IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

(CORAM: NDIKA, J.A., MWANDAMBO, J.A., And KAIRO, J.A.)

CIVIL APPEAL NO. 431 OF 2020

UNIVERSAL AFRICAN LOGISTICS LIMITED ..... APPELLANT

VERSUS

COMMISSIONER GENERAL,

TANZANIA REVENUE AUTHORITY (TRA) ..... RESPONDENT

(Appeal from the Judgment and Decree of the Tax Revenue Appeals Tribunal at Dar es Salaam)

(Mjemmas, J. - Chairman)
dated the 18th day of August, 2020
in
Tax Appeal No. 21 of 2018

.....

JUDGMENT OF THE COURT

18th October & 4th November, 2021

NDIKA, J.A.:

The essence of this matter is the question whether the appellant, Universal African Logistics Limited, is liable to pay TZS. 1,617,932,388.00 as additional value added tax ("VAT") and interest thereon amounting to TZS. 411,972,225.00 for the years 2011, 2012 and 2013 as assessed by the respondent, the Commissioner General, Tanzania Revenue Authority. The question was determined in the affirmative by the Tax Revenue Appeals Board ("the Board"), at the first instance, and the Tax Revenue Appeals Tribunal ("the Tribunal"), on appeal. Still discontented, the appellant now appeals to this Court.

The essential facts of the case, as summarized by the Tribunal, are as follows: the appellant is a company incorporated in Tanzania and headquartered in Mwanza. Trading in the name of Kilimanjaro Aviation Logistics Centre, the appellant engaged in the business of coordinating and organizing permits for landing and navigation for private aviation within the African continent. In doing so, the appellant used her local expertise and continent-wide network of proven suppliers to enable her clients obtain the correct permits, clearances and permissions for their entire trips.

On 24th August, 2010, Deloitte Consulting Limited, the appellant's tax advisors, submitted a letter to the respondent (Exhibit A-1) seeking the interpretation and application of the relevant provisions of the Value Added Tax Act, Cap. 148 R.E. 2002 ("the VAT Act"). It is noteworthy that this law was repealed by the Value Added Tax Act, 2014, now Cap. 148 R.E. 2019. The respondent replied vide a letter dated 1st September, 2010 (Exhibit A-2) confirming, based on the facts from the scenario presented in Exhibit A-1, that the entire business activities are made outside Tanzania, *"these transactions are falling outside the ambit of the VAT Act and therefore will not be considered as a taxable supply as [far as] the VAT law is concerned."*

In the year 2014, the respondent conducted a tax audit on the appellant's affairs for the years of income 2011, 2012 and 2013. It was

realized that the appellant had not paid VAT in respect of the supply of the aforesaid services on the ground that the said services were zero-rated. Consequently, the respondent issued assessment for additional VAT of TZS. 1,617,932,388.00 and interest thereon amounting to TZS. 411,972.225.00.

The appellant resented the assessment and hence filed a notice of objection disputing the assessed amount by providing her operational chart and brief explanation of her business and the nature of the transactions involved. Furthermore, the appellant submitted that she was acting as an agent of her affiliate, a non-resident principal company called Universal Weather and Aviation, Inc. ("UWA"), to coordinate the logistics across different countries in Africa.

The respondent replied vide her letter of 20th July, 2015 that the services rendered by the appellant were VAT chargeable at the prevailing rate of 18% and that the assessment for additional VAT and interest thereon was correct. The appellant's initial appeal to the Board against the aforesaid decision bore no fruit. Her further appeal to the Tribunal too came to naught, hence the present appeal predicated on three grounds thus:

1. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that the appellant is not an agent of Universal Weather and Aviation, Inc.*

2. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that the appellant was supplying standard rated services.*
3. *That the Tax Revenue Appeals Tribunal grossly erred by holding that the respondent was justified to impose interest on the disputed amounts.*

At the hearing of the appeal before us, Dr. Abel Mwiburi, learned counsel, stood for the appellant whereas Messrs. Juma Kisongo, Harold Gugami, Thomas Buki and Hospis Maswanyia, learned Senior State Attorneys, teamed up to represent the respondent. In their respective oral arguments, the learned counsel highlighted their written submissions for or against the appeal along with the list of authorities filed.

