



**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**MISCELLANEOUS APPLICATION NO. 160 OF 2025**

**YARD TUSAKIMU LOADING GROUP LIMITED .....APPLICANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT**

**BEFORE: MR. SIRAJ ALI, MS. KABAKUMBA MASIKO,  
MR. WILLY NANGOSYAH**

**RULING**

**I. Introduction**

1. This ruling is in respect of an application for a temporary injunction. The Application has been brought under **S. 98 of the Civil Procedure Act, Order 41 Rule 9 of the Civil Procedure Rules, Rule 30 of the Tax Appeals Tribunal (Procedure) Rules, 2012.**

**II. Background Facts.**

2. This Application is supported by an affidavit deponed by the Applicant's tax agent Kamba Michael Bhamusangala. The grounds of the Application as set out in the said affidavit are as follows;
  - i. The Applicant has a prima facie case with a probability of success.
  - ii. The Applicant will suffer irreparable injury if the Application is not granted.
  - iii. This injury cannot be adequately compensated for by damages.

- iv. The balance of convenience is in favour of the Applicant.
- v. The Respondent filed an affidavit in reply deponed by Agaba Edmond, an officer in the Respondent's Legal Services and Board Affairs Department. The grounds upon which the Respondent opposes this Application are as follows;
- vi. The Applicant has not paid the statutory 30% of the disputed tax.
- vii. No threat of injury exists as the Respondent has not commenced any enforcement measures for collection of taxes.
- viii. The Applicant has not demonstrated that it shall suffer irreparable injury which cannot adequately be compensated for by an award of damages.

### III. Issues

3. The matter for determination is whether the Application for a temporary injunction is meritorious and should be granted.

### IV. Representation

4. At the hearing of this Application, Mr. Wanok Conrad and Mr. Kamba Michael Bhamusangala appeared for the Applicant while Mr. Amanyamba Mishambi appeared for the Respondent.

### V. Submissions by the Applicant

5. In seeking a temporary injunction, the Applicant argued that it was not liable for the tax assessed and therefore had established a prima facie case with a probability of success. To support this position, the Applicant relied on the authority of *Rajab Ssempera v. Shem Mukasa & Another, Civil Application No. 0225 of 2024*, where the court, drawing from the Supreme Court decision in *Robert Kavuma v. Hotel International, Civil Appeal No. 08 of 1990*, reaffirmed the principle that for a temporary injunction to issue, the court must be satisfied that the applicant has demonstrated a prima facie case with a likelihood of success and that the applicant would otherwise suffer irreparable harm if the injunction is not granted.

6. The Applicant submitted that it had overpaid tax in the sum of Shs.588,191, 205, which was not in dispute, while also facing a VAT liability of Shs.458,995,444. It further contended that the Respondent, being vested with the statutory power and authority to collect taxes, was under an obligation to honour the Applicant's demand to apply the tax credits in reduction and offset of the outstanding liability. The Applicant argued that the Respondent had, without justification, failed to exercise this mandate, thereby acting irrationally and to the Applicant's prejudice.
7. The Applicant further contended that the reliefs sought in the main suit would only remain meaningful if a temporary injunction was granted. It maintained that the application disclosed triable issues, thereby establishing the existence of a prima facie case with a probability of success.

#### **Irreparable damage**

8. The Applicant further submitted that it stands to suffer irreparable loss and injury which cannot be adequately compensated by an award of damages. It asserted that its tax credits, remitted and held in trust by the Respondent since March 2016, have accumulated to Shs.656,168,149. The Applicant went ahead to state that it had already lost credits amounting to Shs.72,946,786 for the period March 2016 to June 2020, and stood to face an imminent loss of Shs.119,655,316 for the period July 2020 to June 2021, which the Respondent threatened to freeze unless a temporary injunction is granted to preserve the status quo pending determination of the main suit.
9. The Applicant contended that the Respondent misled it into pursuing the administrative procedure for refund, despite knowing that the first charge for credits does not constitute a refund, while simultaneously threatening enforcement measures. It argued that there were no funds available for refund and that the Respondent's delaying tactics exposed it to penalties and interest, which could only be averted by the grant of a temporary

injunction restraining such enforcement until final disposal of the main case.

