THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

TAT APPLICATION NO. 11 OF 2016

JACOBSEN UGANDA POWER PLANT CO. LTD ========== APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY ========== RESPONDENT

RULING

This ruling is in respect of an application challenging a Withholding Tax (WHT) assessment of Shs. 187,500,240/= and a Value Added Tax (VAT) one of Shs. 275,520,042/= by the respondent on the applicant

The facts giving rise to this application are as follows: The applicant is a limited liability company incorporated in Uganda and engaged in the business of generating and supplying electricity to the Uganda Electricity Transmission Company. On 28th November, 2011, the applicant entered into a three year management and services agreement with JELCO As (hereinafter referred to as 'JELCO'), a limited liability company incorporated in Norway and the majority shareholder in the applicant.

The agreement which was for three consecutive years beginning 1st January 2012 to 31st December 2014, was for the supply by JELCO of certain technical and support services to the applicant. The agreement envisaged that in supplying the said technical and support services the staff of JELCO would be required to travel to Uganda from Norway so as to provide the said services at the applicant's plant in Namanve. The agreement therefore provided a sum of Euros 15,000 (Fifteen Thousand Euros) per month as the cost of travel, accommodation and per diem expenses.

Under the terms of the said agreement, JELCO was required to invoice the applicant for its services including the cost incurred by the former for travel, accommodation and per diem expenses. In accordance with the terms of the said agreement, various personnel

employed by JELCO travelled to Uganda and provided the services set out under the agreement. These personnel incurred travel costs, hotel expenses and per diem.

In 2016, the respondent carried out an audit of the applicant and imposed an assessment in the sum of Shs. 5,351,374,339/= being unpaid Value Added Tax and withholding tax. The amount in question was, upon a partial objection by the Applicant, revised to Shs. 2,369,047,723/=.

The following issues were framed and set down for determination.

1. Whether the applicant is liable to pay Withholding Tax and Value Added Tax on the Euros 479,615 purported expenses?
2. What are the remedies available?

The applicant was represented by Mr. Dusabe while the respondent was represented by

The applicant called one witness Mr. Moen Dag, its managing director, who testified that under the management and service agreement between the applicant and JELCO the latter provided procurement, technical, financial and management assistance to the applicant. Mr. Dag testified that as consideration for the provision of the said services the applicant paid JELCO Euros 35,000 per month**.** A further sum of Euros 15,000 per month was paid to cater for expenses related to the provision of the said services, namely travel costs, hotel costs and per diem of the various personnel sent by JELCO to provide the said services. Mr. Dag testified that the applicant's dispute with the respondent was based on the sum expended on travel costs, hotel costs and per diem.

Mr. Dag argued that tax was included in the cost of the return air tickets from Norway to Uganda and that the respondent's insistence that further tax should be paid on these expenses meant that JELCO was being taxed twice. Mr. Dag conceded under cross examination that JELCO was a non-resident company and was not a registered tax payer in Uganda. He also testified that if JELCO sourced income in Uganda such income was liable to tax. In re-examination, Mr. Dag testified that the applicant had paid tax in respect of the monthly management fee of Euros 35,000.

The respondent opted not to call any witness. The parties proceeded to file written submissions.

In its submission the applicant submitted that the respondent was wrong to assume that the direct expenses incurred by the applicant as a reimbursement to JELCO constituted the "gross amount of the dividend, interest, royalty, natural resource payment or a management charge" within the meaning of S. 83(2) of the Income Tax Act. The applicant contended that the reimbursement not being an actual earning by JELCO was a refund of monies directly expended on travel, hotel and per diem expenses and could not be classified either as a dividend, interest, royalty, natural resource payment or as a management charge as envisaged under S. 83(2) of the Income Tax Act. The applicant invited the tribunal to distinguish the reimbursable expenses from the management fee of Euros 35,000 per month.

The applicant also contended that an expense that is reimbursable such as air tickets or the upkeep of JELCO's staff during their stay in Uganda cannot be categorized as a 'fee or charge within the meaning of S. 21(1) of the Value Added Tax. The applicant asserted that the value of the taxable supply under S. 21(1) of the Value Added Tax Act can only refer to the value of the supply which in this case is the management fee categorized as a remuneration under Clause 5.1 of the management and service agreement.