We begin with the first ground of appeal contending that the Tribunal grossly erred in law by holding that the appellant was not UWA's agent. Certainly, this ground assails the Tribunal's decision, at pages 491 and 492 of the record of appeal, upholding the Board's finding against the appellant. The impugned holding reads thus:

> *"We therefore agree with the findings of the Board that* ***the appellant failed to produce sufficient evidence to prove that there was agency relationship (implied) between the appellant and Universal Weather and Aviation.***
>
> *As correctly submitted by the learned counsel for the respondent in reaching its decision, the Board did not*

rely only on the absence of the written agency agreement. It reviewed the totality of the arrangements between the appellant and Universal Weather and Aviation as reflected in documentary evidence that was made available to the Board.

We do not subscribe to the submission of the appellant's counsel that the act of the appellant to issue tax invoices to jet operators through the care of Universal Weather and Aviation and not directly to Universal Weather and Aviation is an admission or evidence that there is a relationship which is principal-agent relationship. As correctly held by the Board, in normal circumstances ***if the appellant is the agent of Universal Weather and Aviation it was expected that those invoices were to be sent directly to Universal Weather and Aviation as a principal and in return Universal Weather and Aviation had to pay commission to the appellant as his agent but unfortunately this was not the case****."* [Emphasis added]

Dr. Mwiburi started off arguing that the above holding was a total misapprehension of the facts and the law. Citing sections 138 and 139 of the Law of Contract Act, Cap. 345 R.E. 2002 he contended that the authority of an agent could be either express or implied and that the existence of an agency could be proved not just by documentary evidence but it could also

be inferred from the conduct of the parties. The Tribunal, it was further argued, concentrated on the nomenclature used in the appellant's financial statement instead of examining and considering the totality of the arrangements between the appellant and UWA to determine if the alleged principal-agent relationship existed.

Elaborating on the alleged arrangements, Dr. Mwiburi stated that the process of delivery of the services by the appellant was initiated by a business jet owner communicating his flight plan to UWA. UWA would then engage the appellant to provide the necessary logistical support services to the business jet owner on behalf of UWA in respect of the flights over Africa's airspace as the best option for logistics. The appellant would pay all requisite navigation fees on behalf of the business jet owners and that upon completion of the services, the appellant would issue tax invoices (sampled invoices admitted as Exhibit R-1) to UWA in respect of the services rendered by her to UWA's customers acting as UWA's agent. Each invoice would contain two cost elements: first, navigation fees and charges paid to different authorities on behalf of the jet owners, which, then, are reimbursable without any mark up; and secondly, fees for logistical services covering indirect and direct costs plus a profit margin. It was, therefore, argued that based upon this business operations model, the appellant had no direct business

interactions with the jet owners but was used as a conduit of UWA for delivering services to her customers flying over Africa's airspace.

Referring to Pollock & Mulla's book, **The Indian Contract and Special Relief Act**, 14th Edition, 2012, as well as the case of **Babulal Swarupchand Shah v. South Satara (Fixed Delivery) Merchants Assan Ltd** (1960) Bom 671 AIR 1960 Bom 48, 62 Bom LR 304, Dr. Mwiburi posited that the test of agency is whether the person is purporting to enter transactions on behalf of the principal. That the relationship of principal-agent may be constituted either by express appointment by the principal or by implication of law or by subsequent ratification by the principal of the acts done on his behalf. That the law does not ordinarily require a contract of agency to be created except where the statute specifically requires that the authority should be conferred not orally but in writing. The Tribunal was, therefore, faulted for failing to scrutinize the true nature of the relationship as well as the functions and responsibilities of the appellant as UWA's agent.

