



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 003 OF 2026

TOZZA WORKTECH AFRICA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. STELLA NYAPENDI CHOMBO, HON. GERALD AGABA KAKIMA,
HON. EDWARD BIRYETEGA**

RULING

I. Introduction

1. This Applicant challenges administrative additional Pay As You Earn ("PAYE") assessments of Shs. 26,173,640.64, together with interest of Shs. 12,253,266, totaling Shs. 38,426,906.64, raised by the Respondent on the grounds that three individuals engaged by the Applicant were employees of the Applicant whose remuneration ought to have been subjected to PAYE rather than Withholding Tax ("WHT").

II. Background Facts

2. The Applicant is a limited liability technology company whose principal business operations comprise the provision of digital human resource and payroll technology services. The company operates through a shared technology platform across various African markets to facilitate cross-border human resource statutory compliance.

3. The Applicant engaged Paul Wanyama, Moreen Kyobutungi, and Michael Mwesigwa under written independent contractor agreements and subsequently accounted for and remitted taxes on all remittances made to them through the statutory WHT framework.
4. On 14 May 2024, the Respondent issued additional PAYE deficiency assessments against the Applicant in respect of the payments made to the three individuals for the audit window spanning August 2023 to February 2024. The assessments were grounded on the Respondent's finding that the individuals were employees receiving fixed monthly remuneration who had not been declared on the Applicant's statutory PAYE returns.
5. On 4 September 2025, the Applicant formally objected to the assessments, contending that the three individuals were independent contractors and not employees under the law. On 30 October 2025 and 13 November 2025, the Respondent requested copies of the underlying service contracts and bank statements, which the Applicant supplied on 10 November 2025, alongside copies of notices of termination for Moreen Kyobutungi and Michael Mwesigwa dated 16 October 2023.
6. On 3 and 5 December 2025, the Respondent issued its Objection Decisions upholding the impugned assessments in their entirety. The decisions were based on the administrative findings that the service contracts availed did not sufficiently distinguish independent contractors from employees, and that the affected individuals had failed to file personal income tax returns during the periods under review.

III. Issues to be determined

- (i) The parties mutually agreed upon the following issues for adjudication by this Tribunal: Whether Paul Wanyama, Moreen Kyobutungi, and Michael Mwesigwa were employees or independent contractors of the Applicant.
- (ii) Whether the Applicant is liable to pay the PAYE tax and interest assessed by the Respondent.
- (iii) What remedies are available to the parties.

IV. Representation and evidence

7. Mr. Joel Musinguzi of M/S Spatium Advocates appeared for the Applicant, while Mr. Tony Tukei appeared as Counsel for the Respondent, Uganda Revenue Authority. The Tribunal directed the parties to adduce evidence by way of affidavit.

V. The Applicant's evidence

8. The Applicant's evidence is contained in the Affidavit in Support deposed to by Mr. Nelson Mwai, the Applicant's Head of Legal and Compliance, sworn on 17 July 2026, wherein it is averred as follows:
 - (i) The Applicant operates a compliance-intermediary business model under which client engagements are systematically classified, according to their true legal substance, into either statutory employment (accounted for via PAYE) or independent professional service facilitation (accounted for via WHT).
 - (ii) Paul Wanyama, Moreen Kyobutungi, and Michael Mwesigwa were strictly engaged under written independent contractor agreements for distinct, project-linked assignments and were never integrated into the Applicant's payroll, leave roster, National Social Security Fund (NSSF) contributions, internal disciplinary structures, or corporate benefit schemes.
 - (iii) By operation of the express terms of the written contracts:
 - a) Clause 2.3 explicitly permitted the contractors to appoint a suitably qualified substitute to perform the services;
 - b) Clause 3.1 entitled the contractors to invoice for professional fees based on hours worked, as unilaterally determined by the contractor;
 - c) Clauses 3.2 to 3.4 cast the absolute responsibility for operational expenses upon the contractors, save for pre-approved reimbursable items; and
 - d) Clause 4 permitted the contractors to concurrently engage in other external businesses, trades, or professions.

- (iv) Paul Wanyama's contract, dated 26 September 2022, was extended to October 2024; Moreen Kyobutungi's contract, dated 22 May 2023, was terminated on 16 October 2023; and Michael Mwesigwa's contract, dated 12 January 2023, was similarly terminated on 16 October 2023. The Applicant's contemporaneous WHT schedules establish that neither Moreen Kyobutungi nor Michael Mwesigwa was paid any sum of money after October 2023.
- (v) The disputed individuals worked entirely remotely using their own working tools, including personal laptop computers, and were never assigned any Applicant-controlled office space or workstations in Uganda. This stands in stark contrast to the sample employment contracts of the Applicant's actual payroll employees, namely Moses Arinaitwe, Johnson Mutagula, Maria Eme Kyamulabye, and Richard Mukiibi Batume whose contracts contained strict clauses prescribing fixed office workstations, mandatory weekly service hours, statutory leave entitlements, comprehensive internal human resource disciplinary procedures, and a reciprocal one month's notice of termination.
- (vi) All professional fees paid to the three independent contractors had already been subjected to the statutory WHT regime, which taxes were duly remitted to the Respondent. Consequently, the Respondent's subsequent additional PAYE deficiency assessment amounts to an unlawful double taxation on the exact same underlying stream of income.

