

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
MISCELLANEOUS CAUSE NO. 32 OF 2025

LIFEWAY PHARMACEUTICAL INDUSTRIES LIMITEDAPPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MR. SIRAJ ALI, MS. KATWE CHRISTINE, MS. SAFI GRACE

RULING

This ruling is in respect of an application brought under section 14 and 16 of the Tax Appeals Tribunal Act Cap 341 and Section 98 Of the Civil Procedure Act for orders that;

- (i) An order for extension of time be granted to file an application for review of objection decisions
- (ii) Costs of this application be provided for.

This application is supported by an affidavit deponed by Mr. Francis Emeka, the director in the Applicant company, sworn on 10 March 2025 stating as follows;

On 2 April 2024, the Respondent issued an additional income tax assessment of Shs. 2,927,851,638 for the period of 2019-2020 and 2020-2021 against the Applicant based on findings made during the comprehensive Audit.

The Applicant filed an objection on ground that the amount filed in the returns as related party loan were trade payables which arose as a result of raw materials imported by the Applicant. On 30 June 2024, the Respondent wholly disallowed the objection.

The Applicant instructed its tax agent, TGS Osillo to lodge an application for review of the objection decisions or file for Alternative Dispute Resolution (ADR).

Based on the Applicant's nature of business being manufacture of Medicine, its managing director is always in and out of the country and the Managing Director instructed its Tax advisers to have the case handled with the Applicant's auditors.

On 10 September 2024, the Applicant's representative applied for ADR.

The Respondent rejected the Alternative Dispute Resolution application for being time barred as the same was filed outside the 7 days' timeline.

The Applicant later discovered that its tax advisor and auditors, TGS Osillo had not filed the application for review or ADR within the prescribed timeline.

The Applicant was also informed that the assessments arose as a result of material mistakes made while filing the returns and accounts.

The Applicant then approached Ellie & Associates CPA to review this case and the Applicant was advised that to have the matter resolved, it would have to file for extension of time to file an application for review of the objection decisions.

The time within which to make an application for review of the said decisions in the Tribunal had expired and thus necessitating an application to extend time.

The sufficient cause for failure to file the Application for review within the time prescribed is the negligence of the Applicant's Accountant and Tax Adviser.

It is in the interest of substantive justice that this Court grants the Applicant leave to file a fresh application for review and the Applicant's case be heard and determined on merit.

The Respondent filed an affidavit in reply deponed by Stuart Aheebwa, an Acting manager in the Respondent's Legal services and board affairs Department, sworn on 28 March 2025 opposing the application on grounds that:

- i. The objection decision having been served on 30 June 2024 to the Applicant, the Applicant had up to 30 July 2024 to file the application for review of the taxation decision.

- ii. The Applicant has not demonstrated any justifiable reason to warrant the grant of an extension of time to lodge an application for review of the Respondent's taxation decision.
- iii. The Respondent prayed that this application be dismissed with costs

2. Representation

At the hearing of this Application, Mr. Turatsinze Enock and Ms. Sharifah Nalweyiso appeared for the Applicant while Ms. Charlotte Katuutu appeared for the Respondent.

3. Submissions by the Applicant

The Applicant submitted that Section 27(1) of the Tax Procedures Code Act cap 343 provides that 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 Tribunal for review of the objection decision. Further 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 of a taxation 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. Regulation 12 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 because of absence from Uganda, illness or any other reasonable cause.

The Applicant relied on the case of Farid Meghani vs. URA Civil Appeal No. 6 of 2021, and the case of Africa Renewal Ministries Limited vs. URA Civil Appeal No. 58 of 2022, where the High Court observed that an application for extension of time can be granted if the Applicant was unable to file the Application for review due to absence from Uganda, illness or any other reasonable cause as provided under Rule 11(6)(a) of the Tax Appeals Tribunals (Procedure) Rules.

