



**THE REPUBLIC OF UGANDA**

**IN THE TAX APPEALS TRIBUNAL AT GULU**

**APPLICATION TAT ARU NO. 002 OF 2024**

**MAN ENGINEERING UGANDA LIMITED.....APPLICANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT**

**BEFORE: HON. CRYSTAL KABAJWARA, HON. KABAKUMBA MASIKO,  
HON. PROSCOVIA REBBECA NAMBI.**

**RULING**

**I. Introduction**

1. The Applicant, being aggrieved, challenges the Respondent's assessment of Value Added Tax (VAT) of Shs.718,139,648 for the period between 20214 to 2019, which the Respondent issued for a failure to file VAT returns.

**II. Background Facts**

2. The Applicant is a provider of engineering, construction, and consultancy services located on Pakwach Road, Arua City.
3. The Respondent issued an assessment of VAT liability of Shs.718,139,648 for the period 2014 to 2019 for failure to file VAT returns.
4. The Applicant objected to the assessments on the grounds that they did not conduct any business in the period and could not file returns following the arrest and detention of Mr. Asea Geoffrey, one of the Directors, the illness of the 2nd Director, Adiga Pastori for a long period, followed by his death and the departure of Andama Jimmy to South Sudan in 2014.
5. The Respondent requested the Applicant to provide supporting documentation for the objection raised, which included bank Account

statements, detention letters and others. The Applicant provided a Bail Bond form for Mr. Asea Geoffrey, who was released on bail on 17 September 2018. The Applicant also provided a letter from Centenary Bank dated 6 September 2024 confirming that the account was inactive and had been closed by the system due to prolonged inactivity. No Bank statement was available. During submissions, the applicant also provided a death Certificate confirming the death of Adiga Pastori, one of the Directors.

6. The Respondent resolved to disallow the Applicant's objection due to the Applicant's failure to provide the Bank statement for the period assessed, and hence maintained the VAT assessment.
7. On 19 December 2025, the Tribunal directed the parties to file their respective affidavit evidence and written submissions.

### III. Preliminary point of law

8. The Respondent, in their statement of reasons and during submissions, raised a preliminary objection citing Order 15 rule 2 of the Civil Procedure Rules (CPR) SI 71-1, which empowers the Court to try the issues of law if it deems that the case or any part may be disposed of on the issues of law only.
9. The Respondent cited the case of ***Mukisa Biscuit Manufacturing Co. Ltd V West End Distributors Ltd [1969] EA 696***, where Charles Newhold summarised the law on preliminary points of law as:  
*"A preliminary objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings and which, if argued as a preliminary point, may dispose of the suit ...."*
10. The Respondent also relied on the case of ***Musoke Mike V Kalumba James HCRC 9/2019***, where it was stated that *"issues of law can be raised at any time and in this case, the point of law could be raised in submissions and the court would determine it pursuant to Order 15 rule 2"*.
11. The Respondent further cited Section 15 (1) of the Tax Appeals Tribunal Act, which states that a taxpayer who has lodged a notice of objection to an assessment shall, pending final resolution of the objection, pay 30% of the tax assessed not in dispute, whichever is greater.

12. The Respondent submitted that Section 15 of the TAT Act was long settled by Constitutional Court and further cemented on appeal by Supreme Court in the land mark decision of *Uganda Projects Implementation and Management Center V Uganda Revenue Authority SCCA No. 2 of 1999* where it was ruled that the statutory requirement in the then VAT Act (similar to Section 15 of TAT Act) requiring a tax payer who has lodged a notice of objection to an assessment to, pending final resolution of the objection, pay 30% of the tax assessed or that part of the tax assessed not in dispute, whichever is greater, is constitutional and did not infringe on the right to a fair hearing, under the constitution of Uganda and the right to equal treatment before and under the law.
13. The Respondent also submitted that the Supreme Court followed with approval, the South African case of *Metcash Trading Co. Ltd V Commissioner for South African Revenue Services* and another, wherein it was held that a taxpayer has to pay his tax and argue later.
14. The Respondent submitted that the present application was filed on 31 October 2024, and to date, payment of 30% of the amount disputed has not been effected, hence arguing that the Application is improper before this Tribunal and ought to be dismissed for noncompliance with section 15 of the Tax Appeals Tribunal Act.

