THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NO.0098 OF 2015

(Coram: F.M.S Egonda-Ntende, Cheborion Barishaki & Muzamiru Kibeedi Mutangula, JJA)

MARGARET AKIIKI RWAHERU & 13945 OTHERS::::::::::::::::::APPELLANTS

VERSUS

UGANDA REVENUE AUTHORITY::RESPONDENT

(Appeal from the decision of the High Court of Uganda delivered on 10th January, 2014 in Civil Suit No.117 of 2013 by Hon. Justice Christopher Madrama Izama)

JUDGMENT OF CHEBORION BARISHAKI, JA

Between the years 2002 and 2013, the appellants imported goods and paid import duty, Excise duty, Value Added Tax (VAT), Domestic VAT and Withholding tax to the respondent. The appellants brought a suit against the respondent by way of a representative action for a declaration that the domestic VAT they were charged on imports was not provided for under the East African Customs Management Act, the Value Added Tax Act or any other laws of Uganda. The appellants further sought orders that the respondent refunds the taxes it had illegally collected, together with interest from the date of collection until final settlement, general damages and costs of the suit.

The appellants subsequently applied for judgment on admission to the effect that the respondent collects Domestic Value Added Tax. It was also agreed that the issue as to whether the respondent is lawfully mandated to collect Domestic Value Added Tax is referred to the judge for determination. This judgment was later set aside and the Court moved under Order 15 rules 2 of the Civil Procedure Rules for trial of a question of law as to whether the Defendant had mandate to collect "Domestic" Value Added Tax. Trial of questions of fact as to whether any domestic value added tax was collected and if so how much was postponed to be determined after the issues of law were settled.

The learned trial Judge delivered a partial judgment on the point of law and concluded that the suit be fixed for hearing to ascertain whether taxable supplies were made by the appellants for which VAT on imports had been assessed and paid. The learned trial Judge further held that VAT charged on an importer on taxable supplies before the supply is made which product is subsequently supplied was an irregularity and not an illegality.

Being dissatisfied with the decision, the appellants appealed to this Court on the following grounds;

1. *That the learned trial Judge erred when he held that the imposition of "Domestic VAT" of 15% on the value of the goods which is not provided for in the VAT Act, in addition to the 18% imposed on importation was only an irregularity but not an illegality.*

2. *That the learned trial Judge erred when he held that to impose domestic VAT of 15% on the value of goods without compliance with the VAT Act is irregular but to charge VAT on a person who would never supply the goods as a taxable supply would be illegal.*

3. *That the learned trial Judge erred when he held that to impose additional tax known as Domestic Value Added Tax before the supply is made was irregular but not illegal.*

4. *That the learned trial Judge erred when he held that the suit should be fixed for a hearing to ascertain whether any taxable supplies were made by the plaintiffs or alternatively through reconciliation yet the prayers sought for were for declarations and not about computation of each individual refund amount.*

5. *The learned trial Judge erred when he gave judgment but did not indicate in whose favor it was.*

At the hearing of the appeal, the appellants were represented by learned counsel Mr. Birungyi Cephas and Ms. Dorothy Bishagenda while the respondent was represented by learned counsel Mr. George Okello and Mr. Ronald Baluku. Parties filed Conferencing Notes which were adopted by Court as their submissions.

Counsel for the appellants argued grounds 1 and 2 together and grounds 3, 4 and 5 independently.

He submitted that the gist of grounds 1 and 2 was whether the VAT Act CAP 349 permitted the respondent to levy a 15% tax on imports in addition to 18% VAT on imports that is provided for by law. That for the respondent to impose and collect any tax there must be a law authorizing the tax. He cited Article 152 of the Constitution to the effect that no tax shall be imposed except under the authority of an Act of Parliament. He submitted that the Constitutional provision was mandatory and did not envisage any instances where it can be derogated.

