THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA

MISC. APPLICATION NO. 93 OF 2022

AFRICA RENEWAL MINISTRIES LIMITED .....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY .....RESPONDENT

BEFORE: DR. ASA MUGENYI, DR. STEPHEN AKABWAY MR. SIRAJ ALI

RULING

This ruling is in respect of an application seeking orders for the extension of time within which the applicant may file an application for review.

This application was brought under S. 16(2) of the Tax Appeals Tribunal Act, Rule 11 of the Tax Appeals (Procedure) Rules, S. 98 of the Civil Procedure Act and Order 52 Rules 1 and 3 of the Civil Procedure Rules.

The facts of the application are that. On 17th June 2019, the applicant was given property comprised in LRV 3026 Folio 8, Main Street Iganga (hereinafter the suit property), as a gift by Howie Christian Charitable Trust. On 7th July 2020, the applicant received an assessment of 6% Withholding tax (WHT) on purchase of the suit property. On 10th July 2020, the applicant objected to the assessment on the grounds that the suit property was a gift. On 7th October 2020, the respondent communicated its objection decision stating that the objection had been allowed in part without stating which part had been allowed and which part disallowed.

The applicant was represented by Mr. Roger Mugabi, Mr. Stanley Oketcho and Mr. Pius Katumba Busobozi while the respondent by Mr. Donald Bakashaba.

The application was supported by the affidavit of Mr. Ronnie Ivan, the applicant's executive director. He deponed that on 14th September 2019, the applicant was given the suit property as a gift of by Howie Christian Charitable Trust in a deed of gift. The property was donated on the understanding that the proceeds shall be applied to

God's work. On 7th July 2020, the applicant served the respondent an assessment of Shs. 54,000,000. On 10th July 2020, the applicant objected to the assessment. On 7th October 2020, the respondent made its objection decision. He stated that the applicant appealed against the objection decision. On 15th December 2021, the respondent replied that the applicant did not have sufficient grounds to vary the decision. The applicant only became aware of the reply on 11th March 2022 when it visited the respondent's office. He deponed that the applicant's employees broke off for Christmas and returned in January 2022. He also deponed that since 11th March 2022, the applicant has been trying to amicably resolve the matter through mediation.

In reply, Ms. Tracey Basima stated that on 7th July 2020, the respondent issued a WHT assessment of Shs. 54,000,000 on the applicant for the purchase of the suit property. On 10th July 2020, the applicant objected to the assessment. On 7th October 2020, the respondent in its objection decision disallowed the objection. She deponed that on 15th December 2021 by email the respondent confirmed that tax liability in the objection decision. She contended that the applicant has no reasonable or sufficient cause for the extension of time.

The applicant submitted that it is a registered Non-Governmental Organisation conducting Christian evangelism in Uganda. On 7th October 2020, the respondent communicated its objection decision stating that the objection had been `allowed in part`. It did not however specify which part of the decision had been disallowed and the reasons. The applicant submitted that owing to the ambiguity of the said objection decision it appealed against the decision on 21st July 2021. On 15th December 2021, an email was sent to the applicant by the respondent notifying the applicant that the assessment had been maintained. The applicant submitted that it did not see the email until 11th March 2022 after a visit to the respondent`s office to complain about the delay in the delivery of the decision and discuss the possibility of alternative dispute resolution. The applicant submitted that it tried to pursue reconciliation so that the matter could be resolved amicably. On 26th May 2022, the respondent finally responded that alternative dispute resolution was inapplicable and therefore the applicant`s only option was an application for review to the Tax Appeals Tribunal or the High Court.

The applicant submitted that the objection decision contravened S. 24(5)(a) of the Tax Procedure Code Act and could not amount to an objection decision in law. Citing *Black`s Law Dictionary* 10th Edition p. 493 the applicant defined a decision as

> `a judicial or agency determination after consideration of the facts and the law, especially a ruling, order or judgment pronounced by a court when considering or disposing of a case`.

It submitted further that S. 24(5)(a) states that the Commissioner may in response to an objection to a tax assessment decide affirm, reduce, increase, or otherwise vary the assessment to which the objection relates. . The applicant submitted that an objection decision which allows an objection in part and in the same breath disallows it, contravenes S. 24(5) of the Tax Procedure Code Act, and amounts to no decision in law. Citing *Cable Corporation v URA* Civil Appeal 1 of 2011, Madrama J, stated the following in reference to S. 99(5) of the Income Tax Act,

> "S.99(5) of the Income Tax Act provides that the Commissioner may allow in whole, part or amend the assessment. The Commissioner`s decision is referred to as an objection decision. It is the standard of an objection decision and has to be served on the taxpayer."

