THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

TAT APPLICATION NO. 72 OF 2018

JOSEPH OKUJA ……..……..……..APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY ……..……RESPONDENT

DR. ASA MUGENYI, MR. GEORGE MUGERWA, MR. SIRAJ ALI

RULING

This ruling is in respect of an application challenging a refusal by the respondent to pay the applicant a reward as an informer under the Finance Act 2014 and the Tax Procedure Code Act.

The respondent pays VAT refunds on exports of unprocessed foodstuff and unprocessed agricultural products as zero-rated supplies under the VAT Act. The applicant made an informer's disclosure that the respondent paid shs. 15, 819,255,000 as VAT refunds for export of unprocessed foodstuff and unprocessed agricultural products which it considered as zero-rated supplies, yet they are supposed to be exempt. The respondent rejected the disclosure.

The following issues were framed:

1. Whether the export of unprocessed foodstuffs and agricultural products are zero rated or exempt supplies under the VAT Act?
2. Whether the applicant is an informer and consequently entitled to a reward from the respondent?
3. What remedies are available to the parties?

The applicant was represented by Ms. Josephine Kiggundu and Mr. Elisha Tayebwa while the respondent by Ms. Patricia Ndagire and Ms. Barbara Ajambo Nahone.

This dispute revolves around the information given by the applicant that purportedly unlawful VAT cash refund claims were paid to exporters of unprocessed foodstuff and unprocessed agricultural products as zero-rated supplies instead of them being considered as exempt. The respondent investigated the information, disregarded it and held the VAT cash refunds were rightfully paid. The respondent determined that the applicant was not entitled to the reward of 10% of any tax recoverable under S. 8 of the Finance Act and the Tax Procedure Code Act.

The applicant testified that he was a former employee of the respondent. The High Court in **Uganda Revenue Authority v Total Uganda Ltd** Civil Appeal 8 of 2010 ruled that exempt supplies under S.19 of the VAT Act were not taxable supplies. He argued that because unprocessed foodstuff and agricultural products are exempt supplies they cannot be taxable and attract a zero rate of VAT. On 11th January 2013, the respondent in an internal memo notified its staff about the said decision. Around February 2016 it came to the applicant's knowledge that several companies were exporting purportedly exempt supplies but were claiming for VAT cash refunds which were paid. On 18th April 2016, he prepared a brief on the purported unlawful VAT cash refund claims and submitted them to the respondent as an informer under Disclosure No. 11272 provided for in S.8 of the Finance Act 2014. The said disclosure disclosed that unlawful VAT cash refund claims were being made to exporters supplying unprocessed foodstuffs and unprocessed agricultural products as zero-rated supplies whereas they are exempt supplies under Paragraph 1(a) of the Second Schedule to the VAT Act. He alleged that despite the High Court decision the respondent continued to pay VAT cash refunds. In the disclosure he made recommendations on how the respondent could curb additional loss of revenue and recover the refunds already paid. The applicant testified that to-date the respondent continues to make cash refunds to non-eligible tax payers contrary to the law. The applicant testified that based on the information available to him at the time

of the disclosure, Shs. 15,819,701,255 had been paid out between July 2014 to April 2016. The respondent investigated the matter. On 9th March 2017, the respondent having concluded its investigations informed the applicant that the refunds in question were rightfully paid and that the applicant was not entitled to any monetary award.

The respondent's witness, Mr. Stephen Kiggundu, a supervisor in its Tax Investigations Department testified that the applicant provided information to them as an informer. It was to the effect that the respondent was wrongly making VAT cash refunds to various exporters who were exporting agricultural products. Mr. Kiggundu testified that pursuant to the said disclosure the respondent coded the applicant vide number ID/11272 and proceeded to investigate his claims. The investigation established that the supplies made by the various exporters qualified as zero-rated supplies under the VAT Act. It established that the respondent acted lawfully in classifying the said supplies as zero rated since the said supplies are exports.

