TAX APPEALS TRIBUNAL
Justice in Taxation

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

TAXATION APPEAL NO. 50 OF 2026

(ARISING OUT OF TAXATION APPLICATION NO. 26 OF 2025)

(ARISING FROM TAT APPLICATION NO. 274 OF 2025)

XTREME UGANDA LTD :: APPELLANT

VERSUS

UGANDA REVENUE AUTHORITY ::RESPONDENT

BEFORE: HON. CRYSTAL KABAJWARA, HON. PROSCOVIA REBECCA NAMBI, HON. REBECCA NASSIMBWA NSUMBA

RULING

I. Introduction

1. This appeal arises from a decision of the Deputy Registrar regarding the taxation of bills of costs. The Appellant challenges the award of instruction fees of Shs. 15,000,000 as low relative to the value of the dispute.

II. Background facts

2. The Appellant is a trader who imports agricultural produce from Tanzania. The Respondent issued the Appellant with a demand for withholding tax on each customs entry for all agricultural produce imported into the country. The accumulated value of all entries, as per the invoices, was USD 58,500,000. Aggrieved by this demand, the Appellant challenged the Respondent's claim for withholding tax on the goods sourced from Tanzania before this Honourable Tribunal.

3. On 13 June 2025, the Tribunal rendered its ruling allowing the TAT Application. No. 332 of 2024 and granted the Appellant costs. On 18 August 2025, the Appellant filed their bill of costs, in which item 1 on the instruction fees was claimed at Shs. 1,890,042,300 based on a purported disputed tax of Shs. 18,900,423,832. The parties held a pre-taxation meeting/conference, where they agreed on all other items in the bill, save for item 1 on instruction fees, which was referred to the Deputy Registrar for a decision.

4. The Deputy Registrar heard the parties and delivered a ruling whereby he declined to consider the value of the subject matter and awarded instruction fees in item 1 of the bill of costs at Shs.15,000,000.

5. The Appellant, aggrieved by the decision of the Deputy Registrar, appealed to this Honourable Tribunal under the provisions of Section 61(1) of the Advocates Act, on the following grounds of appeal.

III. Representation

6. At the hearing of this Appeal, Mr. Amanya David and Mr. Angura Joseph appeared for the Appellant while Mr. Agaba Edmond and Ms. Christine Mpumwire appeared for the Respondent. The parties filed written submissions.

IV. Grounds of Appeal

7. Three grounds of appeal were raised.

   i. *Whether the Learned Deputy Registrar unlawfully exercised discretion when he ignored the legal principles governing taxation of costs where the value of the subject matter is disclosed in the pleadings.*

   ii. *Whether there are exceptional circumstances to interfere with the Deputy Registrar's decision to tax and allow the Appellant's bill of costs at a total of UGX 16,290,000/= (Uganda Shillings Sixteen Million Two Hundred Ninety Thousand Only).*

iii. *Whether the Learned Deputy Registrar misapplied the guiding principles for the taxation of costs in as far as the value of the subject matter is concerned and thereby erroneously allowed very low instruction fees in item 1 of the Appellant's Bill of Costs contrary to Paragraph 1 (1) of the 6th Schedule of the Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations 2018.*

V. The Appellant's Submissions

The law and general principles of taxation of costs on appeal

8. The Appellant submitted that under Section 61 (1) of the Advocates Act, a person who is aggrieved by the decision of the taxing officer in regard to the taxed and allowed costs has a right to appeal to the Judge who has the jurisdiction to interfere with such an award.

9. That the law on taxation of bills of costs is to the effect that a taxing officer possesses considerable discretion in assessing instruction fees. An appellate court is usually hesitant to interfere with the taxing officer's discretion unless it is clearly demonstrated that he or she acted on a wrong principle, or that the awarded amount is so manifestly excessive or manifestly low as to imply such an error. The taxing officer's discretion must at all times be exercised judiciously and not arbitrarily.

10. The Supreme Court of Uganda established the principles and law upon which a court can interfere with the discretion of the taxing officer in the case of ***Bank of Uganda Vs Banco Arabo Español, SCCA No. 23 of 1999***, wherein Justice Mulenga JSC stated as follows:

"Save in exceptional cases, a judge does not interfere with the assessment of what the taxing officer considers to be a reasonable fee. This is because it is generally accepted that questions which are solely of quantum of costs are matters with which the taxing officer is particularly fitted to deal, and in which he has more experience than the judge. Consequently, a judge will not alter a fee allowed by the taxing officer, merely because in his opinion he should have allowed a higher or lower amount. Secondly, an exceptional case is where it is shown expressly or by inference that in assessing and arriving at the quantum of the fee allowed, the taxing officer exercised, or applied, a wrong principle. In this regard, a wrong

principle can be inferred from an award that is manifestly excessive or manifestly low. Thirdly, even if it is shown that the taxing officer erred on principle, the judge should interfere only on being satisfied that the error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to one of the parties"

11. Taking all the above principles into consideration, the Appellant proceeded to argue the grounds of the appeal as follows. The Appellant argued grounds 1 and 3 together and thereafter argued ground 2 separately.

