

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 224 OF 2024

YOGI STEELS LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MRS. STELLA NYAPENDI CHOMBO,
MS. GRACE SAFI.

RULING

This ruling is in respect of an application seeking a declaration that the revocation of the duty remission granted to the applicant for the financial year 2023/2024 was unlawful and in contravention of regulation 15 of the EACCMA. The Applicant also seeks a declaration that they are entitled to duty remission for the consignment of steel wire rods procured and shipped on 1 April 2024 prior to the revocation of the remission.

1. Background Facts

The Applicant manufactures steel products. On 5 June 2023, the Applicant was granted a Duty Remission for 15,000 MT of bars and rods (under HS Code 7213.91.10) in accordance with Section 140 of the East African Community Customs Management Act, applicable for the 12-month period of the FY 2023/2024.

On 1 April 2024, the Applicant procured a consignment of 255 steel wire rods in coils, with a total net weight of 527.97 MT from Indo Gulf Steel FZE, United Arab Emirates. The consignment was shipped from Tianjin Port in China via carrier Lynux Shipping Limited destined for Mombasa Port.

On 7 June 2024, the Applicant attempted to process the customs entry for the goods but discovered that the duty remission had been revoked. On 10 June 2024, the Applicant was notified that the duty remission for the items was revoked vide Legal

Notice EAC/93/2024 dated 15 April 2024. The Applicant subsequently warehoused the goods in Mombasa, incurring significant demurrage costs while engaging with the Respondent to resolve the issue of the duty remission revocation.

At the time of the revocation, the Applicant had utilized 1,549.260 MT of the 15,000 MT granted under the Duty Remission Scheme and no reasons were communicated for the revocation.

On 19 June 2024, the Applicant wrote to the Ministry of Finance, Planning and Economic Development requesting for extension of the duty remission on the basis that prior to receiving the Revocation Notice, they had already purchased a consignment of Steel Wire Rod in coils with a total net weight of 527.97 MT and the same was in transit in Mombasa Kenya.

On 21 June 2024, the Applicant was informed by the Ministry of Finance, Planning and Economic Development that their application for revocation was denied on the premises there was a policy shift aimed at promoting local industrial capacity for wire rod production and that the scheme for wire rods was discontinued.

On 2nd July 2024, The Applicant wrote to the Ministry of Finance, Planning and Economic Development challenging the revocation seeking reconsideration of the revocation.

The Applicant being dissatisfied with the decision of the Respondent hereby lodged this Application before this Honourable Tribunal for review of the Respondent's decision.

2. Issues for determination

The issues for determination by the Tribunal are:

- (i) Whether the revocation of grant of duty remission granted under the EAC Gazette Vol. AT 1 – No. 6, dated February 17, 2024, was lawful.

- (ii) Whether the Applicant is entitled to duty remission for the consignment of steel wire rods purchased before the revocation of the duty remission.
- (iii) What remedies are available to the parties?

3. Representation

The Applicant was represented by Mr. Cephas Birungi, Mr. Patrick Kabagambe, Ms. Jackie Aturinda, Ms. Tracy Ainebyona, Ms. Linda Mugisha and Mr. Bruno Amanya while the Respondent was represented by Mr. Agaba Edmond, Mr. Nuwaha Barnabas and Ms. Ritah Nabirye.

4. Submissions by the Applicant

The Applicant submitted that the framework within which remission is granted and implemented is provided for under **Section 140 of the EACCMA**. The section provides that the Council of Ministers may grant remission of duty on:

- a) *Goods imported for use in the manufacture of goods for export, or*
- b) *Goods imported for use in the manufacture of approved goods for home consumption, as determined by Gazette notice.*

To facilitate this, **Regulation 4 of the EACCMA (Duty Remission) Regulations establishes a Duty Remission Committee**, establishes a Duty Remission Committee chaired by a representative from the Ministry responsible for Finance. Importantly, the Commissioner of Customs serves as the Secretary to the Committee and is the conduit through which advice and recommendations flow to the Council of Ministers. This structure makes clear that the Respondent plays a central and active role both as Secretary to the Committee and as part of its quorum in shaping decisions and policy implementation around the remission of duties.

