



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 22 OF 2023

SOGEA SATOMAPPLICANT

VERSUS

UGANDA REVENUE AUTHORITYRESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, MS. CHRISTINE KATWE,
HON. GERALD AGABA KAKIMA**

RULING

I. Introduction

1. This ruling is in respect of an application challenging the Respondent's objection decision disallowing the Applicant's objection to an administrative additional VAT assessment for the period January 2020 to December 2020, amounting to Shs. 1,525,575,111 (Uganda Shillings One Billion Five Hundred Seventy-Six Thousand One Hundred Eleven). According to the Respondent, the tax arose from undeclared VAT on imported services provided by Sogea-Satom France (Head Office) to the Applicant.

II. Background Facts

2. The Applicant is a Ugandan branch of Sogea-Satom France ("the Head Office"), a company with its headquarters in France and trading under Vinci Group Company. The Applicant provides construction and other civil engineering services.
3. On 8 June 2017, Sogea Satom France entered into a contract with the National Water and Sewerage Corporation ("NWSC") for the construction of the Katosi – Kampala Drinking Water Transmission Main.

In addition, on 18 June 2018, the parties entered into another contract for the design and construction of a water treatment plant.

4. The Respondent carried out a transfer pricing review of the Applicant and, on 15 August 2022, issued a management letter. The Respondent informed the Applicant that they had established that VAT on imported services was not charged on dealings between the Applicant and its head office.
5. On 24 October, 2022, the Respondent issued a VAT administrative additional assessment of Shs. 1,525,576,110 for the period January 2020 to December 2020. The Respondent raised the assessment on the grounds that the Applicant had obtained certain administrative services from its head office and did not account for VAT on imported services.
6. The Applicant objected to the assessment on the grounds that since an aid-funded contract exists between the Head Office and the NWSC, it follows that the services are covered by the deemed VAT facility provided for in section 24 (6) and (8) of the VAT Act. The Applicant argued that they and the Head Office are a single entity for VAT purposes; therefore, VAT on imported services should not have been charged in the first place.
7. The Respondent denied the objection on the grounds that the Applicant was rightly assessed for VAT on imported services in respect of charges on taxable foreign services supplied to and consumed by Sogea-Satom Uganda.

III. Issues for determination

8. The following issues arose for determination:
 - (i) Whether the Applicant is liable to pay the tax assessed?
 - (ii) What remedies are available to the parties?

IV. Representation

9. Ms. Ajwang Mary Goretti, Ms. Mary Anne Kasule and Mr. Mugenyi Pius Ssemanda of M/S Sena Advocates represented the Applicant, while Mr. Samuel Oseku, Mr. Tonny Kalungi and Mr. Sam Kwerit represented the Respondent.

V. Submissions of the Applicant

10. The Applicant submitted that the Respondent's assessment of Shs. The amount of 1,525,576,110.66 (Uganda Shillings One Billion Five Hundred Seventy-Six Thousand One Hundred Ten and Sixty-Six Cents) for the imported services to the Applicant was erroneous.
11. In addition, the Applicant submitted that it is not in dispute that the Applicant is a Ugandan branch of Sogea- Satom, a company headquartered in France, which is a party to the contract with National Water and Sewerage Corporation. Consequently, the Applicant's parent company could implement the terms of the contract only through its registered office in Uganda, while all activities, operations, and liabilities remained those of the Applicant's parent company.
12. The Applicant argued that Sogea-Satom France was a party to the contract and was never expected to pay any VAT on the contract and related services. The Applicant emphasised that upon agreement by the parties that the Applicant was a branch of the contractor, they were bound by the terms and laws governing the contract entered into by the contractor (Sogea-Satom France) and National Water and Sewerage Corporation specifically PC Clause 14.1 (b), which stated:

"The following taxes and exemptions shall apply to the contract; the rates and the prices bid by the contractor shall not include taxes, duties and fees payable by the contractor. That Value Added Tax (VAT) was entered separately in the bills of quantities."

