

THE REPUBLIC OF UGANDA  
IN THE TAX APPEALS TRIBUNAL AT KAMPALA  
APPLICATION NO.91 OF 2023

MOBI-TEX ENGINEERING CO. WORKS LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: MR. SIRAJ ALI, MS. CHRISTINE KATWE, MS. KABAKUMBA MASIKO.

RULING

This ruling is in respect of a preliminary objection that the tribunal has no jurisdiction to entertain an application in respect of which no objection decision was issued by the Respondent.

**1. Background Facts.**

Between the years 2016 and 2019, the Respondent issued the Applicant with Administrative Additional VAT Assessments of Shs. 31,599,805 for the period November 2013, Shs. 6,985,470 for the period June 2017 and Shs. 10,201,092 for the period June 2018. The assessments in question were raised as a result of variances between Income tax and VAT sales for the periods July 2016 to June 2017 and July 2017 to June 2018. The assessment for November 2013 was issued for non-filing of returns.

The Applicant filed the instant application on 7<sup>th</sup> June 2023. On 27<sup>th</sup> June 2024, when the matter came up for scheduling, the Respondent raised a preliminary objection to the effect that the tribunal has no jurisdiction over the matter as the instant Application was not filed consequent to an objection decision. The tribunal directed the parties to file written submissions in respect of the preliminary objection raised by the Respondent.

## **2. Issues**

- i. Whether this application is properly before the tribunal?
- ii. What remedies are available?

## **3. Representation**

At the hearing, the Applicant was represented by Mr. Peter Ogwang, one of its directors while the Respondent was represented by Ms. Rita Nabirye.

## **4. Respondent's Submissions**

The Respondent submitted that while the Applicant seeks for a decision of the tribunal in respect of the assessments of Shs. 6,985,470 for June 2017 and Shs. 10,201,092 for June 2018, no objection decision was filed by the Applicant in respect of these assessments. The Respondent cited Ss. 14(1) and 16 of the Tax Appeals Tribunal Act and S. 27(1) of the Tax Procedures Code Act (TPCA). The Respondent submitted that the above provisions make the issuance of an objection decision by the Respondent a condition precedent to the filing of an Application for review before the tribunal.

The Respondent submitted that in the absence of objection decisions in respect of the above assessments the tribunal has no jurisdiction to hear the matter. The Respondent submitted that the first step to be taken by a person dissatisfied by a taxation decision is to lodge a valid objection against the decision as required by S.27 of the TPCA. The Respondent submitted that in the instant case there was no objection decision being referred to the tribunal. The Respondent submitted that the instant application is therefore improperly before the tribunal. The Respondent prayed that the application be dismissed with costs.

## **5. Applicant's Submissions**

The Applicant submitted that it had no knowledge of the provisions of the law. The Applicant submitted that when it lodged the instant application on 7<sup>th</sup> June 2023, it had exploited all available avenues with the Respondent including the Alternative Dispute Resolution. The Applicant requested under S. 16(2) of the Tax Appeals Tribunals Act

that the tribunal considers the instant application and directs a review of the matter under Alternative Dispute Resolution. The Applicant requested for leniency.

#### **6. Determination of the Application by the Tribunal**

The jurisdiction of the tribunal to review decisions of the Respondent is provided for under S. 14 of the Tax Appeals Tribunal Act. S.14 provides as follows;

- (1) Any person who is aggrieved by a decision made under a taxing Act by the Uganda Revenue Authority 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.

S. 27(1) of the TPCA provides for the review of Objection decisions made by the Respondent. S. 27(1) states as follows:

- (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.

The above provisions show that the jurisdiction granted to the tribunal to review decisions of the Respondent only arise where a tax payer is aggrieved by a decision made by the Respondent under a taxing Act or by an objection decision issued by the Respondent. In the absence of a decision by the Respondent the tribunal has nothing to review.

In the instant case the Respondent issued assessments against the Applicant. It is not in dispute that out of the three assessments issued against the Applicant by the Respondent the Applicant only chose to object to one of them. The Applicant did not object to the other two assessments. These two assessments in respect of which the Applicant did not object form the basis of the instant application.

For the reason that the Applicant did not file any objections against the said assessments the Respondent did not file any objection decisions. In the absence of an objection decision the Applicant has no locus to appear before the tribunal nor does the tribunal have jurisdiction to entertain any such matter.

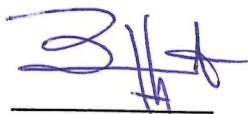
The reason given by the Applicant for not filing the objections in question is that it was not well versed with the law. It is trite that ignorance of the law is no defence. This doctrine is set out in the following Latin maxim;

***Ignorantia juris non excusat (ignorance of the law excuses not).***

The rationale of this doctrine is that if ignorance were an excuse, every person omitting to comply with a law would escape liability by simply pleading ignorance. In the instant case the Applicant ought to have known that no applications can be filed by it before the tribunal in the absence of an objection decision.

The preliminary objection is accordingly sustained. The instant application is dismissed with costs.

Dated this <sup>6<sup>th</sup></sup>..... day of September.....2024



**SIRAJ ALI  
CHAIRPERSON**



**CHRISTINE KATWE  
MEMBER**



**KABAKUMBA MASIKO  
MEMBER**