TAX APPEALS TRIBUNAL

Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO. 168 OF 2024

TREND EVENTS ....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.. RESPONDENT

BEFORE: HON. PROSCOVIA REBECCA NAMBI, HON. STELLA NYAPENDI CHOMBO, HON. ROSEMARY NAJJEBA.

RULING

I. Introduction

1. This Ruling is in respect of an application to challenge additional VAT assessments amounting to Shs. 558,454,791 issued by the Respondent in respect of denial of the Applicant's claim for input tax credit on grounds that they arose from fictitious invoices.

II. Background facts

2. The Applicant is a limited liability company engaged in the business of providing cleaning and outside catering services. The dispute arises from additional VAT assessments issued by the Respondent following a review of the Applicant's tax affairs.
3. The Respondent reviewed the Applicant's tax affairs and issued additional VAT assessments on two separate grounds. For the tax period of June 2020, the Applicant was issued with an additional VAT assessment of Shs.

143,528,175, over and above its self-declared liability of Shs. 29,938,684, arising from a variance between its declared sales and third-party withholding tax (WHT) information.

4. The Respondent also reviewed the Applicant's income tax return for the period 2019 to 2020 and found that the Applicant had filed a nil return. However, WHT information for the same period indicated that the Applicant had transacted with entities including the Uganda Revenue Authority, Civil Aviation Authority, Electricity Regulatory Authority, PPDA, the Ministry of Agriculture and several others, notwithstanding that those sales had not been declared in its VAT returns. The Respondent concluded that the Applicant had failed to account for those sales, thereby giving rise to the variance between the declared sales and the actual sales upon which the assessments were based.

5. Consequently, on 18 May 2022, the Respondent issued the Applicant with a VAT assessment of Shs. 143,528,174.64 for the period June 2020. Subsequently, on 1 February 2024, the Respondent issued a further VAT assessment of Shs. 32,339,102 for the period 1 April 2022 to 30 April 2022. The Respondent requested the Applicant to furnish supporting documents to verify its sales and substantiate its objection. The Applicant did not provide the requested documents, and the Respondent therefore relied on third-party WHT information and resolved to uphold the assessments.

6. The Applicant partially objected to the assessments in the sum of Shs. 598,454,791, contending that the disallowed input tax had been genuinely incurred and was supported by adequate documentation. On 20 April 2024, the Respondent issued an objection decision disallowing the objection and upholding the assessments on the ground that the documents furnished by the Applicant were insufficient to establish the authenticity of the transactions, which the Respondent considered to be supported by fictitious invoices. Hence, this application

III. Issues for determination.

7. The key issue to be determined is whether the Applicant is liable to pay the tax assessed.

IV. Representation and evidence.

8. Mr. Michael Maggwa represented the Applicant while Ms. Christine Mpumwire and Ms. Eseza Sendege appeared for the Respondent.

9. During cross-examination, the Applicant's sole witness, Mr. Alfred Washaba, who is also the Managing Director of the Applicant, was questioned extensively on the alleged payments, movement of money and supporting documentation for the impugned transactions. He testified that between January 2019 and February 2020 he made withdrawals of about Shs. 600 million and cash payments of about Shs. 650 million supported according to him by receipts, invoices, delivery notes and bank statements in the Trial Bundle. He explained that some payments were made from money withdrawn and kept in the office safe while others came from borrowed funds not reflected on the bank statements. However, when asked to reconcile the payments with specific invoices and bank records, he was unable to clearly correlate the transactions and maintained that there was no discrepancy from his perspective.

10. Under further cross-examination, the witness was challenged on the Respondent's position that the Applicant had failed to prove movement of money to the alleged suppliers. He conceded that the bank statements would not show all payments "100%", stated because not all payments went through the bank account and admitted he could not trace some payments to particular suppliers from the bank statements. He also acknowledged that the Applicant kept no cash books despite asserting that most payments were made in cash. When questioned on receipt numbering, supplier payments and correlation between invoices, receipts and bank statements, he was unable to satisfactorily reconcile the documents and indicated he needed more time to do so.

11. Mr. Godwin Mugabo an officer financial investigation in the Respondent's tax investigation department was the Respondent's first witness. During further cross-examination, Mr. Godwin Mugabo maintained that the impugned invoices were queried after investigations revealed discrepancies in the supporting documentation and doubts as to whether some of the alleged supplier companies had genuinely transacted with the Applicant. He testified that some purported directors of those companies had recorded statements denying knowledge of the transactions and in some instances denying knowledge of the companies themselves.

12. He also pointed to discrepancies in the dates appearing on invoices and delivery notes particularly on pages 26, 27 and 28 of the Trial Bundle and stated that some of the sample documents did not tally with the transactions as presented by the Applicant. He further testified that while some of the companies may have existed legally on registration records, they could not be found operating at their registered premises.