13. The Applicant submitted that it was evident that on 18 June 2018, NWSC entered into a contract with M/s Sogea-Satom that was exclusive of VAT and PC 1.13 thereof stated that taxes and duties were to be treated as follows;

"... Neither the borrower nor the project executing agency will use proceeds of the grants for payment of taxes, public charges, import duties or other duties or impositions. The government of Uganda and National Water and Sewerage Corporation are under an obligation to ensure that the proceeds

of the project funding are not directly or indirectly used for payment of taxes, including VAT"

14. Further that it was not in dispute that the contracts entered between Sogea-Satom and NWSC which the Applicant is part and parcel, and not a third party were donor funded with financing from French Development Agency, European Investment Bank and KFW, which contracts all indicated that respective contract prices were exclusive of VAT and as such, VAT should have been deemed to have been paid and as such not chargeable from the Applicant.
15. The Applicant also stated that sub clause 14.1 (b) of the contract stated as follows:

"The following taxes, duties and fees exemptions apply to the contract; the rates and prices bid by the contractor shall not include taxes, duties and fees payable by the contractor under the contract. Value-added tax is entered separately in the bill of quantities."

The Applicant stated that the above clause demonstrates that VAT was not envisaged in the contract between the contractor and NWSC.

16. The Applicant invited the Tribunal to consider as evidence on record the Respondent's admission in Paragraph 1 of the submissions filed on the 17 day of June 2024 to the effect that the Applicant is a branch of Sogea-Satom, a company headquartered in France. Once that is an admitted fact, the applicant has no tax liability independent of its parent company, which is protected from taxation under the aforementioned contract.
17. The Applicant contended that the assessments made by the Respondent based on **Section 4 (c) and 5 (c) of the Value Added Tax Act** and **Regulation 13 of the Value Added Tax Regulations** and the assumption that the imported goods attracted reverse charge of 15% under the said provisions do not apply to the contract between the contractor and by extension the Applicant and National Water and Sewerage Corporation

since VAT is required to be deemed paid and the contract prices were VAT exclusive.

18. The Applicant quoted the case of ***Cowi AS Vs URA, TAT Application No. 004 of 2019***, where the Tribunal noted as follows:

“The VAT Act is concerned with the taxable person. S.1 provides that a taxable person has the meaning in S.6, which provides that a person registered under S.7 is a taxable person from the time the registration takes effect. For a person to be taxable, they have to be registered for VAT. So, the Tribunal has to ask itself: Do branches register for VAT, or are it the legal entities that register for it? S.4 (c) of the VAT Act deals with a person and not a taxable person.”

19. Further, Section 4 (c) and 5 (c) of the Value Added Tax Act and Regulations 13 of the Value Added Tax Regulations were intended to benefit direct and indirect parties to the aid-funded projects and not third parties. The Applicant stated that Sogea Satom France was a direct party to the contract and not a third (3rd) party. The Applicant therefore contended that the Respondent's treatment of the head office as a third party, yet it was a direct party to the contract, was wrongful.
20. The Applicant argued that the Respondent's reliance on the case of ***Uganda Revenue Authority v Cowi AS, Civil Appeal No. 34 of 2020*** was in error, distinguishably. The Applicant stated that, in the COWI case, a third party was involved; hence, the finding that third-party providers of imported services to their related parties are liable to pay VAT does not apply in the present matter, where the Applicant is not a third party.
21. The Applicant cited the case of ***Samsung Electronics East Africa Limited V The Uganda Revenue Authority, TAT Application No. 36 of 2019***, where it was held:

“The Tribunal does not perceive why a branch in a company should enter a contract with another branch or the head office when they are all part of the same legal entity. As already noted, a company cannot be said to be exporting to itself.”