The applicant further submitted that taxes had already been incurred by JELCO in respect of hotel bills for which VAT is charged in Uganda and in respect of air tickets for which taxes are paid in Norway. The applicant submitted that further VAT on the said expenses would be improper and would amount to double taxation.

The applicant submitted that the imposition of Withholding Tax and VAT by the respondent on the applicant to the extent that it applied to the reimbursable expenses was a result of a wrong interpretation of the provisions of the Income Tax Act and the VAT by the respondent.

The applicant submitted that the respondent imposed penalties in the form of interest due to delayed payments of the VAT and Withholding Tax. The applicant submitted that to the extent that the imposition of the VAT and the Withholding Tax on the

reimbursable expenses was wrong and not in accordance with the law there should be no penalties or interest payable on non-existing tax payments. The applicant contended that it should not be penalized as the expense incurred does not translate to a benefit either to JELCO or itself. The applicant further contended that the reimbursable expense should be characterized as a cost and not a charge and that it was not money paid or payable for the supply of the services in question by JELCO or the applicant.

The applicant cited *Swissgarde (U) Ltd v Uganda Revenue Authority* Tax Application No. 2 of 2009 for the proposition that in assessing tax due the respondent should not include expenses as part of the amount assessed. The applicant relying on the above case invited the tribunal to hold that the reimbursable expenses in respect of air tickets and local upkeep should not attract VAT or Withholding Tax.

In its submissions the respondent contended that it was not in dispute that the applicant was a company registered in Uganda which was being provided management services by JELCO, a non-resident company registered in Norway. The respondent also admitted that it was not in dispute that as a result of the management contract, the applicant paid JELCO a monthly fee of Euros 50,000 broken down as Euros 35,000 towards the management services and Euros 15,000 as reimbursements. The respondent submitted that by the end of the contract period the applicant had paid JELCO, a total of Euros 437,206.61 as reimbursements.

The respondent submitted that the assessment was based on Sections 4, 17 and 83 of the Income Tax Act. The respondent submitted that under S. 4, income tax is imposed on every person who has a chargeable income for a year of income. While gross income of a person for the year of income constituted the total amount of; business income, employment income and property income and that for a resident person it included income derived from all geographical sources while for non-resident persons it included income solely derived from sources in Uganda. Citing S. 79 of the Income Tax Act, the respondent submitted that it was not in dispute that the sum of Euros 437,206.61 was income sourced in Uganda.

The respondent argued further that the contract sums paid by the applicant to JELCO, took the character of an International payment and as such was governed under S. 83

of the Income Tax Act, which imposed a tax on every non-resident person who derived any dividend, interest, royalty, rent, natural resource payment, or management charge from sources in Uganda. The respondent also cited S. 83(2) of the Income Tax Act which provides that the tax payable by a non-resident person is to be calculated by applying the rate of 15% to the gross amount of the dividend, interest, royalty, natural resource payment, or management charge derived by a non-resident person.

The respondent contended that under S. 83(6) of the Income Tax Act, deductions are allowed in respect of sums attributed to the activities of a branch of a non-resident company in Uganda since such amount is subject to the operation of S.17 of the Income Tax Act. The respondent contended that it was not in dispute that JELCO, the non-resident company to which the applicant paid the contract sum has no branch in Uganda and that as such it could not expect to make allowable deductions even in the form of reimbursable expenses from the gross sum before tax is levied because a non-resident company without a branch in Uganda cannot claim allowable deductions since the income tax levied is charged on the gross amount. The respondent further contended that in this case the gross amount included both the monthly sum of Euros 35,000 being the compensation for the management services and Euros 15,000 being the cost of travel, accommodation and per diem.

The respondent cited S.120 of the Income Tax Act which provides that any person making a payment of the kind referred to in Sections 83 or 85 shall withhold from the payment the tax levied under the relevant section. The respondent contended that the applicant had a duty to withhold 15% on the gross amount paid and that any claims relating to deductions had to be made by JELCO and not the applicant.

The respondent submitted that the applicant was not justified to apply the Withholding Tax rate of 15% to certain amounts leaving out others as the law required the tax to be paid on the gross amount since tax on non-resident persons is a final tax not subject to the deductibility rules found in Section 17.

