



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 270 OF 2025

REAL TASK AGENCIES LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY RESPONDENT

**BEFORE: HON.PROSCOVIA REBECCA NAMBI, HON.STELLA NYAPENDI CHOMBO,
HON. CHRISTINE KATWE**

RULING

I. Introduction

1. This ruling is in respect of an application on whether the Applicant can utilise its accumulated tax credits to offset its other liabilities, if any.

II. Background Facts

2. The Applicant is a private limited company in Uganda, dealing in the importation of machinery, services and spare parts for garden tools and equipment. The Applicant contended that the cause of action arose from the tax decision of the Respondent dated 06/08/2025, reference number 45971034 in which the Respondent deprived, violated, infringed, and abused the rights of the Applicant to utilize the available tax credits owed to the Applicant by the Respondent to offset the outstanding tax liabilities.
3. It was the Applicant's position that, being a trader in imports, the Applicant accumulated the WHT credits mainly from customs on import of machinery, services, and spare parts for tools and equipment with customs reference

numbers and others with payment registration numbers as evidence of payment.

4. According to the Respondent, the Applicant contended that they have unutilized Income Tax credits of Shs. 463,046,166 and the same should be used by the Respondent to settle a VAT Liability of Shs. 124,985,017. That on 21 May 2025, the Applicant objected without Liability but did not state what decision they were objecting to, on grounds that their matter is before the Courts of Judicature for legal remedies.
5. The Respondent stated that they had an engagement with the Applicant to understand their dispute, and the Applicant stated that their issue is on ledger balances and was advised to liaise with the Respondent's ledger reconciliation team to have the credits allocated, which was not done. That since the Applicant's grounds of objection were not clear, the Respondent issued an objection decision on 06/08/2025 disallowing the Applicant's objection and recommended the Applicant to engage the Ledger team to ascertain their true tax position.
6. The Respondent maintained that there was no tax decision to be reviewed before the Tribunal, since there is no objection decision or taxation decision on the facts stated by the Applicant to be reviewed before the Tribunal and that the Tribunal has no jurisdiction to determine this matter.

III. Issues

7. The issues for determination are as follows:
 - (i) Whether the applicant has any justifiable dispute to be reviewed before the Tribunal?
 - (ii) Whether the Applicant applied for utilisation of credits?
 - (iii) Whether the applicant can utilize WHT Income Tax Credits to offset liability in VAT.

IV. Representation and Evidence

8. The Applicant was represented by Ms. Michael Kamba Bhamusangala while the Respondent was represented by Ms. Shantel Nalweyso.

9. **In the affidavit in support** of the application by Mr. Kamba Michael Bhamusangala, a tax agent, deposed on 13 March 2026, stating:
10. The Applicant is a private limited company incorporated on 7 May, 1981, registration number 50891 or 8001000016893, since 1 July, 1981 in Uganda, dealing in importation of machinery, services, and spare parts for garden tools and equipment. The Applicant's substituted annual calendar runs from 1 January of the year to 31 December of every year with Tax Identification Number 1000032612.
11. That since 1 January, 2009 to 31 December, 2024, the Applicant has been transacting every year in imports, paying and remitting Withholding Tax as the principal through the Respondent as his agent to the Commissioner and maintaining an annual statement of tax ledger position that details the transactions for the respective twelve months of the year. The Respondent, as a withholding tax agent, has never issued the Applicant with Tax Credit Certificates, despite being aware that the Certificate is a mandatory requirement.
12. That the Income tax ledger record has eleven (11) columns maintained with headings as A-Serial Number, B-Description of transaction, C-Date of transaction, D-Payment Registration Number for Domestic and Customs Reference Number for payments on Imports, E-Amounts paid as Withholding Tax, F-Date of Verification, Approvals, Audits and Compliance by the Commissioner General, G-Verification, Approvals, Audits and Compliance by the Commissioner General for accuracy, H- Amounts Confirmation by the Commissioner General for accuracy, I-Penalty issued by the Commissioner General, J- Interest issued by the Commissioner General and K- Amounts Refunded to Applicant in case any.
13. That for 1 January 2009 to 31 December 2009 the Applicant maintained the tax transaction ledger record with WHT of Shs. 45,689,050 that arose from 57 transactions, each with the respective date of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General for compliance, as evidenced in column G, and the annual transactions are accurate to his satisfaction.

14. That for the period 1 January 2010 to 31 December 2010 the Applicant maintained the tax transaction ledger record with WHT of Shs. 31,958,841 from 18 transactions. The amounts were verified, approved, adjusted, and audited by the Commissioner General for compliance, as evidenced in column G.
15. That for the period 1 January, 2011 to 31 December 2011, the Applicant maintained the tax transaction ledger with WHT of Shs. 81,725,260 from 79 transactions, each with the respective date. From the total credits of Shs. 81,725,260, a penalty of Shs. 7,049,812 was applied, and reductions were made, leaving the Applicant with credits of Shs. 74,675,448 and the annual transactions are accurate to the satisfaction of the Commissioner General.
16. That for the period 1 January, 2012 to 31 December 2012 the Applicant maintained the tax transaction ledger with WHT of Shs. 160,002,163 from 228 transactions, each with the respective date. From the total credits of Shs. 160,002,163, interest of Shs. 6,036,353 was applied, and reductions were made, leaving the Applicant with credits of Shs. 153,965,810, and the annual transactions are accurate to the satisfaction of the Commissioner General.
17. That for the period 1 January, 2013 to 31 December 2013, the Applicant had WHT of Shs. 129,624,564 from 221. From the total credits of Shs. 129,624,564, penalties of Shs. 2,305,009 and interest of Shs. 12,069,080 were applied, and reductions were made, leaving the Applicant with credits of Shs. 115,250,475, and the annual transactions are accurate to the satisfaction of the Commissioner General. See annexure A2013 attached hereto marked as H.
18. That for the period 1 January, 2014 to 31 December 2014, the Applicant maintained the tax transaction ledger record without WHT records.
19. That for the period 1 January, 2015 to 31 December 2015, the Applicant had a tax transaction ledger record with WHT of Shs. 6,842,940 from 15 transactions, each with the respective date of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General to compliance, as evidenced in column G. From the total credits of Shs. 6,842,940, interest totalling Shs. 2,497,128 were applied, and

reductions were made, leaving the applicant with credits totalling Shs. 4,345,812, and the annual transactions are accurate to the satisfaction of the Commissioner General.

20. That for the period 1 January 2016 to 31 December 2016, WHT of Shs. 109,743,581 from 335 transactions, each with the respective date of transacting. From the total credits of Shs. 109,743,581, interest totalling to Shs. 3,122,020 were applied, and reductions made, leaving the Applicant with credits of Shs. 106,621,561 and the annual transaction satisfaction of the Commissioner General.
21. That for the period 1 January, 2017 to 31 December 2017 the Applicant had WHT of Shs. 61,375,979 from 171 transactions. From the total credits of Shs. 61,975,979, penalties totalling to Shs. 2,400,000 were applied, and reductions were made, leaving the Applicant with credits of Shs. 58,621,561 and the annual transactions are accurate to the satisfaction of the Commissioner General.
22. That for the period 1 January, 2018 to 31 December 2018 the Applicant maintained the tax transaction ledger record with WHT of Shs. 39,835,570 from 127 transactions, each with the respective date of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General to compliance as evidenced in column G, and the annual transactions are accurate to the satisfaction of the Commissioner General.
23. That for the period 1 January, 2019 to 31 December 2019, the Applicant maintained the tax transaction ledger record with WHT of Shs. 3,085,178 from 127 transactions, each with the respective date of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General for compliance, as evidenced in column G, and the annual transactions are accurate to the satisfaction of the Commissioner General.
24. That for the period 1 January, 2020 to 31 December 2020, the Applicant had WHT of Shs. 2,890,817 from 5 transactions, each with the respective date of transacting. The amounts were verified, approved, adjusted and audited by

