THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA

APPLICATION NO. 68 OF 2021

RORAIMA UGANDA LIMITED..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY..... RESPONDENT

BEFORE: DR. ASA MUGENYI, MR. GEORGE MUGERWA, MS. CHRISTINE KATWE.

RULING

This ruling is in respect of a claim for a Value Added Tax (VAT) refund by the applicant.

The applicant deals in mining and quarrying. On 1st December 2014, it registered for VAT and on 31st July 2015 it was de-registered. On 1st January 2018, the applicant was re-activated. In January 2019, the applicant applied for a VAT refund of Shs. 1,432,545,975. The respondent conducted a refund audit on the applicant and rejected its refund claim. On 4th August 2021, the applicant objected, and the respondent made an objection decision partially allowing input tax of Shs. 538,873,108 but Shs. 917,824,985 was disallowed.

Issues

1. Whether the applicant it entitled to the refund claim of Shs. 917,824,985?
2. What remedies are available to the parties?

The applicant was represented by Ms. Belinda Nakiganda while the respondent by Ms. Nakku Mwajjuma and Ms. Diana Mulira.

The applicant's witness, Mr. Deglas Wodage Abebe, its managing director, testified that the applicant deals in mining and quarrying. On 1st December 2014, it registered for VAT. On 31st July 2015 it was forcefully deregistered. He testified that that the applicant made taxable supplies in 2014 and 2015. It incurred expenses of Shs. 195 million in 2014. The

applicant filed returns and declared output tax for 2014 and 2015. Some contractors continued to charge VAT which it remitted on 28th October 2018 and 5th April 2019. The applicant requested to be de-registered. The applicant applied for a VAT refund of Shs. 1,456,698,093.64. The applicant had meetings with the respondent. On 17th June 2020, the respondent rejected the applicant's VAT claim. On 24th June 2020, the respondent issued the applicant with a VAT assessment of Shs. 1,611,239,563.67. On 21st July 2020, the applicant objected to the refund claim and the assessment. On 4th August 2021, the respondent issued an objection decision partially allowing input credit of Shs. 538,873,108.15 and disallowed the rest. The witness testified that the respondent did not consider all its invoices.

The respondent's witness, Mr. Alfred Habaasa, an officer in its Domestic Tax department, confirmed that that applicant deals in mining and quarrying. In January 2019, the applicant applied for an input tax credit refund of Shs. 1,432,545,975. The respondent audited the applicant's tax affairs for the period July 2015 to January 2019. The audit established that the applicant was registered for VAT effective 1st December 2014. It was deregistered effective 31st July 2015 as it was not making taxable supplies. He testified that the applicant could not file returns between July 2015 to January 2017 because it was deregistered. The applicant was later re-activated on 1st January 2018. The audit revealed that for the period July 2015 to January 2018 the applicant included invoices when it was not a taxable person. It included invoices of 2014 to 2016 in its returns for 2019. The respondent rejected the applicant's refund claim. The respondent contended that the applicant did not make any taxable supply from the commencement of its operations. The respondent raised an assessment of Shs. 1,611,239,563.67. He stated that the applicant objected to the assessment. The respondent partially allowed the objection. Input tax of Shs. 583,873,108 was allowed but Shs. 917,824,985 was disallowed. The witness testified that applicant paid deemed VAT in error. It was the contractors who remitted the VAT. He testified further that it is the contractors who should claim for the VAT.

The applicant submitted that that the tax refund in dispute is Shs. 917,824,985 from a claim of Shs. 1,432,545,975 where Shs. 515,529,024 was agreed and paid. The Shs. 917,824,985 was disallowed under the circumstances detailed below.

An amount of Shs. 187,103,135 was disallowed because it was for a period six months prior to registration. The applicant submitted that S. 28 (3)(a) of the VAT Act provides that a credit is allowed to a taxable person on becoming registered for input tax paid or payable in respect of all taxable supplies made to the person prior to the person becoming registered which occurred not more than six months prior to the date of registration. The applicant cited *Enviroserve (U) Ltd v URA* Application 24 of 2017, where the Tribunal stated that, "if a person is registered for VAT, he is deemed a taxable person". The applicant contended that a taxable person has the meaning in S. 1(x) of the VAT Act which provides that a person registered under S. 7 is a taxable person from the time the registration takes effect. The applicant submitted that it was registered for VAT on 1st December 2014 and hence a taxable person from that date. The applicant claimed for input tax from 1st June 2014, which is six months prior to registration. The applicant cited *East Africa Property v URA*, where the Tribunal stated that a taxpayer is allowed to claim input VAT six months prior to registration.