The Applicant submitted that they were granted duty remission for Bars and Rods, hot-rolled, in irregularly wound coils, of iron or non- alloy steel of cross section measuring less than 8mm (wire rods) under HSC 7213.91.10. According to a gazette notice dated 5 June 2023, the duty remission on wire rods was extended for a 12-month period between starting July 2023 to June 2024. The remission was subsequently revoked on 15 April 2024 vide EAC Gazette Legal Notice EAC/61/2024. At the time of revocation, the Applicant had utilized 1,549.260 MT of the 15,000 MT under the

remission and no reasons were communicated for the same. On appeal of the decision by the Applicant, the reason for revocation was communicated via letter written by finance ref TPD 167/227/01 where they stated:

"In order to promote the industrialisation agenda of Government and further support the local manufacturers that have invested in the local production of wire rods with adequate capacity, the duty remission scheme for wire rods was discontinued. Therefore, I regret to inform you that the Ministry is constrained to grant your request."

Counsel for the Applicant argued that the position of the law on revocation of the grant of duty remission is set in **Regulation 15 of the EACCMA (Duty Remission) Regulations** which states as follows;

"The Council may for reasons to be communicated to the applicant revoke a grant of duty remission."

The Applicant submitted that the above provision imposes two clear legal requirements that there be a reason for the revocation and the reason be communicated to the Applicant. The legal obligation is for contemporaneous communication and that reason must be conveyed at the time of revocation not after the fact in response to an appeal. This omission amounted to a breach of procedural propriety, a key limb of public law. The Applicant cited the case of **Council of Civil Service Unions & Others v Minister for the Civil Service AC 374** which defined procedural impropriety as;

"The failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision."

Counsel for the Applicant submitted that under the law, procedural impropriety encompasses four basic concepts as stated in **Dr. Lam - Lagoro James v Muni University, HCMC No. 0007 of 2016**.

Furthermore, natural justice requires that the person accused should know the nature of the accusation made against them; secondly, that he/she should be given an opportunity to state his/her case; and thirdly, the Tribunal should act in good faith and in this case, the Applicant was blindsided by the revocation. Specifically, there was no prior notice, no invitation to comment and no explanation until after the appeal was filed. Such conduct is inconsistent with good administrative practice and offends both Regulation 15 and the principles of fairness embedded in natural justice.

The Applicant also submitted that they had a legitimate expectation both statutory and administrative, that the remission would endure for its gazetted period unless revoked in a procedurally fair manner. The sudden revocation, without notice or contemporaneous reasons, not only breached legal norms but also undermined investor confidence in lawful government guarantees. The Respondent's failure to contemporaneously communicate reasons for the revocation of the duty remission violated both the express terms of Regulation 15 and the principles of natural justice. The revocation was therefore procedurally unlawful, arbitrary, and ought to be set aside.

The Applicant contended that they are entitled to duty remission for the consignment of steel wire rods purchased before the revocation of the duty remission. The Applicant purchased the wire rods on the 1 April 2024 and the items were loaded for shipping on the same day. The remission was subsequently revoked on the 15 April 2024 while the items were already in transit, having been shipped on 1 April 2024. While the Committee may revoke a remission, such discretion is not absolute and once exercised, it must be accompanied by a reasonable determination of the consequences particularly for parties that had already acted in reliance on the subsisting remission.

The Applicant submitted that at the time of purchase and shipment, the remission regime was valid and operational. The revocation occurred mid-transit and yet no inquiry or consideration was made into what quantities had already been purchased and whether the Applicant had engaged in any abuse of the scheme.

The Applicant also cited the **Procedure Manual for the Application of Duty Remission Regulations** which lays down the core principle in the preface as follows:

"It has become necessary to develop this manual to enable uniform interpretation and application of the Duty Remission Regulations, and therefore offer uniform treatment to beneficiaries of the Duty remission Scheme."