The respondent submitted that JELCO was free to take advantage of the deductibility rules set out under the Income Tax Act by setting up a branch in Uganda. Further the respondent contended that JELCO had a remedy in seeking a foreign tax credit for tax

paid in Uganda from Norway in which case it would have the opportunity to deduct expenses incurred in deriving income taxed in Uganda.

In its rejoinder, the applicant reiterated its claim that the reimbursable expense of Euros 15,000 per month could not be categorized as chargeable income as it did not constitute income as envisaged under Sections 4, 17 and 83 of the Income Tax Act, it not being either business income, employment income or property income. The applicant asserted that the sum in question was a refund to JELCO by the applicant which attracted neither VAT nor withholding tax. The applicant submitted that the reimbursable expense was neither business income within the meaning and definition of business income under S. 18 of the Income Tax Act nor employment income within the meaning and definition of employment under S. 19 nor property income under S. 20 of Act. The applicant contended that in that case it could not be argued that the reimbursable expenses formed part of the gross income due to JELCO. The applicant noted that it had provided all the receipts and information to clearly show that the sums in question were reimbursable expenses and not income within the meaning of S.79 of the Income Tax Act.

The applicant clarified that the suggestion by the respondent that the applicant ought to have been a branch of JELCO was of no relevance as the agreement between the applicant and JELCO clearly distinguished between what amount constituted management fee and what amount constituted reimbursements.

Having listened to the evidence, perused through the exhibits and read the submissions this is the ruling of the Tribunal.

It is not in dispute that JELCO a non-resident company registered in Norway is a majority shareholder in the applicant. On 28th November 2011 JELCO entered a management contract with the applicant where the former would provide technical and other support services to the latter with effect from 1st January 2012 to 31st December 2014. Under Clause 5.1 of the contract the applicant was supposed to pay JELCO remuneration for the provided services. Under Clause 5.2 JELCO was supposed to invoice the applicant for any other documented direct costs in addition to the

remuneration. Under Appendix 1 it was agreed that the company shall invoice travel costs such as air tickets, hotel expenses, per diem and other costs incurred.

Evidence was adduced to show that staff of JELCO traveled to Uganda to offer the services provided for in the contract to the applicant. Exhibits A3 to A8 show the copies of the air tickets the staff of JELCO incurred to travel to provide the services. For the three years JELCO incurred reimbursable expenses for the air tickets, per diem and other expenses. It is not disputed that the applicant paid a total of 437,206.61 Euros towards the reimbursement expenses to JELCO.

The respondent carried out an audit on the applicant and charged Withholding Tax and VATon the above sum. The bone of contention between the applicant and the respondent is that while the latter considers the payment of 437,206.61 Euros as income to JELCO, the former considers it as reimbursable expense it incurred. The underlying tone in the respondent's contention is that the JELCO is the majority shareholder in the applicant and that the money received by the former was sourced in Uganda.

The Tribunal shall deal with the issue of withholding tax first. Income tax is imposed by S. 4 of the Income Tax Act which provides that it shall be imposed on every person who has chargeable income. Therefore not all income is taxable but that which is chargeable. In order to determine whether the monies paid to a non – resident company like JELCO are chargeable one has to look at S. 83(1) of the Income Tax Act which reads as follows:

> "Subject to this Act, a tax is imposed on every non-resident person who derives any dividend, interest, royalty, natural resource payment or management charge from sources in Uganda."

Section 83(2) provides as follows:

> "The tax payable by a non-resident person under this section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of the dividend, interest, royalty, natural resource payment or management charge derived by a non-resident person"

Part IV of the third schedule to the Income Tax Act provides as follows:

> "The income tax rate applicable to a non-resident person under sections 82, 83, 84 or 85 is 15 percent"

Under S. 120 of the Income Tax Act any person making a payment of the kind referred in S. 83 and 85 shall withhold from the payment the tax levied under the relevant Section. So the question is: was the respondent justified in charging Withholding Tax on the applicants disputed payments to JELCO?

