

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**MISCELLANEOUS CAUSE NO. 22 OF 2025**

**CHEFFETTE CATERING LIMITED.....APPLICANT.**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT.**

**BEFORE: MS. KABAKUMBA MASIKO, MS. CHRISTINE KATWE, MR. WILLY NANGOSYAH.**

**RULING**

This ruling is in respect of an application brought under Section 16(2) of the Tax Appeals Tribunal Act (TAT Act), Rule 11 (2) of Tax Appeals Tribunals (Procedure) Rules and Order 52 Rule 1 and 3 Of Civil Procedure Rules seeking orders that:

- 1) The time within which to file an appeal to the Tax Appeals Tribunal be extended.
- 2) Costs of this application be provided for.

**1. Background facts.**

This Application is supported by an affidavit deposed by Mr. Nicholas Kiwanuka, the Accountant of the Applicant, sworn on 14 February 2025 stating that:

1. On 21 March 2024, the Applicant was served with an objection decision for Income tax and VAT assessments for the periods 2016-2017, 2017-2018, 2018-2019, 2019-2020 and 2020-2021.
2. On the same day, the Applicant company instructed her former lawyers to appeal the decision of the Respondent in this Tribunal.
3. On 4 September, 2024 URA demanded payment of the alleged “outstanding tax liability” of Shs.1,406,110,791.
4. The Applicant subsequently sought for an update from the former lawyers on the progress of the appeal in the Tribunal and was informed that it is under way.
5. On 29 January 2025, the Respondent issued a third-party agency notice in which it sought to appoint Standard Chartered Bank as a collection agent.

6. On 30 January, 2025 the Applicant suspected that the tax assessments could be the reason for such notice and inquired from their former lawyers on the progress of the appeal, only to be informed that appeal was never lodged.
7. At the time of realizing that, the Applicant timely sought services of their current lawyers Ms. Nsubuga &co. Advocates who filed this application to extend time within which to appeal in this Tribunal with no delay.
8. The Applicant was then informed by their current lawyers that an appeal to the Tax Appeals Tribunal is made within 30 days from the date of being served with a copy of the notice of the decision and the Applicant cannot be liable for the negligence of his former lawyers.
9. That the Applicant has high chances of success since the Respondent's valuation of tax is unjustified and refused to disclose the 3rd party depriving the Applicant of the opportunity to follow up on said claims.
10. That it is in the interest of justice and fair that this application is granted.

In the affidavit in reply deposed by Ms. Christine Mpumwire, a legal officer in the Respondent's legal services and board affairs department sworn on 3 March 2025 opposing the application on grounds that:

1. The Applicant having received the objection decision on 21 March 2024 had up to 21 April 2024 to apply for review of the objection decision.
2. The Applicant filing this application on 14 February 2025 over 11 months later deems this application bad in law and it ought to be dismissed with costs.
3. That there is no justifiable reason to warrant a grant of an extension of time to file an application for review of the Applicant's taxation decision.

## **2. Representation.**

The Applicant was represented by Mr. Anthony Kusingura and Ms. Monica Namuli while the Respondent was represented by Mr. Edmond Agaba and Mr. Simon Peter Orushaba.

## **3. Submissions by the Applicant.**

The Applicant deals in confectionaries, bread and pastries. On 21 March 2024, the Respondent informed the Applicant company that she had not found sufficient grounds to vary the objection decision and therefore the income tax and VAT liability amounting



to 314,165,238 and 97,959,102 periods under review were maintained. This decision followed the Applicant's appeal application dated 9 March 2023. On the same date, the Applicant received a notice from the Respondent and instructed her former lawyers to appeal the decision of the Respondent in this Tribunal.

The Applicant submitted that Section 16(1) of TATA stipulates that an application to a Tribunal for the review of a taxation decision shall be lodged within 30 days after the person making the application has been served with notice of the decision. Section 16(2) of TATA states that a Tribunal may upon an application in writing extend the time for making an application to the Tribunal for the review of a taxation decision.

The Applicant submitted that the 30 days lapsed on 21 April 2024. The Applicant submitted that, the implication of Section 16(2) of TAT Act is that the Tribunal has discretionary powers to grant leave to an interested party to make an application for the review of the decision of URA after the lapse of the statutory period of 30 days.

The Applicant submitted that it meets the grounds for an application for an extension of time as stated in Rule 11(6) of Tax Appeals Procedure Rules. These grounds include; any other reasonable cause which ground the Applicant heavily relies upon. The Applicant quoted the case of ***Mantab Engineering Services Limited v URA MC No. 087/2024***, which set out factors to consider, including the length of the delay, the reason for the delay, the possibility of success and the degree of prejudice to the other party.

The Applicant further submitted that in paragraphs 2 and 3 of the Applicant's affidavit in reply, it instructed its former lawyers Ntambirweki Kandebe & Co. Advocates to appeal the decision of the Respondent on 21 March 2024. The Applicant sought updates from the former lawyers on the matter of the appeal in this Tribunal and was informed that the appeal was underway.