13. In re-examination, Mr. Mugabo maintained that the alleged payments to suppliers were not reflected in the Applicant's bank statements and that the sampled transaction documents did not support the Applicant's claim. His testimony remained that the impugned transactions bore characteristics of invoice trading and that the investigations had disclosed material inconsistencies in both the documentation and the alleged suppliers.

14. Ms. Justine Nakiguli one of the purported directors of Arnau trading company was the Respondent's second witness. During cross-examination, Ms. Justine Nakiguli maintained her denial of any knowledge of Arnau Trading Company SMC Ltd and Huthart Enterprises SMC Ltd despite being reflected in registration documents as a director. She testified that she was informed by URA officers of the existence of the companies and that she had not been arrested or compelled to make a statement, but had engaged with the officers after satisfying herself of their identity. She stated that she did not report the matter to police and took no independent action regarding the alleged use of her National ID explaining that she awaited further action from URA.

15. She further testified that her own company, Just Del (U) Limited, was a separate entity not VAT registered and that she had no connection with the two impugned companies. Throughout her evidence, she maintained that she neither knew of nor participated in the operations or transactions attributed to those entities, thereby reinforcing her prior disavowal of any association with them.

V. Submissions by the Applicant

16. Counsel for the Applicant submitted that the requirements for a transaction to be considered for input VAT under the law are categorically set out in **Section 28 (5) Of the Vat Act Cap** 344, which states thus:

"A taxable person who is allowed a tax credit on purchase of goods and services from a supplier who is designated to use the e-invoicing system, shall only claim a tax credit on expenses supported by e-invoices or receipts."

17. The Applicant submitted that the key phrases in the above statute are, "A taxable person who is allowed a tax credit............shall only claim a tax credit...." These phrases, as glaring were couched in mandatory language and they are not up to discretion. The legislature ordered the commissioner to allow a tax credit claimed by a taxpayer as long as the taxpayer provides evidence of e-invoice or e-receipt and only an e-invoice or receipt, nothing more. Additionally, Emphasis is on the statements; "designated to use the e-invoicing system" and "expense supported by e-invoices or receipts"

18. The Applicant argued that they submitted evidence in exhibit A-EX7 from page 26-404 of the joint trial bundle (JTB) clearly showing all the transactions upon which the claimed input VAT were based. It was also the Respondent's testimony RWI during cross examination that the invoices in issue were not fictitious. The Applicant contended that the invoices in issue were generated from the Respondent's online E-invoicing database (EFRIS).

19. The Applicant relied on the ***Black's law dictionary 9 edition*** to define Fictitious as:

"Not real or genuine, imaginary or contrived."

20. Therefore, for an invoice to be rendered fictitious it has to be "not real/imaginary" or it must lack the elements provided for under the law. To the above, the Applicant quoted the case of ***Red Concepts Ltd vs URA TAT Application No. 36 of 2018*** cited in ***Advent city Limited v URA Application No. TAT 28 of 2018***.

Elements of a legally valid invoice:

21. The Applicant quoted ***Section 29 of the VAT Act cap 344*** which provides for the requirement by the supplier to issue tax invoices for items supplied within 30 days from the date of supply. The Applicant also cited ***Section 2 of the 5th schedule to the Vat Act*** **states** which details the statutory requirements for an a valid tax invoice.

22. The Applicant maintained that the impugned invoices had the tax identification number, physical address, date of issue, fiscal document number, name of supplier, name of purchaser, business registration number of supplier, description of items supplied, quantity of items supplied, price per unit of items supplied, total amount of cost of total items supplied and the amount of tax (VAT) payable/paid as per AEX7 on page 25-404 of the Joint Trial Bundle.

23. The Applicant submitted that each and every transaction with the allegedly fictitious companies was system generated on the online database of the Respondent (EFRIS). Therefore, there is no way the Respondent can claim that the invoices issued by registered companies were fictitious. Further, Mr. Washaba Alfred, testified that upon issuing the invoices, the suppliers subsequently approached the Applicant's offices for payment in cash mostly.

24. The Applicant submitted that they would draw cash from their bank account at DFCU Bank impala house branch, stock up the cash in a safe at the office and pay for supplies as and when there was need. Each invoice was attached to a delivery note as confirmation of delivery and receipt of the goods and this was exhibited on pages 26-404 of the joint trial bundle.

25. The Applicant maintained that after satisfying itself on the legality of the impugned companies, it had no legal obligation to enquire into the physical address of the suppliers as long as they supplied the Applicant the agreed items at the agreed prices.

26. The Applicant quoted the case of ***Cape Brandy Syndicate v IRC (1921)2 KB 64***, wherein it was held that:

> *"In a taxing Act, clear words are necessary in order to tax the subject. In a taxing Act one has merely to look at what is clearly said. There is no room for an intendment, there is no equity about tax. There is no presumption as to tax nothing is to be read in it, nothing is to be implied, one can only look fairly at the language used."*

27. The Applicant submitted that from the above, if the legislature so wished to require the taxpayer to prove knowledge of the physical place of business of the supplier and bank transfers as proof of payment in support of claims for input tax, it would have expressly stated so. The legislature placed the taxpayer with one burden which was to present an e-invoice and that is all. Any other suggested requirement by the Respondent is reading into the law which is a miscarriage of justice.

