



**THE REPUBLIC OF UGANDA**

**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**

**APPLICATION NO.180 OF 2024**

**SALENTO GENERAL ENTERPRISES LIMITED .....APPLICANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT**

**BEFORE: HON. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE,**

**HON. KABAKUMBA MASIKO**

**RULING**

**I. Introduction**

1. This ruling is in respect of an application filed by the Applicant challenging the decision of the Respondent to issue additional Income Tax and Value Added Tax assessments on the basis that bank account credits, capital inflows, and certain accounting entries constituted undeclared taxable income.

**II. Background facts**

2. The Applicant is engaged in the importation and sale of tiles. Its operations are based on a partnership arrangement in which one partner provides capital while the other manages the day-to-day affairs of the business, with funds channelled into the Applicant's accounts to finance its operations.

3. The dispute arises from an audit conducted by the Respondent into the Applicant's tax affairs for the period between November 2022 and January 2024 material inconsistencies between declared sales and the credits reflected on the Applicant's bank accounts.
4. On the basis of these findings, the Respondent issued additional tax assessments amounting to Shs. 915,108,164 in Income Tax and Shs. 775,640,739 in Value Added Tax.
5. The Applicant objected to the said assessments, but the objection was disallowed, prompting the filing of the present Application before the Tribunal.

### **III. Issues for determination**

6. At the scheduling stage, each party framed and presented its own set of issues for determination. The Tribunal has carefully considered the respective issues advanced by both parties and has reframed them to reflect the real questions in controversy between the parties.
  - (i) Whether the Applicant is liable to pay tax as assessed by the Respondent on account of the credits reflected on the Applicant's bank account amounting to Shs. 2,016,256,898 being treated as income from sales?
  - (ii) Whether the Respondent was justified in re-characterising the sum of Shs.2,226,090,378 as income of the Applicant?
  - (iii) Whether, in refusing to admit the Applicant's corrected financial statements, the Respondent properly assessed the Applicant to tax?
  - (iv) What remedies are available to the parties?

### **IV. Representation and evidence**

7. At the hearing, the Applicant was represented by Mr. Henry Nyegenyi of Arcadia Advocates, while the Respondent was represented by Mr. Nuwaha Barnabas from the Legal Services and Board Affairs Department of the Respondent.

8. The Applicant presented the testimony of **Mr. Nduhura Edwin (AW1)**, its **auditor**, who testified that the Company's accountant had initially disclosed false statements for tax purposes unknown to the Directors.
9. AW1 stated that during the 2023 period, the company imported goods valued at approximately Shs. 1,100,000,000 exclusive of tax and paid various taxes, including import duty, VAT, excise duty, and infrastructure levy.
10. AW1 further testified that the Respondent invited the Applicant to review its tax affairs for a period commencing July 2021, yet the Applicant had not been incorporated at that time. The Respondent subsequently assessed the Applicant an additional tax of Shs. 915,108,164 allegedly arising from undeclared income and reclassifications identified during the investigation.
11. The witness further testified that the alleged undeclared income arose from bank credits which the Respondent treated as income from sales, whereas the said credits were funds withdrawn from the company's shilling account and deposited into the dollar account.
12. AW1 further testified that the Respondent re-characterised marketing and renovation expenses amounting to Shs. 233,801,238 as sales. Further, a related party loan re-characterised, was as income from sales.
13. Finally, AW1 testified that he requested the Respondent to physically verify the Applicant's stock against sales and purchases for the relevant period, but the Respondent declined, and instead relied solely on narrations in bank statements by bank tellers without supporting documentation to conclude that the funds constituted sales income.
14. **Mr. Liu Xiangfei (AW2)**, the Applicant's Director testified that it was not possible for the Company to have made sales exceeding its actual stock within the short period of its existence.

15. AW2 further stated that, he requested the Respondent to carry out a physical stock count to reconcile imports, sales, and remaining stock, but the Respondent declined to do so.
16. He testified that the funds which the Respondent treated as sales were, in fact, capital contributions from his partner, sometimes deposited directly or through third parties, and were used to meet operational expenses, including payment of taxes, rent, and procurement of stock from China.
17. AW2 emphasised that the company could not have generated sales before the imported stock arrived in Uganda, and that all funds deposited into the company's bank account were capital injections intended to finance the business.
18. He further stated that the classification of deposits as "sales" in the bank statements arose from the bank's own narration and not from any instructions issued by him.
19. **Ms. Alimpa Deborah (RW1), an Officer in its Tax Investigations Division**, was the Respondent witness. She stated that the Applicant operated two bank accounts with Stanbic Bank, one in United States Dollars and the other in Uganda Shillings, both of which were opened pursuant to a board resolution appointing Liu Xiangfei as the sole signatory.
20. RW1 further testified that the Applicant declared income tax sales amounting to Shs. 216,739,356, while its VAT returns reflected sales of Shs. 295,409,593, thereby revealing inconsistencies. These sales differed significantly from deposits reflected in the Applicant's bank statements, which amounted to Shs. 3,206,727,709 for the period under review.
21. RW1 testified that the Applicant's bank deposits showed were largely cash deposits made by individuals including Liu Xiangfei, Tao Ke and others, and the narrations on the deposit slips indicated that the funds were derived from sales of tiles.