However, in paragraph 7 of the affidavit it was clarified that on 30 January 2025 the Applicant's former lawyers informed the Applicant that they had not filed the appeal in this Tribunal. This prompted a quick change of instructions to the Applicant's new lawyers who guided the Applicant to seek leave of this Tribunal to extend the time within which the appeal may be filed. The Applicant acted promptly to instruct its former

lawyers and its current lawyers to file an appeal in this Tribunal and less than a year has elapsed from the time of lapse within which to appeal to the Tribunal and followed up on the same.

The Applicant was informed that the appeal was underway only to later be informed that the former lawyers conceded never to have filed the appeal and that there is no evidence or allegation of gross negligence or misconduct on its part instead the evidence points to its diligence in instructing its lawyers on time and making follow-ups whenever there were indicators of irregularities.

The Applicant submitted that it should be heard and not prejudiced due to the negligence of its former advocates. The Applicant prayed that this Tribunal finds that the mistake of its former counsel constitutes reasonable cause to warrant an extension of time to enable the Applicant to apply for a review.

The Applicant submitted on there is a possibility of success. The Respondent's valuation was based on third-party information. Further, the Respondent's computation of VAT and income tax payable by the Applicant is arbitrary as the alleged sales are unreasonably marred with inaccuracy and suspected malice. The Applicant submitted that the Respondent will not be prejudiced by the grant of this application. The Applicant prayed that this application be allowed and that costs be awarded to the Applicant.

#### **4.Submissions by the Respondent**

The Respondent submitted that an application for an extension of time to review a taxation decision cannot be granted where there is no sufficient ground. The Applicant was guilty of dilatory conduct and failed to file the application within the statutory six months.

The Respondent relied on Section 27(1) of the TPCA, which provides that a person aggrieved by an objection decision may, within 30 days of being served with the notice of objection, lodge an application with the Tax Appeals Tribunal for review of the taxation decision. The Respondent cited Section 16(1), (2), and (7) of TATA and Rule 11(1) of Tax Appeals Tribunal procedure Rules emphasizing that courts and the



Tribunal have held that statutory timelines must be strictly complied with. The Respondent referred to the case of *URA v Consolidated Properties Ltd CACSA*, where it was held that timelines set by statutes are matters of substantive law and not mere technicalities, and must be strictly adhered to.

The Respondent submitted that the Tribunal may only extend time if satisfied that the taxpayer was unable to file the application due to illness, absence from Uganda or any other reasonable cause. The Respondent cited the case of *George Mulindwa v Kisubuka Joseph CA No. 13 of 20214*, which held that the burden of proving sufficient reasons to warrant an extension of time lies with the Applicant.

The Respondent submitted that the Applicant has failed to establish any sufficient grounds to warrant an extension of time to file an appeal or review before this Tribunal. The Applicant claimed to have instructed its former lawyers to file the application for review but has provided no evidence of such instructions. Filing an application for review does not require legal counsel as the process is simplified and the Applicant had access to the necessary information through the URA e-portal. The Respondent submitted that the Applicant's lack of diligence is evident in the following facts:

The objection decisions were issued on 8, 11, and 17 November 2022, yet the Applicant filed this application on 14 February 2025, amounting to a delay of 2 years and 3 months. The Applicant failed to act swiftly to preserve its rights and cannot rely on the mistake of counsel as justification for the delay. The failure to file within the prescribed time is attributable to the Applicant's negligence.

The Applicant was notified of the ADR decision on 21 March 2024 and waited 11 months to file this application for an extension of time, beyond the statutory six months under Section 16(7) of TAT Act. The Tribunal cannot exercise its discretion to extend time for an application brought outside the statutory six-month window. The Respondent submitted that the Applicant has failed to demonstrate reasonable cause for the delay and prayed that this application be dismissed with costs

#### 4. Applicant's Submissions in Rejoinder

In rejoinder, the Applicant submitted that the Respondent sought to deviate from the pleadings by leading evidence which is an outward violation of rules of procedure. The Applicant cited *Order 6 Rule 7 of the Civil Procedure Rules (CPR)* which prohibits departure from pleadings by parties or the court.

The Applicant emphasized that counsel for the Respondent and this Tribunal is obligated to rely on the pleadings on court record and maintain **21 March 2024** as the date when the decision of the Respondent was made to the Applicant as confirmed by the Applicant's accountant in his affidavit in support.

The Applicant reiterated their earlier submissions that the time within which to make an application for review of the taxation decision had already lapsed. The Applicant submitted that it operated within its rights to trust and instruct its lawyers to perform legal work on its behalf endeavoring to follow up on the same.

The Applicant's former lawyers indicated that the application to the Tribunal was underway and yet it was not the case. The mistake of counsel should not be vested on an innocent litigant. The Applicant prayed that the Tribunal grants the application.

#### 5. Determination by the Tribunal.

Having heard submissions of both parties, this is the ruling of the Tribunal;

**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 (2) of the Tax Appeals Tribunal Act** states that a Tribunal may, upon application in writing, extend the time for making of application for review.

