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20 MAY 2026

TAX & REGULATORY ADVISORY · INTERNAL PRACTICE MEMORANDUM

Aggreko International Projects Tanzania Branch

versus

The Commissioner General (TRA)

Analysis of business and tax aspects, precedents, compliance posture, and implications for Tanzanian taxpayers.

CIVIL APPEAL NO. 175 OF 2025

Executive Summary

On 20 May 2026, the Court of Appeal of Tanzania (Lila, Rumanyika and Mansoor JJ.A.) delivered judgment in *Aggreko International Projects Tanzania Branch v. Commissioner General (TRA)*, Civil Appeal No. 175 of 2025, allowing the taxpayer's appeal against the Tax Revenue Appeals Tribunal's decision of 11 April 2025. The dispute concerned the disallowance of input Value Added Tax (VAT) claimed by Aggreko on accommodation and lodging supplied to its technicians deployed at the Barrick mine sites for the tax periods 2010-2019, and the related interest assessed under section 76(1) of the Tax Administration Act.

The Court held, applying the plain-meaning rule and the *ejusdem generis canon*, that employee accommodation at a remote mine site is not 'entertainment' nor 'hospitality of any kind' within section 2 (now s.3) of the Income Tax Act (read with the matching definition in the Value Added Tax Act, Cap. 148), and is therefore not caught by the input-tax restriction in section 68(3)(a) of the VAT Act (now section 72(3)(a) of Cap. 148 R.E. 2023). The Court reasoned that such accommodation is a fundamental business cost necessary for the production of taxable supplies, qualitatively distinct from food, beverages, amusement and recreation. The interest assessed on the principal tax was vacated to the extent the underlying tax was non-existent; however, the Court reaffirmed *Shoprite Checkers (T) Ltd* that interest under section 76(1) TAA (now s.87(1)) accrues automatically on unpaid tax irrespective of pending appeals.

The decision is a clear taxpayer victory. It tightens the boundary of the 'entertainment' input-tax block, validates the recoverability of operational employee accommodation at remote work sites, and signals a continued judicial trend in favour of commercial-reality-led statutory interpretation over expansive Revenue interpretations. Practical compliance steps are set out in Part 8.

Parties and Procedural Posture

The taxpayer is the Tanzania Branch of Aggreko International Projects, a multinational supplier of temporary power and process solutions and technical personnel. The audit covered the long period 2010-2019, with the contested issue narrowing on appeal to the disallowance of input VAT on accommodation/lodging for technicians stationed at Barrick mine sites and the consequential interest. The appellant lost at the Board and the Tribunal; this is a third-tier appellate victory at the apex court.

Issues for Determination

The Court of Appeal distilled the four grounds of appeal into two material issues:

I Whether the Tax Revenue Appeals Tribunal correctly interpreted section 2 of the Income Tax Act and section 68(1) and (3)(a) of the Value Added Tax Act in characterising accommodation expenses incurred for the appellant's employees at remote mine sites as 'entertainment' / 'hospitality of any kind', so as to disallow the related input VAT credit.

II Whether the Tribunal erred in upholding the imposition of interest under section 76(1) of the Tax Administration Act on the disputed tax, in circumstances where the underlying principal tax was itself wrongly assessed.

The Court's Analysis and Holding

4.1 Method of statutory interpretation

Rumanyika J.A. opened the substantive analysis with the trite principle that 'while interpreting tax statutes, courts have to apply the plain meaning rule, without more', citing *Shana General Store Ltd v. Commissioner General-TRA*, Civil Appeal No. 392 of 2020. This anchored the Court's refusal to read 'hospitality of any kind' so expansively as to capture operational employee lodging.

4.2 Application of ejusdem generis

The 'entertainment' definition shared by both Acts enumerates 'food, beverages, amusement, recreation' before the general phrase 'hospitality of any kind'. Drawing on *Pan African Tanzania Ltd v. CG-TRA* (Civil Appeal No. 172 of 2020) and *Coca Cola Kwanza Ltd v. CG-TRA* (Civil Appeal No. 201 of 2023), the Court applied the *ejusdem generis* canon: the general words must take their colour from the specific genus that precedes them, namely items of personal enjoyment, leisure and refreshment. Employee accommodation at a working mine does not share that genus. As the Court put it, 'at any stretch of the imagination, the two do not belong to one specie of entertainment'.

