TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

TAT APPLICATION NO. 211 OF 2025

PRIDE BANK LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. STELLA NYAPENDI CHOMBO, HON. EDWARD BIRYETEGA, HON. GERALD AGABA KAKIMA

RULING

I. Introduction

1. The Applicant challenges the stamp duty assessment originally issued at Shs. 2,046,176,547, disputing the tax levied on financial instruments relating to Kibanja interests, motor vehicles, motorcycles, chattels, and loans below Shs. 3,000,000.

2. The Applicant contends that any applicable stamp duty was contractually and statutorily payable by the borrowers. The Respondent maintained that the stamp duty is a public law obligation payable primarily by the Applicant Bank. Following Tribunal-guided mediation, the Respondent acknowledged computational errors, reducing the disputed tax assessment to a residual sum of Shs. 1,340,758,315, which remains the subject of this dispute.

II. Background Facts

3. The Applicant is a financial institution incorporated in Uganda and licensed as a microfinance deposit-taking institution under the Microfinance Deposit-

Taking Institutions Act. It provides financial services, including credit facilities secured by various forms of collateral, including land titles, customary Kibanja interests, motor vehicle logbooks, household property, and other movable chattels.

4. The Respondent, Uganda Revenue Authority (URA), conducted a stamp duty compliance review of the Applicant's financial instruments executed during the period from July 2014 to December 2023. The audit covered instruments relating to mortgages, chattels, pawn pledges, agreements for the deposit of title deeds, and employment contracts.

5. On 24 April 2025, the Respondent issued an additional stamp duty assessment of Shs. 1,889,166,322. On 4 June 2025, the Applicant objected to the assessment on grounds of incorrect classification of financial instruments and misapplication of statutory tax rates.

6. On 4 July 2025, the Respondent issued an objection decision disallowing the Applicant's objection in its entirety and upwardly adjusting the assessed stamp duty to Shs. 2,046,176,547. The Applicant subsequently filed this application. During mediation, the assessment was adjusted downward to Shs. 1,340,758,315.

III. Issues For Determination

7. The following are the issues for determination;
   (i) Whether the Applicant is liable to pay the residual assessed stamp duty of Shs. 1,340,758,315?
   (ii) What remedies are available to the parties?

IV. Representation

8. The Applicant was represented by M/S S&L Advocates, while the Respondent was represented by its Legal Services and Board Affairs Department.

Applicant's Evidence

9. In the affidavit in support sworn and deponed by Mr. Henry Bukenya, the Applicant's Finance Manager, Business Performance, it was stated that the Applicant offered loans secured by Kibanja interests, registered land, motor vehicles, motorcycles, and other chattels. He averred that during Tribunal-guided mediation, the Respondent conceded errors in its computation, having applied an incorrect blanket rate of 0.5% to equitable mortgages throughout the audit period instead of applying the lower historical rates or Shs. 15,000 under the Second Schedule to the Stamp Duty Act. Consequently, the assessment was reduced to Shs. 1,340,758,315.

10. Mr. Bukenya further deponed that documents executed in respect of Kibanja interests were simple memoranda recording the deposit of title deeds, which were unregistered as no statutory land registry exists for such customary holdings. He maintained that caveats for motor vehicles and chattel agreements for personal property did not constitute real property mortgage deeds, and that standard loan facility agreements expressly placed the obligation to pay transaction expenses and stamp duty on the borrowers, a framework fully recognized under revenue law.

Respondent's Evidence

11. In the affidavit in reply deponed by Ms. Nakimera Catherine, an Officer in the Independent Review of Objections Unit of the Domestic Taxes Department of the Respondent, it was stated that the URA compliance audit uncovered wide-scale underpayment of stamp duty on mortgages, chattels, pawn pledges, and employment contracts. She maintained that borrowers offering Kibanja interests created mortgages enforceable by the bank upon default, thereby creating taxable rights over property in favor of the Applicant under Item 42(a) at a rate of 0.5%.

12. She further deponed that the agreements involving the deposit of motor vehicle logbooks properly fell under Item 6, chattel agreements were legally

reclassified under Item 5 (Shs. 15,000), and the Bank retained primary collection and remittance liabilities which could not be privately contracted away to circumvent public law obligations.

V. The Applicant's Submissions

13. The Applicant challenged the residual assessment on four grounds:
    (i) Misclassification of instruments secured by Kibanja interests and movable property as mortgage deeds under Item 42(a);
    (ii) Wrongful application of the 0.5% stamp duty rate instead of the applicable lower fixed rates or nil rates;
    (iii) Unlawful application of the "Highest of the Duties" rule under Section 5 to defeat protective nil-rated provisions, such as loans below Shs. 3,000,000; and
    (iv) Wrongful imposition of tax incidence on the Bank instead of the executing borrowers contrary to Paragraph 1 of the Third Schedule.