22. She further stated that the Applicant was requested to provide supporting documentation and explanations to substantiate the nature of the bank deposits and the related party loan but failed to do so.
23. She also stated that the Applicant declared Shs. 233,801,238 as an intangible asset in its balance sheet, which was similarly unsupported and unsubstantiated.
24. She further testified that, on the basis of the unsubstantiated bank deposits, the unsupported related party loan and the unsupported intangible asset, the Respondent re-characterised these amounts as income of Shs. 915,108,164.

#### V. Submissions of the Applicant

25. The Applicant submitted that it was not liable for the tax assessed by the Respondent. They contended that the impugned assessment arose primarily from a fundamental misapplication of taxation principles, particularly the erroneous treatment of capital inflows as taxable income and the unlawful assessment of tax across incomplete financial periods.
26. The Applicant argued that the Respondent miscalculated the Applicant's tax liability by assessing income tax for periods where no tax was legally due. In this regard, the Applicant maintained that although it was incorporated in September 2022 and commenced operations in November 2022, the Respondent, through its management letter dated 28 March 2024, assessed it to tax for both the period 2022 to June 2023 and the period July 2023 to June 2024.
27. The Applicant cited S.4 of the Income Tax Act, which imposes tax on the chargeable income of a person for a year of income, and not for fractions of a year. It was therefore contended that the Respondent acted unlawfully in assessing the Applicant on the basis of a partial year.

28. The Applicant further submitted that the Respondent unjustifiably re-characterised deposits on the Applicant's bank account as income from sales. The Applicant contended that the Respondent relied on bank credits amounting to Shs.3,206,727,709 in contrast to declared revenue of Shs.216,739,356, and proceeded to treat the deposits as income subject to tax at 30%.
29. In support of its position, the Applicant cited the decision in *Kabayiza R Brian v Uganda Revenue Authority, Civil Suit No. 208 of 2016*, for the proposition that revenue collection must be balanced with fairness to the taxpayer, and that a taxpayer ought not to be subjected to tax in disregard of evidence. The Applicant further invoked S.91 of the Income Tax Act and argued that although the Respondent had powers to re-characterise transactions, such powers must be exercised within the confines of transactions undertaken for tax avoidance or where their form does not reflect their substance.
30. The Applicant contended that the deposits were made pursuant to a financing arrangement between its directors. One director undertook to fund the operations of the business. The financing agreement, demonstrated that funds were channelled into the Applicant's bank account to meet operational expenses such as procurement of stock, payment of taxes, rent, transport, and ICD charges.
31. The Applicant also relied on its financial statements which indicated that it held inventory valued at Shs.1,131,854,626 and had made sales of only Shs.162,560,240 during the relevant period. A proper assessment of stock would have revealed that the deposits represented investments rather than income because it is commercially unrealistic for a company with such stock levels to have generated sales. Additionally, the figure of Shs.216,739,354 declared in the income tax return corresponded with the cumulative monthly VAT returns, and that there was therefore no factual basis for any reassessment on grounds of misdeclaration.

32. With respect to the alleged loans amounting to Shs.2,226,090,378, the Applicant submitted that this was a misclassification by its accountant, and that no such loans existed. It was contended that the funds were in fact capital contributions made in accordance with the cooperation agreement between the shareholders. The Applicant relied on its audited accounts to support this position.
33. The Applicant further submitted that its directors were not well versed in English or in tax matters, and that they relied on an accountant who misclassified the transactions. In justification, the Applicant cited S.3 of the Illiterates Protection Act and on the decision in *Nakiwala Violet & Others v Rwekibira Ezekiel & Another, Civil Suit No. 280 of 2006*, to argue that documents prepared for illiterate persons must accurately reflect their instructions, failing which they may be rendered invalid. It was therefore contended that the misclassification should not be visited upon the Applicant.
34. Finally, the Applicant submitted that the right to cross-examine is fundamental, and that the failure by the witness to appear warranted the striking out of her evidence. The Applicant accordingly invited the Tribunal to disregard the Respondent's evidence.

#### VI. Submissions of the Respondent

35. The Respondent submitted that the Applicant was liable to pay the tax assessed. They argued that upon examination of the Applicant's records for the period under review, it established that the Applicant's declared sales in its income tax returns amounted to Shs.216,739,356, while the corresponding VAT returns reflected sales of Shs.295,409,593. However, bank deposits for the same period totalled Shs.3,206,727,709, a significant variance which, in its view, pointed to undeclared income.
36. It was further submitted that these deposits were largely cash deposits made by the Applicant's directors and associates, and bore narrations indicating that they were proceeds from the sale of tiles, which was

consistent with the Applicant's line of business. The Respondent maintained that despite being afforded an opportunity to explain and substantiate these deposits, the Applicant failed to provide supporting documentation.