The Applicant submitted that the Application for review of the objection decision was not filed within the prescribed time because of the Applicant's tax agent's mistake of not executing the Applicant's instructions which relates to the inability or failure to take a particular step in time as stated in paragraph 7 and 8 of the Affidavit in support of the

Application and that whereas a person is required to perform an act, the environment may create an overwhelming barrier that limits action (Farid Meghani vs. URA (supra)). The term reasonable cause, sufficient cause, reasonable grounds and probable cause are used interchangeably as noted in **Africa Renewal Ministries Limited vs URA (supra)**. There are no hard and fast rules in determining what constitutes “**any other reasonable cause**”. The Tribunal has to make a broad judgment having regard to all relevant circumstances and the justice of the case (**Farid Meghani vs. URA (supra)**). Further in the Indian case of **Anantnag vs Mst Katiji, 1987 SCR (2) 387**, the Supreme court held that:

“The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life purpose for the existence of the institution of courts.”

The Applicant contended that they instructed its tax agent, TGS Osillo, to promptly file an application for review of the objection decisions upon their issuance. However, the Applicant was let down by the agent’s failure to act as instructed and only became aware of this lapse when the Respondent began issuing demand notices for the disputed tax as detailed in the affidavit of the Applicant’s Director.

It is the Applicant’s submission that upon discovery of the existence of the objection decisions in question, it acted with all due diligence and first approached the Respondent to understand the tax matter and possibly have them handled under ADR on 10 September 2024 and 11 November 2024 as stated in paragraph 8 of the Application. Whereas the objection decision was communicated on 30 June 2024, the Applicant applied for ADR on 10 September 2024 which was dismissed on 18 September 2024 it then applied for an appeal against the ADR decision citing special circumstances consideration being the quantum of tax involved on 11 October 2024.

The Applicant argued that having appealed for administrative review of the ADR decision on 11 October 2024, the Applicant believed that the Respondent was considering the Applicant’s reasons and submissions until to the Applicant’s surprise and shock, the Respondent issued an agency notice on 27 February 2025 seeking collection of the disputed principal tax and interest thereon and suspending its TIN which suspension frustrated its business operations as its raw materials are stuck in

warehouses. This action is being challenged in this Honourable Tribunal under Miscellaneous Application No. 46 arising out of this Application.

The Applicant submitted that it is trite law that a mistake made by a person in a professional capacity such as an advocate or an accountant in this case should not be vested on an innocent litigant who seeks justice as highlighted in **Banco Arabe Espanol vs. Bank of Uganda SCCA No. 8/1998 [1997-2001] UCL 1**. Further in **Musa Sbeity & Anor vs. Akello Joan Miscellaneous Application 585 of 2013 (Arising from HCCS No. 173 of 2013)**, it was observed by Hon. Lady Justice Elizabeth Ibanda Nahamya that the rationale behind this principle is that a litigant should not be permanently deprived of the right of putting forward a Bonafide claim or defence by reason of the default of her professional advisor or advisor's clerk. This principle was established in the interest of substantive justice.

The Applicant submitted that the Tribunal exercises its discretion to find it fair, right, equitable and reasonable that the Applicant has reasonable cause and allows this Application.

4. Submissions by the Respondent

The Respondent opposed this application citing Section 16(1) of the TAT Act which provides that an application for review shall be within 30 days. Section 16(2) of the TAT Act provides that the Tribunal may extend time within which to make a review application in the same way. Section 16(7) of the TAT Act provides that an application for review *can be made in 6 months* from the date of the taxation decision.

The Respondent submitted that the two provisions read together imply that an application for extension of time must be made within 6 months from the date of the extension of time. The present application is beyond the prescribed 6 months and prayed that the same is dismissed.