#### IV. Reply to the preliminary point of law

15. Counsel for the Applicant avers that **Section 15 (1) of the Tax Appeals Tribunal Act** provides that a taxpayer who has lodged a notice of objection to an assessment shall, pending final resolution of the objection, pay 30% of the tax assessed not in dispute, whichever is greater.
16. Counsel for the Applicant cited the case of *Vivo Energy Uganda V Uganda Revenue Authority Misc. Application No. 78/ 2024 Citing the decision in Fuelex V Uganda Revenue Authority Constitutional Petition No. 3 Of 2009*, where it was stated that the requirement of 30% of the tax in dispute does not apply where the legal basis of the tax assessed is an issue at the Tribunal.
17. The Applicant replied that the basis of this application before the Tribunal is not about the quantum of the tax assessed and payable, but the legality of the assessment. The Applicant stated this clearly in their affidavit evidence, in paragraph 17 of the affidavit in support of the Application, and in their pleading (Application TAT Form 1, paragraph 3(h)), where the dispute

concerns the illegality and technicality of the procedure for arriving at VAT Liability.

18. The Applicant further replied that the Respondent has not clearly, in their affidavit, adduced any evidence on the procedure it followed to show how URA arrived at the VAT liability of Shs.718,139,648, yet the Applicant did not transact any business in the period 2014 to 2019. Their VAT assessment was based on an estimate that lacks a legal basis.
19. The Applicant prayed that the preliminary point of law raised by the Respondent be overruled and the Application be heard and determined on merit.

#### V. Determination of the preliminary point of law

20. Having considered the parties' arguments, this is the decision of the Tribunal.
21. Order 15 rule 2 of the Civil Procedure Rules (CPR) SI 71-1 empowers the Court to try the issues of law if it deems that the case or any part it may be disposed of on the issues of law only.
22. In the case of ***Mukisa Biscuit Manufacturing Co. Ltd V West End Distributors Ltd [1969] EA 696***, Charles Newbold summarised the law on preliminary points of law as:  
*"A preliminary objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings and which, if argued as a preliminary point, may dispose of the suit ...."*
23. In the case of ***Musoke Mike V Kalumba James HCRC 9/2019***, it was stated that *"issues of law can be raised at any time and in this case, the point of law could be raised in submissions, and the court would determine it pursuant to Order 15 rule 2"*
24. Section 15(1) of the Tax Appeals Tribunal Act states that a taxpayer who has lodged a notice of objection to an assessment shall, pending final resolution of the objection, pay 30% of the tax assessed or that part of the tax assessed not in dispute, whichever is greater.
25. The Constitutionality of the principle of law under Section 15 (1) of the TAT Act was set in the supreme Court decision in the case of ***Uganda Projects Implementation and Management Centre V URA SCCA No. 2 of 1999***

where it was ruled that the statutory requirement in the then VAT Act (similar to section 15 of the TAT Act), requiring a taxpayer who has lodged a notice of objection to an assessment to, pending final resolution of the objection, pay 30% of the tax assessed or that part of the tax assessed not in dispute, whichever is greater, is constitutional and did not infringe on the right to a fair hearing, under the constitution of Uganda and the right to equal treatment before and under the law.