**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 Respondent has correctly pointed out the mandatory nature of the statutory timelines as established by the TAT Act, the TPC Act and the precedent set in ***Uganda Revenue Authority Vs Consolidated Properties Ltd Court of Appeal Civil Appeal No. 31 of 2000***, which emphasizes that timelines set by statutes are matters of substantive law and must be strictly complied with.

The basis for the grant or denial of such applications was considered in the Supreme Court case of ***Mulowooza & Bro Ltd Vs. N. Shah and co Ltd SCCA no.20 of 2010*** where it held that the Applicant seeking an extension of time must satisfactorily explain the reason for the delay and should satisfy court as to whether or not there will be a denial of justice by the refusal or the granting of the application.

In the case of ***Mulindwa George William v Kisubuka Joseph Civil Appeal no.12 of 2024, the Supreme Court of Uganda*** court stated:

*"Each application must be viewed by reference to the criterion of justice, and it is important to bear in mind that time limits are there to be observed, and justice may be defeated if there is laxity. The factors to be considered in an application for extension of time are;*

- (i) The length of delay*
- (ii) The reason for delay*
- (iii) The possibility or chances of success*
- (iv) The degree of prejudice to the other party.*

*Once the delay is not accounted for it does not matter the length of the delay. There must be an explanation for the delay."*

The Tribunal notes that the Applicant upon discovering that their former lawyers Ntambirweki Kandebe & Co. Advocates had failed to file the appeal as instructed, engaged new lawyers M/s Nsubuga & Co. Advocates in February 2025 who subsequently filed TAT App No. 22 of 2025 seeking leave of this Tribunal to extend the time within which to lodge an appeal as the application was already out of time.

The Applicant's current lawyers filed this application on 14 February 2025 seeking an extension of time to file an application for a review of the objection decisions. The Tribunal notes that neither party attached the objection decision notice concerning the assessment. This lack of documentation makes it challenging for the Tribunal to verify

the actual issuance and receipt dates. However, it is not in dispute that the objection decision was served.

The Applicant alleges that they were served with the objection decision relating to various Income Tax and VAT assessments on 21 March 2024 resulting in a delay of 11 months in filing this application.

The Respondent avers that the objection decisions were issued on 8, 11, and 17 November 2022. This places the delay at two years and three months from the date of the decisions. Given the statutory limitation for filing an application for review, it is clear that the Applicant is significantly beyond this timeframe regardless of whether the delay is 11 months per the Applicant's claim or two years and three months per the Respondent's assertion.

Regarding sufficient cause, the Tribunal relied on the case of ***Boney Katatumba vs. Waheed Karim SCCA No. 27 of 2007***, where the Supreme Court held:

*"What constitutes 'sufficient reason' is left to the Court's unfettered discretion. In this context, the Court will accept either a reason that prevented an Applicant from taking the essential step in time, or other reasons why the intended appeal should be allowed to proceed 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 appear to cause injustice".*

The Applicant alludes the delay to mistake of their former counsel who upon receiving instructions did not file the Application. The Applicant argued that it duly and timely instructed its former lawyers to appeal the decision of the Respondent and followed up on the same where they were notified that the appeal was underway only to later be informed that the former lawyers never filed the appeal.

However, an Applicant who instructs lawyers to pursue their case equally has a duty to follow up on the progress of their case. After receiving the Respondent's objection decision on 21 March 2024, the Applicant relied solely on their initial instructions to their former lawyers without conducting timely follow-ups. The Applicant only sought



an update on 30 January 2025, nearly ten months later which is an unacceptable delay in a matter requiring prompt attention to comply with statutory timelines.

During this period, they ought to have proactively monitored the status of their case especially given the Respondent's prior demand for payment on 30 September 2024. This prolonged inaction ultimately undermines their claim of reasonable cause for the delay and reflects a significant lapse in accountability and urgency.

The Tribunal also finds that the Applicant has not presented sufficient evidence to prove the mistake of former Counsel that it alluded to nor proof of follow-ups that demonstrate diligence. This demonstrated lack of diligence in managing their appeal process. This is not a case where the mistake of counsel should not be visited on the Applicant as he equally played a role in being indolent.

The Tribunal finds that the Applicant was not vigilant as he should have followed up his own tax affairs even if he had representation or given instructions.

In light of the above considerations, the Tribunal finds that the Applicant has not discharged its burden to provide sufficient reasons for granting the extension of time within which to file an application for review before the Tribunal.

In the circumstances, this application is dismissed with costs to the Respondent.

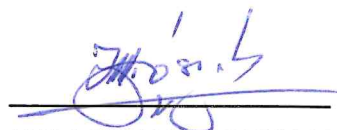
Dated at Kampala this 24<sup>th</sup> day of April 2025.



**KABAKUMBA MASIKO**  
**CHAIRPERSON**



**CHRISTINE KATWE**  
**MEMBER**



**WILLY NANGOSYAH**  
**MEMBER**