The applicant submitted that S. 99(5) has since been enacted in S. 24(5) of the Tax Procedure Code Act. The applicant contended that where an objection decision is allowed in part, an amendment to the assessment has to be made. In this case the Commissioner General`s decision allowed the objection in part and disallowed it at the same time

In the alternative, the applicant submitted that the its application was filed before the expiry of six months from the date of the objection decision. It also submitted that what would amount to an objection decision was the decision of 15th December 2021 arguing that the decision of the respondent of 7th October 2020 was incomprehensible, unclear, and incomplete, and contradictory. The applicant was justified in appealing to the respondent so that a proper and complete objection decision could be made. The applicant submitted that since its application was filed on 15th June 2022, the six months period alluded to by the respondent had not yet lapsed. It submitted further that the law does not prescribe six months statutory limitation period within which an application for extension of time must be filed. It also submitted that S. 16(7) of the Tax Appeals Tribunal Act, prescribes a time limit for the making of substantive

applications for review and does not relate to applications for the extension of time. The applicant cited *Farid Meghani v URA*, Civil Appeal 6 of 2021, where Mubiru J, stated as follows

> "The tribunal therefore misdirected itself when it construed Section 16(7) of the Tax Appeals Tribunals Act, as limiting the period within which an application for extension of time may be filed."

The applicant submitted that the six months period provided for under S. 16(7) of the Tax Appeals Tribunal Act was a timeline within which an application for review of a tax decision ought to be made and which, if it has expired would necessitate the making of an application for extension of time before the application for review is filed. The applicant further cited *Farid Meghani v URA* (supra) where it was stated that.

> "Section 16(1)(c) comes into play and time is reckoned from the date of service of the taxation decision. It means that only when a taxpayer has been served with a taxation decision should time begin to run up to 30 days. On the other hand, section 16(7) clearly delimits any other appeal to 6 months from the date of the taxation decision. Section 16(7) caters for situations where the taxpayer was not served with the taxation decision. In such circumstances time is reckoned from the date of the taxation decision and not from the date of service."

The applicant submitted that the respondent did not oppose this application on its merits. The respondent had not denied that the application for review has a high likelihood of success, that the grant of the application will not prejudice the respondent, that the delay by the applicant was not unreasonable or inordinate or that sufficient reasons existed for the extension of time. It cited *Mulindwa George William v. Kisubika Joseph*, Civil Appeal No. 12 of 2014, where it was stated that the factors that should be considered in an application for extension of time were, the length of delay, the reason for the delay, the possibility or chances of success and the degree of prejudice to the other party. The applicant also cited *Samwiri Mussa v Rose Achen* (1978) HCB 297, where it was held that where facts are sworn to in an affidavit and they are not denied or rebutted by the opposite party, the presumption is that such facts are accepted.

The applicant submitted that it was prevented from filing the application for review within 30 days because the objection decision delivered on 7th October 2020 was

incomplete and ambiguous and could not form the basis of an appeal. It appealed to the respondent for a proper decision. The appeal was communicated on 15th December 2021 however since its officials were all on leave for Christmas break, the applicant only became aware of the decision on 11th March 2022, after a visit to the respondent`s offices to complain about the delay in the delivery of the decision. The applicant stated that this application has been filed without unreasonable delay. It submitted further that the application raises issues of both fact and law with a high possibility of success. The applicant submitted that the suit property in which a WHT assessment had been levied by the respondent was not a business asset. It submitted further that the respondent will not be prejudiced by the grant of the application.

In reply, the respondent submitted that the date on which the decision of the Commissioner was made was 7th October 2020. It was proper and was duly communicated to the applicant. The respondent submitted that the communications of 15th December 2021 and 26th May 2022 did not amount to tax decisions as the respondent was functus officio. The respondent submitted that the decision of Mubiru J, in *Farid Meghani v URA,* in respect of the 6 months period was not good law as it ran contrary to the Court of Appeal decision of *URA v Consolidated Properties Ltd* on the same matter. The respondent stated that issues relating to timelines have always been strictly enforced and prayed that the application be dismissed.

