

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**APPLICATION NO. 88 OF 2019**

**LATIGO GEOFFREY .....APPLICANT**  
**VERSUS**  
**UGANDA REVENUE AUTHORITY .....RESPONDENT**

**RULING**

This ruling is in respect to what an informer is entitled to following information given by him on tax evasion to the respondent.

The applicant is an informer who reported a case to the respondent about tax evaded by Sogea Satom Limited (the company). On 30<sup>th</sup> October 2016; the applicant lodged a case in respect of withholding tax evasion by the company for the period 2014 to 2016 estimated at Shs. 1,300,000,000. Tax of Shs. 604,281,243 was recovered and the applicant was paid Shs. 60,428,124 being 10% of the amount recovered. The applicant claims that he provided further information that led to recovery of an additional tax of Shs. 1,873,287,337 which the respondent disputes.

**Issues**

1. Whether the applicant is entitled to Shs. 187,328,733?
2. What remedies are available

The applicant was represented by Mr. Denis Mbasa while the respondent by Mr. Donald Bakashaba.

The applicant testified that he was an accountant of the company from 19<sup>th</sup> June 2014 to 16<sup>th</sup> July 2018. The applicant testified that in the course of conducting the company's tax compliance audit, he discovered that the company was involved in tax evasion. On 31<sup>st</sup> October 2016, he made an online report of tax evasion to the respondent vide TID No.

3114, additionally he gave further information to one Kunya Caroline, an employee of the respondent, which included tax evasion by the company in respect of WHT, PAYE, VAT and Income Tax. Upon request by Kunya Caroline the applicant provided her with documentary proof of the allegations of tax evasion.

The applicant testified that around 8<sup>th</sup> December 2016, he brought the same matter to the attention of Mr. Begumisa Protazio, the Commissioner Internal Audit and compliance and Mr. Siraje Kanyesigye, of the Large Tax Payer's office, Domestic Taxes Department. In January 2017, he met with Mr. Mugume Dean AW2, another employee of the respondent, with whom he shared the findings of his internal taxes audit.

On 29<sup>th</sup> March 2017, the company agreed to make a self-disclosure of its tax affairs in order to limit penal taxes. This was followed by assessments on 24<sup>th</sup> August 2017 and 31<sup>st</sup> November 2017, in respect of which payments were made by the company on 8<sup>th</sup> September 2017, 12<sup>th</sup> and 15<sup>th</sup> December 2017. The applicant testified that the total amount of tax recovered by the respondent as a result of the information provided by him was Shs. 3,698,326,238, of which PAYE was Shs. 512,306,267, WHT of Shs. 970,298,265, VAT of Shs. 1,747,774,357 and Income tax of Shs. 467,947,349. The applicant testified that following the recovery of the said taxes he sent a demand letter to the respondent in respect of the sum collected. The applicant testified that he was eventually informed by the respondent that the sum recovered was only Shs. 604,281,243 and payment was made to him of Shs. 60,428,124. Aggrieved by this decision, the applicant sought redress from the tribunal.

The applicant's second witness, Mr. Dean Mugume, a former employee of the respondent testified that he was in its employment when the applicant provided the information about the tax evasion by the company. Mr. Mugume testified that in 2016, he was instructed by his superior Mr. Siraje Kanyesigye, the Asst. Commissioner Large Tax Payers office to follow up on informer information provided by the applicant. The witness testified that the applicant provided him with all the workings, documentation and correspondences in his possession which showed that the company had evaded WHT, Income tax, VAT and



PAYE. The witness stated that the applicant also handed over to him a letter from the respondent appointing the company as a WHT agent, financial statements and contracts signed between National Water and Sewerage Corporation and the company and pay rolls and bank statements of the company. Mr. Mugume testified that soon thereafter he left the employment of the respondent and did not participate in recovering all the taxes evaded by the company. However he learnt from his former colleagues that all the taxes evaded by the company had been recovered. The witness stated that the evidence provided by the applicant was valuable and was instrumental in helping the respondent recover the said taxes. The witness stated that the applicant ought to be paid in full for the patriotic service rendered by him in stopping tax evasion by the company.

