

By Edward Anyoli

# Sh117b tax assessment against importer quashed

**URA asked the tribunal to find that the top-up tax liability of sh117b had been properly raised and that Depo Limited's application lacked merit and should be dismissed.**

The Tax Appeals Tribunal has set aside a tax assessment of sh117b imposed by the Uganda Revenue Authority (URA) against Depo, an importer of tiles and other construction materials.

The ruling was made by panellists Crystal Kabajwara, Rosemary Najjemba and Proscovia Nambi, who on April 13, directed that the assessment be overturned.

In addition to setting aside the tax assessment, the tribunal also awarded costs to Depo Limited.

Depo Limited, a Ugandan-registered company engaged in the importation of building and construction materials, regularly imports stone-coated steel roofing tiles from various international markets, including China and New Zealand.

According to submissions before the tribunal, in 2022, the company entered into a transaction to purchase roofing tiles from Zhe Jiang Longyuan Sifang Machinery Manufacture Co. Ltd in China, with the consignment arriving in Uganda in 2024.

The company declared the goods under IM4 Entry No. C48339 using the transaction value method, in line with the East African Community Customs Management Act, 2004.

Upon arrival in Uganda, URA's customs enforcement department seized the consignment, citing alleged

discrepancies between the submitted invoices and telegraphic transfer (TT) records.

During the hearing, URA contended that the invoices did not correspond with the TT records, noting that two invoices were issued several months after the remittances had already been made. In response, Depo explained that the discrepancies arose from the commercial arrangements under its supply contract with the supplier.

Despite the explanation, URA rejected the declared transaction value and instead applied a substituted value of \$1.75 per kilogramme, which it said was derived from the customs valuation database under the fallback method. This led to a top-up tax assessment of \$31.8m (about sh117b).

The applicant objected to the assessment, arguing that payments had

been made against multiple pro forma invoices and that a 4.04% discount was applied to the pro forma invoice value of \$28,489 (about sh105m), resulting in a final payment of \$27,339 (sh100m).

Through its lawyers, Linda Mugisha and Tracy Ainemugisha, Depo Limited sought to have the overpaid taxes set aside, arguing that the overall assessment was unfair.

The company argued that URA breached the principles of fairness and transparency under Paragraph 8(3) of the Fourth Schedule to the East African Community Customs Management Act, which

requires that an importer be informed in writing of the method used to determine the customs value.

## URA'S SUBMISSION

URA, through its lawyer, Doreen Amutuhaire, argued that where the transaction value method is found inapplicable, the authority follows a strict sequence of valuation methods, applying each step in turn and resorting to the fallback method only as a last measure in the assessment of tax.



Panelist: Kabajwara

URA further contended that Depo Limited had been requested to provide documentation to enable the application of alternative valuation methods, but failed to furnish reliable information.

It was further submitted that the additional assessment was lawful and justifiable due to Depo Limited's failure

to provide supporting documents as required under the Tax Appeals Tribunal Act.

Subsequently, URA asked the tribunal to find that the top-up tax liability of sh117b had been properly raised and that Depo Limited's application lacked merit and should be dismissed with costs.

Since customs tax levied by URA is charged based on the value of the goods and the authority did not accept the importer's declared price, it assigned its own value of \$1.75 per kilogramme. Consequently, URA recalculated the value of the imported goods using the standard rate, leading to a revised and higher tax assessment.

"In light of the applicant's failure to provide satisfactory evidence, the respondent [URA] contends that it correctly applied the fallback method utilising a value of \$1.75 [sh6,475] to arrive at sh117b," Amutuhaire said.

However, the tribunal ruled in Depo's favour, stating: "In light of the foregoing, the application succeeded and the tribunal hereby makes the following orders: The respondent's revaluation of the applicant's goods using a fallback and database rate of \$1.57 (sh6,475) per kilogramme and the resultant top-up assessment is set aside and any excess taxes paid by the applicant pursuant to the impugned assessment shall be refunded in accordance with the law."