10. The Applicant argued that it had been denied Tax Clearance Certificates despite holding tax credits in excess of the assessed liability, resulting in significant business losses. It emphasized that its established reputation, built through partnerships with international, national, government, and local entities, was at risk of unjustified tarnish if the injunction was not granted. The Applicant maintained that damages alone could not adequately compensate for the harm, as refusal of the order would cause it to be perceived by employees, clients, principals, stakeholders, and business associates as an entity managed dishonestly.

#### **The balance of convenience.**

11. The Applicant submitted that the balance of convenience was in its favour, as the Respondent had been aware of the tax credits held in trust for the Applicant and which were collectible. It argued that the Respondent's refusal to exercise its statutory mandate to apply those credits was intended to humiliate the Applicant. The Applicant emphasized that the credits, amounting to Shs.588,191,205 and undisputed, exceeded the VAT liability of Shs.458,995,444, and that it was more convenient and equitable to have utilized the credits in offsetting the liability rather than subjecting the Applicant to further payments and consequent loss.

12. The Applicant further submitted that the Respondent had the power to collect the 30% deposit and should not only do so but also offset the entire liability. It argued that the Respondent ought to apply the excess credits in reduction of any other tax due, make provisional payments for the current year of income, and retain the balance in trust for the Applicant. The Applicant maintained that the inconvenience it would suffer if a temporary injunction was not granted outweighed any

inconvenience to the Respondent, particularly in light of the imminent threats of aggressive enforcement measured against its credits.

**VI. Submissions by the Respondent**

13. The Respondent submitted that the Applicant was liable to pay the assessed tax and opposed the application. It argued that dismissal of the application was in the Applicant's own interest, as recovery of the undisputed liability would prevent further accumulation of interest arising from non-payment. The Respondent further stated that, upon verification of third-party information, it had issued additional assessments disallowing input invoices from Forayeb General Trade on suspicion of the Applicant's involvement in invoice trading.

14. The Respondent submitted that the Applicant had objected to the assessment on the ground that the Respondent had refused to utilize available withholding tax credits to offset its outstanding liability. On 18 April 2025, the Respondent requested the Applicant to provide supporting documents, including bank statements, original invoices from Forayeb General Trade, and other relevant information. Subsequently, on 23 April 2025, an objection review meeting was held between the Applicant's representative and officers of the Respondent, during which the Applicant's representative acknowledged the outstanding liability but requested that credits on its ledger be applied to offset the same and that the penalty reversal module be reinstated to enable submission of a penalty reversal request.

15. The Respondent submitted that, by email dated 26 April 2025, it advised the Applicant to engage the ledger reconciliation team to reconcile its tax ledger. Subsequently, on 29 April 2025, the Respondent issued an objection decision disallowing the Applicant's objection on the ground that no supporting information or documentation had been provided, despite repeated requests. The Respondent submitted that the Applicant had not satisfied the conditions for the grant of a temporary injunction

restraining tax recovery enforcement measures. In support of its position, the Respondent relied on the authority of ***Humphrey Nzeyi v. Bank of Uganda & Attorney General, Constitutional Application No. 01 of 2013***, where Honourable Justice Remmy Kasule observed that...

*"An order to maintain the status quo is intended to prevent any of the parties involved in a dispute from taking any action until the matter is resolved by court. It seeks to prevent harm or preserve the existing conditions so that a party's position is not prejudiced in the meantime until a resolution by court of the issues in dispute is reached. It is the last, actual, peaceable, uncontested status which preceded the pending controversy".*

16. The Respondent submitted that, in TAT Application No. 160 of 2025, Yard Tusakimu Loading Group Limited had an uncontested tax liability of Shs.458,995,444. It relied on the principles governing the grant of temporary injunctions as set out in ***Kiyimba Kaggwa v. Hajji Katende Abdu Nasser (1985) HCB 43***.

**Prima facie case with a probability of success.**

17. The Respondent submitted that no prima facie case was before the Tribunal, as the main application was not properly instituted. It argued that there was neither a taxation decision nor an objection decision whose legality was being challenged. In support, the Respondent cited ***Robert Kawuma v. Hotel International Limited, SCCA No. 8 of 1990***, where it was held that a prima facie case does not mean a strong case but one raising a serious question to be tried.