The Ministry in its communication stated that the duty remission scheme for wire rods had been discontinued. However, on 20 June 2024, a Gazette Notice was issued allowing Roofings Limited and Saikya Industries Limited to import 9,000 MT and 300 MT respectively of the same wire rods. Strikingly, this approval was only valid for a

10-day window, up to 30 June 2024 and fell within the same 2023/2024 remission period that had already been revoked for other importers, including the Applicant. This suggests that while the remission was said to be discontinued some companies were still selectively allowed to benefit from it, likely because they too had goods in transit prior to the revocation.

Later, on 23 June 2025, another Gazette notice was issued giving duty remission to Roofings Limited (6,220 MT), Uganda Baati (397.26 MT), and Saikya Industries Limited (300 MT) for the same type of wire rods. This kind of preferential treatment where certain companies were assisted while others in identical circumstances, like the Applicant were excluded without explanation clearly contradicts the core principle of uniform interpretation and application of the remission regulations. It reflected a discriminatory and inconsistent exercise of discretion undermining both administrative fairness and the Applicant's right to equal treatment under the scheme. Such selective application not only breaches the duty of transparency but also vitiates the integrity and legitimacy of the duty remission framework itself.

The Applicant submitted that the exercise of discretion by public bodies including the Duty Remission Committee is a power granted by law to be exercised judiciously, fairly and within lawful bounds. In the ***Republic V Minister for Agriculture, Exparte W. Njuguna & others 1 EA 356***, Ojwang J. ruled that;

"The correct perception of a discretion donated by law is that such discretion is only duly exercised when it is guided by transparent, regular, reliable and just criteria".

This means the law has given power to the Duty Remission Committee to use their best judgment in the particular circumstances and make a decision. A question arises as to where a statute gives a public officer discretion to perform a duty can a Tribunal interfere with that discretion? **Halsbury's Law of England 3rd Edition Vol. 30 p. 687 para. 1326** states:

"Where public bodies are given a discretion in the exercise of powers conferred upon them by statute, the courts will not interfere with the exercise of that discretion so long as it is exercised bona fide and reasonably; nor will the decision of an administrative body be interfered with..."

The Applicant relied on the doctrine of legitimate expectation which was set out in ***Christine Nanding and 6 Ors V Attorney General MC No. 22 of 2024*** that:

"This doctrine provides a central space between 'no claim' and a 'legal claim' wherein a public authority can be made accountable on grounds of an expectation which is legitimate. It confers upon a person a right which is enforceable in the case of its denial. But whether an expectation is legitimate or not is a question of fact which has to be determined not according to the claimant's perception but in the larger public interest."

The principle at the root of the doctrine of legitimate expectation is Rule of Law which requires regularity, predictability and certainty from government when dealing with the public. The Applicant stated that a person can be said to have a "legitimate expectation" of a particular treatment, if any representation or promise is made by authority, either expressly or impliedly. Every fact situation giving rise to promissory estoppel also creates a legitimate expectation in the representee that the administration will fulfill its representations. Therefore, 'legitimate expectation' and 'promissory estoppel' are used interchangeably although legitimate expectation is broader."

The Applicant argued that it had a legitimate expectation to benefit from the duty remission scheme up to June 2024, having procured and shipped the goods on 1 April 2024, during a period when the scheme was active. The revocation occurred mid-journey, with no notice or effort to determine the fair consequences to the Applicant. Taxpayers should not be subjected to the unpredictable whims of administrators, especially in matters involving significant financial commitments. The duty remission scheme constitutes a regulatory instrument intended to lower import costs and foster economic activity. The impugned actions of the Duty Remission Committee, characterized by unpredictability and selective application, have inflicted significant financial prejudice on the Applicant. The subsequent gazetted remissions to other importers during the same remission period highlight the discriminatory and arbitrary nature of the implementation.

The Applicant concluded by stating that their reliance on the remission granted by the Respondent to the Applicant for the Financial year 2023/2024 was reasonable and its expectation was both legitimate and enforceable. Therefore, the failure to account for its consignment already in motion renders the import duty assessment unjustified, unfair, and liable to be set aside.

5. Submissions by the Respondent

The Respondent argued that this Honourable Tribunal is not clothed with jurisdiction to entertain this application and quoted **Article 126 of the Constitution of the Republic of Uganda** on exercise of judicial power provides;

(1) "Judicial power is derived from the people and shall be exercised by the courts established under this Constitution in the name of the people and in conformity with law."