37. The Respondent further submitted that the Applicant declared a related party loan of Shs.2,226,090,378 and an intangible asset of Shs.233,801,238, both of which were unsupported by any documentary evidence at the investigation, objection or trial stages.
38. The Respondent submitted that it was justified in re-characterising the Applicant's transactions under S.91 of the Income Tax Act (now section 117), which empowers the Commissioner to re-characterise transactions that do not reflect their substance or lack economic effect. The Applicant's financial arrangements fell within the ambit of this provision, given the unexplained deposits, unsupported loan, and unsubstantiated intangible asset.
39. The Respondent equally made reference to *Mulherin v Commissioner of Taxation (2013) FCAFC 115*, for the proposition that the Commissioner is entitled to exercise best judgment in assessing tax. In *Uganda Revenue Authority v Downtown Forex Bureau Ltd Civil Appeal No. 23 of 2013*, where it was held that the Commissioner's powers to re-characterise transactions cannot be fettered.
40. The Respondent maintained that the deposits constituted undeclared sales and were properly treated as income. The Respondent cited *Bobby E. Welch and Kathleen Newman v Commissioner of Internal Revenue, No. 98-70930, U.S. Court of Appeals (Ninth Circuit)*, where it was held that bank deposits are prima facie evidence of income. The Applicant's financial and tax records failed to capture these substantial deposits, and that the absence of any credible explanation or supporting documentation justified their treatment as taxable income.

41. The Respondent further submitted that even upon examination and cross-examination of the Applicant's witnesses, no sufficient explanation was provided to substantiate the nature of the deposits. It was therefore contended that, in the absence of evidence demonstrating that the deposits were capital contributions or otherwise non-taxable, the Respondent was entitled to treat them as income in accordance with the law.
42. The Respondent submitted that the Applicant failed to provide any documentation evidencing the existence of such a loan, including agreements or a clear money trail. It was argued that the Applicant's assertion that the funds represented capital injections remained a mere averment unsupported by evidence. Similarly, the Respondent contended that the claimed intangible asset remained unsupported and was properly disallowed.
43. The Respondent further argued that a review of the record did not reveal any documentation that had been ignored or overlooked in the assessment process. It maintained that it acted on the basis of all information made available to it and exercised its best judgment in determining the Applicant's tax liability.
44. In conclusion, the Respondent maintained that the Applicant failed to discharge the burden of proving that the assessment was incorrect on a balance of probabilities.

**VII. Submissions of the Applicant in rejoinder**

45. In rejoinder, the Applicant reiterated their main submissions, emphasising that:
  - (i) The Respondent had fundamentally mischaracterised the facts by treating capital injections and business start-up financing as taxable income,

- (ii) The Respondent purported to investigate the Applicant's tax affairs from 2021, yet the Applicant was only incorporated on 29th September 2022.
- (iii) The Applicant's income tax declaration of Shs. 216,739,354 corresponds with the VAT returns for the same period, and the amount of 295,409,593 advanced by the Respondent is unsubstantiated.
- (iv) The recharacterisation was unlawful and fell outside the scope of S.91 of the Income Tax Act, which only permits recharacterisation where a transaction forms part of a tax avoidance scheme or where its form does not reflect its substance.
- (v) Properly analysed, the deposits reflected investments into a nascent business. At the time of incorporation in October 2022, the company had no stock and incurred substantial initial expenditure. The evidence of record, including bank statements and supporting documents, demonstrates that funds were consistently injected and expended to acquire stock and cover start-up costs.
- (vi) With respect to the alleged loans of Shs. 2,226,090,378, no such loans existed. The amount was erroneously classified by the accountant and in reality, constituted capital contributions by the shareholder in accordance with the financing agreement.

#### VIII. The Determination

- 46. The Tribunal has carefully considered the pleadings, affidavit evidence, witness testimony, documentary exhibits, written submissions of counsel, and the applicable law cited by both parties. The Tribunal has also evaluated the commercial substance of the impugned transactions, the statutory framework governing the assessment and re-characterisation of income, and the evidential burden imposed by law. This is the determination of the Tribunal.
- 47. This Application arose from an audit conducted by the Respondent into the Applicant's tax affairs for the period November 2022 to January 2024,

following which the Respondent issued additional Income Tax and VAT assessments on the basis that bank account credits and certain accounting entries constituted undeclared income. The Applicant challenged the assessments, contending that the impugned amounts comprised capital injections, internal transfers, and misclassified entries. The central question before the Tribunal was whether the Respondent properly characterised the Applicant's financial inflows as taxable income and whether the Applicant discharged its burden of proving the assessment erroneous.