18. The Respondent submitted that the gist of TAT Application No. 160 of 2025, Yard Tusakimu Loading Group Limited v. URA, was the alleged refusal to apply the Applicant's existing tax credits to offset an undisputed liability. It argued, however, that no triable issue arose, since the Applicant had not raised any legal question but merely challenged the procedure advised by the Respondent for utilization of the credits. The Respondent contended that there was no likelihood of success, as this Honorable Tribunal lacked jurisdiction to entertain the main

application. It emphasized that the Tribunal's jurisdiction is expressly provided under Section 14(2) of the Tax Appeals Tribunal Act and it states;

*"The Tribunal has power to review any taxation decision in respect of which an application is properly made".*

19. The import of the above provision is that the Tribunal's jurisdiction is limited to review of taxation decisions. However, in the instant case, the Applicant is not challenging any particular notice, objection decision or any assessment. The implication therefore is that the Application is not properly before the Tribunal to confer jurisdiction on the Tribunal to hear the same.

#### **Irreparable damage.**

20. The Respondent contended that no harm or irreparable damage would be suffered by the Applicant if the application was not granted, since the claim related to money and not immovable property. In support, the Respondent relied on *Nakityo Teddy v. Nakamya Sylvia, HCMA No. 929 of 2014*, which cited with approval the decision in *P.K. Sengendo v. Lawrence Busulwa, CAC Application No. 207 of 2014*, where it was held that courts will generally deny a stay of execution in matters involving payment of money, as money can always be refunded.

#### **Balance of convenience**

21. In proving the balance of convenience, the Respondent submitted that it lay in favor of recovering the undisputed tax liability. It relied on *Kiyimba Kaggwa v. Haji A.N. Katende (1985) HCB 43*, where the court held that the balance of convenience rests with the party likely to suffer greater harm if the other is not restrained. The Respondent argued that the Applicant had not disputed the liability and that granting the injunction would cause greater inconvenience to the Applicant itself, as the outstanding taxes would continue to accrue interest. Accordingly, the Respondent prayed that the Applicant be directed to comply with its internal procedures to utilize available credits in offsetting the liability.

## VII. Submissions of the Applicant in Rejoinder

22. In rejoinder, the Applicant reiterated the contents of the application and the supporting affidavit, emphasizing that this Honorable Tribunal was vested with jurisdiction under the applicable laws and enabling provisions to hear the matter and grant the reliefs sought.
23. The Applicant submitted that the main application disclosed a prima facie case with a high likelihood of success, and that it was already suffering and stood to suffer further irreparable loss which could not be compensated by damages. It further contended that the Respondent was in violation of interim M.A No. 161 of 2025, and that the present application, M.A No. 187 of 2025, had been filed to restore order, ensure reasonableness, and address the Respondent's deficiencies. The Applicant prayed that it was just, equitable, and proper to grant the application on its merits, as the Respondent's submissions lacked merit.

## VIII. Determination by the Tribunal

24. Having looked at the evidence and read the submissions of both parties, the following is the ruling of the Tribunal;
25. The test for the grant of an order of temporary injunction was laid out as follows in ***Kiyimba Kaggwa vs. Haji Katende Abdu-Nasser Civil Suit No. 2109 of 1984***;
1. *The granting of a temporary injunction is an exercise of judicial discretion and the purpose of granting it is to preserve matters in status quo until the question to be investigated in the suit can finally be disposed of.*
  2. *The conditions for the grant of an injunction are first that, the Applicant must show a prima facie case with a probability of success, Secondly, such injunction will not normally be granted unless the appellant might otherwise suffer irreparable injury which would not be adequately compensated by an award of damages. Thirdly, if the court is in doubt, it will decide an application on the balance of convenience.*

3. *Irreparable injury does not mean that there must not be physical possibility of repairing injury but means that the injury must be a substantial or material one, that is, one that cannot be adequately compensated for in damages.*

26. The Applicant's tax agent, Kamba Michael Bhamusangala, stated that the Respondent's refusal to utilize credits establishes a prima facie case, that the invalidation of objections denying access to credits amounts to irreparable injury, and that seeking orders to prevent further enforcement until final disposal relates to the balance of convenience under the principles in *Kiyimba Kaggwa v. Katende (supra)*.

