

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA**  
**MISCELLANEOUS APPLICATION NO. 169 OF 2025**  
**(Arising out of TAT NO. 135 of 2024)**

NILE BREWERIES LIMITED ..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY ..... RESPONDENT

BEFORE: MRS. STELLA NYAPENDI CHOMBO, MS. PROSCOVIA R. NAMBI,  
MS. CHRISTINE KATWE

**RULING**

This ruling is in respect of an application brought under section 6 and 98 of the Civil Procedure Act Cap 282 and Section 33 of the Judicature Act Cap 16 and Rules, S.I No. 50 of 2012, in which the Applicant seeks the following orders:

1. That there be a stay of all proceedings in TAT Application No. 135 of 2024 pending the hearing and final determination of Civil Appeal No. 495 of 2025 in the Court of Appeal.
2. That the costs of this application be provided for.

**1. Background Facts**

The Applicant, Nile Breweries Limited, filed TAT Application No. 135 of 2024 challenging assessments of VAT and Local Excise Duty arising from the reclassification of exports made through Ituri Investments Limited and Kabaco (U) Limited as local sales. While the said matter is pending ruling before the Tribunal, the Applicant lodged Civil Appeal No.

495 of 2025 in the Court of Appeal challenging the High Court's decision in HCCA 113 of 2023, which upheld similar assessments in respect of an earlier period.

The Applicant now seeks to stay the Tribunal's proceedings in Application No. 135 of 2024 pending the outcome of Civil Appeal No. 495 of 2025.

## **2. Representation**

The Applicant was represented by Mr. Bruce Musinguzi and Mr. Thomas Kato while the Respondent was represented by Ms. Charlotte Katuutu and Ms. Eseza Victoria Ssendege.

## **3. Issue for Determination**

The sole issue for determination is whether the Applicant has made out a case for stay of proceedings in TAT Application No. 135 of 2024 pending Civil Appeal No. 495 of 2025.

## **4. Submissions of the Applicant**

Counsel for the Applicant submitted that the issues in TAT Application No. 135 of 2024 are directly and substantially the same as those in Civil Appeal No. 495 of 2025, namely whether the Applicant's exports through Ituri and Kabaco should be treated as zero-rated exports or local taxable sales. Counsel contended that the appeal before the Court of Appeal raises serious questions of law, including whether supplies to export agents constitute taxable supplies under the VAT Act, the application of the principle of legitimate expectation, and the correct interpretation of section 9(4) of the Excise Duty Act.

Counsel further argued that unless a stay is granted, there is a real risk of inconsistent decisions being reached by different fora, which would render the pending appeal nugatory. It was submitted that the balance of convenience favours the Applicant, since no prejudice would be occasioned to the Respondent by the grant of a stay, while the Applicant would face significant injustice if compelled to litigate the same issues in parallel proceedings.

Counsel emphasized that the application was filed promptly, without undue delay, and that the Tribunal possesses the requisite discretion to grant a stay where justice so demands. In conclusion, Counsel prayed that the application be allowed with costs.

#### **5. Submissions of the Respondent**

Counsel for the Respondent opposed the application and submitted that it is misconceived and amounts to an abuse of the process of the Tribunal. Counsel argued that TAT Application No. 135 of 2024 has already been fully heard and is pending ruling, and that the Applicant is effectively attempting to “arrest” the judgment of the Tribunal.

It was further contended that the issues before the Tribunal and those before the Court of Appeal are not entirely the same, and that therefore no real risk of conflicting decisions arises. Counsel submitted that the Applicant’s action is prejudicial and intended to frustrate the Respondent’s mandate of tax collection, while creating inconvenience and backlog, given the long delays that typically accompany appeals in the Court of Appeal.

Counsel also argued that the Applicant’s appeal does not raise serious questions of law to warrant a stay, and in any case, the appellate hierarchy ensures that any inconsistent decisions can be corrected on appeal. Counsel submitted that granting a stay would gravely prejudice the Respondent by delaying revenue collection. The Respondent therefore prayed that the application be dismissed with costs.

#### **6. Submissions of the Applicant in rejoinder**

In their rejoinder, the Applicant reiterated its submissions and rejoined to the Respondent’s arguments as follows:

Regarding the Appeal before the Court of Appeal being bona fide, the Applicant submitted that they filed a Notice of Motion and Notice of Appeal showing genuine grounds, not merely to delay proceedings. They argued that the appeal raised substantive legal issues, particularly whether VAT and Local Excise Duty were properly assessed on exported beer. Though tax amounts differed, the issues of fact and law mirrored those before the Tribunal. This was supported by the precedent set in **Simba Properties Investment Co.**

**Ltd & Ors vs. Vantage Mezzanine Fund II Partnership & Anor CACA 1299 of 2023**, where arguable points were held sufficient to ground an appeal.

Regarding the possibility of conflicting decisions, while the Respondent had argued TAT 135 of 2024 differed from CACA 495 of 2025 due to assessment amounts and periods the Applicant countered that the substance was the same; whether exports were wrongly reclassified as local sales. The Applicant also submitted that the dissatisfaction with the Tribunal's ruling, pending appeals, and unlawful assessment of excise duty and VAT were all linked to the same exports.

The Applicant further submitted that the Respondent would not suffer harm if a stay was granted. The Applicant emphasized that 30% of the disputed tax was already collected, and the Applicant, as a top taxpayer, remained "collectable." Relying on the decision in **Attorney General of Uganda vs. EALS & Ors Application No. 7 of 2012**, the Applicant argued the balance of convenience favored awaiting the appeal outcome.

