

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO. 111 OF 2024

AFRICA GLOBAL LOGISTICS UGANDA LTD.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

**BEFORE: MRS. STELLA NYAPENDI CHOMBO, MR. SIRAJ ALI,
MS. CHRISTINE KATWE**

RULING

This ruling, is in respect of an appeal by the Applicant, challenging an ADR decision issued by the Respondent's ADR Committee.

Background

The Applicant is engaged in the business of providing customs clearing, transportation, warehousing and freight forwarding services.

On 6th March 2012, following a review of the Applicant's VAT declarations for the period May to December 2011, the Respondent issued the Applicant with an Administrative Additional VAT Assessment amounting to Shs. 562,362,124. This additional assessment was issued by the Respondent because of a variance between the total output VAT declared in the Applicant's VAT Returns and the total input VAT claimed by the Applicant's VAT registered customers during the period May 2011 to December 2011.

Following a review of an objection filed by the Applicant 10 years after the issuance of the assessments, the Respondent disallowed the Applicant's objection by a letter dated 13th April 2023.

Dissatisfied with the objection decision, the Applicant filed an application under the ADR procedure. On 19th April 2024, the Respondent's ADR team delivered its decision maintaining the entire VAT assessment of Shs. 562,362,124.

Dissatisfied with the ADR decision, the Applicant filed the instant application as an appeal with the Tax Appeals tribunal.

Representation

At the hearing, the applicant was represented by **Mr. Lusiba Derrick** and **Simon Ssendikadiwa** while the Respondent was represented by Mr. **Kenan Aruho**.

When the instant Application came up for hearing, the Respondent raised a preliminary objection that the Application was filed outside the statutory period of 30 days, provided for under **S. 16(1) (c) of the Tax Appeals Tribunal Act**.

Issues

The following issues were set down for the resolution of the preliminary objection.

1. Whether the Application is time barred?
2. Whether the Application is bad in law for failure to pay the statutory sum of 30% of the tax in dispute?
3. What remedies are available to the parties?

Respondent's Submissions

The Respondent submitted that the law relating to a party's right to raise preliminary points of law is provided for under **Order 6 Rule 28** of the **Civil Procedure Rules**. The Respondent also cited the decision in **Mukisa Biscuit Manufacturing Co. Ltd v. West End Distributors Ltd (1996) EA 696**.

The Respondent submitted that **S. 14(1)** of the **Tax Appeals Tribunal Act** provides that any person who is aggrieved by a decision made under a taxing Act by the Uganda Revenue Authority may apply to the tribunal for review of the said decision.

The Respondent submitted further that **S. 25(1) of the Tax Procedure Code Act**, and **S. 16(1) (c) of the Tax Appeals Tribunal Act** provide that a person dissatisfied with an objection decision may within 30 days after being served with a notice of objection, lodge an application with the Tax Appeals Tribunal for review of the objection decision.

The Respondent also cited **Regulation 4(3) of the Tax Procedure Code (Alternative Dispute Resolution) Regulations, 2023** which provides that where Alternative Dispute Resolution is commenced between a taxpayer and the Commissioner, the time within which the taxpayer is required to file an application with the tribunal or a suit with the court shall not be affected by the Alternative Dispute Resolution procedure.

The Respondent submitted that the above provisions of the law clearly set out the mandatory timelines for a person dissatisfied with the decision of the Commissioner to file an application in the Tax Appeals Tribunal. The Respondent also relied on the decision in **Uganda Revenue Authority v. Uganda Consolidated Properties Limited, Court of Appeal Civil Appeal No. 75**, where the court stated that timelines set by Statutes are matters of substantive law and not mere technicalities and must be strictly complied with.

The Respondent submitted that its communication dated 13th April 2023, constituted a taxation decision and therefore time started to run from that date. The Respondent submitted that the Applicant instead filed the Application for review of the taxation decision on 16th May 2024, over a year later.