Counsel further submitted that the VAT Regulations 1996 do not provide for levying of VAT on imported goods but on imported services. He argued that the VAT Act provides for the collection of "value added tax" at the rate of 18% and not "Domestic Value Added Tax" at the rate of 15%. He contended that there was no statutory order issued by the Minister and approved by Parliament providing for and specifying the rate for domestic value added tax. He relied on **Russell v Scott (1948)2 ALLER** for the proposition that the subject is not to be taxed unless the words of the taxing statute unambiguously impose the tax on him. Counsel added that the imports were only subject to VAT at the rate of 18% at the point of importation under the VAT Act and no further tax of 15% at that point.

On ground 3 of the appeal, counsel faulted the learned trial Judge for holding that to impose additional tax known as Domestic Value Added Tax before the supply is made was irregular but not illegal and submitted that an illegality

goes against the rule of law and cannot be condoned. He added that an illegality makes an act or transaction null and void ab nitio while an irregularity is a defect that can be cured. Counsel added that paragraph 5(a) of the plaint clearly shows that the appellants were liable to pay VAT at the point of importing their goods and they indeed made that payment.

Counsel further submitted that at the point of importation, it would not only be premature but also illegal to assess tax on possible tax supplies when no taxable supply had been made by the appellant and VAT on goods that had been imported into the country and availed on the domestic market were taxable supplies. He added that not every imported good constitutes a taxable supply. That section 18 of the VAT Act states when a taxable supply takes place and section 5 who is liable to pay the tax. Counsel was emphatic that "domestic VAT" levied by the Respondent was illegal and not merely an irregularity as was held by the trial Judge.

Counsel for the appellants faulted the learned trial Judge in ground 4 of the appeal for ordering that the suit should be fixed for hearing to ascertain whether any taxable supplies were made by the appellants or alternatively through reconciliation yet the prayers sought for were for declarations and not computation of the amount of refund to each individual. Counsel submitted that the question of law that was framed for determination by the Court did not in any way require evidence as to whether or not taxable supplies had been

made by the appellants. According to counsel, there was no need to call evidence on this issue.

Counsel further submitted that the question as to whether or not taxable supplies had been made would not resolve the question; whether or not the law provides for a tax known as "domestic tax" to be charged at a rate of 15% on import of goods. That there was no dispute as to whether the 15% domestic VAT was being charged and the respondent kept a record of registered tax payers. He added that the respondent should be able to know from the records if a given tax payer had made a taxable supply or not and in case of a non registered importer, the respondent had a duty to establish whether or not the individual importers qualified to be registered for VAT purposes.

On ground 5 of the appeal, the learned trial Judge is faulted for failing to indicate in whose favour the judgment was. Counsel submitted that the learned trial Judge having found that the law does not provide for "domestic VAT" on imports and it would be illegal to charge VAT for taxable supplies on an importer who would never make a taxable supply; and that S.32 (1) (C) of the VAT Act could only be invoked on one tax payer at a time, the learned trial Judge ought to have entered judgment in favour of the appellants but the judgment did not indicate in whose favour it was delivered.

In reply, counsel for the respondent argued grounds 1, 2 and 3 together and submitted that the appellants having alleged an illegality had the duty to demonstrate why they thought the imposition of domestic VAT was not a mere

irregularity but an illegality which in his view the appellants failed to do. He added that the use of the term "domestic VAT" did not mean that the fiscal imposition of the tax on the appellants was not supported by statute. That the tax was imposed under section 32(1) of the VAT Act. Counsel admitted that the terminology used was only for administrative convenience, albeit being irregular as was indicated by the learned trial Judge since the law did not expressly mention it.

Responding to ground 4, counsel for the respondent submitted that the ground was brought prematurely because the suit had not yet been heard on the merits as ordered by the learned trial Judge.

On ground 5, counsel submitted that the learned trial Judge ruled on a sole issue of law framed in favour of the respondent and this could be ascertained from his finding that the charging of the domestic VAT was not illegal but irregular. He prayed that the appeal be dismissed with costs to the respondent here and in the Court below.

In rejoinder, counsel for the appellant submitted that the appellant demonstrated that the imposition of domestic VAT was an illegality and that the learned trial Judge ought to have found so. That imposition of 15% VAT had no basis in law because the applicable rate was 18% as provided for in the Value Added Tax (rate of tax) order 2006 SI No.29 of 2006.