28. The Applicant maintained that they traded with duly registered companies and all the said companies had Tax Identification numbers and were designated to issue e-invoices by the Respondent. Shifting the responsibility of proving movement of money from the Applicant to the said entities is an overstretch by the Respondent and in fact not a requirement of the law.

29. The Applicant prayed that the assessments be set aside and the Applicant's ledger be cleared of any purportedly outstanding tax resulting from the said unlawful assessments totalling to Shs. 598,454,791 and any interest thereto.

VI. Submissions of the Respondent

30. The Respondent submitted that the Applicant is liable to pay the tax assessed because the disputed input VAT credits arose from transactions

that were not genuine and bore the hallmarks of invoice trading. The Respondent contended that the Applicant was either a participant in, or beneficiary of, a VAT fraud scheme involving the use of invoices unsupported by actual supplies.

31. The Respondent relied on section 4(a) of the Value Added Tax Act, which imposes VAT on every taxable supply made by a taxable person. The Respondent further referred to sections 25 and 28 of the Act, which provide the framework for calculating VAT payable and claiming input tax credits.

32. According to the Respondent, VAT payable is calculated by deducting allowable input VAT from output VAT. Input VAT is therefore not an automatic entitlement but a credit available only where the taxpayer demonstrates that taxable supplies were made to it and that those supplies were acquired for use in its business. The Respondent submitted that while it was not disputed that the Applicant is a taxable person and that the alleged purchases were ostensibly for business purposes, the central issue was whether the Applicant had proved that the taxable supplies reflected on the impugned invoices were actually made to it.

Proof of receipt of taxable supplies

33. The Respondent submitted that a taxpayer claiming input VAT credit must prove the existence of the underlying taxable supply. While an invoice constitutes the starting point of such proof, it is not always conclusive evidence that the transaction occurred. Reliance was placed on sections 28(5) and 28(13) of the VAT Act, which require input tax claims to be supported by e-invoices, e-receipts, or original tax invoices. The Respondent argued that these provisions prescribe the documentary basis for a claim but do not dispense with the requirement that a genuine taxable supply must have occurred.

Invoice Trading

34. The Respondent submitted that tax authorities worldwide have encountered a fraudulent scheme commonly referred to as invoice trading. Under this

scheme, businesses are established or registered for VAT purposes primarily to generate and sell invoices without supplying any goods or services. Such entities issue invoices through the tax system, including EFRIS, and sell them to taxpayers who then use those invoices to claim input VAT credits on fictitious purchases, thereby reducing their tax liabilities.

35. The Respondent relied on ***Red Concepts Ltd v URA, TAT Application No. 36 of 2018***, where the Tribunal observed that invoice trading involves companies being established for the purpose of enabling taxpayers to claim input VAT through fictitious invoices. The Respondent submitted that where evidence suggests invoice trading, it is entitled to require a taxpayer to provide further evidence demonstrating that the supplies reflected on the invoices actually occurred. According to the Respondent, reliance on invoices alone would defeat the purpose of section 28(1) of the VAT Act, which requires proof that taxable supplies were made to the taxpayer.

36. The Respondent argued that taxpayers engaged in invoice trading may be able to prove their sales using legitimate stock while falsely attributing those sales to fictitious purchases. Consequently, proof of sales alone is insufficient; the taxpayer must also demonstrate the authenticity of the purchases giving rise to the claimed input VAT. In support of this position, the Respondent relied on ***Osho Drapers Ltd v Commissioner of Domestic Taxes***, where it was held that possession of documentation alone is insufficient and that the taxpayer must prove the existence of the underlying transaction. The Respondent further relied on ***Red Concepts Ltd v URA***, where the Tribunal held that the burden lies on the taxpayer to prove, on a balance of probabilities, that the impugned transactions were genuine and not fictitious.

Missing Traders and Supplier Irregularities

37. The Respondent submitted that investigations revealed that several of the companies from which the Applicant claimed to have made purchases were either untraceable or disowned by persons alleged to be associated with them. The Respondent stated that it interviewed and recorded statements

from individuals linked to some of the supplier entities, including Arnau Trading Company SMC Ltd and Dakarai Hardware Solutions Ltd. Those individuals denied knowledge of the companies and denied any dealings with the Applicant.

38. Particular reliance was placed on the testimony of Ms. Justine Nakiguli, who denied knowledge of Arnau Trading Company SMC Ltd and disputed the authenticity of the signature appearing against her name on registration documents associated with the company. The Respondent submitted that several supplier entities could not be found operating at their registered addresses and that the Applicant did not call any representative of those companies to confirm the alleged transactions.

