



THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 113 OF 2025

LION OF JUDAH LIMITEDAPPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE,
HON. GRACE SAFI**

RULING

I. Introduction

1. This application challenges an additional income assessment amounting to Shs. 116,779,982 issued by the Respondent on the grounds of an unsupported loan. The Applicant seeks the following orders:
 - (i) A declaration that the Applicant is not liable to pay the tax assessed.
 - (ii) Costs of this Application be provided for.

II. Background facts

2. The Applicant is a duly incorporated company dealing in the business of radio broadcasting in Mbarara District. On 18 November 2019 and 29 November 2023, the Applicant was issued with an additional Income tax assessment of Shs. 116,779,982 on grounds of an unsupported loan. On 23 January 2020 and 31 May 2024, the Applicant objected to the said assessment on the grounds that it had obtained a related-party loan, which was converted into share capital.

3. The Applicant provided a copy of the loan agreement, church collection ledger, a copy of the Board Resolution and copies of the company search showing the increase in the share capital.
4. On 15 April 2020 and 22 August 2024, the Respondent disallowed the Applicant's objection on the grounds that it failed to provide supporting documents. The Applicant, being dissatisfied with the decision, filed TAT Application No. 113 of 2025 before the Honourable Tribunal, challenging the said decision.

III. Issues for determination

5. The key issue to be determined is whether the Applicant is liable to pay the tax assessed

IV. Representation and evidence

6. Mr Sydney Ojwee and Mr. Edward Tumuhimbise represented the Applicant, while Mr. Kenan Aruho and Simon Peter Orishaba appeared for the Respondent.
7. On 27 November, 2025, the matter came up for hearing of an application to amend the main application, and the Tribunal guided that parties file their respective submissions and to only attach the evidence provided by the Applicant at the objections stage.

V. Submissions by the Applicant

8. Counsel for the Applicant submitted that it was wrong for the Respondent to recharacterize the Applicant's related party loan which was subsequently converted to share capital as income. The Respondent disallowed the Applicant's objection on grounds that the Applicant failed to provide supporting documents yet the Applicant provided documentary evidence showing that the sum in question was actually a loan that was eventually converted into share capital therefore the Respondent was not justified in treating the amount as income.
9. The Applicant submitted that the crux of this matter is that, the Applicant is a church founded radio. The radio operates under the church Day Star

Cathedral that is led by Mr. Turyamureeba Nassan who is a director/shareholder in the Applicant. The Church and the radio are all under the company Lion of Judah Limited. Sometime in 2017, the Applicant required funds to facilitate its expansion and went ahead and received a loan from the church that is led by its directors. The parties entered into a loan agreement wherein under clause 2 it was agreed that upon failure to repay back, the loan amount would be converted into share capital.

10. The Applicant submitted that from the time of disbursement of the loan, the Applicant had not made any payments and so the parties resolved to convert the sum into share capital. The Applicant, in fact went ahead to increase its share capital by the loan amount that is from Shs. 1,000,000 to Shs. 407,000,000 and a resolution reflecting the same was filed with URSB. The Applicant also paid the required stamp duty on the increased share capital.

Whether income tax can be charged on share capital

11. The Applicant further argued that share capital and, or, a loan is not income therefore, cannot attract income tax. This is because share capital is typically money invested by shareholders in exchange for ownership and is recorded as part a company's equity. It is also trite law that a loan is liability to the Applicant cannot be subject to tax. Income tax is typically charged on profits or rather, income and not on losses or liabilities. It must be noted that share capital is considered as a liability to the business.
12. The Applicant quoted **Section 4 of the Income tax Act** which provides for imposition of income tax that;
"Subject to and in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has a chargeable income for the year of income."
13. This, therefore, means that income tax is charged on the income earned and not on capital or money invested to earn income.

14. **Section 17 of the Income tax Act** provides that;

"The gross income of a person for a year of income is the total amount of; Business income, Employment income and Property income, derived during the year by the person other than income exempt from tax."

