



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 172 OF 2023

S & L HOLDINGS UGANDA LTD.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. KABAKUMBA MASIKO, HON. GRACE SAFI,
MS. CHRISTINE KATWE.**

RULING

I. Introduction

1. This ruling concerns additional administrative assessments of Shs.66,640,019 arising from an alleged failure by the Respondent to correctly update Applicant's ledger with tax payments relating to a historical liability.

II. Background Facts

2. The Applicant is a limited liability company exclusively engaged in the rental business. According to the Applicant, their external auditors erroneously classified a service fee charged on the tenants as business and professional income. In the income tax returns, the Applicant indicated tax payable of Shs. 39,608,180 for the period July 2018 to June 2019 and Shs. 21,042,956 for the period July 2019 to December 2019, respectively. The total tax recorded as payable on business and professional income for both returns was Shs.60,651,136.

3. The Applicant did not pay income tax on the service fee charge for the periods in issue above, believing it to be a disbursement; hence, the amount remained reflected on the Applicant's ledger as unpaid tax.
4. In March 2022, the Respondent conducted a tax audit of the Applicant covering the period July 2017 to December 2020 and concluded that the service charge to tenants should have been declared as part of rental income and taxed accordingly. The Respondent determined that the Applicant had under-declared rental income by excluding the service charge.
5. Consequently, the Respondent, in a management letter dated 13 May 2022, issued an additional administrative assessment of Shs.85,019,284 to the Applicant. The Applicant paid the full additional tax as assessed in June 2022. Despite the payment, the Applicant's ledger was not updated and reconciled. By September 2022, the Applicant's ledger still reflected an outstanding amount arising from the misclassified income of Shs.56,366,046.81, which later accrued by the time of filing this application, to Shs.66,640,019.
6. The Applicant objected to the additional assessed tax, contending that the tax had already been paid. The Respondent rejected the Applicant's objection in September 2023, maintaining that the Applicant was liable to pay the additional tax of Shs.66, 640,019.

III. Issues for determination

7. The parties agreed upon the following issues for determination:
 - (i) Whether the Applicant is liable to pay the additional tax of Shs 66,640,019 as assessed?
 - (ii) What remedies are available to the parties?

IV. Representation

8. Mr. Winston Churchill Ruhayana and Mr. Joseph Luswata appeared for the Applicant, while Mr. Amanyamba Mishambi represented the Respondent.
9. The Applicant's sole witness was Mr. Joseph Luswata (AW1), a Director in the Applicant Company. AW1 testified that the Applicant is a limited liability entity engaged in the rental business and earns rental income only and does not earn any other type of income. AW1 stated that the Applicant's external auditors erroneously treated service charges as business and professional income earned by the Applicant in the income tax returns for the periods under review.
10. AW1 testified that for the period July 2018 to June 2019, the Applicant's returns reflected business and professional income of Shs. 132,027,267 and gross rental income of Shs.906,287,384, while for the period July 2019 to December 2019, the returns reflected business income of Shs. 70,143,189 and gross rental income of Shs. 504,808,278. AW1 added that the amounts classified as business and professional income were, in fact, service charges collected from tenants and not income from a separate business activity.
11. AW1 further stated that the misclassification resulted in income tax being erroneously computed on gross income, attracting tax payable of Shs. 39,608,180 for the period 01 July 2018 to 30 June 2019 and Shs. 21,042,956 for the transitional period of July 2019 to December 2019, totalling Shs. 60,651,136. AW1 maintained that this tax arose solely from the erroneous treatment of the service charge as business income.
12. AW1 also stated that the Applicant did not pay income tax on the service charge during the periods under review, believing it to be a disbursement made on behalf of the tenants. Consequently, the amount remained reflected on the Applicant's ledger as an outstanding tax.

13. AW1 further stated that in March 2022, the Respondent conducted a tax audit covering the period of 1 July 2017 to 30 December 2020 and subsequently issued a tax audit management letter dated 13 May 2022. The Respondent determined that the service charge was subject to income tax and value-added tax (VAT) and established that the Applicant had under-declared rental income. As a result, the Respondent raised an amended additional assessment of Shs. 85,019,284 as summarised below.

