



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO. 242 OF 2022

ZEE INVESTMENTS LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: HON. CRYSTAL KABAJWARA, HON. GRACE SAFI,
HON. CHRISTINE KATWE.**

RULING

I. Background Facts

1. The Applicant operates pharmacies. In 2021, the Respondent conducted an audit on the Applicant for the period January 2019 to December 2020 and established that the purchases declared in the financial accounts were understated relative to those in the purchase ledger by Shs. 13,531,278,864 and Shs. 229,539,233 for the periods, respectively. Consequently, the Respondent issued income tax assessments of Shs. 396,332,755.
2. The Respondent also established that salaries declared in the Pay As You Earn (PAYE) were understated. As a result, the Respondent issued a PAYE assessment of Shs. 79,335,900 on the grounds that the salaries of top staff were understated. When the Applicant objected to the assessment, the Respondent maintained their position, arguing that the Applicant did not provide sufficient evidence.

II. Issues

3. The issue to be determined is whether the Applicant is liable to pay the tax assessed.

III. Representation and evidence

4. Mr. Sydney Ojwee represented the Applicant, while Mr. Amany Mishambi, Mr. Kenan Aruho and Ms. Doreen Amutuhaire represented the Respondent.
5. The Applicant's sole witness was Mr. Deepak Doiphode, the General Manager of the Applicant, who testified that the Applicant objected to the assessments on the grounds that, for PAYE, the top employees are directors of three companies and draw salaries of over Shs. 5,000,000 each. Further, regarding the purchases, the Respondent considered sales of two years against purchases of three years for the income tax assessment.
6. He stated that in the audit period, the Applicant employed four staff who were paid an agreed salary as declared in the returns. Mr Malik Bharwani and Mrs Jasbin Bharwani are directors of sister companies, Zee Investment Ltd, Zee Pharmaceuticals, and Zarin Pharmaceuticals. Mr. Malik draws over 5.4 million, while Mrs. Malik draws over 3.6 million and the Finance manager. They were respectively paid Shs. 800,000 and Shs. 500,000 per month, as per their contracts.
7. The witness testified that in 2019, the company made purchases of Shs. 4,667,496,671 and declared in the return for the year. In 2020, the company made purchases of Shs. 6,002, 535, 917 and also declared them in return for the year. Therefore, the Respondent's computation is erroneous and misleading.
8. Ms. Deborah Nabankema, a Manager in the Respondent's Large Taxpayers Office, was the Respondent's sole witness. She stated that following the Applicant's submission of their ledgers and financial accounts, the Respondent compared the two and established that purchases declared in the Applicant's financial accounts were understated relative to those in the purchase ledgers by Shs. 13,531,278,864 and Shs. 229,039,233 for the periods 2019 and 2020,

respectively. The Respondent alleges that the Applicant did not explain these inconsistencies.

9. She further stated that the Applicant understated staff salaries in their PAYE returns. This was established during the entry meeting held between the Respondent's audit team and the Applicant's two representatives, namely the Finance Manager and the Tax Auditor.
10. She further testified that the Applicant underdeclared the salary of the pharmacist contrary to National Drug Authority guidelines, which stipulates that each pharmacist shall be paid a minimum of Shs. 1,500,000. All the assessments were based on what was agreed in the exit meeting between the Respondent and the Applicant's Finance Manager, who was on the phone, and the tax auditor was physically present and signed the minutes

IV. Submissions of the Applicant

Understated purchases

11. The Applicant submitted that in arriving at the assessment, the Respondent considered the branches of the Applicant's sister company, Zee Pharmaceuticals Limited, in Lira and Kampala.
12. Furthermore, the audit was initially intended to cover only two years, but there was a mix-up in the tax accounting period, and the Applicant was made to submit purchase documents which were outside its tax accounting period by over twelve months. The Applicant also contended that it was requested to provide records from all these branches, which resulted in purchases exceeding the sales declared by the Applicant, as it included purchases from two companies: Zee Investment Limited (the Applicant) and Zee Pharmaceuticals Limited.
13. The Applicant submitted that the Respondent requested documentation for the Applicant's branches in Mbarara and Kabale. They also asked for documents for the branches of Zee Pharmaceuticals in Mbale, Lira, and William Street, Kampala,

its sister company. The Respondent stated that the director's salaries were low compared to the amount needed to run four branches in Lira, Kabale, Mbarara, and Kampala. Yet, some of these branches do not belong to the Applicant.

