

THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

MISCELLANEOUS APPLICATION NO. 003 OF 2025

LA CROISSANCE COMPANY LIMITED APPLICANT.

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT.

BEFORE; MRS. NYAPENDI STELLA CHOMBO, MR. WILLY NANGOSYAH, MS. NAJJEMBA ROSEMARY.

RULING

This ruling is in respect of an application brought under Section 98 of the Civil Procedure Act Cap 282 and Order 52 Rule 1 of the Civil Procedure Rules where the Applicant seeks orders that;

- a) Time be extended /enlarged to allow the Applicant to lodge an application for review of the taxation decision vide objection no. NT125002991148 delivered on 7 November 2024.
- b) Costs of this application be provided for.

1. Background facts.

- i. The Applicant is a Ugandan incorporated Company engaged in the fuel retail business.
- ii. On 12 March 2024, the Applicant received an administrative additional income tax assessment from the Respondent vide assessment no. NT012400324773 for PAY AS YOU EARN (PAYE) amounting to UGX 43,339,803.00.
- iii. On 15 August 2024, the Applicant filed an objection against the above tax liability.
- iv. On 7 November 2024, the Applicant received an objection decision notice from the Respondent disallowing the objection vide objection no. NT0125002991148.
- v. At that time, the director of the Applicant had travelled for medical reasons and was out of the country so the Applicant could not lodge the application for review of a taxation decision in time.

- vi. The Applicant contacted M/S TASKK Advocates her legal Counsel and was advised to lodge an application for extension of time in the Tribunal immediately.
- vii. On 10 January 2025, the Applicant filed the application for extension of time before the Tribunal.
- viii. The Applicant therefore wishes to challenge the Respondent's objection decision through a review by this honorable Tribunal.

The Respondent filed an affidavit in reply deposed by Aruho Kenan, a legal officer in the Respondent's Legal Department, sworn on 21 January 2025 opposing the application on grounds that:

- (i) On 7 April 2024, the Respondent issued its objection decision disallowing the Applicant's objection and the same was served on the Applicant.
- (ii) The grounds contained in the application do not express just cause to warrant the grant of an application for extension of time.
- (iii) The Applicant ought to have lodged its application for review of the Respondent's taxation decision by the 7 December 2024 before expiration of 30 days.
- (iv) The Applicant's assertions are just mere allegations without any evidence as the Applicant was filing returns in the month of December 2024.
- (v) The Applicant has not demonstrated sufficient cause for its failure to file an application for review within the stipulated time to warrant the grant of this application.
- (vi) The grant of this application will not only cause prejudice to the Respondent but also an inconvenience to the entire public meant to benefit from the Respondent's collections.
- (vii) The Applicant has not paid the requisite 30% of the tax in dispute.

The Respondent therefore prayed that the application be dismissed with costs to the Applicant.

2. Representation.

At the hearing of this Application for extension of time Mr. Arinaitwe Allan and Mr.

Kimeza Isaac appeared for the Applicant while Ms. Amutuhair Doreen appeared for the Respondent. Both parties made oral submissions.

3. Submissions by the Applicant.

The Application was supported by the Affidavit of Ms. Grace Rukundo the Applicant's Director and General Manager which she deponed on 9th/01/ 2025.

The Applicant submitted that on 12 March 2024, the Respondent issued an administrative additional income tax assessment to the Applicant vide assessment no. NT012400324773 for PAY AS YOU EARN (PAYE) amounting to UGX 43,339,803.00. On 10 January 2025, the Applicant filed an application in the Tribunal for the grant of an extension of time within which to file an application for review of the objection decision. The Applicant submitted that the delay in filing the application for review was attributed to the absence of Applicant's managing director from Uganda for medical reasons. The Applicant contends that the Application has been without inordinate delay since its less than 6 months late.

The Applicant further submitted that it has justifiable reasons for an extension of time in accordance with Section 16 (2) of the Tax Appeals Tribunal Act Cap 341 and Rule 11 of the Tax Appeals Tribunal (Procedure) Rules 2012. The Applicant asserted that the said rules lay out grounds for an extension of time within which to apply for a review of the objection decision, namely: absence from Uganda, sickness, and other reasonable causes.

The Applicant's counsel submitted that the Applicant was out of the country for medical reasons. On 24 December 2024, the Applicant was issued with third-party agency notices and on 27 December 2024, the Applicant instructed lawyers to file the application which they did on 1 January 2025. The Applicant submitted that this demonstrates there was no inordinate delay. The Applicant further submitted that the extension will not prejudice the Respondent's case in any way. The Applicant re-echoed Section 16(2), Section 16(1)(c), and Section 16(7) of the Tax Appeals Tribunal Act.