Summary of Tax Adjustments

Tax Head	Period	Amount (Shs)
Rental Income Tax	1/7/2017-31/12/2020	16,428,233
VAT	1/7/2017-31/12/2020	32,782,157
WHT	1/7/2017-31/12/2020	35,808,894
Total		85,019,284

Source: Tax Audit Management Letter RE1pg69 Amended Joint Trial Bundle

14. During cross-examination, AW1 reiterated that the Applicant had no business income other than rental income, which is its sole business activity. He testified that the Applicant paid more than the full additional tax assessment, including the penal tax, on 15 June 2022, and that the tax assessed was therefore fully settled and is not due.
15. AW1 further testified that the Respondent's failure to clear the Applicant's ledger following the payments led to the issuance of a new assessment in August 2022, purportedly arising from the same audit of March 2022. AW1 explained that, following another audit in August 2022, the Applicant requested a ledger reconciliation to address multiple audits and unverified demand notices. He (AW1) testified that during the reconciliation process, both parties agreed that the Applicant would pay an outstanding amount of Shs. 45,193,386.67, which the Applicant paid by remitting Shs. 47,000,000, inclusive of penal tax, on 30 November 2022.
16. AW1 maintained that any extra demand for the same tax would amount to double taxation and double payment, occasioned by the Respondent's failure to properly reconcile and clear the Applicant's tax ledger. The

Applicant was served with new assessments, to which the Applicant objected.

17. When AW1 was questioned by the Respondent on whether the Applicant possessed payment receipts for business income and rental income tax separate from those referenced in the audit management letter, AW1 testified that the Applicant did not have separate receipts for business income tax other than for rental income, as the amounts declared as such were service charges. He further testified that the audit management letter exhibit RE1 contained no narration evidencing business income. This evidence was neither impeached nor controverted during cross-examination or by the Respondent's witness.
18. The Respondent called one witness, Ms. Priscilla Nambuba (RW1), an Officer in the Domestic Taxes Department of the Respondent. RW1 testified that, in March 2022, the Respondent conducted a tax audit of the Applicant for the period July 2017 to December 2020. The audit findings led to the issuance of an additional administrative assessment to the Applicant of Shs. 198, 222, 610, inclusive of penal tax of Shs 2,311,548. This comprised rental income tax of Shs. 156,302,882.70 and business Income tax arising from Disallowed Depreciation of Shs. 39,608,179.30.
19. RW1 testified that the Applicant objected to the assessment on the grounds that its sole source of income was rental income. She stated that the objection was disallowed on the basis that the Applicant failed to provide supporting documents to substantiate that position.
20. During cross-examination, RW1 admitted that she was not part of the audit team that conducted both audits in 2022 but was instead part of the objection review team. She nonetheless confirmed knowledge of the tax audits that were conducted by the Respondent in 2022 and acknowledged that the Applicant subsequently objected to additional assessments arising therefrom. RW1 further affirmed that the total payments made by the Applicant as reflected in Exhibit AE8, pages 54 to 62, amounted to Shs.

85,019,284, which she acknowledged is the same as the tax assessed arising out of the March 2022 audit.

21. RW1 testified that the Shs.198, 222, 610 related to additional assessment for the period July 2018 to June 2019 and described the amount as a cumulative figure arising from the Applicant's self-declaration of additional tax following the audit. At the same time, RW1 maintained that the audit period remained from July 2017 to December 2020, which encompassed the disputed period of July 2018 to June 2019.
22. RW1 further confirmed that the total tax liability of Shs. 85,019,284 arising from the audit was different from the figure of Shs. 198,222,610 stated in her witness statement, though RW1 acknowledged that the Applicant objected to Shs. 66,640,019. RW1 explained that the higher figure of Shs.198,222,610 included additional assessments for VAT and Withholding Tax (WHT), which had not been captured in the lower amount of Shs.66,640,019, while at the same time stating that the assessments were nonetheless related.
23. RW1 was asked whether, applying the Respondent's Formula Exhibit as REX2 at page 73 of the assessment, specifically Formula (c)=(b-a), the correct tax liability should be Shs.12,622,217(denoted as "c") being the variance between the audited tax of Shs.156,302,882.70(denoted as "b") and the self-declared tax of Shs.143,680,665(denoted as "a"), rather than Shs.198,222,610 inclusive of penal tax of Shs. 2,311,584. RW1 rejected this proposition and maintained that the correct tax liability was Shs.198, 222, 610 as reflected under the column (b) row (d+e), which is "the audited /currently assessed" inclusive of other income.
24. RW1 explained that the Shs.12,622,217 under column (c) represented tax arising from the audit due to under-declared rental income and the adjusted capital allowance. She nonetheless confirmed that the Formula exhibit RE2

on page 73, expressed as $(c)=(b-a)$, was relevant and applicable to the computation of correct tax liability.

