

THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
MISCELLANEOUS CAUSE NO. 36 OF 2025

PEARL MARINA ESTATES LIMITED..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY..... RESPONDENT

BEFORE: MS. CRYSTAL KABAJWARA, MRS. STELLA NYAPENDI CHOMBO, MS.
PROSCOVIA REBECCA NAMBI

RULING

Introduction

This ruling is in respect of an application brought under Sections 16(2) of the Tax Appeals Tribunal Act, Rule 12 of the Tax Appeals Tribunal (Procedure) Rules 2012, Section 98 of the Civil Procedure Act Cap 282 and Order 52 Rules 1, 2 & 3 of the Civil Procedure Rules SI 282-1 seeking the following orders:

- (i) The Applicant is granted an extension of time within which to file an application for review of the objection decision issued by the Respondent; and
- (ii) The costs of the application be provided for.

1. Background Facts

The Applicant was assessed Shs. 710,026,525 in PAYE for the 2022 financial year, of which Shs. 538,549,860 was disputed.

On 8 June 2022, the Applicant lodged objections, citing historical reconciliation discrepancies, and engaged the Respondent in discussions. Despite these engagements, the Respondent issued an objection decision on September 6, 2022, citing failure to provide requested documents.

The Applicant averred that it only became aware of this decision on 25 April 2023, upon receiving an agency notice whereupon the statutory appeal period had lapsed.

Continued reconciliation efforts reinforced the Applicant's expectation of resolving the matter amicably, but on 17 February 2025, the Respondent revived its demands, prompting the Applicant to seek relief before the Tax Appeals Tribunal.

The Applicant argued that the delay in filing was due to the Respondent's failure to notify them and their reliance on reconciliation efforts. The Applicant now seeks an extension of time to apply for a review, emphasizing fairness and substantive justice.

2. Representation

The Applicant was represented by Mr. Kenneth Mbae, its director, while the Respondent was represented by Mr. Kenan Aruho, a Supervisor in the Legal Services and Board Affairs Department of the Respondent.

In the affidavit in support of the application sworn by Mr. Kenneth Mbae, a Director of the Applicant, the Applicant stated that they were assessed Shs. 710,026,525 in PAYE for the 2022 financial year, of which Shs.538,549,860 disputed. He stated that objections were lodged, and reconciliation efforts ensued, but without prior notice, the Respondent issued an objection decision on 6 September 2022.

He contended that the Applicant only became aware, upon receiving agency notices on 25 April 2023. Despite ongoing discussions, the Respondent revived the matter on 17 February 2025, prompting the Applicant to seek an extension of time to appeal, arguing that the delay was due to lack of notice and continued reconciliation efforts, and that granting the extension would serve the interests of justice.

In reply, Mr. Kenan Aruho, a Legal Officer of the Respondent deponed that the Applicant was served with the objection decision around 6 September 2022 and ought to have filed the application for review by 5 October 2022. He contended that the Applicant had not shown just cause for the delay or provided proof of payment of the required 30% of the assessed tax, and prayed that the application be dismissed with costs.

In rejoinder, the Applicant, through Mr. Kenneth Mbae, agreed with the Respondent's position on the statutory timelines for filing an application for review but explained that compliance was not possible due to the circumstances outlined in the affidavit in support. He maintained that the Applicant had justifiable reasons for the delay and had since paid the required 30% of the

tax in dispute, attaching proof of payment. He prayed that, in the interest of justice, the application for extension of time be granted.

3. Issues for Determination

The issue for determination by the Tribunal is whether the application for extension of time should be granted.

4. Submissions of the Applicant

The Applicant submitted that the delay in filing the application was not caused by negligence on its part but resulted from the Respondent's failure to provide prior notice of its objection decision. The Applicant cited Rule 12 of the Tax Appeals Tribunal (Procedure) Rules and section 16(2) of the Tax Appeals Tribunal Act grant the Tribunal discretion to extend time when sufficient grounds are demonstrated.

The Applicant went ahead to argue that this discretion should be exercised in its favor to allow for a fair determination of its case.

In support of its position, the Applicant cited **Asiimwe Eunice v. URA (Misc. Cause No. 21 of 2025)**, where the ruled that sufficient grounds could justify extending the filing deadline. The Applicant also cited the supreme court decision in Tribunal **Boney Katatumba v. Waheed Karim (SCCA No. 27 of 2007)**, that delays caused by valid reasons or procedural lapses, such as non-service of decisions, warrant an extension of time.

Additionally, the Applicant cited **Abwoyo Constance v. URA (Misc. App. No. 2 of 2022)**, where the Tribunal ruled that URA's failure to serve an objection decision constituted sufficient cause for an extension. The Applicant therefore argued that URA had not proven service of its decision, reinforcing the case for an extension.

