



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
MISCELLANEOUS APPLICATION NO. 240 OF 2025
(Arising from TAT. Application No. 149 of 2025)

NAISAA ENTERPRISES LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

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

RULING

I. Introduction

1. This is a ruling in respect of an application for reinstatement of TAT Application No. 149 of 2025 under Section 98 of the Civil Procedure Act Cap 282, Orders 9 rule 23 and 52 rules 1& 2 of the Civil Procedure Rules.

II. Background Facts

2. The Applicant imports agricultural goods (millet, onions, cowpeas, sunflower, maize, beans, groundnuts, sorghum and Dagaa) from the Republic of Tanzania.
3. The Application is supported by an affidavit deposed by Mr. Arinatwe John, the Managing Director of the Applicant, sworn on 22 October 2025 stating the following grounds:
 - (i) The prayer for dismissal was done in bad faith with contemptuous intention to defeat the court orders dated 30 May 2025 and 18 July 2025 ordering the release of the Applicant's consignment, which was never complied with by the Respondent.

- (ii) The Applicant's Counsel made an attempt to join online at 10.05 am, but he was not let into the meeting. Further, the failure to attend was due to his car breaking down on the way, and such an error should not be visited on an innocent litigant.
 - (iii) Since the filing of TAT Application No.149 of 2025, the Applicant's counsel has always attended court, save for the unfortunate day of the dismissal of the Application.
 - (iv) The dismissal of TAT Application 149 of 2025 would deny the applicant the right to be heard, and the ends of justice would not be met.
4. The Respondent filed an affidavit in reply deponed by Mr. Samuel Oseku and sworn on 7 November 2025, objecting to the application on the following grounds
- (i) The application is incompetent and constitutes an abuse of Court process, and the supporting affidavit is defective for failure to properly disclose the source of information, and the same be expunged from the record.
 - (ii) That the Applicant remains under an obligation to ensure attendance at proceedings, whether through Counsel or its representatives.
 - (iii) That the alleged mechanical breakdown is disputed, it being contended that the supporting documents are vague and fail to sufficiently identify the motor vehicle in question or substantiate the claim and that the same could be an attempted fabrication of facts to plead the Applicant's case.
 - (iv) The Applicant is represented by a law firm of several advocates who have appeared on record, and the absence of one advocate is insufficient to justify non-attendance, whether physically or virtually.
 - (v) That the Applicant's inability to access the virtual proceeding is disputed on the ground that the platform used does not require manual admission, and there is no evidence to establish that the instructed counsel made any attempt to log into the proceedings using the designated virtual login credentials.

- (vi) There has been dilatory conduct and failure to take steps to prosecute the matter, including filing necessary trial documents.
- (vii) There is non-compliance with the statutory requirement to pay the 30% of the assessed tax, thereby affecting locus standi.

5. The Applicant filed an affidavit in rejoinder deponed by Mr. John Arinaitwe on 12 November of 2025 in which they reiterated their earlier grounds.

III. Representation

6. Mr. Sydney Ojwee and Ms. Martha Amoding represented the Applicant, while Mr. Amanyia Mishambi Rhodney and Ms. Rita Nabirye represented the Respondent.

IV. Issues for determination

7. The issue to be determined is whether the Applicant has sufficient cause to warrant reinstatement of TAT Application No. 149 of 2025.

V. The Submissions of the Applicant

8. The Applicant pleaded mistake of counsel and submitted that the mistake should not be visited on the. They stated that their lawyer failed to arrive in time due to a mechanical breakdown of his motor vehicle on his way to court. He also endeavoured to log in but failed to be let in. Therefore, the Counsel's mistake should not be visited on the Applicant who, since the lodging of its application, has attended diligently and promptly.

9. The Applicant submitted that the Applicant has filed this application within the 30 days from dismissal as required by section 26 of the Tax Appeals Tribunal Act ("TAT Act"). TAT Application 149 of 2025 was dismissed on 20 October 2025. The Applicant filed this Application for reinstatement on 22 October 2025, two days after it was dismissed, and, as such, is within the prescribed 30 days for reinstatement.

10. The Applicant submitted that in *Chiman Bhai R. Patel v Abid Alam and Sugar and Allied Industries Ltd*, HCMA No. 1595 of 2022 held:

"From the above rule, the Applicant/plaintiff can apply for an order to set aside the dismissal, and the Court shall make an order setting aside the dismissal if the Plaintiff satisfies the court that there was sufficient cause for nonappearance when the matter was called for hearing. Therefore, the issue is whether or not the Applicant had sufficient cause for nonappearance."