PAYE

The Applicant submitted that the Respondent used figures/ incomes that the Applicant did not actually pay to the employees in coming up with the tax. The witness confirmed that the two pharmacists earn Shs. 800,000 as per their signed contracts, and their pay for working half a day from 9 AM to 1 PM.

Directors' salaries

14. The Applicant submitted that their two sister companies, that is, Zarin Pharmaceuticals Ltd and Zee Pharmaceuticals Limited, are all run by the same directors and also have the same shareholders, that is, Mr. Malik Bharwarni and Mrs. Jasbin Bharwarni. On 13 March 2017, the Applicant entered a Memorandum of Understanding with the two sister companies, under which the three companies would jointly pay the directors, and the entity that made the most sales would cover a larger portion of the salary costs. However, the Respondent used hypothetical salary figures, resulting in a high PAYE tax.
15. The Applicant prayed that the Tribunal finds them not liable to pay the assessed tax, that the 30% deposit be refunded, and that the costs of this application be awarded to the Applicant.

V. Submissions of the Respondent

16. In reply, the Respondent submitted that the assessment arose from an audit of the Applicant covering the years 2018-2020 in respect of income tax and PAYE. The Respondent contended that throughout the audit, the Applicant was closely involved. The Management Letter and assessments clearly stated the findings, following a joint reconciliation between the Respondent and the Applicant. Therefore, the Applicant cannot claim that the assessment was in respect of other companies that were never part of the audit.

17. The Respondent submitted that Section 49 of the Tax Procedure Code Act gives the Commissioner powers to ask for evidence from a taxpayer when undertaking investigations on a tax matter. The audit meetings were held between the Applicant and the Respondent.
18. The Respondent argued that the Applicant understated purchases in its financial statements compared to the purchase ledgers by Shs. 13,531,278,864 and Shs. 229,039,233 for the period 2019 and 2020, respectively. The Respondent issued Administrative Additional Assessments of Shs. 396,332,755 based on undeclared sales from stock records and Shs. 79, 335,900 based on understated salaries for directors, pharmacists and the finance manager.
19. On the inclusion of branches of sister companies, the Respondent maintained that the audit was in respect of the Applicant and not the three branches. Although the Applicant alleged that it was requested to provide records from all the branches, the audit commencement letter is very clear on the entity that was the subject of the audit. In the case of ***Argosy Co. Ltd vs Inland Revenue Comr [1971] 1 WLR 514***, where Lord Donovan stated:

"Once a reasonable opinion that liability exists is formed, there must necessarily be guesswork at times as to the quantum of liability. Therefore, the Commissioner may have to guess the extent of the amount to be taxed. Such estimates or guesses may still be, to the best of the commissioner's judgement, a phrase which their Lordship think means to the best of his judgement on the information available to him."
20. The Respondent submitted that there is no evidence on record to suggest that the audit covered more than the Applicant. All documentation in the Joint Trial Bundle relates to the Applicant.
21. The Respondent referred to page 24 of the Joint Trial Bundle, which contains a schedule that shows details of salaries paid and PAYE deducted in respect to the Applicant's employees (16 in number), with a total of about Shs.7,566,000 as the total employment income. In June 2019 (page 23 of the Joint Trial Bundle), the

Applicant declared a sum of Shs. 7,566,000 as the total employment income for the month.

