TAX APPEALS TRIBUNAL

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO. 52 OF 2026

ARISING FROM TAT APPLICATION NO. 192 OF 2025

UGANDA REVENUE AUTHORITY.....APPLICANT

VERSUS

BETT MUSTAFA KIPROP.....RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. PROSCOVIA REBECCA NAMBI, HON. WILLY NANGOSYAH

RULING

I. Introduction

1. This is a ruling on a miscellaneous application brought by Uganda Revenue Authority (the Applicant) under Sections 22 and 23 of the Tax Appeals Tribunal Act (Cap 341), Section 98 of the Civil Procedure Act, Cap 282 and Order 52 of the Civil Procedure Rules (S.I 71-1), seeking orders that:

   (i) The Tribunal's order closing the Applicant's case in TAT Application No. 192 of 2025 be set aside;

   (ii) Leave be granted to the Applicant to reopen its case and adduce additional evidence in TAT Application No. 192 of 2025;

   (iii) Time be enlarged to enable the Applicant to file a witness statement of Mr. Kenneth Bwambale in TAT Application No. 192 of 2025.

   (iv) TAT Application No. 192 of 2025 be fixed for hearing on its merits

   (v) Costs be provided for.

2. The application is supported by the affidavit of Mr. Innocent Ngaruye, Assistant Commissioner, Large Taxpayers' Office in the Domestic Taxes Department of the Respondent.

II. Background

3. This application arises from TAT Application No. 192 of 2025 in which the present Respondent, Mr. Bett Mustafa Kiprop, challenges an income tax assessment of Shs. 24,695,257,104, arising from the alleged disposal of shares in Stabex International Limited, Uganda. The main matter proceeded to a hearing on 14 November 2025, and both parties called witnesses who were cross-examined and re-examined. Both parties closed their respective cases, and the Tribunal issued directions for the filing of submissions and scheduled the reading of the Ruling for 6 February 2026. The Parties filed their respective submissions as directed by the Tribunal. However, before the delivery of that ruling, the present Miscellaneous Application was filed on 14 April 2026.

III. Representation

4. Mr. Tonny Kalungi, Ms. Prida Praff, and Mr. Tony Tukei represented the Applicant whilst Mr. Joel Obua represented the Respondent.

IV. Issue to be determined

5. The central issue for determination is whether the Tribunal should exercise its discretion to reopen the Applicant's case and adduce additional evidence in the main application after the close of evidence and filing of submissions.

V. The Applicant's case

6. From the motion, the affidavit in support, and the oral submissions, the Applicant's case rests on three principal grounds:

(i) Alleged Procedural Unfairness and Hostile Witness

7. The Applicant contended that it was not accorded a fair opportunity to fully present its case. It was submitted that its witness, Mr. Godwin Nimwesiga, gave

testimony that was adverse to the Applicant's case and thereby became hostile. The Applicant argued that it was not afforded the opportunity to cross-examine its own witness or to adduce further evidence through another witness to clarify the position. Counsel for the Applicant further submitted that the Tribunal ought, in the circumstances, to have exercised its powers under Rule 27 of the Tax Appeals Tribunals (Procedure) Rules, 2012, to put questions to the witness or call for additional evidence on its own motion.

8. Further, the Applicant contended that the failure to take the necessary procedural steps to declare its witness hostile at the time was due to inadvertence or error on the part of counsel, and that such a mistake ought not to be visited upon the Applicant.

(ii) Discovery of New and Important Evidence

9. The Applicant further contended that it has since discovered new and important evidence arising from the exchange of information with the Kenya Revenue Authority. The evidence, as described, relates to findings that the Respondent held no known bank accounts in Kenya; there were no records of transactions, contracts, or payments between the Respondent and Stabex International (Kenya); and the alleged shareholder loan lacked economic substance. The Applicant submitted that this evidence is credible, directly relevant to the central issue of whether a genuine loan existed, and is capable of materially influencing the outcome of the main application.

10. The Applicant also seeks to introduce a witness statement of Mr. Kenneth Bwambale to clarify that the assessment raised against Stabex Uganda was based on a loan reduction or write-off, rather than recognition of the loan. It was submitted that the evidence meets the test set out in ***Aluma Michael Boyle & Others v Okuti Sayid Nasur (HCT MA No. 12 of 2016)*** and ***Tolit Charles v Otto Cypriano (HCCS No. 2 of 2019***), namely that additional evidence may be admitted where it is new, relevant, credible, and capable of influencing the result.