**Issue 1: Whether the Applicant is liable to pay tax on the bank account credits treated as income from sales**

48. The Respondent identified bank deposits amounting to approximately Shs. 3.2 billion as against declared sales of about Shs. 216 million and treated the variance as undeclared income. The Applicant contended that the deposits were capital injections from investors, internal transfers between its accounts, and operational funds used in a start-up phase.
49. The Applicant argued that the Respondent mischaracterised capital inflows as income and failed to consider the commercial realities of a newly established company, including stock levels and operational expenditures. On the other hand, the Respondent maintained that bank deposits were prima facie evidence of income and that the Applicant failed to substantiate the nature of the deposits.
50. In *SMEC International Pty Ltd v Uganda Revenue Authority (TAT Application No. 75 of 2019)*, it was observed that although the legal burden of proving that an assessment is erroneous rests upon the taxpayer under Section 26 of the Tax Procedures Code Act, the evidential burden shifts once the taxpayer adduces credible and objective documentary evidence explaining the disputed transactions. In such circumstances, the Respondent cannot rely on mere administrative suspicion or generalised assertions but must rebut the taxpayer's explanation through specific, verifiable, and cogent evidence.

51. The Tribunal considered that the Respondent's assessment was primarily anchored on the existence of bank credits amounting to approximately Shs. 3,206,727,709, and the discrepancy between those deposits and the Applicant's declared sales. While such discrepancies may legitimately trigger inquiry and justify further investigation by the Respondent, they do not, without more, conclusively establish taxable income. A bank deposit is fundamentally evidence of movement of funds into an account; its legal character as taxable income must still be established through surrounding commercial and transactional evidence.
52. In *Kabayiza R. Brian v Uganda Revenue Authority (TAT Application No. 34 of 2018)*, the Tribunal observed that bank deposits, though relevant indicators for investigation, do not in themselves conclusively prove the existence of gross income unless supported by evidence linking the deposits to revenue-generating transactions. The Tribunal agrees with that reasoning. The Tribunal in that case further emphasised that bank credits, standing alone, are merely financial entries and do not automatically constitute taxable gross income absent corroborative evidence linking the deposits to identified commercial or revenue-generating transactions.
53. The Applicant adduced substantial evidence explaining the commercial nature and source of the impugned deposits. The Tribunal considered the financing agreement executed between Mr Tao Ke and Mr Liu Xiangfei in July 2022, under which Mr Tao Ke undertook to finance the Applicant's operations up to RMB 3,000,000 annually. The Tribunal further considered bank statements tendered by the Applicant showing movement of funds between the Applicant's Uganda Shilling and United States Dollar accounts together with corresponding telegraphic transfer payments, tax payment slips, ICD charges, transport expenses, importation costs, and operational expenditures associated with the establishment of the Applicant's business.
54. The Tribunal further examined the Applicant's financial statements showing inventory valued at approximately Shs. 1,131,854,626 during the relevant period. The Applicant's witnesses, namely Mr. Nduhura Edwin (AW1) and

Mr. Liu Xiangfei (AW2), consistently testified that the business was still in its formative operational phase and that substantial portions of the impugned deposits were immediately utilised for importation of stock, payment of taxes, rent, transport, and related operational expenses rather than representing realised sales revenue.

55. The Tribunal further notes that the Respondent relied heavily on bank narrations such as “sales from tiles” appearing in the deposit records. However, no independent investigation was undertaken to verify whether the impugned deposits corresponded to actual sales transactions, identified customers, invoices, delivery records, stock movements, or reconciled revenue streams. Equally, the Respondent did not analyse the corresponding debit entries and utilisation of funds despite the Applicant’s explanation that many of the deposits represented capital inflows subsequently deployed toward importation and operational activities.
56. In *Down Town Forex Bureau Limited v Uganda Revenue Authority (TAT Application No. 22 of 2017)*, the Tribunal cautioned against selective reliance on isolated credit entries without evaluating the broader commercial context of the taxpayer’s transactions, including corresponding debits and internal transfers. Similarly, in *Ecobank Uganda Limited v Uganda Revenue Authority (TAT Application No. 20 of 2024)*, the Tribunal reaffirmed that once a taxpayer adduces credible documentary evidence explaining the commercial substance of disputed transactions, the evidential burden shifts to the Respondent to rebut that explanation through cogent and verifiable evidence rather than administrative presumption or speculation.
57. The Tribunal is satisfied that the Applicant adduced a commercially coherent and evidentially supported explanation for the impugned bank deposits through the financing agreement, bank records, operational expenditure documents, financial statements, and oral testimony. Once such evidence was placed before the Tribunal, the evidential burden shifted to the Respondent to demonstrate, through objective and verifiable

evidence, that the deposits nonetheless represented undeclared taxable sales. The Respondent did not discharge that evidential burden. Consequently, the Tribunal finds that the Applicant proved, on a balance of probabilities, that the impugned bank deposits did not constitute taxable income from sales.