11. The Applicant submitted that they took reasonable steps to get a lawyer to represent them on their application, but the lawyer failed to turn up on time, causing their case to be dismissed without any legal redress, even when the reason for their application had not been addressed.
12. The Applicant submitted that TAT App No. 149 of 2025 should be reinstated in the interest of justice. The Applicant's legal interest is at stake, as it will be required to pay huge amounts of tax that are not provided for by law.

VI. Submissions of the Respondent

Preliminary point of law

13. In reply, the Respondent submitted that the Tribunal is not vested with Jurisdiction to hear this application. The Applicant's recourse is to either file a fresh application or appeal to the High Court against the dismissal order. TAT Application 149 of 2025 was dismissed for want of prosecution.

14. The Respondent submitted that Order 17 Rule 5 of the Civil Procedure Rules states:

"If the plaintiff does not within eight weeks from the delivery of any defence, or, where a counterclaim is pleaded, then within ten weeks from the delivery of the counterclaim, set down the suit for hearing, then the defendant may either set down the suit for hearing or apply to the court to dismiss the suit for want of prosecution, and on the hearing of the application the court may order the suit to be dismissed accordingly, or may make such other order, and on such terms, as to the court may seem just".

15. The Respondent submitted that in the cases of ***Sekyaya Sebugulu V Daniel Katunda [1979] HCB 46***, it was held:

“Once an action has been dismissed for want of prosecution, the Plaintiff’s only remedy is either an appeal against the order of dismissal or commencement of a fresh action subject to the law of limitation”.

16. The Respondent submitted that the Tribunal is not vested with Jurisdiction to hear this Application and invited the members to dismiss the application with costs to the Respondent.

Whether the Applicant has sufficient cause to warrant reinstatement of TAT Application 149 of 2025?

17. The Respondent submitted that the Applicant has no sufficient cause for consideration of whether the prayers in this Application should be granted or not. The Respondent submitted that the conduct of the Applicant in prosecution of this case constitutes dilatory conduct, thus extinguishing any justifiable cause.

18. The Respondent submitted that failure on the part of the Applicant to attend Court through the company representatives without justifiable cause constitutes dilatory conduct. In ***Isaduru Vicky V Perina Aroma HC Civil Appeal 33 of 2014***, it was held:

“Conducting proceedings in a manner manifesting intention not to bring them to an expeditious conclusion, is a subversion of the process of the Court and will constitute an abuse justifying the dismissal”.

19. The Respondent submitted that the Applicant states in the affidavit in support that Counsel was duly instructed to appear before the Tribunal on the scheduled date, and instructing counsel does not vitiate the Applicant's obligation to follow proceedings and attend all scheduled proceedings in person, except for justifiable cause.

20. The Respondent submitted that the case of **Andrew Kananura V Kaijuka Henry SC Civil Reference 15 of 2016**, it was stated:

"Much as it is a settled principle of law that a lawyer's mistake cannot be visited on an innocent litigant, there are exceptions to this principle. Where an applicant does not establish sufficient reason, then he cannot rely on the principle. Court notes that the function of this principle is to serve as an instrument to advance the ends of justice. Where the principle is not used to serve its proper function, then it cannot be used as a shield in abuse of the court process and of Justice. A litigant who exhibits dilatory conduct cannot use the principle as a shield to conceal his conduct."

21. The Respondent submitted that it is on record that at the request of the Applicant's legal representatives, the Applicant sought for and was granted several adjournments under the pretext that the Applicant was interested in pursuing an out-of-court settlement, which never came to fruition, owing to its failure to provide information to facilitate the proposed reconciliation and mediation.
22. The Respondent opposes the instant application on the basis that the Applicant did not provide any cogent evidence to establish that the legal representative's car broke down. The receipt provided did not include any description of the vehicle purportedly repaired, enabling the Tribunal to correlate it with the one in which the Applicant's legal representative was allegedly travelling.
23. The Respondent submitted that it is also a well-known fact that the Tribunal handles virtual appearances through the Microsoft team's application. Unlike Zoom, the Microsoft Teams app does not include a privacy feature that allows an administrator to admit anyone who logs in to a session using the provided link. Once a user receives a link, the login to the session is automated and instantaneous.
24. The Respondent submitted that the Applicant's contention that the legal representative was not admitted into the virtual session is false and misleading. The Applicant is guilty of gross dilatory conduct in failing to pursue and or follow up on the progress of its application. The Applicant

cannot rely on the alleged mistake of counsel to establish sufficient cause. This is an afterthought to circumvent the consequences for its dilatory conduct.