VI. The Respondent's evidence

- 9. The Respondent's evidence is contained in the Affidavit in Reply deposed to by Ms. Priscilla Nambuba, an Officer attached to the Respondent's Legal Services and Board Affairs Department, sworn on 6 August 2026, wherein it is averred as follows:
 - (i) Upon an administrative review of the written contracts and termination notices supplied by the Applicant, the Respondent's objection team found the contractual terms too vague and legally ambiguous to

- reliably establish a genuine independent consultancy arrangement. In particular, the Respondent could not determine with certainty whether the Applicant, or its third-party end-client (M/s Pula Advisors Limited), exercised dominant operational control over the contractors, given that the recital clauses designated the Applicant as the client while the underlying termination notices referenced Pula Advisors Limited.
- (ii) Clause 2 of each disputed contract described the contractors' respective roles only in highly generalized terms, such as "promoting the interest of the client" and "carrying out supervisory services," without specifying the exact personnel or operations to be supervised. The Respondent determined that these open-ended clauses were structurally insufficient to satisfy the control test required
 - (iii) Both the disputed contractors and the Applicant's regular payroll employees were permitted to work remotely and were dynamically assigned to render services to third-party companies. This operational model is mirrored by actual employees Robert Mukiibi and Johnson Mutagula, who were seconded to render services to M/s Sun Culture Uganda Limited and M/s Playroll, respectively. Consequently, the Respondent maintains that remote work parameters and third-party client assignments are factually incapable of distinguishing an employee from an independent contractor within the context of the Applicant's business model.
 - (iv) In the absence of contractual terms that the Respondent considered reliable, the Respondent relied on the empirical fact that the three individuals received fixed, regularly ascertainable monthly remuneration which is a defining characteristic of an "employment relationship" under Section 2 of the Income Tax Act. The Respondent therefore concluded that the individuals were employees as a matter of law, rendering the Applicant liable to account for PAYE rather than WHT on all payments made during the audit period.

VII. The Applicant's Submissions

Whether the Applicant is liable to pay the tax assessed by the respondent?

10. The Applicant submitted that Section 2 of the Income Tax Act strictly defines an "employee" as an individual engaged in employment, and an "employer" as a person who employs or remunerates an employee. The statute further defines "employment" by reference to being in a continuous master-servant relationship, a corporate directorship, a position entitling the holder to fixed or ascertainable remuneration, or the holding of a public office.
11. The Applicant submitted that Sections 18 and 19 of the Income Tax Act draw a strict statutory boundary separating business income from employment income. It was argued that a proper PAYE tax classification is not determined by the administrative label applied by the Uganda Revenue Authority, the descriptive label used by the taxpayer, or the mere fact of regular payment, but rather by the objective legal substance of the underlying relationship.
12. The Applicant contended that the definitive indicators required to resolve this relationship comprise a multi-factored evaluation of: the Applicant's core business model; the express contractual terms; the specific roles performed; whether those roles are core or peripheral to the Applicant's own commercial business; the place of work; the ownership of the tools of trade; day-to-day operational control and supervision; payroll, PAYE, and NSSF accounting treatment; leave and corporate benefits such as medical insurance; human resource disciplinary structures; project-specific linkage and termination timelines; WHT historical compliance; and comparative employee evidence.
13. In support of this multi-factored framework, the Applicant relied on the decision of the Industrial Court of Uganda in *Godfrey Kyamukama v Makerere University Business School*, Labour Dispute Reference No. 147 of 2019 (arising from LDA No. CB.09/2019). The Applicant noted that the Court applied the control test, the integration test, the economic or business reality test, and the multifactor test, evaluating essential benchmarks such as the requirement of personal service, the ownership of tools and equipment, the

bearing of financial risk, the capacity to profit from operational efficiency, and whether the individual was performing services on their own independent account.

A. Business model and classification

14. The Applicant submitted that its core business is exclusively designed to provide human resource management, payroll technology, and statutory compliance support to its third-party clients. Where a client relationship constitutes actual employment, the Applicant systematically processes the engagement through the PAYE framework. Conversely, where the relationship consists of independent professional services or project-linked assignments, the Applicant accounts for it via the WHT regime. The three disputed individuals were processed under the WHT framework as independent contractors, reflecting the true commercial nature of their engagement.

B. Contractual framework

15. The Applicant relied on the clear terms of the written independent contractor agreements executed with Paul Wanyama, Moreen Kyobutungi, and Michael Mwesigwa. It was argued that the agreements contain clauses that are entirely consistent with an independent contract for services, including explicit non-employment status, professional fees and expenses calculated for hours actually worked under Clause 3, the unrestricted right to undertake external commercial work under Clause 4, and clear provisions governing the delivery of services under Clause 2. The contractors were entirely excluded from the Applicant's corporate payroll, statutory leave rosters, human resource disciplinary systems, NSSF contributions, and employee benefit schemes, receiving no compensation beyond their contractual fees.
16. The Applicant further submitted that these agreements completely lacked the element of permanent employment, given that Clause 1 expressly permitted either party to terminate the arrangement upon giving a brief seven (7) days written notice.