The Applicant reiterated that with 30% of the disputed tax already collected and its established compliance record as a large taxpayer, revenue collection remains fully safeguarded. The Respondent's claim that a stay would frustrate revenue is therefore unfounded. Importantly, unlike in other cases where parties voluntarily chose not to seek a stay, the Applicant is lawfully exercising its right to do so, which should not be construed as dilatory.

On the Respondent's contention that TAT should proceed with delivering the Ruling, the Applicant noted the High Court delivered judgment in May 2024 before TAT submissions were completed, and the appeal (CACA 495 of 2025) was filed the following day. The Respondent's later submissions heavily relied on that judgment, underscoring overlap.

The Applicant submitted that a stay may be sought any time before ruling and pointed out that no ruling had been delivered in TAT 135 of 2024. The appeal was filed promptly, and the stay application followed soon after, evidencing good faith.

In conclusion, the Applicant prayed for an order staying all proceedings in TAT 135 of 2024 pending the hearing and determination of CACA 495 of 2025, citing the EACJ principle that justice is best served by granting a stay.

## 7. Determination of the Tribunal

The law governing stays of proceedings is settled. The grant of a stay is a matter of judicial discretion; to be exercised judiciously and only where exceptional circumstances are shown. The Applicant bears the burden of demonstrating that:

- (i) the appeal raises serious questions of law and is not frivolous,
- (ii) there is a risk of nugatory or inconsistent decisions if the proceedings continue, and
- (iii) the balance of convenience and interests of justice favour a stay.

We have carefully considered the submissions of both parties.

It is not disputed that the Applicant's Civil Appeal No. 495 of 2025 arises from the High Court's decision in HCCA 113 of 2023, which upheld assessments for VAT and Excise Duty in respect of the Applicant's supplies through Ituri and Kabaco. The issues in that appeal overlap substantially with those raised in TAT Application No. 135 of 2024, though not entirely identical.

In the case of *Kare Distribution Limited and Another v African RMRS Fund (Miscellaneous Application No 2399 of 2023) [2024] UGCommC 421 (12 January 2024)* the court established that a stay of proceedings is a "serious, grave and fundamental interruption" of a party's right to have their case heard on its merits. Therefore, the court's general practice is not to grant a stay unless the proceedings, "beyond all reasonable doubt, ought not to be allowed to continue". The court noted its discretionary power to stay proceedings would only be exercised in "exceptional circumstances" and when it is "absolutely necessary". Such applications are subject to a "higher test of scrutiny" because they aim to stop a party from being heard.

We note that under Section 22(1) of the TAT Act, the procedure of the Tribunal in any proceeding is, subject to the Act, within the discretion of the Tribunal. We are equally mindful of the provisions of Sections 6 and 98 of the Civil Procedure Act, Cap 282, and Section 33 of the Judicature Act, Cap 16. Taken together, these provisions underscore that such discretion must be exercised judiciously, in order to ensure justice and prevent abuse of court process. The overarching objective is to determine all matters in controversy between the parties and avoid a multiplicity of legal proceedings.

Counsel for the Applicant cited the case of *Hassan Bassajabalaba & Ors v Standard Chartered Bank Misc App No 215 of 2014* where the High Court granted the stay on the basis that if the matter proceeded and the appeal succeeded then it would have been a waste of court's time. However, we rely on the case of *Kare Distribution Limited and Another v African RMRS Fund (supra)* where the court determined that since the proceedings were already concluded, "there is nothing that can be stayed" and that a judgment itself cannot be stayed. We are mindful that the Tribunal has already heard TAT Application No. 135 of 2024 and the matter is pending ruling. To restrain the Tribunal from delivering its Ruling at this stage would undermine the Tribunal's statutory mandate to determine disputes placed before it.

We also note that the Appeal in the court of appeal is not an appeal against the decision of the Tribunal but rather against the decision of the High Court in a separate proceeding. The Tribunal cannot abdicate its role pending the possibility of a different outcome in a parallel appellate process.

Furthermore, any party dissatisfied with the Tribunal's decision has a statutory right of appeal to the High Court as enshrined in S.28 of the TAT Act. This appellate structure mitigates the risk of inconsistent judgments and ensures that the Applicant's appeal is not rendered nugatory.

We further observe that granting a stay at this stage would occasion undue prejudice to the Respondent and risk setting an undesirable precedent where Tribunal proceedings are halted merely because an appeal; filed in a seemingly related matter; is pending before another forum which would compromise the efficient resolution of tax matters and

create unnecessary uncertainty for the parties and the tax system. The interests of justice are better served by allowing the Tribunal to render its ruling in Application No. 135 of 2024, subject to the Applicant's right of appeal.

Accordingly, the Tribunal finds that the Applicant has not demonstrated exceptional circumstances warranting a stay of proceedings such as irreparable injustice, compelling urgency, or systemic inefficiency as laid out in the case of *Asimwe Diana & 4 Ors v Dr. Aggrey Kiyingi Civil Application No. 191 of 2011*. The Applicant has not demonstrated sufficient cause for a stay. This application is speculative and lacks merit.

The application for stay of proceedings in TAT Application No. 135 of 2024 is hereby dismissed with costs to the Respondent.

It is so ordered.

Dated at Kampala this 26<sup>th</sup> day of September 2025.



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**MRS. STELLA NYAPENDI CHOMBO**  
**CHAIRPERSON**



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**MS. PROSCOVIA R. NAMBI**  
**MEMBER**



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**MS. CHRISTINE KATWE**  
**MEMBER**