- the Commissioner General to compliance as evidenced in column G and the annual transactions are accurate to the satisfaction of the Commissioner General.
25. That for the period 1 January, 2021 to 31 December 2021 the applicant maintained the tax transaction ledger record without WHT records. There were no transactions, and the annual record is accurate to the satisfaction of the Commissioner General.
 26. That for the period 1 January, 2022 to 31 December 2022, the Applicant had WHT of Shs. 13,065,641 from 73 transactions, each with the respective date of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General for compliance, as evidenced in column G, and the annual transactions are accurate to the satisfaction of the Commissioner General.
 27. That for the period 1 January, 2023 to 31 December 2023 the Applicant maintained the tax transaction ledger record with WHT totalling to Shs. 3,103,538. The total amount arose from 24 transactions, each with its respective date of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General for compliance, as evidenced in column G, and the annual transactions are accurate to the satisfaction of the Commissioner General.
 28. That for the period 1 January, 2024 to 31 December 2024 the Applicant maintained the tax transaction ledger record without WHT records. There were no transactions, and the annual record is accurate to the satisfaction of the Commissioner General.
 29. That for the period 1 January, 2009 to 31 December 2024, the Applicant maintained the tax transaction ledger record with cumulative WHT credits of Shs. 594,168,164. The income tax liability was Shs. 174,777,171. The total amount arose from 15 consecutive years of transactions, each with the respective twelve months of transacting. The amounts were verified, approved, adjusted, and audited by the Commissioner General for compliance, as evidenced in column G.

30. From the total credits of Shs. 594,168,164, credits of Shs. 36,259,357 were applied, and reductions were made to offset penalties and interest, leaving the Applicant with credits of Shs. 557,908,807. The Applicant has an Income Tax penalty of Shs. 12,534,776 and Interest of Shs. 199,129,071 eligible for waiver pursuant to Section 40C, 40A, and 47B of the TPCA, 2024 Cap 343. The 15 years of consecutive transactions are accurate to the satisfaction of the Commissioner General.
31. That the Applicant remains with a balance of credits to the tune of Shs. 594,795,483 on record eligible for reduction of any other tax liability pursuant to Section 37(3)(a)(b) and waiver of penalty and interest under Section 40C and 47B of TPCA Cap 343. On record, the applicant has a cumulative amount of Shs. 1,403,299,675. Penalty on record totals to Shs. 10,141,332 and interest of Shs. 1,198,924,901 is eligible for waiver.
32. The available VAT liability after waiver of penalty and interest shall be Shs. 194,233,442 to be reduced from the balance of credit of Shs. 594,795,483, leaving a balance of credits of Shs. 400,562,041. That the Applicant shall remain with a balance of credits to the tune of Shs. 400,562,041 to be applied to reduce any other tax liability. On record is a WHT tax liability of Shs. 21,510,544, with interest of Shs. 22,176,475 eligible for waiver pursuant to Section 40C and 47B of TPCA Cap 343. This leaves the Applicant with WHT liability of Shs. 665,931 and a balance of credits to the tune of Shs. 401,227,972 available for reduction of any other tax liability pursuant to Section 37(3)(b) of the Tax Procedures Code Act.
33. The Applicant's credit balance remains Shs. 401,227,972 available for reduction. On record of the applicant's ledger is P.A.Y.E of Shs. 19,399,520 eligible for reduction from the balance of credits of Shs. 401,227,972. Pursuant to Section 37(3)(b) of the Tax Procedures Code Act, 2014, the reduction, reduction of P.A.Y.E of Shs. 19,339,972 will leave the Applicant with an instant remainder of Shs. 420,627,492.
34. That the Applicant has a remainder of credits of Shs. 420,627,492 eligible for refund pursuant to Section 37(3) (c) of the Tax Procedures Code Act, in case an application for refund is submitted or otherwise this Tribunal issues orders

and prays for in the application and submissions to which this affidavit supports.

35. That the Applicant submitted an application for objection other than tax liability reference number CR0125079622059 dated 10/05/2025 in seeking and in exercise of its right to utilise the credits on the basis of priority and purpose to which the Respondent disallowed in its decision reference number 45971034 dated 06/08/2025, without stating the reasons. See copy application and decision attached hereto marked as X1 and X2.
36. That an application for refund is submitted and applicable after all tax liabilities have been reduced and applied by the Respondent. The Respondent's application partially reduced some tax liabilities to the tune of Shs. 36,259,357 against Credits of Shs. 594,168,164, leaving the Applicant with total credits of Shs. 557,908,807 is a tax decision subject to review by this Tribunal. The Commissioner is satisfied that the credits are due, accurate and a true record of the Applicant's tax affairs, as seen in column G of each ledger where verification, approvals, Audit, assessments, and Adjustments have been carried out to accuracy.
37. That the Allegation that the credits are not accurate without availing an accurate record is intended to mislead the panel members. That efforts by the mediator and Applicant to obtain the purported accurate record of what the Respondent brands to accurate yield nothing, as the Respondent's designated and relied upon officer, Mr. Sam Engola, supposed to avail the record, adamantly refused and preferred to confuse and mislead the deponent and the Applicant.
38. That the very officer appeared on 2 March, 2026 before the Tribunal on Zoom with his confusing and misleading tactics with intent to deprive the Applicant of the right to enjoy, exercise, utilize and benefit from the assets on record of the tax credits and the applicable laws that waive the penalty and interest. That on 2 March, 2026, the deponent served a written request to the Respondent for the reconciled so-called accurate ledger of credits for the Applicant. But as of the date of filing deponing this affidavit, the Respondent had not acted to the expectations of the party.

39. In the affidavit in reply by Sam Engola, a supervisor in the Domestic Taxes Department, Ledger Reconciliation Unit of the Respondent, states that:
40. The Respondent is a statutory body mandated to collect and administer taxes and enforce customs laws in the Republic of Uganda.
 41. That on 21 May 2025, the Applicant objected without liability under Reference number CR0125079622059 and did not state what decision was being objected to; the Applicant's objection grounds were that the matters are before the courts of judicature for legal remedies in the High Court.
 42. The Respondent's objection team contacted the Applicant through their appointed tax agent to understand their dispute, and the Applicant stated that their issue is on the ledger balances and utilisation of credits.
 43. That the Applicant further stated that his matters are before the High Court at Kampala before Justice Mubiru Stephen under MC-69 of 2023 and any action, decision or omission is contempt of court and an illegality.
 44. The Applicant was advised to engage with the ledger reconciliation team to have a reconciliation of the ledger, to ascertain their true tax position and thereafter apply for utilisation of their credits or refund accordingly.
 45. That the Applicant did not conduct any ledger reconciliation, nor apply for utilisation of credits with the Respondent. That on 06 August 08 2025 the Respondent, based on the Applicant's grounds of objection, issued an objection decision to disallow and recommended the Applicant to carry out a ledger reconciliation with the Respondent's Ledger team to ascertain their true tax position to inform their next course of action.
 46. That the said accumulated credits on the ledger for the periods December 2009 to December 2024 of Shs. 453,895,525 were used to offset Liabilities relating to the Applicant's Self-Assessment, Additional Assessments raised in the periods December 2015 to December 2020. That the Applicant's unutilised Income Tax credits as per the Applicant's ledger is now only Shs. 16,171,288. That the Applicant did not apply for utilisation of their credits to form the basis of a taxation decision to be reviewed.