15. **Section 18 of the Income Tax Act** provides that;

"Business income means any income derived by a person in carrying on a business and includes the following amounts whether of a revenue or capital nature-

- a) *The amount of any gain as determined under Part VI of this Act which deals with gains and losses on disposal of assets, derived by a person on the disposal of a business, or on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue or capital account.*
- b) *Any amount derived by a person as consideration for accepting a restriction on the person's capacity to carry on business.*
- c) *The gross proceeds derived by a person from the disposal of a trading stock.*
- d) *Any amount included in the business income of the person under any other section of this Act.*
- e) *The value of any gifts derived by a person in the course of, or by virtue of a past, present or prospective business relationship; and*
- f) *The interest derived by a person in respect of trade receivables or by a person engaged in the business of banking or money lent".*

16. From the above, share capital does not constitute income because it is money invested by shareholders in exchange for ownership and is recorded as part a company's equity. The Applicant's shareholders/directors invested Shs. 407,000,000 into the Applicant as share capital and therefore it was illegal for the Respondent to tax the same.

17. The Applicant relied on the case of ***National Water & Sewerage Corporation v Commissioner General Uganda Revenue Authority HCT-00-CC-CA 13 of 2012***, it was held that;

"Where the Appellant did not receive cash but the debt was converted to equity then this court is inclined to agree with the submissions of the Appellant that the

obligation to pay tax does not arise. Conversion of a debt into capital means that the loan was paid by way accord and satisfaction and as such there was no physical or real income earned within the meaning of the Income tax Act. A debt or equity does not, therefore, constitute income. The company will always be indebted to shareholders for their capital contributions. The company would therefore be wrong to treat a capital contribution as taxable income."

18. The Applicant contended that the loan from its shareholders was converted into capital, giving the lender a contribution in the company for which the company is liable to the parties that contributed to the share capital, and there is no income or profit obtained by the Applicant, and that loan can never be income. The Applicant also relied on the case of ***Explorer Limited vs URA; TAT Application No. 87 of 2023***, where the Tribunal held that;

"A loan cannot be recharacterized as income without evidence. The Tribunal further wondered why the Respondent did not opt to recharacterize it as equity or capital."

19. The Applicant submitted that their primary source of income is rental income. It is not enough for the Respondent to merely recharacterise a transaction; there must be a basis for the recharacterisation from a legal and accounting perspective. In ***Luwaluwa Investment Limited v URA (2023) UG CommC160***, income was defined as;

"The money or other form of payment that one receives, usually, periodically from employment, business, investments, royalties, gifts and the like. Income was also defined to mean literally "incoming" or "what comes in", considered in relation to money or money's worth."

20. Further, in the above ***Luwaluwa Investments Limited case***, Justice Thomas Ocaya held that loans are not income when he stated:

"The principal loan amount does not constitute income to the bank since the same must be paid back to the lender. The principal loan amount is not chargeable income and the same is not amenable to tax".

21. The Applicant submitted that its share capital or related party loan does not constitute business income and therefore cannot be taxed. The Applicant

stated that the loan that was converted into capital was, in fact, a liability to the Applicant and therefore did not constitute taxable income. Consequently, it was unlawful for the Respondent to treat the loan as income.

22. The Applicant also submitted that the documents provided are more than sufficient to show that the Applicant received an interest-free loan from its directors and that the same loan was eventually converted into share capital. In the case of *Kavuya and others vs. Wakanyire, Supreme Court Civil Appeal 31 of 2021*, the Supreme Court restated the law and held that
“A written agreement is presumed final and binding. Where a sale agreement was clearly documented, no oral testimony could be admitted to contradict the written terms.”
23. The Applicant entered a loan agreement dated 1 May 2017, from which its shareholders agreed to provide it a loan from the church collection. Clause 1(B) of the Agreement provided that the loan shall be used by the borrower to finance and expand its business operation. It goes on to state, in clause 2(b), that if the borrower fails to pay the loan, it will be converted into share capital. The parties actually went ahead and performed their obligations as set out in the agreement.
24. The Applicant further contended that the Board resolution dated 12 January 2024 is proof that the company eventually converted its loan into share capital. It is a trite law that a company acts and transacts on the authority, strength and through a resolution duly passed and registered, as was held in the case of *Danish Mercantile v Beaumont and Anor (1951)*. The Board resolution and the company search prove that the loan was indeed converted into share capital.

