TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

TAT APPLICATION NO. 294 OF 2025

SYLVIA BIRUNGI...APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY..RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. PROSCOVIA REBECCA NAMBI, HON. GERALD AGABA KAKIMA

RULING

I. Introduction

1. The Applicant is a registered individual taxpayer under TIN 1032051145 who is aggrieved by the taxation decision of the Respondent. The Applicant challenges the Respondent's assessment of 6% Withholding tax and penalties on a property/ business assessment arising from the purchase of a rental property. The withholding tax assessed by the Respondent was Shs. 102,000,000 and Shs. 1,200,000.

II. Background facts

2. The Applicant is engaged in a rental business but also operates a restaurant as a side business.

3. The Respondent conducted a compliance review of the Applicant's tax declarations and established that the Applicant had purchased rental property from Mugerwa Mudasiru at a consideration of Shs. 1,750,000,000.

The land is comprised in Busiro Block 444, Plot 682, Nkumba town, measuring approximately 0.40 acres.

4. On 23 May 2025, the Respondent carried out a field inspection of the said property with a view to establishing whether the property is a business asset or not. It was established that the property is a building with four (4) floors, comprising 32 (one-bedroom) apartments.

5. On 30 May 2025, the Respondent issued an administrative withholding tax (WHT) assessment of Shs. 102,000,000 for the period September 2024, being WHT on the purchase of the property from Mr. Mudasiri Mugerwa. On 26 June 2025, the Applicant objected to the assessment on the ground that the property was wrongly classified as a business asset.

6. On 20 August 2025, the Respondent issued an objection decision disallowing the objection and upholding the assessment, which later resulted in this application before the Tax Appeals Tribunal.

III. Representation

7. The Applicant was represented by Mr. Alfred Habaasa of M/S Redmond Associated Advocates, while the Respondent is represented by Ms. Christine Mpumwire of the Legal Services and Board Affairs Department of the Respondent.

IV. Evidence

8. The Applicant's case is supported by affidavits sworn by Ms Sylivia Birungi, the Applicant, as well as Ebuka Nwabunwanno and Abaasa Martin, both tenants in the property, as well as Exhibits marked from AE-A1 TO AE-A16 in the Applicant's trial Bundle.

9. The Respondent's case is supported by the Affidavit in support deponed by Mr. Masiko Tumwebaze of the Respondent's Legal Services and Board Affairs department and exhibits marked from REX 1 to REX 4 in the Respondent's trial bundle.

V. Issues for determination

10 The key issue is whether the rental property purchased by the Applicant was a business asset subject to withholding tax.

VI. Submissions of the Applicant

11. The Applicant submitted that no withholding obligation arose out of the transaction of purchase of rental property in question since it did not constitute a business asset. The Respondent erroneously classified the private investment property as a business asset under section 130(2). This is because a rental property does not constitute a business asset as the property was neither used in business nor classified as a commercial building.

12. The Applicant argues that an investment property generating property income cannot be a business asset at the same time unless proven that it is generating business income. The property was used to generate rental income by the previous owner and now by the Applicant. Therefore, the asset disposal cannot be construed as business realisation.

13. The Applicant submitted that the property is not a business asset but is a private or investment asset which falls outside the definition of a business asset under ITA. The Applicant submitted that the property disposed is a non-commercial building. Its disposal is outside the scope of the Income Tax Act. The Applicant submitted that disposing of an asset used to generate property income cannot be construed as a business realisation.

14. Section 4 of the Income Tax Act imposes tax on every person who has chargeable income for the year of income. Section 16 further defines a person's chargeable income for a year of income as the person's gross income for the year less the total deductions allowed under the Act for the year.

15. The Applicant submitted that the gross income of a person for a year of income is defined under Section 17 of the Income Tax Act as the total amount of business income, employment income and property income derived during the year by a person other than income exempt from tax.

Any receipt that fails to satisfy the statutory definition of business, employment and property income and is further expressly exempt from income tax falls outside the charging scope of the Income Tax Act.

16. Regarding business income, the Applicant cited section 18 (1) of the Income Tax Act, which defines business income as any income derived from carrying on a business, whether of a revenue or capital nature. Further, Section 18(1)(a) incorporates gains determined under Part VI of the Act, provided such gains are derived from the disposal of a business.