(iii) Mistake of Counsel

11. The Applicant candidly acknowledges that the evidence was not presented during the hearing and attributes this to an inadvertent error or oversight by counsel. The Applicant argued that the failure to adduce the evidence earlier was not deliberate and the omission should not be visited on the Applicant. The Applicant also argued that the Tribunal should exercise its discretion in the interest of justice. In support of this proposition, the Applicant relied on the principle stated in ***Re Banco Arabe Espanol (SCCA No. 8 of 1991)***, that the mistake of counsel should not, in appropriate circumstances, be visited upon a litigant.

(iv) Interest of Justice and Absence of Prejudice

12. The Applicant further submitted that reopening the case would not occasion prejudice to the Respondent and is necessary to enable the Tribunal to determine the matter on its merits. It argued that the evidence goes to the heart of the dispute and that it is in the public interest to establish the correct tax liability.
13. The Applicant pointed out that the Respondent's affidavit in reply was undated and cited ***Re: Sako vs Road Master Cycles*** to argue that if the Respondent's undated affidavit was "curable," the URA's professional mistakes should also be treated with leniency.

VI. The Respondent's case

14. The Respondent strongly opposed the application and relied on both affidavit evidence and oral submissions. His reasons for opposing the application are as follows:

(i) No procedural unfairness and no hostile witness

15. The Respondent submitted that the Applicant was accorded a full and fair hearing. It was emphasised that the Applicant called two witnesses, not one, and this contradicts the Applicant's assertion in the motion that it had only one witness. Both witnesses testified, were cross-examined, and were re-examined

by the Applicant's own counsel. He submitted that no application was made at any stage of the hearing to treat any witness as hostile. The Respondent, therefore, contended that the allegation of hostility is an afterthought and was neither raised during the proceedings nor in the Applicant's written submissions in the main application. The Respondent further submitted that dissatisfaction with a witness's testimony does not render the witness hostile.

(ii) Failure to meet the test for new evidence

16. The Respondent strongly contested the Applicant's assertion that the proposed evidence is new. It was submitted that the exchange-of-information material from Kenya was received by the Applicant on 9 September 2024, more than one year before the hearing held on 14 November 2025. On that basis, the Respondent argued that the Applicant fails the due diligence requirement established in ***Aluma Michael Boyle v Okuti Sayid Nasur***, which requires that such evidence could not have been obtained with reasonable diligence at the time of the hearing.

17. The Respondent further submitted that the Applicant had full knowledge and control of the evidence and indeed relied on it during the administrative process.

(iii) Improper introduction of evidence through submissions

18. The Respondent also pointed out that the Applicant attached the impugned Kenya Revenue Authority (KRA) material to its written submissions in the main application, rather than formally tendering it during the hearing. He submitted that this amounted to introducing evidence from the bar, thereby denying the Respondent the opportunity to challenge the material through cross-examination. The Respondent contended that reopening the case would effectively regularise an improper procedure and allow the Applicant to cure a defect of its own making.

(iv) Inordinate Delay and Lack of Diligence

19. The Respondent further submitted that the application is brought after an inordinate delay. It was argued that the Applicant had full knowledge and control

of the evidence well before the hearing; no satisfactory explanation has been provided for the failure to adduce it at trial; and the application was only made after the close of evidence and exchange of final submissions, including the Respondent's submissions in rejoinder. The Respondent characterised the application as a reaction to the weaknesses exposed in the Applicant's case.

(v) Prejudice and attempt to fill gaps

20. The Respondent submitted that reopening the case would occasion substantial prejudice as the Respondent has already disclosed his full case and submissions in rejoinder, and yet the Applicant now seeks to reshape its case after seeing the Respondent's position. He argued that the application is an attempt to fill gaps in the Applicant's evidence. He relied on the principle that litigation must come to an end and that parties should not be allowed to rebuild their case after the closure of evidence.

(vi) Finality of litigation

21. Finally, the Respondent submitted that the application offends the principle of finality in litigation. It was argued that the Tribunal should guard against reopening proceedings except in the clearest of cases, and that the present application does not meet that threshold.
22. Regarding the undated affidavit, he acknowledged that his Affidavit in Reply for the miscellaneous application was undated, but argued this was a curable error made in a "rush to meet the deadline" to reply to the present application.

23. The Respondent therefore prayed that the application be dismissed with costs.

VII. The Determination

Having carefully considered the Notice of Motion, the affidavits and oral submissions of both parties, the record in the main application and the applicable law, this is the Tribunal's ruling.

