

Moses Ashaba (RW5)

46. Mr. Moses Ashaba, a Customs Officer of the Respondent, who was deployed in the Transit Monitoring Unit from February 2020 and was a Customs Field Officer from the period 2018 to 2019, stationed at Madi Opei Customs Station, testified on behalf of the Respondent. He stated that he handled the inward and outward, temporary importation of motor vehicles and general border controls for Customs.
47. He stated that on 8 November 2019, he received a call from a person named Ngaruye about a truck UAV 136M, which he claimed was cleared by them at their station, but didn't take pictures on 2 November 2019.

Ngaruye further claimed to have the URA Stamp and the rotation number on the entry in his possession. He stated that he requested that Ngaruye provide physical copies of the stamp and the rotation number the following day , 9 November 2019, because he was suspicious, as the truck he had mentioned had not arrived at the station by 5 November 2019.

48. However, on 9 November 2019, Ngaruye did not physically show up with the sham Entry and on 10 November 2029, he raised an alert to the Manager, Northern Region and Transit Monitoring Unit (TMU) and to the concerned department on 11 November 2019.
49. In cross-examination, Mr. Ashaba Moses testified that although he raised an alert with the Transit Monitoring Unit (TMU) on 11 November 2019, regarding a truck expected by 5 November 2019, he was not aware of receiving any report back on that alert. He explained that after raising such an alert, it is the TMU's responsibility to investigate rather than report back to him.

Andison Mugwe (RW6)

50. Mr. Andison Mugwe, a Police Officer serving in the Uganda Police Force and at the time, attached to the Customs Department in the Respondent's Revenue Intelligence Unit testified. He stated that on 13 March 2020, she was assigned a duty by the then Officer in Charge of the Revenue Intelligence Unit to escort an empty truck, registration number UAZ 979P, from the Customs warehouse at URA Headquarters, Nakawa, to Luwero Government Weighbridge for weighing and after return, it was returned to URA Headquarters, Nakawa.
51. He testified that he and the official truck driver, Albert Twinobusingye, set off from the Respondent's Headquarters in Nakawa on 13 March 2020 at 2.46 pm to the Uganda National Roads Authority (UNRA) weighbridge in Luwero. Upon arrival, the truck was weighed by a UNRA Officer, who determined the gross weight to be 12.540 tonnes. The Officer issued him a

Weigh Bridge printout certificate with ticket number 1762, dated 13 March 2020 at 2.46 pm. He immediately returned the said ticket and the empty truck to the person in charge for further management.

52. During cross-examination, RW6 admitted that he was not familiar with the documents used in the export process of cigarettes and stated that he did not know whether motor vehicle UAZ 979P had been used to transport the cigarette consignment under Entry No. E52232 and Transit No. D49316. However, when referring to Exhibit A19, he confirmed that the vehicle number appearing on the export document was the same vehicle mentioned in his witness statement and that the document showed a consignment of 2,000 cartons.
53. He further confirmed that both the customs entry and transit documents were dated 27 December 2019 and that the expected arrival date at the exit border point was 30 December 2019. When asked whether the vehicle had already been used to transport the consignment by 13 March 2020, RW6 stated that this would only be correct if the goods had actually reached the border. He acknowledged that he was not involved in export logistics or monitoring and could not confirm whether the goods ultimately exited Uganda.

Luke Kivumbi (RW7)

54. Mr. Luke Kivumbi, the Station in-charge for the Respondent's Mbale Customs Enforcement Unit, testified that, in 2020, he was deployed in the Intelligence unit of the Enforcement Division of the Customs Department of the Respondent and was tasked with the role of investigating cases assigned to him by his supervisor. He prepared an investigation report to aid further management of the Applicant's case, whether for prosecution or otherwise.
55. In January 2020, he took a statement from one Ndikuriyo Celestine (AW1) in connection with General Inquiry File URA/ENF/GEF:212/2019, which was opened to investigate the circumstances under which truck UAV 136M,

which was destined for Madiopei customs station for exit into South Sudan, didn't make it there.

56. He testified that he had invited AW1 to the URA Intelligence office through his Commissioner to answer allegations that he was involved in the issuance of invoice number 2019/061 dated 15/10/2019 with the consignee as High Move Import Limited of Juba, South Sudan.
57. The invoice, which was obtained from the ASYCUDA world system along with other documents, declared to customs vide entries E42348/D41313 of 2019, indicated 200 cartons of cigarettes valued at 90 dollars per carton with a total invoice value of USD18,000. The cigarettes were allegedly loaded on the truck UAV 136M. Upon investigation, it was revealed that this invoice differed from the one Celestine had brought to the Intelligence Office when recording his statement. It varied in the number of cartons and total invoice value, wherein it had 2,000 cartons with a total invoice value of (USD180,000). In his statement, Celestine clearly stated that the correct invoice issued by the Applicant was the one with 2,000 cartons, not the one with 200 cartons.
58. At the hearing Mr. Kivumbi testified that the consignment was intended to contain 2,000 cartons of leaf tobacco, but only 200 cartons were declared in the customs system, resulting in an under-declaration. He stated that the rotation number used by the clearing agent was forged and that no valid URA rotation number had been issued. He further testified that the bond value was insufficient for 2,000 cartons, that the truck was sealed with a metallic rather than an electronic seal. He further stated that it never left the factory, and that he did not obtain any TMU movement report or know whether URA had called on the bond.

Aber Lydia Otonga (RW8)

59. Ms. Lydia Aber, the Respondent's Customs Officer, testified that she was deployed at Elegu Customs Border in 2019 as a Customs Officer. She stated that, among other roles at the time, her role was to clear goods in

transit when a truck arrived at the border by submitting photos to the Transit Monitoring Unit.

60. She also stated that her role entailed a variety of activities, specifically:
- (i) Reviewing the transit documents,
 - (ii) Checking the motor vehicle or truck that intends to exit in comparison with the transit documents,
 - (iii) Confirming that the electronic seal on the trucks is intact,
 - (iv) Confirming that the transit documents have been stamped at the respective checkpoints of the Respondent where the truck has passed,
 - (v) Taking photos of the outside of the truck and submitting the same to the Transport Monitoring Unit (TMU) for validation, and
 - (vi) Rotating the truck number and entry number in the barrier register and flagging off the truck to Sudan.
61. She further stated that on 29 December 2019, in response to UAZ 979P, entry number E52232 D.49316, she received the truck UAZ 979P of Entry No. E52232 D.49316 and confirmed that the metallic and electronic seals were correctly attached to the truck. She then deactivated/removed the electronic seal from the truck, took a photo of the truck using the Transit Management System (TMS) application, and submitted it to the TMU for validation. She emphasised that she did not open the truck.
62. During cross examination, Ms. Aber testified that truck UAZ 979P arrived at Elegu Border on 29 December 2019 with its electronic seal intact and properly stamped transit documents. She confirmed that the truck carried both electronic and metallic seals, that she removed only the electronic seal, and that the truck exited Uganda while still sealed.
63. She stated that TMU monitors electronic seals and that tampering normally triggers an alert, although she was unsure about TMU's interception procedures. She also confirmed that she photographed the truck, submitted

the photos to TMU, validated the consignment, and issued the outward rotation number. She stated that she mainly relied on the T1 form.

Carolyn Manake (RW9)

64. Ms. Carolyn Manake, a Customs Officer at the Respondent's Entebbe Customs Office, testified on the Respondent's behalf. She stated that in 2019, she was deployed as a Validation Officer in the Validation Section, where her role included, among other things, validating T1s arriving at border stations. With specific regard to truck No. UAZ 979P, Entry No. E52232, D.49316, dated 29 December 2019, she compared the T1 (D.49316) details with TMS images taken by Aber Lydia Otonga, the Border exit officer from Elegu Border, and after, she validated the T1 as tallying with the TMS images submitted by the Border exit officer.
65. During cross-examination, Ms. Caroline Manake testified that validating a T1 involves comparing the transit document with TMU photographs and, if the details match, approving the truck to proceed. She confirmed that she validated the T1 on page 8 of the Joint Trial Bundle and stated that, after validation, nothing was outstanding on her part in the ASYCUDA system.

Steven Sekitoleko (RW10)

66. Mr. Steven Sekitoleko (RW10), an Officer in the Tax Investigations Department of the Respondent, testified that he carried out investigations on two alleged exports of Leaf Tobacco and Commodities (U) Limited consigned to South Sudan vide entry numbers E 42348 and E52232 dated 24 October 2019 and 27 December 2019, respectively.
67. He testified that a customs officer, Tino Angela, while conducting a physical verification of a consignment declared by the Applicant vide entry number E281 of 4 January 2020, purportedly for export of 2,000 cartons of cigarettes, found on a truck Registration No. UAQ 987L to contain only two cartons with cigarettes, and the rest were empty boxes.

