TAX APPEALS TRIBUNAL

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 91 OF 2024

SAFE GEARS LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. PROSCOVIA REBECCA NAMBI, HON. WILLY NANGOSYAH & HON. KABAKUMBA MASIKO

RULING

I. Introduction

1. This ruling is in respect of an application challenging additional customs tax assessment of UGX 7,008,740 raised by the Respondent following disallowance of the Transaction Value Method (method one) on importation of safety equipment by the Applicant.

II. Background facts

2. The Applicant is a Ugandan-registered company dealing in the importation and sale of industrial safety gear such as gloves, helmets, safety shoes, and protective coveralls. The Applicant has a longstanding supply arrangement/contract with a Chinese manufacturer supply safety gear items, including gloves, safety shoes, helmets, and rain boots. The Applicant claims to have been importing similar items every year since 2019, with previous importations being cleared using Method 1 (Transaction Value Method) of the East African Community Customs Management Act (EACCMA).

3. On 25 March 2024, the Applicant imported a consignment of industrial safety gear including gloves and made a self-assessment declaration via Customs Entry C31782, paying UGX 43,999,671 in taxes. The following day, 26 March 2024, the Respondent queried the entry for insufficient supporting documents and undervaluation of items 1 and 2 (specifically Cowhide Gloves BC Grade 35CM and Cowhide Gloves BC Grade Short respectively).

4. The Respondent's process involved two levels of assessment. The first-level customs officer queried items 1 and 2, noting that the values declared (USD 1 and USD 0.6) were lower than the Respondent's "reference values" of USD 1.35 for those 2 items. Subsequently the level one officer forwarded the documents to a second-level officer, who identified inconsistencies in the import documentation, rejected the Transaction Value Method, applied an alternative valuation method and assigned new values to each and every item that was in the Applicant's container, leading to an additional import duty assessment of UGX 7,008,740.

5. The Applicant appealed this additional assessment, first to the Manager, Document Processing Centre (DPC) who upheld the second level officer's assessment, and then to the Commissioner Customs who forwarded the matter to forwarded to the Assistant Commissioner Field Services (ACFS), who then referred the matter back to the same Manager DPC who upheld his initial appeal decision.

6. On 4 April 2024, the Respondent issued a final objection decision maintaining the assessment of UGX 7,008,740. The Applicant paid the assessed tax under protest to secure the release of its goods and lodged this application seeking nullification of the additional valuation and assessment; a refund of the disputed tax with interest; and costs.

III. Issues for Determination

7. The parties agreed, and the Tribunal adopts, the following issues for determination:

(i) Whether the Applicant is liable to pay the tax as assessed.

(ii) What remedies are available.

IV. Representation

8. The Applicant was represented by Mr. Deus Mugabe and Mr. Anthony Ahimbisibwe both of H&G Advocates, while the Respondent was represented by Miss. Diana Muliira from its Legal and Board Affairs Department of the Respondent.

Applicant's evidence

9. The Applicant's evidence was presented principally through the testimony of Mr. Arthur Tusingwire (AW1), a clearing and forwarding agent with Lord Denning Logistics Ltd, who has acted for the Applicant since 2019. He testified that the pursuant to a supply contract executed on 2 February 2023 with Weifang Huacheng Zhixin Enterprise Management and Counsel Co. Ltd of China, the Applicant has maintained a consistent importation cycle of identical and similar goods since 2019.

10. AW1 testified that throughout this period from 2019 until the impugned consignment the Applicant's goods were consistently cleared using Method 1 (Transaction Value) under section 122 and the Fourth Schedule of the East African Community Customs Management Act, 2004 (EACCMA). At no time during the prior importations did the Respondent ever reject the Applicant's transaction values or raise concerns about documentary inconsistencies, Incoterms, or the grading of industrial gloves and similar goods.

11. He testified that on 25 March 2024 he handled clearance for the Applicant's 2024 consignment under Customs Entry C31782, which contained the same categories of goods previously imported. He raised a self-assessment totalling UGX 43,999,671 and submitted the entry to the Respondent for routine verification.

12. AW1 testified that on 25 March 2024, he handled the clearance process for the Applicant's 2024 container (C31782), which contained items similar to those previously imported. He raised a self-assessment of UGX 43,999,671 and submitted it to the Respondent for verification. A level one valuation officer of the Respondent queried the customs bill entry, stating that the declared values for items 1 and 2 were lower than reference values, though the officer did not provide the purported values. The specific items queried were Cow Hide Gloves BC Grade 35CM and Cowhide Gloves BC Grade Short. While the invoice values were USD 1 and USD 0.6 per pack, the custom reference values cited by the officer were CIF USD 1.35 per pack.

13. He testified that the level one officer then sent the documents to a second-level officer. The second-level officer subsequently departed from the transaction value method and used an alternative method of valuation, resulting in an additional import duty totalling UGX 7,008,740.

14. The witness stated that while assessing the additional tax, the second-level officer assigned new values to all items in the consignment, even though the first officer's query was limited only to items 1 and 2. Furthermore, the second officer assigned some items with higher values with lower values and different types of items with similar values.