The respondent's witness, Ms Kunya Edith Caroline, an officer in its Public and Corporate Affairs department testified that the applicant was a tax informer who reported a case of WHT evasion by the company for the period 2014-2016 for an estimated amount of Shs. 1,300,000,000 and was issued a tax evaders information form. The information provided by the applicant was verified by the respondent and a review of the tax affairs of the company was instituted. The review established that WHT on the company of Shs. 604,281,243 had not been remitted. The said sum was recovered by the company and the applicant was paid Shs. 60,428,124 being 10% of the tax recovered. The witness testified that the allegation that the applicant provide information to Mr. Dean Mugume was unsubstantiated as the process of lodging informer information was clearly laid down in the Informer Management and Reward Policy.

The respondent's second witness was Ms. Jane Frances Baggya, an officer in its Domestic Taxes Department. The witness testified that she carried a return examination on the company for the period 2014 to 2017 for Income tax, PAYE, WHT and VAT. The witness initiated the examination on 13<sup>th</sup> September 2017, by requesting the company to furnish it with copies of accounts by 20<sup>th</sup> September 2017. In response to which, the company availed soft and hard copies of its audited accounts. The Returns Examinations team also requested for the trial balances for the years 2015-2016. It was the testimony of Ms. Baggya that on 12<sup>th</sup> October 2017, the respondent's Returns Examinations team

visited the company at their premises at Luthuli Avenue and that on 17<sup>th</sup> October and 27<sup>th</sup> October, respectively, the respondent requested for additional information, namely the head office and research ledgers and sent a letter to the company with detailed findings about the returns examination. On 1<sup>st</sup> December 2017, the Returns Examinations Team notified the tax payer of the final findings of the examination in which a total liability of Shs. 3,698,326,239 had been established. It was the testimony of the witness that in issuing the assessment in question she used her own skill, expertise and relied on information provided to her by the company which led to the recovery of the additional taxes. The witness refuted the claim by the applicant that the recovery of the additional taxes was due to the information provided by the applicant.

The applicant submitted that it was not in dispute that he provided the respondent with information about the company's tax evasion. The applicant submitted further that the respondent recovered Shs. 3,698,326,238. This is borne out in the applicant's witness statement and documentary evidence which contained assessments and receipts of payments. The applicant submitted that Mr. Mugume Dean confirmed that the respondent had collected the said monies from the company. The same information was provided by the respondent's second witness Ms. Jane Frances Baggya:

The applicant submitted further that the recovery of the tax was based on information provided by him to the respondent. The information was used by the respondent to conduct investigations into the affairs of the company hence the recovery of the taxes in question. The applicant refuted the claim made by the respondent's second witness, Jane Frances Baggya, that the additional taxes had been recovered through her skills.

The applicant submitted further that the respondent's investigations of the company was only for the period 2014-2016. The applicant submitted without prejudice even if the additional tax had been recovered as a result of investigations which were beyond the scope of the information provided by him, he was still entitled to a reward for the reason that the tax recovered was as a result of information that had been initially provided by him.



The applicant submitted in conclusion that he was entitled to a reward of Shs. 216,031,415 being 10% of the principal tax collected of Shs. 2,160,031,415. The applicant prayed for interest of 25% p.a. as compensation for the inconvenience suffered by him in seeking to recover his entitlement in respect of the additional tax recovered. The applicant also prayed for damages and the costs of the application.

The respondent submitted that the information provided by the applicant was stated in the tax evaders' form on 30<sup>th</sup> October 2016. The tax evader was Sogea Satom and the information related to tax evasion of withholding tax for the period 2014 to 2016 with the estimated amount of evasion being Shs. 1,300,000,000. The respondent submitted that the management of informer information by the respondent is guided by the Informer Management and Reward Policy. Guideline 7 thereof states that:

"The informer's reward shall relate to recovery of tax that directly relates to information provided under TIF excluding penalties and interest as provided by the law".