The applicant submitted that S. 4 of the VAT Act, imposes VAT on every taxable supply by a taxable person. A taxable supply is defined under S.18 of the Act, to mean a supply of goods or services, other than an exempt supply. A taxable person is defined under S. 6 of the Act, as a person registered for VAT or a person who is required to register or pay VAT under the Act. Under S. 7 of the Act, persons who are required to register for VAT are persons who make taxable supplies above the VAT registration threshold. From the above definition of "taxable supply", the Act recognizes two categories of supplies, namely taxable and exempt supplies. The rate of tax specified for taxable supplies under the VAT (Rate of tax) Order 2005 is 18% of the taxable value of a taxable supply. The Order also states that the 18% rate of tax does not apply to taxable supplies specified in the Third Schedule of the Act, which are zero-rated supplies. Under S. 19(1) of the Act, a supply of goods or services is an exempt supply if it is specified in the Second Schedule. The applicant argued that the combined effect of the definition of "taxable supply" and "taxable person" described above, means that exempt supplies do not constitute taxable supplies under the Act and that persons who make exempt supplies only, are not taxable persons under the Act. The applicant

submitted that; accordingly, exempt supplies are out of scope of the VAT regime. The applicant contended that any person who makes exempt supplies is not eligible for VAT registration; and if registered, is not entitled to charge VAT for any tax period.

The applicant submitted that a supply of “unprocessed foodstuffs and unprocessed agricultural products” are classified as exempt supplies in Paragraph 1(a) of the Second Schedule to the Act. The applicant contended that exempting a supply completely excludes it from the ambit of the Act and that a person cannot claim credit for input tax on purchases, imports or exports related to an exempt supply. Any person making only exempt supplies is not expected to register as a taxable person who can charge VAT on its supplies and claim a credit for any input VAT incurred on its purchases. The applicant submitted that the term “unprocessed” is defined in Paragraph 3 of the Second Schedule of the Act, to include low value added activity such as sorting, frying, salting, filleting, husking, deboning, freezing, chilling or bulk packaging, where, except in the case of packaging, the value added does not exceed 5% of the total value of the supply. The applicant contended that when agricultural products are processed, they are taxable and any person who supplies processed agricultural products is required to register and account for VAT and to claim a credit for input tax incurred in respect of the taxable supplies. The applicant submitted that it is the act of processing and not the act of exporting which makes processed agricultural products taxable supplies.

The applicant submitted that zero-rated supplies are provided for under S. 24(4) of the VAT Act, which states “the rate of tax imposed on taxable supplies specified in the 3rd Schedule is zero”. The applicant submitted that the 18% rate does not apply to taxable supplies specified in the Third Schedule of the Act which are zero-rated supplies. The applicant argued that a supply must be taxable in order for it to be zero-rated upon export. A zero-rated supply is a taxable supply and registered tax payers who make such supplies may claim full input tax credit in respect of goods or services acquired, without charging any VAT on the supply of such goods or services. The applicant submitted that this contrasted with the position of exempt supplies, where no VAT is charged on the sale, and neither is a deduction available for any input VAT incurred by

the supplier. The applicant argued that zero-rating operates as a subsidy to suppliers of goods and services categorized as zero-rated. These subsidies, he argued are applied primarily to exports and to some other types of transactions which should not bear VAT for social and economic reasons. The applicant argued that the VAT system in Uganda is designed to tax domestic consumption while export of taxable supplies is zero-rated. Under S. 24(4) of the VAT Act goods are considered exported if the goods are delivered to or made available at an address outside Uganda as evidenced by documentary proof acceptable to the Commissioner.

The applicant submitted that where a supply is classified as both exempt and zero-rated, zero rating takes priority because of the subsidy effect on such supplies. The applicant argued there is no conflict in the classification and export of unprocessed agricultural products and the export of processed agricultural products which are clearly exempt supplies and taxable supplies at zero-rate, respectively. The applicant argued that the distinction between exempt supplies and zero rated exports was noted by Madrama J. in **URA v Total Uganda Ltd** (C.A No. 8 of 2010) where the court held *inter alia* that an exempt supply cannot be zero-rated because it is not a taxable supply for the purposes of VAT. The applicant submitted that the tribunal is bound by the above decision. The applicant further submitted that the respondent also considered itself bound by the said decision as could be seen from its memo to its staff.

The applicant contended that he informed the respondent of its misapplication of the law but the latter continued to pay out refunds under a misconception that exempt goods automatically became zero-rated when exported and further that because the said exports were listed in the Second Schedule, S.77 of the Act, became inapplicable. This, the applicant submitted has resulted into illegal VAT paybacks of Shs. 15,819,701,255 between July 2014 and April 2016 as per the informer disclosure. The applicant argued that if the legislature had intended for exports to be zero-rated, it should have said so in S. 24(4) and in the opening statement to the Third Schedule, by excluding the word “taxable” before the word “supplies”.