17. The Applicant further argued that business income under Section 18 must satisfy, among others:

    (i) It must be income derived by a person in the course of carrying on a business, whether of a revenue or capital nature; or
    (ii) It must be a gain realised by a person specifically from the disposal of a business asset.

18. The Applicant also submitted on property income and cited section 20 (1) (a) of the Income Tax Act, which defines property income to mean any dividend, interest, annuity, natural resource payments, rents, royalties and any other payment derived by a person from the provision, use or exploitation of property.

19. The Applicant also cited section 20 (2) of the Income Tax Act, which provides that an amount included in property income under section 20 (1) (a) retains its character as dividends, annuity, natural resource payment, rent or royalties for the purposes of any section referring to such income.

20. The Applicant submitted, on the Influence of the category of income and on the classification of an asset, that to determine the nature of an asset, one must identify the specific category of income it was used to generate. If the income is business income, then it becomes clear that the asset was used in a business or the asset is a business asset, and if the income is property income, e.g. rent, then the asset is an investment asset.

21. The Applicant also submitted on the character of income derived from the property. Therefore, it is clear that an amount included in property income under Section 20(1)(a) retains its character as rent (in this matter) for the purposes of any section referring to such income.

22. Accordingly, once it is established that both the vendor and the Applicant have consistently derived rental income from the property, such income cannot be re-characterised under any other category within the ITA. The Act maintains a clear distinction between property income and business income; therefore, the character of the income and, by extension, the property remains fixed by its actual and documented use, as was held in ***Lake Victoria Hotel Limited v. URA (TAT Application No. 029 of 2024)***

23. The Applicant also submitted that the previous owner derived rental income from residential accommodation letting and did not utilise the property in any business trade, holding it exclusively as a source of rental income. Exhibit A9 corroborates this, showing a rent payment receipt that also served as an agreement between Mr Mudasiru and one of his then tenants, Anijah Samuel Chiagozie, dated 22nd August 2023, paid to Mr Mudasiru's property managers, KHP Estates & Property Management Uganda Ltd.

24. Anijah Samuel Chiagozie was among the tenants who transitioned to the Applicant's management following the sale. The tenant's sworn affidavit (Exhibit A10) confirms the history of rental payments to the vendor's property managers, KHP Estate & Property Management Uganda Ltd, reinforcing the property's consistent characterisation as a rental investment before the transfer of title. Following the acquisition, the property continued to be used exclusively for residential rental accommodation, as evidenced by receipts, tenancy agreements, and tenants' affidavits.

25. The Applicant submitted that where a property is held and used specifically to earn rental income and classified as property income under Section 20 of the ITA, it cannot simultaneously be classified as a business asset earning business income.

26. The Applicant further submitted that to characterise the use of a property in a business activity so as for the person to derive business income from it, there must be clear and demonstrable indicators of a business operation or trade.

27. The Applicant cited ***Dr. Amos Nzeyi v Uganda Revenue Authority, Tax Application No. 005 of 2024,*** where the Tribunal addressed the distinction between a trade or adventure in the nature of trade and a mere investment or hobby. The Tribunal held that this determination requires a factual inquiry into specific indicators of trading activity. In establishing this distinction, the Tribunal identified the following factors as primary considerations:

    (i) Repeated transactions - A trading activity is more indicative if there are repeated and systematic transactions. In the present case, the seller didn't undertake any repeated transactions within or with the property to indicate a trade. The property is not one that would ordinarily be used for any other business other than rental for accommodation purposes.

    (ii) The length of time an asset is held is an important indicator of trade. The longer the period of ownership, the greater the chance it will be seen as an investment rather than a trade. The Applicant has held the property for eighteen months, maintaining active rental tenancies throughout. This duration of ownership, coupled with the continuity of the tenant relationships, demonstrates that the Applicant acquired the asset for long-term investment yield rather than a 'quick commercial flip' or trading venture; hence, the asset cannot also qualify as business stock.

28. The Applicant submitted that the subject property was, and remains, an investment property. Even after purchase, the Applicant's continuous and uninterrupted use of the premises for rental purposes confirms an investment intent consistent with the previous owner's (the vendor's) use, which is inconsistent with a business trade. Accordingly, the tax treatment

of the asset must follow its established use as a source of property income, i.e. an investment property.

