

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA
APPLICATION NO. 141 OF 2024

RIDAR INTERNATIONAL INDUSTRY UGANDA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: MS. CRYSTAL KABAJWARA, MS. KABAKUMBA MASIKO, MR. WILLY
NANGOSYAH**

RULING

This ruling is in respect of a preliminary objection raised by the Respondent that the application is improperly before the Tribunal as there is no objection and objection decision.

1. Background Facts

The Applicant is engaged in the manufacture of industrial goods. In December 2023, the Respondent carried out an audit for the period June 2016-June 2018. The audit revealed under declarations of sales in VAT returns, non-declaration of emoluments paid to foreign nationals and disallowable costs previously claimed in the Applicant's income tax returns. Consequently, the Respondent issued the Applicant with assessments amounting to Shs. 883,395,265.

However, according to the Applicant the Respondent claimed to have carried out an audit in December 2023 for the period 2017-18 and never shared the management letter with the Applicant and subsequently issued a demand notice of Shs. 621,656,784 for the period 2016 to June 2018. According to the demand notice, the liability was to be paid by 29 April 2024. The Applicant objected to the demand on 9 May 2024, and the Respondent closed the Applicant's premises on 31 May 2024.

The Applicant contended that the tax claimed by the Respondent are tax arrears arising from interest for the years 2016 to 2018.

The Applicant then filed this application on 6 June 2024 and on 25 February 2025, the Respondent raised a preliminary objection contending that the application is prematurely before the Tribunal as the Applicant has never objected to the assessments, and the Respondent has never issued an objection decision hence prematurely before the Tribunal.

2. Issue for determination

The issue for determination is whether this application is prematurely before the Tribunal.

3. Representation

The Applicant was represented by Mr. Bernard Olok while the Respondent was represented by Ms. Charlotte Katuutu.

4. Submissions of the Respondent on the Preliminary Objection

The Respondent submitted that Section 26 of the Tax Procedures Code Act (TPCA), requires an aggrieved taxpayer to lodge an objection with the Commissioner. Section 27 (1) of the TPCA provides that a taxpayer who is dissatisfied with an objection decision may lodge an application in the Tax Appeals Tribunal to review the objection decision.

The Respondent submitted that an objection decision is a prerequisite and where there is no objection decision, the taxpayer is prematurely before the Tribunal as it would have nothing to review. The Respondent cited the case of ***Caroline Kahamutima Ve Commissioner Customs, Uganda Revenue Authority TAT Misc App No. 51 of 2021***. In the aforementioned case, the Applicant filed an application for extension of time to lodge a review application with the Tribunal without first objecting to the Respondent's decisions. The Tribunal held:

"Therefore, the applicant, by filing an application for extension of time when it had not applied to the commissioner to review the letter of 10 June 2021, she was acting prematurely. The Tribunal

does not have a decision of the Commissioner to review. Therefore, this application is incompetent".

The Respondent submitted that in the case of ***Gakou Brothers Enterprises Limited Vs URA TAT Application No. 20 of 2020***, this Tribunal held:

"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 submitted that the Applicant wrote formally to the Respondent on 9 May 2024 referencing objection to tax demand of Shs. 621,656,784 for Ridar International Industries Ltd. The Respondent argued that objecting to assessments is done online and not manually. Section 91(1) of the TPCA provides for establishment of an electronic returns and notices system which the Respondent runs for the objection process.

The Respondent contended that even if the Applicant had lodged a valid objection against the assessments, the Applicant filed TAT App No. 141 of 2024 before the 90 days given for the Respondent to issue an objection decision in line with Section 26 (6) of the TPCA had lapsed. The Applicant filed this Application before the Tribunal on 6 June 2024, less than 30 days from the date that the Applicant's manual objection letter was served on the Respondent. In the absence of an objection decision, this application is prematurely before the Tribunal.

The Respondent cited the case of ***Precise Engineering Services Ltd v URA, App No. 84 of 2022***, where the Tribunal held that coming to the Tribunal without an objection decision is illegal and should not be entertained. The Respondent prayed that the preliminary objection is allowed and that the Tribunal should dismiss the application with costs.

5. Applicant's Submissions in Reply to Preliminary Objection

The Applicant submitted that the preliminary objection raised by the Respondent should be dismissed as it is misconceived and devoid of merit. The Applicant submitted that Section 16 (1) of the Tax Appeals Tribunal Act (TAT Act) provides for the power of the

Tribunal to review a taxation decision. Section 1(1) of the TAT Act defines a taxation decision to mean any assessment, determination, decision or notice.