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4.3 The 'luxury / personal enjoyment' rationale of section 68(3)(a) VATA

Crucially, the Court articulated the policy purpose of the input-tax block: section 68(3)(a) VATA 'discourages input VAT claims on expenses incurred for luxury and personal enjoyments. It extends, thus, to non-business consumption such as meals, recreation and entertainment.' Lodging for technicians per-

forming services at remote mine sites is not luxury or personal enjoyment; it is an operational enabler. To read the block more broadly would, in the Court's words, 'underpin input VAT restrictions [in disregard of] the commercial realities of the appellant's business'.

4.4 Cross-fertilisation with the Income Tax Act

Although the dispute was about input VAT credit, the Court grounded its analysis in the cross-statute definition of 'entertainment' under section 2 of the Income Tax Act. The implication is consequential: the same characterisation that wins the input VAT argument also positions the taxpayer to deduct the cost under section 11(2) ITA — i.e., as expenditure 'incurred during the year of income, by the person wholly and exclusively in the production of income from the business'. The Court accepted the appellant's framing that 'disallowance of accommodation expenses for the tax payer's employees would regrettably amount to exclusion of the human resource which is such an essential and direct aspect for generation of any taxable income.'

4.5 Interest under section 76(1) TAA

On the fourth ground, the Court restated the orthodox position (*Shoprite Checkers (T) Ltd v. CG-TRA*, Civil Appeal No. 307 of 2020): interest under section 76(1) TAA 'is payable on any unpaid tax after the due date' and runs automatically, regardless of pending litigation. Accordingly, the doctrinal complaint failed. The interest was, however, set aside in this case because once the principal tax fell with the input-VAT victory there was no 'unpaid tax' upon which interest could lawfully accrue. The taxpayer benefited not because interest is suspended during appeals (it is not) but because the substrate disappeared.

4.6 Disposition

The Court allowed the appeal on grounds 1, 2 and 4 with costs, dismissed ground 3, and to that extent overturned the Tribunal's decision.

Ratio Decidendi and Obiter

5.1 Ratio decidendi

01 The plain-meaning rule governs the interpretation of Tanzanian tax statutes; expansive 'purposive' constructions cannot be deployed to enlarge an input-tax disallowance.

02 The *ejusdem generis* canon confines the general phrase 'hospitality of any kind' (in the s. 2 (now s.3) definition of 'entertainment' common to the ITA and the VAT Act) to the specie of personal enjoyment items enumerated alongside it (food, beverages, amusement, recreation). Employee accommodation at a remote operational site is outside that specie.

03 Section 68(3)(a) of the VAT Act (s. 72(3)(a) of Cap. 148 R.E. 2023) is to be read as targeting luxury or non-business consumption. Operationally necessary lodging for employees discharging the taxpayer's economic activity falls outside its scope and therefore qualifies for input VAT credit under section 72(1) VATA.

04 Interest under section 76(1) of the Tax Administration Act accrues automatically on tax unpaid after the due date, irrespective of pending appeals; but it cannot stand where the principal assessment is itself set aside.

5.2 Obiter and judicial culture

- The Court reinforced that a third-tier appeal is not a re-hearing on evidence; absent a clear demonstration of misapprehension, the Court of Appeal will not interfere with concurrent factual findings (*JICA v. Khaki Complex Ltd*).

- The Court signalled openness to 'commercial realities' when statutory text is ambiguous an important corrective to Revenue's tendency to push for the broadest possible definitional reach.

Statutory Framework Analysed

6.1 Value Added Tax Act, Cap. 148 (R.E. 2023)

- **Section 3** (definition): 'entertainment' means the provision of food, beverages, amusement, recreation or hospitality of any kind.

- **Section 72(1)** (formerly s. 68(1), as cited in the judgment): a taxable person is allowed an input tax credit for VAT on acquisitions made in the course of economic activity and for the purpose of making taxable supplies.