The respondent argued that resolving the first issue lied in defining the term 'gross amount' as set out under S. 83 (2) of the Income Tax Act. Does the "gross amount'' include the cost of air tickets, hotel expenses and per diem or not? Before one can determine what the gross amount is, one should first satisfy himself that the gross amount is either a dividend, interest, natural resource payment or management charge. One of the cardinal rules of the interpretation of statutes that an Act must be construed as a whole so that internal inconsistencies are avoided. One cannot read S. 82(2) without first reading S. 83(1). In *Bank of Baroda v Uganda Revenue Authority Civil* Appeal 71 of 2013 the court state that "the canon rule of interpretation is that every part of the statute must be understood in a harmonious manner by reading and construing every part of it together. (See *Interpretation of Taxing Statutes by BCA Referencer 2016- 2017*).

S. 83(1) states that a tax is imposed on every non-resident who derives any dividend, interest, royalty, natural resource payment or management charge from sources in Uganda. Clause 5.1 of the contract between the applicant and JELCO provides that the applicant shall pay to the company remuneration for services. Clause 5.2 provides for compensation for documented direct costs. It is not in dispute that the monthly sum of 50,000 Euros paid by the applicant to JELCO which constitutes a management charge of 35,000 Euros and reimbursement expense of 15,000 Euros were derived by a non-resident person from sources in Uganda as envisaged under S. 83 of the Income Tax Act. It is still doubtable that all the payment for the air tickets was sourced in Uganda. The flights originated from abroad, Norway. Such expenses ought to have been removed as income due to the applicant as it was not sourced in Uganda. Even though the Tribunal were to agree with the respondent that the applicant's payments to JELCO

were sourced in Uganda there is nothing to show that the all the said payments were either dividend, interest, royalty, natural resource payment or a management charge. It is not denied that JELCOS is the majority shareholder in the applicant.

Exhibits A3 to A8 show that the payments were in reimbursements of costs incurred in respect of air tickets, hotel expenses, per diem and other travel costs. The Tribunal cannot imagine that the reimbursable expenses were dividends, royalty, natural leaving management charges. S. 83(1) of the Act provides for management charge. While the remuneration of 35,000 Euros can be considered as a management charge the reimbursable expense of 15,000 Euros cannot. In *Cape Brandy Syndicate v I.R. Comrs*, Rowlett J, stated as follows:

> "….in a taxing Act one has to look at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language use."

Black's Law Dictionary 8th edition p. 248 defines a charge as 'to impose a lien or claim'. A management charge under S. 83 of the Act is a claim. Remuneration under clause 5.1 of the contract between JELCO and the applicant qualifies to be a management charge. Cost is defined on page 371 to also mean, for our purposes, expenditure. An expenditure incurred in the provision of management services does not constitute a management claim or charge. These are expenses incurred and paid to third parties and not to the service provider. It is income for third parties or service providers and who are not the parties in the contract. If we are to consider it as a 'charge' it is still not a 'management charge' as it is paid for tickets, hotel, travel and per diem.'

Parliament ought to have removed the word 'management' in S. 83(1) to make all charges taxable. The charges which are taxable were restricted to management and not all charges. In *Registered Trustees of Kampala Institute v Departed Asians Property Custodian Board*, SCCA 21/93 the Supreme Court held that "it is a wrong thing to read into an Act of Parliament words which are not there and in absence of clear necessity. It a wrong thing to do". As long as air tickets, accommodation and travel costs are not management charges they are not liable to tax.

S. 87(1)(b) of the Income Tax Act provides that no deductions is allowed for any expenditures incurred by a non-resident person in deriving income under S.83 of the Income Tax Act. The respondent in order to circumvent the said provision make the expenses incurred to third parties under clause 5.5 of the contract reimbursable. However an expense does not become income because it is reimbursable, it still remains an expense. Its implication is that the expenses incurred by JELCO though cannot be allowed as deductible expenditures have been reimbursed by the applicant. In essence the non-resident person has not incurred any expenditure that is deductible under S. 87(1)(b) of the act. In *IRC V Fisher's Executors* (1926) AC 395 Lord Sumner stated that "the highest authorities have always recognised that the subject is entitled to arrange his affairs as not to attract taxes imposed by the Crown, so far as he can do so within the law, and that he may legitimately claim the advantage of any expressed terms or of any omission that he can find in his favour in taxing Acts." In *Dominion Taxi Cab Association V MNR* [1954] SCR 82 the court held "it is well settled that in considering whether a particular transaction brings a party within the terms of the Income Tax Act, its substance rather than its form to be regarded". In *Placer Dome Inc. V Canada* [1992] 2 CTC 98 at 109 the Canadian Supreme Court held that "it is the substance of a transaction that must be looked at in order to determine the true legal rights and obligations of the parties. Similarly, it is the commercial and practical nature of the transaction, the true legal rights and obligations flowing from it that must be looked at to determine its tax implications." The applicant and JELCO constructed their contract in such way that the expenses incurred by the latter would not be considered as part of the management charge. The Tribunal holds that the expenditure incurred by JELCO in respect of air tickets, hotel expenses, per diem and other travel costs does not constitute a management charge due to it or income under S.83 of the Income Tax Act.