Preliminary observation on the Affidavit in Reply

24. We note that the affidavit in reply is undated. The requirement to date an affidavit is not merely procedural; it serves to show when the affidavit was sworn and to maintain the integrity and sequence of the evidence before the Tribunal. An undated affidavit therefore creates uncertainty about its timing and reliability. However, guided by section 22 of the Tax Appeals Tribunals Act, which calls for proceedings to be conducted with minimal technicality, we do not consider this omission, in the absence of demonstrated prejudice, sufficient to strike out the affidavit. Instead, the defect goes to the weight to be attached to the affidavit rather than its admissibility, and we have considered its contents with appropriate caution.

Applicable law

25. The Tribunal's procedure is governed by the Tax Appeals Tribunals Act, Cap 341, and the Tax Appeals Tribunals (Procedure) Rules, 2012. Section 22 of the Act provides that proceedings before the Tribunal shall be conducted "with as little formality and technicality as possible" and that the Tribunal "shall not be bound by the rules of evidence but shall act judicially." The effect of these provisions is that, while the Tribunal is not constrained by strict technical rules, it must nevertheless observe the requirements of fairness, due process, and sound judicial reasoning.

26. The Tax Appeals Tribunals (Procedure) Rules apply to all proceedings before the Tribunal (Rule 2). Rule 26 sets out the sequence of the hearing: the applicant presents its case first, followed by the respondent, after which the parties make submissions. Rule 27 gives the Tribunal power to put questions to any party or witness and, where necessary, to call for additional evidence to clarify issues arising in the course of the hearing. Rule 28 permits interlocutory applications, by motion or chambers summons, and, where the Rules do not expressly provide, allows recourse to the practice and procedure of the High Court. Rule 29 permits amendment of pleadings before the close of the case.

27. The Tribunal therefore has jurisdiction to reopen a case where justice requires it. That jurisdiction, however, is discretionary. It must be exercised judicially, not as a routine indulgence.

28. We are guided by several authorities. In ***Banco Arabe Espanol v Bank of Uganda (Civil Appeal No. 23 of 1998)***, the Supreme Court (per Oder JSC) stated:

> *"The discretion to set aside or reopen proceedings must be exercised judicially and upon reason, not caprice... and only where sufficient cause is shown...a party seeking the court's indulgence must demonstrate that he was prevented from taking the necessary step despite exercising due diligence."*

29. Similarly, in ***Attorney General v Torino Enterprises Ltd (Civil Appeal No. 1 of 2002)***, the Court of Appeal held:

> *"The power to admit additional evidence or reopen a case is one to be exercised sparingly and only where the interests of justice so require...such power is not intended to enable a party to fill gaps in its evidence or to make out a new case."*

30. In ***Aluma Michael Boyle & Others v Okuti Sayid Nasur, Miscellaneous Civil Application No. 12 of 2016***, the High Court adopted the principles stated by the Supreme Court in ***Makubuya Enock William t/a Polly Post v Bulaim Muwanga Kibirige t/a Kowloon Garment Industry, Civil Application No. 133 of 2014***. The Court stated that additional evidence is admitted only in exceptional circumstances, including where there is:

> *"Discovery of new and important matters of evidence which, after the exercise of due diligence, were not within the knowledge of, or could not have been produced at the time of the suit or petition by, the party seeking to adduce the additional evidence."*

31. The Court further stated that the evidence must be relevant, credible, capable of influencing the result, supported by affidavit material, and the application must be brought without undue delay. In the same decision, the Court warned against reopening proceedings merely because a party later appreciates that relevant material was not presented. The Court stated:

"An obligation rests on the parties to adduce any material evidence before the court, and if they fail to do so they cannot require a second hearing to put the matter right."

It was further observed:

"In general, it would undermine the whole system of justice and respect for the law if it were open to a party to be able to re-run a trial simply because potentially persuasive or relevant evidence had not been put before the court."

32. The same principle appears in ***Karmali Tarmohamed and Another v T. Lakhani and Co. [1958] EA 567*** and ***Namisango v Galiwango and Another [1986] HCB***, both cited in Aluma, where the Court restated that fresh evidence will generally not be admitted unless it was unavailable at trial and could not, with reasonable diligence, have been obtained. The classic test in ***Ladd v Marshall [1954] 1 WLR 1489***, which has been applied in East African courts, is also useful. The evidence must not have been obtainable with reasonable diligence at trial, it must probably have an important influence on the result, and it must be apparently credible.
33. More recently, the High Court, in a decision discussed under ***Tolit Charles Okiro v Otto Cipiriano*** and ***Hon. Justice Anup Singh Choudry v UMEME Ltd***, restated that a party seeking reopening must show that the evidence is material and relevant, that it was not reasonably obtainable before closure, and that no undue prejudice will be occasioned to the other party. The Court stated:

"Court may grant leave to re-open a party's case where fresh evidence, unavailable or not reasonably discoverable before, becomes known and available."