- **Section 72(3)(a)** (formerly s. 68(3)(a)): no input tax credit for acquisitions used to provide 'entertainment', unless the person's economic activity involves providing entertainment in the ordinary course of business.

- **Section 72(3)(b) and (c):** no input tax credit for club, association or society memberships of a sporting/social/recreational nature, or for passenger vehicles (subject to carve-outs).

- **Section 72(4):** the restrictions in s. 72(3)(a) and (b) do not apply to acquisitions or imports used to provide in-kind benefits to employees and the supply of which is taxable under section 25 VATA — a structural escape clause for properly accounted-for in-kind benefits.

6.2 Income Tax Act, Cap. 332 (R.E. 2023)

- **Section 3:** definitional anchor for 'entertainment' as cited by the Court; the Court treated the definition as materially identical to that in section 3 of the VAT Act.

- **Section 11(1)(a):** no deduction is allowed for 'consumption expenditure' (defined as expenditure incurred 'in the maintenance of himself, his family or establishment, or for any other personal or domestic purpose') or 'excluded expenditure'.
- **Section 11(2):** deduction is allowed for all expenditure 'incurred during the year of income, by the person wholly and exclusively in the production of income from the business or investment'. This is the principal limb on which deductibility of employee accommodation should be defended.
- **Section 11(3):** no deduction for expenditure of a capital nature. Lodging fees are characteristically revenue, not capital.

6.3 Tax Administration Act, Cap. 438

- **Section 76(1)** (now s.87(1)): interest accrues on any unpaid tax after the due date, automatically and irrespective of pending appeals (*Shoprite Checkers* principle reaffirmed).
- **Section 63:** pay-to-play rule on objection deposit of the lesser of one-third of the assessed tax or the undisputed amount is required to preserve objection/appeal rights. Practical leverage to stop further interest exposure.

Precedents Cited and Their Doctrinal Function

CASE	CITATION	USE IN AGGREKO
Pan African Tanzania Ltd v. Commissioner General-TRA	Civil Appeal No. 172 of 2020; [2020] TZCA 287 (9 July 2021)	Cited by appellant for the *ejusdem generis* canon — general words confined to the genus of the specific words preceding them.
Coca Cola Kwanza Ltd v. Commissioner General-TRA	Civil Appeal No. 201 of 2023; [2025] TZCA 642 (27 June 2025)	Cited by appellant for the modern reaffirmation of *ejusdem generis* in tax-statute interpretation.
Tanzania Breweries Plc v. Commissioner General-TRA	Consolidated Tax Appeal Nos. 88 and 90 of 2023 (TRAT)	Cited by appellant as persuasive Tribunal authority for treating operational employee costs outside the 'entertainment' restriction.
M&P Exploration Production Tanzania Ltd v. Commissioner General-TRA	Tax Appeal No. 90 of 2023 (TRAT)	Cited by appellant to support input-VAT recovery on operational support costs incurred for upstream/site-based personnel.

CASE	CITATION	USE IN AGGREKO
AB (Pty) Ltd v. Commissioner for South African Revenue Service	Case No. VAT 1015 (South Africa)	Cited by TRA as comparative authority; the Court of Appeal did not adopt its restrictive reading.
Shana General Store Ltd v. Commissioner General-TRA	Civil Appeal No. 392 of 2020; [2021] TZCA 633 (3 Nov 2021)	Relied on by the Court for the plain-meaning rule in interpreting tax statutes.
Japan International Cooperation Agency (JICA) v. Khaki Complex Ltd	Civil Appeal No. 107 of 2004; [2006] TZCA 80 (17 July 2006)	Relied on by the Court for the principle that a third-tier appellate court will not re-evaluate evidence absent demonstrated misapprehension.
Shoprite Checkers (T) Ltd v. Commissioner General-TRA	Civil Appeal No. 307 of 2020; [2021] TZCA 622 (29 Oct 2021)	Relied on by the Court for the automatic accrual of interest on unpaid tax under s. 76(1) TAA notwithstanding pending appeals.