Grounds 1 and 3

Ground 1: Whether the Learned Deputy Registrar unlawfully exercised discretion when he ignored the legal principles governing taxation of costs where the value of the subject matter is disclosed in the pleadings.

Ground 3: Whether the Learned Deputy Registrar misapplied the guiding principles for the taxation of costs as far as the value of the subject matter is concerned and thereby erroneously allowed very low instruction fees in item 1 of the Appellant's Bill of costs contrary to Paragraph 1(1) of the 6th Schedule of the Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations 2018.

12. The Appellant submitted that the law on taxation of costs is settled that, where the value of the subject matter is ascertainable from the pleadings of the main case, instruction fees must be calculated in accordance with the scale prescribed under the 6th Schedule of the Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations, S.I 7 of 2018. ***(See: Western Highland Creameries & Anor Vs. Stanbic Bank Uganda Ltd (Taxation Appeal No. 10 of 2013), and Vantage Mezzanine Fund II Partnership v Simba Properties Investment Co. Limited & 5 Others (Taxation Appeal 14 of 2024)***

13. Paragraph 1(1) of the 6th Schedule to the said regulations provides:

"The fees for instructions to sue, claim, defend or oppose shall be as follows (1) to sue or defend any case, whether commenced by plaint, statement of claim,

petition, originating summons or originating motion, or to present or oppose an appeal, where the claim or value of the subject matter can be determined from the pleadings, settlement, a valuation or the judgment, the instruction fee shall be in accordance with the following scale..."

14. The Appellant submitted that the rationale for prescribing the ascertainable figures as in the scale in the 6th Schedule of the Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations is to ensure that Advocates receive adequate remuneration for their services and, further, to enable the public to access legal services at a reasonable cost by maintaining the fees chargeable on the proposition that a statute is not passed in a vacuum, but in a framework of circumstances, so as to give a remedy for a known state of affairs. ***(See; Escoigne Properties Ltd Vs. Inland Revenue Commissioners [1958] 1 ALL ER.)***

15. The Appellant also submitted that the value of the subject matter is the yardstick or the determinant of what is allowable or acceptable as instruction fees. Where the value of the subject matter can be ascertained from the pleadings, the instruction fees must be assessed in accordance with the scale provided.

16. This is because the provision in Paragraph 1 (1) of the 6th Schedule of the Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations is coined in mandatory terms and therefore provides for a mandatory formula. It is only after the taxing officer is unable to find the value of the subject matter indicated in the pleadings that he or she can exercise discretion to determine the reasonable instruction fees based on the nature and complexity of the matter, the conduct of the proceedings and other relevant factors ***(see Vantage Mezzanine Fund II Partnership v Simba Properties Investment Co. Limited & 5 Others, Taxation Appeal 14 of 2024*).**

17. The Appellant further submitted that the value of the subject matter in the instant case for the purposes of taxation of a bill of costs ought to have been determined by the taxing officer by considering the pleadings in TAT App

No. 332 of 2024 because the Appellant clearly indicated the value/amount of the tax that was in issue as Shs. 18,900,423,832 ***(Annexure B to the affidavit in support).***

18. The Learned Deputy Registrar erred in law when he intentionally deviated from the set taxation rubrics on a matter where the subject matter is well spelt out in the pleadings or ascertained. By veering to invoke discretion where the law ousts it, the Deputy Registrar breached his solemn legal duty to tax the bill strictly in accordance with the law.

19. The Appellant's grievance under grounds 1 & 3 are deeply rooted in the finding of the Learned Deputy Registrar on Page 12 of the ruling ***(Annex. H to the affidavit in support)*** that:

"In order to address this impasse, it is paramount to look at the ruling of the Tribunal dated 13 June 2025. How did the Tribunal handle the standoff? What issue did the Tribunal determine? Did the Tribunal review 18,900,423,832 as the amount of tax disputed? Therefore, I find that this matter concerned a question of legal interpretation regarding the imposition of withholding tax on the importation of agricultural products. There was no pleaded or ascertainable amount or value from which to compute instruction fees as are deemed just and appropriate in all the circumstances of the case."

