

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 163 OF 2024

UGANDA COOPERATIVE SOCIETY & CREDIT UNION LTD.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MS. STELLA NYAPENDI, MS. KABAKUMBA
MASIKO

RULING

This ruling is in respect of a preliminary objection on the grounds that the Applicant has no standing before this Tribunal.

1. Background Facts

The Applicant is a registered Cooperative Society under the laws of Uganda. The mandate of the Applicant is to foster the organization and development of savings and credit cooperatives in Uganda as well as improve their operations.

On 10 October 2023, the Permanent Secretary, Ministry of Finance, Planning and Economic Development (MoFPED), sought legal guidance from the Attorney General's Chambers on the tax treatment of income generated by Savings and Credit Cooperative Organizations (SACCOS) and their members. This request was made under Reference TPD 155/167/01 Vol 8.

In response, on 28 December 2023, the Attorney General issued a legal opinion advising that, under the doctrine of mutuality, the income of SACCOS and their members is tax-exempt. This legal advice was intended to guide the tax treatment of SACCOS by the Uganda Revenue Authority (URA).

On 19 January 2024, the Attorney General's guidance was formally communicated to the Uganda Revenue Authority (URA). This communication was meant to ensure that URA aligns its tax administration practices with the Attorney General's legal advice.

Despite the Attorney General's guidance, the regional offices of URA started issuing communications to members of the Applicant (SACCOS), instructing them to withhold and remit taxes on dividends and interest paid to their members. These actions directly contradicted the Attorney General's advice.

On 6 May 2024, the Applicant wrote to URA, reminding it of the Attorney General's binding guidance and requesting compliance with the said advice. The Applicant emphasized that the income of SACCOS and their members is tax-exempt, and URA's contrary actions were improper.

As a result of URA's continued non-compliance and enforcement actions, the Applicant filed this application before the Tax Appeals Tribunal (TAT) seeking:

- (i) A declaration that the income of SACCOS and their members is tax-exempt.
- (ii) A declaration that the Attorney General's guidance is binding on URA.
- (iii) An order vacating all the tax assessments, penalties, agency notices, and other enforcement actions taken by URA.
- (iv) Compensation for the inconvenience and financial distress caused to the Applicant and its members.

At conferencing, the Respondent raised a **preliminary objection** asserting that the Applicant lacked standing to file the application as neither tax assessment nor an objection decision had been issued to it directly. The Respondent also claimed that the Applicant did not have the necessary representative order to file on behalf of its member SACCOs.

2. Issues for determination

The main issue for determination is whether the Applicant has standing before this Tribunal and whether they were the right party to file the application before this Tribunal.

3. Representation

The Applicant was represented by Mr. Amany Joseph and Mubangizi Norman while the Respondent was represented by Ms. Christine Mpumwire .

4. The Submissions of the Respondent

The Respondent submitted that the Applicant has no standing before this Tribunal as they are not the party that was assessed or to whom an objection decision was made.

The Respondent relied on Section 14 of the Tax Appeals Tribunal Act, which provides that only a person aggrieved by a taxation decision made under a taxation act can apply to the Tribunal for review.

The Respondent defined a "taxation decision" as provided for under Section 1(k) of the TAT Act and Section 3 of the Tax Procedures Code Act (TPCA) to include assessments, determinations, decisions, or notices made by the Commissioner.

The Respondent therefore stated that since the Applicant had not received any assessment in its own name, it was not aggrieved by any taxation decision under these provisions.

Absence of Representative Authority

The Respondent argued that the Applicant, as an umbrella body, cannot file this application on behalf of its member SACCOS without obtaining a representative order from the Tribunal.

The Respondent cited Order 1 Rule 8 of the Civil Procedure Rules, which requires any person instituting proceedings on behalf of others to first obtain permission from court and give notice to all affected parties.

The Respondent also cited the case of *Paul Kanyima v Rugoora Kicumbi Baptista Katwerana Society (1982) HCB 33 and Henry Kamoga & 5 Others v Bank of Uganda*

HCCS 62 of 2009) wherein it was held that filing a representative action without leave of court renders the suit incompetent and liable to be struck out.

5. The Submissions of the Applicant

The Applicant argued that Section 14 of the Tax Appeals Tribunal Act allows “any person” aggrieved by a taxation decision to apply to the Tribunal. The Applicant submitted that this broad wording (“any person”) includes third parties, such as itself, who are affected by URA’s taxation decisions — particularly as a cooperative society (SACCO) representing other SACCO, whose tax-exempt status is being challenged. Therefore, Order 1 Rule 8 of the Civil Procedure Rules, which governs representative actions, is inapplicable

The Applicant submitted that the dispute in question did not require a formal assessment or objection decision to be filed at the Tribunal. Instead, the dispute relates to the enforcement of the Attorney General’s guidance, hence this application before the Tribunal.

The Applicant also submitted that the Tax Appeals Tribunal possesses jurisdiction over all taxation decisions, including those that do not arise from specific assessments (*Black Cob v URA (TAT No. 112 of 2021)*). The Applicant also relied on the decision of the Supreme Court in *URA v Rabbo Enterprises (Civil Appeal No. 12 of 2004)* to support the position that the Tribunal has original jurisdiction over all tax disputes.

The Applicant stated that this application was filed in the public interest, given that it relates to the tax treatment of cooperative societies and their members, who are a significant part of the public. The Applicant therefore prayed that the preliminary objection be dismissed.

In rejoinder, the Respondent reiterated their position as per their main submissions.

6. The Determination by the Tribunal

Having listened to the evidence of both parties and read their submissions, this is the decision of the Tribunal.

The Tribunal must determine whether the Applicant has the requisite standing before the Tribunal to file and argue an application on behalf of its members.

Section 14 of the Tax Appeals Tribunal Act (TAT Act) grants power to the Tribunal to review taxation decisions and states;:

"(1) Any person who is aggrieved by a decision made under a taxing Act by the Uganda Revenue Authority may apply to the tribunal for a review of the decision.

(2) The tribunal has power to review any taxation decision in respect of which an application is properly made."

In *Kasozi Joseph & Ors v UMEME Ltd HCCS No.188/2010*, it was stated:

"Court cannot accept any argument that any spirited person can represent any group of persons without their knowledge or consent. That would be undemocratic and could have far-reaching consequences."

Therefore, in the circumstances, the Respondent's preliminary objection is here by allowed. Each party should bear their own costs.


Dated at Kampala this 21 Day of March 2025.



MS. CRYSTAL KABAJWARA
CHAIRPERSON



MS. STELLA NYAPENDI
MEMBER



MS. KABAKUMBA MASIKO
MEMBER