Counsel further rejoined that for the provisions of S.32 (1) (C) of the VAT Act to apply, the taxpayer must be unlikely to pay tax. In the instant case, the

appellants had fulfilled their tax obligations at the point of importation and there was no basis for the respondent to invoke the provisions of section 32 of the VAT Act. Further that the administrative difficulty faced by the respondent did not in any way justify abrogation of clear provisions of the Constitution which require that tax be collected in accordance with an Act of Parliament.

Counsel argued that charging VAT on taxable supplies before the taxpayer makes taxable supplies was not only premature but also illegal. He submitted that had the Legislature intended to provide for advance tax payment of VAT, it would have stated so. He added that assessing tax when it is not due and when the respondent has no proper basis for concluding that the tax will not be paid if it becomes due was illegal.

On ground 4, counsel for the appellant rejoined that there was no need to have witness testimony prior to determining the legality of imposing "Domestic VAT" by the Respondent. According to counsel, the respondent having admitted to collecting it, the only question for determination was whether this tax was provided for in the law and when it ought to be collected. He added that the prayers sought in the lower Court were declaratory in nature because what the appellant sought was a determination on the legality of imposing "Domestic Tax" and the rate of 15% on imported goods at the point of entry into the country.

On ground 5, counsel contended that the learned trial Judge agreed with the appellant that there was no statutory category of VAT described under the

Value Added Tax Act as domestic VAT but also agreed with the respondent that it was merely an irregularity to charge the tax before taxable supplies were made. According to counsel, the judgment was silent on whether it was in favour of the appellant or the respondent.

The duty of this Court as a first appellate court is to re-evaluate evidence and come up with its own conclusion as enunciated in Rule 30(1) of the Court of Appeal Rules.

In a first appeal such as this one, the Court is in law enjoined to revisit the facts as presented in the trial Court, analyse the same, evaluate it and arrive at its own independent conclusion but always aware that the trial Court had the advantage of hearing the parties fully on the facts and giving allowance for that. **See *Selle and another V Associated Motor Boat Company Ltd and Others (1968) EA 123.***

I will resolve the grounds of appeal as argued by counsel for the appellant.

The gist of grounds 1 and 2 of the appeal is whether the VAT Act CAP 349 provides for the levy of Domestic VAT at 15% tax on imports in addition to the 18% VAT on imports provided for in the VAT Act and whether charging it was a mere irregularity or an illegality.

While handling this issue, the learned trial Judge held thus;

> *"....there is no provision of tax called "domestic VAT" by specific description or definition of law. I agree with the Defendant's counsel that*

the terminology used which is in any case not provided for under the Value Added Tax Act may not be fatal if the tax is imposed in accordance with the law with the only issue being whether giving it a wrong name would be fatal."

The Judge went further to say;

"However to charge VAT on a person who would never supply the goods as a taxable supply would be illegal as submitted by the Plaintiff. On the other hand, VAT charged on an importer on the premises of taxable supplies before the supply is made which product is subsequently supplied is an irregularity and not an illegality as tax on taxable supplies is prescribed by the VAT Act. In other words it is a curable defect.....If VAT is estimated on an anticipated supply which eventually occurs, it would not be an illegality but an irregularity."

Tax is a creature of an Act of Parliament. *Article 152 (1) of the Constitution* provides that no tax shall be imposed except under the authority of an Act of Parliament. In the case of taxes levied by Local Governments, Article 191 of the Constitution provides that;

1. *Local governments shall have power to levy, charge, collect and appropriate fees and taxes in accordance with any law enacted by Parliament by Virtue of article 152 of this Constitution.*
2. *The fees and taxes to be levied, charged, collected and appropriated under clause (1) of this article shall consist of rents, rates, royalties,*

stamp duties, cess, fees on registration and licensing and any other fees and taxes that Parliament may prescribe.