25. Upon re-examination, she reiterated that the 198,222,610 represented a self-declared tax, inclusive of Shs. 39,608,179.30 in business income tax, which was maintained at audit, together with the established audited rental tax amount of Shs. 156,302,883 and a penalty of Shs. 2,311,548 for the period 2018/2019.
26. RW1 further stated that the rental tax assessed was not contested by the Applicant. She testified that the dispute related solely to the Business Income tax amount of Shs. 39,608,179.30 for 2018/2019 and Shs.21,042,956.04 for the period July 2019 to December 2019, totaling to the contested amount of Shs. 927,897, with a penal tax of Shs. 3,677,336.
27. When referring to payment slips marked AE8 at pages 55, 58 and 62, RW1 confirmed that the Applicant paid Shs. 85,019,284 additional tax assessed arising from the March-May 2022 audit and also confirmed that the payments therein totaled to Shs 85,019,284, as assessed through the Respondent's management letter issued in May 2022.

V. Submissions of the Applicant

28. The Applicant submitted that the burden of proof lies with it to prove that the assessment was erroneous or that the tax in dispute is not due, a burden they discharged on a balance of probabilities during the trial.
29. The Applicant contended that taxpayers should not bear the same tax liability twice as it is illegal, unfair, and should not be condoned. The Applicant cited *Uganda Law Society v. Kampala Capital City Authority & Another, Miscellaneous Cause No. 243 of 2017*, where the court cited the decision in *Stanbic Bank Uganda Ltd & 3 Others v. Attorney General, Miscellaneous Cause No.0645 of 2011* for the proposition that:

“The issuance of two licenses for the same business, one by the Central Government and another by the Local Government, cannot be a rational manner of improving the collection of tax revenue. Given the financial linkages between the central Government and the local governments, it appears to be double collection that would be unfair to the licensee [taxpayer] ...”

30. That the Applicant proved through the cross-examination of Ms. Priscilla Nambuba (RW1) that it indeed paid the Shs.85,019,284 additional tax assessed arising from the March-May 2022 audit. When asked to confirm whether the amount on the payment slips AE8 at pages 55, 58 and 62 totaled to Shs.85,019,284 assessed through the Respondent's management letter issued in May 2022, RW1 answered in the affirmative.
31. The Applicant submitted that RW1 attempted to show in her testimony that there was another tax liability that the Applicant was liable to pay arising from an additional administrative assessment (RE2) of Shs.198,222,610 issued on 10 June 2022. As rightly pointed out by the Tribunal during the hearing, the amount in dispute in this application is Shs.66, 640,019, which the Applicant objected to. The Respondent cannot, therefore, introduce an unknown and unsubstantiated amount as a way of explaining its refusal to clear the Applicant's ledger despite the Applicant paying the additional tax assessed after the audit.
32. The Applicant submitted that an Applicant can only come to the Tribunal on account of a taxation decision made against them. The Tribunal and the parties in proceedings before the Tribunal are limited to the amount in the objection decision. The Applicant invited the Tribunal to reaffirm this position. Further perusal of RE2 at page 73 of the amended Joint Trial Bundle indicates that the additional assessment was Shs.12,622,217 and not Shs.198,222,610 as alleged by the Respondent's witness at paragraph 7 of her witness statement. This further demonstrates that the Respondent is being dishonest in this case.

33. The Applicant submitted that it demonstrated that it fully paid the additional tax liability arising from the Respondent's audit in June 2022. The Respondent has, however, maintained the amounts raised by the audit and duly paid them. It keeps applying interest to them. The Applicant prayed that the Tribunal finds it not liable to pay the assessed tax, that the 30% be refunded with interest, and that the Applicant be awarded costs.