Section 14 of the Tax Appeals Tribunal Act provides that;

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

Section 20 of the Tax Appeals Tribunal Act, regarding review by the Tribunal provides;

(1) "For the purpose of reviewing a taxation decision, a Tribunal may exercise all the powers and discretions that are conferred by the relevant taxing Act on the decision maker and shall make a decision."

Sections 229, 230 of the East African Community Customs Management Act (EACMA) confer jurisdiction to the Tax Appeals Tribunal regarding scenarios where a person is dissatisfied with an act or omission of the Commissioner. It is trite law that jurisdiction is a creature of statute and is therefore of paramount importance that a party that seeks to avail himself or herself a benefit of a remedy should comply with the conditions set out in the statute granting the Court jurisdiction.

The Respondent contended that this matter is one where the Applicant disputes revocation of duty remission and its neither the preserve nor mandate of the Respondent. Additionally, the Respondent is not conferred with power to decide regarding the same and as such Sections 20 and 14 of the Tax Appeals Tribunal Act would not apply. If there was to be any review being subject to the jurisdiction of the Tribunal the same by law ought to arise from an act of the Commissioner and or decision of the Respondent which with regards to duty remission is limited to communication of decision to grant or revoke. Accordingly, duty remission specifically revocation is neither an act allowed to be performed by URA nor its mandate and as such the decision of the Council of Ministers to revoke the Applicants' duty remission

as is challenged by the Applicant is not within the purview of Sections 14 and 20 of the Tax Appeals Tribunal Act section conferring jurisdiction and against that legal background this application should fail.

The Respondent submitted that it was the wrong party and relied on **Section 140 of the EACMA, Regulations 3, 5 and 15 of the EACMA Duty Remission Regulations 2008**, designate the Council of Ministers as having the power and responsibility to grant and or revoke duty remission.

Article 13 of the Treaty Establishing the East African Community provides for Membership of the Council;

"The Council shall consist of the Ministers responsible for regional cooperation of each Partner State and such other Ministers of the Partner States as each Partner State may determine."

Sections 140 of the EACMA and Regulations 3 and 15 of the EACMA (Duty remission) Regulations provide for the explicit mandate of the Council as being responsible for grant and revocation of duty remission.

The roles of the Commissioner under the EACMA and domestic tax laws do not include granting or revoking duty remission or being responsible for acts or omissions relating to duty remission and as such the Respondent had no legal obligation with regards to the claim filed by the Applicant.

The Respondent further contended that the decisions granting duty remission Legal Notice No EAC/115/2023 and Legal Notice No EAC/93/2024 dated 5 June 2023 and 15 April 2024 respectively are signed by Honourable Ministers (Members of the Council) with no indication and reference to the Respondent. The East African Community Customs Management Act and EACCMA Duty Remission Regulations clearly set out the framework and responsibilities regarding duty remission with no designation that the Respondent take responsibility for the same or be answerable under the law. The role of the Respondent is to implement the decisions of the Council of Ministers regarding duty remission and its erroneous in law and fact to entertain an application on that basis and or hold the Respondent responsible for any discrepancy or issue regarding duty revocation.

The Respondent also submitted that for a party to seek redress against a statutory corporation, the said corporation ought to be in breach of duty expressly laid out under

the law. The facts relied on by the Claimant have to fall precisely within the statute as being responsibility or omission of the Corporation and or its agents. Therefore, the Respondent is a wrong party to the Application and the Applicant has no cause of action per their application against the Respondent and in the circumstances, prayed that the Application is accordingly dismissed with costs.

6. Submissions of the Applicant in Rejoinder

The Applicant reiterated their earlier submissions as stated in their initial submissions and noted that the Respondent chose not to address the substantive issues raised in the Applicant's submissions, but instead limited themselves to an objection to the jurisdiction of this Honourable Tribunal which rightly held that jurisdiction is properly vested in this forum.