The applicant was duly issued with a TIF after providing the information in question and that this formed the basis for the reward made to the applicant.

The respondent submitted that Dean Mugume was aware that the applicant had been paid Shs. 604,281,243 as he prepared the Informer Reward Management checklist and the Reward for Information form and that he had also signed the Compliance Review Report as part of the Compliance Review team. The respondent stated that only Shs. 604,281,243 was recovered from the information provided by the applicant. The respondent submitted further that the Compliance Review report recommended that the compliance review should not stop any other compliance audit of the tax payer if there was any risk found out in the period under review. The respondent submitted further that the applicant cannot be rewarded on the tax payer's self-declaration

The respondent submitted that the additional tax was not recovered from the information provided by the applicant but from the respondent's subsequent investigation. Jane Frances Bagaya testified how she initiated the audits in the normal course of her duty and was able to collect information leading to the recovery of additional tax without reliance

on any information from the applicant. The workings provided by the witness rebutted the claim by the applicant that the additional taxes could not have been collected without information from the applicant. The respondent cited *Edward Turyarugayo v URA* where it was held that It is not only a matter of just giving information, but it should lead to recovery of the tax.

The respondent submitted that any extra payment made to the applicant in respect of the said claim would amount to unjust enrichment and would undermine the mandate of the respondent. The respondent submitted that the applicant was not entitled to any of the remedies prayed for.

Having heard and perused the evidence of the parties and the submissions the following is the ruling of the tribunal.

In its submission, the applicant contends that it provided information leading to the recovery of shs. 2,160,025,418. In its application, the applicant contended that the amount in dispute is Shs. 187,328,733. During the scheduling, it was agreed that the applicant purportedly provided information leading to a recovery of Shs. 1,873,287,337. The major issue was whether the applicant was entitled to Shs. 187,328,733. Parties are bound by their pleadings. The Tribunal has to resolve the dispute as per the issue agreed unless otherwise. The dispute between the parties boils down to the question as to whether the additional tax recovered of Shs. 1,873,287,337 was due to an independent investigation of the company's tax affairs by the respondent or information provided by the applicant.

S.74A of the Tax Procedure Code Act provides that "The Commissioner General shall pay to a person leading to the recovery of a tax or duty, the equivalent of five percent of the principal tax or duty recovered." However by the time the applicant recovered information, S. 8 of the Finance Act 2014 was in operation, which gave a percentage of 10%. So the questions are: Did the applicant provide information? Did the information lead to recovery? For which taxes or amount collected is the applicant entitled to recover.



The applicant testified that in the course of performing his duties, he discovered that Sogea Satom Limited was not remitting information. He provided information to various officials of the respondent. The said information was provided in hard drive and email, which were not tendered in evidence. In *Edward Turyarukayo v Uganda Revenue Authority* Civil Appeal 98 of 2013 it was stated that the applicant as the claimant had to discharge the burden he supplied the information as a result of that supply of information that taxes had been evaded were recovered by the respondent.

The information provided by the applicant can be gleaned from the Tax Evaders Information Form (TIF) , exhibit R5. *Edward Turyarukayo v Uganda Revenue Authority* (*supra*) Kasule J. states that

"Having subjected the evidence on record to a fresh scrutiny, it appears to me that the only conclusive evidence of proof that binds URA with the informants is the TIF, being the official document issued by URA in acknowledgement of the information supplied.

Any information given with first filing the TIF is deemed whistle-blower's information with which URA is under no duty to pay a 10% for the tax recovered. The TIF prescribes the kind of specific information which must be supplied including, Name of the alleged tax evader, type of tax evader, type of tax evaded, period of evasion, place of evasion and estimated amount of evasion."

The information provided by the applicant to the officials of the respondent which is not covered in the TIF cannot be considered.

