

IN THE COURT OF APPEAL OF TANZANIA**AT DAR ES SALAAM****(CORAM: NDIKA, J.A., MASHAKA, J.A. And NGWEMBE, J.A.)****CIVIL APPEAL NO. 178 OF 2025****UNILEVER TEA TANZANIA LIMITED APPELLANT****VERSUS****COMMISSIONER GENERAL, TANZANIA****REVENUE AUTHORITY RESPONDENT****(Appeal from the Judgment and Decree of the Tax Revenue Appeals
Tribunal at Dar es Salaam)****(Hon. Mutungi, Chairperson, Dr. N.K. Mssusa and Ms. S.K. Barahomoka,
Members)****dated the 11th day of April 2025****in****Tax Appeal No. 83 of 2024****.....****JUDGMENT OF THE COURT****1st & 12th December, 2025****NDIKA, J.A.:**

The appellant, Unilever Tea Tanzania Limited, a Tanzanian company that grows, manufactures, and exports black tea, challenges the judgment of the Tax Revenue Appeals Tribunal ("the Tribunal") dated 11th April 2025 upholding the decision of the Tax Revenue Appeals Board ("the Board") of 12th October 2023, which partially favoured the respondent, the Commissioner General of the Tanzania Revenue Authority.

This dispute originates from the respondent's examination of the returns and accounts of the appellant for the year of income 2018. The

respondent, in its findings, aimed to amend what it asserted was underdeclared revenue totalling TZS. 13,245,790,165.00 and unreported export sales amounting to TZS. 14,239,425,000.00. As a result, the respondent issued a notice of adjusted assessment on corporate income tax for the year of income 2018.

The appellant submitted a notice of objection to the assessment (exhibit A2), contesting the underreporting of revenue and attributing the discrepancy to the invoices issued for transportation and border declarations being estimations rather than actual figures. At the time of conveying the produce to the Mombasa auction in Kenya, the appellant lacked customers and the price was indeterminate; therefore, the price and quantity were reported in the Tanzania Customs Integrated System (TANCIS) according to provisional invoices (dummy invoices). The final price and invoices were determined by the real values or prices obtained at the auction. The appellant also asserted that there were no unreported sales, but that there was an error in the invoicing of tea grade D1, which was later corrected.

The respondent addressed the notice of objection with a proposal for settlement of the objection dated 18th November 2020 (exhibit A3), asserting that the information provided by the appellant was inadequate

due to the absence of supporting documentary evidence to explain the discrepancy. After several correspondences between the parties, coupled with the appellant's response (exhibit A4) to the respondent's proposal for settlement of the objection, the respondent issued its final determination (exhibit A5) maintaining its position to adjust the alleged underdeclared and unreported export sales.

The appellant now appeals to this Court after losing its appeal to the Tribunal, which upheld the Board's judgment that was partially in the appellant's favour on the question of alleged unreported export sales. The appeal was initially premised on two grounds, which the appellant compressed in his written submissions in support of the appeal into the following question:

"whether the Tribunal was correct in law in holding that the appellant failed to discharge its burden of proof under section 19 (2) (b) of the Tax Revenue Appeals Act, Cap. RE 2023 in proving that there was no underdeclaration of revenue."

Mr. Stephen Axwesso, learned counsel, prosecuted the appeal for the appellant. In essence, he argued that the Tribunal's conclusion that the appellant underdeclared its revenue was a result of serious

misapprehension of the evidence presented by the appellant particularly the testimony of the appellant's witness (AW1).

While acknowledging that, in terms of section 19 (2) (b) of the Tax Revenue Appeals Act, Cap. 408 RE 2023 ("the Tax Revenue Appeals Act") the appellant bore the burden to prove that the respondent's assessment or decision was either erroneous or excessive, Mr. Axwesso asserted that the appellant discharged that burden. The appellant, he contended, demonstrated that the respondent's approach to the issue, using mark up in determining the price of tea was incorrect. That the said approach wrongly assumed that all made tea sold had similar grade of quality and that it fetched the same price. He was emphatic that the Tribunal did not consider AW1's uncontested testimony that the actual price of tea was obtained after auction and that the said price was reflected in the financial statements submitted by the appellant.

In further elaboration, the learned counsel censured the Tribunal for failing to evaluate the evidence on record, thereby arriving at a finding that was so perverse. Citing **Atlas Copco Tanzania Ltd v. Commissioner General, Tanzania Revenue Authority** [2020] TZCA 317, he submitted that the said error constituted a pure point of law. He maintained that the evidence availed by the appellant was sufficient to

prove that the respondent erroneously adjusted the appellant's revenue on the allegation of underdeclaration. Further reliance was placed on **Shadrack Balinago v. Fikiri Mohamed @ Hamza & Others** [2018] TZCA 215, **Depson Balyagati v. Veronica J. Kibwana** [2023] TZCA 17772 and **Registered Trustees of Holy Spirit Sisters Tanzania v. January Kamili & 136 Others** [2018] TZCA 32 for the proposition that this Court is bound in the present circumstances to reassess the evidence on record.