29. The Applicant also submitted on the applicability of withholding tax and argued that withholding tax is a provisional collection mechanism and remains secondary to the primary income tax liability. Where a transaction, such as the disposal of a non-business asset, falls outside the charging scope of Section 4 or is expressly exempt under Section 21(1)(j), no withholding tax obligation can arise under Section 130. One cannot withhold tax that the law does not impose.

30. The Applicant submitted that withholding tax under section 130 is strictly on disposal of a business or a business asset, i.e. targeted on business income determined under section 18 because disposal of a business or business asset can only give rise to business income.

31. Section 21(j) of the ITA provides that any capital gain that is not included in business income, other than capital gains on the sale of shares in a private limited liability company or on the sale of a commercial building, is exempt income. This raises the question of whether a property let out for residential accommodation purposes is a commercial building.

32. The Applicant submitted that according to **Black's Law Dictionary (11th Edition),** the term 'Commercial' relates to or is connected with trade, traffic, or commerce in general. It further defines 'Commerce' as the exchange of goods, productions, or property of any kind. This definition implies an active and continuous exchange, which is fundamentally distinct from the passive holding of a residential property for rental yield.

33. The Applicant submitted that following the precedent set in ***Dr Amos Nzeyi v Uganda Revenue Authority, TAT Application No. 005 of 2024,*** this disposal represents the realisation of a private investment rather than a commercial venture. As such, it falls outside the Income Tax Act, as the law does not seek to tax capital gains on assets that are not 'business assets' or 'commercial buildings'.

34. Consequently, the transaction attracts the exemption under Section 21(1)(j) of the ITA, hence extinguishing any WHT obligations. For a transaction that falls entirely outside the charging scope of the Income Tax Act, no withholding tax obligation can arise. In the absence of a primary tax liability, the withholding mechanism under Section 130(2) remains inapplicable, as one cannot legally withhold tax on a non-taxable capital receipt.

Remedies

35. The Applicant prayed that the Tribunal find merit in this application and grant the following remedies:
    (i) A declaration that the property was not a business asset and the transaction in question did not trigger a withholding tax obligation under Section 130(2) of the ITA on the Applicant, and thus an order that the Respondent's assessment be accordingly set aside and cancelled.
    (ii) Costs to be awarded to the Applicant.

VII. Submissions of the Respondent

36. The Respondent submitted that the burden of proof is on the Applicant to prove that the income tax assessments raised were not due and payable as required by section 19 of the Tax Appeals Tribunal Act and section 101 of the Evidence Act.

37. The Respondent submitted that where a taxpayer is challenging the validity of a tax decision or its lawfulness, the burden squarely rests upon the taxpayer, in this case the Applicant, to prove that it is incorrect. The Respondent submitted that the Applicant has failed to discharge this burden.

Whether the Applicant is liable to pay the tax assessed

38. The Respondent submitted that Section 130(2) of the Income Tax Act provides as follows:

    "A resident person who purchases a business or business asset shall withhold tax at a rate specified in Part X of Schedule 4 to this Act."

    Further, Part X of Schedule 4 provides:

"The withholding tax rate for purposes of section 130(2) is 6% of the gross payment."

39. The Respondent cited Section 2 of the Income Tax Act that provides for interpretation and defines "business asset" to mean an asset which is used or held ready for use in a business, and includes any asset held for sale in a business and any asset of a partnership or company;

40. The Respondent submitted that the Applicant purchased a business asset for the following reasons;

    (i) The Applicant is engaged in rental, Hotel and restaurant business in Kitooro, Entebbe Municipality, Wakiso District.
    (ii) The property in issue is a commercial property located in Nkumba town, well developed, with an apartment block with four (4) floors comprised of 32 (one-bedroom) apartments.
    (iii) At the time the Applicant acquired the property, the same was well developed with a building of four (4) floors comprised of 32 (one-bedroom) apartments, and some of the rooms were in use.

41. Section 2 (c) of the ITA defines a business asset to mean an asset which is used or held ready for use in a business and includes any asset held for sale in a business and any asset of a Partnership or Company. It therefore follows that the following have to be considered:

    (i) The person purchasing is a resident person
    (ii) There is a purchase
    (iii) The purchase is for a business or a business asset
    (iv) The Purchaser must withhold tax.