27. In tax law, the burden of proof lies on the taxpayer to substantiate entitlement to credits or deductions. Tax credits are not presumed; they must be claimed and verified. The Applicant has not demonstrated that it made a formal refund or credit application accompanied by evidence for URA's verification. Therefore, although the Applicant raises a legal argument that credits may be used in set-off, the factual predicate for that argument is the existence of verified credits and this has not been established at this stage.

28. On the above premise, the Tribunal is satisfied that the Applicant has **not shown a prima facie case with a probability of success**, because no evidence has been produced to prove the credits exist or that the Respondent unlawfully refused to apply them.

29. The Applicant stated that it will suffer irreparable injury if this application is not granted. In *Giella v. Cassman Brown & Co. (1973) E.A 358*, it was held that, by irreparable injury it does not mean that there must not be physical possibility of repairing injury, but it means that the injury or damage must be substantial or a material one, that is; one that cannot be adequately atoned for in damages.

30. In the instant case, the Applicant has not shown that the ledger credits are unique assets whose loss cannot be quantified or remedied by an award or by a subsequent refund with interest. The fact that administrative delay may

make recovery slower or more onerous does not amount to irreparable harm in equity in the ordinary case.

31. The Applicant argued reputational loss and denial of tax clearance as non-monetary harms. The law requires proof that such harms would be grave and not susceptible to compensation. On the record, however, the Applicant's allegations are general, unsupported by contemporaneous independent evidence showing that clients will terminate contracts if a ledger change occurs or that irretrievable business losses will follow.

32. Basing on the above authorities, if the Applicant fails to establish a prima facie case with a likelihood of success, irreparable injury, and the need to preserve the status quo, then he or she must demonstrate that the balance of convenience lies in his or her favor.

33. The Applicant argued that the balance of convenience lay in its favor, since refusal to grant the injunction would expose it to continued accrual of interest and enforcement measures, whereas granting it would merely preserve the status quo by allowing utilization of available credits to offset undisputed liabilities.

34. The test on balance of convenience in the **American Cyanamid Co v Ethicon Ltd** (supra) is that; where the court is in doubt after considering whether there is a serious question to be tried and whether damages would be an adequate remedy, it should decide the application on the balance of convenience, that is, by weighing which party would suffer greater harm from granting or refusing the injunction.

35. The Respondent's legitimate interest in the timely recovery of revenue is a public interest factor that the Tribunal must weigh. Where an Applicant admits tax liability, a stay of recovery risks accruing additional interest and eroding tax collection and public revenue administration. On the other side, preserving taxpayer rights pending resolution is likewise in the public interest. The Tribunal must balance these considerations.

36. The Tribunal notes that the Respondent has not yet commenced enforcement proceedings. It further observes that reconciliation documents were requested from the Applicant and the matter was placed on the refund/reconciliation track. The Respondent's conduct appears procedural rather than manifestly punitive or confiscatory. The Tribunal also considers that the Applicant could have engaged more promptly in ledger reconciliation or supplied the requested documents. This omission diminishes the strength of the Applicant's claim that it is helpless or at imminent risk of irreversible loss.

37. Given the admitted tax liability, the availability of an administrative route to apply or reconcile credits, the absence of evidence of imminent irretrievable loss, and the public interest in revenue collection, the balance of convenience favors the Respondent. In short, preserving the Respondent's ability to proceed with collection and reconciliation, subject to review in the main appeal, is the more appropriate course.

#### **Statutory 30% deposit and procedural compliance**

38. We note that the Applicant has not paid the 30% deposit. That non-compliance is a material barrier to the grant of extraordinary equitable relief. The Tribunal does not lightly override clear statutory requirements when the Applicant seeks interim equitable relief and has not shown exceptional grounds.

Having found as above, this Application is dismissed with costs to the Respondent.

Dated at Kampala this 17<sup>th</sup> day of March 2026.



**MR. SIRAJ ALI**  
**CHAIRMAN**



**MS. KABAKUMBA MASIKO**  
**MEMBER**



**MR. WILLY NANGOSYAH**  
**MEMBER**