VI. Submissions of the Respondent

25. The Respondent submitted that it is established law that the burden of proof is on the Applicant to prove that the assessments that were raised by the Respondent were incorrect or erroneous and that the Applicant is not liable to pay the tax or that the taxation decision should not have been made or

should have been made differently. Section 19 of the Tax Appeals Tribunal Act, read together with Section 28 of the Tax Procedures Code Act, provides that:

"The Applicant has the burden of proving, where the taxation decision is an objection decision in relation to an assessment, that the assessment is excessive, and in any other case, that the taxation decision should not have been made or should have been made differently."

26. The same position was fortified in ***Williamson Diamonds Ltd VS. Commissioner General 4 TLR 167***, where the Tax Revenue Appeals Tribunal of Tanzania held that:

"...the burden of proving that the assessment issued by the respondent is excessive or erroneous lies on the taxpayer (appellant) and in no way may it be shifted to the respondent..."

27. The Respondent submitted that the Applicant is liable to pay the assessed income tax liability of Shs. 54,706,286 for the period 1 January 2018 to 31 December 2018. The Respondent further maintained that the income tax assessment of Shs. 62,073,696 dated 29 November 2023, together with its objection decision dated 22 August 2024, relate to a different assessment period, 1 January 2021 to 31 December 2021, and to a different basis of assessment, and are therefore outside the scope of the main application. Additionally, the Respondent argued that the liability is due and payable by the Applicant, as no extension of time was sought before the same was reviewed by the Tribunal.

28. Regarding the recharacterisation of the loan into income, the Respondent cited Section 4(1) of the Income Tax Act, which provides for the imposition of income tax. It provides as follows:

"Subject to, and in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income."

29. For purposes of determining whether a person has chargeable income for the year of income, **Section 117 (1) of the ITA** gives the Commissioner

General powers to disregard a transaction that does not have a substantial economic effect, or re-characterise a transaction the form of which does not reflect the substance, for purposes of determining the liability under the Act.

30. The Respondent submitted that it is from the above provision that the said loans were re-characterised as income, as the Applicant failed to provide any documentation to prove otherwise at audit. Similarly, at the objection level, no documentation was provided to support the loans. The Applicant did not explain to the Respondent or the Tribunal any explanation, satisfactorily or otherwise, as to why the Commissioner's powers to re-characterise should be faulted. In the premises, the Respondent's decision to re-characterise the said loan as income was justified as no evidence to the contrary had been availed by the Applicant.
31. The Respondent relied on the case of ***Bullion Refinery Limited v Uganda Revenue Authority TAT Application no. 87 of 2021***, where this Honourable Tribunal held that;

"The Respondent was justified in considering the unexplained sums of the Applicant as undeclared income and taxed them accordingly."
32. Additionally, in ***Explorer Limited v Uganda Revenue Authority TAT Application No. 87/2023***, the Tribunal found that;

"While the initial burden lies with the taxpayer, it shifts to the Respondent once prima facie evidence is adduced. It was further noted that a board resolution is not mandatory if other evidence suffices to prove the loan on a balance of probabilities"
33. The Respondent argued that the Applicant included a board resolution dated 12 February 2024 marked as AEX 6 on the Joint Trial Bundle, purportedly authorising the share capital increment, which meeting had been held on the same day. However, the main Application was filed on 11 September 2023, 5 months before the purported board resolution of 12 February 2024. Furthermore, the board resolution was filed several years after the 15 April 2020 objection decision. It is clear that the resolution was

filed as an afterthought in an attempt to validate the irregular share capital increment, or to create evidence to justify the Applicant's claims before this Honourable Tribunal.