22. The Applicant further invited the Tribunal to distinguish the decision in the case ***Uganda Revenue Authority Vs COWI AS Civil Appeal No. 0034 of 2020 (arising TAT Application No. 004 of 2019)*** insofar as the Applicant was not a third party in the contract but was a party to the contract to the extent that its parent company executed the same.
23. The Applicant further cited the case of ***Samsung Electronics East Africa Limited V URA, TAT Application No. 36 of 2019***, where the Tribunal stated:
- “The Respondent's decision to consider the branch in Uganda as a different entity from the head office is not grounded in law”.*
24. The Applicant submitted that the Tribunal's finding was in tandem with its submission that Sogea Satom Uganda is the same as Sogea Satom France and cannot be treated as a different entity, warranting the respondent's levy of taxes on it.
25. The Applicant prayed for orders that:
- (i) They are not liable to pay the Value Added Tax assessed
 - (ii) Costs of the application are awarded to them

VI. Submissions of the Respondent

The burden of proof

26. The Respondent submitted that the burden of proof is on the Applicant to prove that the PAYE tax assessments raised were not due and payable. The Respondent cited section 18 of the Tax Appeals Tribunal Act, which places the burden of proving that an assessment is erroneous or excessive on the Applicant. The Respondent submitted that the Applicant has failed to discharge the burden.

Issue 1: Whether Sogea-Satom (Head office) is a contractor

27. Under this issue, the Respondent cited Section 24(6) of the VAT Act, which provides that the tax payable on a taxable supply made by a supplier to a

contractor executing an aid-funded project is deemed to have been paid by the contractor, provided the supply is for use by the contractor solely and exclusively for the aid-funded project.

28. Further, Section 24(8) of the VAT Act defines an "aid-funded project" to mean a project financed by a foreign government or a development agency through loans, grants and donations. The Respondent indicated that the VAT Act does not define "contractor" in the context of an aid-funded project. However, ***Black's Law Dictionary, 11th Edition, at page 413*** defines a contractor as a party to a contract, one who contracts to do work for or supply goods to another.
29. The Respondent also submitted that Sogea Satom France (Head office) and Sogea Satom Uganda are the same person for contractual purposes. They stated that the evidence from the Contract documents shows that consultancy services for contract drafting, engineering works, and accounting were rendered to the branch in Uganda by staff at the head office in France. In addition to the Contract Agreement, there was a Power of Attorney under which the Head Office signed off powers to the Applicant to act as its agent or on its behalf, under the Head Office's instructions.

Whether, given the terms of the contract between National Water and Sewerage Corporation (NWSC) and the Applicant, reverse-charge VAT on imported services is applicable?

30. The Respondent submitted that as a general rule, businesses charge VAT on supplies and deduct VAT on purchases. The reverse charge mechanism is a deviation from this rule, where the supplier does not charge VAT on the invoice, and the customer pays and deducts VAT simultaneously through the VAT return. The client will pay the net amount to the supplier; however, when completing the VAT return, he will manually calculate the VAT on the reverse charge invoice.

31. Section 4 (c) of the VAT Act provides that a tax to be known as a value-added tax shall be charged on the supply of imported services other than an exempt service by any person.
32. Section 5(1) (c) of the VAT Act provides that the tax payable in the case of a supply of imported services other than an exempt service is to be paid by the person receiving the supply. Regulation 13(1) of the VAT Regulations provides that a person who receives imported services other than an exempt service shall account for the tax due on the supply. The person shall account for that service when performance of the service is completed, when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is earliest.
33. Furthermore, Regulation 13(3) of the Value Added Tax Regulations provides inter alia that if a taxable person carries on a business both in and outside Uganda and there is an internal provision of services from the part outside Uganda to the part in Uganda, that part of the business carried on outside Uganda is treated as if it were carried on by a person (referred to as the "overseas person") separate from the taxable person and the internal provision of services is treated as a supply of services made outside Uganda by the overseas person to the taxable person for reduced Consideration.
34. The Respondent cited ***Uganda Revenue Authority V Cowi A/S, High Court Civil Appeal No.0034 of 2020***, where the court held that support or supervisory/administrative work rendered to a branch from a head office overseas in the course or furtherance of the business of the branch becomes a supply when it is made for a consideration.
35. The Respondent concluded that, based on the above provisions and legal precedents, the Head Office is treated as separate from the Applicant Uganda and imported services provided by the former to the latter are subject to VAT.