Misclassification of instruments secured by Kibanja interests as mortgage deeds

14. The instruments evidencing loans secured by Kibanja interests are memoranda of deposit of ownership documents, not registrable legal mortgages. Under Section 1 of the Mortgage Act, a mortgage deed requires a legal mortgage registered on a certificate of title; these instruments create only equitable mortgages that fall under Item 30 of the Second Schedule to the Stamp Duty Act and are nil-rated, not chargeable at 0.5% under Item 42(a).

Misclassification of caveats over motor vehicles and motorcycles as mortgage deeds

15. Caveats registered over motor vehicles and motorcycles were wrongly classified as mortgage deeds. A mortgage relates only to land or interests in land, while security over movable property is governed by the Security

Interest in Movable Property Act through caveats and chattel agreements, not mortgage deeds. Specific statutory provisions prevail over general ones, so the 0.5% mortgage-deed rate does not apply.

Misclassification of instruments relating to loans below Shs. 3,000,000

16. Instruments for loans below Shs. 3,000,000 were incorrectly reclassified and charged. These were expressly nil-rated, and amendments effective 1 July 2020 extended nil-rating to loans of any value. Legislative intent supports improved access to credit, and specific nil-rated provisions prevail over general provisions; the rule under Section 5 of the Stamp Duty Act cannot override an express nil-rating.

The stamp duty, if any, is payable by the borrowers and the Applicant has no collection obligation imposed upon it by law

17. Stamp duty liability rests with borrowers. Under Paragraph 1 of the Third Schedule to the Stamp Duty Act, parties may agree who bears the responsibility for payment, and Clause 10 of the loan agreements places this obligation on borrowers. The Respondent cannot impose that liability on the Applicant contrary to both statutory provisions and the parties' contract.

VI. The Respondent's Submissions

18. The Respondent submitted that under Section 2(1)(a) of the Stamp Duty Act, every instrument specified in the Second Schedule, executed in Uganda and relating to property or matters in Uganda, is chargeable with stamp duty in accordance with the applicable rates. The Applicant was liable to pay the assessed stamp duty arising from loans secured by motor vehicles and motorcycles, chattels and Kibanja interests.

Motor vehicles and motorcycles

19. The Respondent submitted that loans secured by vehicle and motorcycle logbooks were correctly classified under Item 6 of the Second Schedule to the Stamp Duty Act. Loans secured by pawns and Kibanja titles, initially classified under Item 37, were properly reclassified under Item 5, attracting a fixed duty of Shs. 15,000 per instrument. Instruments for loans below Shs. 3,000,000 secured by Kibanja interests were correctly classified under Item 42(a) and charged at 0.5%. The Respondent argued the Applicant has not discharged its burden of proof.

Stamp duty on mortgage deeds relating to Kibanja agreements

20. The Respondent submitted that Kibanja agreements constitute mortgage deeds because borrowers pledge their Kibanja interests to secure repayment, granting the Applicant rights to enforce and realise that interest on default. It relies on the literal rule of statutory interpretation, stating that tax legislation must be read according to its plain meaning. Relying on Section 29 of the Land Act, it notes Kibanja interests amount to lawful occupancy, which can form the subject of an equitable mortgage.

21. Under Section 1 of the Stamp Duty Act, a mortgage deed includes any instrument creating a right over property to secure a loan, and Section 2 confirms instruments are chargeable in accordance with the Second Schedule. The Respondent cites Section 2 and Section 2(8)(b) of the Mortgage Act, which define a mortgage broadly and allow security to be created over any interest in land, including customary interests, by depositing relevant documents. Section 3 and Section 3(8) of the Mortgage Act also permit mortgaging of any land interest and the creation of informal mortgages.

22. The Respondent argued that the parties' agreements clearly pledge property interests to secure repayment, confirmed by the affidavit of Henry Bukenya. These fall within the statutory definition of mortgage deeds, and

registration is not required for stamp duty to apply. Section 2 of the Mortgage Act also defines an informal mortgage as including equitable mortgages and mortgages over unregistered land. It maintained that the instruments were correctly classified under Item 42(a) of the Second Schedule to the Stamp Duty Act and attracted duty at 0.5% of their total value.