VI. Submissions of the Respondent

34. The Respondent submitted that they reviewed the Applicant's return for the period July 2018 to June 2019 and established that the Applicant disallowed depreciation amounting to Shs.343,738,795, hence giving rise to a tax liability of Shs. 39,608,180.10.
35. On 10 June 2022, the Respondent issued the Applicant with an additional administrative assessment for the period 1 July 2018 to 30 June 2019, amounting to Shs.198, 222,610. The Applicant objected to the assessment, stating that its sole source of income is rental income derived from letting its premises to various tenants. The Respondent requested that the Applicant provide documentation in support of the objection, but it was not provided.
36. On 20th September 2023, the Respondent issued an objection decision disallowing the Applicant's objection on the basis of failure to furnish documents in support of the objection.
37. The Respondent further submitted that the taxes advised therein constituted only the following tax heads – rental income tax, WHT and VAT. The audit covered only three tax heads and did not cover corporate income tax, as the liability thereunder was established through the Applicant's self-assessment.

38. The Respondent also stated that the dispute arises from a tax liability under the income tax portfolio, as declared by the Applicant in its returns. The returns for the periods July 2018 to June 2019 and June 2019 to December 2019 declared business and professional income, in addition to rental income. The Respondent argued that whereas the Applicant contends that this was done erroneously, it has not provided any cogent evidence that the returns were amended to reflect the alleged correct tax position of the Applicant.
39. The Respondent further submitted that the additional tax assessment was generated under the auspices of Section 23 (now Section 25 of the revised edition) of the Tax Procedures Code Act, to account for the unpaid tax on the declared income of the Applicant.
40. The Respondent argued that whereas the Applicant alleges that the Respondent is taking advantage of an error allegedly highlighted to it, it is the Respondent's submission that tax returns are an accurate record of a taxpayer's tax position, unless amended by the taxpayer. This is in accordance with Section 25(3) of the Tax Procedures Code Act.
41. The Respondent submitted that to this day, the Applicant has not made any amendments to the tax returns, in which it allegedly misreported business income. The Applicant has neither provided any evidence to this Tribunal to the effect that payments towards the self-assessed tax were made, nor has the Applicant shown that the additional assessment would amount to double taxation.
42. With respect to whether the Applicant satisfied the tax liability, it is the Respondent's submission that the Applicant only satisfied the liability arising from the audit, as advised in the audit management letter (RE1).
43. The Respondent further submitted that RW1 testified that the current dispute did not arise from the audit of March 2022, but rather the amount of 198 million in the assessment and her witness statement comprised both

taxes arising from the Applicant's self-assessment and additional tax. That RW1 categorically stated that the amount of Shs.198million was a cumulative sum of the taxpayer's self-declaration for the period July 2018 to June 2019.

44. The Respondent submitted that the Applicant has failed to discharge the burden of proof.

VII. Submissions of the Applicant in Rejoinder

45. In rejoinder, the Applicant reiterated their earlier submissions. However, they added that the facts of this case are distinguishable from those of *Radio Pacis Limited V URA CIVIL Suit No 0008 of 2013 [2017 UGHCCD 112]*, where the Applicant failed to provide any proof that the assessment was erroneous. Whereas in this case, the Applicant not only rectified the error in subsequent returns but also paid the additional tax assessed, as evidenced by exhibit AE8 of the amended Joint Trial Bundle.
46. The Applicant prayed that the Tribunal set aside the additional tax assessment and order a refund of 30% of the tax in dispute paid by the Applicant, with interest at a prescribed rate from the date of payment until refund in full. They also prayed that the costs of the application be awarded to them.

VIII. Determination by the Tribunal

47. Having listened to the parties and studied the submissions and evidence on record, this is the ruling of the tribunal. To address conclusively the issue of whether the Applicant is liable to pay the assessed tax, the following sub-issues were framed:
- (i) Whether there was a misclassification of income;
 - (ii) Whether the applicant amended its returns to correct the alleged error;
 - (iii) Whether the Applicant paid tax on the misclassified income; and

- (iv) Whether the applicant has another source of income apart from the rental income.

Whether there was a misclassification of income.