The Applicant submitted that while questions of law are ultimately for the Tribunal to determine, this application depends on certain factual foundations. The Applicant has duly discharged its duty to provide supporting facts and arguments as set out in its initial submissions and by failing to contest these facts, the Respondent leaves the Applicant's factual position uncontested. The Applicant therefore prayed that the Tribunal so holds and grants the consequential reliefs as previously prayed for.

7. Determination by the Tribunal

Having read the submissions of the parties, this is the decision of the Tribunal.

The Applicant is a Ugandan manufacturer of steel products. In 2023, they obtained approval under the EAC duty remission scheme to import 15,000 MT of steel wire rods at a 0% duty rate for use in the manufacture of goods for export. On 15 April 2024, however, the Council of Ministers issued a notice revoking the remission grant. The Respondent issued a demand for the duty on the grounds that the remission was revoked. The Applicant challenges the unfairness of the decision to revoke the remission as they were never given notice of the revocation and the decision was made while Legal Notice of 5 June 2023 which granted the remission was still in force.

On the other hand, the Respondent maintains that this Honourable Tribunal is not clothed with the jurisdiction to hear the matter and did not submit on the merits of the Application.

Jurisdiction of the Tribunal

The Tribunal notes that Respondent's submissions were confined to a jurisdictional challenge which has already been conclusively determined by this Honourable Tribunal in its ruling of TAT Application No. 163/2024 dated 16 May 2025. Accordingly, the Respondent's arguments on jurisdiction, cause of action and locus standi have been rendered moot and cannot stand in the face of the Tribunal's clear pronouncement. We find no new facts or law to alter that finding. Therefore, the objections regarding jurisdiction, locus standi and wrong party are hereby overruled.

We shall now proceed to resolve the issues in contention.

Whether the revocation of grant of duty remission granted under the EAC Gazette Vol. AT 1 – No. 6, dated February 17, 2024, was lawful.

Section 140 of the East Africa Community Customs Management Act, 2009 provides that the Council may grant remission of duty of goods imported for the manufacture of goods in a Partner State.

Regulation 15 of the EAC Customs Management (Duty Remission) Regulations, 2008 provides that:

“The Council may for reasons to be communicated to the Applicant revoke a grant of duty remission.”

The import of this provision is that the EAC Council of Ministers has the discretion to revoke a grant of duty remission grant. The provision requires that the reasons for revocation be communicated to the beneficiary of the remission.

It is a generally accepted principle that courts will not interfere with the exercise of discretionary power unless the powers are exercised in a way that was not fair, reasonable, or lawful.

In the present case, while the Regulations do not require a hearing, they required that the reasons for revocation are communicated. This suggests a minimal duty to notify the Applicant. The Applicant has stated that no reasons were given prior to the revocation and that this breaches Regulation 15 and the principles of fair procedure (*Audi alteram partem*).

The Gazette notice of 15 April 2024 simply states: “*the duty remission granted to Yogi Steels... is revoked,*” with no elaboration. There is no evidence on the record indicating that the Applicant received a formal communication from the Respondent or the EAC Council of Minister stating the grounds for revocation. In our view, a plain reading of Regulation 15 requires at least a written notice to the Applicant stating the reasons for revocation before or simultaneously with the notice of revocation. That appears not to have occurred. We find that this amounts to procedural irregularity.

Regarding the substantive power to revoke, we note that Regulation 7 of the EAC Customs Management (Duty Remission) Regulations, 2018 attach certain conditions to duty remission which must be complied with. Further, the Respondent’s letter to the Applicant dated 23 June 2024 laid down certain continuing obligations such as the requirement for the Applicant to file quarterly returns on the usage of the raw materials. The other condition was for the imported items to be used inky for the manufacture of wire products.

Whether there was a breach of any of these conditions remains a matter of speculation as no reason for the revocation was ever communicated to the Applicant. This was failure to observe basic principles of natural justice which amounted to procedural impropriety.

In ***Barbara Awidi Michelle v Uganda Revenue Authority, Miscellaneous Cause No. 0322 of 2021***, Justice Boniface Wamala stated that procedural impropriety encompasses four basic concepts; namely:

- (i) the need to comply with the adopted (and usually statutory) rules for the decision-making process;
- (ii) the requirement of fair hearing;
- (iii) the requirement that the decision is made without an appearance of bias;

- (iv) the requirement to comply with any procedural legitimate expectations created by the decision maker.