20. The Appellant submitted that from the above excerpt of the ruling of the Deputy Registrar, it is clear to all that the subject matter was pleaded, is ascertainable, and it was rightly evident to the Deputy Registrar. The Deputy Registrar, with great respect, instead of limiting himself to the subject matter, veered away from it to lay the foundation for applying discretion in taxing the bill, instead of following the law and, in so doing, greatly contradicted himself and erred when he opined that:

"Having examined the Tribunal's decision of 13 June 2025, it is noteworthy that the ruling focused on the legality of imposing withholding tax (WHT) on the importation of agricultural produce" The Tribunal did not address the merits of the Application for review..."

21. The Appellant submitted that it is evident that the Learned Deputy Registrar properly identified from the stated tax amount in dispute from pleadings as Shs. 18,900,423,832 but also refuses to consider the pleaded value of the subject matter without advancing a legally sound reason.

22. The Appellant submitted that the courts have over time established that the subject matter value does not have to be the actual value of the property in dispute but it is the value which is claimed or ascribed in pleadings. This approach was adopted by the High Court in the case of ***Dison Okumu & 8 Ors Vs UETCL Taxation Appeal No. 006 of 2019*** while maintaining an award of instruction fees of Shs. 1,180,000,000 since the same was awarded basing on the value of the subject matter claim in the pleadings of the suit ***(Bank of Uganda vs. Banco Arabe Espanol S.C. Civ. Appln No.23 [1990] 2 E.A 45)***.

23. The Appellant submitted that having secured the withholding tax exemption, the Applicant declared goods in issue to the Respondent to facilitate the entry into Uganda, under entry numbers from No. C20559 to C20750.

24. The Appellant submitted that the Respondent demanded the Applicant to pay withholding tax per entry for all the agricultural produce she imported into the Country. The value of the goods is set out in the certificates of origin, the Appellant equally attached the invoices, which still show the declared value of the sourced agricultural produce. The withholding tax payable for all the declared goods declared in those entries is Shs. 18,900,423,832.

25. The Appellant submitted that the learned Deputy Registrar refused to apply the scale as the law enjoined him in the taxation of costs on the grounds that, the Tribunal determined the main case (TAT App. No. 332 of 2024) based on the interpretation of the law, and in so doing, the main issue of value was not addressed and the costs cannot be taxed based on the subject matter.

26. The Appellant submitted that the Deputy Registrar adapted an alien reasoning, as his holding is a total departure from the law, which is that, instruction fees is payable and the state or the reason the case is concluded is immaterial in the taxation of costs where the subject matter is ascertained.

27. The Appellant relied on the case of ***Western Highland Creameries Ltd and Anor Vs Stanbic Bank Uganda Ltd, Tax Appeal Reference No. 10 of 2013*** which held:

> *"The result is the same as a dismissal on the merits and there is no difference in quality whether the dismissal or rejection of the plaint occurs at the beginning of the trial or at the end... Instruction fees may be referred to as profit costs to which party is entitled in 'party and party taxation' in contentious matters. The costs are based on a scale and not the actual work done."*

28. The Appellant submitted that it follows, therefore, that it does not matter whether the case is determined on the merits or on a preliminary point of law at the beginning of the trial or at the end; instruction fees must be awarded in accordance with the principles governing taxation of costs, in particular, based on the value of the subject matter described in the pleadings.

29. In the present case, the fact that the Tribunal decided the matter by interpreting the points of law and did not delve into the deeper hearing of the evidence and full trial of the case has no bearing on the award of instruction fees. The Deputy Registrar erred in law and misapplied the principle on the taxation of costs in holding as he did.

30. The Appellant added that they laid before the Deputy Registrar the decisions that were binding on him on this issue, but he intentionally decided to disregard them without setting out any valid reason for deviating or departing from them. The Appellant submitted that in light of the foregoing submissions, the learned Deputy Registrar misapplied the principles governing the taxation of instruction fees and consequently reached an erroneous decision by awarding manifestly low instruction fees

of Shs. 15,000,000/= under item 1 of the bill of costs. The Appellant therefore prayed that the appeal on grounds 1 and 3 be allowed.