Rental Property is an asset

42. The High Court case of ***Vivo Energy Uganda Limited V Uganda Revenue Authority, Civil Appeal No. 1 of 2019***, defines "an asset" as an item that is owned and has value. Accordingly, the rental property is an asset. Black's Law Dictionary, 11th Edition, at Page 145 sets out two requirements for an item to qualify as an asset: it must be owned and have value. This definition

doesn't restrict the term 'asset' to any particular owner; instead, it offers a broad interpretation of ownership. Black's Law Dictionary (11th ed., p. 1332) defines "Ownership" as the bundle of rights allowing one to use, manage, and enjoy property, including the right to convey it to others.

43. To this end, the suit property had value and was eventually sold by Mugerwa Mudasiru to the Applicant at a consideration of Shs.1,750,000,000.

Business Asset

44. The Respondent cited ***Comfort Homes V Uganda Revenue Authority, TAT Application No.66 of 2020***, where this Honourable Tribunal established that for an asset to qualify as a business asset, it must either be: a) used in a business, b) held ready for use in business, c) held for sale in a business, or d) owned by a partnership or company

45. That the suit property was used as a Rental business, as confirmed by the Applicant's witnesses, Mr. Anijah Samuel Chiagoze, Ebuka Nwabunwanno & Abaasa Martin. Furthermore, the Applicant's evidence, to wit, the receipt to Khp Estates & Property Management, which was used to manage and collect rent from tenants, shows that the land was held at all times as residential rental apartments, which Mugerwa Mudasiru later sold to Sylivia Birungi as a business asset.

46. Through the revised Tenancy Agreement, the Applicant expressed her undertaking in the business of real estate, of which purchase and letting out apartments are among the activities involved. Therefore, the land is a business asset.

47. The question for the Tribunal to examine is whether the transaction in issue falls under the ambit of business income, Mugerwa Mudasiru having disposed of his business asset and derived gains from undertaking in the vocation or business of selling land.

48. The Respondent also cited ***Dr Amos Nzeyi v Uganda Revenue Authority (Tax Application 5 of 2024) [2025], which*** laid down indicators that point to trading activity rather than a hobby or investment. These include:

(i) Repeated transactions - A trading activity is more indicative if there are repeated and systematic transactions. The repeated nature of the transactions indicates trading activity. In the present case, there is evidence of repeated transactions involving the Applicant acquiring rental properties with the intention of renting them out, such as the property in issue.

(ii) The length of time an asset is held is an important indicator of trade. The longer the period of ownership, the greater the chance it will be seen as an investment rather than a trade. In the present case, the Applicant acquired the land in 2024 based on the sale agreement. This indicates that the land was held most likely as a trade and not for investment purposes, as trade entails repeated activity.

(iii) Changes to the asset - any changes or modifications made to an asset to make it more marketable are indicative of trade. By the time it was sold to the Applicant, the land was developed into Rental apartments, which the Applicant has since renovated and rented to tenants, as clearly demonstrated by Applicant's Exhibit 10, Exhibit 13, & Exhibit 14 of the Applicant's Trial Bundle plus a receipt of payment of rent attached as Exhibit A9 and pictures of the property attached to the trial bundle at Pages 13, 14 & 15.

49. In the present case, the Applicant is in the business of letting out residential apartments as evidenced by the Applicant's witnesses who are tenants, in addition to the revised Tenancy Agreement plus introduction letter introducing the same Applicant as new landlord and it is for that reason that the Applicant acquired the property issued to be used in her rental business.

50. In the case of ***Silver Springs Limited vs URA TAT Application No.43 of 2022***, this Honourable Tribunal stated that *"the duty to withhold arises the moment a business asset is purchased"*.

51. The Respondent invited this Honourable Tribunal to answer the first issue in the affirmative and hold that the Applicant is liable to pay withholding tax on the purchase of the said business property as assessed by the Respondent.

52. On the issue of remedies to the parties, the Respondent submitted that the Respondent has proved that the Applicant is liable to pay the taxes as assessed and thus invites this Honourable Tribunal to award costs to the Respondent. The Respondent concluded by submitting and inviting the Tribunal to make orders that:

(i) This Application is dismissed.
(ii) The Assessment issued by the Respondent against the Applicant is justified and payable by the Applicant.
(iii) The Applicant is liable to pay withholding tax on the purchase of a business property as assessed by the Respondent.
(iv) Costs of this Application be awarded to the Respondent.