Premature conversion of the loan into capital

34. The Respondent further argued that the Applicant's loan was to be converted into share capital in the borrower's name if it failed to repay the loan amount after the expiry of the loan term of 10 years ending on 1 May 2027. However, the Applicant's conversion of the said loan into share capital in 2024 was in breach of the said clause of its loan agreement. Owing to the above contradictions and inconsistencies, the Applicant attempted to validate an improper conversion of the loan into the share capital of its directors, which casts doubt on the authenticity of the documentation and the Applicant's claims in its Application.

The income tax assessment of Shs. 62,073,696

35. The Respondent submitted that on 1 October 2025, the Applicant filed an amended Application stating the amount in dispute to be Shs. 116,779,982 and attached a new administrative additional income tax assessment of Shs. 62,073,696 dated 29 November 2023, with the assessed period being 1 January 2021 to 31 December 2021. However, the said assessment relates to a different period, 2021, rather than 2018, which was the period in the main application. Furthermore, the objection decision for that assessment was issued on 22 August 2024, while the main application was filed on 11 September 2023, over a year earlier.
36. Furthermore, the Respondent submitted that the basis for disallowing the said objection was that 'the taxpayer made unsupported adjustments in the objection return by increasing share capital and altering loan values in comparison with the original return and did not provide supporting information'. There is therefore no doubt that the said assessments are unrelated and cannot be merged into a single Application. The only remedy

would have been for the Applicant to file an extension of time to have the said decision reviewed by the Tribunal under Section 16 (2) of the Tax Appeals Tribunal Act, as the said objection decision was issued in 2024, over a year before the amended application was filed.

VII. The Applicant's submissions in rejoinder

37. In rejoinder, the Applicant reiterated their earlier submissions and submitted that it indeed discharged this burden and proved that it's truly not liable to pay the tax assessed, as it is a related party loan where the Applicant borrowed money from its directors, which it was bound to pay by virtue of the loan agreement executed in 2017.
38. Regarding the amended application, the Applicant further submitted that this Tribunal already made an order in regard to the amendment of TAT Application number 113 of 2013 to include the assessment of Shs. 62, 073, 696 and thus became functus officio. The Applicant extracted the order to that effect and served the Respondent. Furthermore, when the matter came up on 26 September, 2025, the Applicant applied to amend the Application on the grounds that both assessments arose from the same transaction, which was the loan. The Respondent did not object to the Application. The Respondent is therefore trying to get the Tribunal to change its ruling, and yet it became functus officio after delivering its ruling to that effect.
39. The Applicant cited ***Major (Rtd) Kakooza Mutale v Balisigara Stephen, Consolidated Court of Appeal Civil Application 121 and 227 of 2020***, which cited the decision of the Supreme Court of India in ***Suniata Jain v Pawar Kumar Jain and others, Case No 174 of 2008***, where it was held:

"As a general rule, as soon as judgment is pronounced or order is made by a court, it becomes functus officio (ceases to have control over a case) and has no power to review, override, alter or interfere with it."
40. It thus follows that without an appeal or application for review, revision or setting aside its decision as prescribed by law, a court is bound by the functus officio doctrine. In this case, it is evident that the order allowing amendment of TAT Application No. 113 of 2023 to include the assessment

of Shs. 62,073,696 was never set aside. The order granting amendment made by the Honourable Tribunal was an order in finality, and therefore, it has no power to look back into a matter already concluded.

Premature Conversion of the Loan into Capital.

41. The Applicant submitted that in constructing contractual provisions, the object of the court is to give effect to what the parties intended. The court would therefore not deliberately interfere with the intention and objectives of the freely negotiated instrument. The role of the court in this case, therefore, would be restricted to reading and interpreting the meaning and intention behind the terms in case of a disagreement.