The Respondent relied on the decision in **Cable Corporation (U) Ltd v. Uganda Revenue Authority (supra)** where the Court observed that the Respondent has no powers to review its objection decisions once they have been made lest they lead to undesirable effects.

Relying on the above authority the Respondent submitted that once a taxpayer objects to a taxation decision and an objection decision has been made, any review of the decision can only be made by the tribunal.

The Respondent also relied on the decision in **CIC Africa (Uganda) Limited v. URA (Civil Appeal No. 100 of 2023)**, where the court held that decisions emanating from the Respondent's ADR cannot be reviewed by the Tax Appeals Tribunal.

The Respondent submitted further that the instant application is not properly before the tribunal as the Applicant has not paid the mandatory 30% of the tax in dispute as required under **S. 15 of the Tax Appeals Tribunal Act**. In support of this submission the Respondent cited the decision of the Supreme Court in **Uganda Projects**

Implementation and Management Centre v. Uganda Revenue Authority Constitutional Appeal No. 2 of 1999.

The Respondent submitted that the application ought to be dismissed on the basis of the above grounds.

Applicant's Submissions

The Applicant submitted that it filed the instant application under the provisions of S. 14(1) of the Tax Appeals Tribunal Act, which provides that any person aggrieved by a decision made under a taxing Act by the Respondent may apply to the tribunal for a review of the decision. The Applicant submitted further that a taxation decision is defined under S. 1 of the Tax Appeals Tribunal Act to mean any assessment, determination, decision or notice while S. 1 of the Tax Procedures Code Act defines a taxation decision as including a decision on any matter left to the discretion, judgment, direction, opinion, approval, satisfaction or determination of the Commissioner other than a decision made in relation to a tax assessment.

The Applicant cited S. 24(11) of the Tax Procedure Code Act which provides that a taxpayer who is dissatisfied with a decision of the Commissioner may apply to the Commissioner to resolve the dispute using Alternative Dispute Resolution. The Applicant submitted that the ADR decision that was communicated to the Applicant on 19th April 2024 involved the exercise of discretion of the part of the Commissioner. The Applicant submitted that the discretion in this case being either to uphold the VAT assessment or vacate the whole assessment.

The Applicant submitted that the Respondent does not have clean hands. The Applicant stated that all through the assessment and objection process the Respondent has not complied with the timelines. The Applicant submitted that it was not served with the assessments although they were first issued in 2012 and only found about them during the ledger reconciliation that commenced 10 years later. The Applicant stated that although it filed an objection to the assessments on 1st November 2022 it only received the objection decision on 13th April 2023 after a period of more than 4 months contrary to **S. 24(6)** of the **Tax Procedures Code Act**. The Applicant stated further that it applied to ADR on 25th April 2023, but only received the ADR decision on 19th April, 2024, more than 11 months after the application was filed. The

Applicant submitted that the Respondent cannot plead that the Applicant is time-barred yet it has not complied with the timelines set by law.

Relying on the decision of the tribunal in **Al Noor Tiles and Ceramics Ltd v. Uganda Revenue Authority (Misc. Application No. 103 of 2023)** and **Sogea Satom Uganda Ltd v. Uganda Revenue Authority (TAT Application No. 22 of 2023)**, the Applicant submitted that in communicating the objection decision, the Respondent ought to have informed the Applicant that an ADR Application did not affect the time within which a taxpayer is required to file an appeal at the Tax Appeals Tribunal.

The Applicant submitted further that the facts of the decision in the **Cable Corporation Case**, relied upon by the Respondent are distinguishable from the facts of the instant case. The Applicant submitted that in the **Cable Corporation Case**, the **Tax Procedures Code Act** had not yet been enacted with the result that the ADR procedure was in existence.