5. Rejoinder by the Applicant.

In rejoinder, counsel for the Applicant submitted that the said provisions were explained from the decision *Farid Meghani v URA*, (supra) where Justice Mubiru

observed that an application for review has no timelines within which an application for an extension of time to review an objection decision is limited. Further in the case of *Africa Renewal Ministries Limited v. URA*, the High Court observed that if the Applicant was unable to file the said application for review due to absence from Uganda, illness, or any other reasonable cause as provided under Rule 11, sub rule 6(8) of the Tax Appeals Tribunal Procedure Rules the application can be allowed. As this has been seen in recent decisions where applications for extension of time filed outside 6 months where sufficient cause has been demonstrated were granted. The Applicant further submitted that denying this application will only make the Applicant suffer a tax liability of over Shs 7 billion which they believe can be reconciled having been assessed based purely on a related party loan and prayed that this Tribunal exercises its jurisdiction and grant this application for extension of time to the Applicant.

6. Determination by the Tribunal

In light of this application, The Applicant attributed the delay to mistake of their accountant. The Tribunal is therefore tasked with determining whether this mistake presents a strong and compelling reason to grant an extension of time for the Applicant to file the application beyond the prescribed period.

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 shall be lodged with the tribunal within thirty 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 in writing, 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 taxpayers 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 **Iftin Forex Bureau and Money Transfers Ltd V Uganda Revenue Authority, MC No.64 Of 2024** the Tribunal held thus:

"A party has to show good cause before its application for extension of time is granted."

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

"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."

In the case of **Uganda Revenue Authority v Uganda Consolidated Properties Ltd (Civil Appeal No. 31 of 2000) [2000]**, Twinomujuni JA stated:

"That is why the Respondent filed a second application dated August 12, 1999, which was thrown out by the Tribunal for being time barred. Clearly, that application was filed after over 50 days from June 17, 1999, instead of within 30 days as required by the law. Time limits set by statutes are matters of substantive law and not mere technicalities and must be strictly complied with".

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.

In the case of **Okech Verkam v Centenary Rural Development Bank HCCA No.93/2019**, the trial Judge stated that: "But before the Applicant can be excused from the mistakes of his counsel, he must show that he was not in any way negligent and that he took proactive steps in correcting the errors of his counsel when he first became aware of the default."

Upon reviewing the Applicant's submissions and the evidence presented, the Tribunal noted that The Applicant's only explanation for its delay is the mistake of their tax agent TGS Osillo not executing the Applicant's instructions to file an application for review of the objection decisions or file for Alternative Dispute Resolution.

Firstly, the Applicant has wholly failed to substantiate the claim that it ever engaged TGS Osillo after receipt of the Objection decision on June 30, 2024. A representation by a tax agent or accountant must be evidenced by a written engagement. The Tribunal finds that the Applicant submitted no credible evidence as to any engagement letter, correspondence, testimony or documents to show that TGS Osillo was authorized to act. The only assertions were statements from the Applicant's director and a copy of his Visa exiting Uganda on June 10, 2024, which the Tribunal finds uncorroborated.

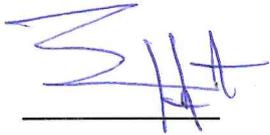
Secondly, the Applicant having realised in September 2024 that their tax agent or accountant didn't file an application for review as instructed, it should have applied promptly to the Tribunal for leave to file an appeal out of time. Instead, the Applicant elected to initiate an Alternative Dispute Resolution (ADR) process with the Respondent. This choice was procedurally misinformed.

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

Furthermore, the Tribunal noted that the Applicant did not provide substantive evidence to prove the mistake of TGS Osillo it alluded to. It took the Applicant seven months to file the instant application having noticed the omission last year. Having realized the mistake and understood the consequences thereof, it shouldn't have taken them that long to file this application. This application was brought with unreasonable delay by the Applicant as it was 7 months late beyond the 30-day appeal deadline. There is no justification in the Act or equity for such delay.

In line with the above decision, we find that this application for extension of time barred.
In the circumstances, this application is dismissed with costs to the Respondent.

DATED at Kampala this 27th day of June 2025.



SIRAJ ALI
CHAIRMAN



CHRISTINE KATWE
MEMBER



GRACE SAFI
MEMBER

RULING