Aggreko consolidates a coherent line of Court of Appeal authority on tax-statute interpretation that began (in modern form) with *Shana General Store*, was extended by *Pan African Tanzania Ltd*, and most recently affirmed in *Coca Cola Kwanza Ltd.* The case adds two distinctive contributions: (i) it applies the canon specifically to the 'entertainment' input-VAT block, an area where TRA assessments have proliferated; and (ii) it explicitly imports the 'commercial realities' lens into the construction of input-tax restrictions.

Compliance Checklist for Taxpayers

The following matrix translates *Aggreko* into practice. It is designed for taxpayers in industries with field-based or remote-site operations (mining, oil & gas, EPC, infrastructure, telecoms tower-co's, services), but is generally applicable to any VAT-registered business with employee-support costs.

№	COMPLIANCE ITEM	ACTION / EVIDENCE TO MAINTAIN
1	**Classify expenditure correctly at source**	Tag employee accommodation/lodging at remote operational sites as an operating cost, not as entertainment. Use a chart-of-accounts entry distinct from staff welfare, recreation, or hospitality.

№	COMPLIANCE ITEM	ACTION / EVIDENCE TO MAINTAIN
2	**Establish business-purpose nexus**	Document, per assignment, why on-site/lodging is operationally necessary (distance from urban centres, shift patterns, security, client SLA, mine access protocols).
3	**Retain proper tax invoices (s. 86 VATA / TAA)**	Hold a fiscalised EFD/VAT invoice issued by a VAT-registered supplier, in the company's name and TIN, for every accommodation supply on which input VAT is claimed.
4	**Reconcile input VAT register to GL**	Per accounting period, reconcile input VAT claimed on accommodation to the lodging expense and to the payroll/HR site-attendance records to demonstrate that the supply was consumed by employees on duty.
5	**Distinguish in-kind employee benefits**	Where lodging is provided as a quantifiable in-kind benefit taxable under s. 25 VATA, rely on s. 72(4) VATA — restrictions in s. 72(3)(a)/(b) do not apply. Properly value and account for output VAT on the in-kind benefit where applicable.
6	**Mind the entertainment carve-out**	Costs that are genuinely entertainment staff parties, recreation, food and beverages outside subsistence, sport memberships, club entry — remain non-creditable under s. 72(3)(a)/(b) VATA. Do not co-mingle in claim lines.
7	**Income tax deductibility (s. 11(2) ITA)**	Test every accommodation cost against the 'wholly and exclusively in the production of income' rule. Maintain board minutes, project budgets and policies linking lodging to revenue generation.
8	**Object early and pay strategically**	Lodge objection within 30 days; pay/secure the lesser of 1/3 of assessed tax or undisputed amount (s. 63 TAA) to preserve appeal rights. Interest under TAA accrues automatically on unpaid tax regardless of appeal.
9	**Track audit horizons**	TRA audits routinely cover 5+ years (*Aggreko*: 2010-2019). Keep books and records for at least 5 years (s. 35 TAA) plus any open assessment year; reconstruct early-year evidence proactively.

№	COMPLIANCE ITEM	ACTION / EVIDENCE TO MAINTAIN
10	**Use *ejusdem generis* arguments in objection drafting**	When TRA invokes general words ('hospitality of any kind', 'similar') to disallow a cost, plead *Aggreko, Pan African* and *Coca Cola Kwanza* to confine the catch-all to the specie of the listed items.
11	**Mine-site and remote-operations dossier**	For mining, oil & gas, construction, and infrastructure projects, maintain a standing 'remoteness dossier' (maps, access notes, host-company camp policies). It is the strongest single piece of evidence to defeat an 'entertainment' recharacterisation.
12	**Cross-check ITA s. 3 'entertainment' against s. 7/s. 27 fringe benefit treatment**	Confirm that lodging treated as deductible business cost is not simultaneously a non-taxed employment benefit that should bear PAYE; misalignment invites parallel adjustments under ITA and SDL.