42. The parties decided to adopt the clause on conversion of the loan earlier because the Applicant was not making any payments. The Applicant cited the case of *Paul Kanyansi v. Fred Hasibiri (Civil Appeal No. 56 of 2021) UGCA 260*, where the Court of Appeal stated:

"It was not disputed that the appellant defaulted on the repayment of the loan and had not repaid the loan amount even by the time the case was before the trial court. Given this default, the respondent simply exercised his rights under the contract, which expressly stipulated the mutation of the loan into an outright sale of the property. Subsequently, the respondent took over possession of the incomplete premises, which were described as "depleted and uninhabitable," and made significant improvements thereon, constructing 35 apartments. This was a direct consequence of the contract's terms and failure to meet obligations."

43. The Applicant submitted that substance over form means that the actual business activities, operations and decision-making process should reflect the company's true operations and decision-making processes should reflect the company's true operational and economic base, not just the legal or contractual appearance of where it is registered or incorporated.

44. The Applicant submitted that the loan was to be paid in instalments; however, from 2017 when the loan was obtained till 2024, no amount on the loan was ever paid forcing the parties to rescind the same and convert the

same into share capital as was agreed in the agreement that in case of failure of payment of the loan, the same would be converted into a loan.

45. The Applicant urged the Tribunal to apply the doctrine of substance over form. The true commercial nature of this transaction was that it was a loan obtained from related parties, recognisable and payable when due; however, because of the default, the parties decided to impose the clause of the conversion of share capital, and there is nothing illegal about contracting parties choosing how they perform their contracts. In such a case, the substance and form show that the same was a loan, and the fact that it was repaid before the 10-year period expired does not make it any less of a loan. Moreover, the issue before the Tribunal is not when the loan was converted to share capital, but rather whether there was a loan.

Retrospective Documentation

46. The Applicant contended that whereas it is true that the loan was converted into share capital, the same was not an afterthought but rather a provision in the agreement that the parties freely agreed to, in case of failure of payment, the clause on conversion would be adopted. Paragraph 2 of the loan agreement clearly states that, upon default in repayment, the lender may convert the loan into share capital. If this is clearly stated in a 2017 agreement, how then can it be an afterthought in 2024? Whether the resolution was registered later does not negate the fact that the company previously agreed to convert the sums into share capital, nor does it invalidate the transaction, because, at the end of the day, the same was done in good faith to the benefit of the company.

VIII. The Determination

47. Having considered the evidence and submissions of both parties, this is the decision of the Tribunal.
48. The Tribunal wishes to first address the issue raised by the Respondent regarding the two assessments. The Respondent submitted that the Applicant is liable to pay the assessed income tax of Shs. 54,706,286 for

the period 1 January 2018 to 31 December 2018. The Respondent further maintained that the assessment of Shs. 62,073,696 relates to a distinct assessment period, namely 1 January 2021 to 31 December 2021, and that the two assessments are separate and unrelated, and therefore cannot be consolidated within a single Application.

49. When this matter came up for hearing on 26 September 2025, the Applicant sought leave to amend the Application on the ground that both assessments arose from the same underlying transaction, namely the shareholder loan. The proceedings of that day indicate that the Respondent, when asked by the Tribunal whether they objected to the application, responded in the negative. The Tribunal accordingly granted an order amending TAT Application No. 113 of 2013 to include the assessment of Shs. 62,073,696. The evidence shows that the Applicant extracted the relevant order and duly served it upon the Respondent. By issuing that order, the Tribunal conclusively determined the question of amendment and thereby became functus officio in respect of that issue.
50. In the premises, the issue now falling for determination is whether the Applicant is liable to pay the total assessed tax of Shs. 116,779,982. At the centre of this dispute is whether the related-party loan subsequently converted to share capital constitutes taxable income under the Income Tax Act.
51. Section 4 of the Income Tax Act (ITA) imposes income tax on every person who has a chargeable income for the year of income. This means that income tax is charged on income earned, not on capital or money invested to earn income. We must therefore determine whether the Applicant received funds that constituted a loan.