26. In *Elgon Electronic V URA HCCA 11 OF 2007*, it was held that the provisions of Section 15 (1) of the TAT Act are mandatory. In *Samuel Mayanja V URA HCT-00-CC-MC-0017 of 2005*, Justice FMS Engonda held that once a taxpayer has lodged an application for review under section 15 of the TAT Act, he/she is obliged to deposit at least 30% of the tax assessed.
27. The Tribunal, however, finds that the only exception to the principle of payment of 30% of the amount of tax in dispute was established in the cases, *Vivo Energy Uganda V URA Misc. Application No 78 of 2024* citing the decision in *Fuelex V URA Constitutional petition No.3 of 2009*, where the Court stated that the requirement to pay 30% of the tax in dispute does NOT apply where the legal basis of the tax is an issue at the Tribunal. This means that the 30% deposit will NOT apply to disputes that are primarily legal or technical in nature.
28. In the present case, the tribunal has established from the Applicant's pleading, in their statement of facts and reasons in support paragraph 3 (h), that the VAT liability assessed was procedurally illegal and just a mere estimation for failure to file returns. In the Applicant's affidavit in support, paragraph 17 clearly states that the Respondent has no legal justification or basis for arriving at the VAT liability. Also, in the reply to the preliminary point of view, the Applicant stated in paragraph 4 that the basis of this application is not about the quantum of the VAT tax payable but the legality of the assessment.
29. The Tribunal therefore finds that in the present application; the dispute is NOT about the quantum of the VAT liability of Shs.718,139,648, but the legality, technicalities, and the procedure for arriving at the assessed VAT liability. This means that the requirement to deposit 30% of the amount in dispute does not arise.
30. The Tribunal therefore overrules the preliminary point of law.

## **VI. Issues**

31. At the Scheduling conference, two issues for determination were framed.
  - (i) Whether the Applicant is liable to pay the tax assessed?
  - (ii) What remedies are available?

## **VII. Representation and evidence**

32. Mr. Madira Jimmy and Mr. Kahwa Pius represented the Applicant, while Mr. Simon Peter Orishaba represented the Respondent.
33. The Tribunal gave directions and timelines to the parties to file their affidavits, submissions and rejoinders. The Applicant's representative, Mr. Asea Geoffrey, one of the Company Directors, depone and filed his affidavit in support of the case, whereas the Respondent's representative, Mr. Willy Brick Tumwine, working as the In-Charge of the Arua Domestic Taxes Department, depone his affidavit in reply. Both parties relied on their affidavit evidence.
34. Mr. Asea Geoffrey, one of the Applicant's Directors, stated in his affidavit evidence that the Applicant was assessed a VAT liability of Shs. 718,139,648 for the period 2014/2019. The assessment was communicated by email.
35. After receipt of the VAT assessment, the Applicant's Director, Asea Geoffrey, made a complaint to the Respondent's office in Arua, whereby a meeting was held with the VAT team on 12 September 2024. At the meeting, he explained that the Company did not transact any business in the period between 2014 and 2019 since he was in prison, Mr. Adiga Pastor was ill and later died, while Mr. Andama Jimmy left the Country.
36. The Respondent's VAT team in Arua advised Mr. Asea to object to the Commissioner General and submit the Company's new bank account statement since the old bank account was closed and had become inactive.
37. On 5 October 2024, the Respondent informed the Applicant that the bank statement the Applicant submitted was for the period 2021/2022, which period does not relate to the period 2014 to 2019 on which VAT liability was assessed.
38. The Applicant then reached out to their bankers, Centenary Bank, who, on 6 September 2025, wrote to the Applicant confirming that the Applicant's

account with them had been closed by the system due to failure to transact for a long period of time. The bank also confirmed that the Applicant had opened a new Bank Account vide Account No. 310007438, the statement of which was later served to the Applicant on 9 September 2024.