The TIF of the applicant states the type of tax evaded was Withholding Tax. period of evasion is 2014 to 2016 Estimated amount of evasion is Shs. 1,300,000..The list of documents tendered in support of evidence is a self-declaration, brief of company, contracts between National Water and Sewerage Company and the applicant and bank statement. So if the applicant provided information on withholding tax, he should be able to recover on any collections in respect of that tax.

The respondent's witnesses RW1 Caroline Kunya and RW2 Jane Frances Baggya testified that that two separate investigations were carried out by the respondent. The first

was a compliance review which arose directly out of the information provided by the applicant. The compliance review was limited in scope to the information provided by the applicant in the Tax Evaders Information Form (TIF). Under the TIF the applicant had stated that the company had evaded Withholding tax WHT for the period 2014-2016 estimated at Shs. 1,300,000,000. The compliance review report exhibit RZ3 (page 86 of the trial bundle) states that only Shs. 604,281,243 was recovered directly from the information provided by the applicant. 10% of this sum amounting to Shs. 60,428,124 was duly paid to the applicant.

The second investigation carried out by RW2 was the returns examination who testified that it was undertaken independently of the information provided by the applicant. The findings of the returns examination was adduced in evidence, exhibit RV3 (page 66 of the trial bundle). Unlike the compliance review the returns examination was not limited to WHT but covered Income tax, PAYE, WHT and VAT. The returns examination led to an assessment of Shs. 3,698,326,239, which was paid in full by the company.

Whereas the applicant provided information, there was other information that obtained through return examinations and audits. It is important to know which information an informer can rely on for recovery. In *KB Serial No. 0561 v Uganda Revenue Authority* Justice Ssekana Musa cited *Mutagala Vincent v Ugandan Revenue Authority* HCCS 274 of 2008 stated that:

"It is not enough merely to show that an informer gave information and produced receipts to show that the information gave led to recovery of taxes. There should be direct evidence to show that the information given led to recovery of the taxes. This is because the defendant as a revenue collector receives payment from tax payers on a regular basis and so if the evidence is not properly evaluated there is a danger of awarding the 10% reward on regular tax or taxes recovered based on information given by another informer or even tax recovered on the basis of routing audit by the defendant"

In *David Olaka v Uganda Revenue Authority* HCCS 92 of 2014 Justice Ssekana held:



"I find the claim very illegitimate since the defendant officials upon obtaining some clue on tax evasion may use more skill and expertise to discover more loopholes which may lead to recovery of more taxes and this should never be claimed as new information in order to claim more money to the original informers."

In *Ahamya Sam v Uganda Revenue Authority* HCCS 487 of 2007 Justice Lameck Mukasa stated that:

"The tax in addition sum of Shs. 232,953,339/= was recovered by the defendant not as a result of the plaintiff's information but as the information volunteered by the company in its letter. Exhibit D3 ...

I find that the additional taxes paid were an independent act of declaration in light of section 7 of the Finance Act."

The company made some voluntary disclosure and there were return examinations or audits. The respondent during its return examination which covered Income tax, PAYE, WHT and VAT led to an assessment of Shs. 3,698,326,239, which was paid in full by the company. For the other tax heads other than WHT, the respondent used its skills and expertise and obtained those taxes without use of the information provided by the applicant. Therefore the applicant cannot recover in respect of those other taxes.