The applicant submitted that he made an informer's disclosure to the respondent under S.8 of the Finance Act 2014 (now repealed and re-enacted in the Tax Procedures Code Act). The said law did not define who qualified to be an informer nor did it prescribe any specific procedure to be followed. The applicant submitted that S. 8 of the said Act, was in *pari-materia* with S.19 of the Whistleblowers Protection Act, 2010, which provides that a whistleblower shall be rewarded 5% of the net liquidated sum of money recovered for his or her disclosure. The applicant submitted that the respondent's procedure for making informer disclosures is like that under the Whistleblowers Protection Act.

The applicant submitted that his disclosure was in respect of a public institution. The disclosure was received by an authorized officer of the respondent, who acknowledged receipt by issuing him with a Tax Evader's Information Form and ensured that the disclosure was confidential by assigning him a code name ID/11272. The applicant cited **Matagala Vincent v Uganda Revenue Authority** where the court held that since the plaintiff informant had been identified by the respondent's staff as the person who had provided the information, the mere absence of a code/identity would not be allowed to deny the plaintiff a reward due to him. The applicant listed conditions for an informer to be rewarded: (a) that there must be a person, (b) that the person must provide information to the Commissioner General of the Respondent, (c) that the information should lead to the recovery of a tax or duty, (d) that the Commissioner General is able to recover the tax or duty; and finally; (e) that if the Commissioner General recovers tax or duty, the informer shall be paid the equivalent of 10% of the principal tax or duty recovered. Based on the said tests the applicant argued that he qualifies to be an informer and is entitled to a reward from the respondent upon recovery of any VAT unlawfully paid out to exporters of unprocessed agricultural products as per the disclosure.

In reply, the respondent contended that the applicant did not have locus standi to institute this application as he is not an aggrieved party. The respondent argued that the applicant was not an exporter of the produce in question and neither has he instituted this application on behalf of exporters. The respondent cited **Black's Law Dictionary**

9th edition which defines "*locus standi"* as the right to bring an action or to be heard in a given forum. The respondent also cited **Dima Dominic Poro v Inyani & Another** Civil Appeal No. 0017 of 2016, where Mubiru J, stated that for a person to have *locus standi* such person must have sufficient interest in the subject matter of a suit. The respondent also cited **Birungyi, Barata & Associates v Uganda Revenue Authority** TAT Application No. 16 of 2011**,** where the tribunal stated that an appeal lodged where the applicant was not a party in the first instance was strange.

Without prejudice, the respondent argued that unprocessed foodstuffs and agricultural products exported are zero-rated supplies under the VAT Act. It contended that a strict interpretation of Sections 4, 18(1) and 19 of the Act, means that unprocessed food stuffs and agricultural products are exempt supplies while processed ones are not exempt supplies. The respondent submitted that the definition of the term "unprocessed" is in Paragraph 3 of the Second Schedule to the Act. The respondent cited **Aisha Tumusiime v Uganda Revenue Authority** TAT Application No. 31 of 2007**,** for the submission that agricultural produce when processed took the character either of a zero-rated supply or a standard rated supply. It also cited **Amatheon Agri Uganda Ltd v Uganda Revenue Authority** TAT Application No. 50 of 2018 where the tribunal held that S. 24 of the VAT Act makes a supply of processed or milled cereals zero-rated while S.19 makes a supply of unprocessed foodstuffs exempt.

The respondent contended a study carried out by it, exhibit R9, showed the value chain and addition for agricultural exports. The said research established that some foodstuffs and agricultural products like coffee, fish, fresh fruits and vegetables underwent processing before export. Coffee goes through both primary and secondary processing. The said study revealed that the value additions to fish, fresh fruits and vegetables exceeded 5% and therefore these products were not exempt supplies as they had been processed. It argued that in **Wabulungu v Uganda Revenue Authority** TAT Application No. 2 of 2012, the tribunal held that the sale by the applicant of coffee beans were not exempt supplies because it failed to prove that the value addition to the coffee

beans was less than 5% of the total value of the supply. The respondent argued that the applicant did not adduce any evidence to prove that exports in question were exempt.