17. The Applicant concluded that this Honourable Tribunal is legally bound to give effect to the clear commercial intention expressed on the face of the written agreements, unless the operational facts demonstrate that the parties acted contrary to their terms. The Applicant maintained that the operational reality perfectly matched the written contracts, as the Applicant never assumed day-to-day control over the contractors' work schedules, never provided or paid for their working tools, never placed them within an Applicant-controlled office space or *locus in quo*, never processed them through a salary structure, and never absorbed them into its human resource disciplinary, leave, or benefits schemes. Accordingly, these were contracts for services, not contracts of service.

C. Non-core, Project-linked roles and Modern Commercial realities

18. The Applicant submitted that the three disputed individuals did not perform any core commercial activities for the Applicant. They were never integrated into the internal workforce to deliver human resource management, payroll technology, or statutory compliance services. Instead, their operational mandates were confined to market research, field coordination, and call-center or telesales support for a separate entity. These roles were entirely client-facing, project-linked, and external to the Applicant's core internal infrastructure.
19. The Applicant argued that its specialized business model is built precisely to support these modern commercial realities by providing the technological and compliance infrastructure through which complex corporate engagements are administered and routed into the correct statutory tax streams. Where a client's mandate and the concurrent facts establish an employment relationship, the Applicant routes the engagement through the PAYE framework; where they establish a contract for services, payments are routed through the WHT regime.
20. The Applicant maintained that while these project-linked marketing and coordination services were commercially useful, they never integrated the individuals into the Applicant's payroll, leave roster, disciplinary mechanisms,

or NSSF contribution structures, nor did they subject them to day-to-day managerial control. Furthermore, any alleged omission by these independent contractors to declare their personal income or file individual returns cannot justify a retrospective administrative recharacterization to penalize the Applicant. A contractor's failure to satisfy their personal return-filing obligations is a separate compliance matter between that individual and the Respondent, for which an innocent principal cannot be held vicariously liable under the PAYE framework.

D. Control

21. The Applicant submitted that the only form of control demonstrated by the evidence is contractual delivery control over final project outputs. This must be legally distinguished from employment control, which dictates daily attendance, mandatory office presence, specific work hours, and human resource disciplinary supervision.
22. The disputed individuals were never assigned office space within the Applicant's premises in Uganda, working instead from home or from locations of their own choosing. They utilized their personal tools of trade, including laptops, while the Applicant monitored deliverables and service performance thresholds rather than daily attendance or office presence. This operational independence is entirely consistent with a modern independent service contract.

E. Client-facing work is not employment integration

23. The Applicant argued that performing client-facing functions is a standard attribute of independent contracting and does not equate to employment integration. To fortify this position, the Applicant contrasted the contractors' arrangements against the sample employment contracts of its actual payroll employees—Moses Arinaitwe, Johnson Mutagula, Maria Eme Kyamulabye, and Richard Mukiibi.

24. The contracts of these actual employees contained explicit, mandatory employment incidents, including: fixed office workstations and designated corporate positions under Clause 1; comprehensive employment benefits and structured salaries under Clause 3; rigid weekly service hours ranging from 40 to 48 hours under Clause 6; alongside statutory leave entitlements, internal disciplinary rules, and a reciprocal one-month notice of termination. The Applicant was therefore fully justified in accounting for PAYE exclusively on its genuine employees.

F. The Respondent's errors in the objection decisions

25. The Applicant contended that the Respondent's Objection Decisions are fatally flawed on three distinct grounds:
- (i) Failure to Consider the Business Model: The Respondent completely failed to engage with the Applicant's specialized business model, which requires the classification of engagements based strictly on client instructions and the operational facts of each mandate. The power to recharacterize an arrangement cannot be lawfully exercised in total disregard of a taxpayer's structural business model.
 - (ii) Improper Reliance on Individual Filing Status: The Respondent erred by treating the contractors' personal non-filing status as a legal test for employment. Employment status depends on the legal and practical relationship between the transacting parties, not on the subsequent compliance defaults of individual contractors. Furthermore, the Respondent failed to account for the empirical fact that Moreen Kyobutungi's and Michael Mwesigwa's contracts were terminated on 16 October 2023, making the PAYE deficiency assessments for January and February 2024 a factual and mathematical impossibility.
 - (iii) Using Recharacterization as a Substitute for Proof: The Respondent utilized its statutory power to recharacterize agreements as an arbitrary mechanism for collection convenience rather than conducting a proper substance-over-form analysis. Since the written contracts, the business model, the WHT histories, and the sworn

evidence consistently established a contract for services, the Respondent's administrative relabelling cannot stand.

26. Additionally, the Independent Contractor Agreements explicitly provide for independent contractor status, invoicing and payment for services, direct personal responsibility for operational expenses, a right of substitution subject to approval, and the right to participate in other external professional activities subject to conflict restrictions. It was argued that these contractual provisions are relevant indicators of personal service, exclusivity, mutuality of obligation, financial risk, permanency, and integration, although none is individually conclusive.
27. Regarding the structural corporate references to Tozza Worktech Africa Limited, Pula Advisors Limited, and Workpay Africa Limited in the various documents, the Applicant submitted that while this required explanation, they do not establish an employment relationship with the Applicant. The Applicant clarified that Tozza is an associate company of Workpay Africa Limited, and that it is standard commercial practice for such firms to share joint branding and trademarks.
28. The Applicant further submitted that modern business-process outsourcing (BPO) and cross-border market-entry arrangements commonly involve independent contractors, employer-of-record (EOR) structures, and human-capital service providers who frequently administer payments on behalf of separate corporate entities. The simple fact that the Applicant processed or made the payments does not, by operation of law, automatically make it the employer for PAYE purposes.
29. On the element of permanency, the Applicant submitted that it does not contend that a fixed-term engagement cannot constitute employment, noting instead that duration alone is not determinative. The disputed engagements were brief, lasting between five months and one year, remained project-linked, and were terminable upon a mere seven (7) days' notice. The Applicant emphasized that the uncontradicted evidence explicitly records the

structural conclusion or lack of projects as the sole reason for termination in respect of Moreen Kyobutungi and Michael Mwesigwa.