The applicant provided information to the respondent in withholding tax on goods and services supplied locally. As a result of the information provided the respondent carried out an audit and it was verified that WHT was payable. If information is provided and the respondent carries out an audit or return examination to verify that tax is payable and it confirms so, an informer is entitled to recovery for the amount he indicated in the TIF. He cannot recover in respect of any additional tax not indicated in the form. In *John Musisi v Commissioner General Uganda Revenue Authority* HSCS 27 of 2005 it was observed that an informer cannot make a demand on information unless there is a recovery of taxes. Of the Shs. 3,698,326,239 assessed and paid, a portion was in respect of withholding tax. The compliance review report exhibit RZ3 shows that for the period 2013 to 2016 the WHT payable was Shs. 1,029,023,387. If the WHT for 2013 is removed the WHT payable for 2014 to 2016 is Shs. 1,026,919,963. Exhibit RZ4 (p.89 of the joint trial bundle) shows that the company paid under the WHT Shs. 965,570,779. 10% of the said

WHT of shs. 965,570,779 would be Shs. 96,557,077.9. The applicant was paid Shs. 60,428,124.3 Therefore he is entitled to Shs. 36,128,953.6

Having found as above we order as follows, this application is allowed with orders as below.

1. The applicant is entitled to a reward of 36,128,953.8 being the balance of the 10% of 965,570,779, the WHT recovered by the respondent.
2. The applicant is awarded the costs of this application.

Dated at Kampala this 11<sup>th</sup>

day of November 2021

  
DR. ASA MUGENYI  
CHAIRMAN

  
MR. GEORGE MUGERWA  
MEMBER



**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**APPLICATION NO. 88 OF 2019**

**LATIGO GEOFFREY =====APPLICANT**

**VERSUS**

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

**RULING**

This ruling is in respect of the question as to what constitutes an informer's legitimate reward following a report of tax evasion made by him or her to the Respondent.

The applicant was employed by Sogea Satom Limited (the company) from 19<sup>th</sup> June 2014 to 16<sup>th</sup> July 2018 as an accountant. On 30<sup>th</sup> October /2016, while still in the employment of the company, the applicant reported a case of case evasion by the company vide Tax Evaders Information Form (TIF) No.0683, for the financial period 2014 to 2016. The estimated amount of evasion was indicated as being Shs. 1,300,000,000.

Following the information provided by the applicant, the respondent commenced a compliance review to establish the veracity of the information provided by the applicant. On 24<sup>th</sup> August 2017, the respondent wrote to the applicant's lawyers appraising them of the findings of the compliance review. The review established the sum of Shs. 604,281,243 as tax payable. The said sum was duly paid by the company and the applicant was paid Shs. 60,428,124 being 10% of the amount recovered, as his reward in line with the provisions of S.8 of the Finance Act 2014.

In September 2017, the respondent commenced a returns examination of the company for compliance purposes. As a result of this examination the sum of Shs. 3,698,326,239 was established as the tax due for the period January 2015 to December 2016. The dispute between the parties boils down to whether the applicant is entitled to a reward in respect of the tax recovered as a result of the returns examination.

The applicant was represented Mr. Denis Mbasa while the respondent by Mr. Donald Bakashaba. The following issues were set down for hearing;

1. Whether the applicant is entitled to Shs. 187,328,733?
2. What remedies are available?

The evidence and the arguments of the parties are as set out in the ruling of my colleagues. I will therefore not reproduce them here. The following is my ruling.

**1. Whether the applicant is entitled to the reward of Shs. 369,832,623?**

The dispute between the parties boils down to the question as to whether the additional tax recovered in the sum of Shs. 2,160,025,418 was due to an independent investigation of the company's tax affairs by the respondent. The respondent's case as set out in the witness statement of RW1 Caroline Kunya and RW2 Jane Frances Baggya is that two separate investigations were carried out by the respondent. The first was a compliance review. It arose directly out of the information provided by the applicant. The compliance review was limited in scope to the information provided by the applicant in the Tax Evaders Information Form (TIF). Under the TIF the applicant had stated that the company had evaded WHT for the period 2014-2016 in the estimated sum of Shs. 1,300,000,000. The compliance review report marked as exhibit RZ3 at page 86 of the trial bundle notes that only Shs. 604,281,243 was recovered directly from the information provided by the applicant. 10% of this sum amounting to Shs. 60,428,124 was duly paid to the applicant. The second investigation was the returns examination. It was carried out by RW2 who stated in her witness statement that it was undertaken independently and without reliance on the information provided by the applicant. The respondent's letter to the company setting out the findings of the returns examination was adduced in evidence as exhibit RV3 at page 66 of the trial bundle. Unlike the compliance review the returns examination was not limited to WHT but covered Income tax, PAYE, WHT and VAT. The returns examination led to an assessment of Shs. 3,698,326,239, which was paid in full by the company.