The respondent contended that for a person to qualify as an informer, he must have provided information which is relied on by the respondent to recover taxes. The respondent submitted that its **Informer Management and Reward Policy** defines an informer as "any person who has provided information to Uganda Revenue Authority on tax offences or any other contraventions of the tax laws administered by Uganda Revenue Authority". The respondent cited **Black's Laws Dictionary** wherein the term 'informer' was defined as "a person who furnishes information on which a civil or criminal case is based". The respondent argued that the applicant did not qualify as an informer because he was its employee until 1st February 2012. The respondent cited **Francis Byamugisha vs. Attorney General, Parliamentary Commission, and Uganda Revenue Authority HCCS No. 745 of 2013,** where Adonyo J, held that the plaintiff did not qualify to be a whistleblower since he was a former employee of the respondent. The respondent submitted that clause 7 of its Informer Management and Reward policy excluded the respondent's employees and their next of kin. The respondent submitted further that the applicant utilized information he obtained as its employee. This is evident from his reliance on an internal memorandum sent to the respondent's staff after the decision in **Uganda Revenue Authority v Total Uganda Ltd** (supra). The respondent argued that even if the applicant was as an informer the information provided by him did not result in recovery of tax. The respondent cited S. 8 of the Finance Act 2014 (now repealed) which provided that: "The Commissioner General shall award any person who provides information leading to recovery of tax or who seizes any goods or by whose aid goods are seized under any law in relation to tax or duty, with a reward of 10% of tax recovered". The information provided by the applicant did not give rise to any tax recoverable as the refunds were rightfully paid. The respondent cited **Matagala Vicent v Uganda Revenue Authority** where the court stated that it was not enough to merely show that an informer gave information produced receipts to show taxes had been recovered but there should be direct evidence to show that the information given led to recovery of taxes.

In rejoinder, the applicant responded that he has locus standi in this application under S.2 of the Whistle Blower's Protection Act and S. 74A of the Tax Procedure Code Act. He has a right to be paid 5% of the tax recovered by the respondent. The applicant also contended that the law does not prohibit a former employee from reporting. The respondent has failed to prove that the information came to applicant's knowledge while he was still working with URA. The information became known to the applicant years after resignation.

Having listened to the evidence and read the submissions of the parties, this is the ruling of the Tribunal.

The respondent made a preliminary objection that the applicant did not have locus standi in this matter. Before we may go to the merits of the matter, the Tribunal will resolve the preliminary objection first. The applicant is a person seeking for a reward for information given to the respondent as an informer under the Finance Act and later the Tax Procedure Code Act in respect of export of unprocessed foodstuff and unprocessed agricultural products. He is not an exporter but has an interest in the matter by virtue of the information given. He is seeking to collect his reward. The Tribunal cannot determine whether he is entitled to the reward without determining whether the information was correct. In the circumstance, the preliminary objection is overruled.

The applicant is a former employee of the respondent. He gave information to the respondent on VAT refunds paid to exporters of unprocessed foodstuff and unprocessed agricultural products. While the respondent considers them as zero-rate exports the applicant contends that they are exempt supplies. The applicant contends that he is entitled to a reward as an informer who has disclosed a malpractice in the payment of VAT refunds on exports of unprocessed foodstuff and agricultural products.

To understand whether what products are exempt, zero rated or standard rated, one must start with Sections 4 and 18 of the VAT Act. S. 4 provides that a tax known as Value Added Tax (VAT) shall be charged in accordance with the Act on every taxable supply made by a taxable person. Under S. 18(1) of the VAT Act a taxable supply is a supply of goods or services, other than an exempt supply made in Uganda by a taxable person for consideration as part of his or her business. There are therefore two types of supplies: taxable and exempt.

The supply of exempt goods is covered under S.19 of the VAT Act which states that a supply of goods and services is an exempt supply if it is specified in the Second Schedule. Paragraph 1 of the Second Schedule provides that the following inter alia are exempt for purposes of S. 19: 1(a) The supply of livestock, unprocessed foodstuffs, and unprocessed agricultural products except wheat grain. The said provision is clear. The supply of unprocessed foodstuff and unprocessed agricultural products except wheat grain is exempt. However what was clear become a bit murky when the definition of 'unprocessed' is stated. Paragraph 3 of the Schedule reads:

> "For the purposes of paragraph 1(a) of this Schedule, the term "unprocessed" shall include low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling, or bulk packaging, where except in the case of packaging the value added does not exceed 5 percent of the total value of the supply."

In short, the VAT Act allows processed foodstuff to be considered as unprocessed where there is low value-added activity which does not exceed 5 percent of the total value of the supply. In **Wabulungu v Uganda Revenue Authority** TAT Application No. 2 of 2012, the tribunal held that the sale by the applicant of coffee beans were not exempt supplies because it failed to prove that the value addition it made to the coffee beans was less than 5% of the total value of the supply. The Tribunal felt the value can be computed by taking into consideration the costs of the value added as a percent of the total value of the supply. From the definition in Paragraph 3, it is implied that processed foodstuff and processed agricultural products are not exempt supplies.

