IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

(CORAM: LEVIRA, J.A., MASHAKA, J.A. And NANGELA, J.A.)

CIVIL APPEAL NO. 58 OF 2024

TANZANIA BREWERIES PUBLIC LIMITED COMPANY ..... APPELLANT

VERSUS

THE COMMISSIONER GENERAL
TANZANIA REVENUE AUTHORITY..... RESPONDENT

(Appeal from the judgment and decree of the Tax Revenue Appeals Tribunal at Dar es Salaam)

(Ngimilanga – Vice Chairperson)

dated the 14th day of September, 2023

in

Appeal No. 159 of 2021

JUDGMENT OF THE COURT

4th August & 4th September, 2025

MASHAKA, J.A.:

Tanzania Breweries PLC (formerly Tanzania Breweries Limited), the appellant, is a company incorporated and registered in Tanzania and publicly listed in the Dar es Salaam Stock Exchange. It is primarily engaged in the manufacturing, sale, and distribution of alcoholic and non-alcoholic beverages in Tanzania.

The respondent conducted a comprehensive VAT audit on the appellant's business for the period of April 2016 to December 2017,

resulting in an additional VAT assessment of TZS 6,532,627,295.76 comprising TZS. 4,884,209,352.22 as the principal tax and TZS. 1,648,417,943.54 as interest. The appellant disputed the assessment, by filing an objection on 29th July 2019, arguing that the respondent had wrongly disallowed its input tax claims, leading to an incorrect VAT demand.

On 27th December 2019, the respondent issued a proposal upholding its position, stating that the appellant's tax invoices did not comply with section 86 (1) (b) (v) of the VAT Act, 2014. The appellant reiterated its objection on 4th February 2020, maintaining that the assessment was flawed due to the improper rejection of input tax credits.

Subsequently, the respondent issued its final determination on 30th March 2020, confirming the VAT assessment as correct. Dissatisfied with this decision, the appellant lodged her appeal before the Tax Revenue Appeals Board (the Board) founded on two grounds of complaint that; one, the respondent's decision to demand value added tax for the year 2016 to 2017 was wrong in law; and, two, that the respondent's imposition of interest, was as well, wrong in law.

The Board heard the parties and relied its findings on section 68 (1) read together with section 69 (2) of the VAT Act, that a correct tax

invoice generated by the electronic fiscal device (the EFD), which includes the information prescribed by the provisions of section 86 (1) of the VAT Act, 2014 is primary evidence to support the input tax credit claim. The Board concluded that no other evidence, except an invoice generated by the EFD can sufficiently support a claim on input tax credit which a taxable person is entitled under section 68 (1) of the VAT Act, 2014.

The Board further made a finding that, the manually generated tax invoices were not correct tax invoices generated by the EFD referred to under section 86 (1) (b) of the VAT Act and the two sample EFD receipts were lacking vital information such as the name, address, Tax Identification Number (the TIN) and Value Added Tax (the VAT) number of the taxable person. This was in line with the testimony of AW1 who acceded that exhibit A-2 did not bear the necessary information which is required under section 86 (1) (b) (v) of the VAT Act. Then the Board concluded with the imposition of interest by the respondent under section 76 (1) of the Tax Administration Act, 2015 (the TAA). At the end it dismissed the appeal.

Still dissatisfied with the Board's decision, the appellant preferred an appeal to the Tax Revenue Appeals Tribunal (the Tribunal) which upheld the decision of the Board. Undaunted, the appellant is before us

contesting the decision of the Tribunal based on the following grounds of complaint:

1. *That the Tax Revenue Appeals Tribunal erred in law in failing to hold that in terms of section 68 (1) of the Value Added Tax of 2014, the respondent was wrong to reject the appellant's input tax for the years 2016 and 2017 and demand for the alleged unpaid output value added tax.*
2. *That the Tax Revenue Appeals Tribunal erred in law by failing to consider section 69 (2) and (3) of the Value Added Tax Act, 2014 properly in the context of the appeal before it.*
3. *That the Tax Revenue Appeals Tribunal erred in law to hold that it could not consider and evaluate the evidence provided by the appellant to support input tax claims in terms of section 86 of the Value Added Tax Act, 2014.*
4. *That the Tax Revenue Appeals Tribunal erred in law to hold that the respondent was correct to impose interest as per section 78 (1) of the Tax Administration Act.*