36. The Respondent argued that the deemed VAT provisions, which cover transactions between contractors, posed a question as to whether the imported services are not subject to VAT based on the contracts between the Applicant (Head Office) and NWSC and the basis of Section 24 (6) of the VAT Act. The Respondent submitted that section 24 (6) provides that the tax payable on a taxable supply made by a supplier to a contractor executing an aid-funded project is deemed to have been paid by the contractor, provided the supply is for use by the contractor solely and exclusively for the aid-funded project.
37. The Respondent also stated that Section 24(8) of the VAT Act defines an "aid-funded project" to mean a project financed by a foreign government or a development agency through loans, grants and donations. In addition, Section 18(1) of the VAT Act defines a taxable supply as a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities.
38. From the facts at hand, the services provided by the Applicant's Head Office to its branch are not taxable supplies within the meaning of Section 4(a) and Section 18(1) of the VAT Act. The services are, however, imported services subject to VAT in accordance with Sections 4(c) and 5(c) of the VAT Act as well as Regulation 13 of the VAT Regulations. The Respondent concluded that the VAT deeming provisions under Sections 24(6) and (8) of the VAT Act are not applicable to the facts at hand.

Issue 2: Whether the Applicant is liable to pay the tax assessed?

39. The Respondent considered Sections 4(c) and 5(c) of the VAT Act on the imposition of VAT on imported services as well as Regulation 13 of the VAT Regulations.
40. Further consideration was made to the case of *Uganda Revenue Authority Versus Cowi A/S (Supra)*, where the court held that support administrative work rendered to a branch from a head office overseas in the

course or furtherance of business of the branch is a supply when it is made for a consideration.

41. The Respondent submitted that the Head Office allocated costs to the Applicant and these cannot be treated as a mere arm's length allocation of profits as claimed by the Applicant, but as a purchase of services which is subject to VAT in accordance with the law.
42. The Respondent cited Section 11(a) of the Value Added Tax, which provides for "Supply of Services" and states that a supply of services means any supply where goods or money is not, including (a) the performance of services for another person. Furthermore, Section 16 of the VAT Act provides for "Place of supply of services" and states:
- "1) Except as otherwise provided under this Act, supply of services takes place where the services are rendered.*
- 2) A supply of services in connection with immovable property takes place where the immovable property is located.*
- 3) A supply of services of, or incidental to, transport takes place where the transport commences.*
- 4) A supply of services to which clause 1(a) of the Third Schedule applies shall be regarded as having been made in Uganda.*
- 5) Where a person is required to pay a fee for receiving a signal or service for a supply of television, radio, telephone or other communication services, the supply takes place where that person receives the signal or service."*
43. The Respondent contends that Section 16 above applies to Section 4(a) of the Act. The Respondent further added that Section 16 of the VAT Act applies to services that are physically performed in Uganda by a person who is in Uganda at the time of the supply. Under this section, VAT is chargeable on a supply, and it is the supplier's duty to charge the VAT.