39. The Respondent further argued that the Applicant's sole witness, despite claiming to have made substantial cash payments, was unable to identify any individual from the supplier companies with whom the transactions were conducted.

Failure to Prove Actual Purchases and Payments

40. The Respondent submitted that the Applicant failed to adduce sufficient evidence demonstrating that the purchases reflected on the disputed invoices actually occurred. Although the Applicant relied on invoices, receipts and delivery notes, the Respondent argued that these documents were not supported by a credible payment trail. The Respondent undertook a detailed comparison of the alleged cash payments against the Applicant's bank records and identified numerous discrepancies.

41. In relation to Scotra General Merchandise Ltd, Dewhurst Agencies SMC Ltd, Rinfranso Trading SMC Ltd, Raleigh General Trading SMC Ltd, Arnau Trading Company SMC Ltd, Huthart Enterprises SMC Ltd, Delores General Traders Ltd and Baylis General Electrical SMC Ltd, the Respondent pointed to significant variances between the amounts allegedly paid and the amounts actually withdrawn from the Applicant's bank account.

42. In several instances, the bank statements reflected either minimal withdrawals, loan recovery deductions, or no withdrawals at all corresponding to the alleged purchases. According to the Respondent, these discrepancies were inconsistent with the Applicant's assertion that substantial cash payments had been made to the suppliers.

43. The Respondent argued that the Applicant's explanation that cash was routinely withdrawn and stored in office safes for future payments was unsupported by contemporaneous records. No cash books or other accounting records were produced to explain the discrepancies.

44. The Respondent submitted that the cumulative effect of these inconsistencies was to undermine the credibility of the alleged purchases and to demonstrate that the Applicant had failed to establish a complete and verifiable supply chain.

Misleading Supplier Information

45. The Respondent further submitted that some of the invoices contained misleading or inaccurate supplier information. In particular, the physical addresses appearing on certain invoices were allegedly inconsistent with the results of the Respondent's investigations. According to the Respondent, the Applicant offered no satisfactory explanation as to how it conducted substantial cash transactions with suppliers whose locations could not be verified and whose representatives could not be identified.

46. The Respondent therefore concluded that the Applicant failed to discharge its burden of proving that the disputed invoices represented genuine taxable supplies. It argued that the evidence, taken as a whole, demonstrated that the transactions bore the characteristics of invoice trading and that the claimed input VAT credits were properly disallowed. Accordingly, the Respondent prayed that the Application be dismissed and that the objection decision upholding the assessments be confirmed.

VII. The Determination

47. Having considered the evidence and submissions of both parties, this is the decision of the Tribunal.

48. At the heart of this dispute is the Applicant's claim to input VAT credits which the Respondent disallowed on grounds that the underlying transactions were not genuine. The Tribunal must therefore determine whether the Applicant has proved, on a balance of probabilities, that it received the taxable supplies upon which the claim is founded and whether the Respondent was justified, in the circumstances of this case, in rejecting the claim and issuing the consequential assessments.

49. Before considering whether the Respondent was justified in disallowing the Applicant's claim for input tax credit, it is necessary to examine the statutory framework governing input tax under the Value Added Tax Act. Input tax refers to the VAT paid or payable on taxable supplies made to a taxable person, or on goods and services imported by that person, for use in the business. The right to claim such tax as a credit is not automatic but arises only where the conditions prescribed by the Act are satisfied.

The Applicable legal framework

50. Section **1(l) of the VAT Act** defines the term input tax to mean;

    "The tax paid or payable in respect of a taxable supply to or an import of goods or services by a taxable person."

51. The right to claim for input tax credit is provided for under **Section 28(1) of the VAT Act,** which states as follows:

    "Where Section 25 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for the tax payable in respect of

    a). all taxable supplies made to that person during the tax period;

    b) all imports of goods made by that person during the tax period, if the supply or import is for use in the business of the taxable person."

52. We are also guided by the decision in ***Enviroserve Uganda Limited v Uganda Revenue Authority*, TAT No. 24 of 2017,** where the Tribunal held that;

> *"For a claim for input tax credit to succeed, it must be proved that the Applicant is a taxable person, that taxable supplies were made to the Applicant during the tax period, and that such taxable supplies were for use in the business of the Applicant."*

53. The Tribunal will now consider the additional statutory requirements governing the documentation and substantiation of input tax claims under the VAT Act. **Section 1(x) of the VAT Act** defines a taxable person. The Section provides that:

> *"a taxable person" has the meaning in Section 6, which defines a taxable person as one registered under Section 7".*

Section 28(5) of the VAT Act provides that;

> *"A taxable person who is allowed a tax credit on purchase of goods and services from a supplier who's designated to use the e-invoicing system, shall only claim a tax credit on expenses supported by e-invoices or e-receipts."*

Section 28(13) of **the VAT Act** also states that;

> "An *input tax credit allowed under this section may not be claimed by the taxable person until the tax period in which the taxable person has an original tax invoice for the taxable supply".*