39. Mr. Asea further stated that he was arrested and detained at CMI Mbuya Military Barracks and produced and charged in Nakawa Chief Magistrates Court, remanded to Luzira Government Prisons until 18 October 2019, when he was released on bail on harsh conditions and stayed in Kampala. Therefore, he could not have participated in the Company's affairs during that time.
40. The 2<sup>nd</sup> Director, Adiga Pastor, who left the Company between 2014/2015 due to illness, died later, and this affected the operations of the company as well. The 3<sup>rd</sup> Director, Andama Jimmy, left the Country in 2014 and has never returned, implying that there were no business transactions during the period 2014 to 2019.
41. On 27 March 2025, in a meeting between the Applicant, their advocates and the Respondents' employees, including Willy Brick Tumwine, at the Respondent's Arua office. The Applicant informed the team that he filed some income tax returns for the period between 2016/2017 for works done in 2013/2014, for which payment for the work was not effected by China Jiangxi International Economic Cooperation Company Ltd during that period, and this was deemed VAT since it was funded by the World Bank.
42. The Applicant prayed that the VAT liability of 718,139,648 be set aside and the application be allowed with orders for costs.
43. The Respondent filed an affidavit by Mr. Willy Brick Tumwine, the In-Charge of the Arua Domestic Taxes Office under the Domestic Taxes Department of the Respondent.
44. The Respondent stated that the Applicant filed Income Tax returns for the period 2016 to 2017, amounting to Shs.32,300,000, but did not file VAT returns, blaming its failure to file VAT returns on the arrest of one of the Directors, Asea Geoffrey.
45. The Respondent assessed the Applicant Value Added Tax (VAT) of Shs. 718,139648 for the period 2014 to 2019 due to failure to file VAT returns for the assessed period.

46. Upon the Respondent's request for the Applicant's documents supporting the objection, such as bank statements, detention letters, among others, the Applicant produced a bail bond form for one of the Director Asea Geoffrey, who was arrested and released on bail on 17 September 2018 and whose bail was extended up to 26 March 2020. This means that Mr. Asea was free and would have filed the returns.
47. The Respondent subsequently disallowed the objections for lack of sufficient proof of the grounds raised and therefore maintained the VAT liability as assessed.
48. The Respondent avers that the outstanding VAT tax liability of Shs. 718,139,648 is lawful, proper and payable by the Applicant.
49. The Applicant filed an affidavit in rejoinder and stated that the income tax returns filed in the period 2016 to 2017 were for the work done in the year 2013 to 2014, which work was not paid for by China Jiangxi International Economic and Technical Cooperation Co. Ltd and the project was funded by the World Bank and therefore deemed Value Added Tax. Further, the returns were filed by Mr. Asea Geoffrey in 2021, after he was granted bail on 17 September 2021 by the Chief Magistrates' Court of Nakawa under harsh bail terms and conditions, including a requirement to stay in Kampala. Therefore, Mr. Asea could not participate in the company affairs.
50. The Applicant prays that the VAT liability of Shs.718,139,648 is set aside, and the application is allowed with orders for costs.

#### **VIII. Submissions of the Applicant**

51. The Applicant submitted that there was no business conducted during the assessed period 2014 to 2019, following the arrest and detention of Mr. Asea Geoffrey, the death of Adiga Pastor and the departure of Andama Jimmy to South Sudan.
52. The Applicant submitted that they furnished the Respondent with relevant documents, such as the bail bond form, where Mr. Asea Geoffrey, one of the Company Directors, was released from prison. The Applicant also provided a letter dated 6 September 2024 from Centenary Bank confirming that their Bank Account was closed by the system due to a long period of inactivity.