**Issue 2: Whether the Respondent was justified in re-characterising Shs.2,226,090,378 and other entries as income**

58. The Respondent re-characterised a sum of Shs. 2,226,090,378 declared by the Applicant as a related party loan, together with Shs. 233,801,238 declared as marketing and renovation costs (intangible assets) as taxable income on the grounds that the Applicant failed to provide sufficient supporting documentation during the audit and objection process. The Applicant, however, contended that the impugned amounts did not constitute income but represented capital contributions injected into the business pursuant to a financing arrangement between its directors, together with legitimate start-up and operational expenditures that had initially been misclassified by the Applicant's former accountant.
59. The Applicant argued that the Respondent unlawfully exercised its powers under Section 91 of the Income Tax Act by treating unsupported accounting entries and capital inflows as taxable income without establishing whether the transactions were artificial, fictitious, or inconsistent with their commercial substance. The Applicant relied on a financing agreement dated 22 July 2022 between Mr. Tao Ke and Mr. Liu Xiangfei under which Mr. Tao Ke undertook to source and inject capital of up to RMB 3,000,000 annually into the Applicant's business operations. The Applicant further relied on bank statements, telegraphic transfer records, tax payment slips, ICD charges, transport invoices, and import documentation to demonstrate that the impugned funds were utilised for importation of stock, taxes, rent, and operational expenses associated with the establishment of the business.

60. The Applicant further relied on the testimony of AW1, Mr. Edwin Nduhura, who testified that upon conducting an independent review of the Applicant's accounts, he established that the impugned sums represented capital funding used for importation and operational activities and not realised sales revenue. AW2, Mr. Liu Xiangfei, testified that owing to his limited English proficiency and lack of familiarity with Ugandan tax and accounting procedures, he relied heavily on the Applicant's former accountant, Mr. Denis Ssebambulidde Bbossa, whose erroneous accounting treatment led to the impugned entries being recorded as related party loans and intangible assets. The Applicant additionally invoked Section 3 of the Illiterates Protection Act, Cap 288, and argued that the accounting misclassification should not be used to impose tax on sums that were not, in substance, income.
61. Conversely, the Respondent maintained that the Applicant failed to substantiate the alleged related party loan and intangible assets with adequate documentary evidence during the audit and objection process. The Respondent therefore contended that, in the absence of contemporaneous loan agreements, money trails, and proper accounting records, it was entitled to invoke Section 91 of the Income Tax Act and re-characterise the impugned sums as taxable income. The Respondent further relied on inconsistencies in the Applicant's financial declarations and banking records to justify the assessment.
62. Section 91 of the Income Tax Act (now Section 117) empowers the Commissioner to re-characterise transactions where the legal form of the transaction does not reflect its economic substance or where arrangements are structured in a manner inconsistent with their true commercial effect. However, that power is not absolute. It must be exercised judiciously, rationally, and upon demonstrable evidence showing that the impugned transaction lacks commercial substance or has been structured in a manner inconsistent with its actual economic reality.

63. In *Placer Dome Canada Ltd v Ontario (Minister of Finance)* [2006] SCC 20, the court stated that in determining the proper tax treatment of a transaction, a court must examine the true legal and commercial substance of the transaction rather than merely isolated accounting labels or descriptive entries adopted by parties.
64. The Tribunal has examined the evidence relating to the impugned related party loan, alleged intangible assets, and other accounting entries re-characterised by the Respondent as income. The Tribunal notes that the Applicant adduced a financing agreement executed on 22 July 2022 between Mr. Tao Ke and Mr. Liu Xiangfei under which Mr. Tao Ke undertook to finance the Applicant's operations up to RMB 3,000,000 annually. The Tribunal further considered the Applicant's bank statements, telegraphic transfer records, importation records, tax payment slips, ICD charges, transport invoices, and operational expenditure documents tendered in evidence.
65. The evidence of AW1 and AW2 demonstrated that the Applicant's business was in its establishment phase during the relevant period and depended substantially on external funding to facilitate importation of tiles, warehouse operations, taxes, transport, rent, and related operational expenses. AW1 further testified that upon reviewing the Applicant's books of account, he established that the impugned entries had initially been misclassified by the Applicant's former accountant and were subsequently corrected to reflect their actual commercial substance.
66. The Tribunal also considered the Applicant's financial statements showing inventory valued at approximately Shs. 1,131,854,626 during the relevant period. The Tribunal finds merit in the Applicant's contention that, viewed against the operational realities of a newly established import business. It is also commercially impractical for the Applicant to generate sales exceeding Shs. 3.2 billion while simultaneously maintaining substantial unsold inventory and continuing to rely on external funding to finance imports and operational costs.