54. **Section 29 of the VAT** Act **cap 344** provides for the requirement by the supplier to issue tax invoices for items supplied within 30 days from the date of supply. Further, **Section 2 of the 5th Schedule to the Vat Act states:**

> *"A tax invoice as required by section 29 shall, unless the Commissioner General provides otherwise, contain the following particulars-*
> *(a) the words "tax invoice" written in a prominent place:*
> *(b) the commercial name, address, place of business and the taxpayer identification and VAT registration numbers of the taxable person making the supply:*

(c) the commercial name, address, place of business and the taxpayer identification number and VAT registration number of the recipient of the taxable supply:

(d) the individualised serial number and the date on which the tax invoice is issued:

(e) a description of the goods or services supplied and the date on which the supply is made:

(f) the quantity or volume of the goods or services supplied:

(g) the rate of tax for each category of goods and services described in the invoice: and

(h) either-

(i)The total amount of the tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax, or

(ii) where the amount of tax charged is calculated under section 24(2), the consideration for the supply, a statement that it includes a charge in respect of the tax and the rate at which the tax was charged."

55. From the foregoing provisions, it is clear that input tax credit is a statutory entitlement governed by section 28 of the VAT Act. The entitlement arises where a taxable person demonstrates that taxable supplies were made to it during the relevant tax period and that those supplies were acquired for use in its business. The claim must further be supported by the documentation prescribed under the Act. Accordingly, the taxpayer bears the burden of establishing both the factual basis of the underlying transaction and compliance with the statutory requirements governing the claim.

56. In determining whether the Applicant is entitled to the disputed input tax credit, the Tribunal must consider whether the Applicant has proved that:
    (i) taxable supplies were in fact made to it;
    (ii) the supplies were acquired for use in its business;
    (iii) the claim is supported by documentation prescribed under the VAT Act; and
    (iv) the evidence adduced is credible and verifiable enough to establish, on a balance of probabilities, that the underlying transactions genuinely occurred.

57. In the present case, there is no dispute that the Applicant is registered for VAT. It is also not seriously contested that, if the alleged supplies were actually made, they would have been for use in the Applicant's business. The real dispute is whether the Applicant received the taxable supplies reflected in the invoices upon which it seeks to claim input VAT credit.

58. The issue therefore turns on proof of the underlying transactions. The Tribunal must determine whether the invoices, receipts, delivery notes and other documents relied upon by the Applicant credibly establish that the alleged supplies were in fact made to it, or whether the surrounding evidence raises sufficient doubt as to the genuineness of those transactions.

59. It is trite law that the burden of proof rests on the party who asserts the affirmative. In ***J.K.*** Patel ***v Spear Motors Ltd, SCCA No. 4 of 1991***, the Supreme Court held that:

"The burden rests on the party asserting the affirmative."

60. The same principle applies with equal force in tax disputes involving alleged fictitious transactions. In ***Red Concepts Ltd v URA (supra)***, the Tribunal emphasised that in tax disputes involving allegations of fictitious transactions, the taxpayer bears the burden of proving, on a balance of probabilities, that the impugned transactions were genuine and that the claimed input tax credit is therefore allowable.

61. The Tribunal is equally mindful that section 28(5) of the VAT Act requires input tax claims relating to designated suppliers to be supported by e-invoices or e-receipts. However, the provision does not render an e-invoice conclusive proof that a taxable supply occurred. The purpose of section 28(5) is to prescribe the form of documentary support required for a claim, not to displace the substantive requirement under section 28(1) that a taxable supply must in fact have been made to the taxpayer. Accordingly, where credible evidence is adduced suggesting invoice trading, fictitious transactions, missing traders, or other forms of tax fraud, the Tribunal must examine not only the existence of the invoice but also the reality of the

underlying transaction. To hold otherwise would elevate form above substance and would undermine the integrity of the VAT system.

62. The Tribunal further holds that the introduction of EFRIS was intended to enhance transparency, traceability and tax compliance in commercial transactions. It was not intended to create an irrebuttable presumption that every invoice generated through the system represents a genuine taxable supply. Where credible evidence of fraud or invoice trading is produced, the Tribunal must inquire into the commercial reality of the transaction. Conversely, where a taxpayer demonstrates the existence of a genuine supply supported by credible documentary and surrounding evidence, the mere fact that the supplier subsequently defaults in its tax obligations cannot, without more, deprive the taxpayer of a lawful input tax credit. The proper inquiry is therefore directed at the reality of the taxable supply rather than solely at the conduct of the supplier.

Whether the Applicant proved that taxable supplies were actually made to it

63. The Applicant's case is principally that it presented EFRIS-generated e-invoices, receipts and delivery notes which satisfy section 28(5) and that no further legal burden exists to prove matters such as suppliers' physical addresses or bank transfers.