Mr. Carlos Mbingamno, learned Principal State Attorney, along with Mr. Colman Makoi, learned State Attorney, strongly opposed the appeal on behalf of the respondent. His argument was fundamentally two-part: first, that, since the appellant is mainly moving the Court to re-examine the factual issues on the evidence on record, the appeal clearly does not present a pure point of law. Referencing **Serengeti Breweries Limited v. Commissioner General, Tanzania Revenue Authority** [2025] TZCA 685, he argued that a pure point of law should be evident on the face of the memorandum of appeal; however, the current case does not exhibit any such complaint clearly on the record.

Secondly, Mr. Mbingamno contended, in the alternative, that the Tribunal adequately evaluated the evidence on record and concluded that

the appellant that did not provide sufficient documentary evidence to clarify the inconsistency in the revenue. He acknowledged that, at the time of delivering the produce to the Mombasa auction in Kenya, the appellant had no customers, and the price was uncertain. Thus, the price and quantity were reported to TANCIS based on dummy invoices. The learned State Counsel was emphatic, however, that the appellant failed to provide the final invoices that would indicate the actual prices obtained at the auction. None of them was included with the appellant's response to the examination findings (exhibit A1), the notice of objection (exhibit A2), or the response to the proposal to settle the objection (exhibit A4). Concerning AW1's testimony, he asserted that it did not rationalise the discrepancy in any manner.

As rightly acknowledged by the learned counsel for the parties, section 26 (2) of the Tax Revenue Appeals Act stipulates that appeals to this Court "lie on matters involving questions of law only." In **Atlas Copco** (*supra*), the Court confirmed, after examining case law, that according to the aforesaid provision, a question of law includes any of the following:

*"... **first**, an issue on the interpretation of a provision of the Constitution, a statute, subsidiary legislation or any legal doctrine on tax revenue administration. **Secondly**, a question on the*

*application by the Tribunal of a provision of the Constitution, a statute, subsidiary legislation or any legal doctrine to the evidence on record. **Finally**, a question on a conclusion arrived at by the Tribunal where there is failure to evaluate the evidence or if there is no evidence to support it or that it is so perverse or so illegal that no reasonable tribunal would arrive at it."*

In **Serengeti Breweries** (*supra*), we highlighted that merely claiming that the Tribunal did not evaluate the evidence on record does not represent a pure point of law. We emphasised that this Court does not have the authority to hear any complaint that involves a combination of legal and factual concerns. We stated further that:

"... if the Court has to ask itself whether the point is the one of law or fact, or if determination of the nature of the complaint in order to discover whether it is a point of law or fact, has to be preceded by a long detailed process of reasoning and detailed arguments and counter arguments, the Court has no jurisdiction to determine such a point; it is not a pure point of law [...] to be a question of law, the complaint must not be one that invites the Court to re-open factual issues in order to support the appeal."

What was at issue before the Tribunal was whether the appellant underreported its revenue by TZS. 13,245,790,165.00. As unveiled on pages 739 through 744 of the appeal's record, the Tribunal examined the evidence on record (which included AW1's testimony) and upheld the Board's view that the appellant's case was insufficient to substantiate the discrepancy in revenue. In particular, the Tribunal noted that the appellant had not presented any actual invoices as attachments to exhibits A1, A2 and A3 to reflect the actual prices at the auction.

In view of the foregoing, we concur with Mr. Mbingamno that the current appeal, contesting the Tribunal's evaluation of the evidence and its conclusion that the appellant did not meet its burden of proof, does not present a distinct point of law. Mr. Axwesso's assertion that the Tribunal misapprehended the evidence presented, leading to a perverse conclusion, is plainly implausible. He did not demonstrate how the evidence was misjudged and in what way the contested finding was irrational or unreasonable.

It is essential to highlight that appeals from the Tribunal should solely rest on pure questions of law. In other words, enquiries regarding the assessment of evidence are mainly factual, concluding in the Tribunal since they are fundamentally not pure legal questions – refer to **Insignia**

Limited v. Commissioner General Tanzania Revenue Authority
[2011] TZCA 246, **Singita Trading Store (EA) Limited v. Commissioner General Tanzania Revenue Authority** [2021] TZCA 179, **Atlas Copco** (*supra*) and **Serengeti Breweries** (*supra*).

We conclude that the appeal lacks merit and therefore dismiss it with costs.

DATED at DAR ES SALAAM this 12th day of December 2025.

G. A. M. NDIKA
JUSTICE OF APPEAL

L. L. MASHAKA
JUSTICE OF APPEAL

P. J. NGWEMBE
JUSTICE OF APPEAL

Judgment delivered virtually, this 12th day of December, 2025 in the presence of Ms. Maria Nkuhi, learned counsel for the Appellant, Mr. Colman Makoi, learned State Attorney for the Respondent and Ms. Christina R. Mwanandenje, Court Clerk, is hereby certified as a true copy of the original.



A handwritten signature in black ink, consisting of a large, stylized 'J' and 'F' followed by a horizontal line.

J. E. FVO
DEPUTY REGISTRAR
COURT OF APPEAL