15. The witness was instructed to file a first appeal to the Manager, Document Processing Centre (DPC). The DPC explained that safety items are graded as AB-Best grade, BC grade, or duplicate of AB grade, which could be determined after testing the product contents. Mr. Tusingwire in turn explained that the items had different price ranges, should not be categorized as one, and provided a link to the actual purchase prices for those items in the invoices and the pricing of such items in China markets for the Respondent's verification. Despite requesting samples of only items 1 and 2 (gloves), the Manager DPC maintained the decision of the level 2 officer without verification or proof of having tested the items.

16. A second appeal was filed to the Commissioner Customs, arguing that the level 2 officer departed from the first valuation method without giving reasons, which contradicted the EACCMA. On 4 April 2024, the Respondent issued an objection decision denying all the Applicant's explanations and maintaining the additional tax. The witness noted that the objection decision was surprisingly issued by the Manager DPC, the same officer whose actions led to the Applicant's objection. The Applicant paid the assessed tax of UGX 7,008,740 under protest to secure the release of the goods.

17. The witness concluded that the Applicant was not liable to pay the tax because the Respondent was not entitled to use an alternative valuation method other than the transactional method. It was erroneous for the Respondent to rely on inconsistencies in the application of Incoterms to impose tax liability, as the Respondent was required to demonstrate how the inconsistency resulted in tax loss. The actions of the second-level officer (assigning similar monetary values to different categories of items without justification) contradicted the EACCMA provisions. The objection decision issued by the Manager DPC (the same person who issued the assessment appealed to the Commissioner) was illegal and infringed upon the Applicant's right to a fair hearing, making the objection decision null and void.

18. The witness prayed that the Tax Appeals Tribunal grant the Applicant's application, vacate the additional assessment, grant a refund of the tax paid with interest, and grant costs of the application

Respondent's evidence

19. The Respondent presented the testimony of Mr. Moses Kyomuhendo (RW), a Manager in the Respondent's Customs Enforcement Section. The witness testified that on 25th March 2024, the Applicant imported a consignment of industrial safety gear including gloves, and made a self-assessment declaration for home consumption under Entry C31782, remitting taxes amounting to UGX 43,999,671.

20. He stated that upon review of the customs declaration on 26th March 2024, the Respondent identified discrepancies in the documentation and suspected undervaluation of two glove items. That is, the terms of delivery in the sales contract were indicated as CIF, while the proforma and commercial invoices used C&F terms. Secondly, he pointed out that the invoices quoted a CIF value of USD 20,950, broken down into USD 17,910 as FOB and USD 2,730 covering both shipping and Pre-Export Verification of Conformity (PVOC) charges. He explained that it became difficult to isolate the freight component for tax computation purposes, since PVOC charges are excluded from the computation of customs value under CIF terms.

21. The witness further observed that the payment terms across the documents were inconsistent. While the sales contract indicated a 30% deposit with the balance payable upon arrival of goods in Mombasa or Dar es Salaam, the invoices instead reflected a deposit of "not less than 30%" and settlement of the balance within four months. Additionally, he noted that the invoice listed unit prices of the items as "sets" without defining what constituted a set, and the packing list offered no clarification in this regard.

22. He also testified that the Applicant submitted a telegraphic transfer (TT) indicating payment of USD 10,000 to the supplier, but it failed to specify which invoice this payment related to. He noted that the amount exceeded the 30% deposit mentioned in the contract, further compounding the inconsistencies.

23. The witness contended that, relying on these anomalies, the Respondent determined that the transaction value method could not be applied. The witness clarified that given the discrepancies and ambiguity in the sales documentation, the terms of the signed contract particularly the stated CIF term were deemed the governing basis of the transaction. He opined that the inconsistencies in the proforma and commercial invoices reflected casual or one-off trading arrangements which disqualified the use of the transaction value method under the EACCMA.

V. Submissions of the Applicant

24. The Applicant submitted that it was not liable for the tax assessed. The Applicant submitted that the starting point in any customs valuation exercise is the Transaction Value Method as prescribed under Section 122(1) of the East African Community Customs Management Act (EACCMA) and Paragraph 2(1) of the Fourth Schedule thereto. According to the Applicant, these provisions domesticate the World Trade Organization (WTO) Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade, 1994 (GATT 1994), which Uganda is bound by as a signatory.

25. The Applicant emphasized Article VII(2)(a) of GATT 1994, which provides that customs valuation must be based on "the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and must not be based on the value of merchandise of national origin or on arbitrary or fictitious values."

26. The Applicant submitted that the transaction value the price actually paid or payable is the primary and mandatory basis for valuation, and may only be rejected where customs demonstrates that the declared price is unreliable, unverifiable, or inconsistent with statutory requirements. The Applicant contended that none of the statutory exceptions were present in this case.

27. Further, the Applicant cited the sequential nature of valuation methods under the GATT Valuation Agreement, submitting that Methods 2 to 6 may only be applied if the Transaction Value Method is inapplicable, and not as substitutes of convenience. The Applicant therefore argued that the Respondent violated both the textual requirements of the EACCMA and the spirit of the WTO valuation framework by prematurely abandoning Method 1.