The party liable to pay stamp duty

23. The Respondent submitted that the Applicant is responsible for collecting and remitting stamp duty under the terms of its credit agreements, as banks control the security process, debit customers, and remit taxes. It argued that the Applicant has not shown that borrowers independently handled security matters, and as the party enforcing and benefiting from the instruments, the Applicant is liable. The Respondent prayed that the Tribunal finds the Applicant liable for the revised outstanding tax and dismiss the application with costs.

VII. The Determination

Issue 1: Whether the Applicant is liable to pay the assessed stamp duty of Shs. 1,340,758,315.

24. For structural clarity and precision, the Tribunal evaluates the impugned financial instruments across their distinct statutory categories;

(a) Instruments of loans secured by Kibanja interests

25. The Respondent contended that because Kibanja agreements pledge an interest in land to secure a debt, they create rights over property and must be taxed as "Mortgage Deeds" at a rate of 0.5% under Item 42(a) of the Second Schedule to the Stamp Duty Act. To resolve the overlap between competing items, the Respondent seeks to invoke the "highest of the duties" rule and relies on Section 5 of the Act. The Section provides that where an instrument falls under two items, the higher duty applies. We find

this position legally untenable and reject the reading of Section 5 for the three reasons.

First, Item 30 is specific; Item 42 (a) is general.

26. The rules of strict statutory construction dictate how such an instrument is taxed. In doing so, we must apply the canonical maxim "generalia specialibus non derogant": specific statutory provisions override general ones. Whilst Item 42(a) is a general, catch-all umbrella category for standard mortgage deeds, in contrast, Item 30 of the Second Schedule is a specific provision carved out by Parliament to govern "Equitable Mortgages," to which it explicitly assigned a Nil rate.

27. Second, Section 5 does not apply to a Nil Rate.

Section 5 presupposes a choice between two chargeable rates. A Nil rate is not a rate within the realm of Section 5; it is a deliberate legislative decision to set the rate at 0/Nil. To apply Section 5 to override a Nil rate would be to use a general conflict provision to repeal a specific provision. This treatment is not permitted in law. Section 5 resolves genuine ambiguity between two charging provisions. It does not authorise the Commissioner to ignore the law.

28. Third, the authorities support this. In ***Centenary Rural Development Bank Ltd v Kwesiga Remegio, HCCS No. 123 of 2018***, it was held that a Kibanja pledge creates an equitable mortgage. The Tribunal finds that Kibanja pledges fall under Item 30 and are Nil-rated. The assessment under Item 42(a) at 0.5% on Kibanja pledges is hereby set aside. This finding accords with legislative policy. Parliament nil-rated equitable mortgages to reduce the cost of credit for customary landholders, who are the majority of the Applicant's borrowers. To impose 0.5% would defeat that policy.

(b) Instruments relating to loans secured by motor vehicles, motorcycles, and other chattels

29. The Respondent initially classified all security instruments relating to movable property under the general category of mortgage deeds at 0.5%. It subsequently sought to reclassify general chattels under Item 5 (Shs. 15,000) and motor vehicle logbook deposits under Item 6 (attracting 1% pre-July 2022, and Nil post-July 2022).

Chattels

30. We find that a clear distinction must be maintained between real property and movable assets under the Security Interest in Movable Property Act. General household and personal items secured through chattel agreements cannot be treated as real estate mortgages under Item 42(a). The parties' positions now substantially converge on Item 5. Accordingly, such instruments fall under Item 5 of the Second Schedule and attract the specific fixed rate in force on the date each individual instrument was executed.

Motor Vehicles and Motorcycles

31. The Applicant incorrectly argued that vehicle caveats should fall under the land registry exemptions of Item 19. A vehicle logbook is a regulatory document under the Traffic and Road Safety Act, not a land title deed, making Item 19 inapplicable. However, the Respondent's attempt to levy a blanket mortgage rate is equally flawed.

32. When a borrower deposits a motor vehicle logbook with a financial institution alongside a financing agreement, the transaction constitutes a constructive pledge of a movable chattel. Under modern commercial jurisprudence, Section 2 and Section 5 of the Security Interest in Movable Property Act explicitly state that a valid security interest or commercial pledge over movable property may be created through a written agreement and perfected by control or registration over the documents of title, including

motor vehicle logbooks. Physical delivery is not an absolute prerequisite to create a valid pledge.

33. Item 6 of the Second Schedule explicitly governs an "Agreement relating to deposit of title deeds, pawn and pledge". Because Item 6 deliberately utilizes the disjunctive words "pawn and pledge", it captures both common law physical pawns and modern statutory constructive pledges. This Tribunal is not expanding the definition of land titles; we are strictly applying the literal, statutory definition of a constructive pledge over a chattel.