Whether the Applicant has proved the existence of the disputed loan

52. A loan does not constitute income in the hands of a borrower. Accordingly, where a taxpayer contends that amounts treated by the Commissioner General as taxable income are in fact loan proceeds, the taxpayer bears the burden of proving, through credible and concurrent evidence, that a genuine

debtor-creditor relationship existed and that the funds were actually advanced.

53. In the present matter, the Applicant has argued that it obtained an interest-free shareholder loan of Shs. 407,305,333 pursuant to a loan agreement dated 1 May 2017. In support of this contention, the Applicant relied on three principal documents: the loan agreement, a church collection ledger, and a board resolution dated 12 January 2024 increasing the company's issued share capital from Shs. 1,000,000 to Shs. 407,000,000 following the alleged conversion of the loan into equity.
54. However, the existence of a written loan agreement, without more, is insufficient to establish that funds were in fact advanced. As was emphasised in *Explorer (U) Ltd v Uganda Revenue Authority, TAT Application No. 87 of 2023*, documentary assertions of indebtedness must be supported by objective financial records demonstrating that the amounts were received, recorded, and consistently treated as liabilities in the taxpayer's accounts. For example, we would have expected the Applicant, beyond the loan agreement itself, to produce credible coexistent financial evidence demonstrating the actual disbursement of the alleged loan, such as bank statements or a cash book. The Applicant could have provided a loan movement schedule, but this was not provided either.
55. The church collection ledger tendered in evidence relates only to the year 2018 and contains debit entries reflecting receipts of offerings and tithes. It contains no corresponding credit entries, payment vouchers, or disbursement records showing that any funds were advanced to the Applicant.
56. Significantly, the Applicant did not produce any ledger entries, bank statements, audited financial statements, management accounts, or loan schedules for 2017, being the year in which the loan agreement was executed, nor for 2019 and 2021, which are the tax periods in dispute and the years in respect of which the Respondent raised the impugned assessments. The absence of such records deprives the Tribunal of

objective evidence capable of confirming that the alleged loan was ever received and recorded as a liability in the Applicant's books of account.

57. The evidentiary deficiency is compounded by material inconsistencies in the amounts relied upon by the Applicant. The loan agreement refers to Shs. 407,305,333, while the Respondent's assessments are based on amounts of Shs. 182,354,287 and Shs. 206,912,320, which together total Shs. 389,266,607. This figure does not reconcile with the contractual loan amount. In addition, the board resolution approving the conversion into equity refers to Shs. 406,000,000. No satisfactory explanation was offered for these discrepancies.
58. The present facts can be contrasted with ***Katonga Farms Limited, TAT Application No. 45 of 2024***, where the Tribunal found that a loan existed despite the absence of loan agreements. The Tribunal stated:

"The Applicant presented loan schedules covering 2009 to 2021, bank statements corroborating disbursements, audited financial statements showing 'amounts due to group companies,' and income tax returns of both the Applicant and its sister companies. The Applicant has provided records for the period 2018 to 2021, which fall within the statutory period. The Applicant has produced consistent evidence of actual fund movements, documentation, and accounting treatment, establishing that the loans were real and legitimate. Therefore, the Respondent was not justified in recharacterising the loans as income and subjecting them to income tax."

59. In the present case, no such comparable evidence has been provided; therefore, we find that the Applicant has failed to discharge the burden of proving that the alleged shareholder loan was ever disbursed or that a genuine debtor-creditor relationship came into existence.

Conversion of the purported loan into equity

60. According to the loan agreement, the parties agreed that in the event of non-repayment by the ten-year maturity date, the outstanding principal could be converted into share capital. By a board resolution dated 12 January 2024, the Applicant increased its issued share capital from Shs. 1,000,000 to Shs.

407,000,000. The increased share capital was duly registered with the Uganda Registration Services Bureau, for which stamp duty was paid.