Replying for the respondent, Mr. Gugami conceded that a principal-agent relationship may be express or implied and that an implied agency can be inferred from the conduct of the parties. However, he countered that the appellant presented no documentary or other evidence proving that UWA used to secure customers and instruct the appellant to give services to the

said customers on behalf of UWA. That the alleged arrangements on delivery of services only came from the mouth of the counsel for the appellant.

Mr. Gugami supported the concurrent finding by the Board and the Tribunal that the appellant did not issue the tax invoices (Exhibit R-1) to UWA upon completion of the services but that they were issued directly to the jet operators care of UWA. Based on Exhibit R-1, it was contended that the appellant had direct interaction with the jet operators except that the tax invoices were sent to the operators through UWA.

It is common ground that the appellant did not produce any document showing that she was appointed or given express authority by her affiliate, UWA, to act as her agent. On that basis, both the Board and the Tribunal were cognizant that the nature of the relationship between the two companies could only be inferred from the conduct between them. Certainly, the main, if not the only, piece of evidence portraying their relationship was constituted by the sample of tax invoices (Exhibit R-1), at pages 53 to 56 of the record of appeal, issued by the appellant. Looking at the invoice at page 53 of the record as an illustration, it is discernible that it was issued by the appellant in respect of the operator named *"Flicape (Pty) Limited, C/O Universal Weather and Aviation, Inc., 8787 Tallyho Road, Houston, Texas USA 77061, Phone: 713-944-1622."* As we understand the phrase "care of"

to mean "at the address of", we uphold the view that the invoice was issued directly to the Flicape (Pty) Limited and that it was dispatched at the address of the UWA.

We recall that Dr. Mwiburi reviewed the various aspects of the invoices including the payment options and the components of the charged fees, submitting that the invoices proved the alleged agency. It is noteworthy that as regards payment options, the invoices instructed the jet operators as follows:

> **PAYMENT OPTIONS:** Please remit funds to Company Name using one of the following options:
> **Payment Instructions per agreement with:**
> Universal Weather and Aviation, Inc.

While acknowledging that each payment was supposedly made to the appellant, Dr. Mwiburi argued that the detail "**Payment Instructions per agreement with:** Universal Weather and Aviation, Inc." was an indication that the jet operators against whom the invoices were issued were customers of UWA with whom they had agreements and, therefore, the appellant dealt with the jet operators through UWA supposedly as an agent. Dr. Mwiburi's submission seems attractive and forceful. However, the appellant did not produce any such agreements between UWA and the jet operators to illustrate the underlying relationship. It is our respectful view that the failure

to do so entitled any prudent tribunal of fact to draw an adverse inference against the appellant's case. This view is particularly reinforced by the fact that the appellant produced no evidence to prove the substance of her relationship with UWA, on the one hand, and the jet operators, on the other, except the sampled invoices. On this basis, we agree with Mr. Gugami that the invoices apart, the characterisation of the appellant as UWA's agent was mostly based on the appellant's word of mouth as opposed to cogent evidence that would have established that the appellant acted in the name and on behalf of UWA in delivering the services. Under the circumstances, we do not detect any apparent misapprehension of the evidence on record and the law in respect of the Tribunal's finding that the alleged agency relationship was unproven. The first ground stands dismissed.

We now turn to the second ground of appeal that the Tribunal grossly erred in law by holding that the appellant was supplying standard rated services.