The Applicant submitted that the facts of the decision in **CIC Africa Uganda Limited v. Uganda Revenue Authority Civil Appeal No. 100 OF 2023**; are distinguishable from the facts of the instant case and accordingly, the decision in the said case cannot be applied to the instant case. The Applicant concluded its arguments by stating that it filed the instant application on 16th May 2024, well within the 30 days statutory period, disputing the ADR taxation decision communicated through the letter dated 19th April 2024.

The Applicant submitted that 30% of the tax in dispute was duly remitted to the Respondent on 20th June 2024 vide Payment Registration No. 2240017938166.

In rejoinder to the Applicant's submissions, the Respondent reiterated its earlier submissions.

The Respondent rejoined that the Applicant's objection was considered under the provisions of **S. 26(4)** of the **Tax Procedures Code Act** which empowers the Commissioner to grant an extension of time within which to object to a decision. The Respondent stated further that **S.26 (9)** of the same Act provides for the extension of time within which the objection decision can be made, where extensive review is required. The Respondent submitted that in the instant case, the Applicant lodged its objection after 10 years, which necessitated an extensive review and requests for

documentation, a fact the Applicant was at all material times aware of. The Respondent rejoined that the strict timelines referred to within which an application to TAT can be made started running from the date of the notice of objection which was 13th April 2023.

The Respondent rejoined that the facts of the decision in **CIC Africa Uganda Limited v. Uganda Revenue Authority (supra)** are on all fours with the facts in the instant case.

The Respondent rejoined further that the terms of its Charter have no effect whatsoever on the provisions of statutory law, which provides no exceptions whatsoever to the requirement to lodge an Application to the Tax Appeals Tribunal within the stipulated timelines. The Respondent rejoined further that the ADR Regulations were gazetted and published widely and consequently the Applicant was well aware of the Regulations and their implication. The Respondent stated further that ignorance of the law was no defence. The Respondent rejoined further that in any event the tribunal had long confirmed the position that ADR did not affect the time within which to apply to the Tax Appeals Tribunal. In support of this contention the Respondent cited the decision in **Conta Plast Ventures Limited v. Uganda Revenue Authority**.

Determination of the issues

The real question for determination in this application is whether the tribunal has jurisdiction to entertain this application.

The applicant stated in its submissions that the instant application was filed as an appeal against the decision of the Respondent's ADR team.

The question which arises in light of the above submission is whether the tribunal has appellate jurisdiction over the decisions of the ADR Committee.

Appellate jurisdiction or the power to hear appeals must be established by Statute.

In **Attorney-General v. Shah (No. 4) 1971 1 EA 50**, The Court of East Africa stated as follows; "*It has long been established and we think there is ample authority for saying that appellate jurisdiction springs from statute. There is no such thing as inherent appellate jurisdiction*".

In the instant case, the Applicant has submitted that the tribunal derives the power to hear this application by virtue of **S.14 (1)** of the **Tax Appeals Tribunals Act**.

S. 14 of the **Tax Appeals Tribunals Act**, states as follows;

14. Tribunal to review taxation decisions

- (1) A person who is aggrieved by a decision made under a taxing Act by-
 - a) The Uganda Revenue Authority; or
 - b) The Tax Agents Registration Committee established under the Tax Procedures Code Act, may apply to the tribunal for a review of the decision.
- (2) The tribunal has power to review any taxation decision in respect of which an application is properly made.
- (3) A tribunal shall, in the discharge of its functions, be independent and shall not be subject to the direction or control of any person or authority.

A statutory provision conferring appellate jurisdiction must expressly state that a tribunal or a court shall have jurisdiction to hear matters on appeal from a specific tribunal or court. Anything less would mean that such jurisdiction is being inferred or implied.

In **Baku Raphael Obudra & Another vs. Attorney General S.C.C.A No. 1 of 2005**, **Odoki CJ (As he then was)** restated the position set out in **Attorney-General vs. Shah (supra)** as follows;

"It is trite law that there is no such thing as inherent appellate jurisdiction. Appellate jurisdiction must be specifically created by law. It cannot be inferred or implied".