Non-payment of the 30% deposit

25. The Respondent further contended that the Applicant has not paid 30% of the tax in dispute or shown a willingness to comply with the requirement. This submission is premised on Section 15 of the TAT Act. The Respondent cited ***Uganda Projects Implementation & Management Centre V URA SC Civil Appeal 2 of 1999***, which reinforced the requirement for the 30% deposit.

26. With respect to the time of payment, the 30% of the tax ought to have been paid by the Applicant at the time of objection, and therefore the Applicant has no locus. The Respondent submitted that in the case of ***Bullion Refinery Limited V URA TAT App No. 36 of 2021***, where it was held that:

"The requirement to pay 30% of the tax assessed or the amount not in dispute arises when a party files an objection and not when a party files a matter in the Tribunal. This means that, by the time the matter is filed in the Tribunal, the 30% ought to have been paid".

27. The Respondent argued that where the Applicant has failed or refused to pay the 30% at the time of objection to the tax assessment, it has no locus to be heard by the Tribunal, as was held in ***Rangers Limited V URA TAT Application 171 of 2020***.

v. The determination

28. Having considered the parties' evidence and submissions, this is the decision of the Tribunal.

29. Section 26(2) of the Tax Appeals Tribunal Act (TAT Act), provides that:
"If the Applicant fails within a reasonable excuse, to appear at the hearing of the proceeding, a tribunal may dismiss the Application without proceeding to review the decision.

30. Section 26 (3) of the TAT Act provides:

“If the Applicant fails within a reasonable time to proceed with the application or comply with a direction by a tribunal in relation to the application, the tribunal may dismiss the application.”

31. Further, Section 26(4) of TAT Act provides:

“Where the tribunal has dismissed an application under sub section (2) or (3), the applicant may within 30 days after receiving notification that the application has been dismissed, apply to the Tribunal for reinstatement of the application, and the Tribunal may, if it considers it appropriate to do so, reinstate the application and give such directions as appear to be appropriate in the circumstances.”

Whether the Tribunal has Jurisdiction

32. The Respondent contended a preliminary objection that the Tribunal doesn't have jurisdiction to entertain this present Application following the dismissal of the main matter. The Respondent further argues that this Tribunal is functus officio upon dismissal, on the basis that, once a matter is dismissed for want of prosecution, the proper recourse lies in appeal or in instituting a fresh suit, and thus it lacks jurisdiction to reinstate the matter.

33. The Tribunal has considered this objection in light of the governing statutory framework. However, the Tribunal observes that proceedings before it are primarily regulated by the TAT Act provided in Section 26 above, which under Section 26(4) expressly provides that where an application is dismissed under Section 26(2) or (3), the Applicant may, within thirty days, apply for reinstatement, and the Tribunal may, if it considers it appropriate, reinstate the application.

34. In view of this express statutory mandate, the Tribunal finds that it retains jurisdiction to hear and determine an application for reinstatement arising from its own dismissal order. The preliminary objection on jurisdiction, therefore, is without merit. Nevertheless, the Applicant has to show sufficient cause to warrant the grant of this application.

Whether Sufficient cause has been established

35. The central issue is whether the Applicant has established sufficient cause to warrant reinstatement of the dismissed application. The burden rests upon the Applicant to provide a credible, satisfactory, and sufficiently substantiated explanation for its non-appearance.
36. The Applicant contends that non-appearance was due to a mechanical breakdown of their Counsel's vehicle while en route to the Tribunal and an alleged inability to access virtual proceedings. The Applicant has argued that such a mistake should not be visited upon the litigant. The Applicant's Reliance is placed on authorities including *Banco Arabe Espanol v Bank of Uganda SCCA No. 8 of 1998* and *Allied Industries Ltd, Projects Limited v Business in Motion Consultants Ltd(supra)*, which emphasise that courts should lean towards substantive justice, and that litigants should not ordinarily suffer for counsel's mistake where diligence is shown.
37. The Tribunal is mindful of the principle that mistakes or inadvertence of counsel should not ordinarily be visited upon an innocent litigant, as stated in the above decisions. However, as held in *Andrew Kananura v Kaijuka Henry(supra)*, this principle is not absolute and cannot be relied upon to excuse indolence, negligence, or unsubstantiated assertions.