68. He testified that Angela Tino then informed the Respondent's Customs Intelligence Team that she was suspicious that the Applicant's earlier export declarations may also have been false. The Respondent's intelligence team was prompted to review all the previous export declarations made by the Applicant. Among the export declarations was entry number E52232 of 27 December 2019, and entry number E 42348, which was declared by Bangaruye Clearing and Forwarding Company Ltd, for the export of 200 cartons of Supermatch cigarettes, loaded on truck registration number UAV 136M.
69. Regarding Entry Number E42348 of 2019, the Madi Opei Customs Station, in charge, Moses Ashaba, received a call from Ngaruye Ali of Bangaruye Clearing and Forwarding Company regarding truck registration number UAV 136M, which was declared under Entry Number E42348 of 2019 as carrying cigarettes for the Applicant as the exporter.
70. Ngaruye Ali informed the Respondent that he had received the outward rotation number OR/UGMA/316/2019 for Madi Opei Customs Station from the Applicant, as evidence that the goods declared vide Entry Number E42348 on truck number UAV 136M had exited to South Sudan via Madi Opei Customs Station.
71. He testified that on 7 November 2019, Ngaruye Ali wrote to the Respondent requesting to retire its bond on the reasoning that the consignment on truck No. UAV 136M had exited. According to the Respondent's Transit Register for Madi Opei, the rotation number OR/UGMA/316/2019 was non-existent and out of range of the series for the rotation numbers issued in the said period of November 2019. As such, the said transaction remained outstanding in the ASYUDA World system.
72. RW10 stated that the information from Ngaruye prompted the Respondent's In-Charge Madi-Opei (Moses) to raise an alert to the Respondent's Manager, Northern Region, and the Transit Monitoring Unit to investigate

the purported outward rotation number OR/UGMA/316/2019 on 11 November 2019.

73. According to the Respondent's ASYCUDA World System, Invoice number 2019/061 dated 15 October 2019 issued to High Move Import Limited, Juba, South Sudan, was attached to the above-mentioned declaration, and was for 200 cartons of Supermatch cigarettes valued at USD 18,000. With the verification account done at Bond W0078 indicated the same.
74. The witness testified that further legal proceeding where instituted in the High Court of Uganda, Commercial Division vide Ngaruye E.M. Ali, M/S-Bangaruye Clearing & Forwarding Co. Ltd v M/S Leaf Tobacco Commodities (U) Limited & Uganda Revenue Authority Civil Suit No. 40 of 2021, regarding the clearing of the Applicant's consignment Entry No.42348, for export to South Sudan via Madi Opei.
75. The witness testified that in the said suit, Ngaruye Ali claimed to have failed to obtain a genuine rotation number from the Respondent. However, in a letter dated 5 December 2019, the Applicant submitted to the Respondent a gate pass No. 2258 dated 31 October 2019, and delivery note No. 7364 dated 31 October 2019, which indicated the sale was for 2,000 cartons.
76. The witness further stated that in a statement made by Ndikuryo Celestin, the Applicant's Production Manager, he stated that the Applicant's Finance department issued an invoice No. 2019/061 dated 15 October 2019 of 2,000 Cartoons of Supermatch cigarettes in cartons each containing 50 bundles of 10 packets of 20 sticks, signed by Ndikuryo.
77. He stated that a copy of the T1 and Export entry declaring 2,000 cartons with the gross weight of 9,000 kg, submitted by the Applicant, did not exist in the Respondent's ASYCUDA World System. The Respondent provided a comparison of the details of the Respondent's transit entry and export entry in the ASYCUDA World System against the T1 presented by the Applicant and purportedly stamped by the Respondent's Customs office at Madi Opei;

Transit entry comparison

Box No.	T1 D41313 02/11/2019 IN ASYCUDA WORLD SYSTEM	T1 D41313 02/11/2019 PRESENTED BY THE CLIENT
31 Packages and description	UAV 136M BOX BODY 200 Carton	UAV 136M BOX BODY 2,000
35 Gross mass (Kgs)	900	9000

Export entry comparison

BOX NO.	ENTRY NO. E42348 24/10/2019 AS PER ASYCUDA WORLD SYSTEM	Entry No. E42348 24/10/2019 PRESENTED BY LEAF TOBACCO & CPOMMODITIES UG LTD
47 Calculation of taxes	Shs. 279,129,776	Shs. 791,129,776
46. Statistical value	Shs. 66,048,660	Shs. 660,048,660
35 Gross mass (Kgs)	900	9,000
41 supplementary units	2,000,000	100,000
22 Currency USD	18,000	180,000

Comparison with other declarations of the same value and quantity of Supermatch cigarettes made by the Applicant

Entry No.	E42348	E52232 of 27/12/2019	E281 of 04/01/2020
Quantity declared	200 ctns	2000 ctns	2000 ctns
Value in USD	2000 ctns	2000 ctns	2000 ctns
Gross Mass (Kg)	18,000	180,000	180,000
Number of sticks	900	28,000	28,000
	2,000,000	20,000,000	20,000,000

78. The witness stated that regarding declaration E 52232, the Applicant made a declaration E 52232 for 2000 cartons of Supermatch cigarettes on 27 December 2019, which were loaded on truck registration number UAZ 979P, allegedly destined to South Sudan via Elegu, and attached invoice number 2019/075 dated 19 December 2019 issued to CC Connections Ltd.
79. On 10 January 2020, the Respondent wrote to the Uganda National Roads Authority requesting weighbridge information on transit truck Registration No UAZ 979P for the month of December 2019. Further, on 20 January 2020, the National Roads Authority informed the Respondent that the truck registration No UAZ 979P passed at the Luwero weighbridge along Gulu highway on 7 December 2019 at 06.12 am, and 28 December 2019 at 04.53 pm, weighing 32.060tonnes and 13.360tonnes respectively.
80. According to the Applicant's export declaration, the declaration was captured vide entry No. E52232, on 27 December 2019, indicating a weight of 28.00tonnes. This confirms that the truck moved after the said declaration, which is from 27 December to 28 December 2019.
81. The above declaration by the Applicant conformed to the Uganda National Roads Authority report of the said truck having passed by the weighbridge on 28 December 2019, weighing 13.360 tonnes.
82. On 19 January 2020, the Respondent wrote to the Director of the Government Laboratory requesting aid in establishing the quantity of cigarettes that could fit in a truck registration No. UAZ 979P. On 27 January 2020, the Forensic Government Analyst gave the Respondent a laboratory Report stating that a truck of that nature can only carry approximately 800 cartons of cigarettes.
83. The witness provided a comparison of the weights of the truck on the two days of weighing, which are shown below.

WEIGHT OF THE GOODS AS PER THE ENTRY 27/12/2019	WEIGHT OF TRUCK INCLUSIVE GOODS (UAZ 979P)	WEIGHT OF THE EMPTY TRUCK ON 13/03/2020 (UAZ 979P)
28 TONNES	13.36 TONNES ON 28/12/2019	12.54 TONNES

84. The witness testified that, based on the cigarettes declared vide entry number E52232 of 27 December 2019, which were never exported, the truck that went to South Sudan had a load weighing only 0.82 tonnes compared to the expected 40.54 tonnes, including the goods' weight. The witness testified that there was a tax fraud syndicate in which the cigarettes declared for export were not exported but put on the local market without payment of the requisite taxes.
85. The witness stated that this was evidenced in a memorandum dated 30 March 2020, from Commissioner Internal Audit and Compliance to the Assistant Commissioner Human Resource and Commissioner Customs findings of the investigation in respect to alleged staff involvement in dumping cigarettes by the Applicant vide ref: URA/SCR/11/2020.
86. RW10 stated that the investigations established that Mr. Davis Tashobya of the Rapid Response Unit obtained E-seal no 60D5005290 and gave it to the Applicant's clearing agent, who mounted it illegally before verification. Further, Mr. Tashobya, in his first statement with enforcement, denied having any connections with the consignment, clearing agent and the seal; however, when interviewed by compliance, he confirmed having obtained the seal and given it to the agent.
87. The witness further stated that the findings indicated that papers evidencing the Respondent's officers who signed off the seal were removed from the seals register by Davis Tashobya, who was an employee of the Respondent at that time.

88. The witness stated that Ms. Angella Tino former in-charge Liberty Bond of the Respondent at that time, also changed the E-seal from 60D5005290 to 60D5005393 generated T1 for consignment to start moving, without carrying out physical verification of the consignment.

89. The witness testified that Ms. Angella Tino and Mr. Davis Tashobya appeared before the Respondent's Management Disciplinary Committee, which terminated their employment with the Respondent on account of the same consignment in issue before this Tribunal. He contended that the Applicant did not export Supermatch cigarettes to South Sudan in relation to the two above-mentioned entries. The said consignments were consumed in the local market, resulting in unpaid VAT and Excise Duty as indicated in the tables below.

90. The witness provided a tax computation in relation to the export entry no. 42328 of 24 October 2019, which is shown below.