In the instant case, there is nothing in **S. 14(1)** above, which can be interpreted as giving the tribunal appellate jurisdiction from the decisions of the Respondent's ADR Committee.

S. 14(1) of the **Tax Appeals Tribunals Act**, was enacted in the year 1998, to grant the tribunal powers, to hear applications from the decisions, of the Commissioner General of the Uganda Revenue Authority.

S. 26(11) of the Tax Appeals Procedure Code Act, which provides for the **Alternative Dispute Resolution Procedure**, only came into force with the enactment of the **Tax Appeals Procedure Code Act** in the year 2016.

We therefore do not agree with the Applicant that **S. 14(1) of the Tax Appeals Tribunal Act** confers on the tribunal powers to hear appeals from the ADR Committee of the Respondent.

Further, the High Court has clarified on the question, as to whether a taxpayer, can challenge the outcome of the ADR procedure before the Tax Appeals Tribunal.

In **CIC Africa (Uganda) Limited vs. Uganda Revenue Authority; High Court Civil Appeal No. 100 of 2023**, Hon. Lady Justice Patricia Kahigi Asiiimwe stated as follows;

“The above three grounds all raise one issue which is whether the Appellant could challenge outcome of the ADR process. Having found that the Appellant could not lodge an objection against the outcome of the ADR decision, it follows that the Appellant does not have the right to apply to the Tribunal for review of that decision.”

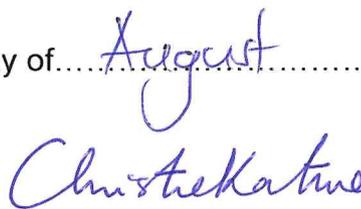
Considering ourselves bound by the above decision of the High Court and having reached the conclusion that **S. 14(1) of the Tax Appeals Tribunals Act**, does not confer appellate jurisdiction on the Tax Appeals Tribunal, in respect of matters emanating from the Respondent’s ADR procedure, we find that the tribunal has no jurisdiction to entertain this application. It is accordingly dismissed with costs.

IT IS SO ORDERED.

Dated at Kampala this 12th day of August 2025.



SIRAJ ALI
MEMBER



CHRISTINE KATWE
MEMBER

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
TAT APPLICATION NO.111 OF 2024

**AFRICA GLOBAL LOGISTICS UGANDA LIMITED (FORMERLY BOLLORE
TRANSPORT LOGISTICS UGANDA LIMITED)APPLICANT**
VERSUS
UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MRS. STELLA NYAPENDI CHOMBO, SIRAJ ALI, CHRISTINE KATWE

RULING (DISSENTING)

I have had the opportunity of reading in draft, the ruling of my colleagues, and wish to dissent as follows.

The background, the grounds and submissions by Counsel for the parties are ably summarized in that draft.

This Ruling is in respect of a Preliminary Objection raised by the Respondent, contending that this Application is incompetent on grounds that it is time-barred and that the Applicant failed to comply with the statutory requirement to pay thirty percent (30%) of the tax in dispute prior to lodging the Application.

Having carefully considered the representations, evidence, and submissions presented by both parties this is my decision.

A preliminary point of law was raised by the Respondent that this Application was time barred.

The law on preliminary points of law is provided for under Order 6 Rule. 28 of the Civil Procedure Rules which states that;

“Any party shall be entitled to raise by his or her pleadings any point of law, and any point so raised shall be disposed of by the court at or after the hearing; except that by consent of the parties, or by order of court on the application of either party, a point of law may be set down for hearing and disposed of at any time before the hearing”.

In ***Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd [1969] EA 696*** Sir Charles Newbold, said that;

“A preliminary objection consists of a point of law which has been pleaded or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit”.

Whether the Application is time barred?

The respondent raised a preliminary objection that this matter was filed out of time as their objection decision was given on 13th April 2023 and this application was filed on 16th May 2024.