Ground 2: Whether there are exceptional circumstances to interfere with the Deputy Registrar's decision to tax and allow the Appellant's bill of costs at a total of UGX. 21,530,000/= (Uganda Shillings Twenty-One Million, Five Hundred and Thirty Thousand Only)

31. The Appellant submitted that the Courts have already established that "an exceptional case is where it is shown expressly or by inference that in assessing and arriving at the quantum of the fee allowed, the Deputy Registrar exercised, or applied, a wrong principle. In this regard, a wrong principle can be inferred from an award that is manifestly excessive or manifestly low ***(See Banco Arabo Español case).***

32. The Appellant submitted that whereas the courts have previously held that there is no mathematical formula to be followed by the Deputy Registrar while taxing and allowing fees in a bill of costs, where it is proved that the Deputy Registrar erred on principle, and that such error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to one of the parties, the Judge/court is empowered to interfere with the award by setting the same aside.

33. The Appellant submitted that in the instant case, items 2 to 38 of the bill of costs were agreed upon by the parties. The only issue for determination, and the subject of this appeal, is the Deputy Registrar's decision on instruction fees under item 1. Accordingly, our submissions on this ground are confined to the Deputy Registrar's decision to tax and allow instruction fees at the manifestly low sum of Shs. 15,000,000.

34. The Appellant reiterated their submissions above in the resolution of grounds 1 & 3 and further submit that having erred in the misapplication of the taxation principle on taxation of instruction fees, the said error substantially affected the decision on the quantum (amount) of instruction fees from the allowable.

35. The Appellant submitted that the learned Deputy Registrar ought to have considered and relied on that value in taxing and allowing instruction fees under Paragraph 1(1) of the 6th Schedule to the Advocates (Remuneration and Taxation of Costs) Regulations, 2018. His failure to apply the applicable rules constitutes an exceptional circumstance warranting this Tribunal's intervention. Accordingly, the Tribunal should set aside the Deputy Registrar's award of Shs. 21,530,000 in the Applicant's bill of costs and order that instruction fees be taxed based on the value of the subject matter disclosed in the pleadings.

36. The Appellant prayed that this Tribunal find that there exist exceptional circumstances for interfering with the decision of the Deputy Registrar.

VI. The Respondent's Submissions

The Law Governing Interference with a Taxing Officer's Discretion on Appeal

37. The Respondent also relied on ***Banco Arabe Espanol (supra)*** where it was stated:

"Save in exceptional cases, a judge does not interfere with the assessment of what the taxing officer considers to be a reasonable fee... Secondly, an exceptional case is where it is shown expressly or by inference that in assessing and arriving at the quantum of the fee allowed, the taxing officer exercised, or applied, a wrong principle... Thirdly, even if it is shown that the taxing officer erred on principle, the judge should interfere only on being satisfied that the error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to one of the parties."

38. The Respondent submitted that three consequences follow, each fatal to the present appeal unless the Appellant discharges the burden resting squarely upon it. First, the Tribunal does not simply ask whether it would itself have arrived at a different figure. Second, the Appellant must point, expressly or by clear inference, to a specific wrong principle applied by the Learned Deputy Registrar; mere disagreement with the outcome, however strongly felt, is not a ground of appeal. Third, even a demonstrated error of

principle does not without more warrant interference; it must be shown to have substantially affected the quantum and to have caused injustice.

39. The Respondent submitted that the above is reinforced in ***Bank of Uganda v Sudhir Ruparelia & Anor, SCTR No. 1 of 2023, citing First American Bank of Kenya v Shah and Others [2002] 1 EA 64,*** where it was held that instruction fees are the money paid to an advocate for work actually done, that the difficulty and complexity of a matter is one of the most important factors in assessing quantum, and that the mere filing of pleadings is not, of itself, indicative of complexity warranting an enhanced fee.

40. The Respondent submitted that the Appellant has not identified any wrong principle applied by the Learned Deputy Registrar. On the contrary, the Appellant's own submissions misapprehend the governing principle of ascertainability under Paragraph 1(1) of the Sixth Schedule.

Reply to Grounds 1 and 3: The Value of the Subject Matter Was Not Ascertainable, and the Learned Deputy Registrar Correctly So Found

41. The Respondent submitted that grounds 1 and 3 both proceed on the premise that the value of the subject matter was "disclosed" and "ascertained" in the pleadings, such that the Sixth Schedule scale applied as a matter of mandatory right, and that the Learned Deputy Registrar erred in declining to apply it. With respect, that premise does not withstand scrutiny of either the governing rule or the record.