47. That the Applicant instead filed TAT App No. 270 of 2025 for review of the Objection decision with Reference number 45971034 on grounds that the Applicant applied for utilisation of credits to offset outstanding liabilities and was disallowed, whereas not. The Respondent's objection decision grounds clearly stated that the taxpayer is "recommended to carry out ledger reconciliation with the ledger team to have all credits utilised to establish the true tax position to inform their next course of action," which was never done.
48. That the taxation decision referenced in the Applicant's Application for review was the objection decision notice relating to the Applicant's objection to other Liabilities on grounds that the matters are before courts of Judicature but not a decision relating to an application for utilisation of credits.
49. That the Respondent, during TAT-guided mediation, held a meeting with the Applicant's tax agent and took them through their ledger position and showed him how the credits were used to offset liabilities in the periods as required by the law and advised the Applicant to apply for a refund to be able to utilise the WHT credits to offset other liabilities in VAT, but he declined the same. He further informed the Applicant that there is no application for credit utilisation nor an application for refund and therefore there is no taxation decision in issue or on facts to be reviewed by the Tribunal.
50. That in the absence of a decision relating to utilisation of the Applicant's credits, there is no justifiable dispute before the Tribunal, and since the Applicant already has a substantive dispute pending before the High Court under M.C 69 of 2023 as per their objection ground, then this Application should be dismissed.
51. The Respondent maintained that there is neither any tax dispute nor taxation decision to be reviewed before this Tribunal; no Withholding Tax credits were frozen by the Respondent as alleged, no application for Credit utilisation was disallowed by the Respondent; and this application should be dismissed with Costs to the Respondent.

V: The Applicant's submissions

Whether the Applicant has any justifiable dispute to be reviewed before this Tribunal?

52. The Applicant submitted that Section 25(1) of the TPCA provides that a person dissatisfied with an objection decision may, within 30 days after being served with the notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision. Section 14(1)(a) and (2) of the Tax Appeals Tribunals Act provides that any person who is aggrieved by the decision made under a taxing Act(a), the Uganda Revenue Authority may apply to the Tribunal for review of the decision.
53. The Applicant submitted an application for objection other than tax liability reference number CR0125079622059 dated 10 May 2025, seeking and exercising its right to utilise the credits on the basis of priority, and the Respondent disallowed it in its decision reference number 45971034 dated 06 August 2025, without stating the reasons. The tax decision is a matter of dispute, and the Tribunal is mandated to hear and determine the same since the Applicant has fulfilled the stipulated Sections 14, 16, 17 and 18 of the Tax Appeals Act, which the Respondent has equally fulfilled as a party. The Applicant prayed that the Tribunal find the application in favour of the Applicant.

Whether the Applicant applied for utilisation of credits?

54. The Applicant submitted that the irrational decision reference number 45971034 was disallowed on 06 August 2025 against application reference number CR0125079622059 dated 10 May 2025. The application sought that the Respondent to utilize available credits to settle outstanding liabilities. The Respondent issued the decision without engaging the Applicant, which is unfair and unjust treatment by the tax administrative body. The Applicant had cumulative tax credits on record in the tune of Shs. 463,046,166 by 5 September, 2025, when this application was filed. As of 7 March, 2026, the total credits had accumulated to Shs. 557,908,807 as per the ledger statement marked as per the schedule under Schedule 1-2025 hereunder.

55. The Applicant asserted that its credits are in the custody of the Respondent and the Respondent is mandated under Section 4(2) of the Income Tax Act and Section 37(3)(a)(b)(c) of the Tax Procedures Code Act, 2014 to apply the excess of tax in reduction after the first charge on the payment from which the tax was withheld, and deductions have to be made by the Respondent before a refund, and deductions are not subject to the refund process.
56. The Applicant submitted that this application is by way of appeal to the Tribunal preferred based on a tax decision under Section 16 of the Tax Appeals Tribunal, hinged on the dissatisfaction of the taxpayer. ***See Aggreko International Services Limited Vs Uganda Revenue Authority, Application TAT No: 103 of 2025.***
57. The schedule below shows how the Applicant has accumulated the credits by 7 March, 2026. The Applicant registered for the substituted financial year calendar.

Schedule 1-2025

Summarised Statement of utilised credits

Period	Amount	Utilised	unutilised	Status
2009	45,689,050	-	45,689,050	Verified, adjusted, and audited for compliance
2010	31,958,841	-	31,958,841	Verified, adjusted and audited to compliance
2011	34,849,606	7,049,812	27,799,794	Penalty amounting to 7,049,812 was adjusted after verification, adjustment, and audit for compliance
2012	81,725,260	6,036,353	75,688,907	Penalty of 6,036,353 deducted after verification, adjustment, and audit to compliance
2013	160,002,163	14,374,089	145,628,074	Penalty of 2,305,009 & interest of 12,069,080 totalling to 14,374,089 deducted after verification , adjustment and audit for compliance

Period	Amount	Utilised	unutilised	Status
2014	-	-	-	There was no transaction as verified and audited for compliance
2015	6,842,940	2,497,128	4,345,812	Interest amounting to 4,345,812 deducted after verification, adjustment, and audit for compliance
2016	109,743,581	3,122,020	106,621,561	Interest of 3,122,020 deducted after verification, adjustment, and audit for compliance
2017	61,375,979	2,400,000	58,875,979	Penalties of 2,400,000 deducted after verification, adjustment, and audit for compliance
2018	39,835,570	-	39,835,570	Verified, adjusted, and audited for compliance
2019	3,085,178	-	3,085,178	Verified, adjusted, and audited to compliance
2020	2,890,817	779,955	2,110,862	Penalty of 779,995 deducted after verification, adjustment, and audit for compliance
2021	-	-	-	There was no transaction verified and audited to compliance
2022	13,065,641	-	13,065,641	Verified, adjusted, and audited for compliance
2023	3,103,538	-	3,103,538	Verified, adjusted, and audited for compliance
2024	-	-	-	There were no transactions verified and audited for compliance
Total	594,168,164	36,259,357	557,908,807	

58. The Applicant submitted that the above schedule is an extract of the tax ledger from the Respondent's eSystem for the Tax Identification Number of

the Applicant, Number 1000032612, and it is the most accurate, reliable and compliant.

Whether the Applicant can utilize WHT Income Tax Credits to offset liability in VAT.

59. The Applicant submitted that the Respondent is mandated under Section 4(2) of the Income Tax Act and Section 37(3)(a)(b)(c) of the Tax Procedures Code Act to apply the excess of tax in reduction after the first charge on the payment from which the tax was withheld, and deductions have to be made by the Respondent prior to a refund, and deductions are not subject to the refund process.
60. The Applicant submitted that the Respondent exercised its mandate and power and applied credits on the chargeable Income, the penalty and interest thereof as so wished and decided. The Respondent deducted a cumulative total of Shs. 36,259,357 against the credits of Shs. 688,943,122, leaving the Applicant with 557,908,807 unutilized credits under the custody of the Respondent. See Schedule 1-2025.
61. The Respondent did not seek permission or require an application to reduce and use the total of Shs. 36,259,357 to offset the respective liabilities but acted within its mandate and power. The Respondent is mandated to apply credits to reduce or settle outstanding liabilities under Section 28(3), where an application for payment by the taxpayer to the Commissioner has to be granted.
62. The Applicant submitted that under Section 40C, 47A, 47B, of the TPCA (Amendments), the waiver of penalty and interest outstanding as at 30 June 2020 and 20 June 2024 by 30th June 2026. The applicant is entitled to a waiver of Penalty of Shs. 12,534,776 and interest of Shs. 199,129,071, totaling Shs. 211,663,847, which was denied and deprived by the Respondent. Only taxpayers with accurate credits are eligible and have the right to utilize and benefit from the waiver. The Respondent ought to have applied the credits to reduce the tax liabilities and for waivers under Section 40C as at 30 June 2020, 47A as at 30 June 2023 and 47B as at 30 June,

