THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO. 134 OF 2025

ARISING OUT OF TAT APP No. 378 OF 2024.

UGANDA REVENUE AUTHORITY ....APPLICANT

VERSUS

ENVIROSERVE (U) LTD ....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MS. PROSCOVIA REBECCA NAMBI,
MR. WILLY NANGOSYAH

RULING

This application is brought under Section 99 of the Civil Procedure Act, Section 22(1) of
the Tax Appeals Tribunal Act, Rules 30 & 31 of the Tax Appeals Tribunals (Procedure)
Rules, 2012, and Order 52 Rules 1 & 3 of the Civil Procedure Rules) seeking the following
orders:

(a)   That the Ruling of the Tribunal delivered in TAT Application No. 378 of 2024 be
       corrected under the slip rule, to wit, that the formula on page 22 of the Ruling
       indicated as $D=A-B-C$, be corrected to $D=A-(B-C)$ in tandem with the text of the
       ruling.

(b)   That the time for re-computation of the Respondent's tax liability be extended from
       25 June 2025 until such time after determination of this application as shall be
       ordered by the Tribunal.

(c)   Each party bear to its own costs.

1.   **Background facts**

The grounds of this application are laid out in the notice of motion filed by the Respondent
and supported by an affidavit deponed by Mr. Alfred Habaasa, a supervisor in the

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Petroleum Division, Domestic taxes department of the Applicant and sworn on 7 March 2025. The affidavit states that:

(i)   The Respondent is a Company that deals in waste management and operates landfills for industrial and hazardous waste management and treatment in the Albertine Garben in Uganda;

(ii)   On 29 September 2022, by a sale and claims agreement, the Respondent's majority underlying shareholders and other minority shareholders sold 100% of their holding in Enviroserv Holdings Pty Limited to Umzwilili Environmental Solutions Pty Limited.

(iii)   The Applicant established that there was an indirect change in the ownership of the Respondent and deemed capital gains on the Respondent pursuant to Section 74(2) read together with Section 78 (h) of the Income Tax Act;

(iv)   The Respondent issued the Applicant with an Administrative Additional Income Tax Assessment of Shs. 9,267,550,780 in respect of deemed gain arising from the change of ownership;

(i)   The Respondent objected and the Applicant disallowed the objection. Consequently, the Respondent filed TAT Application No. 378 of 2024 disputing the tax liability.

(ii)   On 11 June 2025, the Tax Appeals Tribunal delivered its Ruling holding that the transaction is taxable under Section 74(2) and ordered the Respondent to re-compute the tax payable in line with the section.

(iii)   The Tribunal directed the Applicant to recompute the Respondent's tax liability by 25 June 2025.

(iv)   The Tribunal held the proper computation of the gain to be:

Realization proceeds at market value (A)	Total Assets (B)	Total Liabilities (C)	Capital gain/loss D=A-B-C	Tax Rate 30%	Tax Payable E=30%*D
XXX	XXX	XXX	XXX	XXX	XXX

Where:

A - Represents the "proceeds" from the deemed realization of the Applicant's (now Respondent's) assets at market value as evidence, for example, by a valuation report.

B - Is the total assets of the Applicant (now Respondent). For tax depreciable assets, this would be the tax written down value of the assets while for non-tax depreciable assets, this would be the net book value of the assets.

C - Is the total liabilities of the Applicant (now Respondent) as shown in their statement of financial position (balance sheet)

D - Is the gain or loss resulting from subtracting the Applicant's now Respondent's) net assets from the realized proceeds (A)."

(v)   There was a clerical and/or arithmetic error in the Ruling of the Tribunal whereby whereas the Variable D was stated to be derived by subtracting the Applicant's (now Respondent's) net assets (represented as B minus C) from the realized proceeds (A), and whereas by formula this would be illustrated as $D=A-(B-C)$, the illustrative table in the Ruling depicts D as $D=A-B-C$, which differs from the textual explanation.

(vi)   That it is just and equitable that the Tribunal corrects the Ruling to indicate the formula $D=A-(B-C)$.

(vii)   That it is further just and equitable that the time for recomputing the Respondent's tax liability be extended from 25 June 2025 to such time as the Tribunal may order after determination of the Application.

The Applicant replied by way of an affidavit deponed by Mr. Joseph O. Okuja, the tax agent of the Respondent and sworn on the 26 June 2025, which stated:

(i)   On 11 June 2025, the Tax Appeals Tribunal delivered its ruling wherein, on page 23, it noted that there was a need for both parties to revisit the tax computation, and on page 25, remitted the matter to the Applicant to recompute the tax in line with Section 74(2) of the Income Tax Act by 25 June 2025.

(ii)   The Respondent seeks further clarification, guidance and direction regarding the Tribunal's computation formula, in respect to:

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a. **Tax treatment of the Variable D (Capital Gain/Loss)**

Whether variable "D" is taxable at 30% as denoted in the formula $E = 30\% * D$, or whether the gain or loss should be added to business income or allowed as a deduction, respectively, since section 74(2) and 78(h) do not impose tax as ruled on page 13?

b. **Tax treatment of a negative Net Asset Value (B-C)**

Whether, in the event that the net asset value (B-C) is negative, the negative value should be netted off against the realisation proceeds (A), or whether it should be disregarded for purposes of calculating the deemed gain or loss?

c. **Application of designated formula (D=A-B-C)**

Whether, based on its ruling on page 22 that described variable "D" in the formula D=A-B-C as "the gain or loss resulting from subtracting the Applicant's (now Respondent) net assets from the realized proceeds (A)", the formula should be applied as follows:

Consideration received   xxx

(Represented by "proceeds" from the deemed realization of each asset at market value)

Less: Net Assets   xxx

(Arrived at by subtracting from total assets - i.e.
written down value of depreciable assets and
net book values of non-depreciable assets,
the total liabilities on the balance sheet
immediately before the deemed realisation)   _____

Taxable capital gain or (deductible capital loss)   xxx

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(iii)   The clarifications sought do not affect the substance of the decision.