During hearing of the appeal, the appellant had the services of Messrs. Alan Nlawi Kileo, Norbert Mwaifwani and Mahmoud Mwangia,

learned counsel while the respondent was represented by Ms. Consolatha Andrew, Messrs. Amandus Ndayeza and Hospis Maswanyia, all learned Principal State Attorneys.

Mr. Mwaifwani adopted the written submissions to form part of his oral submissions. In arguing grounds 1, 2, and 3 of the appeal jointly, he contended that the Tribunal erred in law by upholding the respondent's rejection of the appellant's input tax claims for the year 2016 and 2017. He faulted the Tribunal's interpretation of the VAT Act that her documentary evidence to support fiscal receipts with missing particulars cannot be used to support a claim for input tax credit. In amplifying, Mr. Mwaifwani referred to the case of **National Bank of Commerce v. Commissioner General, Tanzania Revenue Authority** (Civil Appeal No. 52 of 2018) [2018] TZCA 83 (9 July 2018) and invited the Court to interpret VAT Act harmoniously as the Tribunal incorrectly isolated section 86 of the VAT Act which deals with documents and records from section 68 of the VAT Act, which establishes the substantive right to an input tax credit to a taxable person.

He further argued that, the purpose of section 68 (1) of the VAT Act is to grant the right to claim input tax if the substantive requirements are met: that the tax was incurred in the course of

economic activity for making taxable supplies. In addition, section 86 (2) of the VAT Act should be read to facilitate this right, not to restrict or defeat it. Its purpose is to prevent revenue loss by ensuring the VAT chain is followed, not to make a tax invoice the sole permissible evidence as it will violate the principle of Neutrality which is the well-established principle that restricts tax authorities from denying deduction rights where substantive requirements are met, even if some formalities are missing. He cited the cases of **Barlis 06 – Investimentos Imobiliarios e Turisticos SA v. Autoridade Tributaria e Aduaneira (Case C-516/14) [2016] BVC** and **Radu Florin Salomie and Nicolae Vasile Oltean v. Directia Generala a Finantelor Publice Cluj-C183/14** at paragraph 58, where it was held that the principle of neutrality requires that the deduction of input VAT be allowed if the substantive requirements are satisfied, even if the taxable person has failed to comply with some formal requirements. Therefore, he argued that, the decision of the Tribunal to reject the claim based on a formal requirement contravened this principle and was unfair, as the appellant had already suffered the demanded VAT.

On the issue of tax invoices, Mr. Mwaifwani argued that the Tribunal wrongly concluded that a tax invoice is the only evidence allowed to support an input tax claim. He submitted that section 86 (2)

of the VAT Act merely provides that an invoice lacking customer particulars is invalid; it does not prohibit the use of other forms of evidence to prove a transaction occurred. The law itself anticipates other evidence, such as fiscal receipts and manual invoices especially when EFD machines malfunction, as referenced in section 69 (2) of the VAT Act, he argued.

More so, Mr. Mwaifwani faulted the EFD machines supplied by the respondent that they were incapable of producing receipts with all required particulars. Thus, he argued that the respondent cannot now use its own failure as a basis to reject claims and gain a favorable interpretation of the law in the maxim "*Frustra legis auxilium quoerit qui in legem committit*" which translates to "he who breaks the law searches for its help in vain".

Regarding the fourth ground of appeal, Mr. Mwaifwani characterized the issue as consequential. He argued that since the Tribunal erred in upholding the rejection of the appellant's input tax claims and the resulting VAT assessment, there was no legal basis for the penalty imposed under section 78 (1) of the Tax Administration Act. Consequently, he concluded by praying that the Court allow the appeal based on grounds 1, 2, and 3 of appeal and award costs to the appellant.