67. The Tribunal additionally observes that during cross-examination, RW1, Ms Alimpa Deborah, admitted that she did not establish the stock value of the Applicant's business and did not investigate the source of the funds used to finance the Applicant's importation activities, despite evidence showing importation costs exceeding Shs. 1.5 billion. RW1 further admitted that working capital and operational financing were not areas substantially investigated during the audit.
68. The Tribunal finds that these omissions materially weakened the Respondent's decision to re-characterise the impugned sums as income. Whereas the Respondent relied heavily on the absence of contemporaneous loan documentation and accounting inconsistencies, no independent investigation was undertaken to establish that the impugned sums represented realised sales revenue, concealed commercial transactions, or fictitious arrangements intended to avoid tax.
69. The Tribunal also notes that the Respondent did not produce evidence linking the impugned entries to identified customers, invoices, stock disposals, delivery records, or actual revenue-generating transactions. The assessment, therefore, rested substantially on assumptions arising from imperfect accounting records and unsupported inferences drawn from the Applicant's financial statements.
70. The Tribunal reiterates that the absence of proper accounting classification or contemporaneous documentation does not, without more, automatically convert capital contributions and operational funding into taxable income. Section 91 of the Income Tax Act empowers the Commissioner to re-characterise transactions whose substance differs from their form, but it does not authorise the Commissioner to manufacture taxable income purely from accounting imperfections or evidential gaps without establishing the actual commercial character of the transaction.

71. The Tribunal further notes that the Applicant presented a commercially coherent explanation for the impugned sums through the financing agreement, importation records, bank statements, operational expenditure documentation, and oral testimony. Once such evidence was adduced, the evidential burden shifted to the Respondent to rebut that explanation through objective evidence demonstrating that the impugned amounts nonetheless represented taxable income.
72. The Respondent did not sufficiently discharge that evidential burden. The Respondent neither disproved the financing arrangement nor established that the impugned sums arose from concealed sales, fictitious transactions, or artificial arrangements designed to avoid tax. The Tribunal therefore finds that the re-characterisation was ultimately based on assumption and administrative suspicion rather than a conclusion properly grounded in verified commercial facts and evidence.
73. Accordingly, the Tribunal finds that the Respondent was not justified in re-characterising the sum of Shs. 2,226,090,378 together with the related accounting entries as taxable income. The Applicant sufficiently demonstrated, on a balance of probabilities, that the impugned amounts represented capital contributions and legitimate business expenditures connected to the establishment and financing of the business rather than undeclared income.

**Issue 3: Whether the Respondent properly assessed the Applicant after refusing to admit and consider the corrected financial statements**

74. The Applicant reorganised and corrected its financial statements upon discovering what it described as accounting misclassifications and inaccuracies in its earlier financial reporting. The corrected financial statements were subsequently submitted to the Respondent with the intention of presenting the Applicant's true financial and tax position. The Respondent, however, declined to admit or substantively consider the

corrected records and instead maintained the assessment on the basis of the Applicant's earlier declarations, bank statement narrations, and original accounting entries.

75. The Applicant contended that the initial discrepancies arose from accounting errors and misclassification of transactions by its former accountant, Mr. Denis Ssebambulidde Bbossa, and that the corrected financial statements accurately reflected the true commercial nature of the impugned transactions, particularly the distinction between capital injections and income. The Applicant argued that the Respondent's refusal to consider the corrected records resulted in a distorted assessment founded on inaccurate data and inconsistent with the operational realities of the business.
76. The Applicant further relied on the testimony of AW2, Mr. Liu Xiangfei, who testified that as a Chinese national with limited English proficiency and limited knowledge of Ugandan accounting and tax procedures, he relied heavily on the Applicant's former accountant in preparation of the original financial statements and tax filings. The Applicant also pointed out that the Respondent's investigation extended to periods beginning in July 2021, despite evidence showing that the Applicant company was only incorporated on 29 September 2022. According to the Applicant, the corrected financial statements were intended to rectify those inconsistencies and align the accounts with the business's actual financial operations.
77. The Respondent maintained that it acted upon the information available during the audit and objection stages and was entitled to rely on its best judgment in assessing tax. The Respondent further contended that the Applicant failed to provide sufficient supporting documentation during the material stages of investigation and that the subsequent attempt to introduce revised financial statements could not invalidate an assessment already properly raised on the basis of the information initially provided.

78. The duty of the Commissioner in assessing tax extends beyond mechanical reliance on initial declarations and requires a fair, rational, and objective evaluation of all material information relevant to determining a taxpayer's true liability. While the Commissioner is entitled to exercise powers of assessment and best judgment under the Tax Procedures Code Act, such powers must be exercised judiciously and upon proper consideration of all materially relevant evidence placed before the Respondent.
79. The Tribunal is guided by the decision in *ATC Uganda Limited v Uganda Revenue Authority (Court of Appeal Civil Appeal No. 0085 of 2023)*, where the Court of Appeal reaffirmed that although the Respondent possesses broad powers to raise assessments using best judgment and alternative evidential sources, such assessments must nonetheless remain fair, objective, and grounded in the full commercial context of the transactions under review. The Court cautioned against selective reliance on isolated financial entries divorced from the broader transactional matrix.
80. In *Van Boeckel v Customs and Excise Commissioners [1981] STC 290* it was held that although revenue authorities are permitted to make assessments using best judgment where records are incomplete or unreliable, such assessments must nonetheless be fair, rational, and grounded upon available evidence rather than administrative assumption or arbitrary inference.
81. Similarly, in *Rahman (t/a Khayam Restaurant) v Customs and Excise Commissioners [1994] STC 826*, the Court emphasized that although exact mathematical precision is not required in best judgment assessments, the assessment must still be based upon material reasonably capable of supporting the conclusions reached by the revenue authority.
82. The Tribunal considered that while the Respondent was entitled to rely on the information available at the time of assessment and to exercise its best judgment, such discretion was not absolute and had to be exercised in a

manner consistent with fairness, rationality, and objective evaluation of all relevant material subsequently brought to its attention.