Without prejudice, the respondent submitted that while the tribunal has discretion to allow applications filed out of time if reasonable cause can be shown. The discretion ought to be exercised judiciously. The respondent submitted that the applicant had not provided sufficient evidence to show that he was either sick, or absent from Uganda, or any other reasonable cause. Citing *Shah v Mbogo and Another* (1967) EA 116, the respondent submitted that the general rule regarding applications of this kind was that the court ought to exercise its discretion to avoid injustice or hardship resulting from accident, inadvertence, or excusable mistake or error, but not to assist a person who has deliberately obstructed or delayed justice. The respondent submitted that the applicant filed its application on 15th June 2022, when the objection decision was made on 7th October 2020. The respondent submitted that this period was unreasonably long and ought not to be tolerated. The respondent submitted that

the reason by the applicant that its officials did not see the email sent by the respondent on 15th December 2021, was not sufficient cause.

Having read the submissions of the parties, the following is the ruling of the tribunal.

On 17th June 2019, the applicant was given property as a gift by Howie Christian Charitable Trust. On 7th July 2020, the applicant received an assessment for 6% WHT on purchase of the suit property. On 10th July 2020, the applicant objected to the assessment on the grounds that the property in question was a gift. On 7th October 2020, the respondent communicated its objection decision. The applicant being dissatisfied with the clarity of the objection decision appealed for a review from the respondent. On 15th December 2021, an email was sent to the applicant by the respondent maintaining the assessment.

Time limits on when an application should be filed are set in the Tax Procedure Code Act and the Tax Appeals Tribunal Act. S. 25 of the Tax Procedure Code Act states that

> "(1) A person dissatisfied with an objection decision may, within 30 days after being served with a notice of the objection decision lodge an application with the Tax Appeals Tribunal for review of the objection decision."

S. 16 of the Tax Appeals Tribunal Act provides that.

> "(1) An application to a tribunal for review of a taxation decision shall-
> (a) be in writing in the prescribed form.
> (b) include a statement of the reasons of the application; and
> (c) be lodged with the tribunal within thirty days after the person making the application has been served with notice of the decision.
> (2) A tribunal may upon the application in writing, extend the time for the making of an application for a review of a taxation decision.

Prima facie, the applicant does not dispute that an objection decision was communicated to it on 7th October 2020. Therefore, prima facie it was required to file an application for review by 8th November 2020, which it did not. Hence it is seeking for extension of time.

However, in a contradictory submission, the applicant submitted that the objection decision of 7th October 2021 was not clear. it contended that the communication of 15th December 2021 should be taken as the objection decision. If we are to believe the applicant that the communication of 15th December 2021 was the objection decision, then applicant ought to have filed application for review by 15th January 2022 which it did not. Therefore, its application for review would still be time barred whether we are to consider the objection decision of 7th October 2020 or that of 15th December 2021. That is why the applicant is seeking for extension of time to file an application or review of the objection decision.

It is trite law that time limits must be strictly complied with. In *Uganda Revenue Authority v Consolidated Properties* Civil Appeal 31 of 2000 the Court of Appeal held that time limits set by statutes are matters of substantive law and not mere technicalities and must be strictly complied with. In essence a party who is outside the time limit cannot argue that an injustice will be occasioned to it when a matter is not decided on merit. In *Application by Mustapha Ramathan for Order of Certiorari, Prohibition and Injunction*, Civil Appeal No. 25 of 1996 Berko, JA stated

> "Statutes of limitations are in their nature strict and inflexible enactments. Their overriding purpose is interest *republicae ut sit finis litum*, meaning that litigation shall be automatically stifled after fixed length of time, irrespective of the merits of the particular case. A good illustration can be found in the following statement of Lord Greene M.R in *Hilton Vs Sutton Steam Laundry* [1946] 1 KB 61 at page 81 where he said-
>
> But the statute of limitations is not concerned with merits. Once the axe falls, it falls, and a defendant who is fortunate enough to have acquired the benefit of the statute of limitation is entitled, of course, to insist on his strict rights."

Therefore, the Tribunal has to ask whether the applicant complied with the law.

