

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**MISCELLANEOUS APPLICATION NO. 190 OF 2025**  
**(ARISING FROM APPLICATION NO.197 OF 2024)**

QUALITY CHEMICAL INDUSTRIES LTD..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MR. SIRAJ ALI, MS. PROSCOVIA REBECCA NAMBI,  
MS. STELLA NYAPENDI CHOMBO

**RULING**

This ruling is in respect of an application seeking orders to amend the main application by adding limitation as an additional ground of objection to the Respondent's Additional Assessment dated 28<sup>th</sup> December 2023. The Application is supported by the affidavit of Mr. Peter Kirega, the Applicant's Senior Accountant.

The affidavit of Mr. Peter Kirega states that the Applicant lodged TAT Application No. 123 of 2024 challenging an Additional Administrative VAT Assessment of Shs. 6,019,364,368/-. On 28<sup>th</sup> December, 2023, the Respondent issued an Administrative Additional VAT Assessment of Shs. 6,427,806,062.40 out of which Shs. 408,441,693 constituted under-declared VAT on imported services. The Applicant conceded to the sum of Shs. 408,441,693 and objected to the sum of Shs. 6,019,363,368.

Mr. Kirega deponed on the basis of advice received from the Applicant's lawyers that additional assessments like those issued to the Applicant ought to be issued within three years from the date of the Applicant's filing of its tax returns with exceptions in cases of fraud, wilful neglect or discovery of new information.

Mr. Kirega deponed that the last date for the Applicant to file VAT Returns for the tax period assessed by the Respondent was 21<sup>st</sup> August 2020 and the Administrative

Additional VAT Assessment was issued by the Respondent on 28<sup>th</sup> December 2023, a period of four months outside the limitation period.

Mr. Kirega deponed further that the Applicant out of error omitted to include the above ground of limitation in its objections and in the main application. Mr. Kirega deponed further that the Respondent will not be prejudiced by the proposed amendment to include the additional ground of limitation since the Respondent still has an opportunity to respond to it through pleadings and evidence especially since the Respondent's witness RW1, is still on the stand and the Applicant is not opposed to the introduction of an additional witness statement by the respondent to address the issue relating to limitation. Mr. Kirega deponed further that any inconvenience occasioned to the Respondent can be atoned for by the award of costs by the tribunal.

The Respondent objected to the grant of the above orders through the affidavit in reply deponed by Mpumwire Christine, a legal officer, in the Respondent's Legal Services and Board Affairs Department.

Ms. Mpumwire deponed that the application to amend has been brought in bad faith by the Applicant and constitutes an abuse of the tribunal's process as the Applicant has already closed its case. Ms. Mpumwire deponed that the amendment is being sought at an advanced stage of the proceedings with the clear intent to prejudice and undermine the Respondent's case.

Ms. Mpumwire deponed that the Applicant had failed to provide any reasonable justification for the nearly two years delay in raising the issue relating to limitation. Ms. Mpumwire deponed further that the proposed amendment is not purely a question of law as it requires evidence of assessments, returns and a finding as to whether new information was discovered to warrant the exception to the limitation.

Ms. Mpumwire deponed further that during the audit the Respondent discovered new information relating to a Technology License Agreement between the Applicant and Cipla Ltd, under which the Applicant paid Royalties for imported licensed technology and know-how, which constitute payments subject to VAT.

Ms. Mpumwire deponed further that during the audit, the Respondent discovered new information relating to the Applicant's audited financial statements which upon review revealed royalty payments made to Cipla Ltd for licensed intellectual property, which

are chargeable to VAT. Ms. Mpumwire deponed that the discovery of this new information coupled with the Applicant's wilful negligence satisfies the exception under S. 25(2) of the Tax Procedures Code Act, thereby justifying the additional assessment beyond the statutory limitation period.

The Applicant submitted that its proposed additional grounds relate to limitation of time which is a matter of substance capable of disposing the main application. The Applicant submitted that the Respondent's Additional Administrative Assessment dated 28<sup>th</sup> December 2023 was issued approximately 3 years and 4 months after 21<sup>st</sup> August 2020, which was the Applicant's last VAT return filing date in respect of the tax period in question, as evident from paragraphs 4 and 7 of the affidavit in support of the application.

The Applicant contended that the Respondent's Additional Administrative Assessment was issued out of the strict statutory timelines under S. 25(2)(c)(i) of the TPCA which provides that Additional Assessments issued in 'any other case' must have been issued within three years after the date of furnishing those self-assessment returns to which the Additional Assessment relates.

The Applicant submitted further that the Respondent's tax audit management letter through which the assessment was communicated does not cite grounds of fraud, gross or wilful neglect on the part of the Applicant nor the discovery of new information, as the basis of the assessment as required by S. 25(2)(a) of the TPCA, thereby rendering that provision inapplicable in the circumstances of this case. The Applicant submitted further that S. 25(2)(b) of the TPCA is also inapplicable as no notice of additional assessment was given to the Applicant.