30. The Applicant submitted that the contractual entitlement to monthly fees was conditional upon services being actively rendered. The agreements explicitly contemplated invoicing and provided that no fee was payable when services were not provided by the contractor or an approved substitute. Accordingly, the stated monthly fee cannot simply be equated with an unconditional, guaranteed salary.
31. Finally, the Applicant submitted that it maintained distinct PAYE/NSSF mechanisms for its actual payroll employees and a separate withholding-tax structure for independent service providers, and that the three disputed individuals were treated exclusively within the latter framework. The corporate WHT schedules directly support the Applicant's evidence as to how the agreements were operationalized. The Applicant maintained that because the Respondent considered some aspects of the contract unsatisfactory, it improperly treated regular remuneration as the decisive default indicator of employment, an approach that directly violates the requirement to determine the relationship as a whole. The Applicant therefore prayed that the Application be allowed with costs.

VIII. The Respondent's Submissions

Whether the temporary Appointees were employees of the Applicant?

32. The Respondent submitted that Section 2 of the Income Tax Act explicitly defines an "employee" as an individual engaged in employment, an "employer" as a person who employs or remunerates an employee, and "employment" as, *inter alia*, the position of an individual in the service of another, a company directorship, or any position entitling the holder to fixed or ascertainable remuneration.

33. The Respondent relied on the decision of the High Court in *Infectious Diseases Institute v Uganda Revenue Authority*, High Court Civil Appeal No. 0006 of 2022, for the established proposition that the mere earning of a fixed or ascertainable remuneration is not the sole determinant of an employment relationship. Rather, a court or tribunal must execute a comprehensive evaluation of all surrounding factors, with primary consideration given to the strict terms of the written agreement.
34. The Respondent contended that the contractual terms in the present case were too vague, ambiguous, and open-ended to reliably establish a genuine independent consultancy arrangement. It was argued that certain clauses closely resembled standard employment contracts, making the two relationships legally indistinguishable on the face of the documents. In the absence of corroborating practical evidence to the contrary, the Respondent maintained that the fixed monthly payments made to the appointees constituted the most reliable, defining indicator of a master-servant employment relationship.

Vagueness in the Terms of the Contracts

35. The Respondent submitted that the documentary evidence presented by the Applicant revealed different paying masters and conflicting reporting lines for the appointees, making it impossible to determine with certainty which entity exercised dominant operational control. While the recitals in the service agreements designate Tozza Worktech Africa Ltd as the client, the corresponding termination notices explicitly reference Pula Advisors Limited as the client, and the final severance payments were covenanted to be paid by Workpay Africa Limited. The Respondent argued that this proliferation of controlling and reporting centres created profound administrative ambiguity, leaving the objection team with no choice but to rely on the single certain parameter of fixed and ascertainable monthly remuneration to establish the employment relationship.

36. The Respondent contended that the operational roles stipulated within the written contracts were legally and technically obscure. Although Clause 1 provided formal titles for the appointees, Clause 2 described their duties in highly generalized terms, such as "promoting the interest of the client" and "carrying out supervisory services," without clarifying the specific personnel or workflows subject to their supervision. The Respondent's objection team was therefore structurally prevented from applying the traditional control test to these ambiguous clauses, necessitating a default reliance on the fixed monthly remuneration to determine the statutory status of the workers.
37. The Respondent submitted that remote working arrangements were completely identical for both the Applicant's regular payroll staff and the disputed appointees. Relying on the employment contracts of Robert Mukiibi, Moses Arinaitwe, and Maria Eme Kyamulabye, the Respondent noted that the Applicant's actual employees were routinely permitted to work remotely. Consequently, the Respondent argued that remote work parameters and the use of personal tools cannot be advanced as a unique or distinguishing factor to establish an independent consultancy arrangement on the facts of this case.
38. The Respondent submitted that assigning personnel to third-party clients was a standard *modus operandi* applied uniformly by the Applicant to its regular employees and independent contractors alike. A review of the contracts of payroll employees Johnson Mutagula and Richard Mukiibi Batume reveals that they were appointed as agents to offer direct services to M/s Sun Culture Uganda Limited and M/s Playroll, respectively, in a manner identical to the appointees' assignments with Pula Advisors Limited. The Respondent maintained that these structural similarities fail to distinguish a contract for services from a contract of service.
39. The Respondent concluded that the written terms of the contracts were deliberately and strategically vague, concealing the true nature of the roles performed and the lines of reporting. Because the contractual text failed to corroborate a genuine independent consultancy, the Respondent was fully

justified in relying on the regular monthly payments recorded in the WHT returns to conclude that the appointees were employees under the law.

Whether the income earned by the staff in question from the Applicant was employment income?