53. The Applicant cited the case of *Tradeworth Establishment Ltd V Uganda Revenue Authority, TAT No. 338 of 2024, citing Section 4 of the Value Added Tax Act, Cap. 344* that "a tax, to be known as a Value Added Tax, shall be charged in accordance with this Act on: -
- (a) every taxable supply in Uganda made by a taxable person,
  - (b) every import of goods other than an exempt import and
  - (c) supply of any imported services by any person".
54. The Applicant was assessed a VAT Liability of Shs. 718,139,648 for the period 2014 to 2019, during which the Applicant did not make any supply or transact any business, since not all her Directors were available.
55. The Applicant submitted that, from the wording of Section 5 of the Value Added Tax Act, a person is liable to pay Value Added Tax when they make taxable supplies. However, in the present application, no supply was made by the Applicant during the period of assessment 2014 to 2019, hence there is no legal basis for the assessment. Further, the Applicant did not transact any business as evidenced by an inactive bank account. This implies that there was no business supply transaction from 2014 to 2019.
56. The Applicant further cited Section 65 (2) of the Value Added Tax Act, which is to the effect that the Applicant is only entitled to pay the penalty for failure to file the tax returns. The Applicant quoted the Respondent in their statement of reasons for the taxation decision in paragraph 2 that the Applicant was assessed VAT of Shs.718,139,648 for the period 2014 to 2019 on the basis of failure to file returns.
57. The Applicant lastly submits that it is settled law under Section 65 (2) (a) and (b) of the Value Added Tax Act, that where a person fails to lodge a return within the required time under this Act, that person is liable to pay a penalty.
58. The Applicant, therefore, in the interest of justice and fairness, prays that the Applicant be allowed to only pay the penalty in accordance with Section 65 (2) and (b) of the VAT Act, and the assessed amount of VAT liability of 718,139, 648 by the Respondent be set aside.

#### **IX. Submissions of the Respondent**

59. The Respondent maintained that the basis of the assessment was that the Applicant did not file VAT returns for the period 2014 to 2019. The Respondent's representative, Mr. Willy Brick Tumwine, stated that the VAT

assessment of Shs.718,139,648 was a default assessment for the Applicant's failure to file returns. The VAT assessment was an estimate because insufficient information was available.

60. The Respondent submitted that the burden of proof lies with the Applicant to prove that an assessment is excessive. The Respondent submitted that the Applicant did not discharge this burden, as the Applicant did not provide sufficient documentation to enable the Respondent to ascertain the value of taxable supplies made during the assessed period, thereby necessitating estimates to determine the VAT payable by the Applicant.
61. The Respondent further cited Section 26 (2) of the Tax Procedures Code Act, which mandates any person lodging an objection against the decision of the Commissioner General to not only state the ground of objection, but that it should also contain sufficient evidence to support the objection.
62. The Respondent further added that Section 15 (1) of the Tax Procedure Code Act is to the effect that every tax payer is mandated for purposes of tax obligation to maintain records that may be required to determine the tax payer's liability under tax law, to enable the liability be readily ascertained, and retain the same for five years after the end of the relevant tax period.
63. Furthermore, the Respondent cited Section 16 (1) of the Tax Procedure Code Act states that a person required to furnish a tax return under a tax law shall submit the return in the prescribed form and in the manner determined by the Commissioner General. Therefore, the Applicant cannot fault the Respondent for estimating the value of taxable supplies for the period, as the Applicant failed to discharge its duty to file returns.
64. The Respondent invited the Tribunal to consider the case of ***Radio Pacis Limited V URA HCCS No. 0008 of 2013***, where Hon Justice Stephen Mubiru stated:

*"The obligation to file annual income tax returns applies to every taxpayer, i.e. a person with reportable income (the liability is at the point of receipt of business income), although the obligation to pay tax is that of the taxpayers who, after assessment, have chargeable income (i.e., income minus deductions) during the year of income. Filing annual income tax returns is a method of bringing business income to assessment rather than an obligation for only taxpayers with chargeable income".*

65. The Respondent prayed that the VAT assessment was justified and lawful, and hence stands to be payable by the Applicant due to its failure to file returns.

**X. The Applicant's submissions in rejoinder**

66. In rejoinder, the Applicant reiterated their submissions. The Applicant rejoined that section 65 (2) of the Value Added Tax Act provides that a person who fails to lodge a return within the required time under this Act is liable to pay a penal tax amounting to whichever is the greater of the following: -

(a) Two hundred thousand shillings; or

(b) An interest charge for the period the return is outstanding, calculated according to the formula specified in the Fifth Schedule.

67. Further, the Applicant rejoined that under Table A of the Companies Act, directors run the affairs of the Company, but since the Directors in the instant case were not available, the Company did not transact any business and did not file returns.