2024 of the TPCA, 2014(Amended) to waive penalty and interest on Income Tax as here:

Schedule 2-2025

Credits	594,168,164	36,259,357	557,908,807
Cumulative income tax liability to apply			174,777,171
To be waived:			
Penalty			12,534,776
Interest			199,129,071
			211,663,847
Cumulative income tax liability to apply			36,886,676
Total			-
Balance of credits			594,795,483

63. The Applicant submitted that the Respondent is further mandated to apply the balance of the excess of Shs. 594,795,483 in reduction of any other tax due from the taxpayer. The applicant, being the taxpayer with the excess balance of Shs. 594,795,483 is entitled to the following taxes for reduction as under Schedule 3-2025:

Schedule 3-2025,

Annexure 520258	
Balance of credits	594,795,483
Other Deductions:	
Cumulative VAT Liability	1,403,299,675
Cumulative VAT Interest to be waived	1,198,924,901
Cumulative Penalty to be waived	10,141,332

Total Penalty and Interest to be waived	1,209,066,233
VAT to be deducted	194,233,442
Balance after deduction of VAT	400,562,041
Annexure S2025C	
WHT to be deducted	21,510,544
Penalty on WHT to be waived	22,176,475 -665,931
Balance after Deduction of WHT	401,227,972
Annexure S2025D	
PAYE to be deducted	19,399,520
Balance after deduction of PAYE	420,627,492
Balance of credits for the taxpayer to apply for	420,627,492

64. The Respondent is currently mandated under Section 47B of TPCA(Amended) to waive the penalty and interest after applying the credits to offset or deduct the principal on excess of the credits.
65. The Applicant submitted that the application was referred for mediation, application No: 270 of 2025. The mediation proceeding started on 6 October, 2025, during which the Respondent expressed that the credits on record were not accurate. The inaccurate credits were referred to reconciliation. From October, 2025 to March, 2026, the Respondent failed to reconcile the ledger purported to be inaccurate, nor did they avail what would be accurate as per their assertions.
66. To claim by the Respondent that the statement of credits extracted from the Applicant's TIN system is not accurate burdens the Respondent to avail what is accurate since it's the custodian and author of all credit ledger statements. For the not to admit that the ledger is true and accurate amounts to self-

- accusation by the Respondent for maintaining false and misleading statement.
67. The Applicant submitted that the Respondent is merely imputing intentions by inference against well stipulated tax laws. See *A Better Place Uganda Limited Vs Uganda Revenue Authority* C.A No: 37 of 2019. The mediator's efforts to obtain a reconciled ledger and have accurate credits to which the Respondent must have been satisfied didn't yield any positive outcome as the designated and relied upon officer turned down all request to meet and have the credits reconciliation.
68. The Applicant submitted that on 8 December, 2025 the Applicant's representative and the Respondent forced their way to the reconciliation officer but he turned down the meeting and refused to avail the reconciled ledger. On the 2 March, 2026 during the hearing on this matter the very reconciliation officer who has deprived the Applicant a reconciled ledger appeared before the panel on zoom and made defiant hearsay statements that deprive the Applicant the right of access to information.

Remedies available to the Applicant.

69. The Applicant prayed for review of the tax decision, declare and issue orders to the Respondent to apply the available credits to offset outstanding liabilities and or reduction of the tax liabilities.
70. The Applicant submitted further that on logic the Applicant shall apply for refund after the Respondent has applied and reduced all outstanding tax liabilities. The Applicant prayed for declarations and orders that:
- (i) Declaration of tax credits of Shs. 652,683,765 as accurate.
 - (ii) The declaration of tax credits of Shs. 557,908,807 as accurate, since these have been verified, adjusted, and audited by the Respondent on the taxpayer's ledger, are valid and eligible for utilization by the taxpayer and applicable by the Respondent.
 - (iii) Declaration of decision number 45971034 as tax decision.

- (iv) The declaration that the Respondent's disallowed decision number 45971034 dated 06 August 2025 is a tax decision disputed by the Applicant and the same be reviewed and set aside.
- (v) The Applicant prayed for an order to apply the Applicant's overpaid credits in excess in reduction of the Income Tax due on the ledger record of the Applicant.
- (vi) Apply the Applicant's balance of excess credits in reduction of outstanding VAT and WHT liabilities of the Applicant.
- (vii) Waive the penalties and interest on Income Tax due, VAT due, PAYE due and WHT due that relate to principal tax whose due date is before 30th June, 2024.
- (viii) Refund the remainder of the tax credits to the Applicant after all reductions have been appropriately done under satisfaction by the Commissioner at the Applicant's will.
- (ix) Pray for Special damages.
- (x) Issue a permanent injunction restraining the Respondent from denying the Applicant the right to utilize its credits in the foreseeable future and as a going concern.
- (xi) Costs of the application.

VI. The Submissions of the Respondents

Whether the Applicant has any justifiable dispute to be reviewed before the Tribunal?

71. The Respondent submitted that it is well settled law that a preliminary point of law once raised should be disposed off first, since the Preliminary objection has the effect of disposing off the entire suit if sustained. This was established in the case of ***Mukisa Biscuit Manufacturing Company Ltd v West End Distributors Ltd [1969] EA 696***, where court held that a Preliminary point of law if argued, may dispose of the entire suit. It established that a preliminary objection must be a point of law that, if pleaded or implied, can dispose of the

suit, the court only looks at the pleadings to determine whether the objection is meritorious, rather than evaluating evidence, which is reserved for trial.

72. The Respondent submitted that Order 15 r.2 CPR provides:

"Where issues both of law and of fact arise in the same suit, and the court is of the opinion that the case or any part of it may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined."

73. The Respondent argued that this preliminary objection, being a point of law, should be resolved first pursuant to the above rule. Further to the above, the law on preliminary points of law is provided for under Order 6 Rule 28 of the Civil Procedure Rules, which provides that any party shall be entitled to raise by his or her pleadings any point of law and any point so raised shall be disposed of by the Court.

74. The Respondent submitted that the Tribunal has no jurisdiction to review this Application since there is no objection decision issued on the facts as presented by the Applicant to be reviewed before the Tribunal, as the Respondent did not issue any tax decision or objection decision disallowing the Applicant's utilization of credits. That, based on the Applicant's Application, the Applicant is disputing an amount of Shs. 436,046,166 as disallowed credits. According to Paragraphs 10 to 30 of the Applicant's affidavit, it explains that the source of the stated amount in dispute is from WHT credits accumulated over time.

75. The Respondent submitted that there was no objection decision that the Respondent made regarding an amount of Shs. 436,046, 166 as unutilized credits. When the Applicant made an objection to VAT, he appeared before the Respondent's objection officers and said the issue he was challenging related to ledger balances and utilization of credits.

76. The Respondent argued that the Applicant was advised to undertake a ledger reconciliation with the ledger team, which the Applicant did not do. It is thus our submission that there is no objection decision that was made by the Respondent in respect of the issue of ledger balances or utilization of credits.

As such the issue of ledger balances and utilization of credit is prematurely before this Tribunal and the Tribunal has no jurisdiction to entertain it.