In response to grounds 1, 2, and 3 of appeal, Mr. Ndayeza supported the Tribunal's decision, arguing that it correctly interpreted the VAT Act's mandatory requirements for claiming an input tax credit. He argued that, sections 68, 69, and 86 of the VAT Act must be read together, not in isolation. While section 68 (1) of the VAT Act establishes the substantive right to an input tax credit incurred for economic activity, it is subject to compliance with other provisions, particularly the documentary requirements provided for under section 86 of the VAT Act, he referred to the case of **National Bank of Commerce** (*supra*) where the Court held that, statues are to be read as a whole and that the Court is bound to give consistent, harmonious sensible effect to all of the parts of a statute, to the extent possible. It was his submission that, the Tribunal was correct in its harmonious interpretation, finding that a valid tax invoice or fiscal receipt is a mandatory condition precedent to claiming the input tax credit.

Further, Mr. Ndayeza argued that, section 86 (2) of the VAT Act is a specific and unambiguous provision that disqualifies invoices lacking the required particulars from being used to support an input tax claim. It is not enough to prove that input tax was substantively incurred; the taxpayer must support the claim with a compliant fiscal receipt as mandated by the law, he cemented.

He further argued on the misinterpretation of section 69 of the VAT Act, that the provision deals with the timing of the credit after a claim is allowed, not the initial evidential requirements for making a claim. He contended that, the documents specified in section 69 (2) of the VAT Act, that is; tax invoice, fiscal receipt, or other evidence, are defined and governed by section 86 of the VAT Act, which sets the strict standard for what constitutes valid evidence.

Mr. Ndayeza validated the Tribunal's use of the "strict interpretation" principle from **Cape Brandy Syndicate v. Inland Revenue Commissioner (1921) 1 KB 64,** which holds that tax laws must be interpreted based on their plain meaning without implying equity or intendment. He argued that, in applying the above stated principle, the Tribunal was right to enforce the clear and unambiguous language of section 86 (2) of the VAT Act without a purposive interpretation that would read in exceptions.

He further argued that, the Tribunal correctly deemed it impracticable and beyond the legal responsibility of the respondent to cross-reference its own records to verify the appellant's deficient claims. The legal obligation is on the taxpayer to file a complete return with valid supporting documents, he stressed.

On the issue of malfunction of the EFD Machine, it was the argument of the learned Principal State Attorney that it is a new factual issue that was improperly raised for the first time at the Tribunal and could not be entertained on appeal as provided for under section 25 (2) of the Tax Revenue Appeals Act that appeal to the Court shall lie on matters involving point of law only.

On the principle of Fiscal Neutrality, Mr. Ndayeza argued that the case of **Barlis 06-Investimentos** (*supra*) and **Radu Florin Salomie** (*supra*) are irrelevant to the present appeal as they interpret different legal implements. In Tanzanian law, he maintained, the principle of neutrality is embedded in and limited by the specific requirements of sections 68 and 86 of the VAT Act, which set clear rules that must be followed.

Concluding with ground 4 of appeal, the learned Principal State Attorney argued that since the appellant failed to remit output VAT on the due date and instead wrongly claimed it as an input credit, the imposition of interest under section 76 (1) of the Tax Administration Act was justified and lawful. The liability for each tax period became due on the 20th of the following month, and the appellant's failure to pay triggered the penalty.

Having heard the submissions by both parties and gone through the record of appeal, we are to determine the correct interpretation of sections 68, 69 and 86 of the VAT Act, 2014 founded on grounds 1, 2, 3 and 4 of appeal. Commencing with grounds 1, 2 and 3 of appeal which were argued jointly by the appellant, and we shall do the same, is a complaint by the appellant that the respondent wrongly rejected her input tax credit claim. It was the decision of the Tribunal that documentary proof of input tax incurred from supplier purchases is a mandatory requirement based on the dictates of section 69 (2) and (3) of the VAT Act, 2014, which mandate the submission of a valid tax invoice or fiscal receipt, and section 86 (1) of the VAT Act, which defines the essential elements of a valid tax invoice.