22. The Respondent submitted that on page 16 of the Joint Trial Bundle, in June 2019, the assessment clearly states that whereas the Applicant had declared Shs. 7,566,000 as employment income for the month, the audit enhanced it to Shs. 20,686,000 resulting in an additional PAYE liability of Shs. 3,780,500. The same applies to the entire assessment period, with varying additional liabilities. Accordingly, the audit and assessment were strictly in respect to the Applicant.
23. The Respondent submitted that the Applicant's PAYE liability arose because the top management salaries were understated. Section 126(1) of the Income Tax Act requires an employer to withhold and remit PAYE on all employment income. Failure to disclose full salaries amounted to under-declaration, justifying the assessment.
24. The Respondent also submitted that they sought guidance from the National Drug Authority guidelines and the Pharmaceutical Association of Uganda, which put the minimum salary of a pharmacist at Shs. 1,500,000 (which has since been enacted into law, with the minimum wage currently set at Shs. 2,000,000). The Applicant did not rebut this evidence. Further, the Respondent submitted that the Directors obtained a benefit in the form of a motor vehicle that was not declared.
25. Regarding the Memorandum of Understanding (MoU), the Respondent contended that it is not registered with the Uganda Registration Services Bureau and was signed by one person for three separate entities. It is purported to have been witnessed by an Advocate, but no Advocate's stamp is affixed, nor is any resolution authorising the same. The Respondent prayed that the same be disregarded.
26. Regarding the scope of the audit, the Respondent submitted that they lawfully considered transactions that impacted the Applicant's actual taxable position. The Applicant had sufficient opportunity to raise this issue, as it was at all material times part of the audit process leading to the assessments. In the case of *Nile Breweries Ltd vs Uganda Revenue Authority, TAT Application No. 15 of 2018*, it was held

that a taxpayer's failure to produce supporting evidence justifies the Uganda Revenue Authority's reliance on the best judgment method of assessment. The Respondent submitted that the assessments were lawful.

VI. Submissions of the Applicant in Rejoinder

27. In rejoinder, the Applicant reiterated their earlier submissions. However, regarding the MoU, the Applicant submitted that no law mandates its registration, as the decision to register it is within the parties' discretion
28. In respect to the scope of the audit, the Applicant submitted that the Respondent should have restricted themselves to the scope in terms of the subject matter and time. The taxpayer's year of income is essential in calculating their tax. The Applicant prayed that the Tribunal finds the Applicant not liable to pay the tax assessed with costs to the Applicant.

VII. The Determination

29. Having considered the evidence and submissions of both parties, this is the Tribunal's decision.
30. The Applicant is a retailer of pharmaceutical products. In 2021, the Respondent conducted an audit covering the period January 2019 to December 2020 and revealed that the purchases recorded in the financial accounts were understated relative to those in the purchase ledgers by Shs. 13,531,278,864 and Shs. 229,539,233 respectively.
31. The audit also revealed that the Applicant underdeclared PAYE. The Applicant objected to the assessments because the Respondent included transactions of sister companies, which inflated the assessments, and considered information outside the audit period.
32. We address the dispute below.

Understated purchases

33. The Respondent conducted an audit on the Applicant for the period January 2019 to December 2020. According to the Respondent, the purchases declared in the financial accounts were understated relative to those in the purchase ledgers by Shs. 13,531,278,864 and Shs. 229,539,233 for 2019 and 2020, respectively, they issued an administrative assessment of Shs. 396, 332, 755.
34. The Applicant has argued that the assessments are incorrect because the Respondent considered information belonging to branches of sister companies and also accounting periods that were outside the scope of the audit.
35. None of the parties has presented sufficient information to enable this Tribunal sufficiently to evaluate the dispute on its merits. While purchase ledgers and tax returns were presented, no workings showing the variance analysis were provided. The Respondent's audit report refers to variances without the corresponding workings. Further, the Applicant's financial statements for 2019 and 2020 were not presented to the Tribunal.
36. Only the purchase ledgers were presented. Without the corresponding financial statements that gave rise to the variances relative to the figures declared in the tax returns, this Tribunal is unable to confirm whether the assessment arising from the purchase variances is excessive.