Submitting on the above ground, Dr. Mwiburi essentially argued that the appellant's services were zero-rated. Citing sections 4 (1), 7 (4) and 9 (1) of the VAT Act together with Paragraph 9 (2) (b) (ii) of the First Schedule to the VAT Act on supply of ancillary transport activities such as loading and unloading handling and similar services, he argued that the physical

performance of such services after landing is done pursuant to a landing permit secured by the appellant connotes that the service was rendered outside Tanzania and, therefore, such service must be zero-rated. The learned counsel maintained that although the services of organising the landing permits are carried out in Tanzania, the underlying transaction in relation to these services is flying over the Africa's airspace, which happens and is supplied outside Tanzania. Hence, such services are zero-rated in terms of section 9 (1) of the VAT Act and Item 2 Note (b) (v) of the First Schedule to the VAT Act. According to Dr. Mwiburi, Item 2 Note (b) (v) reads thus:

> *"2. For the purposes of this Schedule, goods or services are treated as exported from the United Republic of Tanzania if:*
> *(b) in the case of services, the service is* ***supplied for use or consumption outside the United Republic of Tanzania as evidenced by documentary proof acceptable by the Commissioner.****"*[Emphasis added]

The learned counsel specifically urged the Court to determine what services were supplied by the appellant and where they were consumed. On the services supplied, he maintained that the appellant supplied services of securing landing permits across Africa and that such services became

complete when landing of the jet was done in the country for which permit was issued. As to where the services were consumed, it was submitted that the place of consumption is "the place where the airspace and landing is made."

Replying, Mr. Gugami agreed that Tanzania applies the destination principle in charging VAT on supplies of goods or services but that the law imposes a restricted or deeming approach with respect to the treatment of exportation and zero-rating of supplies of services to the extent that a service may be consumed or enjoyed outside Tanzania but fail to qualify for treatment as exported supply and hence deemed by law to have been destined in Tanzania. For this proposition, section 7 (4) of the VAT Act read together with Note (b) of the First Schedule to the VAT Act and Regulation 6 (1) of the Value Added Tax (Export of Goods and Services) Regulations, 2009, G.N. No. 91 of 2009 ("the VAT Export Regulations") were cited.

Elaborating further, Mr. Gugami submitted that zero-rating of supplies of goods of services is governed by section 9 of the VAT Act read together with the First Schedule to that Act and the VAT Export Regulations. That the relevant provision for the present purposes is Note (b) (v) of the First Schedule to the VAT Act as amended by the Finance Act No. 13 of 2008 and Regulation 6 (1) of the VAT Export Regulations both of which are in *pari*

materia. These provisions stipulate that the supply of services rendered by an intermediary acting for another person, shall be treated as being exported only when the underlying transaction is supplied outside Tanzania.

The phrase "underlying transaction", it was submitted, refers, according to Regulation 2 of the VAT Export Regulations, to principal business, deal or matter. Thus, Mr. Gugami argued that the appellant's principal business of coordinating, organising, arranging, processing and obtaining landing and navigation permits is what constitutes her underlying business as opposed to flying over Africa's airspace as alleged by the appellant's counsel. Relying on section 6 of the VAT Act that a service is supplied when it is rendered or performed, it was stressed that the appellant performed her services of organising permits at Mwanza in Tanzania. As such, the services were not zero-rated but standard-rated.

The learned counsel went on submitting that the text to Item 2 Note (b) (v) of the First Schedule to the VAT Act cited by his learned friend as the basis for the claimed zero-rating of the appellant's services was dead law as it was amended successively by the Finance Act, No. 15 of 2003 and the Finance Act, No. 13 of 2008. He argued that following the amendments, the law at the material time was that all supplies of services were treated as supplied in Tanzania where the supplier belongs except supplies of services

which may be treated as exported meeting the export conditions set forth under Note (b) (i) to (vii) of the First Schedule to the VAT Act.

It was Mr. Gugami's further contention that even if the appellant had complied with the requirement under Note (b) (v) of the First Schedule to the VAT Act which was identical to the requirement under Regulation 6 (1) of the VAT Export Regulations, Regulation 6 (2) of the VAT Export Regulations qualifies Regulation 6 (1) by providing that services qualifying for zero-rating are those for which the intermediary receives commission from the principal. So far as the instant matter is concerned, the learned counsel contended that it was established before the Board that the appellant did not receive any commission from UWA, meaning that her services did not qualify for zero-rating.