The Tribunal had concluded that invoices or fiscal receipts failing to meet the conditions/requirements set in section 86 (1) (b) (v) of the VAT Act cannot substantiate input tax credit claims. Additionally, it upheld the findings of the Board and the respondent's contention that the input tax credit claim can only be supported by an invoice generated by an EFD machine which meets the requirements under section 86 (2) of the VAT Act.

From the record of appeal, it is undisputed that the appellant is a registered taxpayer and is entitled to input tax credit claim in terms of

section 68 (1) of the VAT Act. Therefore, as correctly argued by Mr. Ndayeza the right conferred by this provision is not automatic for a taxable person to qualify, because a taxable person has to satisfy conditions stipulated under section 86 (1) and (2) of the same Act. This position was stated in **TPC Limited v. The Commissioner General of Tanzania Revenue Authority** (Civil Appeal No. 715 of 2023) [2025] TZCA 787 (1 August 2025) where the Court held:

> *"This provision is crafted in mandatory terms, meaning that for a taxable person to qualify under section 68 (1), she has to squarely meet the conditions under section 86 (1) and (2) of the VAT Act. In other words, the two provisions are interdependent. For that reason, the purposive approach suggested by the counsel of the appellant could not be applied to waive the strict condition set by the law to condone noncompliance."*

The position needs no interpolation, as it is clear the two provisions of the law are interdependent and we are not ready to agree with the argument of Mr. Mwaifwani. It is clear that section 68 of the VAT Act gives a right to the tax payer to claim input tax which is not automatic, as the taxable person has to satisfy conditions under section 86 (1) and (2) of the VAT Act; such as the disclosure of the name or

particulars of a tax payer. For ease of reference, section 86 (1) and (2) of the VAT Act provides:

> *(1) A registered person who makes a taxable supply shall, no later than the day on which value added tax becomes payable on the supply under section 15, issue a serially numbered true and correct tax invoice generated by electronic fiscal device for the supply, which shall -*
>
> *(a) be issued in the form and manner prescribed by the Minister; and*
>
> *(b) Include the following information*
>
> *(i) the date on which it is issued;*
>
> *(ii) the name, Taxpayer Identification Number and Value Added Tax Registration Number of the supplier;*
>
> *(iii) the description, quantity, and other relevant specifications of the things supplied;*
>
> *(iv) the total consideration payable for the supply and the amount of value added tax included in that consideration;*
>
> *(v)* ***if the value of the supply exceeds the minimum amount prescribed in the regulations, the name, address, Taxpayer Identification***

Number and value added tax registration number of the customer; *and*

(vi) any other additional information as may be prescribed in the regulations.

(2) ***A tax invoice which does not comply with the requirement under subsection (1)(b)(v) shall be valid but shall not be used to support an input tax credit claim".*** [Emphasis added]

The above excerpt, specifies all the information in which the appellant has to present to justify her claim. The evidence is the tax invoice generated by the EFD or a fiscal receipt must contain the name, address, taxpayer identification number and value-added registration number of the customer. It is a settled principle that, if the words of a statute are clear, the duty of the court is to give effect to their natural ordinary meaning; and the tax statute must be interpreted strictly. In **Commissioner General Tanzania Revenue Authority v. Ecolab East Africa (Tanzania) Limited** (Civil Appeal No.35 of 2020) [2021] TZCA 283 (2 July 2021), the Court held that the language used in the tax statute book are to be looked at the letter of the law because there is no room for looking for the intention of the statute but what is clearly said.