40. The Respondent submitted that Sections 19(1)(a) and 126(1) of the Income Tax Act require all employers to withhold and remit PAYE tax on all forms of employment income, including wages, salaries, commissions, bonuses, and allowances paid to an employee.
41. The Respondent argued that the Applicant possessed no legal baseline to treat clear employment income under the WHT framework. If the Applicant mistakenly or ignorantly remitted these taxes under the wrong statutory stream, its proper remedy is to amend its historical withholding tax returns to zero and seek an administrative refund or a formal reallocation of the tax paid to cover the subsequent PAYE deficiency assessments. The Respondent therefore prayed that the Application be dismissed with costs.

IX. The Applicant's Submissions in rejoinder

42. In rejoinder, the Applicant reiterated that the governing legal standard requires a holistic, multi-factored evaluation of the relationship as a single corporate whole, and that no single factor, including the regularity or ascertainment of remuneration, can be treated as conclusive proof of employment. The Tribunal is legally bound to consider the nature and permanency of the position, control, integration, the ownership of tools, the right to work for concurrent entities, and all surrounding practical incidents cumulatively.
43. The Applicant submitted that while the Respondent acknowledges that remuneration alone is insufficient to establish an employment relationship, it effectively made the fixed monthly payments the sole, decisive indicator after characterizing the contracts as vague. The Applicant argued that this approach violates the holistic test established by the courts.

44. The Applicant further argued that any alleged poor drafting or ambiguity within the written text of the Independent Contractor Agreements cannot, *ipso facto*, transform a genuine consultancy arrangement into a master-servant relationship. Contractual ambiguity is not positive evidence of employment; rather, the Tribunal must ascertain the substantive rights and obligations created by the agreements and evaluate how those arrangements were operationalized in practice. Where one indicator appears unclear, the proper course is to examine the remaining contractual and practical indicators rather than elevating remuneration into a mechanical default test.
45. The Applicant maintained that its affidavit evidence directly addresses the practical, day-to-day character of the relationship, proving that the appointees performed peripheral, project-linked market research and telesales support, worked entirely from home using personal laptops, and were never subjected to regular human resource disciplinary or managerial supervision.
46. Those matters, the Applicant submitted, are relevant to the degree of control exercised in practice. The Applicant does not contend that remote working or use of personal tools independently proves consultancy. Their significance lies in their cumulative effect when considered with the other features of the relationship. The Respondent's reliance on the fact that employees may also work remotely or be deployed to clients does not dispose of the issue. Such features are indicators whose significance must be assessed in the context of the entire relationship, rather than treated as determinative either way.
47. The Applicant's comparator evidence demonstrates material differences between the disputed arrangements and ordinary employment. Employee contracts provide for formal appointment to positions, line-manager supervision, payroll and benefits administration, leave entitlements and disciplinary and grievance procedures. The Independent Contractor Agreements contain no comparable employment structure.

X. Determination of Issues by the Tribunal

48. Having considered the pleadings, the competing affidavit evidence, the documentary exhibits, the specialized business models, and the written submissions of both learned counsel, the Tribunal now proceeds to resolve the agreed issues sequentially.

A. The Burden of Proof

49. This is an application for review of objection decisions relating to assessments. Under section 19(a) of the Tax Appeals Tribunal Act, Cap. 341, the Applicant bears the burden of proving that the assessments are excessive. That burden is not discharged by pointing to weaknesses in the Respondent's reasoning alone. The Applicant must place before the Tribunal evidence from which the nature of the engagements and the payments can be determined. Equally, the statutory burden does not convert an uncertainty in the Respondent's audit into a presumption of employment. The Tribunal must decide whether the Applicant's evidence, considered against the Respondent's evidence, proves that PAYE was not payable.

50. The Applicant relied on the three written agreements, the termination notices, WHT schedules, comparator employment contracts and the affidavit of Nelson Mwai, its Head of Legal and Compliance. The Respondent relied on the affidavit of Priscilla Nambuba and on what it regarded as vagueness and inconsistency in the Applicant's documents. The Tribunal has considered the contractual rights created by the agreements separately from the parties' labels, and has also considered the evidence of how those arrangements operated.

B. The Statutory Test and the Multi-Factored Evaluation Framework

51. Section 2 of the Income Tax Act strictly defines an "employee" as an individual engaged in employment. The statute defines "employment" as comprising: (a) the position of an individual in the employment of another person; (b) a corporate directorship; (c) a position entitling its holder to fixed or ascertainable remuneration; or (d) the holding or acting in any public office. Section 18 and Section 19 treat any income derived by an employee from

such a relationship as employment income, which the employer is required to withhold tax from under Section 126. These provisions operate in tandem as an integrated framework. The mere fact of payment is legally insufficient to trigger a tax liability; there must be a subsisting employment relationship within the statutory definition, and the income must be directly derived from it.

