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Uganda: Govt Pays Billions in Taxes for Aya, Bidco, Quality Chemicals

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By Alon Mwesigwa

Just when the country is struggling to raise some stimulus packages for a limping economy, it has emerged that government is meeting the tax obligations of some companies, some of whom, from a public point of view, do not deserve any special financial relief, writes ALON MWESIGWA.

The ministry of finance is on the spot for blowing public funds to settle the tax bills for corporate companies, some of them for more than a decade, The Observer has established.

This financial year, according to a document tabled before the parliamentary budget committee early this month, government will spend Shs 77bn to pay taxes for Bidco Oil Refineries Ltd, Aya Investments Ltd, Steel and Tube, Cipla Quality Chemicals, Uganda Electricity Generation Company Ltd, and Uganda Electricity Transmission Company Ltd.

For some of the companies, The Observer has found that government has consistently been meeting their tax obligations ever since they set up in Uganda. For instance, the auditor general observed in the 2015/16 report that government had been settling tax obligations for Bidco since 2003, the year the firm set foot in the country.

Last year, government paid a whopping Shs 12.4bn in corporate tax for it, while this year, taxpayers will fork out at least Shs 5.8bn, an amount that dwarfs the annual budgets of most struggling districts.

GENESIS

The auditor general noted that in April 2003, government and Bidco Oil Refineries Limited entered into an agreement for the development of an oil palm industry in Uganda.

Under article 5(7) of the agreement, the AG said, government was required to pay VAT on the product of the project from all companies envisaged under the project from the first year of the project activities.

This was supposed to end after a period of eleven years from the year of handing over the 26,500 hectares of land at a cost of Shs 27.79bn. After this, Bidco would then refund the VAT paid by government with interest over a period of eight years in eight equal installments.

"Government has, however, failed to provide the balance of the 10,000 hectares of land as had then been envisaged," said the report. "As a result, the ministry has continued to settle all tax obligations on behalf of Bidco."

"There is a risk that the funds government has paid as Value Added Tax on behalf of Bidco since the date of signing the agreement may not be recovered," the auditor general warned.

If government fails to provide more land to Bidco or no changes are made in the agreement, it may continue paying taxes for the firm.

"I advised government to expedite the process of acquiring all the required land for Bidco to enable recovery of VAT payments that amounted to Shs 22.07bn as initially agreed (based on OAG records)," the auditor general said.

AYA INVESTMENTS

Meanwhile, for AYA Investments, government has paid its taxes since 2013, when it signed a memorandum of understanding with the ministry of finance to have its taxes paid by government as one of the incentives for the company to operate in the country. This year, government is paying Shs 3.7bn in import tax for the firm.

The auditor general said there was no indication of when this was supposed to stop. Government paid import taxes for the firm on the construction materials for the Aya hotel project [recently renamed Pearl of Africa hotel], officially opened by President Museveni in 2015.

"Best practice requires investment incentives and tax holidays to be given for a specific period of time guided by the business plan submitted by the investors to avoid abuse and misuse," the AG said.

He added: "It was observed that AYA Investments appears to have been given an open-ended tax holiday (through annual renewals) without due consideration to the associated risks of projects which overrun timelines set in their business plans. As a result, ministry [of finance] has continued to settle all tax obligations for AYA since 2013 when the MoU was signed. There was no indication that the ministry is about to stop supporting the investor soon."

The audit also warned that the originally envisaged benefits like employment opportunities when the hotel becomes operational and resulting taxes when the business starts filing tax returns may not be achieved.

Pressed on the issue, the ministry of finance said it pays import duty and taxes due for projects that are deemed strategically important.

CIPLA QUALITY CHEMICALS

The story of Cipla Quality Chemicals, the manufacturers of malaria and HIV/Aids drugs, is not captured in the audit report, but documents tabled in parliament show that government will pay at least Shs 29bn for it in corporation tax.

Yet with all this help, many Ugandans still wonder why the company sells its drugs to the country expensively compared to what it sells to neighbours such as Kenya.

Last year, National Medical Stores accused Cipla of offering them drugs at a price higher than the prevailing global market price. Cipla did not deny selling drugs to NMS at a price higher than it charges on the export market but it blamed the Uganda government, which ironically settles the company's tax obligations.