The Applicant contended that it is not provided anywhere in the TAT Act that the Applicant can only apply to the Tribunal after an objection decision is made. In the case of ***Cable Corporation (U) Ltd vs Uganda Revenue Authority HCCA No.1 of 2011***, Justice Madrama clarified:

"... a taxation decision does not arise out of an objection...".

The Applicant submitted that the application before the Tribunal is challenging among others the demand notice issued on 29 April 2024 and the illegal interest thereon which was waived by law.

The Applicant submitted that the Tax Procedure Code Act does not make it mandatory for a taxpayer to object to its decision. Section 26 (1) Tax Procedure Code Act states that a taxpayer dissatisfied with a taxation decision may object to the Commissioner General within 45 days. The Applicant prayed that the Tribunal overrules the preliminary objection and allows the case to proceed for trial.

6. The Determination of the Tribunal

In December 2023, the Respondent carried out an audit on the Applicant for the period June 2016-June 2018 and issued assessments amounting to Shs. 883,395,265. On 29 April 2024, the Respondent issued the Applicant with a demand notice for Shs. 621,656,784. The Applicant filed this application challenging the demand notice.

When the matter came up before the Tribunal, the Respondent raised a preliminary objection contending that the application was prematurely before the Tribunal as the Applicant has never objected to the assessments issued to it. Further, the Respondent has never issued an objection decision in this matter.

The Respondent submitted that the Applicant had no objection. That even if the Applicant had lodged a valid objection against the assessments, the Applicant filed TAT App No. 141 of 2024 before the 90 days given for the Respondent to issue an objection decision

in Section 26 (6) of the TPCA had lapsed. The Applicant filed this Application before the Tribunal on 6 June 2024, less than 30 days from the Applicant's manual objection letter was served on them. In the absence of an objection decision, this application is prematurely before the Tribunal.

On the other hand, the Applicant contends that the Application before the Tribunal is challenging the demand notice issued on 29 April 2024 for Shs. 621,656, 784 and the illegal interest thereon which was waived by law. Further, the Applicant argues that the Tax Procedure Code Act does not make it mandatory for a taxpayer to object to its decision.

Section 14 of the Tax Appeals Tribunal Act states:

“(1) Any person who is aggrieved by a decision made under a taxing act by the Uganda Revenue Authority may apply to the tribunal for a review of the decision”.

The Tribunal notes that the demand notice marked annexure B to the application is dated 29 April 2024. Further, the objection is marked as annexure C and is dated 9 May 2024. However, in a letter dated 20 May 2024 (marked annexure D), the Respondent required the Applicant to submit an online objection. The Respondent argues that since the objection was not filed online and there was no subsequent objection decision made by the Respondent, this application is premature.

In the case of ***Veeram Health Care v URA, TAT App No. 137 of 2022***, the Tribunal while relying on the case of ***Cable Corporation (U) Ltd. v Uganda Revenue Authority (Civil Appeal No. 1 of 2011) [2011] UG CommC 88***, distinguished an “objection decision” from a “taxation decision”. The Tribunal stated:

“An objection decision is a decision in respect to a taxation objection made to the Commissioner against a notice of assessment while a “taxation decision” means any assessment, determination, decision or notice. The word decision in the definition of taxation decision should not be restricted as objection decision is separately and specifically defined so that it does not refer to an objection decision. The word taxation decision is however loosely used under section 16 of the Tax appeals Tribunal Act to encompass both kinds of decisions defined above”.

Section 1 of the TAT Act defines a taxation decision to mean any assessment, determination, decision or notice. Further, Section 14 of the Tax Appeals Tribunal Act states that any person who is aggrieved by a decision made under a taxing act by the URA may apply to the Tribunal for a review of the decision.


We agree with the Applicant that the demand notice it seeks to challenge is a taxation decision within the meaning of Section 1 of the TAT Act. Further, according to section 14 of the TAT Act, the Tribunal has the powers to review both objection decisions and other taxation decisions made by the Respondent. The Tribunal's powers are not restricted to the review of objection decisions.

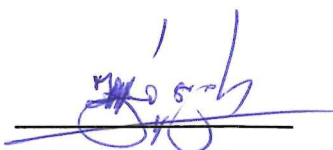
Consequently, as per the provision of Section 1 and 14 of the TAT Act, this application is properly before this Tribunal and shall be determined on its merits. The Tribunal therefore makes the following orders:

- (i) The preliminary objection is overruled; and
- (ii) Costs shall abide in the main cause.

Dated at Kampala this 22nd day of April 2025.


CRYSTAL KABAJWARA
CHAIRPERSON


KABAKUMBA MASIKO
MEMBER


WILLY NAGOSYAH
MEMBER