Factual basis for applying the Transaction Value Method

28. The Applicant submitted that it imported goods from China and paid the prices reflected in the commercial invoices and contract documents. These documents, together with the bill of lading, shipping documentation, and telegraphic transfer confirmations, were duly uploaded onto the ASYCUDA system and availed to the Respondent.

29. The Applicant reiterated that the documents clearly demonstrated a bona fide commercial sale, the price actually paid or payable was ascertainable, there were no restrictions on the use or resale of the goods and the transaction did not involve related parties. The Applicant further contended that the Respondent never alleged fraud, collusion, or misrepresentation. Accordingly, the Applicant argued that the Respondent was bound to apply Method 1 and accept the transaction value in accordance with Section 122(1) of the EACCMA and international customs valuation standards.

Improper departure from the Transaction Value Method.

30. The Applicant faulted the Respondent for unilaterally rejecting the transaction value and instead relying on internal "reference values" purportedly based on the transaction value of identical goods. The Applicant contended that this decision was arbitrary, irrational, and in breach of both the statute and applicable jurisprudence.

31. Relying on Royal Electronics Ltd v URA, TAT Application No. 37 of 2017, the Applicant submitted that reference values are not recognized under Method 1 and cannot displace actual transaction prices supported by documentary evidence. The Applicant argued that by comparing the declared values to predetermined reference values, the Respondent effectively abandoned Method 1 without justification and unlawfully defaulted to Method 2.

32. The Applicant further submitted that the Respondent's valuation officer did not meaningfully evaluate the transaction documents but simply flagged the

declared values as being below the alleged reference values. This, according to the Applicant, constitutes a fundamental misdirection and indicates a mechanical, rather than legally reasoned, approach to valuation.

Rebuttal of alleged inconsistencies in documentation

33. The Applicant emphasied that the Respondent had relied on Section 122(4) of the EACCMA to justify its decision to depart from the transaction value method, citing various inconsistencies in the Applicant's documentation including discrepancies in Incoterms, payment terms, packaging descriptions of goods, and payment references vis a vis telegraphic transfers. The Applicant disputed these allegations and addressed each contention in detail.

34. Incoterms (CIF vs C&F) - The Applicant submitted that although the contract used CIF and the invoices reflected C&F, the Respondent failed to demonstrate any tax implication arising from this variation. The Applicant cited ***Rose of Sharon Enterprises Ltd v URA, TAT Application No. 8 of 2018*** for the proposition that inconsistencies in Incoterms, absent a demonstrable impact on tax liability, cannot justify rejection of the transaction value.

35. The Applicant argued that incoterm variations are common in international trade and they do not automatically render the transaction value unreliable. The Respondent failed to show how the discrepancy prevented it from determining the actual price paid.

36. The Applicant challenged the Respondent's claim that the unit values were unclear because the items were priced "in sets," arguing that none of the import documents indicated that the gloves were imported in sets. Moreover, the consignment was open and available for inspection and the Respondent's subsequent request for samples of only gloves contradicts the claim of unclear packaging. The Applicant submitted that this allegation was contrived and used to justify a predetermined rejection of the transaction value.

37. Regarding a TT of USD 10,000 that allegedly lacked invoice reference, the Applicant explained that its contractual payment structure entailed two invoices per container 30% upon order and 70% upon arrival in Mombasa. Payments were therefore made in tranches consistent with the contract and minor differences in wording between the contract ((30% deposit and 70% upon arrival of goods at the port) and the pro forma invoice ((not less than 30% deposit and the balance payable in four months) did not constitute material inconsistencies. The Applicant further submitted that the Respondent failed to show how these differences resulted in a tax loss or rendered the transaction value unverifiable.

Burden and Standard of Proof

38. The Applicant acknowledged that under Section 19 of the Tax Appeals Tribunal Act, the legal burden of proof lies upon the taxpayer. However, the evidential burden shifts to the Respondent once the Applicant presents credible documentation supporting the declared value. The Applicant relied on Uganda Revenue Authority v Balondemu David, Civil Appeal No. 0002 of 2023, where the High Court held that once an importer provides transaction documents, the revenue authority must give cogent reasons for rejecting them.

39. The Applicant argued that it discharged its burden by producing commercial invoices, contracts, proof of payment, and shipping documents. The Respondent, however, offered no evidence demonstrating that the declared prices were inaccurate, manipulated, or fictitious.

Violation of the Applicant's right to a fair hearing

40. The Applicant submitted that its right to a fair hearing under Article 28 of the Constitution of Uganda was violated when the same officer the Manager, Document Processing Centre (DPC), Mr. Moses Kyomuhendo handled both the Applicant's initial appeal and its subsequent appeal to the Commissioner Customs.

41. The Applicant argued that a person cannot lawfully sit in review of his own decision and such conduct amounts to procedural impropriety. They argue that this illegality taints the entirety of the Respondent's actions. The Applicant cited the principle in ***Makula International v His Eminence Cardinal Nsubuga & Another UGSC (8 April 1998),*** where the Supreme Court held that a court cannot sanction an illegality. The Applicant therefore invited the Tribunal to find that the appeal process was fundamentally flawed and that the impugned assessment cannot stand.