We find it convenient to note that in terms of section 4 (1) of the VAT Act, VAT was chargeable on any supply of goods or services in Mainland Tanzania where it is a taxable supply made by a taxable person in the course of or furtherance of any business carried on by him. Section 7 (4) of the VAT Act defined "place of supply" of services as follows:

> *"(4) Services shall be regarded as supplied in Mainland Tanzania if the supplier of the services-*
> *(a) has a place of business in Mainland Tanzania and no place of business elsewhere;*

(b) has no place of business in Mainland Tanzania or elsewhere but his usual place of residence is in Mainland Tanzania; or

(c) has places of business in Mainland Tanzania and elsewhere but the place of business most concerned with the supply of the services is the place of business in Mainland Tanzania."

It was common ground that paragraph (c) of section 7 (4) above is applicable to the matter at hand in view of the appellant's arrangements and operations at Mwanza as well as with its affiliate, UWA, in the United States.

So far as zero-rating of goods and services is concerned, section 9 (1) of the VAT Act provided that:

"A supply of goods or services is zero-rated by virtue of this sub-section if the supply is of a description specified in the First Schedule to this Act."

Item 1 of the First Schedule to the VAT Act specified that exportation of goods and taxable services from the United Republic of Tanzania as zero-rated provided evidence of exportation was produced to the satisfaction of the Commissioner. However, the zero-rating treatment was subject to following notes, which, as rightly argued by Mr. Gugami, were introduced by an amendment made by section 49 of the Finance Act, Act No. 13 of 2008:

*"**Notes:***

For purposes of items 1 and 2 –

(a) [Not relevant]

(b) all supplies of services are treated as being supplied in the place where the supplier belongs as defined in subsection (4) of section 7 except supplies of services which may be treated as being exported only when such services are physically carried out outside the United Republic of Tanzania, subject to documentary proof acceptable to the Commissioner as follows-

(i) to (iv) [Not relevant]

(v) the supply of services rendered ***by an intermediary acting in the name and on behaif of another person*** *shall be treated as being exported only when* ***the underlying transaction is supplied outside the United Republic of Tanzania;***

(vi) to (vii) [Not relevant]" [Emphasis added]

In view of the above clear provisions, we would agree with Mr. Gugami that Note (b) (v), as worded above, is relevant to the present dispute and that the text cited by Dr. Mwiburi as being the letter of the said note is incorrect. Thus, pursuant to Note (b) (v), which is in *pari materia* to Regulation 6 (1) of the VAT Export Regulations, it is clear that the supply of services rendered by an intermediary in the name and on behalf of another is treated as being exported when *the underlying transaction is supplied*

outside the United Republic of Tanzania. As rightly argued by Mr. Gugami, Regulation 6 (2) of the VAT Export Regulations also stipulated a further condition that the service claimed to have been exported must be one *for which the intermediary received commission from the principal*.

We have upheld the Tribunal's finding that the appellant did not act as UWA's agent when delivering the services. However, as did the Tribunal, we would assume that the appellant acted as UWA's intermediary in delivering the services so as to determine whether the two conditions above were met.

Beginning with whether the underlying transaction was supplied outside the United Republic of Tanzania, with respect we do not agree with Dr. Mwiburi that the supplied services of securing navigation and landing permits across Africa that became complete upon the jets concerned landing in the country for which the permits were issued amounted to exported services. It is undisputed that all activities of organising, arranging and securing the navigation and landing permits as the appellant's principal business in terms of Regulation 2 of the VAT Export Regulations were done at the appellant's centre in Mwanza. We think once the required permits had been sought, obtained and delivered to the jet operators, the services would be completed. The flying over the Africa's airspace or landing at an airport upon a permit secured by the appellant is not, by any yardstick, a service rendered by the

appellant. Consequently, we endorse the concurrent finding by the Board and the Tribunal that the services in this matter were rendered in the United Republic of Tanzania.