In the present case, the decision did not comply with the rules for the decision-making process in as far as the reasons for revocation were not communicated in April 2024 when the decision was made.

Therefore, we find that the revocation of the Applicant's duty remission was procedurally improper and hence unlawful.

Legitimate expectation

As per the Legal Notice EAC/115/2023 gazetted on 5 June 2023, the Applicant was granted duty remission on:

"...specified quantities of raw materials for the manufacture of wire products to apply a duty rate of zero per centum (0%) for twelve (12) months."

Further, as per a letter dated 23 June 2023 to the Applicant concerning the duty remission scheme, the Respondent informed the Applicant:

"This facility is applicable for FY 2023 / 2024."

Therefore, fact that the remission was for a 12-month period starting June 2023 created a legitimate expectation on the part of the Applicant that the remission would be available for the entire duration of the 12-month period as specified in the gazetted legal notice. However, the duty remission was instead revoked on 15 April 2024, almost 2 months before the expiry of the legal notice.

In ***R v North and East Devon Health Authority, ex p Coughlan [2001] QB 213***, it was stated that the doctrine of legitimate expectation envisages that if someone acts on a promise made, or assurance given by the Administration, then the Administration cannot be allowed to go back on its promise or assurance. The court further stated that the doctrine is aimed at protecting the innocent and unsuspecting persons from being injured by acting on the promise made or assurance given by the Administration.

Further, in *Keroche Industries Limited V Kenya Revenue Authority & 5 Others*, [2007] 2 KLR 240, the Tax Appeals Tribunal of Kenya stated that legitimate expectation arises, for example, when a member of the public, based on a promise or other conduct, expects to be treated in a certain way, but a public body treats him or her differently.

In the present case, when the Applicant purchased their consignment of steel wire rods on 15 April 2024, they did so on the assurance of the Legal Notice EAC/115/2023 that they had duty remission that was valid and running until June 2024. The Applicant acted on the assurance of the Legal Notice and made irreversible commercial decisions on the understanding that the steel rods would be subject to duty at 0%.

Therefore, the Council of Ministers and its agents, which include the Respondent cannot, without justification, go back on the assurance or promise made to the Applicant by virtue of the Legal Notice of 5 June 2023 which granted the Applicant remission for 12 months.

Unequal treatment of the beneficiaries of duty remission

In addition to revoking the Applicant's remission, the Applicant submitted that its competitors were allowed to continue importing the same products which were revoked for other importers. This created an unlevelled ground whereby a certain category of importers was treated more favourably than others without justification.

If indeed the reason for the revocation was a policy shift, how then did other importers such as Roofings Limited (6,220 MT), Uganda Baati (397.26 MT), and Saikya Industries Limited (300 MT) benefit from the same scheme during the same period?

We agree with the Applicant that this was an abuse of discretion which undermined both administrative fairness and the right to equal treatment under the scheme.

This goes against the principles espoused in the *Procedure Manual For Application of the Duty Remission Regulations* which states:

"The objective of this manual is to provide guidelines to facilitate uniform and objective application of the East African Community Duty Remission Regulations".

In the present case, there was a failure to apply the scheme uniformly and objectively to all importers of the relevant products.

Having carefully considered all arguments and the relevant law, the Application is hereby allowed and the Tribunal orders as follows:

- (i) The revocation of the Applicant's remission was procedurally improper and unlawful as it contravened Regulation 15 of the EACCMA (Duty Remission) Regulations;
- (ii) The Applicant is entitled to the duty remission in respect of the consignment of 527.97 MT of steel wire rods procured and shipped on 1 April 2024 prior to the revocation;
- (iii) The Respondent should refund the 30% of import duty that the Applicant paid as security; and
- (iv) Costs of the Application are awarded to the Applicant.

Dated at Kampala this 17th day of September, 2025.



MS. CRYSTAL KABAJWARA
CHAIRPERSON



MRS. STELLA NYAPENDI CHOMBO
MEMBER



MS. GRACE SAFI
MEMBER