77. The Respondent submitted that in the case of ***Uganda Revenue Authority -V- Bwama Exports C.S No.6 of 2003***, on the issue Whether the Tax Appeals Tribunal had jurisdiction to hear the Application in absence of a taxation decision by the Commissioner General of URA, Court held that procedural issues should be resolved first and the Tribunal's failure to do so was legally untenable. That the Applicant ought to have followed the legal procedure as stated under the law precisely under the Tax Procedure Code Act and Tax Appeals Tribunal Act and exhausted the procedures stated therein before filing this application.
78. The Respondent submitted that according to section 26 of the Tax Procedure Code Act (TPCA) it provides: *"A person dissatisfied with a tax decision shall lodge an objection with CG within 45 days."*
79. The Respondent submitted that Sub-section 2 of the said section states that an objection should be in a prescribed form stating clearly the grounds of objection upon which it is made and containing sufficient evidence to support the objection. Section 27(1) TPCA further states that a person dissatisfied with an objection decision may, within 30 days after being served with the objection decision, lodge an application with the Tribunal for review of the objection decision. The Applicant did not apply for any utilization of credits, did not file any objection to any taxation decision, nor did the Respondent issue any objection decision or taxation decision on the said issue accordingly.
80. The Respondent submitted that section 1(1) of the TAT Act defines an objection decision and taxation decision as:

"A taxation decision is defined under the said law as an Assessment, determination, decision or notice."
81. The Respondent submitted that an objection decision means a taxation decision made in respect of an objection. This was further expounded in the case ***Cable Corporation V Uganda Revenue Authority C.A No.1/2011***, where the court stated that it is very explicitly provided that there has to be a

taxation objection before an objection decision is made. Secondly, section 1 subsection (k) of the Tax Appeals Tribunals Act provides that "taxation decision" means any assessment, determination, decision or notice. A taxation decision does not arise out of an objection, but an objection decision arises from an objection to a taxation decision other than a decision arising from an objection decision.

82. Based on the above, the Respondent shall give a chronology of events that formed the basis of this Application as follows;

- a) The Applicant objected without liability and stated their objection grounds as per the objection notice dated 10/05/2025 with Reference number before courts of CR0125079622059 on grounds that 'matters are Judicature for legal remedies'.
- b) The Respondent, upon review of the objection grounds and engagement with the Applicant's representative, issued an Objection decision on 06/08/2025 disallowing the objection and advised the taxpayer to have a ledger reconciliation to ascertain the Applicant's true tax position as stated in Paragraph 9 of the Respondent's Affidavit in Reply.
- c) The Objection decision that was issued by the Respondent was in respect to the Applicant's objection without liability, clearly recommending that the Applicant should have a ledger reconciliation with the Ledger team to ascertain their true tax position and utilize their credits, which was never done; thus, this application is premature before the Tribunal and an abuse of court process.

83. The Respondent submitted that in the absence of any such taxation decision issued by the Respondent relating to utilization of credits, this Tribunal has no jurisdiction to hear or determine an Application for Review, there being no decision on fact or law to be reviewed. The Applicant ought to have applied for utilization of tax credit of Shs. 436,046,166 of the Respondent.

84. The Respondent further submitted that it ought to have made a decision disallowing the Application to constitute a taxation decision, or an objection

ought to have been filed and the disallowance to constitute an objection decision.

85. The Applicant, upon being dissatisfied with the decision, would then file an Application for review of the objection decision or taxation decision properly before this Tribunal. However, none of the above procedures was followed by the Applicant. The Respondent cited the case of ***Gakou Brothers Enterprises Limited Vs URA TAT Application No. 20 of 2020*** this Tribunal held that; "where a statute sets out a procedure to be followed in the event of a dispute, the said procedure should be exhausted before coming to the Tribunal". The Respondent prayed that the Tribunal be pleased to allow and determine the preliminary objection raised and dismiss this Application with costs to the Respondent.

Whether the Applicant applied for utilization of credit and if so, whether the Applicant can utilize WHT Income Tax credit to offset Liability in VAT without an Application for a refund?

86. The Respondent submitted that the Applicant is challenging the objection decision of the Applicant in decision Ref 45971034 dated 6 August 2025 relating to a VAT objection. The objection did not dispute any liability, as stated in paragraph 4 of the Respondent's affidavit in reply and also confirmed in paragraph 31 of the Applicant's affidavit in support.
87. This objection did not dispute any liability and was not disputing any assessment. Instead, the ground of objection was that "matters were before court." The ground of objection is very unclear, and the Applicant has not expounded on it in his affidavit or submissions to show where he faults the Respondent's decision. They invited the Tribunal to find that the Application has no merit insofar as it challenges the objection decision of notice No. 45971034.
88. The Respondent submitted that there was no application for credit utilization by the Applicant's and adds that for purposes of clarifying on the issue of the of the alleged un utilized credits Shs.436,046,166, it is worthy noting that the Applicant's tax credits as per the attached ledger were already used to offset self-Assessments and Additional Assessments in various periods as stated

in Paragraphs 10 and 11 of the Respondent's affidavit in Reply. Refer to REX 3 and 4 of Respondent's trial bundle.

89. The Respondent submitted further that the Respondent is mandated by law to use the Tax as withheld to offset the Assessed tax liabilities.

90. Section 146 of the Income Tax Act states;

"(1) The amount of tax withheld under this part is treated as Income Tax derived by the payee at the time it is withheld.

(2) A WHT agent who has withheld tax and has remitted the amount withheld to the Commissioner General is treated as having paid the withheld amount to the payee for the purposes of any claim by that person for payment of the amount withheld.

(3) Tax withheld from payment under this part is deemed to have been paid by the Payee and, except in the case of that tax which is a final tax under the Act, is credited against the Tax Assessed on the payee for the year of income in which the payment is made".

91. The Respondent submitted that the Withholding Tax credits of the Applicant of Shs. 453,895,525 were used to offset Liabilities relating to the Applicant's Self-Assessment, Additional Assessments raised in the periods December 2015 to December 2020 as reflected on the ledger.

Whether the Applicant can utilize WHT Income Tax credit to offset Liability in VAT without an application for a refund?

92. The Respondent submitted that this is only applicable where there is an application for refund. Section 4 (2) ITA is to the effect that the income Tax payable by a taxpayer for a year of income is calculated by applying the relevant rates of tax determined under this Act to the chargeable income of the taxpayer for the year of income and from the resulting amount are subtracted any tax credits allowed to the taxpayer for the year of income. This provision is in relation to computation of chargeable income for income tax purposes for the year of Income and not value Added Tax, which the Applicant wishes to be done.

93. The Respondent submitted that the Applicant, having objected to VAT as per their objections, cannot turn around and say that he wants his WHT Credits

in Income tax to be used to offset a liability in VAT. These are different and separate tax heads that are handled separately and governed by the different laws, the Respondent maintains that this can only be done by way of an application for a refund as per the law, which refund application must be audited and verified.

94. The Respondent submitted that Section 123(5) ITA, which states:

"1) A taxpayer may apply to the Commissioner General in a year of income for a refund in respect of any tax paid by withholding, instalment or otherwise in excess of the tax liability assessed or to be due by the taxpayer for that year.

3) Where the Commissioner General is satisfied that tax has been overpaid, the Commissioner General shall;

a) Apply the excess in reduction of any tax due from the taxpayer then,

b) Apply the balance if any in reduction of any outstanding liability of the taxpayer to pay other taxes not in dispute during the year in which the refund is made.

c) Refund remainder if any to the taxpayer."

95. The Respondent further submitted that Subsection 5 provides:

"A taxpayer shall be deemed to have submitted an application for a refund referred to in subsection (4) on the date on which the Application is received by the Commissioner".