64. The Tribunal is mindful that a taxpayer's entitlement to input tax credit cannot be denied solely because a supplier subsequently defaults in its tax obligations, becomes untraceable, or is alleged to have engaged in fraudulent conduct. The law does not impose upon a purchaser an obligation to guarantee the future tax compliance of every supplier. The proper inquiry is therefore not whether the supplier was subsequently found to be non-compliant, but whether the Applicant has proved, on a balance of probabilities, that the impugned taxable supplies were in fact made to it and that it acted as a genuine recipient of those supplies.

65. Accordingly, the Tribunal has not based its decision merely on the conduct or status of the Applicant's suppliers. Rather, the evidence concerning suppliers who were untraceable or whose alleged directors disowned knowledge of the companies is considered only as part of the surrounding circumstances relevant to assessing the credibility of the transactions relied upon by the Applicant.

66. In the present case, the Tribunal notes that the Applicant's sole witness, despite claiming to have made substantial cash payments for the purchases in question, was unable to identify any representative of the alleged suppliers with whom he dealt. The Applicant also failed to call any representative of the suppliers to confirm the transactions. These circumstances do not establish fraud on the part of the Applicant but are relevant in assessing whether the alleged supplies have been proved.

67. Where a taxpayer seeks to rely on transactions involving substantial sums allegedly paid in cash, the inability to identify any representative of the supplier, the inability to demonstrate a verifiable commercial relationship with the supplier, and the inability to provide independent evidence confirming the supplier's participation in the transaction may properly be considered in determining whether the alleged supply actually occurred.

68. Turning to the documentary evidence on record, principally in AEX7 (pages 26-404 of the Joint Trial Bundle), we note material deficiencies that raise doubt as to whether genuine supplies to the Applicant occurred. First, not all invoices relied upon by the Applicant were e-invoices as alleged in its submissions. The evidence before the Tribunal also demonstrates that a number of the invoices relied upon by the Applicant did not contain all the mandatory particulars required by law. While some invoices appeared compliant, others exhibited material omissions.

69. For example, the invoices purportedly issued by Rinfranso (at pages 245 and 252 of the JTB) lacked material particulars, including a description of the goods and an indication as to whether the amounts stated were VAT

inclusive or exclusive. Invoices purportedly issued by Dewhurst (page 221 of the JTB), only bore the name of the recipient but omitted the recipient's address, place of business and VAT registration details. Invoices purportedly issued by Baylis did not clearly indicate whether consideration was VAT inclusive or exclusive among other particulars prescribed by section 2 of the 5th schedule to the Vat Act.

70. We find that the omission of such mandatory particulars renders those invoices non-compliant for purposes of the statutory requirements governing tax invoices. Accordingly, the Applicant's contention that all the invoices relied upon were compliant e-invoices is not borne out by the evidence on record. That said, the Tribunal does not treat invoice defects alone as conclusive proof that no supply occurred. Rather, those defects are considered together with the other evidential deficiencies identified in this ruling.

71. Second, we noted several inconsistencies between the said invoices and their respective supporting receipts. In the case of Scotra General Merchandise Ltd, all the e-invoices bear TIN No. 1017863145, whereas all the Scotra receipts bear TIN No. 1039092092. We find this discrepancy material, as no satisfactory explanation was offered as to how one entity could bear two different TINs in the same transaction trail. In the absence of a credible explanation reconciling this inconsistency, the discrepancy casts doubt on the authenticity and reliability of the supporting documentation relied upon by the Applicant.

72. Further, whilst the Applicant relied heavily on delivery notes, we note that many of the purported delivery notes produced as evidence bore no acknowledgment or signature from the Applicant confirming receipt of goods, even in transactions involving substantial sums such the Shs.17 million purchases reflected at page 213 of the JTB and Shs. 28 million purchases reflected at page 326. While acknowledgment on a delivery note is not a statutory requirement, we find that the absence of any evidence confirming receipt of goods in transactions of such magnitude reduces the probative

value of the delivery notes and weakens the Applicant's assertion that the supplies were actually received.

73. The Tribunal further notes that evidence was adduced by the Respondent showing that certain individuals allegedly associated with some of the supplier entities denied any knowledge of the companies or of the transactions attributed to them. In particular, during cross-examination, Ms. Justine Nakiguli maintained that she had no knowledge of Arnau Trading Company SMC Ltd. Similarly, in her statement appearing at page 474 of the Joint Trial Bundle (REX4), she stated that she did not know the purported co-directors of the company and disputed the authenticity of the signature appearing against her name on the registration documents.

74. The Tribunal also observes that the corporate records tendered by the Respondent do not identify Ms. Justine Nakiguli as a director of Arnau Trading Company SMC Ltd. While this discrepancy does not, by itself, establish that the company was fictitious or non-existent, it lends support to her denial of involvement and raises concerns regarding the reliability of the information associated with that supplier.