The second amount disallowed was of Shs. 195,322,022 for period when the applicant was deemed to have paid VAT. The applicant submitted that the law relating to VAT on deeming became effective on 1st July 2015. S. 24(5) of the VAT Act as amended in 2015 provides that.

> "The Tax payable on a taxable supply made by a contractor to a licensee to undertake mining or petroleum operations is deemed to have been paid by the licensee to the contractor provided the supply is for use by the licensee solely and exclusively for mining or petroleum operations."

The applicant submitted that the respondent instead of refunding the VAT paid directed the applicant to amend its return and claim the refund directly from the contractors. The applicant submitted that S. 5(1) of the VAT Act and S. 37 of the Tax Procedure Code Act, provides that once VAT is paid, it is payable by the person making the supply. This implies that the contractor collects the VAT on the respondent's behalf. S. 37(3) of the Tax Procedure Code Act provides that: where the Commissioner is satisfied that tax has been overpaid, the commissioner shall refund the excess. The applicant submitted that the overpaid tax is applied to outstanding liability of the taxpayer and a refund of the

remainder made to the taxpayer. The applicant is entitled to a VAT refund of Shs. 195,322,022 which was paid.

The applicant submitted that it is also entitled to input tax credit of Shs. 531,784,535 on invoices issued. It submitted that it was registered for VAT on 1st December 2014. The respondent deregistered the applicant on 31st July 2015. The applicant was reregistered in 2019 effective 1st January 2018 upon realization that it had wrongfully been deregistered. The applicant submitted that S. 7(4)(A) of the VAT Act as amended in 2015 provides that.

> "Notwithstanding subsection (4), the following persons may apply to the Commissioner General to be registered in accordance with section 8
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> (a) a licensee undertaking mining or petroleum operations.
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> (b) a person undertaking the construction of a petroleum refinery or petroleum pipeline; and
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> (c) a person engaged in commercial farming."

The applicant submitted that the respondent deregistered it on 31st July 2015 after S. 7(4)(A) of the VAT Act had already come into force (1st July 2015). The applicant contended that it was wrongly and unlawfully deregistered on 31st July 2015 because for a taxpayer falling under S. 7(4)(A)(a) of the VAT Act, deregistration should only have been if they ceased to carry out mining operations. The applicant submitted that it cannot be denied input credit for a period when it was wrongly deregistered.

The applicant prayed for a declaration that they are entitled to the input credit refunds and general damages for wrongful deregistration which caused it injury and monetary loss amounting to Shs. 250,000,000. The costs of the application be awarded to the applicant including Interests on costs and general damages

In reply, the respondent submitted that S. 1(1) of the VAT Act states that input tax means the tax paid or payable in respect of a taxable supply to or an import of goods or services by a taxable person. It submitted that in *Margaret Rwaheru Akiiki & 13,945 others v URA*, Civil Suit 117 of 2013 the court defined input tax as; "a cost to the importer or a taxable person that generates a credit in favor of a taxable person". It further submitted that input

tax is claimable by a taxable person under S. 42(1) of the VAT Act which provides that If for any tax period, a taxable person's input credit exceeds his or her liability for a tax period, the Commissioner General shall refund him or her the excess. The respondent also submitted that S. 18 (1) of the VAT Act defines a taxable supply as; "a supply of goods or services other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities". It submitted that input tax is claimable by a taxable person who made a supply and subsequently declares it

In respect of the input tax credit of Shs. 187,103,135 arising on services made prior to registration, the respondent submitted that S. 28(3)(a) of the VAT Act provides for credit due to a taxable person; on being registered for input tax paid or payable in respect of all taxable supplies of goods which have occurred not more than six months prior to the date of registration. The respondent submitted that credit can only be allowed in respect to taxable supplies of goods six months prior to the date of registration. The respondent contended statutes should be strictly interpreted. It cited *Kinyara Sugar Ltd. v Commissioner General Uganda Revenue Authority HCCS No. 73 of 2011,* where it was held.

> "I would further mention the principles of interpretation of tax statutes that they are strictly construed. If the intention of Parliament can be discerned from the wording of the statute, then there would be no need to look beyond the wording of the section".