42. The Respondent submitted that paragraph 1(1) of the Sixth Schedule applies *"where the claim or value of the subject matter can be determined from the pleadings, settlement, a valuation or the judgment."* This is a conjunctive requirement of objective ascertainability from an authoritative source, an agreed settlement, a court-ordered valuation, or a judgment sum and not a licence to treat any figure a party unilaterally recites in its own pleadings or affidavit as automatically constituting the value of the subject matter. The figure of Shs.18,900,423,832/= was, on the Appellant's own record, nothing more than the Appellant's own estimate of the value of

goods it declared an intention to import ***(see the Affidavit in Support sworn by Ajambo Joan, paragraph 3, and the particulars in the Bill of Costs itself***). It was never the subject of an assessment, a valuation, a settlement, or a judgment.

43. Decisively, this very Tribunal, in the Ruling of 13 June 2025 from which the present Bill of Costs arises, foreclosed reliance on that figure. The Tribunal at Page 10 of its ruling held in terms that "the dispute is not about the quantum of the tax," it is about the legality of the tax," and that, in the absence of any assessment for withholding tax, "there is no basis for determining the deposit." It was for that reason, and no other, that the Tribunal declined to hold the Applicant to the 30% deposit requirement.

44. The Respondent submitted that it would be an untenable inconsistency and, with respect, is the central flaw in the Appellant's appeal to contend that a figure too uncertain to found a 30% statutory deposit is nevertheless sufficiently certain to found instruction fees computed at 10% of that same figure. A sum which this Tribunal has already held cannot serve as a basis for determining a monetary obligation cannot, in the same breath and arising from the same ruling, be resurrected as the "value of the subject matter" for the different purpose of taxing costs. The Learned Deputy Registrar cannot be faulted, still less said to have acted on a wrong principle, for declining to do what this Tribunal itself had already declined to do.

45. The Respondent submitted that the Appellant's own principal authority supports the Respondent's position. In ***Vantage Mezzanine Fund II Partnership v Simba Properties Investment Co. Ltd & Others, HCMTA No. 0014 of 2024***, Mubiru J held:

"The term subject matter denotes the bundle of legal rights presented for consideration by Court... The subject-matter of any litigation is the right or rights actually put in issue by the pleadings... At common law, the 'subject matter' of a suit is understood to refer to the primary right or core legal claim of the plaintiff for which protection is sought, as opposed to the underlying facts of a case or the

property in relation to which the right springs. Consequently, the value of the subject matter of the suit is not necessarily the value of the property in respect of which the suit is filed…When the dispute concerns rights or corporeal items, the market value of such items will usually form the subject matter value. In the case of intangible rights, the subject matter value would be the market value of the said rights as estimated by the Court. Such estimates should not be arbitrary, whimsical and wholly unreasonable."

46. The Respondent submitted that applying that authority to the facts, the primary right actually put in issue in TAT Application No. 274 of 2024 was the Appellant's intangible legal right not to be subjected to an unlawful withholding tax demand under section 136(5)(c) of the Income Tax Act, a declaratory right, not a liquidated debt, a proprietary claim, or a sum certain capable of being read off an invoice. On the Appellant's own authority, the value of such an intangible right falls to be estimated by the Court or Taxing Officer, and is not necessarily, still less automatically, the aggregate commercial value of goods referenced in the pleadings. That is precisely the exercise the Learned Deputy Registrar undertook.

47. The Respondent submitted that it does not dispute the general proposition, common to ***Western Highland Creameries & Anor v Stanbic Bank Uganda Ltd, Taxation Appeal No. 10 of 2013, and Naggayi Clare v Centenary Rural Development Bank & URA, HCTR No. 009 of 2024*** that where the value of the subject matter is ascertainable, instruction fees must be calculated on the prescribed scale, and that a taxing officer has no discretion to depart from that scale in such a case. The Respondent adopts that principle. What those authorities do not assist the Appellant with is the anterior and decisive question in this appeal: whether the value was ascertainable at all. On the Tribunal's own findings in the substantive ruling, it was not, and the Appellant's submissions do not grapple with that finding.

48. Regarding, ***Western Highland Creameries or Joreth Ltd v Kigano & Associates [2002] 1 EA 92***, the Respondent submitted that those authorities address a different question, whether fees are payable in full where a suit is disposed of on a preliminary point rather than after full trial

and say nothing about the separate, prior question of how the value of the subject matter is to be ascertained in the first place. The Respondent does not contend that fees were undue merely because the dispute was resolved as a question of law; it contends only that, being a question of law resolved without any assessed or ascertainable monetary figure, the scale-based method of calculation in Paragraph 1(1) had no figure to operate upon.