Value USD	180,000
Value Shs	662,285,842
Exchange rate	3,679.37

Number of cartons	2000
Bundles per carton	50
Packets per bundle	10
Sticks per packet	20
Total number of sticks	20,000,000

Tax Head	Tax Base	Rate	Amount
Excise	20,000,000	55	1,100,000,000
VAT	1,994,085,887	18%	317,211,452
Penalty VAT			85,089,369
Penalty local excise duty			295,065,974
Total tax Shs			1,797,366,795

91. The witness also provided a tax Computation for export Entry No. 522232 of 27 December 2019

Value USD	180,000
Value Shs.	669,859,200
Exchange rate	3,721.44

Number of Cartons	2000
Bundles per carton	50
Packest per bundle	10
Sticks per packet	20
Total number of sticks	20,000,000

Tax head	Tax base	Rate	Amount
Excise duty	20,000,000	55	1,100,000,000
VAT	1,769,859,200	18%	318,574,656
Penalty VAT			85,455,037
Penalty local excise duty			295,065,974
Total tax Shs.			1,799,095,667

92. The witness maintained that the Applicant is liable to pay taxes identified and fines amounting to a total of Shs. 3,596,462,462.
93. During cross-examination, RW10 confirmed that he made reports on two alleged exports for Motor Vehicles UAZ 979P and UAV 136M. He confirmed that, as a standard procedure for exports, inspections and verifications are carried out against export entries declared by the clearing agent in the ASYCUDA System.
94. He stated that the judgment tendered into the Tribunal, the directors of the Applicant were initially charged. The witness stated that at the point of exportation, the clearing agent must have a bond secured from insurance companies, it covers the government /URA in case exports do not exit the country and the same was retired. He confirmed that the consignment had

UAZ979P had a bond in force, and the entry UAV's bond in force was still in the system because it did not exit.

95. The witness also stated that the Applicant made declarations to customs of 200 cartons. However, investigations revealed that the sale was for 2,000 cartons valued at 180,000, and not USD 18,000. The Applicant declared 2 million sticks, yet the actual weight was 20 million sticks. Furthermore, they declared a weight of 900 kgs, and yet the actual weight was 28 tonnes. That they were unable to enforce the bond in the force of the insurance company because of the anomalies. He also confirmed that Motor Vehicle UAV 136M was sealed and verified with a metallic seal.
96. In re-examination, he stated that during his 2020 investigation, the Respondent did not take a statement from the driver of motor vehicle 136M because efforts to impound the vehicle were unsuccessful. He also confirmed that he did not find any other entry of Leaf Tobacco that had 2,000 cartons.
97. Mr. Sekitoleko also stated that the outward rotation number between them is a barrier register as goods are exiting the country, which are in sequence.
98. When Counsel for the Applicant stated that UAZ 979P crossed, Mr. Steven Sekitoleko stated that it was empty.

Ngaruye E. M. Ali (RW11)

99. Mr. Ngaruye Ali was the Managing Director of Bangarugye Clearing and Forwarding Company. He testified that on 24 October 2019, the Applicant appointed M/S Bangarugye Clearing & Forwarding Co. Ltd through the ASYCUDA system to handle its customs declaration and the clearing of the consignment of cigarettes to be exported to Sudan, and that the appointment was accepted on the same day.
100. He stated that Geoffrey and Mr Wandera, who were the Applicant's representatives, provided the invoice and packing list, which were used to capture the export declaration. He also stated that he agreed with the

Applicant that, as a clearing firm, they would go to the factory to verify the goods for which they had been appointed to declare for export and their services were duly paid for by the Applicant.

101. He also stated that he filled the information into the system and made a declaration on behalf of the Applicant to the Respondent under entry No. EX 42348 valued at USD 180,000 with 200 cartons of cigarettes, and then generated the Single Administrative Document (SAD). He also stated that while he waited to be invited for the verification process, about two days, after capturing Entry no. E 42348, Mr. Mukaaga informed him that the consignment had been denied an importation license.
102. He stated that Mr. Mukaaga subsequently asked him to apply for cancellation of the entry, which he declined because he was not convinced that the consignee had been denied an importation license. The consignment was cleared by the Respondent to exit Uganda for South Sudan via the Madi Opei exit point, and, according to our arrangement with the Applicant, the Applicant was to provide a rotation number for the UAV 136M box body.
103. Later, around 5 November 2019, Mukaaga came back and informed him that the buyer/importer/Consignee/High Movers had been denied an import certificate in South Sudan; as such, the Applicant was requesting to cancel the export entry. He testified that he declined to cancel the entry. He also stated that he had never seen the R33 letter, which is said to have been signed by him, and he testified that he had not signed it.
104. He also stated that on 7 November 2019, he went to the Applicant's factory in Namanve to check on the status of the consignment. While there, he met the Applicant's Production Manager, Celestine Ndikuriyo, who informed him that the goods had exited Uganda via the Madi Opei exit point and had been exported to South Sudan, and that he therefore had no need to worry.
105. He further stated that when a consignment has been exported, the bond in force is automatically retired in the system, but this time, the bond in force

had not yet been retired. When he asked Celestine Ndikuriyo about the bond, he provided him with the rotation number OR/UGMA/316/2019. The rotation number was entered manually, whereas the declaration was generated automatically by the system.

106. He testified that he provided this rotation number to the Respondent's Document Processing Centre (DPC) and requested that they validate the entry number D41313/2019 and that the bond in force be released to enable his company to continue with its operations. However, the team at the DPC informed him that the matter was now under investigation.

107. On 14 November 2019, he learnt that his clearing agency's TIN 1007349550 had been suspended by the Respondent on the grounds that a fake rotation number OR/UGMA/316/2019 had been obtained in exporting these goods under Entry No. 42348. Furthermore, on 29 February 2020, his clearing agency, through its Lawyers of M/S MNA Advocates, formerly served a demand notice on the Applicant for failure to obtain a genuine rotation number from the Respondent, thereby causing suspension of its operations and further filed a suit before the High Court vide Civil Suit No. 40 of 2021.

108. On 12 October 2020, the Respondent, in further correspondence to his clearing agency, indicated that outward rotation number OR/UGMA/316/2019 did not correspond in any way with confirmation of an export of 200 cartons of cigarettes on the Applicant's account against the declaration of transit entry No. D 41313 of 2 November 2019, and satisfactory accountability had not been provided by the Applicant.

V. Submissions of the Applicant

109. The Applicant submitted that they are not liable to pay the tax assessed of Shs. 3,596,462,462 on the exports in issue, as the same is illegal and erroneous. The Applicant submitted that there is cogent evidence before the Tribunal to show that the consignments were duly exported on the part of the Applicant. The impugned tax assessment is premised on VAT, Excise

Duty, and penalties, based on the erroneous assumption that the exports were not made.

110. Section 24 (4) read together with Paragraph 1 (a) of the 4th Schedule of the VAT Act provides for the VAT on exported goods to be zero-rated. Therefore, the VAT assessment on the export of cigarettes to South Sudan is erroneous and illegal.
111. The Applicant argued that the Respondent alleged the dumping of goods. However, throughout the prolonged trial, the Respondent did not present any conclusive evidence of dumping and failed to take the simple step of engaging their counterparts in South Sudan to confirm whether the consignments had been received.
112. The Applicant submitted that the clearing agents testified that the respective clients for whom they cleared the consignments have never made any demand for unreceived goods. The Applicant contended that none of the witnesses who testified admitted to or demonstrated any actual place in Uganda where the alleged dumping occurred.
113. The Applicant submitted that it presented evidence of proof of export comprising a confirmation of receipt of the exports in South Sudan (AID 5 marked in the proceedings of 30 September 2025), EXA 19 is further conclusive proof that UAZ 979P exited, as further corroborated by the Respondent's own admission. AID 4 corroborates the confirmation from the South Sudan Revenue Authority in AID 5 that the consignment aboard UAV 136M also exited.
114. The Applicant submitted that it is a practice in the export of cigarettes, as testified by the Applicant's witnesses, for cigarette exports to be escorted by an officer. There is no statement or account from any such officer. The Respondent's witnesses testified that both vehicles, UAZ 979P and UAV136M, were sealed and the consignments departed for export. There is no report of any seal being illegally tampered with or broken during transit.

115. The Applicant submitted that the most convincing evidence before the Tribunal can only be seen in the Applicant's proof of export. The proof of declaration of sales (EXA 18 page 31 of Joint Trial Bundle), the proof of sales invoice (EXA 19 see page 10 & AID 4 see page 13 of Joint Trial Bundle), Production Delivery Note (EXR 7 page 44 of Joint Trial Bundle), Gate Pass (EXR 6 page 43 of Joint Trial Bundle), considered with the admission by the Respondent that the goods were presented at the URA warehouses (Liberty ICD in Namanve and Multiple ICD in Nakawa) for verification, and departed for export is the more convincing evidence on a balance of probabilities.
116. The Applicant submitted that it followed all due process in the export process, only to learn from the Respondent's own internal investigation reports EXR 17 & EXR 36 that the Respondent's officers flouted procedures and were terminated from employment for allegedly causing financial loss of Shs. 1,939,242,384 in EXR 20 & EXR 21 without being prosecuted.
117. The Applicant invites the Tribunal to find the evidence sufficient proof of export. In the instant case, the entire process of investigation and the lack of clear reports, such as the Transit Monitoring Unit (TMU) report, the Respondent's willful neglect to obtain further information from the South Sudan Revenue Authority on the status of the exports, and the admission of wrong doing on the part of the URA customs officers, renders the investigation from which the assessment of Shs. 3,596,462,462 to be wanting and should be set aside.
118. The Applicant prayed that the Tribunal find that the Applicant's export entries E42348 and E52232 aboard UAV136M and UAZ979P, respectively, were exported and are not liable to VAT and Excise Duty and the result assessment of Shs. 3,596,462,462 be set aside and vacated. The Applicant further prayed for a refund of the 30% payment of Shs. 1,078,938,740 with costs of this suit.

VI. Submissions of the Respondent

119. The Respondent submitted that, in December 2019, it conducted investigations into two consignments of Supermatch cigarettes alleged to have been exported by the Applicant to South Sudan vide Entry No. E42348 dated 24 October 2019 and Entry No E52232 dated 27 December 2019.