48. Although IFRS and related accounting frameworks do not define “misclassification” in one single specific standard, the concept is well embedded in both accounting and auditing standards, with classification clearly included in the definition of misstatements.
49. International Accounting Standard 450 (ISA) defines Misstatement as: “A *difference between the reported amount, **classification**, presentation, or disclosure, and what is required by the financial reporting framework, arising from fraud or error.* This definition explicitly includes classification errors, commonly referred to as “*Misclassification of a transaction*”. Such misclassification occurs where a financial or economic event is recorded in a manner that does not reflect its true legal or economic substance.
50. In accounting, this results in misleading financial statements, while in taxation, it results in incorrect tax treatment. Misclassification may arise either deliberately, to obtain a tax or financial advantage, or inadvertently due to human or professional error. Under the tax law of Uganda, “misclassification” is addressed within the framework of **re-characterisation** under anti-avoidance provisions contained in section 117 of the Income Tax Act.
51. AW1 testified that the Applicant's external auditors erroneously recorded and classified services charges paid by tenants as business and professional income amounting to Shs. 132,027,267 for the period July 2018 to June 2019 and Shs. 70,143,189 for the transitional period July 2019 to December 2019.

52. AW1 further stated that the income tax payable on the misclassified business and professional income was declared as Shs. 39,608,180 and Shs. 21,042,956, respectively, bringing the total tax declared to Shs. 60,651,136. The Applicant conceded that this was an error and that the amounts in dispute were service charges, which the Applicant believed were disbursements and therefore did not attract income tax. Consequently, the tax remained reflected in the Applicant's ledger as unpaid.
53. The Respondent similarly conceded that the service charge should have been treated as part of rental income; and that its omission resulted in under declaration of rental income, which gave rise to the additional administrative assessments communicated in the management letter.
54. The Tribunal therefore agrees with the Applicant that there was misclassification of income, reflected as business and professional income in the tax returns. This error was confirmed through an audit, following which a tax assessment amounting to Shs. 85,019,284.85 was raised in the management letter.
55. The Tribunal further notes that during the tax audit, and as conceded by the Applicant, the Respondent lawfully corrected the error by reclassifying the transaction to reflect its true commercial nature and accordingly assessed the Applicable taxes, namely, VAT and WHT, which taxes were duly and fully paid by the Applicant. The Tribunal therefore finds that the issue of misclassification was fully resolved during the audit process and that no further tax liability, interest, or penalties arise.

Whether the Applicant amended its returns to correct the error

56. Section 22(1) of the Tax Procedure Code Act (TPCA), which provides that;
“A taxpayer who has submitted a self-assessment return in the prescribed form for a tax period is treated as having made an assessment of the amount of tax

payable, including a nil amount, for that period, being the amount set out in the return."

57. Section 25(3) of the TPC Act provides that:

"A taxpayer who has furnished a self-assessment return, other than a taxpayer whose return is being investigated, may, upon discovering an error within three years after the date of furnishing the return, apply to the commissioner for leave to make an additional assessment."

58. Section 25(4) of the TPC Act states that:

"The Commissioner shall, within thirty days after receiving the application, in writing, notify the taxpayer of the decision."

59. The Respondent contended that under the self-assessment regime, the Applicant is bound by the Income tax declared in its filed returns for the periods under review, which constitutes its true tax unless amended in accordance with the TPCA. The Respondent argued that the additional assessment arose under Section 25 from unpaid tax declared by the Applicant and relied on the decision in ***Radio Pacis Limited V Commissioner General URA (supra)*** to support the position and recover unpaid taxes based on the filed returns.

60. The Respondent further maintained that the Applicant did not amend its returns within the statutory period and that there was no evidence on file to demonstrate the amendment. The Applicant, on the other hand, submitted that the declared business and professional income resulted from a bona fide misclassification and that it was prevented from amending its returns during the audit process.

61. The Applicant also asserted that although Shs.85,019,284 in respect of audit finding was fully paid, its tax ledger remained uncleared and was advised that rectification could only occur through filing of an objection. Upon submitting the objection, the Applicant contended that, once the Respondent became aware of the error, the Respondent had a duty to

assess tax on the correct legal and factual basis rather than rely on the admitted mistake to reject the objection.