96. The Respondent submitted that from the facts of this Application, there was no any such refund application that was made to allow the Applicant apply the excess, if any to offset tax liability. The Applicant declined to apply for a refund as required by Section 123 cited supra, tactfully, since a refund Application should be made within 5 years, so his unutilized credits for the periods 2009 to 2020 fall outside the 5-year limitation and would therefore be time-barred. The Respondent maintained that the Applicant did not have any Application for refund or utilization of credits and, in the absence of the same, the Commissioner rightly invoked his powers under Section 146.

What remedies are available?

97. The Respondent prayed for orders that;
- (i) This Application be dismissed with costs to the Respondent, there being no substantive dispute to be reviewed by this Tribunal.
 - (ii) That the Applicant had never applied for utilization of credits and there is no objection or taxation decision to that effect.
 - (iii) Costs of this Application be awarded to the Respondent.

VII. The Applicant's Submissions in rejoinder

98. The Applicant reiterated their earlier submissions and the affidavit in support thereof and further submitted that a tax decision notice served to the Applicant on 06 August 2025 was a dissatisfying tax decision in response to the application dated 10 May 2025, to which the Applicant lodged this matter with the Tax Appeals Tribunal for review of the decision.

Preliminary point of Law

99. The Applicant reaffirmed that an application for objection, other than tax liability reference number CR0125079622059, dated 10/05/2025 seeking to utilise the cumulative credits on the basis of priority was validated by the Respondent. On 21 May, 2025, the objections team and the applicant's representative had an engagement at which the Respondent intended to mislead the applicant to apply for a refund and vacate the application for utilization of credits.
100. The Applicant submitted that the Respondent validated application reference number CR0125079622059. On 21 May, 2025 to further the tax decision upon which an application for refund would be submitted on excess of the overpaid tax after reduction of all tax liabilities to which the Applicant discerned.
101. That on 6 August, 2025, the Respondent issued decision notice reference number 5971034 dated 06 August 2025, stating the reasons for the disallowed tax decision by recommending carrying out ledger reconciliation. The Respondent shifted the goalposts from an application for refund to ledger

reconciliation without availing the dispute that necessitated the reconciliation.

The taxation decision was incorrect and erroneous. Further, we rejoin that the Commissioner has expressed satisfaction that the tax has been overpaid under column G of each of the annual WHT transaction ledgers and expressed the principal amount under column H, reduced penalties under column I and interest under column J.

102. The Applicant submitted that the Respondent exercised its mandate and power and applied credits on the chargeable Income, the penalty and interest thereof as so wished and decided. The Respondent deducted a cumulative total of Shs. 36,259,357 against the grand cumulative credits of Shs. 688,943,122, leaving the Applicant with Shs. 652,683,765 unutilized credits under the custody of the Respondent. The Respondent did not seek permission or require an application to reduce and use the total of Shs. 36,259,357 to offset the respective liabilities but acted within its mandate.
103. The cumulative annual credits for the period are in schedule 1-2025 of the Applicant's submissions and also attached on the affidavit. The Applicant submitted that these were accurate credit figures extracted from the WHT ledger with no dispute, with which the Commissioner is satisfied.
104. The Applicant submitted that the application is good and proper before this Tribunal, the tax decision sued was incorrect and should have been allowed to let all liabilities be reduced from the credits, and proof of accurate record of the WHT on the ledger to which the Commissioner has expressed full satisfaction and the credits are in excess and have been overpaid and remain unutilized.
105. The Applicant submitted that the allegations of credits not being accurate are baseless and intended to mislead and gain overhaul shelter at the Tribunal by the respondent. The Respond ought to prove their claim of inaccuracy that TAT believing in hearsay. In the circumstances, there is no ground for reconciliation as alleged by the Respondent without proof of inaccuracy.
106. The Applicant submitted that there is an application acknowledgement reference number CR0125079622059 dated 10/05/2025, validated and tax decision reference number 45971034 dated 06/08/2025 issued to which the

decision was disallowed but referred to reconciliation without highlighting the dispute. There is valid evidence supported by the affidavit of evidence with annexures attached and similarly stands as the record of proof.

107. The Applicant prayed that the point of law be dismissed for lack of merit, is misconceived, frivolous, and irrelevant. There is no challenge, let alone valid submission in regard to the credits from the point of law. The Applicant reiterated their prayers.

VIII. The Determination

108. Having read the submissions and evidence of both parties, this is the ruling of the Tribunal;
109. The Applicant is engaged in the importation of machinery, spare parts and garden equipment, and contends that it accumulated substantial withholding tax credits from customs import transactions and other payments. The Applicant contends that it had unutilized income tax credits amounting to approximately Shs. 463,046,166, which should have been applied by the Respondent to offset outstanding VAT liabilities. The Applicant alleges that the Respondent unlawfully deprived it of the right to utilize those credits and improperly disallowed their application.
110. The Respondent maintained that the Applicant's objection did not specify the taxation decision being challenged and merely indicated that the matter was before the courts for legal remedies. Following engagement with the Applicant, the Respondent advised the Applicant to undertake a ledger reconciliation exercise with the Respondent's reconciliation team to ascertain the Applicant's true tax position and allocation of credits, which the Applicant allegedly failed to do.
111. The Respondent argued that there was no proper taxation decision or objection decision relating to utilization of credits before the Tribunal and consequently argues that the Tribunal lacks jurisdiction to entertain the matter.

Determination of the issues

112. The relevant law must be applied with attention to time. The substantive treatment of withholding tax paid in a particular year is governed by the Income Tax Act applicable to that year. The objection lodged in May 2025 and the notice issued in August 2025 are governed by the procedural law applicable to those steps. Later waiver provisions may apply to earlier liabilities where Parliament has expressly defined the relief by reference to historical outstanding tax.
113. For the objection process, section 26 of the Tax Procedures Code Act, Cap. 343, is central. A person dissatisfied with a tax decision may object to the Commissioner General. The objection must state the grounds and contain sufficient evidence. Under section 26(5), the Commissioner General may affirm, vary or set aside a decision other than an assessment. Section 27(1) permits a person dissatisfied with an objection decision to apply to this Tribunal for review.
114. The Act defines a “tax decision” to include a tax assessment and a decision on a matter left to the discretion, judgment, direction, opinion, approval, satisfaction or determination of the Commissioner General, subject to the statutory exclusions. The existence of such a decision is therefore anterior to a valid objection and, in turn, to the Tribunal’s review jurisdiction.
115. The burden of proof before this Tribunal is prescribed by section 19 of the Tax Appeals Tribunals Act. Where the taxation decision under review is an objection decision relating to an assessment, the Applicant bears the burden of proving that the assessment is excessive. In any other case, the Applicant bears the burden of proving that the taxation decision should not have been made or should have been made differently.
116. Where an application is properly before the Tribunal, section 20 empowers the Tribunal to affirm, vary or set aside the decision under review and, where it sets the decision aside, either substitute its own decision or remit the matter to the decision maker for reconsideration in accordance with the Tribunal’s directions or recommendations. Those powers presuppose that there is a taxation decision properly before the Tribunal for review.