83. In the present case, the revised financial statements constituted material evidence directly addressing the central issues in dispute, namely the nature of the impugned deposits, the classification of related party funding, and the characterisation of certain accounting entries previously treated as income. The evidence on record shows that AW1 provided a coherent explanation that the earlier discrepancies arose from accounting misclassification rather than deliberate concealment or misreporting of taxable income.
84. The Tribunal further considered that the revised financial statements were not presented in isolation. They were accompanied by supporting documentation, including the financing agreement between Mr. Tao Ke and Mr. Liu Xiangfei, bank statements, telegraphic transfer records, importation documents, tax payment slips, ICD charges, transport invoices, and operational expenditure records, all intended to demonstrate that the impugned funds represented capital injections and operational financing rather than undeclared sales revenue.
85. The Tribunal further finds that the Applicant's explanation was broadly consistent with the commercial realities of a newly established import business. The evidence before the Tribunal demonstrated continuing importation activity, substantial operational expenditure, and inventory holdings valued at approximately Shs. 1,131,854,626 during the relevant period. These operational realities materially supported the Applicant's explanation that the business was still in its establishment phase and reliant on external funding rather than generating the magnitude of sales alleged by the Respondent.

86. The Tribunal further notes significant investigative omissions on the part of the Respondent. During cross-examination, RW1 admitted that she did not establish the stock value of the Applicant's business and did not substantially investigate the source of funds used to finance importation activities reportedly exceeding Shs. 1.5 billion. RW1 further admitted that the debit side of the Applicant's bank statements and the utilisation of funds were not areas comprehensively analysed during the audit.
87. The Tribunal finds that these omissions became even more significant once the Applicant tendered corrected financial statements together with supporting documentation intended to explain the commercial substance of the impugned transactions. In those circumstances, the Respondent could not properly ignore the revised records without undertaking reasonable verification or providing cogent reasons for rejecting them.
88. The Tribunal is further guided by *Allied Beverage Company Ltd v Uganda Revenue Authority (High Court Civil Appeal No. 0039 of 2022)*, where the High Court emphasised that procedural fairness in tax administration requires the Respondent to meaningfully evaluate corrected financial information, reconciliations, and supporting records presented by a taxpayer during the assessment process. The Court observed that an assessment founded on refusal to consider materially relevant corrective documentation risks lacking an objective and rational evidential foundation.
89. Instead, the Respondent maintained the original assessment notwithstanding the emergence of new and materially relevant evidence. The Tribunal finds that such an approach undermined the reliability of the assessment because it demonstrates that the Applicant's tax liability was not determined upon a full and objective evaluation of the available material but substantially upon assumptions derived from the Applicant's original accounting entries and isolated bank statement narrations.

90. The Tribunal reiterates that tax liability must ultimately be grounded in the commercial and legal substance of transactions rather than mere accounting descriptions or initial bookkeeping errors. The corrected financial statements, when viewed together with the supporting evidence and oral testimony, provided a commercially plausible and internally consistent explanation for the impugned entries.
91. Further, the Respondent did not adduce evidence disproving the Applicant's revised position or demonstrating that the corrected financial statements were false, fabricated, or commercially inconsistent with the operational realities of the business. No independent stock verification, reconciliation exercise, or investigation into the Applicant's importation and expenditure records was undertaken to rebut the Applicant's revised accounts.
92. The Tribunal therefore finds that the Respondent's refusal to meaningfully consider and evaluate the corrected financial statements deprived the assessment of a proper evidential foundation and materially undermined the reliability and fairness of the resulting assessment.
93. Accordingly, the Tribunal finds that the Respondent did not properly assess the Applicant after refusing to admit and evaluate the corrected financial statements. The assessment was based substantially on selective data, an incomplete investigation, and administrative assumptions rather than a full and objective evaluation of the Applicant's true financial and tax position.

## **IX. Orders**

94. The Tribunal accordingly makes the following orders:
  - (i) The Application succeeds.
  - (ii) The Notices of Assessment and the Objection Decision issued by the Respondent in respect of the impugned assessments are hereby set aside.

- (iii) Any taxes, penalties, and interest arising from the Respondent's re-characterisation of the impugned amounts as taxable income are hereby vacated.
- (iv) Costs are awarded to the Applicant.

**It is so ordered.**

Dated at Kampala this 29<sup>th</sup> day of **May** 2026.