S. 16(2) of the Tax Appeals Tribunal Act allows for a party to apply for an extension of time. Rule 11 of the Tax Appeals Tribunals (Procedures) Rules provides that an application which is not filed within forty-five days from the date the applicant was served with notice of the decision, the tribunal may, in its discretion upon the application in writing, extend the time for making an application. The Tax Procedure Code Act was passed after the Tax Appeals Tribunal (Procedure) Rules and it being

an Act, the applicant is obliged to have filed its application within 30 days of receiving the objection.

Rule 11 of the Tax Appeals Tribunals (Procedure) Rules requires the tribunal to exercise its discretion. The purpose of a court in exercising its discretion as stated in *Shah V Mbogo and another* [1967] E.A 116 is to avoid injustice or hardship resulting from accident, inadvertence, or excusable mistake or error, but not to assist a person who has deliberately sought (whether) by evasion or otherwise to obstruct or delay the cause of justice. A tribunal like any other court of law is required to exercise this discretion judiciously. This means that it should not be exercised arbitrarily, capriciously, or whimsically. In *Mulji Jethawa V Partal Singh* (1931) 13 LRK 1 it is stated that the discretion given to court is a judicial discretion, which is to be exercised on fixed principles and not on private opinions, sympathy, and benevolence.

A party has to show good cause before its application for extension of time is granted. In *Tight Security Limited v Chartis Uganda Insurance Co. Limited* Misc. Application 8 of 2014, the court held that.

> "Good Cause relate to and include the factors which caused inability to file within the prescribed period of 30 days. The Phase 'good cause' is however wider and includes other causes other than causes of delay such as the public importance of an appeal and the court should not restrict the meaning of good cause. It should depend on the facts and circumstances of each case and prior precedents of appellate courts on extension of time."

In *Mulindwa George William v Kisubika Joseph* Civil Appeal 12 of 2014, the Supreme Court of Uganda set out the following factors that should be considered in an application for extension of time.

i. The Length of delay.
ii. The reason for the delay.
iii. The possibility or chances of success.
iv. The degree of prejudice to the other party.

Therefore, the Tribunal has to determine whether there are sufficient reasons or good cause as to why it should extend time.

The first hitch the Tribunal is faced with is the applicant's contention that the objection decision of 7th October 2020 was not clear. If we are to believe the applicant that the

objection decision of 7th October 2021 is unclear and agree that the email of 15th December 2021 should be taken as the objection decision, then we have to ask ourselves did the applicant furnish reasons to extend time. An email is usually received on the date it is sent. Therefore, the applicant ought to have filed its application by 15th January 2021, 30 days after it received the email. The applicant does not give any reasons as to why it did not file its application by 15th January 2021. If we are go by the date of receipt of the email, 11th March 2022, it also does not give any reason as on its failure to file its application 30 days from the date it received the email i.e. on 12th April 2022. The applicant by conceding that the time of the objection decision began to run from the date of the email which it regarded as the objection decision i.e., from 15th January 2021 or from the date it received it i.e., 11th March 2021, it was shooting itself in the leg. There are no reasons given to warrant an extension of time for any of the said periods it ought to have filed its application. Its purported unclear objection was made in October 2020. That did not hinder it from filing an application in January 2022 or 11th March 2022.

Furthermore, the applicant cited *Farid Meghani v URA* Civil Appeal 6 of 2021, where Mubiru J. stated,

> "Section 16(1)(c) comes into play and time is reckoned from the date of service of the taxation decision. It means that only when a taxpayer has been served with a taxation decision should time begin to run up to 30 days. On the other hand, section 16(7) clearly delimits any other appeal to 6 months from the date of the taxation decision. Section 16(7) caters for situations where the taxpayer was not served with the taxation decision. In such circumstances time is reckoned from the date of the taxation decision and not from the date of service."

The court stated that,

> "...section 16(7) of the Tax Appeals Tribunals Act applies to those situations where the decision is not formally communicated to the applicant, who somehow later gets to know of its existence."

The court stated that the six months period does not apply to applications for extension of time but to main applications. To be more specific it stated that

> "The Tribunal therefore misdirected itself when it misconstrued section 16(7) of the Tax Appeals Tribunal Act as limiting the period within which an application for extension of time may be filed."