68. The Applicant prayed that it is in the interest of Justice and fairness that they be allowed to only pay the penalty for failure to file the returns in accordance with the law and the assessed amount of Shs.718,139,648 on the Applicant be set aside, and the costs of the suit be provided.

**XI. The Determination**

**Issue 1.** Whether the Applicant is liable to pay the assessed tax?

69. The Tribunal considered the affidavit evidence and submissions of both parties, and this is the decision of the Tribunal.

70. The applicant was assessed a VAT Liability of Shs.718,139,648 for the period 2014 to 2019 for failure to file returns. The Respondent's representative, Mr. Willy Brick Tumwine, stated that the VAT assessment was a default assessment for the Applicant's failure to file returns. The Tribunal established that the VAT assessment was an estimate, as there was insufficient information about it.

71. The Applicant did not file returns for the period 2014 to 2019, claiming that they did not conduct any business during the assessed period following the

arrest and detention of Mr. Asea Geoffrey, the long illness of Adiga Pastor, who later died and the departure of Mr. Andama Jimmy to South Sudan.

72. Section 16 (1) of the Tax Procedure Code Act states that a person required to furnish a tax return under a tax law shall submit the return in the prescribed form and in the manner determined by the Commissioner General. The Tribunal therefore concurs that the Applicant did not file returns for the period 2014 to 2019.
73. Sections 19 of the TAT Act, Section 28 of the Tax Procedure Code Act, and Section 101 of the Evidence Act place the burden of proof on the taxpayer to prove his or her case.
74. The Applicant furnished the Respondent with relevant documents, such as the bail bond form with harsh terms and conditions of remaining within Kampala, where Mr. Asea Geoffrey, one of the Company Directors, was released from prison. The Applicant also provided a letter dated 6 September 2024 from Centenary Bank confirming that the Applicant's bank account was closed by the system due to a long period of inactivity. Lastly, the death Certificate of one of the directors, Adiga Pastor and the departure of the 3rd Director, Andama Jimmy, to South Sudan. All these happened within the period 2014 to 2019, as proved by the annexures A, B, C and D of the Affidavit in rejoinder of the Applicant.
75. Section 26 (2) of the Tax Procedures Code Act mandates any person lodging an objection against the decision of the Commissioner General to not only state the ground of objection, but that it should also contain sufficient evidence to support the objection.
76. In Ugandan civil law, "sufficient evidence" is defined by the requirement to prove a case on the balance of probabilities (or preponderance of evidence), which means the court must be satisfied that the existence of a fact is more probable than not. Key principles and cases from Uganda's jurisprudence define sufficient evidence to include:-
  - (a) **Balance of Probabilities (Standard of Proof):** Civil cases require that the evidence presented is sufficient to prove the claim is more likely valid than not.

- (b) **One Witness Rule (Section 132 Evidence Act):** The general rule is that the evidence of one witness is sufficient to prove any fact, provided the court believes them.
- (c) **Best Evidence Rule:** The law requires the best available evidence to be presented. While original documents are preferred, secondary evidence (such as certified copies) may be admitted under certain circumstances.
- (d) **Affidavit Evidence in Civil Matters:** According to **Order 19 of the Civil Procedure Rules**, affidavits must be confined to facts that the deponent can prove of their own knowledge.

77. In *Busulwa Ssalonga V Abdu Senabulya, High Court Civil Appeal No. 7 of 2002*, the Court held that in civil cases, evidence is sufficient if it shows that the plaintiff's claim is more likely than not (preponderance of evidence).

78. The Tribunal therefore established that Mr. Asea Geoffrey, in his affidavit, provided evidence such as the bail Bond when he was released from prison on bail by Nakawa Chief Magistrates Court, a letter from Centenary Bank confirming the Company's bank account, which was closed by the system for failure to transact for a long period of time. He also stated that the 2<sup>nd</sup> Director, Adiga Pastori, was sick for a long time and later died. A death certificate was produced to that effect. Lastly, the travel of the 3<sup>rd</sup> Director, Mr. Andama Jimmy, to South Sudan. All these, in the opinion of the Tribunal, show that the Applicants' claim is more likely than not (preponderance of evidence), hence sufficient.