The respondent submitted that the above section refers to taxable supplies of goods at hand at the time of registration and not services; the applicant's business prior to registration were drilling services which do not fall within the definition of goods. The respondent submitted that the VAT Act defines services in S. 1(t) of the VAT Act as "Anything that is not goods or money". The respondent submitted that the applicant was conducting drilling services; and had no goods at hand as envisaged under the law. The respondent cited *Tullow Uganda Ltd & Tullow Uganda Operations Pty Ltd v Commissioner General, Uganda Revenue Authority* Civil Suit 445 of 2012; where the Court found that the plaintiff was not entitled to input tax credit for the period prior to its registration. The respondent submitted that S. 28(3) of the VAT Act is clear and the applicant does not qualify for input credit. The invoices submitted to the respondent were for supplies of services 6 months prior and not for goods.

In respect of input VAT of Shs. 195,784,535, the respondent cited S. 24(5) of the VAT Act which provides that the tax payable by a contractor to a licensee to undertake mining or petroleum operations is deemed to have been paid. It submitted that the input tax claimed on supplies on which VAT ought to have been deemed paid for was for the period 1st July 2015 to 31st July 2015. Deemed VAT is VAT that is not actually paid; it is simply deemed paid by both the applicant and the respective suppliers. The applicant was charged and paid VAT to the contractors who declared and paid it to the respondent. The contractor benefited from the VAT declaration in their returns. The applicant submitted that the contractors having been the ones that declared and remitted the said VAT are the ones who can rightfully claim for the refund from the respondent. It cited *Manilla North Tollways Corporation v Commissioner of Internal Revenue C-T. A ED No. 812 of 2012*, where court held that.

> "Tax refunds are in the nature of tax exemptions and are to be construed in stricissimi juris against the entity claiming the same, the law does not look with favor on tax exemptions; and he who claims an exemption must be able to point the provision of the law creating the said right and justify it (relay the facts upon which the claim is based) by words too plain to be mistaken and too categorical to be misinterpreted".

The respondent contended that the burden to prove entitlement to a tax refund rests on the applicant. Any refund should be applied for by the contractor since they are the ones who remitted the VAT to the respondent.

The respondent submitted that refunds of overpaid or wrongly paid tax are provided for under S. 42(3) and (4) of the VAT Act. In this case there is no tax paid in excess, as there was no VAT due or payable, but was paid in error. The respondent contended that the person claiming must be the actual taxpayer that made the payment. The contractor to whom the applicant paid the VAT is the party who can claim for the refund.

In respect of input tax not verified of Shs. 13,864,226, the respondent submitted that it could not be verified from the records. No evidence was produced in form of invoices so there was nothing to be relied on. The applicant sought to rely on *Enviroserve (U) Ltd. v URA TAT No. 24 of 2017* which can be differentiated from this case where it was stated

"As long as a person is registered for VAT and his registration has not been cancelled, he is deemed a taxable person". In that case, the applicant's registration was never cancelled or deregistered as in the present case. The respondent submitted that in this case the applicant cannot, be a taxable person for the period of his de-registration. It was de-registered in 2015 which is tantamount to cancellation of the VAT registration. The respondent submitted further that in *Enviroserve (U) Ltd. v URA* (supra) the Tribunal noted that the applicant presented invoices issued where VAT was paid. It was stated that it is not the duty of the taxpayer to follow up the suppliers to declare input VAT. The respondent submitted that in this case, the applicant did not produce any invoices, or provide proof of payment; nor did they have it declared in their returns. The applicant was not duly registered for VAT as envisaged under the law.

In respect of input tax credit claimed of Shs. 531,784,535 for supplies received when the applicant's registration was cancelled, the respondent submitted that the input claimed on supplies received between 1st August 2015 to 31st December 2017 is not creditable since the applicant was not a taxable person, was not registered for VAT. The initial registration for VAT was effective 1st December 2014. The applicant did not make taxable supplies and registration was cancelled effective 31st July 2015. The applicant was re-registered effective 1st January 2018 to enable it to redeem VAT paid on invoices from its contractors, but not to allow it credit for the VAT it had incurred prior to re-registration.

The respondent also submitted that a taxable person is defined in S. 6 of the VAT Act as; A person registered under S. 7 is a taxable person from the time the registration takes effect." The respondent cited *Post Bank (U) Uganda Ltd v Uganda Revenue Authority TAT 18/2008* where the Tribunal noted that.