In ***Cape Brandy Syndicate v IRC (1921) K.B 64***, Court held that;-

> *"In a taxing Act, clear words are necessary in order to tax the subject....In a taxing Act, one has merely to look at what is clearly said. There is no room for an intendment. There is no equity about tax. There is no presumption as to a tax. Nothing is to be read in it, nothing is to be implied. One can only look fairly at the language used. Thus, when the language of a taxing statute is clear, if an assessee falls within the four corners of the statute, he is to be taxed; if not, no tax is to be levied."*

The Minister responsible for Finance is permitted under section 78(2) of the VAT Act Cap 349 to make regulations specifying the rates of tax payable under the VAT Act but even then, the regulations cannot have effect unless they are approved by Parliament.

The VAT regulations which were made in 1996 by the Minister made no provision regarding VAT levied on imported goods. It only deals with imported services.

Value Added Tax (VAT) which is the subject of this Appeal, is provided for under ***Section 4 of the Value Added Tax Act Cap 349***. The section states that;

"A tax, to be known as a Value Added Tax, shall be charged in accordance with this Act on-

a) Every taxable supply [in Uganda] made by a taxable person;

b) Every import of goods other than an exempt import; and

c) The supply of imported services, other than an exempt service, by any person. [any imported services by any person]."

Further, Regulation 3 of the Value Added Tax (Rate of Tax) Order 2006 which sets the rate to be charged provides thus;

"The rate of tax for-

a) every taxable supply made in Uganda by a taxable person

b) every import of goods other than an exempt import; and

c) the supply of any imported services by any person

is 18% of the taxable value as defined in sections 21 and 23 of the Act."

Sections 21 and 23 of the VAT Act Cap 349 deals with the taxable value of taxable supplies.

A reading of the above provisions of the law shows that Value Added Tax can only be collected at a rate of 18%. It does not provide for collection of Domestic Value Added Tax at a rate of 15%. There appears to be no Statutory Instrument issued by the Minister and approved by Parliament specifying the rate of domestic Value Added Tax. The basis upon which the respondent was collecting Domestic Value Added Tax at the rate of 15% was not explained by

the respondent's counsel on appeal. What came out in the lower court was that due to challenges in collecting taxes such as multiple registrations and no fixed place of abode by some tax payers, the Commissioner General of the respondent invoked the provisions of section 32 to make an assessment of tax payable by adding a mark-up of 15% to the import value (total value at importation) payable to cater for the value added in between the point of importation and final sale of the product. It was argued for the respondent that the naming of the tax as domestic VAT was a mere nomenclature and did not detract from the substance of the tax which is VAT on a mark-up defined as an estimation of the profits to be made on the imported goods after it is sold in the domestic market. While admitting that the words "domestic tax" did not exist in the VAT Act, the respondent further argued that section 32(1) of the VAT Act supported the imposition of the tax.

As to whether the Commissioner General of URA properly estimated Domestic VAT, the learned trial Judge noted that this was a question of fact and not law which he did not want to delve into because he wanted to confine himself to matters of law. He pointed out that section 32 of the Value Added Tax Act could only be invoked on one tax payer at a time and cannot cover a general category of tax payers as was done in this case. He found and correctly so that there is no express statutory category of VAT under the Value Added Tax Act described as "domestic" VAT. The categories of VAT as defined are VAT on imported goods and services and VAT on taxable supplies.

As to whether the charging of domestic VAT was irregular or illegal, the learned trial Judge held;

> *"In the premises I cannot conclude without qualification that the charging of "domestic VAT" is illegal per se. Firstly naming the VAT in question as "domestic VAT" cannot take out the substance of the tax as VAT on taxable supplies. It is irregular to charge VAT on taxable supplies before the supply takes place."*

It is trite that a person cannot be taxed unless the words of the taxing statute unambiguously impose the tax on him. The respondent argued that the naming of the 18% tax domestic VAT was a mere nomenclature. I do not agree. It has been reinstated in many decisions from various jurisdictions that there is no room for ambiguity in taxation.