49. The Respondent submitted that as in ***Dison Okumu & 8 Ors v UETCL, Taxation Appeal No. 006 of 2019***, cited by the Appellant, the Respondent is not in a position to know, and the Appellant's submissions do not disclose, whether that case involved a fixed judgment or assessed sum capable of anchoring the value of the subject matter. What is clear, and is not in dispute, is that no such fixed sum exists on the present record. Further, the Tribunal expressly and deliberately declined to attribute any monetary quantum to the dispute in TAT Application No. 274 of 2024. That case cannot, therefore, be authority for treating an untested, unassessed, and expressly disclaimed figure as the ascertainable value of the subject matter here.

50. Without prejudice to the foregoing, and in any event, the figure of Shs. 18,900,423,832/= was never proved. As the Respondent's Affidavit in Reply avers, no assessment for withholding tax was ever issued against the Appellant; the relief the Appellant obtained was declaratory only; and the Appellant's own advocates, in correspondence of March 2025, acknowledged that the Appellant had "complied and paid 30% on all entries for which their goods were brought inside the URA jurisdiction," a statement inconsistent with the notion that the full declared value of USD 4,500,000, or the derivative sum of Shs. 18,900,423,832, represented goods actually imported and taxed. An anticipated and unproven figure, pleaded unilaterally by a party in its own affidavit, cannot found a scale-based fee calculated to two decimal places of precision.

51. The Respondent submitted that for the reasons above, the Learned Deputy Registrar did not unlawfully exercise his discretion, ignore any governing principle, or misapply Paragraph 1(1) of the Sixth Schedule. He correctly

undertook the anterior enquiry mandated by that provision, whether the value of the subject matter was ascertainable from the pleadings, a settlement, a valuation, or the judgment, answered it correctly and consistently with this Tribunal's own findings, in the negative, and only then proceeded to exercise his discretion. Therefore, grounds 1 and 3 must fail.

Reply to Ground 2: No Exceptional Circumstances Exist to Warrant Interference

52. The Respondent submitted that ground 2 must fail for want of any exceptional circumstance within the meaning of Banco Arabo Español. As submitted above, the Appellant has identified no wrong principle applied by the Learned Deputy Registrar; at most, it has expressed disagreement with the resulting figure. That is not a ground upon which an appellate tribunal will interfere with a taxing officer's exercise of discretion.

53. The Respondent submitted that the Learned Deputy Registrar's exercise of discretion was structured and principled, guided by the very factors this Tribunal itself has endorsed in ***Makumbi and Another v Sole Electrics (U) Ltd [1990-1994] 1 EA 306 (Manyindo DCJ) and Joreth Ltd v Kigano & Associates [2002] 1 EA 92***: the importance of the matter, the general conduct of the case, the nature of the case, and the time taken for its dispatch and its impact on the parties. He correctly characterised the dispute as one of straightforward statutory interpretation under section 136(5) of the Income Tax Act, involving no unusual complexity, novelty, or volume of documentation, a characterisation amply borne out by the fact that the identical legal question was resolved for the Appellant jointly with nine other applicants, several sharing common counsel, in a single consolidated ruling.

54. The Respondent added that the sum ultimately allowed, Shs. 15,000,000, exceeded the Respondent's own proposed figure of Shs. 8,000,000. Therefore, the Learned Deputy Registrar exercised his discretion independently and judiciously, weighing both sides' submissions on their merits, as the Supreme Court has held such discretion ought to be exercised.

55. The Respondent submitted that an award anywhere near the sum the Appellant claims would itself offend the very rationale the Appellant invokes for the Sixth Schedule scale. The purpose of a prescribed fee scale is to secure an adequate remuneration for legal practitioners while keeping access to courts and tribunals within the reach of litigants of ordinary means. An instruction fee of Shs. 1,890,042,300 or the balance of Shs. 1,865,042,383 now pursued on appeal, for prosecuting a single, already well-travelled point of statutory interpretation, resolved without contested evidence, cross-examination, or novel legal research, would be a wholly disproportionate windfall wholly untethered from the work reasonably done, and would confine access to this Tribunal to the wealthy, the very outcome the authorities the Appellant itself cites caution against.

56. The Respondent submitted that in the premises, the Appellant has not discharged the burden of showing that the Learned Deputy Registrar applied a wrong principle, still less that any such error substantially affected the quantum allowed or occasioned injustice. No exceptional circumstances have been shown, and Ground 2 must fail as well.