44. However, section 18(8) of the VAT Act provides for "Taxable Supply" and states that a supply of services by a foreign person for consideration as part of the person's business activities is treated as a taxable supply if the services are considered as taking place in Uganda under section 16.
45. Therefore, section 18 (8) of the Act thus applies to "foreign persons" making taxable supplies of goods or services within the territory of Uganda. A foreign person includes a non-resident alien individual, foreign corporation, foreign partnership, foreign trust, foreign estate, and any other person that is not a citizen of Uganda, which is the case at hand.
46. According to Regulation 13 (a) of The Value Added Tax (Amendment) Regulations, 2011, a branch in Uganda is distinct from its head office overseas and is considered to be a taxable person for VAT purposes, even though they both form part of the same legal entity. This also applies to two branches with different commercial registrations. As such, a branch is registered as a taxable person in its own right. As a consequence, a transaction between a local branch and its overseas head office, or between commercial registrations within the same legal entity, would be considered a VAT-relevant supply.
47. The Respondent cited the case of ***Uganda Revenue Authority Vs Cowi***, where it was held as follows:
- "Regulation 13 (a) of The Value Added Tax (Amendment) Regulations, 2011, lifts the corporate veil as a means of creating an even playing field between local and overseas businesses. VAT is a tax on consumption and is therefore levied on all taxable supplies of goods and services consumed in Uganda, whether procured locally or from overseas. Services procured from overseas suppliers are subject to tax if consumed in Uganda, including VAT.*
48. It is not in doubt that imported services provided by overseas suppliers which do not have an establishment in Uganda are subject to VAT. Non-taxation of imported services provided by overseas suppliers with an

establishment in Uganda would create an uneven playing field between local and overseas businesses. Regulation 13(a) of the VAT Regulations is intended to level the VAT treatment of services procured from overseas and those procured locally, thereby achieving parity in VAT treatment for all services consumed in Uganda. It is therefore a provision intended to protect the public interest.

49. The Respondent submitted that Regulation 13 (a) of the VAT Regulations is designed to apply in a fair and even-handed way to ensure there is no unfair competitive advantage afforded to domestic or foreign businesses that may otherwise distort international trade in services and limit consumer choice. It ensures that imports of services are taxed on the same basis and at the same rate as domestic supplies. It ensures that the net tax burden on imports equals that on the same supplies in the domestic market. In addition, it ensures that the amount of tax refunded or credited for exports equals the amount of tax levied.
50. The Respondent sought the following orders:
- (i) A declaration that the applicant is liable to pay the Value Added Tax assessed.
 - (ii) Costs be awarded to the Respondent.

In rejoinder, the Applicant reiterated their earlier submissions.

VII. The determination

51. The facts of this application were largely agreed upon by both parties. What remains to be determined is a pure question of law. The Tribunal appreciates both counsel for the substantial depth of discussion provided in their respective written submissions.
52. The transactions underpinning this dispute relate to recharges from Sogea Satom France to the Applicant, which is its branch. According to the Respondent's management letter dated 15 August 2022, the recharges relate to the following support services:

- (i) Administrative assistance
- (ii) Marketing communication
- (iii) HR Assistance
- (iv) Equipment assistance
- (v) Bidding and engineering
- (vi) IT Software

53. The Respondent imposed VAT on imported services on the above recharges on the grounds that, from a VAT perspective, the branch and head office are separate persons. Therefore, the Applicant should have accounted for VAT on imported services.
54. On the other hand, the Applicant has argued that the service falls within the scope of the deemed VAT provision under section 24 (6) of the VAT Act. Therefore, VAT should not apply.
55. The core issue to be resolved is whether the Applicant is liable to pay the Value-Added Tax (VAT) as assessed by the Respondent. In resolving this main issue, the Tribunal shall answer the following sub-questions:
- (i) Can the Applicant branch be treated as a separate person from its head office, Sogea-Satom France, for tax purposes?
 - (ii) If yes, is the Applicant still liable to pay the assessed VAT in light of the donor-funded contracts executed with the National Water and Sewerage Corporation (NWSC)?

Sub-Issue (i): Whether the Applicant can be treated as a separate person from Sogea-Satom France for tax purposes.