Remedies

42. The Applicant prayed that the Tribunal find that the Respondent acted illegally, irrationally, and in breach of statutory and constitutional requirements. Citing ***The Commissioner General of URA vs Testimony Motors Limited, Court of Appeal Civil Appeal No. 33 of 2014***, the Applicant reiterated that Section 122(1) of the EACCMA is mandatory in requiring the transaction value to be used if genuine proof of the actual price paid or payable exists.

43. The Applicant requested the Tribunal to set aside the additional assessment of UGX 7,008,740 and order a refund of the tax paid under the assessment. The Applicant also prayed for interest and costs of this Application.

VI. Submissions of the Respondent

44. The Respondent opposed this Application and submitted that the additional assessment of UGX 7,008,740 was lawful, rational, procedurally proper, and firmly grounded in the East African Community Customs Management Act (EACCMA), the WTO Valuation Agreement, and relevant authorities. The Respondent asserted that its officers acted within their statutory mandate, properly exercised the discretion granted under customs valuation law, and rightly rejected the Applicant's declared transaction value due to material inconsistencies and unreliability in the documentation provided.

45. The Respondent submitted that ***Sections 122, 123, and 249 of the EACCMA*** impose a legal duty upon Customs to verify, scrutinize, and satisfy itself regarding the truth, accuracy, completeness, and reliability of every document, declaration, and statement submitted for customs valuation.

46. The Respondent emphasized that Section 122(1) EACCMA makes the Transaction Value Method the primary valuation method, but Section 122(4) EACCMA expressly empowers customs to reject the declared value where the sale is not for export, the relationship influences the price, the value cannot be determined, doubts exist regarding the truth or accuracy of the information, or documentation is incomplete, contradictory, or unverifiable.

47. Once rejected, the Respondent submitted that the law requires the sequential application of the remaining methods under the Fourth Schedule, as recognized in the WTO Agreement on Implementation of Article VII of GATT 1994.

48. To reinforce the legal basis for verification, the Respondent cited Article 17 of the WTO Customs Valuation Agreement, which provides:

> *"Nothing in this Agreement shall be construed as restricting or calling into question the rights of customs administrations to satisfy themselves as to the truth or accuracy of any statement, document or declaration."*

The Respondent argued that this provision gives customs wide discretion to inquire into and verify the authenticity of importers' claims before accepting the declared value.

Grounds for Rejection of the Transaction Value

49. The Respondent submitted that the level one valuation officer identified a series of material inconsistencies and contradictions which rendered the Applicant's transaction value unreliable and unsuitable under Method 1.

(i) Inconsistent Incoterms: CIF vs C&F

50. The Respondent stated that the sales contract indicated CIF terms (Cost, Insurance, and Freight), whereas the commercial and pro forma invoices presented C&F/CF terms, which exclude insurance. This inconsistency affected the ability to determine whether the declared price genuinely included all elements required for customs valuation. The Respondent asserted that the Applicant failed to provide insurance documentation despite contract terms indicating CIF, and therefore the declared values could not be verified.

51. The Respondent further made reference to evidence of RW1 who testified that the Respondent relies on incoterms to determine customs values, as they define cost and risk allocation in international shipping. In this case, the CIF value presented (USD 20,950) included PVOC charges, which are not admissible for customs valuation. Accordingly, AW1, during cross-examination, conceded that the CIF figure included a non-admissible PVOC cost.. The Respondent contended that blending of freight and PVOC costs made it difficult to determine a true customs value, and the inconsistency between contract and invoice terms further obscured clarity. Accordingly, the Applicant admitted to these inconsistencies but downplayed their impact.

52. The Respondent concluded by stating that such discrepancies undermine the reliability of the documentation, thereby disqualifying the use of the transaction value method. Instead, the Respondent relied on the sales contract's CIF terms as the governing basis for valuation The Respondent submitted that this discrepancy fell squarely within Section 122(4) EACCMA, justifying rejection of the transaction value.

(ii) Ambiguities in Unit Pricing and Packaging ("Sets")

53. The Respondent further submitted that the Applicant's invoices quoted several items "in sets" without defining what each set contained. The

packing list also lacked this detail. The Respondent emphasized that determination of unit quantity and unit price is essential under the Fourth Schedule. The Respondent argued that customs could not verify the true composition of each set, no breakdown was provided despite queries issued and this constituted a critical gap in documentation. The Respondent therefore maintained that the uncertainty surrounding packaging and pricing rendered the declared value indeterminable under Method 1.

(iii) Inconsistencies in Payment Terms and Telegraphic Transfer

54. The Respondent submitted that the contract stipulated 30% deposit and 70% on arrival, while the pro forma invoice permitted payment of the balance within four months. These contradictory terms created uncertainty as to the actual consideration paid. Additionally, the Respondent pointed out a telegraphic transfer (TT) of USD 10,000 which did not reference any invoice, exceeded the 30% contractual deposit and could not be aligned with the documents provided. The Respondent submitted that during cross-examination the Applicant failed to clarify this discrepancy, supporting the Respondent's conclusion that the declared transaction value could not be verified.

Sequential Application of Alternative Valuation Methods

55. The Respondent submitted that after rejecting Method 1 in accordance with Section 122(4), it proceeded in line with the valuation hierarchy in the Fourth Schedule. It first considered Method 2 – Transaction Value of Identical Goods, but no identical consignments (same country of origin, period, and quantities) were found. It then resorted to Method 3 – Transaction Value of Similar Goods, which the Respondent stated was supported by comparable imports of similar quality and characteristics from suppliers in the same category.