The issue whether the appellant as an assumed intermediary of UWA received commission for the services rendered poses no difficulty. Both tax courts below were concurrent that there was no proof of such payment to the appellant by UWA. This is yet another ground disqualifying the appellant's services from zero-rating. That said, the second ground of appeal fails.

Finally, we deal with the complaint that the Tribunal grossly erred by holding that the respondent was justified to impose interest on the disputed amounts of tax.

Dr. Mwiburi premised his submission on the principle that interest would be payable if liability to pay tax is legally established and that it was not paid at the time it was due. In the instant case, it was his argument that the alleged VAT liability was factually and legally misconceived. He contended further that since the appellant structured her operations acting upon the respondent's advice (Exhibit A-2) confirming that the envisaged underlying transactions would not be considered as a taxable supply on the ground that they fell outside the ambit of the VAT Act, the imposition of interest on the allegedly delayed tax was unjustified.

The learned counsel went on to recall that the Tribunal relied on the decision of the Supreme Court of Kenya in **Income Tax Commissioner v. AK** [1964] EA 648 at 652 as well as this Court's decision in **Roshani Meghjee & Co. Ltd. v. Commissioner General, Tanzania Revenue Authority**, Civil Appeal No. 49 of 2008 (unreported) for holding that no estoppel whatever its nature can operate to annul statutory provisions and a statutory person cannot be estopped from performing his statutory duty or from denying that he entered into an agreement which was ultra vires for him to make. However, he countered that the respondent being a statutory organ vested with the power to administer the tax laws is duty bound to advise its customers (taxpayers) correctly and diligently. Any advice given by the respondent should not operate against the taxpayer if the taxpayer acted on it. He added that the advice given constituted a private ruling which was binding on the respondent. To bolster his submission, he referred us to an article by Martin Atlas, **The Doctrine of Estoppel in Tax Cases**, Tax Law Review, Vol. 3, No. 1 (October/November), 1947, p.72-81.

Replying, Mr. Gugami submitted that the appellant was liable to pay VAT on the services she rendered for the years 2011 through 2013 because the said services were not zero-rated supplies and, therefore, her omission to pay the tax due rendered herself liable to pay interest on the unpaid tax.

Refuting the claim that interest was unwarranted because the delay to pay the tax arose from the respondent's advice that the services were zero-rated, he made two points. First, he submitted that the opinion in Exhibit A-2 was given by the respondent to Deloitte Consulting Limited who had requested it for a client dubbed as ABC-Tanzania, not the appellant. Secondly, he contended that the said opinion could not override the law and that on the authority of **Roshani Meghjee** (*supra*) cited by the Board and the Tribunal, the respondent could not be estopped from applying the law correctly and departing from a wrong opinion given by its officer. He added that the advice was, in terms of the applicable at the material time, not a private ruling for it to be binding.

In a brief rejoinder, Dr. Mwiburi conceded that Exhibit A-2 was not a binding "private ruling", a concept created and governed by sections 11 and 12 of the Tax Administration Act, 2015, now Cap. 438 of 2019, which was enacted in 2015 almost five years after the opinion in dispute had been issues. However, he went on distinguishing the case of **Roshani Meghjee** (*supra*) on the ground that it concerned an opinion issued by the respondent that was subsequently withdrawn which was not the case in the instant dispute.

We examined the appellant's request for the respondent's opinion on VAT on exported agency services (Exhibit A-1) and the respondent's reply thereto (Exhibit A-2) in the light of the written and oral submissions of the learned counsel for the parties. To begin with, we note that the request for opinion by the appellant's tax consultants (Exhibit A-1) contains a full disclosure of the nature of the proposed services and the underlying arrangements. We further note from Exhibit A-2 that in response to the request for opinion, the respondent confirmed that the proposed transactions fell outside the ambit of the VAT Act and that they would not be vatable.