56. The Applicant strongly argued that it forms one and the same legal entity with its head office, Sogea-Satom France, and that attempting to separate the two for the purpose of this dispute contradicts established company law. The Respondent conceded that while the corporate facts demonstrate the Applicant and its head office are structurally one entity, the Respondent is legally empowered to assess the Applicant as an independent party for tax purposes.

57. The foundational view that a company and its branch share an identical legal identity is grounded in the general doctrine of corporate legal personality, as established in the *locus classicus* case of **Salomon v. A. Salomon & Co. Ltd [1897] AC 22**. However, just as corporate law has evolved exceptions to this rule by piercing the corporate veil, tax law recognises specific instances in which a branch is treated as distinct from its parent head office.
58. In **Uganda Revenue Authority v. COWI A/S (Civil Appeal No. 0034 of 2020)**, Hon. Justice Stephen Mubiru extensively considered this concept of lifting the corporate veil specifically for tax purposes. The learned Judge reviewed the Court of Justice of the European Union (CJEU) decision in **Danske Bank A/S Denmark, Sverige Filial v. Skatteverket (Case C-812/19)**. In that case, a Danish head office provided IT infrastructure services to its Swedish branch and recharged those costs. The CJEU ruled that transactions between a foreign head office and its local branch fall within the scope of VAT where distinct tax treatments or group memberships apply, effectively treating them as separate taxable persons.
59. Applying that rationale, Hon. Justice Mubiru overturned this Tribunal's previous position, holding that a foreign head office and its Ugandan branch cannot always be considered a single VAT taxable person. Consequently, services rendered between a foreign head office and its Ugandan branch fall within the scope of Ugandan VAT laws.
60. This position has been clearly codified under Ugandan law. The relevant statutory framework under the Value Added Tax Act establishes that:
- (i) Section 4(c) charges VAT on the supply of imported services, other than exempt services, by any person.
 - (ii) Section 5(1)(c) mandates that VAT on a supply of imported services must be paid by the person receiving the supply.

61. Furthermore, Regulation 13(1) of the Value Added Tax Regulations explicitly states:

"If a taxable person carries on a business both in and outside Uganda and there is an internal provision of services from the part outside Uganda to the part in Uganda, that part of the business carried on outside Uganda is treated as if it were carried on by a person separate from the taxable person..."

62. In the present case, while Sogea-Satom France signed the primary contracts with NWSC, the actual project execution was carried out through its registered branch in Uganda (the Applicant). The record shows that essential support services—including contract drafting consultancy, engineering works, and accounting—were provided to the Ugandan branch by head office personnel in France, with the associated costs allocated/recharged to the Applicant.
63. By operation of Regulation 13(3), these internal recharges cross a distinct statutory boundary. They constitute a supply of imported services to Uganda and are subject to a VAT recharge. Consequently, as the recipient of these services, the Applicant is liable to account for the VAT unless otherwise exempted by law. Sub-issue (i) is therefore answered in the affirmative.

Sub-Issue (ii): Whether the Applicant is exempt from VAT in light of the NWSC contracts.

64. The Applicant contended that no tax liability arises because its contracts with NWSC were donor-funded. This argument relies heavily on the assumption that the parent company and the branch are an indivisible entity. The Applicant maintained that because it was the direct party executing the contracts, all tax-exemption clauses contained therein automatically shielded it from this assessment.

65. The statutory framework governing taxable supplies and aid-funded projects provides clear guidance. Section 24 (6) of the VAT Act specifically covers such projects. It provides:

*“The tax payable on a **taxable supply** made by a supplier to a contractor executing an aid-funded project is deemed to have been paid by the contractor, provided the supply is for use by the contractor solely and exclusively for the aid-funded project.*

66. A taxpayer seeking to benefit from the above provision must meet the conditions, which can simply be broken down as follows:

- (i) There should be a taxable supply;
- (ii) Made by a supplier;
- (iii) To a contractor;
- (iv) Executing an aid-funded project; and
- (v) The supply is for use by the contractor solely and exclusively for the aid-funded project

All the above elements must be met; we now determine whether the Applicant meets them.