Mechanical breakdown

38. The allegation of mechanical breakdown is not supported by cogent and verifiable evidence. The receipt relied upon does not clearly identify the specific motor vehicle allegedly involved, nor does it establish a clear and direct nexus between the alleged breakdown and counsel in personal conduct scheduled to attend the proceedings. The evidential gaps render the explanation weak and unconvincing.

Inability to access online proceedings

39. Regarding the alleged inability to access virtual proceedings, the Tribunal finds the Applicant's explanation unpersuasive. The Tribunal takes judicial notice that its proceedings are conducted via Microsoft Teams, which

provides automatic access upon issuance of the meeting link to duly notified parties.

40. The Applicant has not tendered in evidence of attempted login, system-generated error, technical failure report, or concurrent communication to the Tribunal. In the absence of such supporting material, the allegation remains unsubstantiated.

The Applicant's conduct


41. The Tribunal is required to consider whether the Applicant's overall conduct demonstrates sustained diligence in the prosecution of the present matter. While the Applicant had legal representation on record, the Tribunal notes the Respondent's uncontroverted assertions of prior adjournments and a lack of proactive follow-up, which weaken the assertion of diligence.
42. The record shows non-compliance with Tribunal directions requiring the filing of trial documents within stipulated timelines as detailed below:
- (i) The record shows that Application No. 149 of 2025 was filed on 27 May 2025 together with Miscellaneous Application Nos. 108 and 109 of 2025 for temporary injunction and interim orders, respectively.
 - (ii) The interim reliefs were granted on 30 May 2025 and 16 July 2025.
 - (iii) On 18 August 2025, the matter came up for conferencing, during which both parties appeared virtually. The Tribunal issued clear directions requiring the filing of a Joint Scheduling Memorandum, witness statements, and trial documents by 5 October 2025 in preparation for the hearing scheduled for 20 October 2025.
 - (iv) On the hearing date of 20 October 2025, the Respondent indicated that it had not been served with the necessary trial documents and opposed proceeding on the grounds of non-appearance and lack of readiness by the Applicant.
 - (v) The Tribunal, being satisfied that the Applicant had been duly served with hearing notices and had failed to prosecute the matter, dismissed

the application for want of prosecution and non-appearance, with costs.


- (vi) Following the dismissal, Miscellaneous Application No. 240 of 2025 was filed seeking reinstatement.
 - (vii) When the matter came up on 27 October 2025, the matter did not proceed as the Respondent had been served electronically shortly before the hearing. The Respondent sought time to reply.
 - (viii) The matter was accordingly adjourned to 12 November 2025. On that date, the parties were directed to file written submissions for determination.
43. The foregoing procedural history demonstrates a lack of diligence on the part of the Applicant. The Tribunal is not persuaded that the Applicant's counsel exhibited the level of urgency expected in prosecuting the matter, particularly after clear directives had been issued.
44. The Tribunal is committed to resolving tax disputes quickly, because tax disputes require diligence and expedition, given their implications on public revenue administration. Consequently, a party seeking reinstatement must demonstrate consistent and active prosecution of its case, which is lacking in the present matter.
45. In addition, the subject matter of the dispute concerns goods alleged to be perishable in nature. Such matters require expedition and heightened diligence. It was incumbent upon the Applicant to exercise proper oversight of its case and ensure timely compliance with the Tribunal's directions. The record, instead, reveals undue reliance on counsel without sufficient follow-up, resulting in an avoidable procedural default.
46. The Tribunal further emphasises that reinstatement of a dismissed application is an equitable and discretionary remedy; it is an indulgence granted at the discretion of the Tribunal and is not automatic. An applicant must therefore demonstrate not only a plausible explanation for default but also consistent diligence and good faith in the conduct of its case.

47. In the present case, the Tribunal finds that the Applicant has failed on both counts: to satisfy the evidentiary burden for explaining non-appearance and the requirement of demonstrating diligence in the prosecution of its case.
48. Accordingly, the Tribunal is not satisfied that sufficient cause has been established to warrant reinstatement of the dismissed application. TAT Application No. 149 of 2025. Accordingly, the Application for reinstatement is therefore dismissed.
49. Each party should bear their own costs.


Dated at Kampala this 3rd day of May 2026.



HON. CRYSTL KABAJWARA
CHAIRPERSON



HON. SAFI GRACE
MEMBER



HON. WILLY NANGOSYAH
MEMBER