Where there is doubt in the interpretation of conflicting Sections of the Income Tax Act the taxpayer takes the benefit of the doubt. For a tax to be imposed it must be clear. In *Stanbic Bank Uganda Ltd and others v URA* HCCA 170 of 2007 where the law had provided for two duties for the same item Kiryabwire J. (as he then was) held that "There is little doubt that by providing two duties for the same item there was an error.

This makes the law unclear and ambiguous. I agree with counsel for the plaintiff that the law is fairly settled that the ambiguity should be construed in favour of the tax payer."

The Tribunal having found that the respondent was not justified in charging withholding taxes on the reimbursement payments to JELCOS will now address the issue of the VAT imposed on the applicant.

VAT is imposed by S. 4 of the Value Added Tax Act which provides, for our purposes that a tax to be known as Value Added Tax shall be charged on every taxable supply made by a taxable person. S. 5 of the Act provides that the tax payable in case of a taxable supply is to be made by the person making the supply. Under S. 11 of the Act a supply of services includes the performance of services for another person and the making available of any facility or advantage. It is not in dispute that JELCO incurred expenses of air tickets, hotel expenses, per diem and other travel costs and there was a supply of services. However the said services were not provided by JELCO to the applicant or to itself. The said services were provided by third parties who were not parties to the contract. The Tribunal believes that the said third parties paid VAT or are liable to pay the tax. To require JELCO to pay VAT would be mean that it is imposed twice for the supply of the said services. That is the airline company and the hotels which have already charged VAT would be ignored.

Having looked at the law the Tribunal also finds that the respondent is not justified in charging VAT on the applicant. Furthermore there is no legal provision that allows withholding of VAT. We accordingly allow this application with costs.

Dated at Kampala this day of 2018.

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DR. ASA MUGENYI
CHAIRMAN

MR. GEORGE WILSON MUGERWA
MEMBER

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TAT APPLICATION NO. 11 OF 2016

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UGANDA REVENUE AUTHORITY ========== RESPONDENT

RULING

I have had the opportunity to read the draft ruling of my colleagues and would wish to differ in the following respect.

The key to resolving this issue lies in defining the term 'gross amount' as set out under S. 83(2) of the Income Tax Act. Does this term, as the respondent asserts include the cost of travel, accommodation and per diem incurred by JELCO, or does it only relate to the monthly sum of Euros 35,000, being the cost of the Utility Support Management Service, as asserted by the applicant?

It is one of the cardinal rules of the interpretation of statutes that an Act must be construed as a whole, so that internal inconsistencies are avoided and that words that are reasonably capable of only one meaning must be given that meaning whatever the result. This is called the literal rule. In *Cape Brandy Syndicate v I.R. Comrs*, Rowlett J, stated as follows;

> "…In a taxing Act one has to look at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."

Therefore, in order to define the term "gross amount" it is necessary that we look at S. 83 of the Act in whole and all other sections of the Act which might have a bearing on the operation of section 83 and 'look fairly at the language used'.

S. 83(1) of the Income Tax Act provides as follows;

'Subject to this Act, a tax is imposed on every non- resident person who derives any dividend, interest, royalty, natural resource payment or management charge from sources in Uganda'.

S. 83(2) provides as follows;

'The tax payable by a non-resident person under this section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of the dividend, interest, royalty, natural resource payment or management charge derived by a non-resident person'.(emphasis mine).