56. The Respondent emphasized that this application was lawful and consistent with Section 122(5) EACCMA, the Fourth Schedule EACCMA, Article 17 of

the WTO Valuation Agreement; and Decision 6.1 of the WTO Committee on Customs Valuation, which allows customs to require explanations and supporting evidence whenever reasonable doubt arises regarding declared values.

Compliance with Procedural Requirements and Fair Hearing

57. The Respondent rejected the Applicant's allegations of procedural impropriety and violation of Article 28 of the Constitution. It submitted that a valuation query was issued, the Applicant was given opportunity to provide clarification and the URA processed the Applicant's later request for the assessment.

58. The Respondent argued that the internal administrative reviews within URA are not judicial or quasi-judicial processes to which Article 28 applies. The Respondent further argued that the assigned officer handling both appeals did not violate any law and that the Applicant failed to demonstrate bias, prejudice, or misconduct.

Burden of Proof

59. The Respondent submitted that the Applicant bore the legal burden of proving the assessment excessive or erroneous. The Respondent cited **Section 26 of the Tax Procedures Code Act, 2014, Section 101 of the Evidence Act, Cap 6, *Williamson Diamonds Ltd v Commissioner General (2008) 4 TTLR 67***, which held that the burden of proving an assessment excessive rests on the taxpayer, and ***Cooper Motor Corporation (U) Ltd v URA, TAT Application No. 67 of 2018***, where the Tribunal reaffirmed that the taxpayer must demonstrate that the assessment was wrongly made.

60. The Respondent argued that in this case, the Applicant failed to provide reliable evidence to rebut the inconsistencies identified by customs, and therefore did not meet the statutory burden.

61. The Respondent submitted that the assessment was based on objective and verifiable data from similar importations and was issued only after the Applicant's documents were found inconsistent. They submitted that it was necessary for the protection of revenue under the EACCMA and it was made in accordance with Sections 122(4), 122(5) and the Fourth Schedule. The Respondent further argued that the Applicant did not demonstrate any illegality, malice, irrationality, or procedural impropriety in the Respondent's actions.

Remedies

62. The Respondent concluded that the Applicant failed to discharge its legal burden, failed to reconcile key inconsistencies, and failed to demonstrate that the Respondent acted contrary to law, and therefore the assessment should be sustained. The Respondent prayed that the Tribunal dismiss the Application in its entirety and uphold the additional assessment of UGX 7,008,740 as well as award costs to the Respondent.

VII. Submissions of the Applicant in Rejoinder

63. In rejoinder, the Applicant maintained that the transaction value of the imported goods was readily ascertainable from the documents provided and that the Respondent had no justified basis to disregard them. The Applicant argued that the Respondent's level one valuation officer had, in fact, established this value without referencing any inconsistencies. Therefore, the Applicant maintained that the use of reference values was unwarranted and that the transaction value method should have been applied as the primary basis for valuation.

VIII. Determination of the issues

64. Having read the submissions of both parties and considered the witness testimonies and documentary evidence on record, this is the ruling of the Tribunal. We begin by setting out the applicable law and governing principles, and then apply them to the facts in issue.

Customs Valuation and Sequential Application

65. The legal framework for determining the customs value of imported goods liable to ad valorem import duty is contained in Section 122 and the Fourth Schedule to the East African Community Customs Management Act, 2004 (EACCMA). Section 122(1) of the EACCMA provides:

"Where imported goods are liable to import duty ad valorem, then the value of such goods shall be determined in accordance with the Fourth Schedule and import duty shall be paid on that value."

The use of the word "shall" renders compliance with the Fourth Schedule mandatory.

66. The Fourth Schedule creates a hierarchy of six methods for customs valuation which must be applied in strict sequential order, beginning with the Transaction Value Method (Method 1). Paragraph 2(1) of Part I of the Fourth Schedule defines the transaction value as "the price actually paid or payable for the goods when sold for export to the Partner State," subject to specified conditions and adjustments, in line with Articles 1 and 8 of the WTO Customs Valuation Agreement.

67. If the customs value cannot be determined under Paragraph 2 (transaction value), the law permits recourse, in sequence, to Methods 2 to 6 (transaction value of identical goods, transaction value of similar goods, deductive value, computed value and the fall-back method). These methods are to be used only where the transaction value cannot be determined.

68. Courts have repeatedly affirmed the sequential and hierarchical nature of this regime. In Testimony Motors Ltd v Commissioner of Customs, URA, HCCS No. 139 of 2011, the High Court condemned an attempt by URA to suspend the transaction value method for a category of imports and to impose a "fall-back" valuation formula, holding that such a blanket departure violated the mandatory sequential framework in the EACCMA.

69. On appeal, the Court of Appeal in Commissioner General of URA v Testimony Motors Limited, Civil Appeal No. 33 of 2014 affirmed that "if a valid transaction value exists, it should be used as the customs value of an imported good" and that the presentation of genuine proof of the actual price paid or payable removes the discretion of the customs authority to consider other valuation methods.