The applicant concedes that it was not served the purported taxation decision in the email of 15th December 2021. It become aware of it when its employees went to the respondent's offices on 11th March 2022. Therefore, if were to go by the date of the email of 15th December 2021 the applicant ought to have filed its application by 15th May 2022. Once again, we do not see the reasons why the applicant did not file its application in time by 15th May 2022. If we are to go by the date the applicant received the email on 11th March 2022, it had up to 11th September 2022 to file its main application. The applicant submitted that since the application for extension of time months was filed on 15th June 2022, the six months period alluded to by the respondent had not yet lapsed. If we are to believe the applicant's contention that the six months period does not apply to applications for extension of time, the applicant would still have been in time to file a substantive or main application. Therefore, if the six months period had not elapsed, this application to extend time would be premature and uncalled for. By filing for an application for extension of time instead of filing the main application shows that the applicant does not have faith in its conviction that the email of 15th December 2021 was an objection decision.

There are some issues the Tribunal would like to clarify on without prejudice and with due respect to the foregoing. Firstly, the applicant contended that the objection decision was not clear, and it appealed to the respondent to review it. In *Cable Corporation (U) Ltd v Uganda Revenue Authority*, High Court Civil Appeal No.1 of 2011 the High Court was of the view that once a commissioner has made an objection decision he become functus officio. Once an objection decision has been made the respondent does not have powers to review it. The powers to review the objection decision lie with the Tribunal, whether it is clear or not. The respondent cannot set aside its own decision. Therefore, the applicant writing to the respondent to review its own objection decision was an exercise in futility. If the applicant had filed a main application and contended that the objection decision was unclear, the Tribunal has powers under S. 19 of the Tax Appeals Tribunal Act to set aside such an objection decision. By applying to the respondent to review its own decision, the applicant was acting in ignorance of the law, which is not an excuse for filing an application out of time.

The applicant in one breath concedes that the decision of 7th October 2020 was an objection decision. In a twist of tongue, it argues it was not an objection decision because it was not clear. An objection decision remains one whether it is clear or not. When it is not clear, that is a ground for appeal as long as it is clearly stated that it is an objection decision. A party does not have the latitude to decide which decision is an objection decision or not. An aggrieved party cannot be a judge in its own cause. It is within the powers of the tribunal to decide that a decision did not amount to an objection decision. It is because of the confusion that was going through the applicant's mind that it failed to file an application in time

An objection decision is defined in S. 1(g) of the Tax Appeals Tribunal Act to mean a taxation decision made in respect of a taxation objection. S. 3 of the Tax Procedure Code Act states that an objection decision means a decision within the meaning of S. 24. S. 24(5) of the Tax Procedure Code act states that

> "The Commissioner may make a decision on an objection –
>
> (a) To a tax assessment, affirming, reducing, increasing, or otherwise varying the assessment to which the objection relates; or
>
> (b) to any decision, affirming, varying, or setting aside the decision.

In *Cable Corporation Ltd v Uganda Revenue Authority* Civil Appeal 1 of 2011 the High court noted that

> "An objection decision is a decision in respect to a taxation objection made to the Commissioner against a notice of assessment while a "taxation decision" means any assessment, determination, decision, or notice. The word *decision* in the definition of taxation decision should be restricted as *objection* decision is separately and specifically defined so that it does not refer to an *objection decision*. The word taxation decision is however loosely used under section 16 of the Tax Appeals Tribunal Act to encompass both kinds of decisions defined above."

What is important to note is that the decision of 7th October 2020 issued an additional assessment which was varying the assessment issued. Therefore, it was an objection decision both under the Tax Appeals Tribunal Act and the Tax Procedure Code Act. There is nowhere in the Tax Appeals Tribunal Act and the Tax Procedure Code Act that states that an objection decision should be clear. That is why the respondent is notorious for making objection decisions that are not clear. Since there are objection decisions parties are required to take the next step and file an application for review.

in *Cable Corporation Ltd V Uganda Revenue Authority* Application 6 of 2010 which was upheld on appeal, the Tribunal noted that the 30 days laid down in S. 16 of the Tax Appeals Tribunal Act, start to run on receipt of the objection notice. The tribunal agreed with the applicant that time continues to run if there is further communication that opens the subject by reviewing the assessment. The email of 15th December 2021 did not review the assessment. It merely confirmed the assessment the respondent made. Therefore, the email of 15th December 2021 would not be considered as an objection decision. The length of delay between when the respondent made its objection decision on 7th October 2020 and when the email of 15th December 2021 was made, over a year is not explained nor is it excusable. The applicant deliberately does not state when it purportedly appealed to the respondent to review its unclear decision of 7th October 2020.