120. The Respondent's investigations revealed that the two consignments were, in fact, not exported by the Applicant, and there was a deliberate fraudulent attempt by the Applicant to evade payment of taxes. Consequently, the Respondent assessed a total tax liability of Shs. 3,595,462,462 being VAT and Local Excise Duty (LED) payable by the Applicant.

The Preliminary Investigations carried out by the Respondent

121. The Respondent further submitted that Mr Sekitoleko Steven, a Customs Officer, who was part of the investigation team, stated that, while Angella Tino, a Customs Officer, was conducting a physical verification of a consignment declared by the Applicant vide Entry No. E281 of 4 January 2020 for the export of 2000 cartons of cigarettes on Truck No. UAQ 987L, she found that the said truck contained only two cartons with cigarettes, and the rest were merely empty boxes. She immediately informed the Respondent's Customs Intelligence Unit that she was suspicious of the earlier export declarations made by the Applicant, which could also have been false declarations. This report triggered the investigation.

122. The investigation centred on two consignments, namely:

- (i) Entry No. E42348 of 24 October 2019; and
- (ii) Entry No. E 52232 of 27 December 2019.

Entry No. E 42348

- (i) There was no physical verification of the entire consignment

123. This entry was found not to have been physically and fully verified.

124. This consignment was declared by Bangaruye Clearing & Forwarding Agent and was in respect of 200 cartons valued at USD 18,000 consigned to High Move Import Limited in South Sudan. A Customs Officer, Nabitalo, at the Multiple ICD, who was assigned to verify the consignment, stated that she sighted the consignment using the hard copy of the export entry and invoice.
125. She stated that she compared them with the information declared by the Applicant in the system, identified the truck, opened it, and found cartons stacked or packed together. However, she opened only one carton, in which she found cigarettes and did not verify all the boxes/cartons. She thereafter sealed the vehicle with a metallic seal bearing number 3516360 and uploaded an account in the ASYCUDA System, stating the quantity as 200 cartons of Supermatch cigarettes.
126. Thereafter, Ms Nabweteme, a Customs Officer deployed in the Document Processing Centre (DPC), confirmed that she handled the above-mentioned entry by cross-checking the correctness and accuracy of the accompanying documents vis-à-vis the entry (Single Administrative Document (SAD) and the verification account of Nabitalo. When she found that the 200 cartons, i.e., the quantity, truck number, and invoice value, tallied, she released the entry in the system and generated the transit Document (T1).
127. Ms. Nabitalo confirmed that she was out of the office on 2 November 2019, when the T1 was generated, to allow business to continue, and that her colleague, Richard Lakony, exited the entry on this date.

(ii) The failed attempt to cancel the export entry

128. Ms. Marjorie Nakato from the Respondent's Information Technology Department testified that the Applicant attempted to cancel this export entry. Specifically, Mr Mukaaga Geoffrey, a representative of the Applicant, raised a ticket in the Respondent's Customs Help Tool requesting the cancellation of T1 D 41313 and E42348 on the grounds that the importer,

High Move Import, had been denied an Import Certificate by the Government of Southern Sudan.

129. Mr. Mukaaga contended that the goods were at the Applicant's factory, while the Respondent's Officials found that the goods had already been departed by Lakony for export and were not in the Respondent's bond. The Officials rejected the request to cancel the export entry. The respondent submitted that the Applicant wanted to cancel the entry to avoid paying taxes in Uganda.
130. The Respondent submitted that this was one of the tactics used by the Applicant. The Respondent also referred to the judgment of the Anti-Corruption Court in ***URA V Mweru Rogers & Bwire Jackson Odwori, HCT-00-AC-CO-012/2020 (REX37)***, where the Court found that upon making a false declaration for export of 2,000 cartons, the inspection revealed that the truck contained only 2 boxes with cigarettes while the rest of the boxes were empty. The Applicant's agents attempted to cancel the entry 'upon realising that their criminal enterprise had been exposed'.
131. Furthermore, the Court found that Bwire Jackson (who was AW2 before this Tribunal) was responsible for making the false declaration and he was accordingly convicted for making a false declaration and fraudulently evading the payment of duty. The Respondent further submitted that since the standard of proof in criminal matters is beyond a reasonable doubt, it follows that the Applicant's fraudulent acts had been proved.

(iii) The Consignment exited from Multiple ICD but never reached Madi Opei Border

132. The Respondent submitted that Mr Ashaba Moses, its Customs Officer in Charge of the Madi Opei border, testified that he received a call from one Ngaruye (RW11) about a truck UAV 136M, which he claimed was cleared at the Madi Opei border on 2 November 2019. Ngaruye informed Ashaba that he had an entry which bore a URA stamp and a rotation number, which Ashaba was suspicious of because the truck in question was expected at

the Madi Opei border but had not arrived. Mr. Ashaba raised an alert about the truck on 11 November 2019 to the Manager, Northern Region and the Transit Monitoring Unit (TMU).

(iv) Discrepancies in the consignment per ASYCUDA and the Applicant's contentions

133. The Respondent submitted that in its ASYCUDA system, the Applicant declared entry no. E42348 (R1) on page 38 with an attached invoice number 2019/061 on page 40 in the JTB. The T1 D 41313 on page 54 (R13) confirms that the Applicant declared 200 cartons of cigarettes valued at USD 18,000. However, the export entry (A8) on page 12, with the same entry number and T1 number, and the attached invoice on page 13 for the Applicant, listing 2,000 cartons valued at USD 180,000, do not appear in the ASYCUDA system. Therefore, they were forgeries that were perpetrated by the Applicant.
134. Mr. Sekitoleko Steven, the Respondent's investigating Officer, testified that the Applicant submitted to the investigating team gate pass no. 2258, dated 31 October 2019, indicating the sale of 2,000 cartons of cigarettes.
135. The Respondent further submitted that when Mr Celestin Ndikuriyo, the Applicant's Production Manager, was before the Respondent's investing team, he stated that the Applicant's Finance Department issued an invoice no. 2019/061 dated 15 October 2019 for 2,000 cartons of cigarettes. All the purported invoices, gate passes, and production delivery notes that he produced to the Respondent during the investigations appear as R5, R6, and R7 on pages 42 to 44 of the JTB. However, in paragraph 5 of his witness statement, he stated that he signed off on invoice no. 2019/061 of 2000 cartons of cigarettes, with each carton containing 50 bundles of 10 packets of 20 sticks.
136. However, Mr Kivumbi Luke, a Customs Officer in the Intelligence Unit, testified that in January 2020, he took a statement from Mr Ndikuriyo, in which Mr Ndikuriyo presented an invoice for 2,000 cartons of cigarettes

valued at USD 180,000. This was a different figure from the 200 cartons that had been declared in with a value of USD 18,000.

(v) The mysterious purchase and purchaser

137. The Respondent submitted that, during cross-examination, Mr Ndikuriyo testified that he had no proof of the purchase order and that the purchaser went to the factory and placed the order both in writing and orally. He further claimed that the representatives of the purchaser, High Move Import Limited, came from South Sudan, and when asked for their names, he said he had never asked for their IDs. He also stated that they paid USD 180,000 in cash and that the Applicant receives all payments in cash.
138. The Respondent further submitted that it is perplexing and highly unlikely for such an established company to trade so casually on a transaction purportedly valued at \$180,000, translated into Shs. 660,486,600.
139. The Respondent further submitted that Mr. Ndikuriyo stated in re-examination that when selling for export, normally they hand over the goods after the clearing agent has presented the export documents from the ASYCUDA system. Mr. Ndikuriyo testified that the purchaser presented Truck UAV 136M, on which the cigarettes were loaded. He stated that upon leaving the factory, the goods were in the hands of Bangaruye clearing and forwarding, and that the Applicant played no further role after loading was completed.
140. The Respondent further submitted that when asked whom he was dealing with in Bangaruye C&F, Mr. Ndikuriyo stated that he did not know the name. The Respondent wondered how the Applicant, who was the declared exporter, could have handed over the goods to an unknown person. The Respondent mused that such behaviour was reckless or deceitful.
141. The Respondent further submitted that Mr Ndikuriyo testified that the export was complete and the export documents were delivered at the Applicant's premises as proof of export, and it was upon submission of the proof of

export that the Applicant became aware that the consignment had been exported. The Respondent submitted that this is not only untrue but illogical.

142. This is because Mr Ngaruye E. M. Ali (RW11) testified that Mr Ndikuriyo provided him with the purported rotation Number as proof that the goods had exited the country. Since the rotation number was proved to be a forgery and neither of the gentlemen confirms it, obtaining this rotation number from the Respondent's Officials at the Madi Opei border implies that the goods never exited the country.

143. The Respondent further submitted that the onus of ensuring that goods declared for export are actually exported and exit the country lies with the exporter (Applicant) under Section 2 of the EACCMA. The provision defines an "export" to mean to take or cause to be taken out of the Partner States. Further, Regulation 11 of the VAT Regulations states that for an export transaction to qualify for zero rating, the taxpayer must provide proof of export. Therefore, if an exporter were to so recklessly assume that his duties in an exportation cease upon loading goods on the vehicle at his premises, then such an exporter would have to be held culpable to pay the tax when such goods are not actually exported.