70. Similarly, in Century Bottling Company Ltd v URA, HCCA Nos. 51 & 64 of 2022, the High Court held that URA must first attempt Method 1 and may only proceed to the next method where Method 1 cannot legally be applied.

71. Kenyan jurisprudence interpreting the same EACCMA framework is to the same effect. The Kenyan Tax Appeals Tribunal in Camusat Kenya Limited v Commissioner of Customs & Border Control, Tax Appeal No. 525 of 2020, and in Cadbury Kenya Limited v Commissioner of Customs & Border Control, Tax Appeal No. 130 of 2019, reiterated that the transaction value is the primary method and that customs authorities must justify in law and evidence any departure from it.

Rejection of the Transaction Value Method

72. Section 122(4) EACCMA empowers the Respondent to reject the transaction value where there are "reasons to doubt the truth or accuracy of the particulars or documents produced" in support of that value. However, any rejection of the Transaction Value Method (TVM) and subsequent resort to alternative methods must be legally justified and consistent with the WTO Customs Valuation Agreement.

73. International and regional jurisprudence including **Royal Electronics Ltd v URA (TAT Application No. 37 of 2017), Rose of Sharon Enterprises Ltd v URA (TAT Application No. 8 of 2018), Camusat Kenya Ltd v Commissioner Customs & Border Control (Tax Appeal No. 525 of 2020),** and **Commissioner General URA v Testimony Motors Ltd (Civil Appeal No. 33 of 2014)** – consistently affirms that the transaction value is the default method; the customs administration bears an obligation to demonstrate reasonable doubt, supported by evidence, as to the truth or accuracy of that value before rejecting it; and where the importer produces credible documentary evidence of the price actually paid or payable, subsequent methods must be used strictly sequentially and as a last resort.

Burden and Standard of Proof

74. Section 19 of the Tax Appeals Tribunal Act places the legal burden on a taxpayer challenging an assessment to prove, on a balance of probabilities, that the assessment is excessive or erroneous. However, once the taxpayer adduces credible evidence supporting its position, an evidential burden shifts to the tax authority to justify the assessment – particularly where the authority seeks to discard the statutorily preferred method of valuation. This approach is reflected in URA v Balondemu David, H.C. Civil Appeal No. 0002 of 2023, and is consistent with general principles of administrative law.

75. The Respondent relies on Section 26 of the Tax Procedures Code Act, 2014 to emphasise that the burden of proof in tax disputes lies upon the taxpayer. The Tribunal agrees that the ultimate legal burden rests on the taxpayer. However, that provision does not relieve the Respondent of its obligation to provide a rational and legally sustainable basis for rejecting the transaction value and preferring an alternative method.

76. The Tribunal is guided by the Rwenzori case (supra), where the High Court carefully analysed international and regional jurisprudence and held that Customs bears the initial evidentiary burden of adducing positive evidence that raises a reasonable, specific doubt as to the truth or accuracy of the

declared transaction value. Only after this initial burden is discharged does the evidentiary burden shift to the importer to substantiate the declared value by reference to the "circumstances surrounding the sale." A mere assertion or suspicion of under-valuation is insufficient.

77. In that case, the High Court drew heavily on the Indian Supreme Court decision in Commissioner of Customs, Calcutta v South India Television (P) Ltd, (2007) 6 SCC 373, which held that the invoice price is prima facie evidence of value and that before rejecting it customs must:

"...give cogent reasons for such rejection... the department has to find out whether there are imports of identical goods or similar goods at a higher price around the same time... In the absence of such evidence, the invoice price has to be accepted as the transaction value. Casting suspicion on invoice produced by the importer is not sufficient..."

78. The Court there adopted a two-stage approach which reconciles Section 19 of the TAT Act with the Customs Valuation Agreement and comparative jurisprudence. First, Customs must produce objective, credible material to challenge the declared value. Second, if such material is produced, the importer must then substantiate the declared value with evidence such as invoices, proof of payment, and commercial explanations.

Fair Hearing and Natural Justice

79. Article 28 of the Constitution of the Republic of Uganda, 1995 guarantees a right to a fair hearing. While primary jurisdiction over constitutional interpretation lies with the Constitutional Court, this Tribunal is obliged to apply constitutional values and the rules of natural justice, including the rule nemo judex in causa sua (no one should be a judge in their own cause).

80. Where an internal statutory appeal mechanism is provided, fairness generally requires that a person who has taken a contested decision should not be the same person adjudicating an appeal against that decision, unless

the governing law clearly permits such an arrangement and adequate safeguards are present.

With this framework in mind, we turn to the specific issues. To

1. Whether the Applicant is liable to pay the taxes as assessed.

81. To determine this is issues, we have to answer the primary question as to whether the Respondent lawfully rejected the Transaction Value Method (Method 1) in favour of the transaction value of identical or similar goods, and whether the Applicant discharged its burden in challenging the resulting assessment.
82. The Applicant maintains that it submitted a complete set of documents – commercial and pro forma invoices, a sales contract, packing list and TT evidence – from which the customs value (price paid) could be directly derived using the transaction value method. It asserts that the Level One valuation officer in fact ascertained the transaction value from these documents, but rejected it solely because it was lower than pre-existing reference values for gloves. The Applicant contends that this amounted to an unlawful resort to reference values and to Method 2 or Method 3 without satisfying the pre-conditions for rejecting Method 1.