Whether there was a taxable supply

67. Section 18(1) of the VAT Act defines a taxable supply to mean “a supply of goods or services, other than an exempt supply, made in Uganda by a taxable person for consideration as part of his or her business activities.

One of the key ingredients of the above provision is that the supply should have been made in Uganda.

68. Section 16 of the VAT Act provides for “place of supply of services” and states, among others, that:

“1) Except as otherwise provided under this Act, supply of services takes place where the services are rendered.

The focal point of section 16 is to determine the place of supply for services in situations where taxable supplies are made in Uganda in accordance with section 4 (a) of the VAT Act.

69. However, whether a supply of imported services can be treated as a “taxable supply” can only be determined by examining further the provisions of section 18 (it is worth noting that while section 4 (a) refers to a “*taxable supply...*”, section 4 (c), on the other hand, refers to “the supply of...”. This is subtle but telling distinction – easy to miss).

70. Therefore, when one further examines section 18 of the VAT Act, specifically subsection (9), a pattern begins to emerge, which clearly elucidates the distinction between the treatment of imported services and local supplies from a VAT perspective when determining whether a supply is taxable. Section 18 (9) provides:

“Notwithstanding subsection (1), a supply of services by a foreign person for consideration as part of the person's business activities is treated as a taxable supply if the services are considered as taking place in Uganda under section 16.”

71. It is undisputed that Sogea Satom France is a foreign person. However, its supplies to the Applicant qualify as taxable supplies only if the services are performed in Uganda. It is also undisputed that Sogea Satom France supplied services. Section 11(a) of the VAT Act provides that a supply of services means any supply which is not a supply of goods or money, including the performance of services for another person.

72. Simply put, what section 18 (9) of the VAT Act states is that not every imported service is a taxable supply. For an imported service to qualify as a taxable supply, the services must be rendered in Uganda.

73. In the present case, the recharges from the Head Office were in respect of administrative, HR, engineering, and marketing support, among others. The Respondent has argued that the above supplies were not made in Uganda

and therefore are not taxable supplies within the meaning of sections 18 and 24 (6) of the VAT Act.

74. We would have expected the Applicant to rebut this. However, in rejoinder, the Applicant merely stated:

“Section 16 (1) of the VAT Act specifically identifies the place of service and does not place the tax burden on the place of service therefore it cannot be used as a threshold for determining the payment of tax.”

75. We do not agree with the Applicant's submission. Section 16 of the VAT Act is consequential for the determination of any question under section 24 (6) insofar as it defines place of service. As we have demonstrated, the place of service is a key determinant of whether an imported service is a taxable supply for purposes of section 24(6).
76. It is also critical to highlight that the burden of proof in tax matters rests with the Applicant. The Applicant ought to have demonstrated whether the Head Office services were rendered in Uganda. The Applicant has not discharged the burden of proof in this regard.
77. Consequently, the Applicant has not met the first test/ingredient of section 24 (6) and therefore falls outside the scope of the provision, as all conditions must be met.
78. That said, for completion purposes, we consider it appropriate to address the other elements of section 24 (6). It is undisputed that the NWSC contracts were donor-funded by the French Development Agency (AFD), the European Investment Bank, and KfW, thereby qualifying as an "aid-funded project" under Section 24(8). It is also noted that Exhibit AE112 explicitly states contract prices were exclusive of taxes and that VAT was to be "deemed paid." It is also undisputed that, under the contract, the Applicant is a contractor for the NWSC project.