75. Likewise, the statement of Ms. Stella Nakalyowa concerning Dakarai Hardware Solutions Ltd, contained at page 475 of the Joint Trial Bundle (REX5), indicates that she had no knowledge of the company or of any transactions involving the Applicant. Although such evidence is not conclusive proof that the transactions did not occur, it raises legitimate questions regarding the reliability of the information associated with the purported supplier and forms part of the broader evidential matrix that the Tribunal must consider in assessing the credibility of the impugned transactions.

76. The Tribunal further notes that the Applicant seeks to support a substantial portion of its disputed input VAT claim through transactions allegedly undertaken with Huthart Enterprises SMC Ltd. However, as already discussed, the alleged payments were not supported by corresponding

withdrawals reflected in the Applicant's bank records. Despite specifically relying on cash payments to explain the absence of corresponding bank withdrawals, the Applicant did not produce any cash books or other contemporaneous records capable of accounting for the alleged cash payments. Furthermore, despite relying on these transactions to support its claim for input tax credit, the Applicant did not call any representative of Huthart Enterprises SMC Ltd to confirm the alleged supplies, nor was its witness able to identify any individual from the company with whom the transactions were conducted. While none of these factors is individually conclusive, when considered together they further weaken the credibility of the Applicant's assertion that the impugned supplies were in fact made.

77. The Tribunal is guided by its previous decisions, including ***Leds Uganda Ltd v Uganda*** Revenue ***Authority, TAT Application No. 3 of 2018***, and ***Tinasah Investments Ltd v Uganda Revenue Authority, TAT Application No. 170 of 2023***, in which it was reaffirmed that a taxpayer claiming input tax credit bears the burden of proving that an actual taxable supply was made and that the claim is supported by credible evidence. Consistency in tax adjudication requires that similar factual circumstances be approached through similar legal principles, while remaining attentive to the specific evidence presented in each case.

78. Having regard to the documentary deficiencies identified above, the unexplained discrepancies in the Applicant's supporting records, the evidence at pages 474–475 of the Trial Bundle, and the investigation findings concerning certain suppliers, the Tribunal is not satisfied on a balance of probabilities that the Applicant proved that the taxable supplies were actually made.

79. The Tribunal's conclusion does not rest upon any finding that the Applicant knew of or participated in fraud. Rather, it rests upon the Applicant's failure to discharge its statutory burden of proving that the taxable supplies corresponding to the disputed invoices were actually made. Even if the evidence relating to the suppliers' identities were disregarded entirely, the

Tribunal would still reach the same conclusion on the basis of the documentary inconsistencies, unexplained payment discrepancies and absence of reliable evidence confirming receipt of the alleged supplies.

Whether the Applicant proved payment and credible documentary support for the transactions

80. Even where invoices are formally compliant, the taxpayer must still adduce credible evidence establishing that the underlying purchases occurred. Evidence of payment may constitute important corroborative evidence in that inquiry.

81. On this aspect, the Respondent's evidence of glaring discrepancies between alleged cash payments and corresponding bank withdrawals was substantial and largely unanswered.

82. For Scotra General Merchandise, the alleged payments reflected at pages 45, 51, 54, 58, 63, 67, 84, 90, 96, 104, 118, 123, 130 and 134 of the JTB were shown by reference to bank statements at pages 451–459, to have significant unexplained variances or no corresponding withdrawals.

83. For Dewhurst Agencies SMC Ltd, receipts at pages 146, 155, 157, 173, 180, 181, 188, 203, 205, 207, 208 and 209 were contradicted by bank records at pages 426–431 of AEX7.

84. Similarly, transactions attributed to Rinfranso Trading (pages 238, 242, 245, 248, 252, 255, 266 and 273; compared with pages 426–427), Raleigh General Trading (pages 277–309; compared with page 426), Arnau Trading (pages 322–361; compared with pages 435–438), Huthart Enterprises (pages 369–383; compared with page 434), Delores General Traders (pages 385–393; compared with pages 428–429); and Baylis General Electrical (pages 395 and 397; compared with page 428) all exhibited substantial discrepancies between amounts allegedly paid in cash and funds actually withdrawn from the Applicant's bank account

85. In several instances, the bank records showed either negligible debits, only loan recoveries or no withdrawals at all corresponding to alleged high-value purchases. These were not isolated discrepancies. They were recurrent and systematic. The Applicant's explanation that cash was routinely withdrawn and kept in office safes for payments as needed does not satisfactorily reconcile the repeated variances demonstrated from the bank statements.

86. The Tribunal has carefully considered the Applicant's explanation that cash was withdrawn at various times and retained in office safes for subsequent payments to suppliers. However, that explanation is unsupported by any contemporaneous accounting records, cash books, petty cash records or reconciliation schedules capable of demonstrating the movement of funds from withdrawal to payment. In the absence of such records, the Tribunal is unable to verify the explanation or to reconcile it with the discrepancies identified in the bank statements.

