



PwC Uganda

Tax Case Summaries

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Discounts Granted to Distributors by Manufacturers Should Not be deducted from the Ex-Factory Price when computing LED on the Products.

TAT has ruled that discounts granted to distributors by manufacturers should not be deducted from the Ex-Factory Price for purposes of computing Local Excise Duty on the products.

Introduction and Background

The dispute arose from additional tax assessments issued by the Uganda Revenue Authority (“URA”), comprising Local Excise Duty, VAT, and Corporation tax that was a result of an audit on the taxpayer dealing in the manufacture of beverages.

The main issue was whether the discounts granted by the manufacturer to its distributors should either be deducted or added/included in deriving the Ex-factory price for Excise duty computation purposes.

There were also other issues in dispute such as the classification of destroyed stock as undeclared sales, some tax assessments being arithmetically incorrect and some

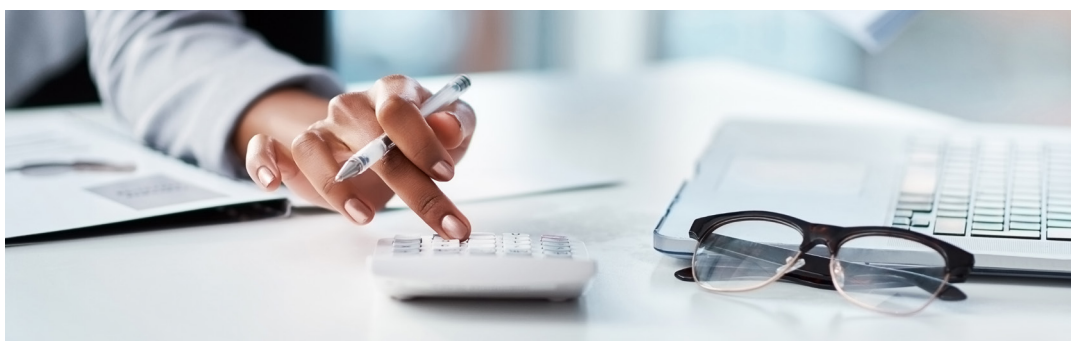
being time-barred. We shall however focus on the main issue relating to discounts.

Submission by parties

The taxpayer argued that in computing the Ex-factory price for excise duty purposes, the URA incorrectly added the discount amounts granted to its distributors.

The taxpayer contended that excise duty should not be computed on a price/amount that was not charged to, and received from, its distributor customer, otherwise it results in an Ex-factory price that is notional.

The taxpayer also contended that these discounts represent the reduced profit margin earned on their sales to the



respective distributors as opposed to being actual additional costs incurred to manufacture the products.

URA argued that the discounts granted by the taxpayer to its distributors should be included in the Ex-factory price particularly in the absence of proper and detailed records showing the production costs and sales margins per product to enable accurate computation of the Ex-factory price.

The URA also argued that not all the taxpayer's customers were given the discounts which showed that the discounts were merely incentives that should not be deducted\excluded from the Ex-factory price for excise duty computation purposes.

Ruling of the Tribunal

In respect of the main issue relating to whether discounts form part of the Ex-factory price for Excise duty purposes,

the tribunal ruled in favour of URA.

The Tribunal stated that although discounts facilitate the sale of the goods, they are not essential for either the manufacture or the sale of the goods, since goods can be sold without discounts, and are generally usually sold as such.

The tribunal also stated that although the discount amounts were not received by the taxpayer from its customers, the law does not provide for Excise duty to have to be computed on the selling price to its customers, but rather on the Ex-factory price (which can be different from the selling price).

Key Takeaways

1. For taxpayers in the manufacturing sector, where discounts are provided to distributors of their products, these discounts should not be deducted to reduce the Ex-

Factory price on which excise duty is computed.

2. Where possible, manufacturers should provide a reconcilable breakdown of the direct costs of production and sale in addition to the profit margin, for each product in order to have excise duty computed on the accurate Ex-factory price.

Please feel free to contact your usual PwC contact or any of our experts above should you wish to discuss this further.