The scope of the audit/sister Companies

37. The Applicant argued that the Respondent's assessments went beyond the lawful scope and incorporated records from sister companies, that is, Zee Pharmaceuticals Ltd and Zarin Pharmaceuticals Ltd, who are separate legal entities with their own TINs. The Applicant maintained that it only operates two branches, Mbarara and Kabale. However, the Respondent relied on documents and purchased records from branches in Kampala, Mbale, and Lira, which belong to a different company. This inflated its purchases and sales, leading to erroneous income tax assessments.

38. We have considered the evidence on record and have established the following:
- a) The Respondent alleged that the audit was specifically in respect to the Applicant and did not include branches of sister companies. The audit commencement letter dated 3 March 2022, on pages 1-2 of the JTB, indicates that the Respondent intended to audit Zee Investment Ltd. Further, the Respondent's management letter dated 29 April 2022 was addressed to the Applicant and contained findings regarding the Applicant's tax affairs (AEX2 on page 3 of the Joint Trial Bundle).
 - b) However, in the Respondent's audit report dated 20 April 2022, the Respondent's findings were to the effect that the directors' salaries were to run four branches in Lira, Kabale, Mbarara, and Kampala. However, the Applicant has only two branches in Kabale and Mbarara, as stated in the minutes between the Applicant and the Respondent dated 29 March 2022 (page 133 of the joint trial bundle).
 - c) However, the Applicant has not produced evidence to show how any information from its sister companies was used to reach the assessment. The minutes above between the URA and the taxpayer indicated that the taxpayer under audit was Zee Investments, based in Mbarara and Kabale (page 137 of the JTB). The Tribunal finds that the Applicant did not prove that records out of the scope were used.

Transactions outside accounting period

39. The Applicant argued that the Respondent relied on transactions outside their accounting period.
40. The Tribunal perused the audit commencement letter dated 3 March 2022, which mentions the period 1 July 2018 to 30 June 2020. The Applicant cannot claim that transactions from July to December 2018 are "outside the accounting period," because the audit and assessment were conducted in accordance with the notified audit period.

41. According to the audit report, dated 20 May 2022, at page 5 of the Joint Trial Bundle, the audited period was 1 July 2018 to 30 June 2020. The notice of assessment states the assessment period as 1 July 2018 to 30 June 2020. Section 23 (2) of the TPCA provides:

“The Commissioner shall serve a taxpayer assessed with a notice in writing of the assessment specifying the tax period to which the assessment relates.”

42. The Tribunal notes that, although the meeting minutes indicate that the audit focused on calendar years 2019 and 2020, the audit report and notice of assessment cover the period 1 July 2018 to 30 June 2020, which includes transactions from July–December 2018 that were not discussed in the meetings. The minutes showed that the parties focused on the period 2019 and 2020. The Respondent communicated the audit period, and the notice of assessment was clear about it.
43. It should be noted that, according to section 19 of the Tax Appeals Tribunal Act, the Applicant has the burden of proving that the assessment is excessive. Therefore, regarding the assessment of Shs. 396,332,755, we find that the Applicant has not discharged the burden of proof. This is because other than merely stating that the purchases were correctly accounted for, the Applicant did not adduce evidence showing errors in the Respondent’s workings, if any of the inaccuracy of the established variance. The Applicant did not demonstrate how the Respondent used information about its sister companies in arriving at the assessed tax. We have also established that the Applicant’s claim that the Respondent relied on transactions outside the accounting period is unsubstantiated, as the record shows that the audit scope was clearly defined.
44. Discharging the burden of proof in tax matters is crucial because failure to do so results in an adverse ruling, meaning the taxpayer will be liable for the tax assessed by the tax authority, along with potential penalties and interest.