> "S. 8(6) states that registration takes effect from the date specified in the certificate. If Commissioner clearly stated that the certificate is effective from 1st October 2005 why should the Tribunal doubt the certificate?"
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> Where the law is clear that the effective date is stated in the certificate of registration then the Tribunal cannot make assumptions as to when the applicant became a taxable person. We must go by the date on the certificate".

The respondent submitted that a taxpayer can only be considered effectively registered as in the certificate of registration. Once the applicant was de-registered, it ceased to be a taxpayer that could claim input for that period.

The respondent submitted that in *Tullow Uganda Ltd & Tullow Uganda Operations Pty Ltd v Commissioner General, Uganda Revenue Authority Civil Suit No. 445 of 2012*, Justice Madrama held that the plaintiff cannot claim input tax credit for the period it was entitled to be on the register as a taxable person for the relevant period. The respondent contended that there existed no requirement for the applicant to register. The respondent submitted that the applicant was initially registered in 2014; when it was discovered it was not making taxable supplies it was de-registered in 2015, which rendered it ineligible to claim any input tax for the period.

In respect of input tax credit of Shs. 24,152,119 arising on imports, the respondent submitted that VAT of Shs. 23,244,084 was incurred while the applicant was registered but the balance of Shs. 908,305 was not creditable since it was incurred while it had been deregistered. The applicant admitted that it had been wrongfully deregistered. Once it was de-registered, it ceased to be a taxpayer who could lawfully claim input tax as it is not registered within the confines of the law.

In rejoinder, the applicant submitted that the respondent contradicts itself by stating that the contractor and not the applicant should claim the VAT. On the other hand, it states that the reregistration was to enable the applicant to deem VAT paid on the invoices for mining operations. The applicant contended that that this shows that the respondent knows the applicant is the rightful person to claim VAT but deliberately refused to refund it. The applicant submitted that the contractors declared output tax to the respondent in the returns. The money is not for the contractors but for the applicant

In respect of input tax of Shs. 13,864,226, the applicant averred that it submitted all invoices to the respondent who then sent out a schedule with reasons of nonpayment.

In respect of input tax credit of Shs. 531,784,535, the applicant submitted that it is the first time the respondent was mentioning the issue of initial registration of the applicant and the applicant not making taxable supplies.

The applicant submitted that the respondent admits to deregistering it on 31st July 2015 after the amendment had come into force on 1st July 2015 but claims it was not wrongful. The respondent acted illegally when it deregistered the applicant without any just cause and thus should refund the input tax of Shs. 531,784,535 incurred during time of unlawful deregistration.

In respect of input tax credit of Shs. 187,103,135 arising on services prior to registration the applicant submitted that when a person drills, they need equipment which amounts to goods. The applicant contended that supply was a mixed supply but more so goods and then drilling services therefore the applicant is entitled to a refund.

Having listened to the evidence, perused the exhibits, and read the submissions of the parties, this is the ruling of the tribunal.

It is not in dispute that the applicant deals in mining and quarrying. On 1st December 2014, the applicant registered for VAT. On 31st July 2015, it was de-registered. On 1st January 2018 it was re-registered. In January 2019, the applicant applied for a VAT refund of Shs. 1,456,698,093.64. The respondent conducted a refund audit on the applicant and rejected its refund claim. On 4th August 2019, the applicant objected. The respondent made an objection decision partially allowing input tax of Shs. 538,873,108 but disallowed Shs. 917,825,985.

The tax refund in dispute is Shs. 917,824,985 from a claim of Shs. 1,432,545,975. The Tribunal will address the disallowed claims under the various categories addressed.

An amount of Shs. 187,103,135 was disallowed because it was incurred six months prior to registration. The applicant registered for VAT on 1st December 2014. The applicant contended that in *Enviroserve (U) Ltd v URA,* Application 24 of 2017, the Tribunal stated

that, "as long as a person is registered for VAT, he is deemed a taxable person. He can claim for input credit." The respondent contended that the applicant was not making taxable supplies. The respondent further contended that applicant is entitled to credit input for goods and not services six months prior to registration.