The Applicant stated that the taxation decision was made on 7 November 2024 and the application was filed on 1 January 2025 which is within the six months stipulated under Section 16(7) of the Tax Appeals Tribunal Act.

The Applicant further quoted the case of ***Deborah v. Kyengombe & Anor (C.S.S 672/2005)***, where **Justice Mubiru on page 3** held that: “*The grant of an extension of time is discretionary and depends on the proof of good cause showing that the justice of the matter requires such an extension*”.

The Applicant submitted that the third-party notices issued by the Respondent have blocked the Applicant's businesses and therefore justice in this matter would warrant the extension of time so that the Applicant may be heard. The Applicant concluded by citing Section 22 of the Act, submitting that the refusal to extend time where there has not been inordinate delay on the part of the Applicant would amount to a technicality and would be against Section 22 since no injustice will be caused to the Respondent by granting this extension. The Applicant prayed that this Tribunal grants the application

4. Submissions by the Respondent.

The Respondent filed an affidavit in reply deponed by Aruho Kenan, a legal officer in the Respondent's Legal Department, sworn on 21st January 2025 opposing the application on grounds that the Applicant has failed to prove or demonstrate just cause to warrant the grant of this application. Additionally, the Applicant has not paid the mandatory 30% and the grant of this application will inconvenience the public meant to benefit. The Respondent stated that paragraph 6 of the Applicant's affidavit leads to the contention that this is merely an allegation supported by no evidence.

The Respondent cited Section 16(1)(c) of the Tax Appeals Tribunal Act and submitted that in this case, the Applicant was served with the objection decision on 17 November 2024 and as of today, the Applicant continued to transact and interact with the Respondent during the period he was out of the country.

The Respondent also cited the case of ***Deborah v. Kyengombe & Anor (C.S.S 672/2005)***, stating that *the extension of time depends on proof of good cause. The Respondent contends that the Applicant has not submitted proof of cause and also relied on the case of ***Banco Arabe Espanol v Bank of Uganda (Civil Appeal 8 of 1998)*** where it was held that litigants ought to be entertained on the grounds of just*

cause on a case-by-case basis; however, the court should be satisfied that the same has been ably demonstrated.

The Respondent further cited Section 15(1) of the Tax Appeals Tribunal Act, where the taxpayer is required to have paid 30% at the time of objection and coming to the Tribunal for an extension of time without payment is faulty in procedure.

The Respondent in that regard cited the case of **Fuelex (U) Ltd. v. Uganda Revenue Authority Constitutional Reference 3 of 2009** where the *Constitutional Court held that the 30% is mandatory except for cases concerning the interpretation of the law payable at the time of objection.* In relation to the facts of this case, the Applicant should have paid the mandatory 30% before coming to the Tribunal.

Considering these points, the Respondent prayed that this application be dismissed for failure to meet the necessary requirements.

5. Applicant's submissions in Rejoinder.

The Applicant in response to the Respondent's prayer that it pays 30% of the tax in dispute, indicated that this application is for an extension of time for the review of a taxation decision as guided by Section 16(1) of Tax Appeals Tribunal Act.

Act and there is no precondition that for this Tribunal to extend the time, the Applicant must have paid 30%. In this regard, the Applicant invited the tribunal to consider Section 16(7) (TAT) Act and find that the application has been made within six months.

In response to the Respondent's submission that the extension will inconvenience the public and the allegations that the Applicant continued to operate during that period, the Applicant argued that the Respondent has not provided any proof and the above should be disregarded.

The right to be heard is enshrined in Article 126 of the constitution of Uganda and the Respondent has failed to demonstrate that any injustice will be caused by the grant of this application.

The Applicant prayed that this application should be granted by this honorable tribunal and reiterated their prayers as stated in the application that the time be extended to allow the Applicant to file an application for review and costs be provided for.

6. Determination of the application by the Tribunal.

Having read the application and heard the oral submissions as well as the authorities relied upon by the parties, this is the ruling of the Tribunal.

The Respondent issued an objection decision on the 7 November 2024 and the Applicant was required to file an application for review of the decision before this Tribunal within 30 days. However, the Applicant failed to file an application for review within the stipulated period and did not seek an extension of time immediately thereafter.