83. The Respondent's submissions and the testimony of RW1, Mr. Moses Kyomuhendo, Manager Customs Enforcement, emphasise that the Applicant's documents contained several "glaring inconsistencies", namely:

- The sales contract specified Cost, Insurance and Freight (CIF), but the pro forma and commercial invoices presented Cost and Freight (C&F) only;
- The contract stipulated payment of 30% deposit and 70% on arrival of goods at Mombasa/Dar es Salaam, whereas the pro forma and commercial invoices showed a deposit of "not less than 30%" and the balance within four months;

- The invoices described unit values "in sets" but what constituted a set was unexplained, and the packing list offered no clarity;
- A telegraphic transfer (TT) of USD 10,000 was made, which did not quote the relevant invoice and appeared to exceed the 30% deposit quoted in the contract.

The Respondent states that because of these inconsistencies it could not be satisfied as to the truth or accuracy of the declared value and was therefore justified, under Section 122(4) EACCMA and the WTO Agreement, in moving away from the transaction value and ultimately applying the transaction value of similar goods under Method 3. It further argues that the Applicant failed to adduce evidence of the correctness of its declared prices and therefore did not discharge the statutory burden of proof.

84. In rejoinder, the Applicant insists that the Respondent's reliance on inconsistencies is an afterthought developed for litigation; it notes that the original query raised by the Level One officer related only to the fact that the declared values of items 1 and 2 were below reference values and did not cite any inconsistency in documents. It further submits that differences in Incoterms and payment wording were never shown to result in a tax loss, and that the Respondent had access to glove samples and to market data that could have been used to verify, rather than displace, the transaction value.

Analysis

85. The starting point is that the transaction value method is the primary and preferred method of customs valuation. Section 122(1) EACCMA and the Fourth Schedule are framed in mandatory language. The Respondent may depart from Method 1 only where there are cogent reasons, grounded in evidence, to doubt the truth or accuracy of the declared value. The Respondent relies on four categories of alleged inconsistency. We consider them in turn.

(a) Incoterms discrepancy

86. The sales contract specified CIF, whilst the pro forma and commercial invoices presented C&F. The difference relates essentially to whether insurance costs are included. The Respondent argued that this made it difficult to ascertain the cost of freight and therefore the customs value. However, it did not establish, by computation or otherwise, how this difference materially affected the total price actually paid or payable by the Applicant. Nor did it demonstrate that insurance costs were hidden, under-declared or omitted in a manner that would render the invoice value fictitious.

87. The Applicant correctly points out, relying on Rose of Sharon Enterprises Ltd v URA (supra), that inconsistencies in Incoterms, without evidence of a resulting tax loss or an inability to compute the customs value, do not by themselves justify rejection of the transaction value. This Tribunal agrees. The concern could have been addressed by requesting a breakdown from the supplier or additional proof of the insurance element. There is no evidence that such targeted verification was meaningfully pursued.

(b) Payment terms

88. The contract stipulated "30% deposit and 70% balance upon arrival/unloading", while the invoices provided for "not less than 30% deposit and the balance within four months". On the Tribunal's reading, this is primarily a difference of drafting rather than substance: both contemplate an initial part-payment and a later balance.

89. The Respondent did not show that the Applicant actually paid a different total price from that shown on the invoices, or that there were hidden rebates or side-agreements modifying the price. Without more, a linguistic variation in payment terms does not constitute reasonable doubt as to the truth or accuracy of the declared value.

(c) Description of unit values "in sets"

90. Unit values were listed "in sets" in the invoice, but what constituted a set was not expressly detailed, and the packing list did not remove this ambiguity. The Respondent considered this an ambiguity that made it difficult to confirm quantities and unit prices, and therefore resorted to similar-goods valuation.

91. The Applicant emphasised that glove samples were requested and supplied, and that the consignment was open to physical inspection. The Tribunal accepts that customs is entitled to demand clarity in invoices and that vague descriptions may legitimately raise questions. However, the law expects customs to pursue clarification before discarding Method 1. The evidence shows that instead of insisting on a breakdown of what constituted a set, or reconciling the packing list with invoice quantities, the Respondent reverted to predetermined reference values for gloves imported by other traders, effectively using the Applicant's declaration as a starting point for a comparison exercise. That approach conflates verification with substitution and is inconsistent with the primacy of the transaction value.

(d) Telegraphic Transfer (TT)

92. A TT of USD 10,000 was made which did not quote the relevant invoice and appeared to exceed the 30% deposit indicated in the contract. The Respondent viewed this as inconsistent; the Applicant explained that its business model involves annual importation of a container with staged payments, sometimes covering more than one shipment.

93. The Tribunal considers that the absence of an invoice reference on a TT may raise a legitimate query but is not, without more, evidence that the declared price is untrue. The Respondent did not adduce evidence that the TT related to a different transaction, or that additional undisclosed payments were made. Once again, rather than conducting a detailed reconciliation of payment flows, the Respondent opted to apply higher reference values.