S. 28 of the VAT Act deals with credit for input tax. S. 28(1) of the Act allows for credit input tax in respect of all taxable supplies made to the person where S. 25 applies. S. 28(2) of the Act allows for credit input tax in respect of taxable supplies where S. 26 of the Act applies. However, in S. 28(1) and (2) of the Act, supplies prior to six months registration are not mentioned. It is only mentioned in S. 28(3) which reads:

> "a credit allowed to a taxable person on becoming registered for input tax paid or payable in respect of-
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> (a) all taxable supplies of goods, including capital assets, made to the person prior to the person being registered; or
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> (b) all imports of goods including capital assets, made by the person prior to the person becoming registered
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> Where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date or registration and provided that the supply or import occurred not more than six months prior to the date of registration or in case of manufacturers, not more than twelve months before the date of registration"

S. 28(3) applies to all taxable supplies of goods made six months prior to registration. It states that provided that the goods are on hand at the date of registration. It is difficult to envisage a situation where services provided can be on hand at the date of registration. Therefore S. 28(3) of the Act does not apply to a delivery of services.

The respondent submitted that the invoices supplied to it were for a supply of services prior to registration and not for goods. The applicant contended that when a person drills, they need equipment which amounts to a supply of goods. It contended that it was a mixed supply. S. 1(h) of the Act defines goods to include all kinds of moveable and immovable property. The said definition is about what should be included in the definition of goods. *Black's Law Dictionary* 10th Edition p. 808 defines goods as "1. Tangible or moveable personal property other than money." The VAT Act S.1(t) defines service to

"mean anything that is not goods or money." A supply of drilling services though done by equipment which are moveable, or tangible does not amount to a supply of goods. It is still a supply of services. Therefore, the applicant is not entitled to the input credit of Shs. 187,103,135 as it was a supply of drilling services from the contractors.

Input VAT of Shs. 195,784,535 for 1st July 2015 claimed was disallowed where VAT was deemed to have been paid. The general provision in respect of person making a taxable supply is in S. 5(1)(a) of the VAT Act which states that "Except as otherwise provided in this act, the tax payable- In the case of taxable supply, is to be paid by the taxable person making the supply". VAT is payable by the taxable person. S. 24 of the VAT Act provides for calculation of tax payable on taxable transactions. S. 24(5) of the VAT Act as amended in 2015 provides that.

> "The Tax payable on a taxable supply made by a contractor to a licensee to undertake mining or petroleum operations is deemed to have been paid by the licensee to the contractor provided the supply is for use by the licensee solely and exclusively for mining or petroleum operations."

Under S. 24(5) VAT is deemed to have been paid by the licensee to the contractor where actually nothing has been paid. The dispute revolves around who should collect input VAT wrongly paid, is it the contractor or licensee? S. 28(11) of the VAT Act provides who may claim for input VAT. It provides for the person who has an original tax invoice. S. 29(1) states that a person making a taxable supply shall provide the other person which an original invoice. Since the contractor is the one making the supply and declaring to URA, they should be the right persons to claim for the input credit. S. 24 of the VAT Act deals with calculation of tax payable on a taxable transaction but does not deal with who should claim input tax credit which is governed by S. 28 of the Act. Under S. 24(5) of the VAT Act a licensee is deemed to have paid VAT for a taxable supply by the contractor. Therefore, if there is any VAT that was paid, it was done in error. The dispute is not about refund of input credit. It is about VAT that was paid in error to the contractor

S. 42 of the VAT Act deals with refund of overpaid tax in respect of input tax credit. We already dated that the dispute is not about refund of input credit. Therefore S. 42 of the VAT Act may not be helpful. The VAT Act is a bit silent about where a payment is made

in error. In this case, the applicant paid in error. S. 44 of the VAT Act deals with interest on overpayments. Where a party makes a payment in error it is an over payment. Under S. 44(1)(b) the Commissioner General can refund an amount of tax because of a decision of the Tax Appeals Tribunal. S.44 allows the Tribunal to award interest on overpayment. A tribunal cannot award interest on overpayment without first awarding the overpayment. The Tribunal does not see any reason why a person who paid a tax in error cannot reclaim it. It is entitled to VAT payable made in error if the contractor has not claimed it. The applicant did not adduce evidence to show the contractors did not claim the tax paid in error. Therefore, the issue of Shs. 195,784,535 is remitted back to the respondent to pay the applicant after verifying that the contractors did not claim the said amount. The applicant should present a letter from the contractors applying for a refund of the VAT paid in error. This is for audit purposes and also to avoid a situation where the contractor may not have remitted the overpayment to the respondent. Interest shall only be chargeable after the respondent has verified that it is due.

