TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO.246 OF 2025

(ARISING FROM APPLICATION NO.345 OF 2025)

SICPA UGANDA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: HON. KABAJWARA CRYSTAL, HON. NYAPENDI STELLA CHOMBO, HON. PROSCOVIA REBECCA NAMBI

RULING

I. Introduction

1. This ruling is in respect of an application brought under sections 31(1) and 33(5)(a) of the Tax Appeals Tribunals Act Cap. 341 ("TAT Act"), section 98 of the Civil Procedure Act, Cap. 282 ("CPA"), Rule 30 of the Tax Appeals Tribunals (Procedure) Rules, S.I No. 345 – 1, and Order 41 of the Civil Procedure Rules S.I No. 71 – 1 ("CPR") seeking an order that:

   (i) A temporary injunction be issued restraining the Respondent, its officers, agents or representatives, from the recovery or collection of the tax assessed upon the Applicant, whether by Agency Notice or otherwise, until the final disposal of TAT Application No. 345 of 2025.

   (ii) The costs of this application be provided for.

II. Background facts

2. The grounds of this application are contained in the affidavit in support and the supplementary affidavit, both deponed by Monica Kasirye Kavuma, the Applicant's Head of Finance. The grounds are as follows:

(i) The Applicant is engaged in the digital track and trace solutions and integrated security solutions, including product marking. To implement digital tax stamps, the applicant utilises SICPATRACE® technology from SICPA SA, for which it pays a usage fee as established in their Distributor Agreement.

(ii) During the audit period (2019–2023), the applicant treated these fees as "imported services," paying 18% Value Added Tax (VAT) and 15% Withholding Tax (WHT), totalling Shs. 53,713,669,574.

(iii) The Respondent conducted a tax audit on the Applicant's operations and treated these usage fees as part of the customs value of imported equipment and products and consequently raised tax assessments totalling Shs. 62,018,532,080.

(iv) The Applicant avers that the Respondent unlawfully treated usage fees paid for SICPATRACE technology as part of the customs value of imported products and equipment. The Applicant contends that the technology for which these fees are paid is distinct and separate from the physical products and equipment imported.

(v) Furthermore, the Applicant argues that if these fees are to be treated as part of the customs value, the taxes already paid of Shs. 53,713,669,574 should be applied to reduce or cover the URA's assessment.

(vi) The Applicant averred that the Respondent's threat to collect 30% of the new assessment amounts to illegal double taxation and that the taxes paid of Shs. 53,713,669,574 is significant as it represents more than 30% of the new tax assessment currently being challenged.

(vii) The Applicant states that enforcing the collection of the Shs. 62,018,532,080 assessment would cripple its business operations, damage its commercial reputation, and cause financial injury that cannot be easily fixed. The Applicant asserts that it will suffer irreparable damage and greater hardship if the injunction is denied than the URA would suffer if the collection is stayed until the main case is decided

(viii) In the interest of equity and justice, the Applicant prays that a temporary injunction be granted to stop the Respondent from collecting the assessed

tax until the main legal dispute (TAT Application No. 345 of 2025) is fully resolved

3. The Respondent filed an affidavit in reply deponed by Herbert Muheki, an Officer of Customs in the Customs Department of the Respondent, opposing the application. The grounds are as follows:

(i) The Respondent conducted a Customs Post clearance audit into the affairs of the Applicant for the period January 2019 to December 2023, and the audit revealed undeclaration of imports as well as misclassification of goods by the Applicant, following which the Respondent issued the Applicant with assessments totalling Shs 62,018,532,080.

(ii) The Applicant entered into a Distributorship Agreement with SICPA SA, and according to the said distributorship agreement, the SICPA Trace system comprises the Equipment, Software and Database.

(iii) The Applicant accounts for taxes for imported services from payments which it receives from final consumers of the software usage, such as the Respondent, beverage manufacturers and cement manufacturers.

(iv) The Applicant has not incurred the tax remitted on the imported services but rather, the same was incurred by the final consumers of the product. This is because final consumers first pay for the services they consume before the Applicant accounts for imported services to the Respondent through the Domestic Taxes tax head. This is not related to customs duties due on imported software technology components.