Part IV of the third schedule to the Income Tax Act provides as follows; 'The income tax rate applicable to a non-resident person under sections 82, 83, 84 or 85 is 15 percent'

S. 87 of the Income Tax Act provides as follows;

"(1) The Tax imposed on a non-resident person under sections 83, 84, 85, 86(1) and 86(4) is a final tax on the income on which the tax has been imposed and-

(a) That income is not included in the gross income of the non-resident person who derives the income;

(b) No deduction is allowed for any expenditure or losses incurred by the non-resident person in deriving the income;

(c) The liability of the non-resident person is satisfied if the tax payable has been withheld by a withholding agent under section 120 and paid to the Commissioner under section 123.

(2) In this section, "withholding agent" has the meaning in section 115."

Having set out the law, we will now, proceed to apply the law to the facts of the case.

It is not in dispute that the monthly sum of Euros 35,000 paid by the applicant to JELCO constitute a management charge derived by a non- resident person from sources in Uganda as envisaged under S. 83 of the Income Tax Act. It is also not in dispute that the monthly sum of Euros 15,000, being the cost of air tickets, hotel expenses, per diem and other travel costs incurred by JELCO, forms the expenses incurred by JELCO, in deriving the management charge in question. Therefore in determining the tax payable by JELCO under S. 83(2) above, the rate of 15% as prescribed in Part IV of the Third Schedule to the Income Tax Act is applied to the gross amount of the management charge derived by JELCO. But what does the "gross amount" to which the rate of 15%

is to be applied, refer to? Does it include the cost of air tickets, hotel expenses and per diem or not?

In determining the tax payable under Sections 83 and 87 of the Act requires us to take into account certain considerations. For our purposes, the most pertinent of these is to be found under S. 87(1) (b). S, 87(1 (b) states that no deduction is allowed for any expenditure or losses incurred by the non-resident person in deriving that income. Applying the literal rule of construction to the facts of our case, S. 87(1) (b) of the Act is only reasonably capable of one meaning. That meaning is that, in calculating the tax payable by JELCO, no deduction is allowed for any expenditure or losses incurred by JELCO, in deriving the management charge. The expenses incurred by JELCO, in deriving the income in question as we have already seen, are the cost of air tickets, the cost of accommodation and per diem. Following the express provisions of S. 87(1)(b) of the Act, the amount to which the rate of 15% is to be applied, will be the total of the monthly sum of Euros 35,000 (management charge) and the monthly sum of Euros 15,000 (cost of air tickets, accommodation and per diem). The total of these two sums therefore forms the gross amount. It therefore follows that the rate of 15% will be applied to this gross amount. The argument by the applicant that the rate of 15% should only be applied to the sum of Euros 35,000 is not tenable as it is at variance with the literal construction of S 87(1) (b) above.

If we looked at the legislative intent of Parliament in enacting S. 87(1) (b) we would come up with the same result. S. 87 of the Act, shows that it was the clear intention of Parliament, that no deductions should be permitted in calculating withholding tax under S. 83. In *Farrar's Estate v CIR*, Stratford J, held as follows: the governing rule on interpretations is to endeavor to ascertain the intention of the law-maker from a study of the provisions of the enactment in question'. If it was the intention of Parliament that deductions should be permitted under S. 83 then the Income Tax Act would have made provision for deductions such as has been provided for under S. 17 of the Act. It is apparent that the express requirements of S. 87(1) (b) will not have been met if the applicant is permitted to pay tax only on the monthly sum of Euros 35,000 for in that case the applicant would have deducted the direct costs of the air tickets,

accommodation and per diem, which forms the expenditure incurred by JELCO, in deriving the management charge.

Further from a reading of Sections 83, 84, 85, 86, 87, 117, 118 and 122 of the Income Tax Act, it becomes clear that the kind of deductions permitted in deriving chargeable income under S. 15 of the Act, are not permitted in respect of withholding tax under the Act. For instance S. 87(1) (a) and S. 122 (c) make it abundantly clear that S. 17, is not applicable in determining the tax imposed under Sections 83, 84, 85, 86,117 and 118 of the Act, which all relate to withholding taxes. For the reasons given above, I find that the applicant is liable to pay withholding tax on the Euros 479,615.

Having determined as above, I find that the respondent was justified in charging interest on late payments by the applicant in respect of withholding tax. I would have dismissed this application with costs to the respondent but I will abide with the majority decision.

Dated at Kampala this day of 2018.

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MR. SIRAJE ALI

MEMBER