62. The Tribunal finds that the Applicant's self-assessment contained a valid misclassification of income, and non-amendment would imply that the tax declared on the business and professional income in the tax returns remains due and payable. However, the Applicant admitted that it did not amend its returns because the Respondent denied it the opportunity to amend them during the audit process. While the payment of Shs. 85,019,284 does not discharge the Applicant's statutory obligation to amend, nor does it, by itself, give rise to a fresh assessment. The Tribunal also noted that the Respondent did not challenge the Applicant's claim of being denied the opportunity to amend.
63. In the circumstances, where the misclassification was acknowledged by both parties and corrected through an audit, the Tribunal holds that the Respondent's refusal to permit amendment as guided under Section 25(4) of the TPC Act solely on the ground of an ongoing audit was unjustified. Accordingly, the Respondent is directed to clear the Applicant's tax ledger and/or allow the amendment of the returns to reflect the correct tax position, taking into account the payments already made. Any revised assessment shall properly arise only upon such permitted amendment and reconciliation.

Whether the Applicant paid tax on the misclassified income

64. Section 25 of the TPC provides for additional assessments as follows:
- (1) *The Commissioner General may make an additional assessment amending a tax assessment made for a tax period to ensure that—*
 - (a) *for an assessed loss under the Income Tax Act, the taxpayer is assessed in respect of the correct amount of the assessed loss for the period;*
 - (b) *for an excess input tax credit under the Value Added Tax Act, the taxpayer is assessed in respect of the correct amount of the excess input tax credit for the period; or*

(c) in any other case, the taxpayer is liable for the correct amount of tax payable in respect of the period.

65. Further Section 25(6) provides:

“... the Commissioner General shall serve the taxpayer with notice, in writing, of the additional assessment specifying—

(a) the amount assessed as tax, assessed loss, or excess input tax credit, as the case may be;

(b) the amount of penal tax and interest, if any, payable in respect of the amount assessed as a result of subsection (2)(a);

(c) the tax period to which the assessment relates;

(d) the date for payment of any tax, penal tax and interest being a date that is not less than forty-five days from the date of service of the notice; and

(e) the manner of objecting to the assessment.”

66. The Applicant argued that the Respondent's audit and management letter dated 13 May 2022 assessed additional taxes totalling Shs.85,019,284, comprising rental income Tax, VAT and WHT.

67. The Applicant's Witness AW1 testified that on 5 June 2022, the Applicant fully settled the entire additional tax arising from misclassification of service charge income following the Respondent's audit, as evidenced by exhibit AE8 on pages 54-65. The Applicant argues that, despite this payment, the Respondent unlawfully demanded an additional Shs. 66,640,019, representing the same tax liability that has already been settled. The Applicant maintains that the audit process conclusively addressed the misclassification issue and that the assessed and communicated tax payable amounts were fully paid

68. Additionally, a subsequent audit in August 2022 and a reconciliation meeting held on 28 November 2022 resulted in an agreement to amend the Applicant's tax profile, and the Applicant would pay outstanding rental income of Shs. 45,193,386.67, which the Applicant paid on 29 November

2022 (approximately Shs. 47,000,000) using PRN 2230005558111. This payment is not disputed by the Respondent.

69. Accordingly, the Applicant submitted that any further demand for tax on amounts already assessed and paid constitutes an unlawful double taxation.
70. Whereas the Respondent submitted that the payments of Shs.85,019,284 made by the Applicant related to different tax heads, including rental, VAT and WHT. The Respondent maintained that the instant Application is a liability of Shs.198,222,610 under the income tax portfolio as declared by the Applicant in its returns.
71. According to the evidence on record, exhibit AE8 shows payments by the Applicant as follows:

Payment Details

Tax Heads	PRN	Payment Date	Amount (Shs)
Rental income Tax	2220010206455	15/6/2022	16,428,233
VAT	2220010207891	15/6/2022	32,782,157
WHT	2220010205992	15/6/2022	35,808,894
Total Amount Paid			85,019,284
Penal Tax	220010206455	15/6/2022	19,798,588
Total Taxes Paid			104,817,872

Source: AE8 Amended Joint Trial Bundle

72. The Tribunal observed that the Respondent's witness equally confirmed the above payments of Shs. 85,019,284, as reflected in the comprehensive audit report, for the various tax heads, but did not comment on the subsequent payment of Shs. 47,000,000. Further, the Respondent could not substantiate the claimed Shs.198, 000,000, which is not the disputed amount before this Tribunal.
73. The evidence shows that the Applicant has fully paid the assessed tax and applicable penalties, and that the agreed payment of outstanding rental income tax has not been disputed. Accordingly, the Tribunal concluded that

the tax payment on the misclassified service charge has been settled, and any excess demand for a liability that has already been settled would amount to double taxation and is therefore unlawful.