The Legal framework relevant to this matter is set out below;

Section 27 (1) of the Tax Procedures Code Act 343 provides that

“a person dissatisfied with an objection decision may, within 30 days after being served with the notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision”.

S. 26 (6) of the Tax Procedure Code Act Cap 343 provides that;

“The Commissioner General shall serve notice of an objection decision on the person objecting within ninety days from the date of receipt of the objection.”

Section 16 (1) (c) of the Tax Appeals Tribunal Act, Cap. 341 provides that;

“an application to the Tribunal for review of a taxation decision shall be lodged with the Tribunal within 30 days after the person making the application has been served with notice of the decision”.

Section 16 (7) of the Tax Appeals Tribunal Act provides

“that an application for review of a taxation decision shall be made within six months after the date of the taxation decision”.

The Applicant filed an objection on 1st November 2022. The Respondent disallowed the objection on 13th April 2023, citing insufficient support for the grounds of objection.

S. 26 (6) of the Tax Procedure Code Act Cap 343 provides that;

“The Commissioner General shall serve notice of an objection decision on the person objecting within ninety days from the date of receipt of the objection.”

The Respondent took 164 days to serve the said objection decision on the Applicant.

The Applicant sought Alternative Dispute Resolution (ADR) whose decision upholding the assessment was given on 19th April 2024. This was eleven months later and yet ADR is sought after for its ability to provide a faster route to resolution than traditional court proceedings. Following this ADR decision, the Applicant filed an appeal with the Tax Appeals Tribunal (TAT) on 16th May 2024.

The Respondent correctly cited the mandatory nature of statutory timelines as established by the law and the precedent set in the case of **Uganda Revenue Authority v Uganda Consolidated Properties Ltd (Civil Appeal No.31 of 2000)** where court held that *“time limits set by statutes are matters of substantive law and not mere technicalities and must be strictly adhered to.”*

However, this position was expounded on in the case of **Boney Katatumba vs Waheed Karim SCCA No. 27 of 2007** where the Supreme Court stated that;

“In this context, the court will accept either a reason that prevented an applicant from taking an essential step in time, or other reasons why the intended appeal should be allowed though out of time. For example, an application that is brought promptly will be considered more sympathetically than one that is brought after unexplained inordinate delay. But even where the application is unduly delayed, the Court may grant the extension if shutting out the appeal may cause an injustice.”

The Applicant quoted the Latin maxim **“He who comes to Equity must come with clean hands”**. It is unfair for the Respondent to raise this preliminary objection simply because it also did not adhere to the statutory timelines it should have followed at the inception of this matter. The Respondent excessively delayed in issuing both the objection and ADR taxation decision and yet the Applicant filed their Appeal to this Tribunal 27 days after the ADR taxation decision.

I find that the ADR decision dated 19 April 2024, to be the more appropriate “taxation decision” for purposes of determining the appeal timeframe in this case. This places

the instant application well within the confines of Section 16 (1) (c) of the TAT Act, the same having been filed on 16 May 2024. This is because the ADR process which covered the period 25th April 2023 to 19th April 2024 availed an opportunity to the Respondent to review the information availed by the Applicant at ADR stage.

Whether the application is bad in law for failure to pay the statutory 30% of the tax in dispute.

I am cognisant of the payment of the 30 percent of the tax assessed which was remitted to the Respondent vide attached payment registration Number 2240017939166 dated 20th June 2024 amounting to Shs 168,708,637.2. The deposit was made in compliance with Section 15 of the TAT Act which requires such payment, pending final resolution of the objection and demonstrates the applicant's interest to pursue the matter on its merits.

For the reasons above, I would have overruled the preliminary objection.

And accordingly, have the application fixed for hearing on its merits.

With each party bearing its costs.

Dated at Kampala this 12th day of August 2025.



MRS. STELLA NYAPENDI CHOMBO
CHAIRPERSON