It added:

"In considering whether to reopen, the Court should turn its mind to the relevance of the proposed evidence, the effect, if any, of reopening on the orderly and expeditious conduct of the trial, and most fundamentally, whether the other party will be prejudiced."

34. From the above authorities, we note the principle that reopening a case after closure is exceptional and must be justified by compelling circumstances and not convenience.

35. It is also settled that a mistake of counsel does not automatically entitle a party to relief. In ***Florence Nabatanzi v Naome Binsobedde (SC Civil Application No. 6 of 1987)***, the Supreme Court held that mistakes of counsel may constitute "sufficient reason" for granting relief, but such mistakes must not amount to gross negligence or inordinate delay, and the court must balance this against the rights of the other party.

36. In ***Butebi Investment Enterprises Ltd v Kibalama Mugwanya (Civil Application No. 354 of 2013, Court of Appeal),*** the Court of Appeal reaffirmed that a litigant should not automatically suffer for counsel's mistake, but this is grounded in the need to do substantive justice without undue regard to technicalities. In ***Godfrey Magezi & Brian Mbazira v Sudhir Ruparelia (SC Civil Application No. 10 of 2002)***, the Supreme Court held that the omission, mistake or inadvertence of counsel ought not to be visited on the litigant where doing so would deny a party a hearing on the merits.

37. We therefore note that while courts have held that the inadvertence of counsel ought not, in appropriate circumstances, to be visited on a litigant, this principle is not absolute. Relief depends on whether the mistake constitutes sufficient cause, and in particular, whether it reflects a genuine error of judgment rather than negligence, and whether the party has acted with diligence and without causing prejudice to the opposing party.

38. Consequently, our approach in the present matter is guided by the above principles.

Issue 1: Whether the Tribunal should exercise its discretion to reopen the Applicant's case after the close of evidence

39. This application rests on three broad grounds: first, that there is new and important evidence; secondly, that the Applicant's sole witness became hostile; and thirdly, that any omission in presenting the evidence earlier was a mistake

of counsel which should not be visited on the Applicant. We now address each in turn.

Whether the proposed evidence is new

40. The Applicant seeks to introduce evidence concerning the exchange-of-information material from Kenya to show the alleged absence of bank accounts or transaction records known to KRA, and the manner in which the alleged loan was treated in the audits of Stabex Uganda and Mr. Bett Mustafa Kiprop.

41. We note that the documents that the Applicant seeks to introduce via Mr. Bwambale are already on the record in the main application. The Stabex Uganda audit management letter and tax assessment, dated 28 November 2024, are already included on pages 250 to 254 of the Applicant's Trial Bundle in the main application.

42. The record also shows the Applicant used the KRA exchange-of-information material as a basis for the Objection Decision in March 2025. The proceedings show that AW1 was cross-examined on the exchange-of-information material and asked whether he was aware that URA had received information from Kenya indicating that no payment had been made by the Applicant to Stabex Kenya in respect of trade receivables. The Respondent's witness was also re-examined on why KRA may not have seen the transaction, and he answered that the transaction would sit as trade receivables in Kenya and trade payables in Uganda.

43. The Tribunal also notes that whilst it directed the Applicant to submit the Kenya Revenue Authority information during the main proceedings, it did not do so. Instead, the Applicant chose to attach it at the written submissions stage rather than formally tendering it as evidence. The Applicant had the opportunity to present this material through its witnesses, but did not do so. It cannot now seek to reopen its case to correct that omission, as this would be unfair to the Respondent, who was not given a chance to challenge the material during the hearing.

44. Therefore, we find that the evidence the Applicant seeks to introduce was not unknown to the Applicant at the hearing. Nor can it fairly be said that the subject

was outside the issues before the Tribunal. The Applicant's own affidavit in support of this miscellaneous application refers to the same tax review, the EOI information received on 9 September 2024, the Stabex Uganda audit, and the subsequent assessment, which formed part of the underlying dispute.

45. The proposed evidence may be additional in the sense that URA now wishes to present it through another witness and in a more detailed manner. However, that is not the same as evidence which was unavailable or not reasonably discoverable before closure. The authorities require more than relevance. They require reasonable diligence and a satisfactory explanation why the evidence could not have been produced earlier. Calling a new witness after the close of a case to re-interpret existing evidence does not constitute the discovery of "fresh" facts. This application is, in substance, an attempt to re-litigate and re-characterise evidence that was already within the Applicant's knowledge at the time of the hearing.

46. On the material before us, the Applicant has not shown that the proposed evidence could not, with reasonable diligence, have been tendered during the hearing. Therefore, ther is no "new information".