(v) This is evidenced by variances in the base amounts on how the Applicant accounted for taxes on imported services. For the period, services amounted to Shs. 162,239,787,480 while the gross amount under audit, from which WHT was paid on imported goods, and from which VAT was paid on imported services, amounted to Shs. 163,209,452,513. Essentially, the base amounts for these tax heads on imported services should be similar, since they are accounted for together. The value of imported services reported differs from the amount queried, for which customs duties are being demanded.

(vi) The queried value of technology evidenced in the Applicant's import

purchases over and above the declared value of imports to the Respondent at the time of audit amounted to Shs. 145,797,352,265 for the period January 2019 to December 2023, which the client termed usage fees.

(vii) That the variances in the above figures clearly illustrate that WHT and VAT were properly accounted for, notwithstanding the fact that they were accounted for on behalf of the final recipients of the services.

(viii) Further, the requirement for payment of 30% of the tax in dispute is a statutory requirement which the Applicant is obliged to meet and the sum of Shs. 53,713,669,574 as paid was not in respect of the tax in dispute and as such, cannot be taken to satisfy the statutory requirement to pay 30%.

(ix) This Application is misconceived and vexatious since it presents no threat of execution against the Applicant, and the Applicant has not demonstrated that it shall suffer such irreparable injury which cannot adequately be compensated for by an award of damages.

4. The Applicant filed an affidavit in rejoinder wherein they reiterated the grounds in their affidavit in support of the application.

III. Representation

5. Mr Festus Akunobera, Ms. Jemimah Mushabe, Ms. Leah Nambuya and Ms. Kevin Nakimbugwe represented the Applicant, while Ms. Gloria Twinomugisha and Ms. Eseza Victoria Sendege represented the Respondent.

IV. Issues

6. The issues for determination by the Tribunal are as follows:

i) Whether the application discloses sufficient grounds for the grant of a temporary injunction?

ii) What remedies are available to the parties?

V. Submissions of the Applicant

7. Counsel for the Applicant submitted that the grant of a temporary injunction is an exercise of judicial discretion and the purpose of granting it is to preserve the status quo until the question to be investigated in the main Application is finally disposed of. The grounds for the grant of a temporary injunction were laid down in the locus classicus case of ***Kiyimba Kaggwa vs. Haji Abdu Nasser Katende HCB 43.***

Ground One: Prima facie case with a probability of success

8. The Applicant submitted that for this ground to be met, the court must be satisfied that the case instituted by the Applicant is not frivolous or vexatious and that there is a serious case to be tried. This Application satisfies this ground because the substantive application, TAT Application No. 345 of 2025, raises triable issues embedding serious questions of law and fact, with a probability of success as highlighted. These are:

   (a) Whether the usage fees paid by the Applicant to SICPA SA form part of the transaction value of the imported goods;

   (b) Whether the stamps imported by the Applicant fall under HS Code 4907.00.90;

   (c) Whether the encoders imported by the Applicant fall under HS Code 9031.49.00 and 9031.80.0;

   (d) Whether the Respondent has jurisdiction to impose penalties under section 117(6)(a) and 203 of the EACCMA in the circumstances of this case.

9. The Applicant also submitted that TAT Application No. 345 of 2025 discloses a case of unlawful double taxation, which constitutes a serious legal issue requiring investigation and decision. Paragraph 4 of the Chamber Summons, and paragraph 27 of the Applicant's affidavit in support of this application shows that more than 30% of the tax assessed has already been paid by the Applicant, as VAT on imported services and WHT on usage fees, which the Respondent seeks to reclassify as forming part of the imported goods. Further, paragraphs 6, 7, 8, 9, 10 and 11 of the Supplementary Affidavit show that the Applicant paid

Shs. 53,714,669,574 as VAT on imported services and WHT on usage fees, which the Respondent seeks to reclassify as forming part of the imported goods.

10. Counsel for the Applicant further argued that the Respondent's approach of treating usage fees as forming part of the customs value of the imported Products and Equipment, the taxes paid by the Applicant on the usage fees (which the Respondent has reclassified as goods) should be applied to cover the Respondent's assessment, because the taxes paid relate to the same tax base. The question of double taxation, requiring an offset of taxes already paid by the Applicant against the Respondent's assessment, is a serious question of law with a probability of success. Therefore, the first test for granting a temporary injunction is met.

