

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL DIVISION)
CIVIL APPEAL NO.49 OF 2021
(ARISING FROM TAT APPLICATION NO.35 OF 2020)
BOLLORE TRANSPORT & LOGISTICS LTD:..... APPELLANT
VERSUS
UGANDA REVENUE AUTHORITY:..... RESPONDENT

Before Hon. Lady Justice Patricia Kahigi Asimwe

Judgement

Introduction:

1. This is an appeal from the Ruling of the Tax Appeals Tribunal following an application by the Appellant challenging two withholding tax assessments by the Respondent. The application challenged the Withholding Tax assessment of UGX 123,539,723 on the gross payments for the services of outsourced casual labourers and PAYE assessment of UGX 404,007,535 on the fuel cards provided to the Applicant's employees.

Background:

2. The Appellant is a company in the business of providing transport, clearing, and forwarding services. The Appellant offers fuel cards with fixed amounts every month to its employees and the fuel is used in the employees' private cars. The Appellant also obtains casual labourers from two companies.
3. In 2019, the Respondent audited the Appellant's operations for the period January 2015 to December 2017. The Respondent accordingly issued an assessment of UGX 123,539,723 for Withholding Tax on the gross payments for the services

rendered by the casual labourers. The Respondent also issued an assessment which was adjusted to UGX 404,007,535 for PAYE Tax on the fuel cards issued to the Appellant's employees. The Appellant disputed these assessments and applied to the Tax Appeals Tribunal vide TAT Application No.35 of 2020.

The Ruling of the Tax Appeals Tribunal:

4. In its ruling delivered on 22nd September 2021, the Tribunal partially allowed the application. It overruled and set aside the withholding tax assessment of UGX 123,539,723 relating to gross payments for the wages of the outsourced casual labourers. The Tribunal however upheld the adjusted PAYE assessment of UGX 404,007,535 on the fuel cards issued to the appellant's employees.
5. The Tribunal held that while the Appellant provided accountability of the fuel by the various employees, it did not adduce evidence to show that the said employees' duties involved travelling. The Tribunal held that the fuel allowance given to the appellant's employees was a benefit.

Appeal to this Court and grounds of appeal:

6. Being partially dissatisfied with the ruling of the Tribunal, the Appellant filed this appeal. The Notice of Appeal contained the following grounds:
 - I. That the learned members of the Tribunal erred in law when they found that the provision of fuel cards to the appellant's employees was taxable as a benefit
 - II. That the learned members of the Tribunal erred in law when they ordered the Applicant to pay taxes amounting to UGX 404,007,535.
 - III. The learned members of the Tribunal erred in law in failing to properly evaluate the evidence on record thereby coming to the wrong conclusion.
7. The Appellant subsequently filed a Record of Appeal containing among others, a Memorandum of Appeal. The memorandum of appeal had grounds of appeal which were almost identical to