If goods are not exempt supplies, then there are taxable supplies. Taxable supplies may be either standard rated (attract VAT of 18%) or zero-rated (attract VAT of 0%). **In Aisha Tumusime V Uganda Revenue Authority** TAT application 31 of 2007, the Tribunal stated that

> "If a supply is not an exempt one, it must either be zero rated or standard rated. If imported rice is shown to be processed (i.e. more than 5% value addition in the processing) then it is either a zero rated supply or a standard rated supply. Zero rated supply is provided in S. 24 of the VAT Act. S. 24(4) provides that the rate of tax imposed on taxable supplies specified in the Third Schedule is zero."

As stated, S. 24 of the VAT Act provides that the taxable supplies in the Third Schedule carry a VAT rate of zero. The Third Schedule Paragraph 1(l) provides that a supply of cereals where grown and milled in Uganda is zero- rated. Milled cereals are processed foods and thus attract a VAT of zero. Therefore, while unprocessed foods are exempt, processed food which are cereals are zero rated. In **Amatheon Agri Uganda Ltd v Uganda Revenue Authority** TAT Application 50 of 2018 the Tribunal noted that:

> "If one had read the whole Act together it would not be difficult to perceive what while S, 24 of the VAT Act deals with processed or milled cereals by making their supply attract zero- rate of VAT, S. 19 is mainly concerned with unprocessed foodstuff which it makes their supply exempt from VAT.

In the said case, the Tribunal was concerned with the VAT treatment of unprocessed foodstuff and agricultural products vis-a-vis processed ones. In this matter the Tribunal is concerned with the VAT treatment of unprocessed foodstuff and unprocessed agricultural products consumed locally vis-a-vis exported ones. The scenario is different.

The Third Schedule of the VAT Act, Paragraph 1(a) reads that a supply of goods or services where the goods or services are exported from Uganda as part of the supply are considered as zero-rate. Paragraph 2 of the Schedule reads:

> "For the purposes of paragraph 1(a), goods or services are treated as exported from Uganda if –

(a) in case of goods, the goods are delivered to, or made available at any address outside Uganda as evidenced by documentary proof, acceptable to the Commissioner General."

Regulation 11 of the Value Added Tax Regulations 1996 provides:

"(1) Where goods are supplied by a registered taxpayer to a person in another country and the goods are delivered by a registered taxpayer to a port of exit for export, the goods may be invoiced at zero rate, provided the registered taxpayer obtains documentary proof set out in this Section and the goods are removed from Uganda within 30 days of delivery to a port of exit."

Therefore exports of goods by a registered taxpayer, where there is evidence to show that they are delivered outside Uganda, attract a VAT rate of zero.

One has to ask: what goods do the Third Schedule Paragraph 1(a) cover? S. 1(h) of the VAT Act states that goods include all kinds of movable and immovable property but does not include money. Agricultural foodstuff and agricultural products whether processed or not qualify to be considered as goods. They cannot be services. Once they are exported whether processed or unprocessed, they are goods and attract a VAT rate of zero. In **Uganda Revenue Authority v Total Uganda Limited** Civil Appeal 8 of 2010 Justice Madrama stated:

"In any case the parties proceeded under paragraph 1(a) which deals with the supply of goods or services where the goods or services are exported from Uganda as part of the supply. The category of goods exported from Uganda as part of the supply is a wider category than the goods listed in the second schedule which specified goods that are exempt from VAT. Paragraph 1(a) of the third Schedule deals with any goods or services which are exported from Uganda as part of the supply."

Goods once exported are considered as supplies that attract a zero rate VAT. Paragraph 1(a) of the Third Schedule is wider than the Second schedule which deals with unprocessed agricultural produce and food stuff as former includes both processed and unprocessed goods.