34. In line with the foundational canon of statutory harmonization, tax instruments cannot be evaluated within a commercial vacuum. Where the Stamp Duty Act levies a charge upon commercial mechanisms such as a 'pawn' or 'pledge' without providing an internal definition for those terms, this Tribunal must look to the governing commercial statutes and the common law of the land to avoid creating a commercial schism within the laws of Uganda.

35. Furthermore, while the Security Interest in Movable Property Act explicitly governs post-2019 instruments, this Tribunal notes that for the preceding audit window between July 2014 and May 2019, the common law doctrine of constructive delivery equally recognized that a valid pledge over a movable chattel is perfected by the delivery of the symbols of ownership, such as a motor vehicle logbook. Consequently, the Security Interest in Movable Property Act operates as a statutory codification of long-standing common law principles in Uganda and does not represent a retroactive expansion of tax liabilities.

36. Under the Stamp Duty Amendment Act, 2022, the rate under Item 6 was reduced to nil with effect from 1 July 2022. Accordingly, qualifying vehicle instruments executed between July 2014 and 30 June 2022 attracted stamp duty at the historical rate of 1%, while those executed on or after 1 July 2022 were nil-rated. The Tribunal finds that the Respondent was required

to apply the applicable rate prevailing at the time each instrument was executed. However, this finding on the applicable rates does not sustain the assessment against the Applicant, whose liability is separately determined under Paragraph 1 of the Third Schedule to the Stamp Duty Act, which provides that, in the absence of an agreement to the contrary, the expense shall be borne by the person drawing, making or executing the instrument.

(c) Instruments relating to loans below Shs. 3,000,000

37. The Respondent attempted to bypass the low-value loan exemptions under Item 37 by arguing that these transactions were fundamentally Kibanja mortgages, artificially splitting a single credit transaction into multiple taxable components.

38. Item 37 of the Second Schedule explicitly nil-rated instruments relating to loans not exceeding Shs. 3,000,000 before 1 July 2020 and was subsequently amended by the Stamp Duty (Amendment) Act, 2020, to extend a blanket nil-rating to instruments relating to any loan. The Respondent argues that this exemption applies strictly to the primary loan agreement (the credit contract) and cannot extend to secondary security documents.

39. This argument misses the mark. The secondary collateral documents (the Kibanja memoranda) do not rely on Item 37 for their tax exemption; they stand securely on their own feet as independently nil-rated instruments under Item 30 (Equitable Mortgages). The primary credit contract is exempt under Item 37, and the secondary security contract is exempt under Item 30. The two instruments remain legally distinct yet perfectly harmonized under their respective specific statutory items. The Respondent cannot construct a tax liability out of thin air by conflating these distinct documents to circumvent the protective, credit-facilitating thresholds established under both Item 30 and Item 37. The assessment of stamp duty on any instruments falling within these protective parameters is set aside.

(d) Incidence versus Liability to account- The critical distinction

40. The Respondent contended that the Applicant is the primary party liable to pay and remit the assessed stamp duty because it controls the security perfection process and acts as the beneficiary of the transaction. The Respondent further contends that public law tax obligations cannot be altered or shifted by private agreements. While the principle that private contracts cannot bind the state is undisputed, the Respondent's argument fundamentally misinterprets the statutory mechanism governing stamp duty incidence.

41. Our analysis rests strictly on the literal text of Paragraph 1 of the Third Schedule to the Stamp Duty Act, which dictates the legal incidence of tax:

> *"In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne... by the person drawing, making or executing the instrument"*

42. The phrase "in the absence of an agreement to the contrary" is express. The parties have agreed to the contrary. Clause 10.0 of the Facility Agreements provides that the Borrower shall bear all stamp duty. That clause is valid, lawful, and enforceable as between the parties; Paragraph 1 of the Third Schedule explicitly accommodates and preserves the principle of freedom of contract by inserting the statutory qualifier. It triggers the exception in Paragraph 1.

43. To properly apply the above exception, this Tribunal conducted a thorough examination of the physical instruments contained within pages 32 to 54 of the Trial Bundle (Annexure AE6). We find that the security memoranda and Kibanja mortgage agreements were drawn, signed, and executed solely by the respective borrowers as the creators of the charges over their respective properties. The Applicant is merely a recipient and co-signatory to the facility; it is not the primary "maker or drawer" of the collateral perfection documents.