52. The precise legal boundary of the third limb of this statutory definition, namely, a position entitling the holder to fixed or ascertainable remuneration, was expounded by the High Court of Uganda in *Infectious Diseases Institute v Uganda Revenue Authority*, High Court Civil Appeal No. 0006 of 2022. The Court treated the statutory terms "position," "entitlement," and "fixed or ascertainable remuneration" as distinct, cumulative elements that must exist simultaneously. The High Court concluded that a regular, recurring monthly payment does not, standing alone, conclude the judicial inquiry. To satisfy the statute, there must be a distinct, structured corporate position, an enforceable legal entitlement to the specific payment, and remuneration that is fixed or ascertainable in advance. Furthermore, the continuity and permanency of the relationship remain highly relevant, as a taxable payment cannot be parsed or detached from the legal character of the relationship from which it flows.
53. The *Infectious Diseases Institute* decision is directly concerned with the Income Tax Act and stands as a binding precedent on this Tribunal. It effectively refutes the competing extremes advanced in the parties' cases. The Respondent could not lawfully treat the mere appearance of a regular monthly sum in the Applicant's WHT schedules as a self-executing statutory test for employment. On the other hand, the Applicant could not escape the statutory definition of an employer merely by applying an "independent contractor" label to the contracts or by choosing to account for the taxes under a different withholding provision.

54. To distinguish a contract of service (employment) from a contract for services (independent consultancy), this Tribunal is further guided by the foundational common law tests articulated by the Industrial Court of Uganda in *Godfrey Kyamukama v Makerere University Business School*, Labour Dispute Reference No. 147 of 2019. This multi-factored approach mirrors established international jurisprudence, such as the landmark decision of the Supreme Court of the United Kingdom in *Uber BV v Aslam* UKSC 5, and the Supreme Court of Uganda in *Sanyu Lwanga Musoke v Sam Musoke*, Civil Appeal No. 14 of 2017, which demand that courts look beyond the superficial labels applied by parties and exhaustively evaluate the practical realities of control, integration, and economic dependence. The Tribunal must execute a holistic, multi-factored evaluation, analyzing the relationship across four distinct thematic criteria:

- (i) The Control Test: Whether the principal dictates not merely *what* work is to be delivered, but the precise *manner, time, and location* of its daily execution.
- (ii) The Integration Test: Whether the individuals are embedded within the core internal corporate infrastructure and workforce of the company, or remain peripheral service providers linked strictly to external projects.
- (iii) The Economic Reality Test: Whether the individuals provide services on their own independent account, bear their own operational financial risks, provide their own tools of trade, and possess the capacity to optimize profit through personal operational efficiency.
- (iv) The Mutuality of Obligation Test: Whether there exists a continuous obligation on the principal to provide work and an equivalent obligation on the worker to perform it personally.

C. Analysis of Contractual Terms and Practical Evidence of Performance

55. Upon a strict analysis of the written Independent Contractor Agreements executed between the Applicant and the three disputed individuals, the Tribunal finds that the express text heavily supports an independent

contractor relationship. The agreements contain explicit, non-employment operational clauses that are legally alien to a master-servant relationship:

- (i) The Right of Substitution (Clause 2.3): The contractors possessed the unrestricted right to appoint a qualified substitute to deliver the services. A contract of employment is inherently personal (*intentio personae*); the right to provide a substitute fundamentally negates the mutuality of obligation required to create a master-servant relationship. Although the right was subject to approval and no substitute was actually deployed, it remains highly relevant because the contract did not reserve performance absolutely and invariably to the personal service of the named individual.
- (ii) Conditional Remuneration (Clause 3.1): The contractors were entitled to fees only upon invoicing for hours actually worked. If no services were rendered by the contractor or their approved substitute, no payment crystallized. This is a defining attribute of a commercial service contract and cannot be equated to an unconditional, guaranteed salary.
- (iii) Concurrent External Engagement (Clause 4): The contractors retained the explicit right to concurrently offer their professional skills to external trades or competitors, directly refuting the exclusive personal service typical of ordinary employment.
- (iv) Operational Financial Risk (Clauses 3.2 to 3.4): The contractors were made entirely liable for their own operational and commercial expenses, pointing away from the complete personal, legal, and organizational dependence found in employment.

56. The Tribunal further accepts the Applicant's comparative employee evidence. The contracts of actual payroll employees (Moses Arinaitwe, Johnson Mutagula, Maria Eme Kyamulabye, and Richard Mukiibi Batume) contained rigid, standard employment indicators, including fixed office workstations, line-manager reporting structures, continuous salary brackets, rigid 40-to-48-hour office workweeks, statutory leave entitlements, internal human resource disciplinary and grievance codes, and a reciprocal one-month notice of

termination. None of these employment control structures were applied to the three disputed contractors.

57. The Respondent's contention that remote work parameters and third-party assignments were identical for actual employees does not dispose of the issue. In modern digital technology and business-process outsourcing (BPO) ecosystems, remote work is a common modality for both employees and consultants. However, the critical distinction lies in the practical exercise of day-to-day control and internal integration.
58. Ms. Nambuba's affidavit did not identify any empirical evidence to demonstrate that the Applicant fixed daily attendance, prescribed weekly hours, supplied tools of trade, approved leave, executed employee discipline, or subjected any of the three individuals to its corporate staff appraisal systems. The evidence establishes that the appointees worked from locations of their own choosing, utilized their personal laptop computers, and were completely excluded from the Applicant's corporate payroll, human resource disciplinary systems, NSSF contributions, and employee benefit schemes. The Applicant's operational interest was strictly limited to contractual delivery control over specific project outputs (market research, field coordination, and telesales support) rather than day-to-day managerial supervision.
59. The Applicant also relied on the assertion that the disputed work was peripheral and not part of its core business activity. The Tribunal places little weight on this specific contention. An employee may perform an ancillary or non-core function within an organization, just as an independent contractor may be retained to perform work central to a client's primary commercial business. The governing inquiry must always target the true legal and practical relationship between the transacting parties, rather than whether the tasks performed fall inside or outside a specific description of the payer's principal business.