Issue 1: Whether there is a taxation decision properly before the Tribunal

117. The Respondent raised this point as a preliminary objection. A jurisdictional objection is properly taken at the outset. In *Hwang Sung Limited v M & D Timber Merchants & Transporters Limited, Civil Appeal No. 2 of 2018 [2018] UGSC 95*, the Supreme Court restated that a preliminary objection must raise a point of law capable of disposing of the matter without the ascertainment of contested facts. The present objection principally turns on the existence, contents and legal effect of the documents by which the Applicant invoked the statutory objection procedure.
118. The existence of the objection of 10 May 2025 and the notice issued by the Respondent on 6 August 2025 is not in dispute. What is contested is the legal character and effect of those documents and whether they disclose the statutory sequence necessary to invoke the Tribunal's review jurisdiction. That question is properly considered at the outset.
119. The Tribunal's jurisdiction is statutory. In *Atacama Consulting Services Limited v Uganda Revenue Authority, TAT Application No. 38 of 2021 [2021] UGTAT 3*, the Tribunal held that the statutory review process requires the decision contemplated by the tax legislation. A taxpayer cannot create review jurisdiction merely by being dissatisfied with an administrative communication that is not a reviewable tax decision.
120. In *Cable Corporation (U) Ltd v Uganda Revenue Authority, Civil Appeal No. 1 of 2011 [2011] UGCommC 88*, is also instructive. The High Court treated a valid objection decision as the decision which activates the statutory time for approaching the Tribunal. The case illustrates that substance, rather than the label placed on correspondence, determines whether the statutory process has been engaged.
121. The Applicant relies heavily on the Respondent's notice of 6 August 2025 because it is described as an objection decision. That description is not conclusive. Section 26 presupposes that the objection is directed at a tax decision. The Tribunal must therefore be able to identify the decision which preceded the objection and the matter decided by the Commissioner General.

122. The fact that the Respondent received the Applicant's objection and subsequently issued a document described as an "objection decision" does not, by itself, confer jurisdiction upon the Tribunal. Jurisdiction is derived from statute and not from the description which either party gives to an administrative act. An objection decision necessarily presupposes an objection to an identifiable taxation decision.
123. Accordingly, if no antecedent taxation decision concerning the matter now sought to be reviewed existed, the Respondent could not create the Tribunal's jurisdiction merely by processing the Applicant's objection or by issuing a notice bearing the description "objection decision". The Tribunal must therefore examine the substance of the statutory steps which preceded this application.
124. No such antecedent decision has been identified in the evidence before us. The objection of 10 May 2025 was lodged without a liability. It did not identify an assessment being challenged. Nor did it identify a prior decision refusing to recognise a stated amount of credit, refusing a refund, or refusing to apply an established overpayment against another tax liability. What emerges from the record is a disagreement over the state of the ledger and a request that accumulated credits be utilised.
125. The Applicant has subsequently characterised that objection as an application seeking utilisation of accumulated credits. That characterisation must, however, be tested against the objection itself. The stated ground recorded in the evidence was that "the matters are before courts of judicature for legal remedies." On the material before the Tribunal, the objection did not identify a prior decision by which the Respondent had rejected a specified credit balance, refused utilisation of a specified amount, refused a refund, or otherwise determined the Applicant's entitlement to the balance now claimed. A subsequent description of the objection cannot enlarge the decision which was actually placed before the Commissioner General for reconsideration.
126. There is, however, a further argument advanced by the Applicant which requires separate consideration. The Applicant relies upon the Respondent's previous application of Shs. 36,259,357 from the withholding tax credits

appearing on its ledger. It contends that the Respondent applied those credits against liabilities without requiring a separate application from the Applicant. From that conduct, the Applicant argues that the Respondent had already exercised statutory authority over the credits and that there was therefore a taxation decision concerning their utilisation.

127. The Tribunal accepts that the alleged utilisation of Shs. 36,259,357 cannot simply be disregarded in determining whether a taxation decision existed. If the Respondent applied particular credits against particular liabilities, that application constituted administrative treatment of those credits and may itself reflect the exercise of a statutory power or determination in relation to the amounts so applied. It also answers, at least at a factual level, the suggestion that the Respondent had never dealt with any of the Applicant's withholding tax credits.
128. That does not, however, establish the antecedent taxation decision necessary for the present application. A decision applying Shs. 36,259,357 against identified liabilities is not, without more, a decision refusing to recognise or utilise the separate balance which the Applicant now claims. The Applicant was required to identify the decision with which it was dissatisfied and which it placed before the Commissioner General by objection. The record does not disclose, before the objection of 10 May 2025, a decision by which the Commissioner General determined that the balance now claimed did not exist, refused to utilise that balance against VAT or other liabilities, or rejected an application seeking such utilisation.
129. The distinction is material. The previous utilisation of Shs. 36,259,357 may be relevant in a properly constituted dispute concerning the computation and treatment of the Applicant's credits. It does not establish that the remaining balance, whatever its correct amount, had already been the subject of a taxation decision capable of objection and subsequent review. The Tribunal therefore does not treat the previous utilisation of Shs. 36,259,357 as curing the absence of an identifiable antecedent decision concerning the balance which is the subject of the present application.

130. The notice of 6 August 2025 does not alter that conclusion. Although styled an objection decision, it did not determine the amount of withholding tax credit available to the Applicant, whether any particular amount constituted an overpayment, or whether an established excess could lawfully be applied against VAT or another tax liability. It disallowed the objection and recommended reconciliation of the ledger. The notice therefore responded to the objection placed before the Commissioner General; it did not retrospectively create an antecedent taxation decision on the separate credit-utilisation dispute now advanced before the Tribunal.
131. We are guided by the decision of the High Court in ***Real Task Agencies Limited v Uganda Revenue Authority & Others, Miscellaneous Cause No. 069 of 2023, [2025] UGHCCD 61***, which concerned the same Applicant. Justice Simon Peter Kinobe, having found that a challenge to the correctness of a taxation decision belonged within the statutory tax dispute mechanism, observed that where a person is dissatisfied with the decision of the revenue authority, “the aggrieved party should follow the set procedures of appeal as established by law.”
132. The significance of that holding for the present application is that the statutory procedure must be followed as enacted. The Applicant must therefore demonstrate that there was a taxation decision capable of objection and, thereafter, review by this Tribunal. The Tribunal cannot assume jurisdiction where the decision which section 26 requires has not first been made.
133. The Respondent also relied upon the Applicant’s reference, in its objection and evidence, to Miscellaneous Cause No. 069 of 2023 and contended that the present proceedings were premature or an abuse of process. Having concluded that the statutory sequence necessary to place the present credit-utilisation dispute before the Tribunal has not been established, it is unnecessary to determine whether the earlier High Court proceedings would independently engage the doctrines of sub judice, abuse of process or any other rule against concurrent proceedings. We therefore make no finding on those questions.

134. We therefore uphold the Respondent's preliminary objection. The Applicant has not established an antecedent taxation decision concerning the particular credit-utilisation dispute now advanced before the Tribunal which was the subject of its objection and the subsequent objection decision. In the absence of that statutory foundation, the substantive dispute concerning the existence, amount and utilisation of the alleged excess credits is not properly before the Tribunal for review. That conclusion is sufficient to dispose of this application

Observations on the substantive dispute

135. That conclusion disposes of the application. It is therefore neither necessary nor appropriate for the Tribunal to determine the parties' competing positions on the amount of credit available, the proper construction of the provisions governing utilisation or refund, the limitation period relied upon by the Respondent, or the Applicant's entitlement to statutory waiver. Since those matters were extensively argued, we make only the limited observations which follow to explain why they cannot properly be determined on the present application. Nothing in the paragraphs which follow constitutes a determination of those questions on their merits.
136. First, withholding tax is not, merely because it appears as a credit entry on a ledger, an immediately transferable pool of money available to extinguish any tax chosen by the taxpayer. Section 146(3) of the Income Tax Act provides that tax withheld and remitted is deemed to have been paid by the payee and, unless it is final tax, is credited against the tax assessed on the payee for the year of income in which the payment is made.
137. Section 146(4) then addresses an excess. Where withholding tax for a year, together with provisional tax paid for that year, exceeds the taxpayer's liability under an assessment for that year, the excess is dealt with under section 123(3). The statutory inquiry is therefore year-specific. The amount withheld must first be matched against the assessed income tax liability for the relevant year before an excess can be carried into the section 123 mechanism.