In support of the application, the Applicant relied on the decision of the tribunal in **Airtel Uganda Limited vs. Uganda Revenue Authority (TAT Application No. 10 of 2019)** where in allowing a similar application the tribunal stated *inter alia* that issues of time go to the merits of a case and that issues of substantive law or points of law can be raised at any time during a hearing or trial and that it was within the interests of the tribunal to know why a party did not comply with time limits set in a statute.

The Applicant submitted that an assessment issued out of time is contrary to the law and as a consequence illegal and denying the Applicant leave to amend their

application to include a ground on limitation of time would amount to condoning an illegality.

Relying on the decision in **Gaso Transport Services (Bus) Ltd vs. Martin Adala Obene (Supreme Court Civil Appeal No. 4 of 1994) (1994) VI KALR 6**, wherein the Court stated that amendments of pleadings will generally be allowed where the other party is not prejudiced. The Applicant submitted that the amendment is being sought before the closure of the Respondent's case which will enable the Respondent to lead evidence against the new ground and address it in its submissions.

The Applicant submitted further that the tribunal has the discretion to permit an amendment which introduces grounds additional to those contained in the tax objection and objection decisions. In support of this contention the Applicant cited **S.16 (4) of the Tax Appeals Tribunal Act**.

The Respondent submitted on the authority of the decisions in **Zaverio Ndabahwereza Byabagambi vs. MTN (U) Ltd and Others, Misc. Application No. 94 of 2023**, **Gaso Transport Services (Bus) Ltd vs. Obene (supra)** and **Eastern Bakery vs. Castelino (1958) EA 461**, that an amendment will not be allowed where it has been brought in bad faith, it causes prejudice to the opposite party which cannot be compensated by costs, it introduces a new cause of action or ground inconsistent with the original claim and it is made too late in the proceedings.

The Respondent submitted that in the instant case, the Applicant's case is closed and the Respondent's witness had already been sworn to testify. The attempt to introduce a new ground at this late stage is in bad faith, a clear afterthought intended to prejudice and undermine the Respondent's case.

The Respondent submitted that the proposed amendment introduces a factual controversy, not a pure point of law. The Respondent submitted that the Applicant purports to raise a ground of limitation under S. 25 of the TPCA despite the fact that limitation under the provision in question involves factual inquiries as to whether new information was discovered, whether fraud existed or whether there was gross or wilful neglect. The Respondent submitted that by introducing a ground of limitation at this stage, the Applicant seeks to re-open proceedings, recall witness thereby unnecessarily prolonging litigation. The Respondent submitted that the above is

prejudicial to the Respondent and contrary to the principle that justice must be administered without undue delay and prejudice to the opposing party.

In the alternative, the Respondent submitted that the Additional Assessment is not time barred but rather falls within the exceptions to the statutory limitation under the TPCA.

The Respondent submitted that while the Applicant declared WHT on substantial transactions, it deliberately failed or refused to declare VAT on the same. The Respondent submitted that this conduct amounts to gross and wilful neglect of its tax obligations.

The Respondent submitted further that during the audit it discovered new information namely; a Technology License Agreement between the Applicant and Cipla Ltd, under which the Applicant paid royalties for imported licensed technology and know-how, such royalties being properly chargeable to VAT; The Applicant's audited financial statements, confirmed royalty payments made to Cipla Ltd for licensed intellectual property.

The Respondent submitted that the discovery of the above stated new information coupled with the Applicant's wilful neglect, satisfies the exceptions under S. 25(2)(a) of the TPCA and accordingly the Additional Assessment was validly issued beyond the general statutory limitation period.

The Respondent submitted that the Applicant's delay remains wholly unexplained. The Additional Assessment was issued on 28<sup>th</sup> December 2023, yet for nearly two years the Applicant neither raised limitation as a ground during the objection stage nor in its initial application. The Respondent submitted that the belated attempt to amend at this advanced stage of the proceedings is indicative of malafides and a clear dilatory intent designed to frustrate and delay the fair determination of the matter. The Respondent prayed the application to amend be dismissed with costs and the main application proceeds with hearing without delay.

Having read the affidavits and submissions of the parties, the following is the ruling of the tribunal.

The Application in question has been brought under the provisions of **S. 16(4)** of the **Tax Appeals Tribunals Act**. It states as follows;

*“Where an application for review relates to a taxation decision that is an objection decision, the applicant is unless the tribunal orders otherwise, limited to the grounds stated in the taxation objection to which the decision relates”*

The use of the words *‘unless the tribunal orders otherwise’* means that the tribunal has been granted discretion in the matter of whether to limit the grounds of an application for review before it to the grounds stated in the objection decision or whether to include grounds which were not stated in the objection decision. It is trite that this discretion must be exercised judiciously.