79. The Tribunal in *Tradeworth Establishment Ltd V Uganda Revenue Authority, TAT No. 338 of 2024*, cited Section 4 of the Value Added Tax Act, which states:

*"A tax, to be known as a Value Added Tax, shall be charged in accordance with this Act on:-*

- a) every taxable supply in Uganda made by a taxable person,*
- b) every import of goods other than an exempt import and*
- c) supply of any imported services by any person."*

80. The Applicant was assessed a VAT Liability of Shs.718,139648 for the period 2014 to 2019, during which period the Applicant did not make any supply or transact any business since all her Directors were not available.

81. Under **Section 5 of the Value Added Tax Act**, a person is liable to pay Value Added Tax in case of a taxable supply, but in the instant Application, no supply was made by the Applicant during the period of assessment 2014 to 2019, hence there is no legal basis for the assessment.
82. **Section 18 (1) of the Value Added Tax Act, Cap. 344** states that a taxable supply is a supply of goods or services, other than an exempt supply made by a taxable person for consideration as part of his or her business activities. The Applicant did not transact any business through his Bank Account in Centenary because the system closed it due to a long period of inactivity. This implies that there was no business supply transaction from 2014 to 2019.
83. In the Respondents' statement of reasons for the taxation decision in paragraph 2, the Applicant was assessed VAT of Shs. 718,139,648 for the period 2014 to 2019 on the **basis of failure to file returns**.
84. **Section 65 (2) (a) and (b) of the Value Added Tax Act** provides that where a person fails to lodge a return within the required time under this Act, that person is liable to pay a penalty. Therefore, the Applicant is only entitled to pay the penalty for failure to file the tax returns.
85. **Section 15 (1) c of the Tax Procedure Code Act** provides that, subject to subsections (2) and (5), every taxpayer shall, for purposes of a tax obligation, retain the record for 5 years after the end of the tax period to which it relates or other period as specified in the law.
86. In the case of *Explorer Ltd V URA Application TAT No. 87 of 2023*, the Court observed that a taxpayer can only keep records for 5 years after the tax period to which they relate. The Respondent requested that the taxpayer provide the 2004 bank statement to prove that they obtained a loan. However, this falls outside the 5-year document retention period.
87. The Tribunal has found that the VAT liability of Shs.718,139,648 assessed on the Applicant was an estimate that was arrived at when the Applicant did not file their returns for the period 2014 to 2019. Further, none of the Directors who would have participated in the Company's affairs was available.
88. It is trite law under **section 65 (2) (a) of the Value Added Tax Act** that a person who fails to lodge a return within the required time under this Act is liable to pay a penal tax amounting to:
- a) two hundred thousand shillings; or

b) an interest charge for the period the return is outstanding, calculated according to the formula specified in the fifth schedule.

89. The Tribunal therefore concludes and recommends that it is just, fair and proper that the Applicant pays the penalty for failure to file the tax returns.

## XII. ORDERS

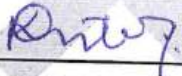
90. In the circumstances, this Application is allowed, and the Tribunal makes the following orders:

(i) The assessment of Shs.718,139,648 is untenable and is hereby set aside.

(ii) The Applicant is to be assessed by the Respondent to pay the penalty for failure to file VAT returns for the period 2014 to 2019 using the formula required by law.

(iii) Each party to bear their own costs.

Dated at Gulu this 9<sup>th</sup> day of **March** 2026.



HON. CRYSTAL KABAJWARA  
CHAIRPERSON



HON. PROSCOVIA REBECCA NAMBI  
MEMBER



HON. KABA KUMBA MASIKO  
MEMBER

Handwritten marks or scribbles in the top right corner.