Ground Two: Irreparable injury which would not adequately be compensated by an award of damages

11. The Applicant submitted that irreparable injury was defined in the case of ***Kiyimba Kaggwa vs. Hajji Abdu Nasser Katende (supra),*** as follows:

> "*irreparable injury does not mean that there must not be physical possibility of repairing injury, but means that the injury must be a substantial or material one, that is, one that cannot be adequately compensated for in damages".*

12. Further, in ***American Cyanamide Co. vs Ethicon Ltd,*** **Lord Diplock** offered an explanation on how a claim for irreparable damage can be considered. He stated in part that:

> *"... the governing principle is that the court should first consider whether, if the plaintiff there to succeed at the trial in establishing his right to a permanent injunction, he would be adequately compensated by an award of damages for the loss he would have sustained as a result of the defendant's continuing to do what was sought to be enjoined between the time of the application and the time of the trial. If damages in the measure recoverable at common law would be adequate remedy and the defendant would be in a financial position to pay them, no interlocutory injunction should normally be granted, however strong the plaintiff's claim appeared to be at this stage. If, on the other hand, damages would not provide an adequate remedy for the plaintiff in the event of him succeeding at the trial, court should then consider whether, on the contrary hypothesis that the defendant were to succeed at the trial in establishing his right to do that which was sought to be enjoined, he would be adequately compensated under the plaintiff's undertaking as to damages for the loss he would have sustained by being prevented from doing so between the time of the application and the time of the trial."*

13. The Applicant submitted that the 30% deposit is more than what the Applicant has already paid to a tune of Shs. 53,714,669,574. This would cripple its business operations and injure its commercial relationships and reputation. This is way more than a mere financial loss, and cannot be adequately atoned by the award of damages. The Applicant also invited the Tribunal to take judicial notice of the fact that digital tax stamps program, which is currently being implemented by the Respondent, with the Applicant as service provider, is a program of national importance. This program will be crippled if the Applicant's working capital is wiped out by the illegal double taxation that the Respondent seeks to impose. As shown in paragraph 28 and 29 of the Applicant's affidavit in support of this application, this would present more than just financial loss, as it would impair the Applicant's ability to deliver the DTS program and thereby taint the reputation of the Applicant, as the service provider of the digital tax stamps program.

14. The Applicant contended that they shoulder the entire burden of paying the taxes associated with the SICPATRACE technology itself. For each invoice issued by SICPA SA to the Applicant, there is a corresponding VAT and WHT return on the basis of which the Applicant paid a total of Shs. 53,713,669,574 as VAT on imported services and WHT. These taxes are paid by Applicant itself, and not on behalf of any third parties as contended by the Respondent. Accordingly, the Applicant will suffer irreparable injury should the Respondent collect 30% of the tax assessed.

15. Aside from irreparable injury to the Applicant, the Ugandan public stands to suffer injury. Crippling the Applicant's business operations and financial stability, even temporarily, will directly hinder the implementation and maintenance of this vital national tax solution. This will cause a material injury to the public revenue interest of Uganda. Damages awarded to the Applicant after trial would not be sufficient to compensate the nation for the disruption of this revenue collection mechanism. The harm is therefore substantial, material, and transcends mere financial loss, making an award of damages an inadequate remedy.

Ground Three: Balance of Convenience

16. The Applicant submitted that the balance of convenience lies in their favour because the prejudice that will be suffered by the Applicant if the application is

denied far outweighs any potential prejudice to the Respondent if the application is granted. Whereas the Applicant's operations risk being crippled if the Respondent is not restrained, it cannot seriously be suggested that the Respondent's operations will be crippled if the injunction is granted. It is, therefore, self-evident that the Applicant will suffer more if the Respondent is not restrained.

17. The Applicant prayed that this Honourable Tribunal be pleased to grant a temporary injunction restraining the Respondent, its officers, agents or representatives, from the recovery or collection of the tax assessed upon the Applicant, whether by agency notice or otherwise, until the final disposal of TAT Application No. 345 of 2025.