(vi) The forged Outward Rotation Number

144. The Respondent submitted that Mr Sekitoleko Steven (RW10) testified that on 7 November 2019, Ngaruye Ali (RW11) of Bangaruye C&F wrote to the Respondent requesting to retire its bond in force on the grounds that Motor Vehicle UAV 136M had exited Uganda with the consignment. He indicated the Outward Rotation Number as OR/UGMA/316/2019 (Exh. R23 Pg 107 JTB).

145. The Respondent submitted that, as testified by Ms Aber Lydia (RW8), an Outward Rotation Number is a number given to a particular truck at the border when it is exiting.

146. Mr. Sekitoleko (RW10) testified that upon presentation of the declarations to the Customs Officer, the Outward Rotation Number is allocated and is indicated in the Border register (Barrier Register) and also written on the hard copy of the export entry. He further explained that Outward Rotation Numbers are issued in sequence. He further testified that a clearing agent may move with the consignment up to the border or the drivers may move without the clearing agent.
147. The Respondent further submitted that when the investigating team requested the Applicant to provide the Outward Rotation Number used for export (Exhibit A2 on page 2 of the JTB) , the Applicant stated that they did not have this information and that it should be in the Respondent's records.
148. The Respondent noted that, according to Exhibit R16, which is a plaint in a civil suit filed by the Clearing firm Bangaruye Clearing & Forwarding and Mr. Ngaruye E M Ali (RW11) against the Applicant and the Respondent, the Plaintiffs stated in paragraph 6 that the Applicant was to share the rotation number with the clearing firm to enable release of the bond in force.
149. Furthermore, the Respondent submitted that the Clearing Agent, Ngaruye E.M. Ali of Bangaruye C&F, confirmed before the Tribunal that it was the Applicant's Production Manager, Ndikuriyo Celestine (AW1), who informed him that the goods had exited the country. Mr. Ndikuriyo also gave him the impugned Rotation Number OR/UGMA/316/2019.
150. The Respondent submitted that during re-examination Mr. Celestine Ndikuriyo testified that the goods were exported (page 8) with the evidence of the disputed T1 bearing the forged rotation number. AW1 did not admit to obtaining the impugned rotation number. He testified that copies of stamped export documents were delivered to the Applicant's factory premises and that it is how the Applicant became aware that the consignment had been duly exported. The Respondent wondered as to who actually delivered the documents to the Applicant's premises, which the

Respondent considers a mystery designed to deflect from the forgeries of the Applicant.

151. The Respondent further submits that according to its Transit Register for the Madi Opei Border, the rotation number referred to by Mr. Ngaruye Ali (RW11), No. OR/UGMA/316/2019 was/is non-existent and out of range of the series of the rotation numbers issued in the said period of November 2019. (Refer to the Border Register R14 at pages 55-61 JTB). This was also confirmed by the Respondent's witnesses, RW5, RW7 and RW10.

152. The Respondent further submitted that when Exhibit A8 at pg 11 of the JTB with the forged Rotation number is compared to Exhibit A7 on page 8 of the JTB (the sight account for Entry 52232 at the border by Ms. Lydia Aber Otonga, which the Respondent contends that the Truck was not carrying the declared consignment), significant differences can be identified. A8 does not include the details of who verified and what was done or observed during verification. The Respondent submitted that the rotation number was forged and maintained that the consignment under Entry 42348 did not exit Uganda.

The consignment in respect of Entry No. 52232

153. The Respondent submitted that on 27 December 2019, the Applicant made a declaration on this entry for 2,000 cartons of Supermatch cigarettes loaded on Truck no. UAZ 979P allegedly destined for South Sudan via Elegu Border and attached invoice number 2019/075 dated 19 December 2019 issued to CC Connections Ltd.

(i) **The mystery of the seal**

154. Davis Tashobya, attached to the Respondent's Rapid Response Unit, obtained an e-seal no. 60D5005290 and gave it to the Applicant's clearing agent, who mounted it on the vehicle before any verification was done. This consignment had been declared under entry E52018 on 23 December 2019. Mr. Sekitoleko Steven (RW10) testified that Mr. Tashobya was an Officer deployed under the Rapid Response Unit and his role did not include

verification and sealing of consignments. According to Mr. Charles Basomba (RW1), an expert in customs processes, a person who is supposed to place a seal on a motor vehicle is the person who has the truck and the cargo. However, Mr. Tashobya did not have the truck and cargo and therefore had no mandate to obtain a seal to seal the truck.

155. The Respondent further submitted that when the Manager, Enforcement Operations requested Mr. Tashobya to find out who had signed for the seal which had been placed on the truck no. UAZ 979P and which seal was later replaced by Ms Tino Angella, Tashobya went to the Seals Management Office, requested for the copy of the Manual Register and tore out the pages that showed that he was the person who had signed for the seal. The investigation team later found that the pages containing the details of the seal in question had been removed from the seals register. Mr. Sekitoleko testified that using the electronic and the manual register, the team established that it was Mr. Tashobya who had given the seal to the clearing agent and that it was Mr. Tashobya who tore out the pages. Tashobya later admitted to having given the seal to the clearing agent (R17, page 99 of the JTB).

156. The Respondent submitted that on 24 December 2019, the same consignment arrived at Liberty ICD and the in-charge, Ms Angella Tino, found that the truck bore an e-seal 60D5005290 affixed by Tashobya. On 27 December 2019, entry no. E52918 was cancelled and replaced with entry no. E52232 captured by All Africa Logistics aboard motor vehicle UAZ 979P. On the same date, the clearing agent took the entry to Ms Tino Angella, who replaced the earlier seal with seal no. 60D5005393 without verifying the contents of the truck, but rather relied on what the clearing agent told her - that the consignment had been verified by Tashobya. Consequently, Angella Tino uploaded the verification account in respect of entry 52232 and indicated that Tashobya had carried out the verification of the consignment in issue (R28 page 122-JTB). Both Tino and Tashobya have since been terminated from the Respondent's service on account of mishandling this consignment (R20 & 21 page 104 JTB)

(ii) There was no sighting of the 2,000 cartons at Elegu Border

157. The Respondent submitted that Lydia Aber Otonga (RW8), a Customs Officer deployed at Elegu customs border, testified that on 29 December 2019, she received truck no. UAZ 979P of entry E52232 and confirmed the metallic and electronic seals attached to the truck, deactivated the electronic seal from the truck and took a photo using the Transit Management System Application and submitted the photo to TMU for validation. She confirmed that she did not remove the metallic seal, nor did she open the truck to confirm the contents, because she had confirmed in the ASYCUDA system that the truck had been verified by Tino Angella. In addition, Carolyn Manake (RW9), a Validation Officer at the Respondent's Transit Monitoring Unit (TMU), testified that she received the details on T1 D49316 vis-à-vis the TMS images by RW8 at Elegu, and when she found them tallying, she validated the T1.

158. Therefore, there was no physical verification of the contents of the consignment at the border based on the understanding that Ms. Tino had verified the consignment before sealing the truck.

(iii) The Weighbridge certificate confirmed that the truck did not contain the declared consignment

159. The Respondent submitted that when they requested the Applicant to provide weigh bridge receipts, the Applicant stated that they did not have weigh bridge certification/receipts, as they could have been with the truck owners/drivers (Exhibit A2 on page 2 of the JTB) . However, as per Exhibit R10 on page 47 of the JTB, the Respondent requested UNRA to provide the weighbridge information in respect of motor vehicle UAZ 979P for the month of December 2019. On 20 January 2020, UNRA informed the Respondent that truck UAZ 979P passed at the Luwero Weigh Bridge along Gulu Highway on 17 December 2019 at 06:12 am and on 28 December 2019 at 04:53 pm, weighing 32.06 tonnes and 13.360 tonnes respectively.

160. The Respondent states that the relevant date is 28 December 2019, when the truck weighed 13.360 tonnes. (R1 page 48 & 49 JTB). The Respondent submitted that the evidence did not tally with the export declaration dated 27 December 2019, which indicated a weight of 28.00 tonnes.
161. The Respondent further explained that Mr Muggwe Anderson, a Police Officer deployed in the Customs Intelligence Unit (RW6), testified that on 13 March 2020, he escorted an empty truck registration no. UAZ 979P from the Respondent's headquarters at Nakawa in Kampala to the Luwero Government weigh Bridge for the purpose of weighing the said truck when it was empty. On weighing the empty truck on the same day, the truck's gross weight was 12.540 tonnes, and a weigh bridge certificate was issued, which was admitted in evidence as REX35.
162. The Respondent further submitted that, according to the weighbridge certificate that was issued when the truck was purportedly laden with the goods, the weight was 13.36 tonnes. The Respondent concluded that the truck that exited Uganda for South Sudan had a net weight of 0.82 tonnes, compared to the expected weight of 40.54 tonnes, including goods. The Respondent asserts that the goods never left the country but were instead sold on the local market, with no taxes paid.
- (iv) The Truck did not have the capacity to carry 2,000 cartons of cigarettes
163. The Respondent further submits that it wrote to the Directorate of Government Analytical Laboratory to establish the quantities of cigarettes that could actually fit in truck no. UAZ 979P, declared to have transported 2,000 cartons of Supermatch cigarettes (R26). The Directorate of Government Analytical Laboratory provided the Respondent with a Laboratory Report R11, which indicated that Truck UAZ 979P could only house approximately 800 cartons of cigarettes when filled to capacity. (R12 on page 51 of the JTB). The Respondent reiterated that the Applicant provided no evidence to demonstrate the magic it used to fit 2000 cartons in the said vehicle.