Hostile Witness

47. The Applicant also contends that its sole witness became hostile. Section 153 of the Evidence Act permits a party, with leave of court, to cross-examine its own witness. Although this Tribunal is not strictly bound by the Evidence Act, the section embodies a sound principle of fairness that a party who seeks to treat its own witness as hostile must apply for leave when the alleged hostility arises, so that the witness and the opposing party know the course being taken.

48. The proceedings show that the Applicant actually presented two witnesses **(Godwin Nimwesiga (RW1) and Allan Atugonza (RW2)** and not a sole witness as it alleges. Both witnesses testified, were cross-examined and re-examined without any objection, and thereafter the Applicant's counsel sought leave to file certain documents. The Tribunal then gave filing directions. The

Applicant did not, at any time, apply for leave to cross-examine any of its witnesses as a hostile witness.

49. In addition, whilst the Applicant states that the Tribunal did not exercise its powers to put questions to the witness or call for additional evidence on its own motion, the record of proceedings shows otherwise. The Tribunal indeed put questions to the Respondent's two witnesses, both during cross-examination and re-examination.

50. A witness is not rendered hostile merely because his answers are inconvenient, incomplete, or less helpful than expected. Hostility must be demonstrated by conduct showing that the witness is adverse to the party calling him, or has departed from a prior position in a manner requiring leave for cross-examination. The appropriate time to raise that complaint is during the testimony, not after the closure of the case and after the party has considered the evidential consequences of the testimony.

51. We therefore find that the alleged hostility has not been established. Further, we note that the Applicant's characterisation of the witness as its 'sole witness' is not supported by the record, which shows that two witnesses testified. This inconsistency weakens the Applicant's position on this ground.

Mistake of Counsel

52. The Applicant further relies on the principle that a mistake of counsel should not be visited on a litigant. That principle is well known, but it is not absolute. In the ***Aluma case (supra),*** the High Court recognised that Ugandan courts have accepted that mistakes or lapses of counsel may, in a proper case, not be visited on a litigant. The Court nevertheless drew a distinction between genuine mistakes and errors of judgment in the conduct of a case.

53. The present application does not disclose a procedural default such as failure to attend court, late filing due to an excusable mistake, or misdescription of a document. It concerns the manner in which Applicant chose to present its evidence at trial. Decisions on which witnesses to call, what documents to tender, and what questions to ask are trial decisions. If every such omission

were treated as counsel's mistake justifying reopening, trial closure would become provisional, and litigation would not end.

54. The proceedings show that the Applicant was represented by Ms. Eseza Victoria Ssendege, Ms. Gloria Twinomugisha, and Ms. Charlotte Katuutu. In the circumstances, we are not satisfied that the omission can be attributed to a mere inadvertent error, particularly given the time the Applicant had to prepare and present its case. Even if we were to accept that the Applicant may now consider the proposed evidence important. A party cannot be allowed to reopen its case merely because, with hindsight, it would have presented its evidence differently.

Prejudice and orderly conduct of proceedings

55. The Respondent has already presented his evidence and cross-examined the Applicant's witnesses. The matter had moved to submissions. To reopen the case at this stage would permit URA to reshape its evidential case after hearing the Respondent's case and after appreciating the weaknesses exposed in cross-examination.

56. That is not a merely technical concern. It goes to the equality of arms and the orderly conduct of proceedings. Rule 27 gives the Tribunal power to call for additional evidence where necessary. That power is intended to assist the Tribunal in clarifying issues and reaching a just decision. It is not intended to confer on a party a second opportunity to repair evidential omissions.

57. We are mindful that tax disputes involve public revenue and must be determined on their merits. We are equally mindful that taxpayers are entitled to finality, fair process, and protection from shifting evidential positions after trial. The interests of justice require both sides to present their cases diligently in accordance with the Tribunal's directions.

Decision

58. For the reasons given above, we find that the application has not met the threshold for reopening proceedings after closure of evidence.

59. It is our holding that a party seeking to reopen its case after closure of evidence must demonstrate that the proposed evidence was not available and could not,

with reasonable diligence, have been produced at trial, and that reopening will not occasion prejudice. The jurisdiction is not available to cure omissions or improve a party's case after a hearing.

60. Accordingly:

(i) The application is dismissed in its entirety.

(ii) The Tribunal shall proceed to deliver the ruling in the main application (TAT 192 of 2025) on its merits based on the existing record.

(iii) Costs of this miscellaneous application shall abide by the outcome of the main cause.

Dated at Kampala this.....30.....day of.....April.....2026.

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. WILLY NANGOSYAH
MEMBER

HON. PROSCOVIA REBECCA NAMBI
MEMBER