In the present case, the appellant presented manual receipts which did not contain the name of the appellant, TIN number and value-added registration number hence in contravention of section 86 (1) (b) (v) of the VAT Act. It was the argument of Mr. Mwaifwani that the Tribunal ought to consider the substantive requirement of which the appellant has met and ignore the formal requirements as stated in case of **Radu Florin Salomie** (*supra*) and **Ecotrade SPA** (*supra*). With due respect, these cases cannot be applied where there are specific provisions of the law which are interdependent and their interpretation is strict. We agree with the learned Principal State Attorney; these cases are inapplicable and distinguishable from the present appeal. We, therefore, find no reason to fault the findings of the Tribunal.

The appellant in his written submissions argued that, the EFD system in use at the time was lacking the necessary fields to include the required information, making it impossible for the appellant or its suppliers to modify or add the missing particulars. Despite this limitation, the law mandated the use of the EFD, forcing suppliers to issue manual invoices alongside fiscal receipts to comply. More so, the appellant argued that the respondent had issued a public notice in a widely circulating newspaper in Tanzania admitting that the EFD used at that time were incapable of restoring all the information and the absence of

key details on the EFD receipts was ultimately the respondent's fault, as they approved a defective system. The appellant is blaming the respondent for exploiting this error by seeking a favorable legal interpretation, a move prohibited by the principle that *"one who violates the law cannot seek its protection"*. The appellant maintained that the respondent should not benefit from own wrongdoing.

Section 68 of the VAT Act allows deduction of input tax credit upon being satisfied that the necessary documents supporting the claim have been incorporated in terms of section 86 (2) of the VAT Act. The issue that the respondent had admitted that the EFD machines were defective for want of incorporating vital information is a new fact as it surfaced first at the Tribunal and was not among the contentious issues raised before the respondent at the first instance. We thus agree with the submission of Mr. Ndayeza, pursuant to section 25 (2) of the TRAA, this Court is barred to determine factual issues, a stance confirmed by our recent decision in **Serengeti Breweries Limited v. Commissioner General, Tanzania Revenue Authority** (Civil Appeal No. 453 of 2023) [2025] TZCA 685 (3 July 2025), when we said:

> *"Strictly therefore, as a matter of law not of choice, this Court has no jurisdiction to entertain grounds of appeal raising factual complaints. Presently, this Court has interpreted matters of*

law referred to at the above section as; one, issues of interpretation of the Constitution of the United Republic of Tanzania (the Constitution), the laws of Tanzania or relevant legal doctrines; two, the manner the Tribunal applies a relevant provision of the Constitution, or of the statute or a relevant legal doctrine, and; three, a question on a decision reached consequent to a complete failure to consider evidence, or its complete misconception culminating into a plain and clear failure of justice."

In the light of the excerpt above, it is evident that the appellant is inviting this Court to consider the evidence of a public notice issued by the respondent regarding the EFD machines which is not permissible. Hence the argument of the appellant, with due respect, is untenable.

On ground 4 of appeal regarding the imposition of interest, whether it was justifiable, we are of the view that this is consequential. We have determined that the principal VAT tax was correctly assessed and it remained unpaid, it follows that the imposition of interest for late payment against the appellant was correctly made under section 76 (1) read together with section 81 (1) of the Tax Administration Act, 2015.

Guided by that rule and the decisions cited by the learned counsel for the respondent which, in our view, state the correct position of the

law, we agree that this appeal is devoid of merit. Consequently, the appeal is hereby dismissed with costs.

DATED at **DODOMA** this 3rd day of September, 2025.

M. C. LEVIRA
JUSTICE OF APPEAL

L. L. MASHAKA
JUSTICE OF APPEAL

D. J. NANGELA
JUSTICE OF APPEAL

Judgment delivered this 4th day of September, 2025 in the presence of Mr. Norbert Mwaifwani, learned counsel for the Appellant and Ms. Juliana Ezekiel, learned Principal State Attorney for the Respondent Via visual Court and Mr. Magesa Fabiane Mgeta, Court Clerk, is hereby certified as a true copy of the original.

O. H. KINGWELE
DEPUTY REGISTRAR
COURT OF APPEAL