D. The Tripartite Corporate Framework: Tozza, Pula Advisors, and Workpay Africa

60. The transactional documents on the record make repeated reference to three distinct corporate entities. The underlying service agreements identify Tozza Worktech Africa Limited as the contracting client; the corresponding notices of termination refer to M/s Pula Advisors Limited as the client; and M/s Workpay Africa Limited is explicitly mentioned in relation to the processing of payments. The Applicant's submissions in rejoinder stated that Tozza and Workpay are associate companies that share joint branding and trademarks. However, no master corporate agreement or client-service contract was placed before the Tribunal to clarify the entirety of this global arrangement. The record is therefore incomplete on the precise legal relationships subsisting among these three entities.
61. This administrative gap required the Tribunal to proceed with considerable caution, but it does not, by operation of law, establish a master-servant employment relationship. The different corporate references are entirely consistent with the case advanced by both sides that the individuals rendered professional services in a client-facing arrangement that was administered through the Applicant or its associate. More importantly, the Respondent failed to identify which specific entity exercised actual employment control over the day-to-day execution of the work, what that control consisted of, or any positive evidence that Tozza exercised it.
62. The Tribunal finds that, despite the unexplained corporate details, the written agreements to which Tozza was a party, alongside Mr. Mwai's uncontradicted evidence of their practical operation, are sufficient when considered with the concurrent payment and termination records to discharge the Applicant's burden of proof.

E. Individual Evaluation of the Affected Engagements

Paul Wanyama

63. Of the three disputed engagements, that of Paul Wanyama presents the greatest complexity for the Applicant. His service agreement was executed on 26 September 2022 and was actively extended to October 2024. His engagement therefore subsisted uninterrupted throughout the entire assessment period and was materially longer than the brief, project-linked engagements of Moreen Kyobutungi and Michael Mwesigwa. This prolonged duration, combined with the regularity of the monthly payments, lends the relationship a distinct degree of continuity and constitutes the strongest feature of the Respondent's case.
64. However, duration and regularity of payment do not constitute the whole relationship. Paul remained strictly subject to the same non-employment provisions regarding invoicing for hours worked, personal responsibility for operational expenses, the right of qualified substitution, and the unrestricted right to engage in outside professional work. The uncontradicted evidence establishes that he supplied his own tools of trade, worked entirely outside the Applicant's premises, was never subject to prescribed attendance hours, and was completely excluded from the Applicant's payroll, leave, NSSF, corporate benefits, or internal human resource disciplinary structures. The Respondent adduced no contrary evidence of day-to-day managerial control or internal organizational integration. On the balance of this evidence, the Tribunal is satisfied that Paul provided services on his own independent account. The contractual fee was payment for a commercial service relationship; it did not establish a statutory employment position.

Moreen Kyobutungi

65. Moreen Kyobutungi's agreement was executed on 22 May 2023 and was formally terminated on 16 October 2023 due to a structural lack of project work. This short duration and project-linked termination materially weaken the Respondent's suggestion of a continuing employment position. Her agreement contained the identical provisions concerning invoicing, expenses, concurrent professional activity, and qualified substitution, and the

exact same evidence was adduced concerning her ownership of tools, remote location, and total exclusion from payroll and employee benefits.

66. The corporate WHT schedules prove that no payments were made to her past October 2023. When considered alongside the written agreement, the formal notice of termination, and Mr. Mwai's sworn testimony, it proves on a balance of probabilities that Moreen was engaged strictly to supply independent project services and did not occupy a statutory employment position with the Applicant.

Michael Mwesigwa

67. Michael Mwesigwa's agreement was dated 12 January 2023 and was also terminated on 16 October 2023 due to a structural lack of project work. His arrangement mirrors the identical contractual architecture and operational realities as that of Moreen Kyobutungi. The Respondent failed to adduce any specific or independent evidence demonstrating that Michael was subject to prescribed hours, personal human resource supervision, employee benefits, or organizational integration. The contemporaneous payment and termination records indicate a finite client-facing project assignment rather than an open-ended position within the Applicant's regular workforce establishment.
68. Crucially, the Tribunal's finding that Michael Mwesigwa supplied professional services strictly as an independent contractor is anchored upon a discrete, qualitative evaluation of his specific contract and evidence of performance, rather than treating the three individuals as an undifferentiated or uniform group.
69. The Tribunal has not treated the absence of leave, NSSF or office space as a legal test, nor has it treated substitution or remote work as decisive. Its conclusion rests on the combined effect of the operative agreements and the evidence of performance: the limited employment-type control, responsibility for tools and ordinary expenses, capacity for other professional activity, invoicing arrangement, lack of integration into the Applicant's employment

systems, and the project-linked character of the engagements. The longer duration of Paul's engagement and the regularity of the payments have been weighed but do not displace that conclusion.

70. The first issue is answered in the Applicant's favour. Paul Wanyama, Moreen Kyobutungi and Michael Mwesigwa were independent contractors of the Applicant during the periods in issue.

Issue Two: Whether the Applicant is liable to pay the PAYE tax and interest assessed by the Respondent.