53. The Applicant filed submissions in rejoinder wherein she reiterated her main submissions.

VIII. The determination

54. This dispute centres on one question – whether a privately held rental property and the income therefrom fall within the definition of a business asset and business income, respectively, for purposes of section 130 of the Income Tax Act. The Applicant's position is that rental income is categorised as property income for tax purposes; therefore, the income-generating asset is an investment asset, not a business asset. The Respondent disagrees.

55. Therefore, the determination of this matter hinges on distinguishing property income from business income. The difference between *business* income and *property* income is usually based on the amount of activity needed to generate the income. If it is an active source

of income, it is typically considered business income, whereas a passive source of income would be considered property income.

56. Property income is passive earnings from owning assets like real estate or investments, whereas business income is active revenue generated from trading, commercial activities, or providing extensive services.

57. The key difference between the two items of income arises from the level of activity. While property income involves passive holding and basic property leasing, business income requires active, ongoing commercial operations, trade, or substantial extra tenant services like daily cleaning, meals, and security.

58. The tax treatment of property or rental income is frequently ring-fenced and taxed under separate rules or distinct flat rates, often limiting the deduction of operational expenses. Business income allows a broad range of ordinary commercial deductions, such as production costs, administrative expenses, and depreciation pools. Indeed, under the Income Tax Act, rental income is ringfenced for tax purposes and deductible expenses are limited.

59. The above differences and tax treatment are evident in the Income Tax Act. Section 4 of the ITA imposes income tax on every person who has chargeable income for a year of income. Chargeable income means gross income less allowable deductions (section 15). Gross income is the summation of employment income, property income and business income derived during the year by a person, other than income exempt from tax.

60. Sections 18,19 and 20 of the ITA each deal with the specific categories of income indicated above; the current provisions of interest are section 17, which deals with business income and section 18, which deals with property income. Therefore, the ITA itself segregates and differentiates the two categories of income. Consequently, the two categories cannot and should not be treated as one and the same.

Business income

61. Section 18 (1) provides:

> *"Business income means any income derived by a person in carrying on a business and includes the following amounts, whether of a revenue or capital nature –*
>
> *(a) the amount of any gain, as determined under Part VI of this Act which deals with gains and losses on disposal of assets, derived by a person on the disposal of a business asset, or on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue or capital account;"*

62. The above provision explicitly states that gains arising from the disposal of a business asset form part of business income. This presupposes an asset used to generate business income that is subsequently disposed of.

63. Section 18 does not tell us what a business is; however, both parties have submitted extensively on this, and both agree that a business is an adventure in the nature of a trade, that entails trading involving repeated and systematic transactions.

64. Section 20 deals with property income. It defines it to mean:

> *"any dividends, interest, annuity, natural resource payments, rents, royalties and any other payment derived by a person from the provision, use, or exploitation of property."*

65. It is worth noting that the items of income included in property income arise from the holding of investment assets which generate passive income such as shares for dividends, loans for interest, land for rents and natural resource payments, and royalties from intellectual property. Therefore, the categorisation of rent under property income stems from the passive nature of the income, arising from the holding of investment assets, rather than active trading activities.

66. Naturally, a line is drawn where the rental income is derived from the leasing of property which is coupled with the provision of other services. Where a

landlord provides additional services to tenants, such as cleaning, security and meals, they may be carrying on a business, as the more services one provides, the greater the chance that their rental operation is a business. In such cases, the rental income may be deemed business income.

67. A case in point is the decision of this Tribunal in ***Sharad Karia v Uganda Revenue Authority, TAT Application. 57 of 2023*** and the subsequent decision of the High Court on appeal in ***Civil Appeal No. 083 of 2024,*** where both the Tribunal and the High Court found that the performance of other services by the landlord, such as the provision of furnishings, amenities, accessories and facilities, went beyond the ordinary landlord-tenant relationship and the property was found to be a serviced apartment, liable to VAT as opposed to the mere letting of immovable property.

68. While the above case concerned VAT, parallels can be drawn in determining when the rental of a property is passive, giving rise to property income and when it is active, giving rise to business income. VAT is a consumption tax that primarily arises from trading activities where value is added along the supply chain. The mere fact that the VAT law treats ordinary rental income differently from leasing of serviced apartments (trading activities) lends itself to the position that ordinary leasing activities are not business activities.

69. Having said that, where the underlying asset gives rise to property income properly categorised, it would follow that the asset is an investment asset and not a business asset unless otherwise expressly provided for by legislation. A case in point is shares. Shares are a passive investment and historically, the ITA treated them as such. Consequently, the disposal of shares was not historically treated as a disposal of a business asset. However, this changed in 2010 with the amendment to section 21 (j) of the ITA.