(v) The Applicant has a history of fraudulent exports

164. The Applicant submitted that all the submissions made indicate that the Applicant has a history of fraudulent exports.
165. The Respondent submitted that they tendered in the Judgment of the Anti-Corruption Court in ***Uganda (URA) V Mweru Rodgers & Bwire Jackson Odwori, HCT-00-AC-CO-012/2020*** as evidence (REX37) where the Anti-Corruption Court found that there was evidence beyond a reasonable doubt that there had been a fraudulent declaration intended to evade taxes. The Respondent added that Bwire Jackson was convicted.
166. The Respondent also submitted that Bwire's conviction is proof that the Applicant intended to dupe the Respondent into believing that the consignment vide Entry 42348 and Entry 52232 were exported, whereas not. The Respondent maintained that the consignments on Entry E52232 and Entry E42348 did not leave Uganda.

Response to the applicant's contentions

(i) The purported correspondence from SSRA

167. The Respondent submitted that the Applicant's submissions relied heavily on the purported letter from the Republic of South Sudan purporting to have received the consignments.
168. The impugned documents were never admitted as exhibits before the Tribunal but merely marked as identification documents. According to the decision of Hon. Justice Kwesiga in ***Kiraza Paul V Musa Ssekeba, HCCA No. 58 of 2012***, the Learned Judge held that once a document is marked as an identification document, it does not become an exhibit or part of the evidence until it is formally tendered and admitted as an exhibit and so marked by the Court.
169. Further, the reason the said letter was never exhibited is that its authenticity was in question, and the Applicant failed to present a witness from the

South Sudan Revenue Authority to speak to the said documents and tender them in evidence.

170. The Respondent further submitted that it would be interesting to know how SSRA received a consignment that never crossed the Ugandan border, or how the truck that exited did not contain the consignment. It would be even more interesting to understand how SSRA can claim to have received the consignment aboard UAZ 979P vide Entry No. 52232 on 27 December 2019, yet the said vehicle was received at the Elegu Border on 29 December 2019 as per the evidence of RW8 & RW9. In addition, exhibit R27 at page 121 of the JTB, a report of the truck at the exit clearly shows the Truck at the Elegu Border on 29 December 2019.

171. The Respondent submitted that it is also important to note that the purported letter from SSRA quotes Entry NO. 4234, which is unknown to the Respondent. The Respondent cited the case of ***Kuku Foods Uganda Ltd V URA, HCCA No. 0036 of 2021***, where Hon. Justice Patricia Mutesi held:

“The primary duty of the Respondent is to receive, read and analyse import documents, including certificates of origin. The duty to present proper certificates of origin is non-assignable, and even if the Respondent undertakes a formal verification process, such action does not override the importer’s duty to provide proper documentation.

The Respondent’s discretion on whether to verify or not to verify contents of a certificate of origin has to, of course, be exercised judiciously and lawfully. Verification is only necessary only when an impugned certificate is valid, that is to say, all its boxes have been duly filled out. In the same vein, once critical elements of the certificate are missing, that certificate is dead on arrival and cannot be resuscitated through a verification inquiry.”

172. The above decision, applied mutatis mutandis to the present case, implies that the primary duty to present proper evidence to prove that the goods were exported lies with the Applicant. The Respondent’s discretion on whether to verify the purported SSRA letters was never necessary in light of the overwhelming evidence that the goods never exited Uganda.

(ii) Failure by the Respondent's officers carry out a full verification

173. The Respondent further notes that the Applicant argued that the Respondent's officers did not do a full verification of the consignments and that, as such, the Applicant is not liable to pay the tax. The Applicant cannot be relieved from paying taxes on the basis of a few officers who were dissuaded from properly performing their duties. This does not take away the main issue before this Honourable Tribunal that the goods never exited the country.

174. The Respondent cited ***Hassan Omari & Anor v. Hon. Hellen Adoa, URA & Ors, HCCS No. 734 of 2021***, in which the Plaintiffs had declared that the fish originated in Kenya and transited through Uganda, en route to the Democratic Republic of Congo. The evidence showed that the fish was, in fact, an immature fish from Uganda water bodies, which is a prohibited good. Whereas there were gaps in understanding how the Plaintiffs managed to declare the fish as entering Uganda from Kenya, the evidence that the fish was from Ugandan water bodies was overwhelming, and accordingly, the Learned Judge held that:

"The evidence of the plaintiff was so incredible and the court could not believe it since it contained several contradictions and inconsistencies. I have believed the defence evidence since it is consistent, coherent, and, in totality, realistically supports the finding that the plaintiffs' consignment contained immature fish. This court is bound to put the entire evidence on the imaginary scale of justice to determine in whose favour the balance tilts."

175. The Respondent thus submitted that when this Honourable Tribunal puts the entire evidence on the imaginary scale of justice, it will find that the consignments of cigarettes never exited the Ugandan borders.

(iii) Absence of the TMU Reports

176. The Respondent submitted that the Applicant dwelt on the absence of Transit Monitoring Reports. There is no law that requires the Respondent to produce TMU reports for every consignment. Moreover, the evidence

before this Tribunal has shown that the consignment in respect of Entry 42348 was sealed with a metallic seal which was not tracked by the electronic system.

177. With respect to entry 52232, the parties do not dispute that the truck exited the country from Elegu Border. The Respondent's contention is that the truck was not carrying the consignment as declared when it exited. The Respondent maintained that the evidence on record is more than enough to confirm that the consignments never reached the respective borders of Madi Opei and Elegu.
178. The Respondent submitted that there is no plausible explanation for the several inconsistencies in the Applicant's account, and the Applicant must answer for their deceit and pay the appropriate taxes.

VII. The Applicant's submissions in rejoinder

179. In rejoinder, the Applicant reiterated their earlier submissions and further argued that it was not disputed that 4,000 cartons, 2000 cartons per consignment of Supermatch Cigarettes, were sold and exported under export entries E42348 and E52232 aboard vehicles UAV 136M and UAZ 979P to High Move Import Limited and CC Connections Limited in South Sudan, respectively.
180. The Applicant submitted that it was the Respondents' burden to prove the alleged dumping. The Respondent failed to present the alleged Angella Tino and Davis Tasobyia to give evidence before the Tribunal. The Applicant further submitted that it was never privy to the said criminal proceedings; the judgment did not try the facts before the Tribunal and concerned a different incident of January 2020.
181. The Applicant also submitted that the Respondents' submissions admit the flaws and the irregular and illegal actions of customs officers, yet they have no proof that the officers employed by URA were acting on the Applicant's

instructions. The failure to prosecute the said officers demonstrates a lack of evidence of the Respondent's alleged dumping.

182. The Applicant further submitted that the Respondent's officers were fully responsible for ensuring the physical inspection and verification of the goods; hence, any lapses are not the Applicant's responsibility. The Applicant further submitted that the Respondent never presented the weigh bridge certificates for UAZ 979P, as both vehicles were used on the same route with similar goods.

183. The Applicant argued that the assertion that UAZ 979P could not carry 2000 cartons is engineered and that the Tribunal should not rely on it in the absence of a witness to explain it. The Applicant prayed that the Tribunal find that both consignments, with export entries E42348 and E52232, were aboard UAV136M and UAZ 979P and were exported to South Sudan, and that the Applicant is not liable for VAT and Excise duty.

184. The Applicant further submitted that the Applicant was never privy to the Judgement of the Anti-Corruption Court of 26 June 2025. The Anti-Corruption Court did not try facts before this Tribunal as it concerned a different incident of January 2020 for which Mweru Rogers was acquitted, and the court held:

"As regards AI's participation, prosecution failed to summon one Tino Angella, the whistleblower who would have explained AI's role...."

185. That the Respondent has no documentary evidence proving the alleged return of the goods to the Applicant's factory, and that the best evidence before the Tribunal is the acknowledgement of receipt of the goods in South Sudan, indicating that the goods duly exited the country.

186. The Applicant further prayed that the assessment of Shs. 3,596,462,462 be set aside, costs of the suit be awarded, and they be refunded the 30% deposit of Shs. 1,078,938,740.

VIII. The Determination

187. The dispute concerns VAT and excise duty assessments of Shs. 3,596,462,462, arising from two export entries, namely, E42348 and E52232, dated 24 October and 27 December 2019, respectively. The Respondent alleged that the said consignments were never exported but were instead diverted and sold on the local market.
188. The Applicant maintained that consignments were exported aboard motor vehicles, UAV 136M and UAZ 979P, respectively, and exited the country at the respective border points. Therefore, the Applicant is not liable to the assessed taxes.
189. According to the record, the Applicant alleged that in October and December 2019, respectively, they exported two consignments of Supermatch cigarettes to South Sudan, namely;
- (i) Export entry E42348 dated 24 October 2019 was exported under T1 D41313 dated 2 November 2019, consigned to High Move Import Limited of Juba, South Sudan, for 2000 cartons of Supermatch cigarettes aboard UAV 136M Box Body.
 - (ii) Export entry E52232 dated 27 December 2019 was exported under T1 D49316 dated 29 December 2019, consigned to CC Connections Limited of Juba, South Sudan, for 2000 cartons of Supermatch cigarettes aboard UAZ 979P Box Body.
190. The Tribunal will address each entry. However, it is important that we first highlight the core principles underpinning the resolution of this dispute.