However, we would agree with Mr. Gugami that Exhibit A-1 does not mention the appellant as the taxpayer for whom the advice was sought. Instead, the said opinion was clearly intended for an unidentified client of the tax consultants simply codenamed as ABC-Tanzania, a subsidiary of a company assumed to have been formed in the United Kingdom, called XYZ (UK) Ltd. In the premises, the claim that the opinion in issue should not operate against the appellant as a taxpayer on the ground that it was acted upon by the appellant does not arise. It negates the appellant's claim that she relied upon the respondent's opinion given to her to her detriment.

Specifically on the question of estoppel, we are unpersuaded by Dr. Mwiburi's submission that the respondent being a statutory organ vested with

the power to administer the tax laws should be estopped from denying the commanding adherence or bindingness on it of its opinions to taxpayers. It is our respectful view that our decision in **Roshani Meghjee** (*supra*) settled the law that there is no estoppel against the performance of a statutory duty. By way of emphasis, we wish to extract a quotation from **Income Tax Commissioner** (*supra*), which was the basis of our decision in **Roshani Meghjee** (*supra*):

> *"I understand the law to be that no estoppel, whatever its nature, can operate to annul statutory provisions and a statutory person cannot be estopped from performing his statutory duty or from denying that he entered into an agreement which was ultra vires for him to make.* ***A statutory person can only perform acts which he is empowered to perform. Estoppel cannot negative the operation of a statute and it is a public duty to obey the law.****"*[Emphasis added]

We have read Martin Atlas' article referred to us by Dr. Mwiburi in his oral argument. It is on the application of the doctrine of estoppel in tax cases within the context of the laws of the United States. How Atlas' commentary could advance the appellant's submission in this matter is unclear. We say so as it is notable that while he observes at page 87, after reviewing a string of

authorities on the subject, that estoppel *"comes into play against the taxpayers with great frequency and in a myriad of circumstances",* he concludes at the same page, that:

> *"[t]he largest area where estoppel will not come into effect against Government is with respect to opinions or rulings issued by the Treasury."*

The above position would hold true in respect of the respondent's opinions at time material to this dispute. We would, therefore, reiterate that the position in **Roshani Meghjee** (*supra*) on estoppel against the government remains settled.

However, we would hasten to acknowledge that the procedure under sections 11 and 12 of the TAA by which the respondent is empowered, upon application, to render a private or class ruling setting out position on the application of a tax law to an arrangement proposed or entered into will allow taxpayers to hold the respondent to its position on a question upon which a ruling is given. This procedure clearly provides a major inroad into the doctrine of estoppel against the government as it seeks to give protections to taxpayers. Nevertheless, so far as this matter is concerned we uphold the Tribunal's finding that the interest imposed on the appellant was justified. The third ground of appeal falls apart.

In the final analysis, we are of the opinion that the judgment appealed from was right and must be affirmed. Accordingly, we dismiss the appeal with costs.

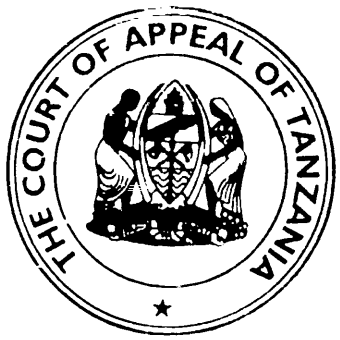
DATED at **DODOMA** this 3rd day of November, 2021

G. A. M. NDIKA
JUSTICE OF APPEAL

L. J. S. MWANDAMBO
JUSTICE OF APPEAL

L. G. KAIRO
JUSTICE OF APPEAL

The Judgment delivered this 4th day of November, 2021 in the presence of Ms. Consolatha Andrew, learned Principal Senior State Attorney assisted by Mr. Cherubin Ludovick Chuwa, learned Senior State Attorney, for the Respondent and also holding brief of Dr. Abel Mwiburi, learned counsel for the Appellant, is hereby certified as true copy of the original.



B. A. MPEPO
DEPUTY REGISTRAR
COURT OF APPEAL