PAYE

45. The Respondent contended that the Applicant under-declared salaries of its directors, pharmacists, and finance manager, considering the Applicant's operations and responsibilities, and that the minimum pharmacist remuneration as guided by the National Drug Authority is Shs. 1,500,000. The Respondent argued that the Applicant provided no evidence, such as statements or proper payroll records, to substantiate the lower salaries.
46. The Applicant argued that the Respondent used assumed salaries instead of the actual contractual salaries paid to employees. The pharmacists were contracted to work half a day for Shs. 800,000, and the Respondent's reliance on NDA salary guidelines does not override employment contracts. The Applicant attached employment contracts for a pharmacist that indicate a salary of Shs. 800,000 working from 9:00 AM to 1:00 pm (pages 85 -90 of the Joint Trial Bundle).
47. Based on the parties' submissions and evidence, it is clear that the Respondent does not dispute the salaries that the Applicant actually paid. The Respondent's contention is that the salaries are low relative to the NDA Guidelines and the roles and responsibilities of both the staff in question and the directors. We have established that the Respondent's adjustments were not based on a dispute over the actual salaries paid but on what ought to have been paid. While the National Drug Authority provides guidelines on pharmacists' wages, for tax purposes, only what has been paid to an employee is taxable, not what ought to have been paid.
48. Issues concerning the adequacy of remuneration are for the Industrial Court to determine, if contested by the affected employees or the NDA as the regulator of pharmaceutical bodies. Tax liabilities should arise from actual income earned and expenses incurred and not from deemed income or expenses unless expressly provided for by statute. In the present case, the Respondent raised PAYE assessments despite clear contractual obligations that stipulated the worker's remuneration and the working hours and salary payments that are in line with the Applicant's contractual obligations.

49. Section 126 of the Income Tax Act provides:

“(1) Every employer shall withhold tax from payment of employment income to an employee...”.

50. It is clear from the above provision that employers should withhold tax only from actual payments. Furthermore, in the case of ***Guarantee Trust Bank Limited v URA, App No. 20 of 2024***, the Tribunal ruled:

“The question as to whether a person earned income is a question of fact. Either the person received income or did not. While deemed income provisions exist in certain jurisdictions, there is nothing in the Income Tax Act that allows the Respondent to deem the income of an employee.

.... Therefore, the Respondent did not have the right to tax income that was not earned or received.”

51. In light of the above, the Tribunal finds that the Respondent was not justified in adjusting the declared salaries for PAYE purposes, as taxes should be collected on the amount actually earned by the taxpayer.

Directors' salaries

52. The Respondent's upward adjustment of directors' salaries ignored a 2017 Memorandum of Understanding (MoU) between the Applicant and its sister companies on how directors' salaries would be shared among the three companies. The Respondent argued that the MoU was invalid because it was not registered, had no company resolutions, and was signed by one person on behalf of three companies.

53. According to the Memorandum of understanding between the three Companies, ZeeMrs Jasbib Bharwarni has estments Ltd, Zarin Pharmaceuticals and Zee Pharmaceuticals Ltd, the three entities agreed to pay Mr. Malik Bharwani the monthly salary of Shs. 5,400,000, and Mrs. Jasbib Bharwarni a monthly salary of Shs. 3,600,000.

54. While the Respondent questioned the form of the MoU, the Tribunal finds that the Respondent ought to have evaluated the agreement based on its substance rather than dismissing it entirely on form.
55. The evidence before the Tribunal demonstrates that the directors' remuneration was shared among the three companies in accordance with the MoU, and there is no proof that the Applicant paid or accrued salaries beyond what was agreed.
56. PAYE cannot be imposed on income that was never received. In the absence of proof of higher payments by the Applicant, the Respondent cannot assess PAYE based on assumed salaries. The PAYE assessment arising from the adjustment of directors' remuneration is untenable.
57. Having considered all the facts and evidence concerning this dispute, the Tribunal makes the following findings:
- a) The income tax assessment arising from variances in purchases is upheld as the Applicant has not discharged the burden of proof.
 - b) The PAYE assessment is hereby set aside, as it was based on assumptions rather than actual salary payments.
 - c) The Respondent is awarded 80% of the costs of this application.