In order to determine whether the additional tax was recovered due to the independent investigation carried out by the respondent, we need to look at the evidence before us. An important piece of evidence in this regard is the respondent's letter dated 24<sup>th</sup> August, 2017. This letter is addressed to the Managing Partner of Birungyi Barata & Associates. Birungyi Barata & Associates were at that material time the tax advisers of the company. The letter in question makes reference to the compliance review and to a meeting held between the said tax advisors and the respondent on 29<sup>th</sup> March, 2017, in which it was agreed that in the wake of the information about tax evasion provided by the applicant to the respondent, the company would make a self-disclosure of its tax affairs to the respondent.

The contents of the above letter should be contrasted with the minutes of a returns examination meeting held between the company's tax consultant, one Mary Anne Kasule and officials of the respondent. This meeting was held on 6<sup>th</sup> November 2017 and the minutes in question were adduced in evidence as exhibit RU, as proof that the respondent had recovered the additional tax in a separate investigation completely unrelated to the compliance review and the information provided by the applicant. The first order of business of this meeting related to the issue of self-disclosure by the company. A relevant excerpt has been reproduced here below for ease of reference.

"Self disclosure. Tax payer had been given a chance to do a self-check in which tax was paid but no assessment or returns were filed. The LTO team advised the tax payer's consultant to inform the tax payer to file returns or admit these returns based on the findings from the self-disclosure as per URA letter dated August 25, 2017. The agreed time for amendment was until Nov 30, 2017".

The above minutes and the letter dated 24<sup>th</sup> August, 2017 both make reference to the issue of self-disclosure which the company had agreed to, in the wake of the applicant's report about the company's tax evasion. It should be noted that the letter relates to the compliance review while the minutes relate to the returns examination supposedly carried out by the respondent independently of the compliance review and of information from the applicant. The reference in the minutes to the issue of self-disclosure shows that the returns examination carried out by RW2 Jane Frances Baggya was a continuation of the investigation that had commenced with the compliance review. If the returns examination

was independent of the compliance review, its meetings would have no business following up matters agreed to during the compliance review. What is apparent from a perusal of these two pieces of evidence is that both the compliance review and the returns examination were part of one investigation into the tax affairs of the company prompted by the report of tax evasion provided by the applicant.

Further, the respondent has not provided any evidence to prove that the returns examination was not prompted by the report of tax evasion made by the applicant. Related investigations arising from information provided by the same informer does not make such investigations independent of each other. The question which arises is whether the respondent would have carried out a returns examination of the company's tax affairs for the financial years 2014-2016 without the report of tax evasion made by the applicant. The answer to this question can be found in the testimony of RW1 and RW2, both of which show that, in all the years that the company had been evading tax and making false declarations about its tax affairs, no attempt had been made by the respondent to investigate the company. The evidence before us including evidence adduced by the respondent, does not support the claim by the respondent that the additional taxes in the sum of Shs. 2,160,025,418 were recovered independently and without reliance on information provided by the applicant.

I accordingly find that the additional taxes of Shs. 2,160,025,418 were recovered through information provided by the applicant and that both the compliance review and the returns examination were but related parts of the same investigation.

### **Remedies**

Having found as above I would order as follows;

1. This application is allowed.
2. The applicant is entitled to a reward of Shs. 216,031,415 being 10% of Shs. 2,160,031,415, the additional principal tax collected by the respondent less interest.



3. The applicant is awarded the costs of this application.

Dated at Kampala this 11<sup>th</sup> day of November 2021



**MR. SIRAJ ALI**  
**MEMBER**

RULING