The tribunal would wish to give the applicant a peek at what would have happened if it had challenged the objection decision of 7th October 2020 during a hearing of an application to review it. S. 68 of the Tax Procedure Code Act provides for validity of tax decisions. It states that:

> "The validity of a tax decision, a notice of a tax decision, or any other document purporting to be made or executed under a tax law is not-
>
> (a) affected by reason that any of the provisions of the tax law under which it is made have not been complied with;
>
> (b) quashed or deemed to be void or voidable for want of form; or
>
> (c) affected by reason of any mistake, defect, omission or commission in it."

An objection decision which is not clear goes to want of form or has a defect. It cannot be quashed or made voidable.

Taking all the above into consideration, this application is dismissed with costs.

Dated at Kampala this 21st day of September 2022.

DR. ASA MUGENYI
CHAIRMAN

DR. STEPHEN AKABWAY
MEMBER

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BEFORE: DR. ASA MUGENYI, DR. STEPHEN AKABWAY MR. SIRAJ ALI

RULING

I have heard the opportunity of reading the draft ruling of my colleagues. I wish to dissent as hereunder.

The instant application is brought under S. 16(2) of the Tax Appeals Tribunal Act, and Rule 11 of the Tax Appeals Tribunal (Procedure) Rules seeking orders that the time within which the applicant may file an application for a review at the Tax Appeals Tribunal be extended.

The main reason given by the applicant for filing the application for review out of time is that the objection decision rendered by the respondent on 7th October 2021 was too ambiguous to form the basis of a review application. The applicant`s case is that while the objection decision stated that the objection had been allowed in part, the decision did not indicate which part of the objection had been allowed. The respondent on the other hand maintains that the objection decision was proper and valid.

It is vital for the resolution of this application that the objection decision in question be scrutinised so as to dispel any doubts about its validity. The objection decision in question is attached as annexure `E` to the affidavit in support of the application deponed by Ronnie Ivan Kavuma. The objection decision is dated 7th October 2020. It is addressed to the applicant. Section B of the notice sets out the Objection Decision details. Under this section the applicant is notified that the application has been allowed in part. However, the reason for the decision is given as `Objection disallowed as taxpayer grounds could not be justified`. In the next paragraph the following

statement appears `The Objection has been settled partially in favour of taxpayer. The submitted return with has been accepted however an additional assessment has been issued. You are advised to clear the liability in respect to the additional assessment and any other outstanding liability to avoid further accrual of interest`.

From the above it can be observed that the objection decision sets out two contradicting positions. On the one hand it states that the objection has been allowed in part. On the other hand, it states that the objection decision was disallowed as taxpayer grounds could not be justified. Can an objection decision which sets out two contradictory positions form the basis of a review?

The term `decision` has been defined in Black`s Law Dictionary 10th Edition at page 43 as `A judicial or agency determination after consideration of the facts and the law: especially a ruling, order or judgment pronounced by a court when considering or disposing of a case`.

What ought to constitute an objection decision has been set out under S. 24(5) of the Tax Procedures Code Act as follows:

"The Commissioner may decide on an objection-

a) To a tax assessment, affirming, reducing, increasing, or otherwise varying the assessment to which the objection relates: or

b) To any other tax decision, affirming, varying, or setting aside the objection."

The above provision of the law shows that an objection decision ought to affirm, reduce, increase, vary or set aside an objection. Does an Objection decision which both affirms and varies an objection constitute a valid Objection decision? I think not. An objection decision which both affirms and varies an objection creates uncertainty. A taxpayer intending to review such an Objection decision is placed in an impossible position. Should such a taxpayer take the position that the objection has been allowed or that it has been disallowed. S. 25(1) of the Tax Procedures Code Act, 2014 (TPC) provides 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 applicant has contended that upon receipt of the objection decision, it was constrained to file an appeal to the respondent, instead of filing an application for review before the tribunal, in the belief that an appeal would provide clarity on what decision the respondent had made in the objection decision. The question which arises is should the applicant be held liable for a delay resulting from an omission on the part of the respondent? I believe that it would be a grave injustice to dismiss the application on the ground that it was filed out of time when the cause of the delay is attributable to the respondent. Justice demands that the application for review should be heard on its merits. For the reasons above this application would have been allowed with costs.

Dated at Kampala this 21st day of September 2022.

MR. SIRAJ ALI

MEMBER