87. The Tribunal finds those discrepancies materially undermine the credibility of the alleged payments and, by extension, the alleged transactions. This approach is consistent with persuasive authority in Osho ***Drappers Ltd v Commissioner of Domestic Taxes***, where it was emphasized that documentary records must be supported by evidence of genuine underlying transactions.

Whether the Respondent was justified in treating the transactions as fictitious or indicative of invoice trading

88. The Applicant argued that because the impugned invoices were generated through EFRIS it was entitled as a matter of law to claim the corresponding input tax credit. The Tribunal is unable to accept that that proposition. While EFRIS is an important statutory mechanism for recording and authenticating tax invoices, it does not alter the substantive legal requirements for claiming input tax credit under section 28(1) of the VAT Act.

89. The Tribunal accepts that EFRIS was introduced to enhance transparency, traceability, accountability and compliance in commercial transactions. An EFRIS-generated invoice is therefore not an ordinary informal document; it is a document generated through the Respondent's electronic tax administration system and is capable of constituting strong prima facie evidence that an invoice was issued and recorded. In the ordinary course of business, a taxpayer who receives such an invoice from a registered supplier is entitled to rely on it as part of the documentary foundation for an input tax claim.

90. However, the legal effect of an EFRIS invoice must be understood within the broader framework of section 28 of the VAT Act. Section 28(5) prescribes the documentary form in which an input tax claim must be supported where the supplier is designated to use the e-invoicing system. It does not displace section 28(1), which requires that a taxable supply must in fact have been made to the taxpayer. The two provisions must be read harmoniously. An EFRIS invoice proves that an invoice was generated through the electronic system; it does not, by itself and in all circumstances, conclusively prove that goods or services were actually supplied, received, paid for, and used in the taxpayer's business.

91. The Tribunal therefore holds that an EFRIS-generated invoice creates a rebuttable evidential basis for an input tax claim, not an irrebuttable entitlement. Where there is no credible challenge to the transaction, such an invoice may be sufficient together with the surrounding ordinary business records. However, where the Respondent adduces credible evidence of material inconsistencies, including unexplained payment trails, defective or contradictory supporting documents, unverified suppliers, absence of proof of receipt, or circumstances suggesting invoice trading, the Tribunal is entitled to look beyond the invoice and examine the commercial reality of the transaction. This does not mean that a taxpayer is required to police the tax affairs of suppliers or guarantee their compliance. Rather, it means that the taxpayer must prove matters within its own knowledge and control: that it dealt with a real supplier, received the alleged goods or services, incurred or

paid the consideration, and acquired the supplies for use in its business. To hold otherwise would permit the electronic form of an invoice to override the substantive requirement that input tax credit only arises from an actual taxable supply.

92. The Tribunal is satisfied that the Respondent discharged its evidential burden of raising legitimate questions regarding the authenticity of the impugned transactions. Once those concerns were raised through evidence of documentary inconsistencies, unexplained payment discrepancies and deficiencies in the transaction trail, the Applicant was required to provide a satisfactory explanation. In the Tribunal's view, the explanations offered were insufficient to dispel the doubts raised by the Respondent's evidence.

93. For avoidance of doubt, the Tribunal's conclusion is not founded upon supplier default, supplier irregularities or any finding of fraud against the Applicant. Even if the Tribunal were wrong regarding the legal sufficiency of certain invoices, the credibility of particular supplier information, or the significance of prior invoice-trading concerns, the Tribunal would nevertheless reach the same conclusion on the basis of the unexplained and systematic discrepancies between the alleged purchases and the Applicant's own financial records. Those discrepancies independently prevent the Tribunal from being satisfied, on a balance of probabilities, that the impugned supplies genuinely occurred.

Remedies

94. Having found that the Applicant failed to establish, on a balance of probabilities, that the impugned taxable supplies were actually made to it and further failed to adduce credible evidence sufficient to support the disputed input tax claims, the Tribunal finds that the Respondent was justified in disallowing the impugned input tax credits.

95. The Tribunal further finds that the additional VAT assessments arising from the disallowed input tax claims were lawfully issued and have not been shown to be excessive, erroneous, or otherwise contrary to the provisions of

the Value Added Tax Act. Consequently, the Applicant has failed to discharge the burden of proving that the objection decision issued by the Respondent should be set aside or varied.

96. Accordingly, the Application is dismissed and the Respondent's objection decision dated 20 April 2024 is hereby upheld. The additional VAT assessments in issue amounting to Uganda Shillings Five Hundred Fifty-Eight Million Four Hundred Fifty-Four Thousand Seven Hundred Ninety-One (Shs. 558,454,791) are hereby confirmed together with any interest accruing in accordance with the Tax Procedures Code Act.

97. Costs of this Application are awarded to the Respondent.

We so order.

Dated at Kampala this 29th day of May 2026.

HON. PROSCOVIA REBECCA NAMBI
CHAIRPERSON

HON. STELLA NYAPENDI CHOMBO
MEMBER

HON. ROSEMARY NAJJEMBA
MEMBER