What Aggreko Means for Taxpayers in Tanzania: Tax Trends

9.1 Courts pushing back on expansionist assessments

Aggreko is the third Court of Appeal decision in three years (after *Pan African* and *Coca Cola Kwanza*) in which the Court has applied *ejusdem generis* to defeat a TRA recharacterisation that swept operational expenditure into a personal-consumption or excluded-expenditure category. The pattern is sufficient to call a trend: where the TRA's assessment depends on a strained reading of a definitional catch-all, the apex court is increasingly receptive to taxpayer challenges. Counsel drafting objections should foreground the canon and the line of authority early in the procedural cycle.

9.2 Sectoral implications — mining, oil & gas, EPC and field services

The factual matrix in *Aggreko* (technicians at Barrick mine sites) is directly transferable to the broader extractives ecosystem and to engineering, procurement and construction (EPC) contractors. Expect TRA's tax-audit teams to recalibrate their approach to accommodation, transport, and ancillary employee-support costs in mining and oil & gas. The defensive posture for taxpayers strengthens; but TRA may pivot to more refined challenges e.g., questioning the 'wholly and exclusively' nexus on a transaction-by-transaction basis, or scrutinising whether the lodging supply is a properly contracted third-party VATable service or an unaccounted intra-group benefit.

9.3 Recharacterisation risk — 'in-kind benefits' and PAYE

A foreseeable Revenue counter-move is to recharacterise employee accommodation as a non-cash benefit and seek to assess PAYE under the Income Tax Act fringe-benefit regime (and, where applicable, output VAT under section 25 VATA on the deemed in-kind supply). Taxpayers should pre-empt this by (i) documenting the operational, not remunerative, character of the lodging (project necessity, no employee choice, location dictated by client), and (ii) where the lodging genuinely benefits the employee personally, properly grossing-up and accounting for PAYE and output VAT. Section 72(4) VATA expressly preserves input VAT recovery on properly taxed in-kind benefits.

9.4 Documentation and audit-readiness trend

The 2010-2019 audit horizon in *Aggreko* underscores the long tail of Tanzanian tax audits. Taxpayers should expect (i) AI-assisted data interrogation by TRA, (ii) increasingly granular invoice-level requests during audit, and (iii) cross-checks between input VAT claims, payroll/HR systems, and project management records. The compliance perimeter is broadening; the winning files in litigation are increasingly those with a robust contemporaneous evidence base.

9.5 Interest, deposits and cash-flow discipline

Because interest under is not suspended by litigation, taxpayers with disputed assessments face a compounding cash exposure. *Aggreko* is a reminder that the strategic response is (i) timely objection within 30 days, (ii) deposit of the lesser of one-third or undisputed amount to preserve appeal rights and stop interest on the deposited portion, and (iii) where the legal merits are strong, paying under protest the full assessment to extinguish interest exposure while pursuing refund on success.

Conclusion

Aggreko International Projects Tanzania Branch v. Commissioner General-TRA is a significant taxpayer-facing precedent. It draws a principled line between operational employee support costs and personal enjoyment items for the purposes of the input-VAT restriction under the VAT Act, anchors that line in a coherent interpretive method (plain meaning + *ejusdem generis*), and aligns the result with the income-tax deductibility test in section 11(2) of the Income Tax Act. The decision strengthens the position of service providers in extractives, EPC and similar field-based sectors, and adds momentum to the broader trend of the Court of Appeal disciplining expansive Revenue readings of catch-all statutory language. The compliance imperative for taxpayers is to translate the doctrinal win into documented, audit-defensible practice guided by the matrix at Part 8 of this memorandum.

SOURCES RELIED UPON

- Court of Appeal of Tanzania, *Aggreko International Projects Tanzania Branch v. Commissioner General (TRA),* Civil Appeal No. 175 of 2025 (judgment dated 31 March 2026, delivered 20 May 2026).
- Value Added Tax Act, Cap. 148 (R.E. 2023).
- Income Tax Act, Cap. 332 (R.E. 2023).
- Tax Administration Act, Cap. 438.
- Court of Appeal authorities cited within the judgment: *Shana General Store; Pan African Tanzania Ltd; Coca Cola Kwanza Ltd; JICA v. Khaki Complex; Shoprite Checkers (T) Ltd.*

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