In ***Russell V Scott (1948) 2 ALLER at page 5,*** Lord Simonds stated that;

> *"...The subject is not to be taxed unless the words of the taxing statute unambiguously impose the tax on him. It is necessary that this maxim should on occasion be re-asserted and this is such an occasion."*

In ***Standard Chartered Bank (U) Ltd and 6 Others V Uganda Revenue Authority HCCS No.63 of 2011***. Kiryabwire, J (as he then was) cited with approval the speech of Lord Simonds in the case of ***Russell V Scott (1948)2 ALLER 1*** at page 2 where he held that;

"....my Lords, there is a maxim of income tax law which, though it may sometimes be over stressed, yet not be forgotten. It is that the subject is not to be taxed unless the words of the taxing statute unambiguously impose a tax on him. It is necessary that this maxim should on occasion be reasserted and this is such an occasion..."

In ***Joint (Inspector of Taxes) V Bracken Developments Ltd (1994) STC 300 at 606,*** it was held that if Parliament has not imposed the tax, there is no tax.

Again in ***CIT V Elphinstone Spg & Wvg Mills Co. Ltd. 40 ITR 142 (SC) and CIT V Motors & General Stores Ltd. 66 ITR 692, 699-700 (SC),*** it was held that;

"No tax can be imposed on the subject without words in the Act clearly showing an intention to lay a burden upon him. In other words, the subject cannot be taxed unless he comes within the letter of the law. The argument that he falls within the spirit of the law cannot be availed by the Department."

I have not been able to find any law which authorised the respondent to collect domestic VAT at the rate of 15%. The levy of domestic VAT at 15% was done by the respondent without any authority of law and therefore, contrary to Article 152(1) of the Constitution. This was not irregular but illegal.

As pointed out in the ***Cape Brandy Syndicate case (supra)***, in a taxing Act, one has merely to look at what is clearly said. There is no room for an intendment. In other words, if anyone looked at the VAT Act, would they find a

tax called Domestic VAT? If the answer is no (which is the case), then it is illegal. In the same vein, the rate of 15% was unlawful. Counsel for the respondent conceded that domestic VAT was not expressly mentioned in the VAT Act although he was quick to explain that the use of the terminology was only for administrative convenience. This argument cannot stand.

I find that "domestic VAT" at a rate of 15% levied by the respondent on the appellants had no basis in law and is illegal.

Grounds 1 and 2 of the appeal succeed.

On ground 3, the learned trial Judge is faulted for holding that to impose additional tax known as Domestic Value Added Tax before the supply is made was irregular but not illegal.

Regarding charging VAT on a taxable supply, the learned trial Judge held that;

> *"To charge VAT without compliance with the Act prescribing when the taxable supply takes place and defining what is meant by taxable supplies is irregular and contrary to the prescriptions in the above written provisions of the law. However to charge VAT on a person who would never supply the goods as a taxable supply would be illegal as submitted by the Plaintiff. On the other hand VAT charged on an importer on the premises of taxable supplies before the supply is made which product is subsequently supplied is an irregularity and not an illegality as tax on taxable supplies is prescribed by the VAT Act. In other words it is a curable defect...If*

VAT is estimated on an anticipated supply which eventually occurs, it would not be an illegality but an irregularity. A tax has to be enabled by an Act of Parliament."

Counsel for the appellant submitted that at the point of importation, it would not only be premature but also illegal to assess tax on possible tax supplies when no taxable supply had been made by the appellants and VAT on goods that have been imported into the country and availed on the domestic market is levied on taxable supplies and not every import constituted a taxable supply.

An act which ought to be authorised by law if it is not so authorised is illegal. The Constitution requires that taxation ought to be authorised by an Act of Parliament. If tax is levied without authority of Parliament then it is illegal. An illegality goes against the law and can attract sanctions.

The learned trial Judge stated thus;

"In the premises I cannot conclude without qualification that the charging of "Domestic VAT" is illegal per se. Firstly naming the VAT in question as "Domestic VAT" cannot take out the substance of the tax as VAT on taxable supplies. It is irregular to charge VAT on taxable supplies before the supply takes place."

Counsel for the respondent submitted that the use of the term "domestic VAT" did not mean that the fiscal imposition meted on the appellants was not supported by statute. That the use of the terminology was only for administrative convenience, albeit irregular.