In a letter to the permanent secretary in the ministry of health, Cipla's executive director Nevin Bradford, said they sold the same drugs at a cheaper price to outside markets than Uganda "because it has to find ways of using the existing excess capacity of the factory caused by the government's failure to buy all drugs as agreed in their MOU."

Jim Mugunga, the finance ministry spokesperson, said the uproar was not that there was no money to buy the drugs, but because more money was being "spent on expensive Cipla drugs".

Mugunga, however, said some of the company's incentives are not conditioned on the unit cost of products they produce but they were given simply to entice them to set up in the country.

Steel and Tube and Southern Range have also been beneficiaries of tax sweeteners. Between January and June 2016, Steel and Tube was exempted from withholding tax of six per cent, according to the URA documents.

WHAT BENEFITS?

The assumption is that when government pays or waives taxes for these companies, they would in turn employ Ugandans and support the economy at a later stage when they eventually established themselves.

Have these companies helped?

The answer is mixed. Take for instance, Bidco. It is credited for having changed the fortunes of Kalangala district and employed hundreds of local farmers. However, there have been allegations of land grabbing with many farmers claiming they were kicked off their land without compensation.

In a report last year, the UN acknowledged it had not made due diligence when it supported the company through the International Fund for Agricultural Development (IFAD)

At Cipla, the insistence to sell drugs to the country at exorbitant prices is a testament that the country is yet to benefit from billions of shillings it spends to settle the firm's taxes. And the figures of losses are eye-popping.

A report by Tax Justice Network and ActionAid International in 2012 showed that tax incentives in Uganda reduced revenues available to fight poverty. It said the losses from tax incentives and exemptions were as much as Shs 690bn in 2009/10, an amount almost 20 times the budget of Mulago national referral hospital.

Company

Amount (2016/17)

Bidco

Shs 5.8bn (corporate tax)

AYA Investments Ltd

Shs 3.7bn (import taxes)

Cipla Quality Chemicals

Shs 29.8bn (corporation tax)

Southern Range

Shs 6.7bn (import taxes)

Steel and Tube

Shs 1.5bn (corporation tax)

Uganda Electricity Generation Company Ltd (UETCL)

Shs 25.3bn (stamp duty)

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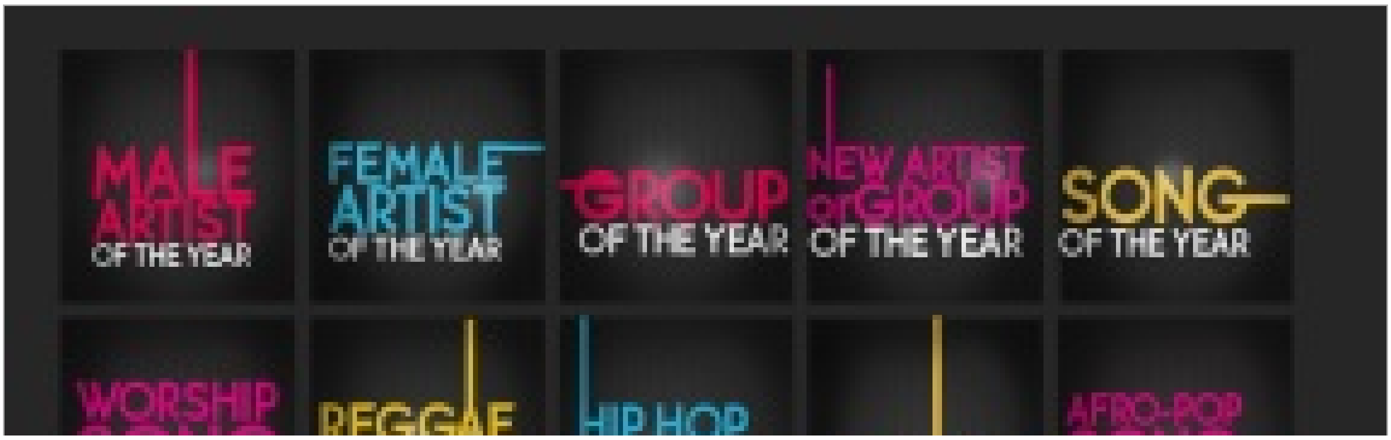

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