VI. Submissions of the Respondent

18. The Respondent quoted **Section 15 of the Tax Appeals Tribunal Act (TAT Act) Cap 341** which provides:

> *"A taxpayer who has lodged a notice of objection to an assessment shall, pending final resolution of the objection, pay 30 per cent of the tax assessed or that part of the tax assessed not in dispute, whichever is greater."*

19. The Respondent submitted that in ***Uganda Projects Implementation and Management Centre Vs. Uganda Revenue Authority, Supreme Court Constitutional Appeal No. 2 of 1999***, the Supreme Court held that the statutory requirement in the then VAT Act (similar to s. 15 of the TAT Act), requiring a taxpayer who has lodged a notice of objection pay 30 percent of the tax assessed or that part of the tax assessed not in dispute, whichever is greater, is constitutional, and did not infringe on the right to a fair hearing, under the Constitution of Uganda and the right to equal treatment before and under the law.

20. Additionally, in the case of ***Elgon Electronic versus Uganda Revenue Authority HCCA 11 OF 2007,*** it was held that the provisions of Section 15(1) of the Tax Appeals Tribunal Act are mandatory. Accordingly, the requirement to pay 30% of the tax assessed, or that part of the tax assessed not in dispute, is a legal doctrine in line with the "pay now and argue later" principle.

21. The Respondent further argued that payment of 30% by the Applicant would not amount to double taxation. In paragraph 28 of the affidavit in support of the

notice of motion, the Applicant argued that the threat by the Respondent to collect 30% of the tax assessed would amount to double collection of taxes, which is not only illegal but also will cause irreparable injury to the Applicant and cripple its business operations. The Respondent submitted that the sum of Shs. 53,713,669,574 as paid by the Applicant was not in respect of the tax in dispute before the Tribunal. As such, the same can not be taken to satisfy the statutory requirement to pay 30%.

22. Additionally, the Respondent stated that the VAT and WHT remitted by the Applicant on imported services was incurred by third parties, not the Applicant herein and cannot, in any circumstance, account for the statutory requirement to pay 30% by the Applicant. Therefore, the application for a temporary injunction constitutes an effort to circumvent the mandatory statutory obligation to pay 30% of the tax assessed or that part of the tax assessed not in dispute, whichever is greater.

23. The Respondent cited the case of ***Alcohol Association of Uganda, Nile Breweries Limited & 38 Others Versus Attorney General and Uganda Revenue Authority HCMA No. 744 Of 2019,*** Hon. Justice Ssekaana Musa held;

> *"The Courts should be slow in granting injunctions against government projects which are meant for the interest of the public at large, as against the private proprietary interest or otherwise for a few individuals. The courts should be reluctant to restrain the public body from doing what the law allows it to do. In such circumstances, the grant of an injunction may perpetrate a breach of the law which they are mandated to uphold. Therefore, courts should be loath or slow to grant an injunction when a public project for the beneficial interest of the public at large is sought to be delayed or prevented by an order of injunction; damage from such an injunction would cause the public at large, as well as the government is a paramount factor to be considered. The Public interest considerations would justify the refusal to grant a temporary injunction and public interest should prevail over the private rights".*

24. The Respondent submitted that for the Tribunal to determine questions such as the one presently before this court, it would be required to hear evidence which has not been heard. What is clear even without hearing of evidence on the same is that the Applicant has not fulfilled the mandatory statutory requirement to pay

30% of the tax amount in dispute and the Respondent is merely exercising its statutory mandate in enforcing recovery of the same.

Prima facie case with probability of success:

25. The Respondent submitted that the Applicant's case does not disclose a prima facie case with a probability of success, and this condition has two limbs, to wit: a substantial question to be investigated with chances of winning the main suit on his part. The phrase "substantial question to be investigated" has been explained in the case of ***American Cynamide (Supra) by Lord Diplock*** as follows:

> *"The Court no doubt must be satisfied that the claim is not frivolous or vexatious, in other words, that there is a serious question to be tried."*

26. The Respondent maintained that the payments claimed by the Applicant to be paid were made under a different tax category, as VAT on imported services and withholding tax on the usage fees for imported services, paid by third parties, and not in respect of the customs duties now being demanded on the technology component of the SICPA Trace System. The SICPA trace system comprises equipment, software, and a database. The equipment cannot operate independently of the software and database, and the software cannot operate independently of the equipment and database.