Black's Law Dictionary 4th Edition defines an irregularity as an act or practice that varies from the normal conduct of an action and an illegality as an act that is not authorized by law, the state of not being legally authorised.

Section 32(1) of the VAT Act provides as follows;

1) where-

a) a person fails to lodge a return under section 31;

b) the Commissioner General is not satisfied with a return lodged by a person; or

c) the Commissioner General has reasonable grounds to believe that a person will become liable to pay tax but is unlikely to pay the amount due,

the Commissioner General may make an assessment of the amount of tax payable by that person.

While interpreting section 32(1) (C), the learned trial Judge stated that;

"Furthermore a strict interpretation of S. 32(1) (C) of the VAT Act confines the belief of the Commissioner General to reasonable grounds that a particular person will become liable to pay tax but is unlikely to pay the amount due. This by necessary implication refers to circumstances of a particular person in each case. Consequently, section 32(1) (C) can only be invoked on one taxpayer at a time and cannot cover a general category of taxpayers."

From its wording, S.32 (1) (C) of the VAT Act can only be invoked by URA if it knows who is liable to pay the tax and when the payment is to be made. It can also invoke it if the person who is liable to pay the tax is likely to fail to make the payment.

In the instant case, the appellants pleaded in the lower Court that they had paid VAT which was levied at the point of importation of the goods. That there was no basis upon which the respondent reached the conclusion that the tax due to the import would not be paid so as to assess them under S.32 of the VAT Act Cap 349. The trial Judge found that section 32(1) (C) can only be invoked on one tax payer at a time and cannot cover a general category of tax payers. There was therefore, no basis upon which the respondent could estimate a mark-up which applied generally to all importers.

I agree with the learned trial Judge that section 32(1) (C) of the VAT Act Cap 349 can only be invoked on one taxpayer at a time. The same section only applies to persons liable to pay tax but unlikely to pay the amount due. In the instant case, there was uncontroverted evidence that the appellants imported goods and paid import duty on importation. The respondent was therefore not justified to invoke section 32(1) (C) of the VAT Act in the circumstances.

The respondent argued that the charge of 15% domestic VAT was for convenience which helped URA, tax payers, Government and auditors among others to easily distinguish the import VAT from other VAT levy. Tax can only be collected on authority of Parliament.

The laxity of the respondent or convenience of the government and auditors as claimed by the respondent's counsel cannot be used to facilitate breach of the law. The mere fact that a tax may become due in the future on an imported good made available in the domestic market does not allow URA to levy the tax when it is not yet due. VAT on taxable supply is levied when the taxable supply is made at the applicable rate of 18% and not 15%.

I therefore find the imposition of the additional tax known as Domestic Value Added Tax before the supply was made illegal and not merely an irregularity. Ground 3 of the appeal succeeds.

On ground 4 of the appeal, the learned trial Judge is faulted for holding that the suit should be fixed for hearing to ascertain whether any taxable supplies were made by the plaintiffs or alternatively through reconciliation yet the prayers sought for were for declarations and not computation of each individual refund amount.

Counsel for the appellant submitted that the question of law which was framed for determination by Court did not in any way require evidence on whether or not taxable supplies had been made by the appellant. According to counsel, there was clearly no need to call evidence on this issue because what the appellant sought was determination on the legality of imposing Domestic VAT and the rate of 15% on imported goods at the point of entry into the country.

The learned trial Judge addressed this issue in the following wording;

"In the plaintiff's suit, it is assumed that the matters of fact as to whether a taxable supply has subsequently been made by any of the plaintiffs or not is deemed to have occurred. This can be established through audit or trial of matters of fact. The point of law determined cannot resolve the merits of the plaintiff's action."

The appellant prayed for a declaration that "Domestic Value Added Tax" was charged on imported goods with no legal basis and that the defendant refunds the sum of taxes illegally collected from the plaintiffs, interest on the sums in (a) from the date of accrual until final settlement at commercial rate, general damages and costs of the suit.

The question as to whether or not the law provides for "domestic VAT" to be charged at the rate of 15% on an import of goods does not require evidence. In any case, it was an admitted fact in the pleadings that the tax was levied albeit lawfully.