*Crystal Kabajwara*

---

**HON. CRYSTAL KABAJWARA**  
**CHAIRPERSON**

*Kabakumba Masiko*

---

**MS. KATWE CHRISTINE**  
**MEMBER**

---

**HON. KABAKUMBA MASIKO**  
**MEMBER**

**THE REPUBLIC OF UGANDA**

**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**

**APPLICATION NO. 180 OF 2024**

**SALENTO GENERAL ENTERPRISES LIMITED .....APPLICANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT**

**BEFORE: HON. CRYSTAL KABAJWARA, HON. KABAKUMBA MASIKO,  
MS. CHRISTINE KATWE.**

**DISSENTING RULING**

I have read the Ruling of my colleagues but want to dissent as follows:

1. The Applicant deals in the importation and sale of tiles, ceramics, and other kitchenware. The Applicant was incorporated in Uganda in September 2022.  
The Applicant operates two Bank Accounts in Stanbic Bank. One in US Dollars and the other in Uganda Shillings.
2. The Respondent carried out a Tax Investigation exercise on the Applicant's Tax Affairs for the period from 20 July 2022 to January 2024, revealing total receipts/sales found in two Bank Statements as different from sales declared in the VAT and Income Tax Returns; inconsistencies/variances in the Income Statement, on a loan, and intangible assets which remained unsupported.
3. The Respondent issued an administrative additional Income Tax Assessment worth Shs. 915,108,164 and a VAT assessment of Shs. 775,640,739. The Applicant objected to Shs. 846,103,889 because the Respondent's team never reconciled the investigated workings of its team

and the liability was based on errors. It should be noted that while Income tax is on an annual basis, VAT is on a monthly basis. So, the delving in more months to April 2024 is observed to be under VAT.

4. The Respondent maintained the Income Tax Assessment due to unverified related party loans and undeclared sales.
5. However, the VAT liability of Shs. 775,640,739 for the period from July 2022 to January 2024 was not included in the application and is not considered in this ruling.
6. The Applicant submitted that it was incorporated on 29<sup>th</sup> September 2022 but the Respondent's assessment period was from July 2022 to January 2024. Below are the details of the assessment seen on file:

Income Tax Assessment

Assessment date	Assessment No	Assessment Period	Amount in Shs
19/04/2024	1D012400359624	03/10/2022- 30/06/23	915,108,164

7. The Financial Statements of the Applicant seen on file (Exhibit E page 1-23) in the Applicant's Supplementary Bundle are for the period for the year ended 30/06/2023 without any notes explaining whether the period was short in 12 months and if yes, how many months were they to a beginner. It is clear from above that the Income Tax Assessment period was matching the Income Tax return period and the Financial Statements filed by the Applicant.
8. It is prudent for every auditor to discuss the findings of the audits with the owner of the business and his team and get explanations with documentary evidence to iron out any misunderstandings for effective reporting. Effective report writing requires stating verified facts objectively, utilizing formal language, and ensuring structural clarity. The Respondent submitted that the Applicant was requested to provide information to substantiate the

banking, which the Applicant failed to do, and so the deposits on the Applicant's bank accounts remained unsubstantiated by the Applicant.

9. As importers of tiles and other ceramics from abroad, coupled with a partner residing abroad, we may not expect to see a lot of money coming from abroad, as it will be in the form of imports (tiles etc). But, we see customers depositing money on the accounts both in Shillings and US Dollars. It is again expected to see money leaving the Shilling account for the dollar account and being sent back abroad to make purchases for importation.
10. All this ought to have been explained by the Applicant with evidence, which was never done even when the parties were sent for mediation. If the related party loan and intangible assets were in place, definitely, documentary evidence would have eliminated these issues. Mr. Nduhura would have requested the Tribunal for more time to mediate with the Respondent and provide all the evidence he had gathered to the Respondent to clear the air but never did so.
11. In the cross-examination of M/s Kyalimpa Deborah, the Investigation Officer of the Respondent on 6<sup>th</sup> August 2025, Counsel Henry Nyegenyi asked her that; "The corresponding transaction of 30<sup>th</sup> December 2022, did you bother to verify what the transactions were?" She replied that, "We attempted to verify the payments and the debits from the Applicant but no response or supporting evidence was provided." And many more questions couldn't be answered for no information being provided.
12. On reviewing both the Dollar and Shilling accounts, there are visible sales from the frequent customers and running invoice numbers that needed clarity, but the Respondent states that despite their request for clarity, no response was done by the Applicant.
13. The Respondent submitted that it received neither information nor explanation to substantiate and support the related party loan and the intangible asset in the balance sheet.

14. Section 15 (1) (b) of the TPCA states that; every taxpayer shall, for the purposes of a tax obligation, maintain the record so as to enable the taxpayer's tax liability under the tax law to be readily ascertained. The application seeks the review and setting aside of the Respondent's objection decision made pursuant to the Income Tax Act.

15. ORDERS

Accordingly, I make the following orders:

- i. The Application fails.
- ii. The Income tax liability of Shs. 915,108,164 is payable
- iii. Costs are awarded to the Respondent

It is so ordered.

Dated at Kampala this 29<sup>th</sup> day of May 2026.



---

**MS. CHRISTINE KATWE**  
**MEMBER**