138. Second, section 123(3) prescribes what happens once the Commissioner General is satisfied that tax has been overpaid. The excess is first applied in reduction of any other tax due from the taxpayer; the balance, if any, is then applied against other outstanding tax liabilities not in dispute or provisional tax; only the remainder is refunded. The Applicant repeatedly attributed substantially similar language to section 37(3) of the Tax Procedures Code Act. That citation is incorrect. The relevant set-off provision is section 123(3) of the Income Tax Act.
139. The parties differ materially on the interaction between subsections (1), (2) and (3) of section 123. The Respondent contends that the statutory mechanism depends upon an application for refund under subsection (1), while the Applicant contends that, once an excess has been established, the Commissioner General is required to apply it against other tax liabilities before any question of refund arises. That dispute raises a question of statutory construction which does not require determination in this application. Having found that the substantive credit-utilisation dispute is not properly before us, we expressly reserve the question whether an application under section 123(1) is a prerequisite to the operation of section 123(3).
140. We similarly express no concluded view on the Respondent's submission that credits said to arise from earlier years are affected by the five-year period prescribed by section 123(2), or on the Applicant's contrary contention that that limitation does not govern the prior application of an established excess against other tax liabilities. The proper construction and application of that provision should be determined only where the relevant overpayment, the year to which it relates, the relief sought and the decision of the Commissioner General are properly before the Tribunal.
141. There is a further reason why the substantive dispute cannot safely be determined on the present record. The amount of credit said to be available is not consistent across the pleadings, affidavits, schedules and submissions. Figures appearing in the record include Shs. 436,046,166, Shs. 463,046,166, Shs. 557,908,807, Shs. 594,795,483, Shs. 652,683,765 and Shs. 688,943,122. The Applicant's Schedule 1-2025, for example, states

cumulative withholding tax of Shs. 594,168,164, utilisation of Shs. 36,259,357 and an unutilised balance of Shs. 557,908,807.

142. In rejoinder, however, the Applicant referred to cumulative credits of Shs. 688,943,122 and a balance of Shs. 652,683,765 after deducting the same Shs. 36,259,357. These are not merely different descriptions of the same balance. They are materially different assertions as to the amount said to remain available.

143. The Respondent's evidence presents a materially different position. It contends, with reference to REX 3 and REX 4, that Shs. 453,895,525 was applied against the Applicant's self-assessments and additional assessments for various periods and that only Shs. 16,171,288 remained unutilised. The Applicant disputes that treatment and relies, among other matters, upon entries in column G of its ledger as demonstrating verification, approval or audit by the Respondent. The Tribunal cannot resolve those competing positions by selecting one aggregate figure without first establishing, year by year, the amount withheld, the relevant income tax assessment, the credits previously utilised, the liabilities against which they were utilised, lawful adjustments and the resulting excess, if any.

144. The statutory burden of proof remains upon the Applicant in accordance with section 19 of the Tax Appeals Tribunals Act. The fact that the Respondent maintains the tax ledger does not reverse that burden. It is nevertheless material that the Respondent is the custodian of records showing how credits appearing in its system were applied. Where the Respondent asserts that a credit has already been utilised, it should be able to identify the amount utilised, the relevant period, the liability against which it was applied and the resulting balance. That information is necessary to permit a claimed excess to be tested against the statutory burden; it does not transfer that burden to the Respondent.

Waiver of penalties and interest

145. The Applicant also relies upon statutory provisions concerning waiver of penalties and interest. Those provisions operate according to their own commencement dates, qualifying periods and statutory conditions. Whether

any particular liability of the Applicant falls within a waiver can only be determined after the underlying liability, payment history and relevant dates have been established.

146. Since the substantive tax dispute is not properly before us, we make no finding as to whether the Applicant is entitled to any waiver under the Tax Procedures Code Act. Any future reconciliation and decision by the Commissioner General must apply the waiver provisions in force according to their precise statutory terms. Nothing in this ruling should be understood as determining the Applicant's eligibility for such relief.

Obiter dicta

147. We add this. The dispute before us illustrates the practical difficulty created when a taxpayer and the Respondent litigate a ledger before first agreeing what the ledger records. The statutory objection procedure is designed to review a decision. It is not a substitute for the primary accounting exercise necessary to establish whether there is an overpayment at all.
148. Where a taxpayer asserts a long-standing credit, the taxpayer should identify the credit claimed on a year-by-year basis and support it by the available withholding records, assessments and ledger entries. Where the Respondent disputes that claim on the ground that credits have previously been utilised, it should answer the schedule by identifying the relevant utilisation and the liability against which each amount was applied. That exercise may result in agreement or in a defined disagreement requiring a decision by the Commissioner General. It is that defined decision, once subjected to the objection procedure prescribed by law, which can properly be reviewed by this Tribunal.
149. There is also a corresponding need for precision on the part of the Respondent. Where a taxpayer purports to lodge an objection without identifying an antecedent taxation decision, the Respondent should identify that deficiency clearly rather than issue a document whose description may reasonably suggest that the statutory objection process has been completed. Administrative clarity at that stage assists the taxpayer to follow the

procedure prescribed by law and reduces avoidable litigation concerning jurisdiction.

150. As a further observation, the Respondent, as the statutory authority charged with the administration and collection of tax, bears a corresponding responsibility to maintain an accurate and intelligible account of a taxpayer's liabilities, payments and credits. Where tax has been withheld from a taxpayer and remitted to the Respondent, the resulting credit cannot be treated as a matter of administrative grace. Once the withholding and remittance are established, the Respondent must account for the credit in accordance with the law and explain, with sufficient particularity, how it has been applied.
151. Where the Respondent contends that an accumulated credit has already been utilised, it should be able to identify the relevant year of income, the liability against which the credit was applied, the amount applied and the resulting balance. A taxpayer should not be required to reconstruct, from incomplete ledger entries, transactions which are recorded in the Respondent's own tax administration system. This does not shift the statutory burden of proof from the taxpayer. It recognises only that, where a dispute is properly before the Tribunal, records within the Respondent's custody concerning its own utilisation or adjustment of a taxpayer's credits may be material to the fair determination of that dispute.
152. Nothing in this ruling prevents the Applicant from undertaking the necessary reconciliation and thereafter invoking the procedure prescribed by the applicable tax law for the relief it seeks. If the Commissioner General makes a taxation decision with which the Applicant is dissatisfied, the Applicant remains entitled to invoke the statutory objection and review procedures in accordance with the law. We express no view on the merits of any such future claim or decision.

IX. Orders

153. For the reasons given above, the Tribunal makes the following orders:
- a) The Respondent's preliminary objection is upheld.

- b) The application is dismissed for want of a taxation decision capable of review by the Tribunal.
- c) The dismissal is without prejudice to the Applicant's right to pursue reconciliation, utilisation or refund of any credit proved to be available and, thereafter, to invoke the statutory objection and review process in accordance with the law.
- d) Each party shall bear its own costs.

It is so ordered.

Dated at Kampala this th7 day of October 2026.



HON. PROSCOVIA REBECCA NAMBI
CHAIRPERSON



HON. STELLA NYAPENDI CHOMBO
MEMBER



HON. CHRISTINE KATWE
MEMBER