79. However, a critical distinction must be made regarding the nature of the transaction. Under Section 18(1), a standard taxable supply requires the service to be made in Uganda. The services performed by Sogea-Satom France's head office staff were executed outside Uganda. Therefore, they do not constitute standard taxable supplies under Section 4(a), 18(1) or Section 18(9).
80. Instead, these transactions are classified strictly as imported services under Sections 4(c) and 5(1)(c) of the Act, governed by Regulation 13. The "deemed paid" safe harbour under Section 24(6) only applies to taxable supplies made to a contractor within the territory of Uganda.
81. While the contracting parties clearly intended the project to be tax-free, their contractual arrangements failed to align properly with Uganda's rigid statutory tax framework. A contract cannot override clear, express statutory provisions of tax law. The "deemed paid" rule cannot be stretched to cover branch recharges for all kinds of imported services. Sub-issue (ii) is therefore answered in the negative.
82. This then poses the question – if the services were performed outside Uganda, how can we, in the same breath, call them “imported services”? Section 4(c) of the VAT Act imposes VAT on imported services. Section 1 of the VAT Act defined “import” to mean *“to bring, or cause to be brought, into Uganda from a foreign country or place.”*
83. In ***Mix Telemantics East Africa Limited v Uganda Revenue Authority, TAT Application 4 of 2018***, the Tribunal defined imported services to mean:

“Imported services are supplied abroad where they are manufactured but delivered locally or remotely. Unlike domestic supplies, VAT on imported goods and services is paid by the recipient because the suppliers are abroad.”

84. The Tribunal concluded that the provision of electronic or web-related services by a platform hosted in a foreign country to the applicant in Uganda is not only the remote delivery of electronic services but also amounts to an import of services.
85. Applying the reasoning in *Mix Telemantics (supra)* to the facts before us, in determining whether a service is imported or not, it is immaterial whether the service was rendered locally or remotely. What matters is that the consumer of the services is located in Uganda. Therefore, the Respondent rightly treated the services provided by the Head office as imported services, liable to VAT in accordance with Section 4(c) of the VAT Act.

Conclusion and Remedies

86. The Applicant is legally distinct from its head office for the purpose of accounting for VAT on imported services under Regulation 13(3). Furthermore, the donor-funded nature of the NWSC contracts does not shield the recharges from VAT on imported services. The Respondent's tax assessment was therefore proper in law.
87. On the question of costs, the Tribunal notes that the parties genuinely intended to establish a tax-exempt structure, though it was flawed in its execution under the existing statutory framework. This application raised novel and complex questions of tax interpretation. Consequently, this is a proper case where each party should bear its own costs.

Orbiter

88. The Tribunal is alive to the impact of tax on donor-funded projects, particularly those of national significance, such as the NWSC project. Oftentimes, the tax cost will still be borne by the government and eventually passed on to Ugandans. In this regard, we would recommend an amendment of section 24 (6) and (7) of the VAT Act to give effect to the intended policy considerations for the deemed VAT provision. Specifically, the Ministry of Finance could consider substituting the statement "*the tax payable on a taxable supply made by a supplier...*" for the following words:

“the tax payable on a supply made by a supplier...”

This will ensure that all services imported for the purposes of the relevant projects are brought within the scope of the deemed VAT provision, regardless of their place of supply.

Final Orders

89. The Tribunal hereby orders that:
- (i) The Application is dismissed.
 - (ii) Each party shall bear its own costs.

It is so ordered.

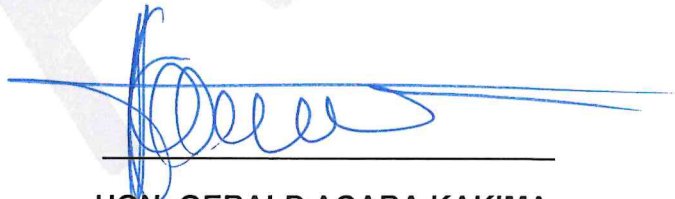
Dated and delivered at Kampala this 26th day of **June** 2026.



**HON. CRYSTAL KABAJWARA
CHAIRPERSON**



**MS. CHRISTINE KATWE
MEMBER**



**HON. GERALD AGABA KAKIMA
MEMBER**