27. Owing to the fact that equipment, software and database are major and integral components of the Sicpa Trace System, the valuation of Sicpa Trace System for customs purposes is based on the value of all of its components. It is important to note that the values used to compute VAT and WHT on imported services differ significantly from the value of the undeclared technology. This further confirms that the earlier taxes were properly accounted for, but are distinct from the customs valuation dispute presently before the Tribunal. It therefore does not constitute double taxation, and the earlier payment cannot be treated as the statutory 30% deposit required to challenge an assessment. Therefore, the main suit has no chances of success, if at all, and there is no serious question to be tried in the suit.

Irreparable injury

28. The Respondent argued that the Applicant has not demonstrated that it will suffer any injury, irreparable or otherwise, if this application is not granted. Citing

Lord Diplock in ***American Cynamide co (supra),*** the Respondent argued that there is no risk of irreparable injury in this matter because any sums paid pursuant to the assessment are fully recoverable. Refunds and tax credits are established mechanisms within Uganda's tax administration. As a continuing taxpayer and going concern, the Applicant can easily apply for a refund and or utilise the paid sums as an offset against past, current, or future tax obligations. Additionally, the Respondent is in a good financial position to atone for the Applicant if the Applicant succeeds on the main TAT Application. Any potential loss is therefore quantifiable and compensable, not irreparable.

Balance of convenience

29. The Respondent relied on the case of ***Cotton International vs. African Farmers Trade Association By And Lango Cooperative Union, HCB 57***, wherein Justice Akiiki-Kiiza held:

> *"Before an injunction is granted, the court should be convinced that the comparative inconvenience which was likely to issue from withholding the Injunction would be greater than that which was likely to arise from granting it."*

30. The Respondent argued that the risk the Respondent stands to suffer if this application is granted is that the Respondent will be prevented from collecting tax that is due from the Applicant. More importantly, such an order risks setting an undesirable precedent potentially dissuading other taxpayers from meeting the mandatory requirement to pay 30% before lodging Applications before the Tribunal. This will ultimately undermine tax compliance and the integrity of the tax regime. This, in effect, limits the responsibilities of the Respondent in enforcing the law for the benefit of the public at large. Therefore, the balance of convenience tilts in the Respondent's favour. The comparative inconvenience which is likely to issue from not granting the injunction as sought for by the Applicant is less than that which is likely to arise from granting it.

VII. Submissions of the Applicant in rejoinder

31. The Applicant submitted that it does not dispute its statutory obligation to pay 30% of the tax assessed as prescribed under section 15 of the TAT Act. On the contrary, the Applicant disputes the collection of tax twice on the same base. Under paragraphs 3.1.4-3.1.9 of the Applicant's submissions, the Applicant has already paid Shs. 53,714,699,574 (being VAT and WHT on imported services) in respect to the usage fees that the Respondent seeks to classify as part of the

customs value of the Applicant's imports and impose tax on the same. Having reclassified the usage fees as goods, the Respondent must recognise and take into account the taxes already paid by the Applicant, which should offset the Respondent's assessments under the goods classification.

32. The Applicant also submitted that the Respondent's averments in its submissions in reply and of themselves present a serious question of law that requires the TAT's consideration. The Applicant, on the other hand, disputes the Respondent's reasoning that there is no double taxation. It is therefore pertinent that the Tribunal evaluate both the Applicant's and the Respondent's arguments and determine whether the assessment of the usage fees amounts to double taxation. The Applicant submitted that TAT Application No. 345 of 2025 does not only deal with the question of double taxation. The Application raises other triable issues with a probability of success, and, on this basis, it has a prima facie case and invites the Tribunal to grant its application for a temporary injunction.

33. The Applicant also submitted that the Respondent's submissions on this matter delve into the substantive issues that should be determined under TAT Application No. 345 of 2025, such as the components and functionality of the SICPA Trace system and customs valuation of the system under section 122 and the Fourth Schedule of the East African Customs Management Act. It is trite law that in an application for a temporary injunction, the Tribunal's inquiry is confined to the recognised grounds for the grant of a temporary injunction, as laid down in the case ***of Kiyimba Kaggwa (supra)***, and as applicable to the present Application, the Respondent invited the Tribunal to pre-judge the main dispute, a course that would undermine the very rationale of interlocutory relief..