Use of Reference Values and Sequential Application

94. A central feature of this dispute is the Respondent's reliance on "predetermined reference values" derived from importations by other traders. The Respondent accepts that, after querying the Applicant's declaration, it ultimately valued the gloves using the transaction value of similar goods previously imported.

95. The WTO Agreement and the Fourth Schedule recognise a method based on the transaction value of identical or similar goods. However, that method presupposes that customs has first formed reasonable doubts about the declared value, has sought explanations from the importer, and only resorts to the alternative when those doubts remain unresolved.

96. The material before us shows that the Level One officer was in fact able to compute a transaction value from the documents and that the only stated concern at that stage was that the resulting value was lower than reference values.

97. Mere low pricing compared to other importers does not, by itself, justify rejection of the transaction value. To hold otherwise would effectively convert the transaction-value system into a minimum price regime, which Article VII of GATT and the WTO Customs Valuation Agreement were specifically designed to prevent.

98. Having evaluated the evidence as a whole, the Tribunal finds that the Applicant produced a coherent set of documents from which the transaction value of the gloves could be ascertained. The inconsistencies relied on by the Respondent, individually or cumulatively, were not shown to be material in the sense of rendering the declared price untrue, fictitious or unverifiable. The Respondent did not demonstrate that it exhausted reasonable verification measures short of rejecting Method 1. The decision to discard the transaction value and to apply the transaction value of similar goods was

driven primarily by the existence of higher reference values rather than by proved unreliability of the Applicant's documents.

99. Accordingly, the Tribunal holds that the pre-conditions under Section 122(4) EACCMA and the WTO Customs Valuation Agreement for rejecting the transaction value were not met. The Respondent's resort to Method 3 was therefore unlawful and irrational, and the additional assessment based on that method cannot stand. The Respondent did not lawfully reject the transaction value of the Applicant's goods

2. Whether the internal appeal process violated the right to a fair hearing

100. The Applicant contends that its right to a fair hearing was violated because both its appeal to the Manager DPC and the subsequent appeal to the Commissioner Customs were effectively handled by the same Manager DPC, Mr. Moses Kyomuhendo (RW1). This Manager was involved in the initial assessment and subsequently in the objection decision. The Applicant argues that this offends Article 28 of the Constitution.

101. The Respondent argued that these were internal administrative processes to which Article 28 of the Constitution does not apply and that there was no proof of actual bias. The Respondent, through RW1, states that appeals within the Customs Department are handled by independent committees established to review taxpayers' complaints, and that the procedure followed was consistent with that structure.

102. First, the Tribunal notes that it hears matters de novo. Any defects in the Respondent's internal processes do not affect our jurisdiction or the validity of our own decision. We determine the tax dispute on its merits, regardless of defects in URA's administrative handling.

103. Secondly, while the evidence suggests that the Manager DPC played a significant role at multiple stages, the record is not sufficiently detailed to conclusively determine the exact composition and functioning of the internal

appeal committees. The Tribunal is cautious about making a definitive constitutional pronouncement on this limited evidential footing.

104. Nevertheless, it is important to emphasise that the Respondent must design and operate internal review mechanisms in a manner that visibly promotes independence and impartiality. Where the same official appears central to both the original assessment and the appeal, public confidence in the fairness of the process is undermined. The Respondent is urged to review its procedures to minimise such perceptions.

105. Given our conclusion on Issue 1, it is unnecessary to rest the outcome of this dispute on a finding of constitutional violation. The Tribunal therefore declines to make a definitive holding on Issue 2 and treats the foregoing observations as obiter dicta.

3. Remedies

106. Having found that the Respondent unlawfully rejected the transaction value and that the additional assessment was consequently unsustainable, it follows that the Applicant is not liable to the additional tax of UGX 7,008,740. The Applicant prays for setting aside of the assessment, refund of the additional tax paid, interest on the refunded amount and costs of this Application.

107. Section 19 of the Tax Appeals Tribunal Act empowers the Tribunal to make such orders as it considers appropriate. In tax matters, it is settled that where an assessment is found to be unlawful or excessive, the taxpayer is entitled to a refund of amounts paid pursuant to that assessment, together with interest at the rate prescribed by applicable tax legislation.

108. The Tribunal is satisfied that this is an appropriate case to exercise that power. The Respondent's error lies not in undertaking verification which is its duty but in elevating unproven concerns and internal reference values

above the clear statutory requirement to use the transaction value where it is ascertainable.

109. For the reasons set out above, the Tribunal makes the following orders:

1. The Application is allowed.
2. The additional assessment of UGX 7,008,740 issued by the Respondent in respect of the consignment the subject of this Application is hereby set aside.
3. The Respondent shall refund to the Applicant the said sum of UGX 7,008,740 (or such part thereof as has already been paid), together with interest at the precise rate and period to be computed by the Respondent in accordance with the Tax Procedures Code Act, 2014.
4. The Applicant is awarded the costs of this Application.

It is so ordered.

Dated at Kampala this **19th** day of **January** 2026.

HON. PROSCOVIA REBECCA NAMBI
CHAIRPERSON

HON. WILLY NANGOSYAH
MEMBER

HON. KABAKUMBA MASIKO
MEMBER