57. The Respondent accordingly prayed that this Honourable Tribunal:

    (i) Dismiss Taxation Appeal No. 50 of 2026 in its entirety for want of merit;
    (ii) Uphold the Ruling and Taxation Certificate of the Learned Deputy Registrar in Taxation Cause No. 0026 of 2025, taxing and allowing the Appellant's Bill of Costs at a total of Shs. 21,530,000; and
    (iii) Costs of this appeal be awarded to the Respondent.

58. In rejoinder, the Appellant reiterated their earlier submissions.

VII. The determination

59. The principle of law is settled in Section 61 (1) of the Advocates Act, which provides that a person who is aggrieved by the decision of the taxing officer

in regard to the taxed and allowed costs has a right to appeal to the Judge who has the jurisdiction to interfere with such an award.

60. The above principle of law is supported in the case of ***Bank of Uganda v Banco Arabo Español, SCCA No. 23 of 1999***, in which Mulenga JSC laid down the settled three-stage test for appellate interference with an award of instruction fees:

> *"Save in exceptional cases, a judge does not interfere with the assessment of what the taxing officer considers to be a reasonable fee... Secondly, an exceptional case is where it is shown expressly or by inference that in assessing and arriving at the quantum of the fee allowed, the taxing officer exercised, or applied, a wrong principle... Thirdly, even if it is shown that the taxing officer erred on principle, the judge should interfere only on being satisfied that the error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to one of the parties."*

61. Accordingly, guided by the principle of law and clear tenets of tax administration, we shall proceed to handle and resolve the grounds of the appeal raised by the Appellant starting with grounds 1 and 3 as in the parties' submissions.

Ground 1: Whether the Learned Deputy Registrar unlawfully exercised discretion when he ignored the legal principles governing taxation of costs where the value of the subject matter is disclosed in the pleadings.

Ground 3: Whether the Learned Deputy Registrar misapplied the guiding principles for the taxation of costs in as far as the value of the subject matter is concerned and thereby erroneously allowed very low instruction fees in item 1 of the Appellant's Bill of costs contrary to Paragraph 1(1) of the 6th Schedule of the Advocates (Remuneration and Taxation of costs) (Amendment) Regulations 2018.

62. Under grounds 1 and 3 of this Appeal, which we shall determine concurrently due to the conceptual and factual intersection, the Appellant argued that where the value of the subject matter is ascertainable from the pleadings of the main case, instruction fees must be calculated in

accordance with the scale prescribed under the 6th Schedule of the Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations, S.I. 7 of 2018.

63. **Paragraph 1(1) of the 6th Schedule to the said regulations** provides:
"The fees for instructions to sue, claim, defend or oppose shall be as follows (1) to sue or defend any case, whether commenced by plaint, statement of claim, petition, originating summons or originating motion, or to present or oppose an appeal, ***where the claim or value of the subject matter can be determined from the pleadings, settlement, a valuation or the judgment,*** *the instruction fee shall be in accordance with the following scale..."*

64. The above principle is settled in the cases of ***Western Highland Creameries & Anor Vs. Stanbic Bank Uganda Ltd, Taxation Appeal No. 10 of 2013, and Vantage Mezzanine Fund II Partnership v Simba Properties Investment Co. Limited & 5 Others, Taxation Appeal 14 of 2024***

65. The Appellant argued that the value of the subject matter in the instant case for the purposes of taxation of a bill of costs ought to have been determined by the Deputy Registrar by considering the pleadings in **TAT App No. 332 of 2024** because the Appellant clearly indicated the value/amount of the tax that was in issue as Shs.18,900,423,832 *(Annexure B to the affidavit in support).*

66. The Respondent's argument is that the value of the subject matter was not disclosed and ascertained. Secondly, the Respondent argues that the Appellant has not identified any principle of law that the Deputy Registrar misapplied. Furthermore, the figure of Shs. 18,900,423,832 was on the Appellant's own record (affidavit sworn by Ajambo Joan at paragraph 3). The amount stated above was never the subject of an assessment, a valuation, a settlement or judgement. Rather, the above figure was the value of the imported goods.

67. The Respondent added that the Tribunal's ruling on 13 June 2025, from which the present bill of costs arises, foreclosed reliance on the figure when

it stated that there was no assessment for purposes of determining the 30% deposit. Therefore, the Shs. 18,900,423,832 was never proved, and no withholding tax assessment was ever issued against the Appellant.

68. Upon perusing the Tribunal's decision in the consolidated ruling in TAT 274 of 2025 that gave rise to the taxation decision for the bill of costs, we confirmed that although the application challenged the illegality and procedural impropriety of the tax assessed, the value of the tax assessed in the main Application was not ascertained. This is because the Tribunal established that the Respondent did not issue the Applicant with a withholding tax assessment. The relief that the Appellant obtained was declaratory only. The Shs. 18,900,423,832 that the Appellant relies on represented the value of the imported goods, not the tax in dispute.