2.   Issue for determination

The issue for determination is whether the Tribunal can clarify on the formula stated on page 22 of the Ruling delivered in TAT application No. 378 of 2024, indicated as D = A-B-C.

3.   Representation

At the hearing of this application Ms. Charlotte Katuutu, Ms. Eseza Victoria Sendege and Mr. Simon Peter Orishaba appeared for the Applicant while Ms. Fatuma Ramathan Nabulya appeared for the Respondent. Both parties made oral submissions.

4.   Submissions of the Applicant

The Applicant submitted that they seek clarity on the formula as there appears to be a discrepancy between the formula and the text in the ruling.

Specifically, the Applicant sought clarity on whether the formula, A-B, should be in brackets or not, in comparison with the second last paragraph on page 22 where the Tribunal gave the guidance on variable D.

The Applicant also prayed that the time for recomputation of the tax liability of the Respondent, which had been fixed on 25 June 2025, be extended.

5.   Submissions of the Respondent

The Respondent submitted that they seek further guidance and clarification on the formula stated on page 22 of the Ruling delivered in TAT application No. 378 of 2024, indicated as D=A-B-C. Specifically, the Respondent sought clarity as to whether the value of D, which might be a capital loss or gain, is taxed independently, that is whether the 30% tax is applied independently or whether it is added back to business income and taxed therein. Further, the Applicant sought clarification as to the tax treatment of a

resulting loss, specifically, whether it is allowed as a deduction or whether it is disregarded then.

The Respondent also prayed for the tribunal's guidance on the tax treatment of a negative net asset value which is the figure gotten after calculating $B - C$ of the computation formula.

The Respondent also sought guidance on the treatment of a figure that turns out to be negative after the net asset assets and liabilities are deducted from the realized proceeds.

The Respondent also sought clarity on how the formula given by the Tribunal $D = A - B - C$ should be applied. The Respondent submitted that even if $B - C$ were in brackets, it would still give rise to a mathematical problem because of that negative sign that appears. They sought it best to have it described as either less or minus, to avoid the mathematical equation that arises especially where the net asset value is negative.

6.   The submissions of the Applicant in rejoinder

In rejoinder, the Applicant submitted that this application was brought seeking clarity on the variable D regarding whether $A - B$ was intended to be in brackets or not.

The Applicant submitted that the arguments being raised by Counsel for the Respondent are outside this application and are outside the slip rule application thus this would tantamount to the Tribunal revisiting the decision already issued.

The Applicant reiterated their earlier prayers and prayed for clarity on the variable D.

7.   The determination of the Tribunal

Having listened to the submission of the parties, the Tribunal rules as follows:

The Applicant filed this application seeking clarification on whether the $A - B$ in the formula $D = A - B - C$ on page 22 of the ruling of the Tribunal dated 11 June 2025 in Enviroserv (U) Limited v URA, TAT Application 378 of 2024 was intended to be in brackets or not.

This application is meant to correct an error or clarify the decision of the Tribunal in TAT Application 378 of 2024. The power to correct errors in the ruling is provided under Section 99 of the Civil Procedure Act, which provides as follows:

"Clerical or mathematical mistakes in judgments, decrees or orders, or errors arising in them from any accidental slip or omission may at any time be corrected by the court either of its own motion or on the application of any of the parties"

In the case of ***Nantale Jackline v Okubiriba Amon, Misc App No. 107 of 2019, Hon Lady Justice Nakintu Nkwanga Katamba,*** stated that section 99 of the CPA is intended to give court the power to correct its own judgments.

Further, in the case of ***Joel Kigumba & Nanyonga Proscovia Kabanda versus Nandutu Kevina & 6 others, Misc App No. 340 of 2018,*** Hon Lady Justice Faridah Shamillah Bukirwa stated:

"Section 99 of the Civil Procedure Act provides that; "Clerical or mathematical mistakes in judgements, decrees or orders or errors arising in them from any accidental slip or omission may at any time be corrected by the court either on its own motion or on the application of any parties. The slip rule does not allow or permit a court to give an order which alters the judgement or orders made earlier. It is for purposes of correcting clerical errors and giving effect to the judgement of the court".

In light of the above, the Tribunal hereby clarifies as follows regarding the formula on page 22 of its ruling of 11 June 2025 in Enviroserv (U) Limited v URA, TAT Application 378 of 2024:

(i) In line with the explanation on page 22 of the ruling, the Tribunal hereby corrects the formular D=A-B-C to D=A-(B-C) as (B-C) represents the taxpayer's net asset position.

(ii) The other prayers made by the Respondent regarding the treatment of the loss that may arise, if at all, and the treatment for a negative asset position are outside the scope of this application as they do not affect the determination of the applicant's current tax liability. Should this pose an interpretation challenge for purposes of the

applicant's future tax liability, the parties are free to seek a tribunal's interpretation at that stage.

(iii)   The time for recomputing a tax liability is hereby extended up to the 11 July 2025.

(iv)   Each party shall bear its own costs of this application.

Dated at Kampala this .2.7.th... day of.......J.u.n.e.........2025.

MS. CRYSTAL KABAJWARA
CHAIRPERSON

MS. PROSCOVIA REBECCA NAMBI   **MR. WILLY NANGOSYAH**
MEMBER   **MEMBER**

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