The Applicant attributes the delay to the absence of its sole Director from Uganda for medical reasons. The Applicant submits that by the time the decision was made and communicated to the Applicant, the statutory period within which to apply for review had lapsed. The Tribunal is tasked with determining whether these circumstances present a strong and compelling reason to grant an extension of time for the Applicant to file the application beyond the prescribed period.

This application was brought under Section 98 of the Civil Procedure Act Cap 282 and Order 52 Rule 1 of the Civil Procedure Rules. The relevant legal provisions regarding the timelines for filing applications before the Tribunal are as follows:

Section 16 (1)(c) of the Tax Appeals Tribunal Act states;

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

Section 25 (1) of the Tax Procedure Code Act also states;

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

Section 16 (2) of the Tax Appeals Tribunal Act allows that;

“A Tribunal may, upon written application, extend the time for making an application to the tribunal for a review of a taxation decision.”

Rule 12 of the Tax Appeals Tribunal (Procedure) Rules specifies;

“Where an application is not filed with the registrar within 30 days from the date the applicant was served with notice of the decision, the tribunal may, in its discretion upon application of the applicant in writing extend the time for making an application”

Rule 11 Of the Tax Appeals Tribunal Procedure Rules provides that;

“The Tribunal may grant the extension of time if it is satisfied that the taxpayer was unable to file the application for the following reasons:

- *Absence from Uganda*
- *Illness*
- *Any other reasonable cause.”*

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

“An application for review of a taxation decision must be made within six months after the date of the taxation decision.”

While the law mandates that an application must be filed within 30 days of being served with notice of the objection decision, it also allows a six-month window for filing. The law permits an extension of time based on reasonable grounds such as absence from Uganda, illness, or other compelling reasons.

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

“The applicant seeking for extension of time has the burden of proving to the Court’s satisfaction that, for sufficient reasons, it was not possible to lodge the appeal in the prescribed time. The Supreme Court went on to state that each application must be viewed by reference to the criterion of justice and that 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."

In the case of ***Uganda Revenue Authority v. Uganda Consolidated Properties Ltd (Civil Appeal No. 31 of 2000)***, the Court emphasized that: *"time limits set by statutes are matters of substantive law and not mere technicalities and must be strictly adhered to"*.

The Applicant must show that there was reasonable cause or an explanation for the delay because a taxpayer who is not diligent enough to respect time limits may be denied a chance to have its matter heard on merit.

Upon reviewing the Applicant's submissions and the evidence presented, the Tribunal notes that on 12 March 2024, the Applicant received an administrative additional income tax assessment from the Respondent assessment for PAY AS YOU EARN (PAYE) amounting to UGX 43,339,803.00. On 15 August 2024, the Applicant filed an objection against the tax liability and on 7 November 2024, the Applicant received an objection decision notice from the Respondent disallowing her objection. At that time the sole director of the Applicant had travelled for medical reasons and was out of the country therefore the Applicant could not lodge the application for review of a taxation decision in time.

On 10 January 2025, the Applicant lodged this application for extension of time which is well within the ambit of the statutory six months period prescribed by law. The two-month delay with attempts to address it raises significant concerns about the Applicant's diligence and commitment to pursuing the matter.

In the case of ***Hadondi Daniel Vs. Yolam Egondi CACA No. 67 of 2003***, Court of Appeal held thus:

"It is trite law that time can only be extended if sufficient cause is shown. The sufficient cause must relate to the inability or failure to take the necessary steps within the prescribed time. It does not relate to making a wrong decision. If the applicant is found to be guilty of dilatory conduct, the time will not be extended."

In the case of **Boney Katatumba vs. Waheed Karim SCCA No. 27 of 2007**, the Supreme Court held thus:

"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 administration of justice prioritizes determining legal issues on their merits and denying the extension based on a procedural lapse would be contrary to this principle. Equally, the Respondent has not demonstrated any substantive prejudice that would result from the extension of time within which to file or grant this application.

In light of the above considerations, the Tribunal concludes that the reasons presented by the Applicant constitute a strong and compelling case for granting an extension of time within which to file an application for review of the objection decision under the provisions of the Tax Appeals Tribunal Act and the Tax Appeals (Procedure) Rules.

The application for leave to file the application for review out of time is therefore granted. Each party should bear their costs.

Dated at Kampala this 31st day of January 2025.



STELLA NYAPENDI CHOMBO
CHAIRPERSON.



WILLY NANGOSYAH
MEMBER.



ROSEMARY NAJJEMBA
MEMBER