61. While these corporate steps demonstrate that the Applicant formally increased its share capital, they do not establish that a valid debt existed in the first place. A conversion of debt into equity presupposes the existence of an actual and ascertainable indebtedness. Where the underlying debt has not been proved, the subsequent issuance of shares and payment of stamp duty cannot, without more, constitute proof that loan funds were ever advanced.
62. The timing of the board resolution further undermines its evidential value. As pointed out by the Respondent, the timing of the increase of share capital and the debt conversion into equity is suspect for the following reasons:
 - (i) On 18 November 2019 and 29 November 2023, the Respondent issued the Applicant additional income tax assessments of Shs. 54,706,286 and Shs. 62,073,696, respectively, on the grounds of an unsupported loan.
 - (ii) On 23 January 2020 and 31 May 2024, the Applicant objected to the said assessment on the grounds that it had obtained a related-party loan, which was converted into share capital.
 - (iii) On 12 January 2024, the Applicant increased its share capital.
 - (iv) On 15 April 2020 and 22 August 2024, the Respondent disallowed the Applicant's objection on the grounds that it failed to provide supporting documents.
63. The board resolution dated 12 January 2024 to increase share capital was made more than four years after the 2019 assessment and two months after the 2023 assessment had been issued. This strongly suggests that the resolution was adopted in response to the tax dispute rather than in the ordinary course of implementing a pre-existing financing arrangement, and appears to show the Applicant's attempt to frustrate and derail the Respondent's assessments, which were raised on the basis of insufficient

documentary evidence supporting the loan. Therefore, we find that the board resolution was an afterthought.

64. In fact, it is proof that at the time the assessment was raised, there was insufficient evidence to prove the existence of a shareholder loan, and the resolution was an attempt to “fix” the situation. As with the shareholder loan, the loan agreement itself, a board resolution to increase share capital on the basis of a conversion of debt into equity, is not sufficient to prove the existence of the underlying debt that is the subject of the “conversion” in the absence of coexistent financial records evidencing disbursement of funds or recognition of the alleged liability in the Applicant’s accounts.

Whether the recharacterisation was justified

65. Section 117 of the Income Tax Act is a general anti-avoidance provision designed to counter arrangements that lack economic substance or are artificially structured to defeat the purpose of the Act. The provision empowers the Respondent to disregard the legal form of a transaction and to recharacterise it according to its true substance where the surrounding circumstances demonstrate that the arrangement does not reflect genuine commercial reality.
66. The principles underpinning section 117 are consistent with the approach stated in *WT Ramsay Ltd v Inland Revenue Commissioners*, where the court held that tax consequences must be determined by reference to the practical and commercial substance of a transaction rather than its formal legal structure.
67. In the present case, the Applicant failed to prove that the alleged shareholder loan was ever disbursed or recorded as a liability. The Tribunal has further found that the subsequent conversion of the purported loan into equity does not establish the existence of the underlying debt and was implemented only after the Respondent had challenged the transaction through additional assessments.
68. In these circumstances, the Respondent was entitled to look beyond the form of the documents and consider the economic substance of the

arrangement. The loan agreement and subsequent board resolution, unsupported by contemporaneous financial records and marked by unexplained inconsistencies, did not demonstrate a genuine financing transaction. Rather, they constituted an artificial arrangement advanced to explain amounts that had not been satisfactorily accounted for.

69. The Tribunal therefore finds that the Respondent properly invoked section 117 of the Income Tax Act to recharacterise the disputed amounts of Shs. 116,779,882 as unexplained income and to assess tax accordingly.

Conclusion

70. Consequently, we find that the Applicant has not discharged the burden of proving the existence of the alleged shareholder loan and has not established that the subsequent conversion into equity evidences a valid underlying debt. Therefore, the Respondent was justified, pursuant to Section 117 of the Income Tax Act, in treating the loan as unexplained income.
71. In the circumstances, the Tribunal dismisses this application and makes the following orders:
- (i) The income tax assessments are hereby maintained
 - (ii) Costs of this application are awarded to the Respondent.

Dated at Kampala this^{20th}.....day of May 2026.



HON. CRYSTAL KABAJWARA
CHAIRPERSON



MS. CHRISTINE KATWE
MEMBER



HON. GRACE SAFI
MEMBER