34. The Applicant reiterated its submission that the payment of the 30% demanded by the Respondent would have consequences that transcend mere financial loss. The Applicant also reiterated their submission that the balance of convenience lies in their favour because the prejudice to be suffered by the Applicant if the Application is denied far outweighs any potential prejudice to the Respondent if the Application is granted.

VIII. The Determination of the Tribunal

35. We have carefully read and considered the affidavits on record and submissions of both parties. We have also perused the authorities provided by the parties.

36. This is an application for a temporary injunction whose purpose is to preserve the status quo pending the determination of the main dispute, so that the proceedings are not rendered nugatory by actions taken in the interim. In determining whether to grant a temporary injunction, this Tribunal is guided by the well-settled principles, namely: (i) existence of a prima facie case with a probability of success (or a serious question to be tried), (ii) likelihood of irreparable injury that cannot be adequately compensated by damages, and (iii) where the Tribunal is in doubt, the matter is decided on the balance of convenience. These principles are restated in the authorities following ***Kiyimba-Kaggwa v Katende***, and are consistently applied in our courts and in this Tribunal.

The statutory 30% requirement and whether the UGX 53,713,669,574 paid satisfies it

37. A preliminary matter raised by the Respondent is that the Applicant has not met the statutory requirement under section 15 of the Tax Appeals Tribunal Act to pay 30% of the tax assessed or the tax not in dispute (whichever is greater). The Applicant does not dispute that the requirement exists; its case is that it has already paid Shs. 53,713,669,574 (VAT and WHT on the same usage fees, now treated by the Respondent as part of the customs value), which amount exceeds 30% of the impugned assessment of Shs. 62,018,532,080, and therefore satisfies the section 15 threshold.

38. The Respondent contests that proposition, arguing that the Shs. 53,713,669,574 was paid under different tax heads (VAT/WHT), allegedly incurred by third parties, and "was not in respect of the tax in dispute" and therefore cannot satisfy section 15.

39. We address this question strictly for interlocutory purposes. At this stage, the Tribunal is not making a final pronouncement on the merits of (i) whether VAT/WHT previously remitted must legally be credited against the customs assessment, or (ii) the ultimate correctness of the Respondent's characterisation of the usage fees. Those are matters for the substantive hearing. The narrow question for present purposes is whether the Applicant has demonstrated, on a prima facie basis, that the prior payment of Shs. 53,713,669,574 is sufficiently connected to the impugned assessment and the dispute before us to satisfy the object and effect of section 15 at this stage.

40. We note first that the constitutional legitimacy of statutory pre-payment requirements in tax dispute resolution has been upheld in Ugandan jurisprudence and practice, reflecting the balance between access to adjudication and protection of public revenue. In the present ruling itself, the Respondent relies on the line of authority emphasising that section 15 is mandatory and underpins the "pay now, argue later" principle.

41. However, section 15 is not intended to operate mechanically so as to defeat a genuine dispute where, on the evidence before the Tribunal, a taxpayer has already remitted substantial sums arising from the same contested tax base and the real controversy is whether the Respondent can, pending adjudication, require a further 30% payment without first recognising the earlier remittances that are connected to the same tax base.

42. We are also mindful that the final question of allocation/crediting across heads of tax may require fuller argument and evidence at the substantive hearing. However, for purposes of a temporary injunction, the Tribunal is entitled to make a prima facie determination sufficient to prevent the right of appeal from being defeated by immediate enforcement.

43. On the record before us, the Applicant has averred that during the audit period (2019–2023) it treated the usage fees as imported services and paid VAT (18%) and WHT (15%) totaling Shs. 53,713,669,574, and that the Respondent later treated those same usage fees as part of the customs value and raised the contested assessment totaling Shs. 62,018,532,080. On its face, therefore, the Applicant demonstrates a plausible linkage between (i) the sums already remitted and (ii) the very item of income that is at the heart of the Respondent's reassessment.