In **Kiriisa vs. Attorney-General and Another (1990-1994) 1 EA 258 (SCU)**, **Manyindo DCJ**, stated as follows; *“In my opinion discretion simply means the faculty of deciding or determining in accordance with circumstances and what seems just, fair, right, equitable and reasonable in those circumstances”*.

The objections by the Respondent to this application are broadly, the following;

1. The Application has been brought very late in the proceedings and will have the undesirable effect of re-opening and needlessly prolonging the proceedings. Contrary to the principle that justice must be administered without undue delay and prejudice to the opposing party.
2. The Application has been brought in bad faith and constitutes an abuse of process and is intended to prejudice and undermine the Respondent’s case.
3. The Application introduces a new cause of action inconsistent with the original claim.

Taken together these objections point to the Respondent’s concern that it will suffer an injustice as a result of the proposed amendment.

The principles which should guide a court in granting or refusing amendments to pleadings were set out as follows in **Eastern Bakery vs. Castelino 1958 1 EA 461**

*“It will be sufficient, for purposes of the present case, to say that amendments to pleadings sought before the hearing should be freely allowed, if they can be made without injustice to the other side, and that there is no injustice if the other side can be compensated by costs: **Tildesley v. Harper (1) (1878), 10 Ch. D. 393; Clarapede v. Commercial Union Association (2) (1883), 32 W.R. 262.** The court will not refuse to allow an amendment simply because it introduces a new case: **Budding v. Murdoch (3) (1875), 1 Ch. D. 42.** But there is no power*

to enable one distinct cause of action to be substituted for another, nor to change, by means of amendment, the subject matter of the suit: **Ma Shwe Mya v. Maung Po Hnaung (4) (1921), 48 I.A. 214; 48 Cal. 832**. The court will refuse leave to amend where the amendment would change the action into one of a substantially different character: **Raleigh v. Goschen (5), [1898] 1 Ch. 73, 81**; or where the amendment would prejudice the rights of the opposite party existing at the date of the proposed amendment, e.g. by depriving him of a defence of limitation accrued since the issue of the writ: **Weldon v. Neal (6) (1887), 19 Q.B.D. 394; Hilton v. Sutton Steam Laundry (7), [1946] K.B. 65**. The main principle is that an amendment should not be allowed if it causes injustice to the other side. **Chitale p. 1313**".

Applying the principles set out in the **Castelino case**, the primary consideration is that an amendment should not be allowed if it causes injustice to the other side. In determining this application we must first satisfy ourselves whether an injustice will be caused to the Respondent if the amendment is allowed.

It is clear from the principles set out above that the court will not refuse to allow an amendment, simply because it introduces a new case, as long as one distinct cause of action, is not being substituted for another. We are satisfied that the introduction of the new ground of limitation will not have the effect of substituting the cause of action pleaded by the Applicant, with limitation, as a new and distinct cause of action.

The introduction of the ground of limitation will not amount to an injustice. What would amount to an injustice in our view would be to introduce a new case in circumstances where the other party has no opportunity to make an effective response. In the instant case, although the Applicant has already closed its case, the Respondent will have ample opportunity to respond to the new ground of limitation both factually, through leading its witnesses and legally, through its submissions.

**S. 25(2) (a) and (c)(i)** of the TPCA provides that an Additional Assessment should be raised within three years after the date the taxpayer furnished the self-assessment return, with the exception that such Additional Assessment may be raised at any time, if fraud or any gross or wilful neglect has been committed by, or on behalf of the taxpayer, or new information has been discovered in relation to the tax payable by the taxpayer for a tax period.

In **Airtel Uganda Ltd vs. Uganda Revenue Authority TAT Application No. 10 of 2019**, the tribunal held that questions of limitation go to the merits of a case and that

it served the interests of the tribunal, to allow amendments in such circumstances, so as to know why a party did not comply with the time limits set out in a statute.

Related to the above, the Respondent has set out an alternative case, both in its affidavit and its submissions that the Additional Assessment, is not time barred but falls squarely within the exceptions set out under **S. 25(2)** of the **TPCA**.

Far from causing an injustice, the introduction of the new ground of limitation, will give the tribunal, the opportunity to inquire into the alternative case, set out by the Respondent in its affidavit in reply and in its submissions.

In our opinion, what seems just, fair, right, equitable and reasonable, in the circumstances of this case, is that the instant application should be allowed so that the ground of limitation can be interrogated fully.

For the above reasons this application is accordingly allowed. The costs of this application will be granted to the Respondent to atone for the inconvenience caused to it by the addition of a new ground at this stage of the proceedings.

The Applicant will file its amended Application by 24 September 2025. The Respondent its amended statement of reasons by 1 October 2025. This matter is adjourned for mention on 10 October 2025 at 11:00 am.

Dated at Kampala this .....17<sup>th</sup>.....day of...September.....2025.



**MR. SIRAJ ALI**  
**CHAIRMAN**



**MS. REBECCA PROSCOVIA NAMBI**  
**MEMBER**



**MRS. STELLA NYAPENDI CHOMBO**  
**MEMBER**