Dated at Kampala this 20th day of January, 2026.



HON. CRYSTAL KABAJWARA
CHAIRPERSON



HON. GRACE SAFI
MEMBER



THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO. 08 OF 2021

ZEE INVESTMENTS LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: MS. CRYSTAL KABAJWARA, HON. GRACE SAFI,
MS. CHRISTINE KATWE**

RULING

I have had the benefit of perusing the ruling. While I agree with upholding on the income tax assessment, I do not agree with setting aside the PAYE assessments because of the following:

1. The Applicant contended that the Respondent used assumed salaries instead of the actual contractual salaries paid to employees. The Applicant attached employment contracts that indicate the salary as Shs. 800,000 for pharmacists working in shifts from 9:00 AM to 1:00 pm and from 1:00 pm to 5:00 pm.
2. Furthermore, according to the minutes on page 133,134 of the Joint Trial Bundle, it was established that the Applicant paid the director Shs. 1,000,000 that runs at all

branches. However, according to the Respondent, on considering the Applicant's operations and responsibilities the Applicant under declared salaries of its Directors, Pharmacists, and the Finance manager.

3. In the respondent's reply to the Applicant's submission paragraph 3 under the heading 'Resolution of issues burden of proof' subheading "Failure by the Applicant to provide sufficient evidence", the Respondent states that (in respect to the PAYE assessment) it issued administrative additional assessments of Shs. 79,335,900 on the basis of understated salaries for directors, pharmacists and the finance manager.
4. The Applicant had to present documentation pertaining to record keeping of employees and directors' salaries to the Respondent for the Respondent to abandon the issue but instead of doing so, the Applicant kept silent on it. Records talk even if they are incomplete or not maintained well. I ask myself what's wrong with one providing records unless there is something one is hiding. Present the applicable records for review and numbers will go down.
5. Section 15 of the Tax Procedures Code Act provides:
"(1) Subject to subsections (2) and (4), every taxpayer shall, for the purposes of a tax obligation-
 - (a) Maintain in English language, records including in electronic format, as may be required to determine the taxpayers' tax liability under the tax law:*
 - (b) Maintain the record so as to enable the taxpayers' liability under the tax law to be readily ascertained ...".*
6. The Applicant relied primarily on employment contracts drafted and issued by itself. PAYE is assessed on employment income received not merely what is stated in a contract. In the circumstances where the Uganda Revenue Authority questions the credibility of declared salaries/income, every taxpayer is required to present to the Respondent corroborative evidence showing what was actually received. The Applicant operates a pharmacy that cannot lawfully function without a license from the

National Drug Authority which also provides guidance on minimum professional remuneration. Where declared salaries fall below regulatory expectations, the Respondent may seek further proof. Remaining silent and total refusal to cooperate may result in estimated assessments with liabilities which will be difficult to change.

7. In the case of *Finn Church Aid Uganda Limited v URA, App No. 366 of 2024*, the Tribunal ruled that:

"According to section 28 of the Tax Appeals Tribunal Act, for a tax assessment, the burden is on the taxpayer to prove that the assessment is incorrect".

The Tribunal further stated that:

"...it is important for the Respondent to verify the documents liable to ensure completeness and correctness of the stamp duty assessment. Therefore, in the absence of the physical agreements, this Tribunal is unable to determine the accuracy of the assessed duty."

8. In this case, the Applicant presented no documents confirming income received the salary like a payroll, bank statements, transactional ledgers, pay slips, a book where remuneration is acknowledged and signed for if applicable and any other record to explain the diversion from a profession guidance and or contract received income. The employment contracts alone do not demonstrate that the income received and declared were actually the only sum received in a month. This makes it difficult to determine what was received vis a vis the PAYE returned or declared.

In view of the above, I find that the Applicant did not discharge its burden of proof and I hereby dismiss this issue too as well, with costs to the Respondent.

Dated at Kampala this 20th day of January 2026.



MS. CHRISTINE KATWE

MEMBER