44. For the avoidance of doubt, the administrative preparation of digital templates, the deployment of standardized forms, or the internal processing and approval of a credit facility by a financial institution does not constitute the legal 'drawing' or 'making' of a security instrument under Paragraph 1 of the Third Schedule to the Stamp Duty Act.

45. Under property and revenue law, a charge or mortgage over an asset is a unilateral act of legal divestment of rights. Such an instrument can only be legally 'made', 'drawn', or 'executed' by the person who divests themselves of those rights, namely, the borrower as the grantor of the security interest. Because the bank is a mere recipient of the security interest and not the creator of the charge, it cannot be artificially brought within the definition of a 'maker' under the default parameter of the Third Schedule of the Stamp Duty Act.

46. As held by this Tribunal in ***Ecobank Uganda Limited v Uganda Revenue Authority, Application No. 122 of 2025,*** a revenue authority cannot expand the statutory incidence of tax beyond the clear language of the Act. Clause 10.0 successfully triggered the statutory exception provided by Parliament in the Third Schedule. The primary statutory incidence of providing the proper stamp remains with the executing borrowers.

47. The above finding goes to incidence, not to liability to account. It does not absolve the Applicant of its separate statutory duty as holder to account for duty where it is properly assessed on a correct Item-by-Item basis.

48. We now turn to liability to account.

49. **Liability to account**: The Tribunal notes that the Respondent's submission that Paragraph 1 regulates incidence between parties and does not, by itself, oust the Respondent's power to assess the person in possession of an unstamped instrument. Under Sections 2 and 11 of the Stamp Duty Act, the Respondent may assess the person who has the instrument in his custody, who seeks to rely on it, and may require it to be stamped. The

Applicant, as holder of the security instruments, is therefore a proper person to assess for purposes of accounting. Therefore, the Applicant cannot, by private contract, defeat the Respondent's statutory power to assess. Liability to account is liability to account for the correct duty. It follows therefore that if the correct duty is Nil, the liability to account is Nil as substantiated below;

a) Kibanja pledges - Nil - amount to account: Nil;

b) Chattel agreements – Shs. 15,000 per instrument; however, the Respondent has not proved, instrument by instrument, which chattel agreements were unstamped, nor has it computed the Shs. 15,000 per instrument. The blanket 0.5% assessment is not a lawful computation of Item 5 duty. In the absence of a lawful computation, the amount to account is Nil;

c) Motor vehicle pledges - 1% pre-July 2022, Nil post-July 2022.

50. The Respondent has not proved the dates and values instrument by instrument to support a 1% computation. The blanket 0.5% assessment is not a lawful computation of Item 6 duty. In the absence of a lawful computation, the amount to account is Nil;

d) Loans ≤ UGX 3,000,000 - Nil - amount to account: Nil.

51. The Applicant's liability to account is therefore Nil, not because the Respondent cannot assess the Applicant in law, but because the Respondent has not proved any lawful amount due on a correct Item-by-Item computation. The Applicant retains its civil right to recover any duty it has paid, or may be required to pay in future, from the Borrower under Clause 10.0

e) Public Policy and Constitution

A) The Applicant invited the Tribunal to invoke Articles 2(1) and 177 of the Constitution of the Republic of Uganda. We decline to do so. This is because this dispute is resolved on ordinary statutory interpretation. It is unnecessary to invoke the Constitution where the Stamp Duty Act provides a complete answer. The Tribunal therefore makes no finding on constitutional grounds.

B) For the above reasons, the assessment of Shs. 1,340,758,315 cannot stand and is set aside.

VIII. Orders

C) In the circumstances, the Tribunal makes the following orders:

(i) This application is allowed.

(ii) The Respondent's objection decision dated 4 July 2025 is set aside.

(iii) The stamp duty assessment of Shs. 1,340,758,315 issued against the Applicant is set aside in its entirety.

(iv) The Applicant is liable to account in principle as holder of the instruments, but on a correct classification under the Second Schedule, the amount to account for under the impugned assessment is Shs. Nil

(v) The Respondent is ordered to adjust its internal accounting ledgers and systems to reflect that the Applicant's liability under the impugned assessment is Nil.

(vi) For the avoidance of doubt, this ruling does not preclude the Respondent from assessing, in future, any individual instrument on a correct Item-by-Item basis, with proper proof of execution

date and value, provided such assessment is within the limitation period under the Tax Procedures Code Act.

(vii) The Applicant is awarded the costs of this application.

Dated at Kampala this 16th day of November 2026.

HON. STELLA NYAPENDI CHOMBO
CHAIRPERSON

HON. EDWARD BIRYETEGA
MEMBER

HON. GERALD AGABA KAKIMA
MEMBER