A. Structural Analysis of the PAYE Assessment Timeline

71. Section 126 of the Income Tax Act is only triggered by a payment of employment income to an employee. Having determined under Issue One that the three individuals were independent contractors and not employees of the Applicant, the remittances made to them did not constitute employment income under Section 19. The Applicant was therefore not statutorily required to deduct or remit PAYE tax from these disbursements. Consequently, the principal additional PAYE assessment of Shs. 26,173,640.64 is excessive, lacks a legal baseline, and cannot stand.
72. Quite apart from the primary classification finding, the impugned assessments suffer from a further fatal factual defect insofar as they include Moreen Kyobutungi and Michael Mwesigwa within the assessed population for January and February 2024. Their termination notices are clearly dated 16 October 2023, and the contemporaneous WHT schedules prove that no payments were made to either of them past October 2023. While termination alone would not automatically answer a PAYE deficiency assessment if employment income had subsequently been paid, the material fact before the Tribunal is that no payments whatsoever occurred during those months. Absent an actual payment of employment income, Section 126 could not impose a withholding obligation upon the Applicant. This conclusion stands independently of the finding on their contractual status.

73. The interest assessment of Shs. 12,253,266 was entirely consequential upon the principal PAYE assessment of Shs. 26,173,640.64. Under our tax architecture, statutory interest is not an independent or standalone tax liability; it fundamentally presupposes a primary tax obligation that became due and remained unpaid. Since no PAYE tax was legally payable on the transactions in issue, there was no unpaid primary tax upon which the impugned interest could accrue. The interest assessment therefore cannot stand.

B. Withholding Tax Already Remitted and the Double Taxation Analysis

74. The Applicant described the retroactive imposition of PAYE after WHT had already been remitted as unlawful double taxation. The Tribunal notes that this description is an inadequate basis for determining the legal validity of a tax assessment. Tax classification and tax credits are separate operational questions. Under Section 146 of the Income Tax Act, tax withheld is treated as tax paid on behalf of the payee and, unless it is a final tax, is credited against that specific payee's final assessed income tax liability, with any excess dealt with under Section 123. An incorrect withholding entry may therefore call for an administrative amendment, credit, reallocation, or refund under the Act, but it does not determine whether a PAYE liability was legally due.
75. In this case, the PAYE assessment fails fundamentally because the recipients were not employees as a matter of law, not simply because WHT had already been remitted. Any question concerning the independent contractors' personal tax returns, credits, or wider income-tax compliance lies exclusively between each contractor and the Respondent, and is not before this Tribunal. Their potential failure to file returns or declare income cannot alter the legal or practical character of the Applicant's engagements. Issue Two is answered in the negative.

XI. Conclusion

76. The Applicant has proved, on a balance of probabilities, that the additional PAYE and interest assessments are excessive and erroneous. Under Section 20(1)(c)(i) of the Tax Appeals Tribunal Act, the objection decisions are hereby set aside, and the Tribunal substitutes its own decision that no PAYE or related interest is payable under the impugned assessments. There is no occasion to submit the matter back to the Respondent for administrative reconsideration, as the Tribunal has fully determined the agreed classification and liability issues on the face of the judicial record before it.
77. The thirty percent (30%) statutory deposit was paid by the Applicant solely as a condition precedent pending the final resolution of the disputed assessments. Once those assessments are formally set aside, the Respondent loses any legal basis to retain the funds. Section 31(2) of the Tax Appeals Tribunal Act mandatorily requires an amount refundable as a result of a reviewing body's decision to be repaid with interest at the rate specified by law. The consequential order is framed accordingly.

XII. Orders

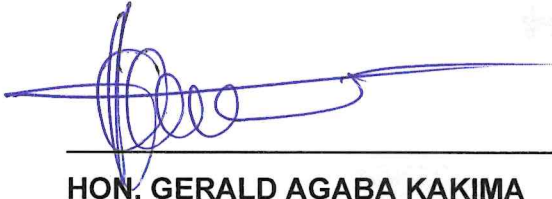
78. The Tribunal makes the following orders:
- (i) The Application is allowed.
 - (ii) The objection decisions dated 3 December 2025 and 5 December 2025 are set aside.
 - (iii) The additional principal PAYE assessment of Shs. 26,173,640.64 and the related interest assessment of Shs. 12,253,266, totaling a global sum of Shs. 38,426,906.64, are hereby set aside and vacated in their entirety.
 - (iv) The Respondent shall immediately give effect to this decision by removing the impugned principal tax, interest, and all consequential deficiency entries from the Applicant's official tax ledger.

- (v) The Respondent shall refund the thirty percent (30%) statutory deposit paid in respect of the impugned assessments, together with interest prescribed by the applicable law, subject only to any lawful set-off expressly permitted by that law.
- (vi) Costs of this application are awarded to the Applicant.

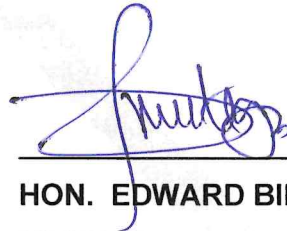
Dated at Kampala this 10th day of **September** 2026.



HON. STELLA NYAPENDI CHOMBO
CHAIRPERSON



HON. GERALD AGABA KAKIMA
MEMBER



HON. EDWARD BIRYETEGA
MEMBER