Burden of proof

191. The burden of proof in tax matters rests with the Applicant to prove that the assessment is excessive or that the taxation decision should not have been made or should have been made differently. This is in accordance with section 19 of the Tax Appeals Tribunal Act.

192. In *Noorbrook Uganda Ltd v Uganda Revenue Authority TAT Application No. 18 of 2018*, the Tribunal held:

"The burden is on the Applicant to prove.... the burden of proof shifts where an applicant states its case, the burden shifts to the respondent to controvert it. The standard of proof is on a balance of probabilities. The balance of probabilities does not mean the Tribunal has to establish absolute truth. It merely means that the party which adduces evidence with the most convincing force is successful."

The VAT legal framework

193. In addition, this dispute hinges on whether the Applicant made taxable supplies for VAT purposes. Section 4(a) of the VAT Act, VAT is imposed on "every taxable supply made in Uganda by a taxable person." Furthermore, Section 18(1) defines a taxable supply as "a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities.

194. However, section 24 (4) of the VAT Act, read together with item 1(a) of Schedule 4 of the VAT Act, provides that a supply of goods or services where the goods or services are exported from Uganda as part of the supply is zero-rated. Therefore, if it is established that the consignments of cigarettes were exported out of Uganda, it would follow that the Applicant is not liable to pay VAT on the exported consignments.

The Excise Duty framework

195. Section 3 of the Excise Duty Act provides for the imposition of excise duty. It states as follows:

"(1) Subject to this Act, the excisable goods and excisable services specified in Schedule 2 shall be chargeable with the excise duty specified in that Schedule.

(2) Unless otherwise provided in this Act, excise duty-

(b) In the case of a manufactured excisable good, it is to be paid by the person manufacturing the excisable good.

(3) A manufacturer of an excisable good becomes liable to pay excise duty on that manufactured excisable good when the manufactured good is removed from the manufacturer's premises"

196. The Applicant must prove the goods were actually exported, as required by law. If the goods were exported, no excise duty is due. However, if the goods were sold locally, the Applicant would have to pay the full duty plus any penalties.
197. We must now determine whether the goods in question were exported as the Applicant alleges or sold on the local market as alleged by the Respondent.

Entry No. E42348

198. Export entry E42348, dated 24 October 2019, was purportedly exported under T1 D41313, dated 2 November 2019, consigned to High Move Import Limited of Juba, South Sudan, for 2,000 cartons of Supermatch cigarettes, aboard UAV136M Box Body.
199. Further, according to a receipt dated 31 October 2019, issued by the Applicant to High Mover Import Limited and exhibited as A4 at page 5 of the JTB, the value of the consignment was USD 180,000 against invoice number 2019/061, dated 15 October 2019, exhibited at page 13 of the JTB.
200. The Applicant's case is that Entry No. E42348 is related to the export of 2,000 cartons of Supermatch cigarettes to High Move Import Ltd in South Sudan. AW1 testified that Invoice No. 2019/061 dated 15 October 2019 was issued for 2,000 cartons valued at USD 180,000 and that payment was received from the consignee.
201. In addition to the above, the evidence concerning this entry is as follows@ the Applicant's witnesses testified as follows:
- (i) AW1 further testified that the truck registration No UAV 136M was loaded at the Applicant's factory and handed over to the clearing agent, Bangaruye Clearing & Forwarding Ltd, for export processing.

- (ii) AW4 testified that Entry No. E42348 was generated in ASYCUDA, and the transaction was processed on instructions received from representatives of High Move Import Ltd.
- (iii) AW5, a Customs Officer, confirmed that he departed the entry in the customs system on 2 November 2019 based on documents presented to him. The Respondent's position is that evidence concerning Entry No. E42348 of 24 October 2019 was in respect of 200 cartons of cigarettes valued at USD 18,000.
- (iv) RW2, Ann Nabitolo, testified that during verification, she physically sighted a truck carrying cigarettes and verified 200 cartons. RW3, Jackline Nabweteme, similarly testified that the verification account uploaded into the customs system reflected 200 cartons.
- (v) RW11, Ngaruye Ali, the Managing Director of Bangaruye Clearing & Forwarding Ltd, testified that the declaration he made on behalf of the Applicant was for 200 cartons valued at USD 18,000.

Inconsistencies in the quantity of cigarette cartons

202. The analysis of the above evidence points to inconsistencies in the quantity of the cigarette cartons. Customs records are contemporaneous documents generated during the export process and consistently indicate 200 cartons, not 2,000.
203. Further, Ms Ngaruye E. M. Ali, Managing Director of Bangarugye Clearing and Forwarding Company, testified that he verified the goods at the factory and filled in the information in the system under Entry 42348 valued at USD 18,000 for 200 cartons of cigarettes for the vehicle UAX 136.
204. The Applicant did not explain the inconsistency.

Inconsistencies in the rotation number

205. A further inconsistency relates to the outward rotation number OR/UGMA/316/2019, which the Applicant relied upon as proof of exit. Moses Okoth, the Station in Charge of Madi Opei Customs border, testified that this rotation number did not exist in the records of Madi Opei Customs

Station and fell outside the sequence of rotation numbers issued during the relevant period.

206. Further, Ngaruye Ali, the Managing Director of Bangarugye Clearing and Forwarding Company, testified that Mr Mukaaga asked him to apply for cancellation of the entry, which he declined because he was not convinced that the Applicant had been denied the importation licence. He also testified that when he presented the rotation number to the Respondent for validation, his Tax Identification Number ("TIN") was suspended on the grounds that the rotation number was a forgery.
207. The Applicant has not explained the inconsistencies in the rotation number, specifically, how they ended up with a number that is out of sequence.

Failure to retire the bond

208. The Respondent also produced evidence that the transaction remained outstanding in ASYCUDA and that the bond associated with the export was never retired. Mr. Ngaruye (RW11) stated that when a consignment has been exported, the bond in force is automatically retired in the system, but this time, the bond in force had not yet been retired.
209. RW1, Mr. Basomba Charles, URA Customs expert, testified that a security bond taken for an export/transit transaction is only supposed to be formally retired and released once there is confirmed proof that the goods have actually exited Uganda and reached their intended destination.
210. Therefore, the security bond is retired once the goods have been confirmed to have actually exited.

No proof of export

211. The Tribunal further notes the lack of sufficient proof that the goods left Uganda and were received in South Sudan.
212. The Applicant adduced a document, marked AID4, exhibited at page 11 of the JTB, in respect of Entry 42348 for vehicle UAV 136M, dated 24 October

2019. The document shows High Move Import Limited as the consignee and Baragaruye Clearing as the forwarding agent. These formed part of the Applicant's declaration dated 24 October 2019 in the Respondent's ASYCUDA system (Ex. A8 at page 11 of the JTB). The documents show that the Respondent released the goods on 3 November 2019 under the number OR/UGMA/316/2019, destined for the MADI OPEI Transit Shed.

213. While this confirms that the Respondent's Customs Office granted permission for the consignment to proceed towards the border, it does not constitute proof of actual exit from Uganda.
214. Furthermore, the Applicant adduced an export sales ledger on page 31 of the JTB, which shows cigarette export sales. However, this is an internal record prepared and maintained by the Applicant itself. While it may indicate that the Applicant recorded the transaction as an export sale in its own books, such internal documentation is not sufficient to discharge the legal burden of proving actual export. This ledger does not contain any verification from customs authorities, border records, or independent third parties confirming that the goods left the territory. It is therefore regarded as evidence of the Applicant's own accounting treatment and is therefore not conclusive of proof that the transaction qualified as an export for tax purposes.
215. The Tribunal notes that the Applicant bears the burden of proving actual export. While the Applicant produced invoices, receipts, delivery notes, and declarations indicating an intention to export, these documents alone are insufficient to establish the actual export of the goods from Uganda.
216. These documents only demonstrate intention rather than actual export, as they relate solely to the declaration and initial movement of goods. ASYCUDA declarations only show that customs granted permission to proceed toward the border; none of them confirms that the goods physically exited Uganda.

The purported letter from the South Sudan Revenue Authority

217. The Applicant presented a document purportedly issued by the South Sudan Revenue Authority, Customs Division at Teseretenya Station, confirming a shipment of 2,000 cartons of Supermatch cigarettes by Leaf Tobacco & Commodities (U) Ltd consigned to CC Connections Ltd of South Sudan, and a second consignment in respect of the shipment consigned to High Move Import Ltd of South Sudan, likewise confirming receipt of goods.

218. Section 59 of the Evidence Act provides:

“Oral evidence must, in all cases whatever, be direct, that is to say—

- (a) If it refers to a fact which could be seen, it must be the evidence of a witness who says he or she saw it;*
- (b) If it refers to a fact which could be heard, it must be the evidence of a witness who says he or she heard it;*
- (c) If it refers to a fact which could be perceived by any other sense, or in any other manner, it must be the evidence of a witness who says he or she perceived it by that sense or in that manner;*
- (d) if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds...”*

219. Given the above rules, evidence should be firsthand. A document records facts, statements, or opinions, but for it to be admissible, the person who created and signed it typically needs to testify to verify its contents. Without this verification, the document's contents are considered hearsay – they're someone else's account, not based on the witness's direct knowledge or perception

220. The Applicant in this case adduced a document but did not call the author to testify to its veracity. In the circumstances, this document could not be relied upon as proof of export.