Whether the Applicant has other sources of income in addition to the rental income to warrant the additional tax liability

74. Section 4 of the ITA Cap 338 imposes income tax on every person who earns chargeable income in the year of Income. However, Section 5 of the same Act imposes a separate tax on rental income for any person who earns rent from the leasing of immovable property, such as land or buildings, located in Uganda, at the rates specified in this Act.
75. The Applicant's sole witness testified that the Applicant earns income solely from letting its property, S&L chambers and has no other business or professional income. The Applicant contended that any income tax assessed arose from a misclassification or error in its self-assessment return. Therefore, reliance on such an acknowledged error to demand additional tax by the Respondent is unfair and contrary to Section 22 of the TPCA, which governs self-assessment, undermining the principle of fair and transparent tax administration.
76. The Applicant further argued that the payment reminders and the alleged additional assessments of Shs. 29,994,055, Shs. 30,632,865 and Shs. 54,178,085 between August and September 2022, allegedly arising from the March 2022 audit, were unexplained and unsubstantiated, and that the Respondent should have allowed amendment to the returns or cleared the ledger. The Applicant relied on *Heritage Oil and Gas Limited v. URA, Civil Appeals No. 0023 of 2011 & No. 0003 of 2021*, where it was held that tax should not be imposed where no substantive legal liability exists.
77. The Respondent argued that the Applicant's returns indicated other business and professional income, which gave rise to corporate income tax and relied on the Applicant's self-declared assessment, including added

back depreciation of Shs. 343,738,957 with a resultant business income tax Shs.39, 608,180.10 for the period July 2018-June 2019, to justify the additional administrative assessment of Shs.198, 222,610.

78. The Tribunal finds that the only amount objected to by the Applicant is Shs.66, 640,019, which arose from service charges amounts erroneously classified as business and professional income in the Applicant's self-assessment returns. Further, the Respondent's argument that the tax liability arises from the addback of the depreciation cost of Shs.343,738,795 does not hold as the supposed tax liability of Shs.39,608,180, arising from the disallowed depreciation of Shs.343,738,795, does not reconcile with the Respondent's computation when the correct tax rate of 30% is applied.
79. The Respondent failed to demonstrate how these figures constituted valid and outstanding tax liabilities separate from the Shs.66,640,019 in dispute.
80. The Tribunal is inclined to believe that Shs.39,608,180 corresponds with the tax previously and erroneously declared on the same service charge amounts for the period 2018/2019, and was fully covered by the audit assessment, which was paid as resolved earlier. The figure on record of Shs.198,222,610 as per Exhibit RE2, includes amounts of Shs.185,600.393 already assessed and paid and was not shown to be fresh or independent assessment and is therefore inaccurate and cannot be independently verified.
81. The Tribunal finds that the Respondent's failure to allow amendments of the Applicant's returns or to clear the tax ledger resulted in an attempt to tax the same income twice; first through the audit process and again through reliance on erroneous unamended self-assessment returns since it has been proved to the Tribunal that indeed the Applicant has a single source of income that is rental income.

82. In Conclusion, the Tribunal holds that, in the absence of evidence of any additional source of income, attributable to the Applicant that would give rise to taxable corporate income, the Shs.66,640,019 in dispute arose from service charges wrongly classified as business income, was already addressed through the audit process, and cannot lawfully be subjected to further tax. Consequently, the Applicant is not liable for the assessed tax as the Respondent failed to substantiate any additional assessment beyond amounts already assessed and paid.

83. In the circumstances, the Tribunal determines that the Applicant is not liable for the assessed tax. Accordingly, the Tribunal orders as follows:

- (i) The application is hereby allowed;
- (ii) The assessed tax of Shs.66, 640, 019 is set aside;
- (iii) The Respondent is directed to unlock the Applicant's tax returns to allow them to amend them and correct the error;
- (iv) The Respondent is directed to refund the 30% deposit paid by the Applicant; and
- (v) Costs are hereby awarded to the Applicant.

Dated at Kampala this 4th day of February 2026.



HON. KABAKUMBA MASIKO
CHAIRPERSON



HON . GRACE SAFI
MEMBER



MS. CHRISTINE KATWE
MEMBER