The respondent in its pleadings in the lower Court contended that domestic Value Added Tax was lawfully imposed on the plaintiffs and that for that reason they were not entitled to any refunds. Having found that the levy and collection of Domestic Value Added Tax by the respondent was illegal, the respondent ought to refund the collected tax to the persons from whom it made the illegal collection. This would not require another trial because the respondent has data on the collections unless disagreements arise on entitlement and amounts due. This having been a commercial transaction, the

refunds would carry interest at Court rate from the date when the respondent collected the sums up to the date it makes the refund.

Ground 4 of the appeal succeeds.

On ground 5 of the appeal, the learned trial is faulted for not indicating in whose favour the Judgment was.

In his decision, the learned trial Judge stated that a strict interpretation of the law does not have a tax called domestic VAT. He went on to emphasize that there is no statutory category of VAT described under the Value Added Tax as "domestic VAT." He concluded at page 28 of his judgment that by agreeing with the defendant/respondent that the terminology used which was not in the VAT Act would not be fatal if the tax was imposed in accordance with the law.

Order 21 Rule 4 of the Civil Procedure Rules provides for what a judgment should contain . That judgments in defended suits shall contain a concise statement of the case, the points for determination, the decision on the case and the reasons for the decision.

The learned trial Judge determined each issue arising from the pleadings as set forth. He cannot be faulted for reaching the conclusions in the way he did. I agree with counsel for the respondent that this ground was simplistic.

Ground 5 of the appeal fails.

In conclusion and for the reasons set out herein, the appeal succeeds on grounds 1, 2, 3, 4 but fails on ground 5 with the following declarations:-

1. The Appeal succeeds on grounds 1,2,3 and 4 and fails on ground 5.

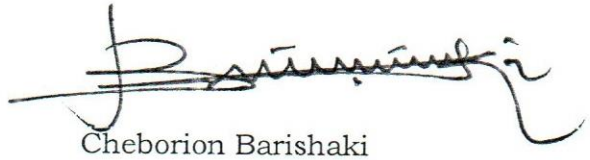
2. Domestic Value Added Tax charged on imported goods of the appellants was illegal.

3. The appellants are entilted to refund of the illegally collected taxes with interest at court rate from date of collection upto date of refund.

4. The appellants are entitled to 4/5 of the costs here and in the court below.

I so order.

Dated this.....9th.....day of.....Nov.....2020



Cheborion Barishaki

JUSTICE OF APPEAL

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

[Coram: Egonda-Ntende, Cheborion Barishaki & Mutangula Kibeedi, JJA)

CIVIL APPEAL NO.98 OF 2015

(Arising from High Court Civil Suit No. 117 of 2013)

BETWEEN

Margaret Akiiki Rwaheru & Others==========APPELLANT

AND

Uganda Revenue Authority==========RESPONDENT

(An appeal from the judgment of the High Court of Uganda at Kampala (Madrama Izama, J.), (as he then was), delivered on 10th January 2014.)

Judgment of Fredrick Egonda-Ntende, JA

[1] I have had the opportunity to read in draft the judgment of my brother, Cheborion Barishaki, JA. I agree with it and have nothing useful to add.

[2] As Mutangula Kibeedi, JA, agrees too, this appeal is dismissed in part, and allowed in part, in the manner proposed by Cheborion Barishaki, JA, together with the orders he has proposed.

Dated, signed and delivered at Kampala this 9th day of Nov 2020

Fredrick Egonda-Ntende
Justice of Appeal

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NO.0098 OF 2015

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UGANDA REVENUE AUTHORITY::::::::::::::::::::::::::::RESPONDENT

(Appeal from the decision of the High Court of Uganda delivered on 10th January, 2014 in Civil Suit No.117 of 2013 by Hon. Justice Christopher Madrama Izama)

Judgment of Muzamiru Kibeedi, JA

I have had the advantage of reading in draft the Judgment prepared by my Lord Cheborion Barishaki, JA and I concur with the Orders he has proposed.

Dated at Kampala this 9th day of NOV 2020

Muzamiru Kibeedi
JUSTICE OF APPEAL