221. The Tribunal also perused the plaint filed by RW11, the clearing agent for consignment No. 42348, in respect of a suit, ***M/S Bangaruye Clearing &***

Forwarding Co. Ltd v Uganda Revenue Authority, Civil Suit No 40 of 2021, where the clearing agent sued the Applicant for false imprisonment, unlawful suspension of operations, breach of the obligation of an exporter to a customs agent, among others. According to the plaint, the consignment in issue was entry No. 42348 valued at USD 18,000, equivalent to Shs. 66,000,000.

222. RW11, the Managing Director of Bangarugye Clearing and Forwarding Company, stated that through its lawyers, M/S MNA Advocates, a demand notice was served on the Applicant for failure to obtain a genuine rotation number and dumping of cigarettes from the Respondent, thereby causing suspension of its operations and further filed a suit before the High Court vide Civil Suit No. 40 of 2021.
223. The above indicates that even the clearing agent sued over the lack of a genuine rotation number and the resulting suspension of its operations. Therefore, the Tribunal finds that this case contains significant inconsistencies that cannot support the export claim.

The failure of the goods to arrive at the border

224. Mr. Richard Lakony, AW5, stated that on 2 November 2019, while deployed by the Respondent at Multiple ICD, he was requested to depart and validate Export Entry No. E42348 dated 24 October 2019, which was worked on the previous day by Ann Nabitalo. He used the information from the submitted hard copy of export entry E42348 and the information declared in the ASYCUDA system to depart the entry.
225. The witness stated that on 11 November 2019, he received a call from the transit monitoring unit informing him that the entry he departed had not reached the border.
226. On the other hand, the Respondent has demonstrated that it is more likely that the goods do not leave the country. For example, the fake rotation number, inconsistencies in quantities, and the truck's failure to arrive at the

border collectively support the inference that the goods did not leave the country. Thousands of goods leave Uganda for South Sudan, and it is clear that the abnormalities highlighted in this consignment are the exception, not the norm.

227. Consequently, the Tribunal is not satisfied that the Applicant has proved that the goods declared under Entry No. E42348 exited Uganda. We therefore find that the Applicant has failed to discharge its burden of proof in respect of Entry No. E42348.

Entry No. E52232

228. Export entry E52232, dated 27 December 2019, was exported under T1 D49316, dated 29 December 2019, consigned to CC Connections Limited of Juba, South Sudan, for 2,000 cartons of Supermatch cigarettes aboard UAZ 979P, Box Body.

229. The Applicant contends that Entry No. E52232 relates to the export of 2,000 cartons of Supermatch cigarettes to CC Connections Ltd in South Sudan. AW1 testified that Invoice No. 2019/075 dated 19 December 2019 was issued for 2,000 cartons valued at USD 180,000.

230. The Respondent nevertheless queried whether the truck actually contained the quantity of cigarettes as declared by the Applicant. Mr. Steven Sekitoleko (RW10) an Officer in the Tax Investigations Department of the Respondent, testified that a Customs Officer, Tino Angello, while conducting a physical verification of a consignment declared by the Applicant vide entry number E281 of 4 January 2020, purportedly for export of 2,000 cartons of cigarettes, found on truck Registration UAQ 987L to contain only two cartons laden with cigarettes. The rest of the items were empty boxes

231. He further stated that Tino Angela then informed the Respondent's Customs Intelligence Team that she was suspicious that the earlier export declarations by the Applicant may also have been false declarations. The

intelligence team then reviewed all the previous export declarations made by the Applicant.

232. The evidence pertaining to this consignment is as follows:

- (i) AW 2 testified that he participated in clearing a consignment 5223 of 27 December 2019 in respect of 2,000 cartons of cigarettes destined for South Sudan. Mr Rogers Mweru (AW2) and Mr Bwire Jackson (AW3), both clearing agents who participated in the clearing process, testified that truck registration No. UAZ 979P was loaded at the Applicant's factory and taken to Liberty ICD for verification. Both witnesses testified that the truck was inspected by a Customs Officer named Angela Tino, who sealed it with electronic seal No. 6005005393 and released the cargo for export.
- (ii) They further testified that the truck proceeded to the Elegu Border, where RW8, Lydia Aber, a Customs Officer, received and inspected the goods, confirmed and issued outward rotation number OR/00/12/2019/5052.
- (iii) Rogers Mweru (AW2), the clearing agent who worked for All Africa Logistics, testified that Lydia Aber (RW8) confirmed receiving truck UAZ 979P at Elegu Border and confirmed the seals and forwarded photographs of the seals to the TMU through the Transit Monitoring System.
- (iv) RW 8 also stated that she did not inspect the truck to verify its contents, as it had already been verified by Angella Tino, who was later terminated by the Respondent (R21 PAGE 104 JTB).
- (v) The Respondent adduced a termination letter exhibited in R17 on page 94 of the JTB, which shows that Angela Tino was subsequently implicated in fraudulent conduct relating to export verification procedures. Further, Sekitoleko Steven (RW10), the Respondent's Investigating Officer, testified that Angella Tino failed to conduct proper physical verification and was later dismissed for misconduct related to export procedures. In addition, her colleague, David Tasobya, who allegedly falsified the rotation number, was also

terminated as per the termination letter exhibited in R20, at page 103 of the JTB.

- (vi) During the course of the investigation, the Respondent obtained weighbridge data from the UNRA, which showed that truck no. UAZ 979P passed the Luweero Weigh Bridge along Gulu Highway on 17 December 2019 and at 06.12 am and on 28 December 2019 at 04.53 pm, weighing 32.06 tonnes and 13.360 tonnes respectively. The Respondent submitted here that this evidence was at variance with the export declaration captured on 27 December 2019, which indicated the weight of 28.00 tonnes. (See R11 on page 48 of the JTB)
- (vii) The Respondent also produced a Government Analytical Laboratory report indicating that a truck of that size could only accommodate approximately 800 cartons of cigarettes. Based on these findings, RW10 concluded that the truck could not carry the declared 2,000 cartons.
- (viii) The Respondent also asked the Applicant for the weighbridge receipts, but the Applicant did not provide them and instead referred the Respondent to the truck's drivers and owners.
- (ix) The Respondent also submitted that they established that the UNRA data showed that the empty truck no. UAZ 979P has a gross weight of 12.540 tonnes (REX35).

Analysis of the evidence

233. While the evidence establishes that truck UAZ 979P physically arrived at Elegu Border and underwent exit procedures, it does not establish with certainty that the truck contained the declared 2,000 cartons of cigarettes at the time of exit. The customs officers stationed at the border merely confirmed the integrity of the seals and the particulars appearing in the customs system. They did not independently verify the contents of the truck.
234. The Tribunal has also taken into consideration third-party information from the UNRA weighbridge records, which show that the truck weighed 13.36 tonnes on 28 December 2019, and the Government Analytical Laboratory report, which indicates that a truck of that specification could accommodate

only approximately 800 cartons of cigarettes when fully loaded. This evidence raises substantial doubt as to whether the truck carried the declared quantity of 2,000 cartons.

235. The Tribunal therefore finds that the evidence indicates that truck UAZ 979P travelled through the customs export chain and reached Elegu Border. However, the Applicant is required to prove the exportation of the declared quantity of 2,000 cartons of cigarettes. The Applicant has not adduced any evidence to counter the UNRA reports and the Government Analytical Laboratory report.
236. Due to the above inconsistencies regarding the vehicle's weight and capacity, the Tribunal is not satisfied, on the balance of probabilities, that the Applicant has proved that the declared 2,000 cartons were exported.
237. As with the previous entry, the letter from the South Sudan Revenue Authority that the Applicant tendered as proof of export is of low evidentiary value for the reasons already highlighted above.
238. Where an exporter claims a zero rate, the burden rests upon them to prove that the goods were exported from or left Uganda. The Tribunal agrees that truck UAZ 979P reached Elegu Border and completed the customs exit procedures. However, the Applicant was required to prove that the declared consignment of 2,000 cartons of cigarettes exited the country, a requirement they have not adequately met. On the other hand, the Respondent's evidence is overwhelming and leads to the Tribunal to the conclusion that it is more likely than not that the 2,000 cartons made it to South Sudan.
239. In the absence of satisfactory proof of export, the Respondent was entitled to treat the transactions as taxable supplies for purposes of VAT and Excise Duty. In the circumstances, the Applicant has failed to discharge its burden of proving actual exportation of the goods declared under Entry No.

E52232. Therefore, the Respondent was justified in assessing VAT and Excise Duty on both consignments.

240. In the circumstances, the Tribunal orders as follows:

- (i) The application is dismissed.
- (ii) The Respondent's assessment of VAT and Excise Duty amounting to Shs. 3,596,462,462 arising from entry Nos. E42348 and E52232 are upheld.
- (iii) Costs of this application are awarded to the Respondent.

Dated at Kampala this 19th day of June 2026.



HON. CRYSTAL KABAJWARA
CHAIRPERSON



MS. CHRISTINE KATWE
MEMBER

Note: Following the departure of one of the panel members, the parties agreed that the proceedings would be completed by the tribunal composed of the two remaining members.