69. Regarding whether the Appellant's pleadings disclosed an ascertained value of the subject matter, the Tribunal stated as follows concerning the assessed tax:

"The dispute is not about the quantum of the tax. It is about the legality of the tax. Therefore, the requirement to pay 30% of tax assessed does not apply to the present application. ..... that there was no assessment for withholding tax yet the requirement for the 30% deposit is in reference to "tax assessed"... in the absence of assessments, there is no basis for determining the deposit. ... The Respondent's demand for withholding Tax from the Applicants was unlawful"

70. We have also established that the Deputy Registrar did not err in law by relying on the set taxation rules on a matter where the subject matter is not well spelt out in the pleadings or ascertained.

71. Having reviewed the parties' pleadings and the Tribunal's decision in TAT Application 274 of 2025, it is clear that there was no ascertained value of the subject matter. In tax disputes such as these, the subject matter of the dispute is the tax assessed and not the value of the imported goods or the economic activity upon which the tax is levied.

72. In this regard, the decision of Justice Mubiru J in ***Vantage Mezzanine Fund (supra)*** is instructive. He stated:

"The term subject matter denotes the bundle of legal rights presented for consideration by Court... The subject-matter of any litigation is the right or rights actually put in issue by the pleadings... At common law, the 'subject matter' of a suit is understood to refer to the primary right or core legal claim of the plaintiff for which protection is sought, as opposed to the underlying facts of a case or the property in relation to which the right springs. Consequently, the value of the subject matter of the suit is not necessarily the value of the property in respect of which the suit is filed..."

73. In the present case, the Appellant sought a declaration that their products are not subject to withholding tax on importation – there was no assessment in dispute, which would have formed the basis of the core legal claim. The purported value of Shs. 18,900,423,832 relates to the imported goods and not the subject matter of the suit.

74. Accordingly, grounds 1 and 2 of this Appeal are hereby dismissed for lack of merit.

Issue 2. Whether there are exceptional circumstances to interfere with Deputy Registrar's decision to tax and allow the Appellant's bill of costs at a total of Shs. 16,290,000 (Uganda Shillings Sixteen Million Two Hundred Ninety Thousand Only).

75. An exceptional case is where it is shown expressly or by inference that in assessing and arriving at the quantum of the fee allowed, the taxing officer exercised, or applied, a wrong principle.

76. In ***Bank of Uganda v Banco Arabe Espanol, SCCA No. 23 of 1999***, in which Mulenga JSC stated:
"An exceptional case is where it is shown expressly or by inference that in assessing and arriving at the quantum of the fee allowed, the taxing officer exercised, or applied, a wrong principle... even if it is shown that the taxing officer erred on principle, the judge should interfere only on being satisfied that the error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to one of the parties."

77. The Appellant argued that that the learned Deputy Registrar deliberately omitted to apply the legal test of determining the ascertainable value of the subject matter for purposes of taxation of costs which is properly laid out in ***Paragraph 1(1) of the 6th Schedule to Advocates (Remuneration and Taxation of costs) (Amendment) Regulations 2018.***

78. Upon carefully evaluating the evidence and arguments in the premises, we find that the Deputy Registrar correctly exercised his discretion judiciously by arriving at a fair and defensible award of instruction fees. The Deputy Registrar also rightly found that the value of the subject matter in TAT Application No. 274 of 2024 was not ascertainable from the pleadings.

79. We, therefore, find that Taxation Appeal No. 50 of 2026 is without merit and must be dismissed.

VIII. Orders

80. Consequently, judgment is hereby entered in favour of the Respondent, and this Honourable Tribunal issues the following orders.

(i) Taxation Appeal No. 50 of 2026 is hereby dismissed in its entirety.

(ii) The Ruling and Taxation Certificate of the Learned Deputy Registrar in Taxation Cause No. 0026 of 2025, taxing and allowing the Appellant's Bill of Costs to a total of Shs. 21,530,000 (inclusive of the instruction fees) is upheld and affirmed in its entirety.

(iii) Costs of this appeal are awarded to the Respondent.

Dated at Kampala this 2nd day of October 2026

HON. CRYSTAL KABAJWARA
CHAIRPERSON

HON. PROSCOVIA R. NAMBI

MEMBER

HON. REBECCA NASSIMBWA NSUMBA

MEMBER

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