The applicant also cited **Uganda Revenue Authority v Total Uganda Limited** (supra) and reached a different conclusion from that of the respondent. The above case was

dealing with jet fuel that was put into a plane's tank and not the cargo compartment. The issue was whether the jet fuel was an export. It did not deal with unprocessed foodstuff and unprocessed agricultural products. The applicant contended that the court in the said case stated that S. 24 (4) of the VAT Act dealing with zero rated supplies and the third schedule is inapplicable to exempt supplies. The applicant argued that the supply of unprocessed foodstuff and agricultural products are first, under the Second Schedule, exempt. Therefore they cannot be zero rated under the third Schedule. Our understanding of the court decision is that a supply of goods cannot be an exempt and zero rated at the same time. It did not infer that once a good is deemed an exempt supply, it cannot be a zero-rated supply. It can be both. However, if it is both, then S. 77 of the VAT Act applies. S. 77 of the VAT Act reads:" Where a supply of goods or services is covered by both the Second Schedule and the Third Schedule, the supply shall be treated as being within the Third Schedule." Therefore, an item ultimately cannot be both zero rate and exempt at the same time. The test should not be whether an item is taxable or exempt before it becomes zero- rated. All the court is required to ask itself is: Are the agricultural products or foodstuff, whether processed or unprocessed, exports? If the answer is in the affirmative, then the Third Schedule applies. In the event the Second Schedule also applies, S. 77 of the VAT Act deals with the inconsistency.

The Second Schedule deals with domestic supply of unprocessed foodstuff and agricultural produce. S. 18(1) of the VAT Act states a supply of goods or services is one when the supply is made in Uganda. Previously, S. 18(1) read as follows:

> "A taxable supply is the supply of goods or services, other than an exempt supply, made by a taxable person for a consideration as party of his or her business activities."

The Value Added Tax Amendment Act 2011 S.9 amended S. 18(1) of the principal Act by inserting immediately after the word "made" the words "in Uganda." This clarified that once a supply is referred to in the VAT Act it is a domestic supply unless otherwise stated. Therefore S.19 would deal with exempt supplies made in Uganda. The Third Schedule Paragraph 1(a) deals specifically with exports. Paragraph 2 of the Third

Schedule defines an export as where goods are delivered to an address outside Uganda. Where a provision of a Statute is specific and clear, it should be given its plain meaning and application without setting new conditions for its application. The dispute is about exports of agricultural foodstuff and products on an international market and not a supply of goods on the domestic market. Therefore the Third Schedule is applicable to this dispute. In this case, there is no domestic supply of unprocessed foodstuff and agricultural products first to make them exempt, then an export afterwards. It is simply an export of agricultural produce. The law should be applied as such. In the **Total Uganda Limited** case (supra), the Court relied on S. 18 of the VAT Act before the words "in Uganda" were inserted. The applicant ought to have been alive to the fact that S. 18(1) had been amended by S.9 of the VAT (Amendment) Act 2011 and ought to have taken that into consideration when making his arguments. However Justice Madrama noted that the jet fuel was consumed in the fuel tank and therefore could not be considered as an export as it never reached an address outside Uganda. It was considered a domestic consumption. It is a known principle of VAT law that goods once consumed abroad, they attract a VAT rate of zero. In this case the unprocessed foodstuff and unprocessed agricultural products are exported and consumed abroad. Therefore, they attract a zero rate of VAT. The respondent was therefore justified to consider their export as a zero-rate supply.

Taking the above into consideration, we find that the applicant's inference that unprocessed foodstuffs and unprocessed agricultural products cannot be considered as a supply attracting VAT of zero as misconceived. The said information cannot be relied on to recover VAT refunds. The applicant contradicts himself when he stated that "Where a supply can be classified as both exempt and zero-rated, zero rating takes priority because of the subsidy effect on such supplies." These subsidies, he argued are applied primarily to exports. He admits that: "The effect of making exports zero- rated is to make them cheaper on the international market." For a developing country like Uganda there is need to keep the prices of its agricultural products, whether processed or not, attractive. The first issue is decided in favour of the respondent.

Having found the first issue in favour of the respondent, the information given by the applicant did not entitle him to any reward as an informer as it was misconceived and not helpful to the respondent. Before the Tribunal can put down its pen, it will state in obiter dicta, that an employee can still be an informer, as long as the information did not fall under his scope of employment or the duties he undertook in his employment. Information given by an employee on the affairs of an employer tend to be more reliable and accurate than that provided by one who is not an employee. To ignore such information may result in excluding vital information which may be useful in investigations. The Tax Procedure Code Act does not bar employees from availing information in respect of tax recovery. The Whistleblower Act may not be applicable to this dispute as it is not a taxing act and the Tax Procedure Code Act clearly states when a reward should be given to an informer.

This application is therefore dismissed with costs to the respondent. It is so ordered.

Dated at Kampala this 15th day of October 2020.

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DR. ASA MUGENYI	**MR. GEORGE MUGERWA**	**MR. SIRAJ ALI**
CHAIRMAN	**MEMBER**	**MEMBER**