44. We also observe that the Applicant's figure of Shs. 53,713,669,574 is not a marginal remittance; it is a substantial sum which if properly attributable to the dispute base exceeds 30% of the impugned assessment. The Applicant's contention that demanding a further 30% would, in effect, compel payment twice on the same base is therefore not frivolous, and is itself part of the substantive dispute.

45. Accordingly, for purposes of this temporary injunction only, we find that the Applicant has established a prima facie basis that the payment of Shs.

53,713,669,574 satisfies the section 15 threshold, subject to the final determination at the hearing as to the proper legal treatment of the assessment.

Prima facie case

46. The requirement of a prima facie case does not mean the Applicant must show it will succeed, but that there is a serious question to be tried. This approach is consistent with Ugandan authority and with the broader interlocutory injunction jurisprudence.

47. In the present matter, the Applicant raises triable issues, including (among others) whether the usage fees form part of transaction value for customs purposes; classification issues; and the Respondent's jurisdiction in imposing penalties under the relevant customs law framework matters that, if proven, could materially affect liability. The Applicant further pleads that taxes already paid on the usage fees should be taken into account if those fees are re-characterised as part of customs value, raising a coherent legal controversy regarding double taxation.

48. We are satisfied, without making any final findings on the merits, that the Applicant has demonstrated a prima facie case consistent with the governing principles for the grant of a temporary injunction.

Irreparable injury

49. The second limb concerns whether the Applicant is likely to suffer irreparable injury namely, injury that is substantial or material and not adequately compensable by damages. This conception of irreparable injury is reflected both in Ugandan authorities' application of the injunction principles and in the East African interlocutory injunction test.

50. The Applicant's evidence is that enforcement particularly by coercive mechanisms such as agency notices and cash recovery would wipe out working capital, cripple operations, and injure commercial relationships and reputation, and would also impair its capacity to implement the Digital Tax Stamps programme of national importance.

51. The Respondent counters that any sums paid are recoverable through refunds/credits and that any loss is quantifiable.

52. At this stage, we accept that the threatened enforcement measures may cause consequences that transcend ordinary quantifiable loss particularly where disruption to operations, commercial standing, and ongoing contractual performance is asserted and where the dispute concerns a large assessment whose immediate collection could practically undermine the Applicant's ability to function pending adjudication.

53. In the circumstances, we are satisfied that the Applicant has demonstrated a real risk of irreparable injury if interim protection is refused.

The balance of convenience

54. Even if doubt remained, the application would be resolved on the balance of convenience, bearing in mind that temporary injunctions are discretionary and require the Tribunal to weigh comparative hardship. This approach is reflected in decisions applying the balance-of-convenience test.

55. On the one hand, the Respondent invokes the public interest in revenue collection and warns against restraining statutory enforcement, urging that courts should be slow to grant injunctions against government action in the public interest. On the other hand, the Applicant has demonstrated (prima facie) that it has already paid sums exceeding the 30% threshold and seeks to avoid coercive recovery that may render the appeal nugatory.

56. In our view, the balance of convenience lies in maintaining the status quo pending the hearing: the Respondent's interests are safeguarded by the fact of substantial prior remittance and the continuing existence of mechanisms for recovery should the Respondent prevail; while refusal of interim relief risks immediate coercive enforcement with potentially disproportionate consequences for the Applicant before the Tribunal has adjudicated the merits.

Orders

57. For the foregoing reasons, the application for a temporary injunction succeeds. A temporary injunction is hereby issued restraining the Respondent, its officers, agents or representatives from the recovery or collection of the impugned tax assessed upon the Applicant, whether by agency notice or otherwise, pending the final disposal of TAT Application No. 345 of 2025.

58. For purposes of this interlocutory application, the Tribunal finds that the Applicant has, on a prima facie basis, satisfied the statutory 30% requirement by reason of the prior payment of Shs. 53,713,669,574, and the final legal and tax implications shall be determined at the substantive hearing.

Costs shall abide in the main cause.

Dated at Kampala this **20th** day of **January,** 2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. STELLA NYAPENDI CHOMBO
MEMBER

HON. PROSCOVIA REBECCA NAMBI
MEMBER