The third portion of the dispute is in respect of input tax credit of Shs. 531,784,535 disallowed for supplies when the applicant's registration was cancelled. The respondent contended that the input claimed on supplies from 1st August 2015 to 31st December 2017 are not creditable as the applicant was not a taxable person. It was not registered for VAT. The applicant contended that it is entitled to input credit as the respondent forcibility deregistered it.

S .6 of the VAT Act provides that; "A person registered under S. 7 is a taxable person from the time the registration takes effect." In *Post Bank (U) Uganda Ltd v Uganda Revenue Authority TAT 18/2008* the Tribunal noted that "S. 8(6) states that registration takes effect from the date specified in the certificate. S. 8 (2) of the VAT Act provides that.

> "The Commissioner General shall register a person who applies for registration under section 7 and issue to that person a certificate of registration including the VAT registration number unless the Commissioner General is satisfied that that person is not eligible for registration under this Act or, in the case of an application under section 7(4)—
>
> (a) the person has no fixed place of abode or business; or
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> (b) the Commissioner General has reasonable grounds to believe that that person—

(i) will not keep proper accounting records relating to any business activity carried on by that person;

(ii) will not submit regular and reliable tax returns as required by section 31; or

(iii) Is not a fit and proper person to be registered."

The above section gives circumstances under which a person will be deregistered. The respondent has the mandate to register and deregister whenever need arises. In *Post Bank (U) Uganda Ltd s Uganda Revenue Authority TAT 18/2008* the Tribunal noted that.

> "S.8 (6) states that registration takes effect from the date specified in the certificate. If Commissioner clearly stated that the certificate is effective from 1st October 2005 why should the Tribunal doubt the certificate?"
>
> Where the law is clear that the effective date is stated in the certificate of registration then the Tribunal cannot make assumptions as to when the applicant became a taxable person. We have to go by the date on the certificate".

In Enviroserve (U) Ltd v URA Application 24 of 2017 which can be differentiated from this case.

> "As long as a person is registered for VAT and his registration has not been cancelled, he is deemed a taxable person."

In this case, the applicant's registration was cancelled. There are reasons other than taxable supply which may make a taxable person be deregistered. When a taxable person is deregistered, it means it cannot charge VAT. It also means that it cannot enjoy the benefits under the VAT Act. It is not entitled to claim input credit. The effect of registration is to bring a person under the provisions of the VAT Act. It one is outside the application of the VAT Act, then it cannot enjoy the benefits unless as stated in the Act. In *Tullow Uganda Ltd & Tullow Uganda Operations Pty Ltd v Commissioner General, Uganda Revenue Authority Civil Suit No. 445 of 2012*, Justice Madrama held that.

> "A person who is not entitled to be registered as an agent of the revenue authority under the Act and does no service of collecting any revenue whatsoever is not entitled to input credit.

The applicant contended that it was wrongly and unlawfully deregistered on 31st July 2015 because for a taxpayer falling under S. 7(4)(A)(a) of the VAT Act, deregistration should only have been if they ceased to carry out mining operations. If the applicant was aggrieved with the deregistration, it should have objected or appealed against the said

decision, which it did not. Alternatively, it should have fulfilled the conditions that led to deregistration in order to be reactivated. The applicant is not entitled to any input credit as they will have to go by the date on the registration certificate. The applicant is not entitled to credit for the period they were deregistered.

The respondent submitted that the input VAT of 13,864,226 relating to the supplies received against invoices could not verified from both the applicant's records and the respective suppliers. S. 26 of the Tax Procedure Code Act and S. 18 of the Tax Appeals Tribunal Act places the burden of proof on the taxpayer. In tax disputes, the burden of proof lies on the taxpayer to prove that the tax is excessive, unfair, or incorrect. We do not see the proof of supplies received in line with the invoices for the said input VAT.

Save for the claim stated above of Shs. 195,784,535, this remaining application is not allowed. The applicant is ordered to pay half the costs of the application.

Dated this 25th day of July 2022.

DR. ASA MUGENYI	**MR. GEORGE MUGERWA**	**MS. CHRISTINE KATWE**
CHAIRMAN	**MEMBER**	**MEMBER**