70. The impact of the amendment is that the ITA henceforth treats the sale of shares in a private limited liability company no longer as exempt income but as business income. Parliament created this explicit exception, bringing gains from the disposal of shares within the ambit of business income.

71. A similar exception was created for commercial buildings in 2014. This exception recognized that gains from the sale of buildings do not constitute business income unless the building is commercial. For example, gains from the sale of a residential home by an individual are not business income. However, if the building is commercial, the sale is treated as business income.

72. The ITA does not define the term "commercial building"; however, Regulation 6 of the ***Income Tax (Approved Industrial Buildings) Regulations, 2003*** defines an "*approved commercial building*" to mean an industrial building which is primarily used by the owner or let out for rent for the purpose of carrying on a business, trade or profession; as an office; as a warehouse or commercial storage facility; or as a workshop. In addition, Regulation 6 (2) provides:

> *"For the avoidance of doubt, an approved commercial building does not include a building let out or used for residential accommodation."*

73. Therefore, a building that is let out for residential purposes is not a commercial building and therefore does not come within the section 21 (j) exception.

Section 130 of the ITA

74. The Respondent's position is that the Applicant purchased a business asset and ought to have withheld tax as required by section 130 of the ITA. The section provides as follows:

Withholding Tax by purchaser of asset

> *(1) A resident person who purchases an asset from a non-resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part X of Schedule 4 to this Act.* – ***not applicable because the transaction in question is between two resident persons.***
>
> *(2) A resident person who purchases a business or business asset shall withhold tax at a rate specified in Part X of Schedule 4 to this Act.*

75. Note the distinction in the wording and language used in the above subsections – while subsection (1) refers to "an asset", subsection 2 refers to a "business asset". Had the transaction involved a purchase from a non-resident person, the Applicant would have fallen squarely within the provision.

76. Section 2 of the ITA defines a business asset to mean:

"an asset which is <u>used or held ready for use in a business</u>, and includes any asset held for <u>sale in a business</u> and <u>any asset of a partnership or company</u>."

77. Simply put, Section 130 read together with section 2 of the ITA requires that a resident person who purchases an asset which is used or held ready for use in a business, including any asset held for sale in a business and any asset of a partnership or company, must withhold tax at the prescribed rate.

78. In view of the above, the question we ought to answer is whether the letting of residential immovable property constitutes a business. We believe we have answered that question in the negative, on the basis that the ordinary letting of property for residential purposes does not constitute a business, due to the absence of repeated and systemic transactions.

<u>Application to the facts</u>

79. Bringing all the above together, the facts show that:

(i) The Applicant purchased a property from an individual, Mudasiru Mugerwa (not a company or partnership)

(ii) The said property comprised 32 one-bedroom residential apartments.

(iii) The tenancy agreements indicate an ordinary landlord-tenancy agreement. There is no indication of additional services that went beyond the scope of an ordinary landlord-tenant relationship.

(iv) The vendor was a mere property owner and landlord. There was no evidence to suggest that he was engaging in any adventure in the nature of a trade, e.g., actively building or purchasing properties for resale

(v) The Applicant continued to rent the properties on the same basis as the previous owner.

80. The above facts indicate that the sale of an investment asset that was generating and continues to generate passive rental income, that is, property income within the scope of section 20. The building is therefore not a business asset because it was and is not held for use in a business, but as an investment to generate passive rental income.

81. Therefore, the Applicant was not required by section 130 of the ITA to withhold tax from the sales proceeds.

Remedies

82. The Application succeeds, and the successful party is entitled to remedies. The Applicant prayed for the following remedies:
   (i) A declaration that the property is not a business asset and the transaction in question did not trigger a withholding tax obligation under Section 130(2) of the ITA on the Applicant, and thus an order that the Respondent's assessment be accordingly set aside and cancelled.
   (ii) Costs to be awarded to the Applicant.

Orders

83. In view of the above, the Tribunal makes the following orders:
   (i) The withholding tax assessments are hereby set aside;
   (ii) Costs are hereby awarded to the Applicant.

We so order.

Dated at Kampala this **18th** day of **September** 2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. PROSCOVIA REBECCA NAMBI
MEMBER

HON. GERALD AGABA KAKIMA
MEMBER