The Applicant argued that URA's ongoing reconciliations created a legitimate expectation of an amicable resolution, negating the need for formal action. Citing **Tullov (U) Ltd v. URA (TAT Application No. 04 of 2011)**, the Applicant emphasizes that legitimate expectation can arise from an express promise or consistent practice. Correspondences indicate that the Respondent continued proposing solutions, reinforcing the Applicant's claim that they acted in good faith and anticipated reconciliation rather than unilateral decision-making.

The Applicant contended that the Respondent's failure to request essential documents, such as NSSF schedules and bank statements, before making its decision reflects procedural unfairness and strengthens the likelihood of success if the application proceeds. Citing, the Applicant emphasizes the Supreme Court's stance that substantive justice should prevail over procedural technicalities, reinforcing the need for the case to be heard on its merits(**Andrew Bamanya v. Shamshehali Zaver, S.C Civil Application No. 70 of 2001**).

The Applicant argued that granting the extension will not prejudice URA, as it failed to serve the decision and prolonged the process through reconciliations. Conversely, denying the application would unfairly burden the Applicant with tax liability without a fair hearing. Therefore, the Applicant requests the Tribunal to extend the filing period and award costs against URA.

5. Submissions of the Respondent

The Respondent asserts that tax law mandates strict adherence to statutory timelines, citing Section 27(1) of the Tax Procedures Code Act and Section 16(7) of the Tax Appeals Tribunal Act, which require applications to be filed within six months of a tax decision. Rule 11(6) of the Tax Appeals Tribunal Rules permits extensions only in cases of illness, absence from Uganda, or other reasonable grounds. The Respondent relies on *URA v Consolidated Properties Ltd* (Civil Appeal No. 31 of 2000) to emphasize the necessity of complying with statutory deadlines.

The Respondent contends that the Applicant delayed for two years and six months without justification. While the Applicant cited reconciliation meetings as grounds for legitimate expectation, the Respondent argues that Regulation 4(3) of the Tax Procedure Code (ADR) Regulations, 2023 explicitly states that ADR processes do not suspend filing deadlines.

The Respondent argues that the Applicant failed to act promptly upon receiving agency notices on 25 April 2023, demonstrating negligence. In the case of ***Eco Bus Company Limited v URA* (Misc. App. No. 28 of 2023)**, the Tribunal cited ***Administrator General v Isaac Kasiba Lule CACA No. 124 of 2011***, that equity requires a person that who has been wronged must act swiftly to preserve its rights.

They contend that the Applicant's unreasonable delay disqualifies them from seeking an extension, citing ***Farid Meghani v URA* (Misc. App. No. 185 of 2020)** and ***Equatorial Real***

Estate Limited v URA (Misc. App. No. 65 of 2024), which affirm that the Tribunal can only extend time for applications filed within six months of the objection decision.

The Respondent underscored the importance of timely adjudication to uphold judicial integrity as upheld in the case of ***Safari Clothing (Uganda) Limited v URA (Miscellaneous Application No. 26 of 2021)***, the Tribunal found the reasons given by the Applicant as not being justifiable since the Applicant ought to have filed a matter in the Tribunal and not gone back to review.

The Respondent prayed for the dismissal of the application with costs, asserting that the Applicant's delay, negligence, and lack of justifiable reasons rendered the extension request untenable.

6. Submissions of the Applicant in rejoinder

The Applicant contests the Respondent's claims and maintains that the Tribunal has discretion under Section 16(2) of the Tax Appeals Tribunal Act and Rule 12 of the Tribunal's Procedure Rules to grant an extension based on sufficient grounds. Citing ***Asiimwe Eunice v. URA*** (Misc. Cause No. 21 of 2025) and ***Boney Katatumba v. Waheed Karim*** (SCCA No. 27 of 2007), the Applicant asserts that delays caused by valid reasons or procedural lapses warrant an extension.

The Applicant refutes allegations of negligence, arguing that the delay resulted from reconciliation meetings initiated by the Respondent, creating a legitimate expectation of resolution. Relying on ***Samwiri Massa v. Rose Achiena*** (1978) HCB 297, the Applicant submits that the Respondent failed to rebut its claims.

Furthermore, the Applicant emphasizes that the Tribunal's discretion is not solely based on the length of delay but on the sufficiency of reasons provided, as outlined in ***Mulindwa George William v. Kisubika Joseph*** (SCCA No. 12 of 2014). The Applicant clarifies that it participated in reconciliation meetings, not ADR, as the ADR Regulations of 2023 were not in force at the time, making the Respondent's reliance on ADR provisions misplaced.

The Applicant argues that granting the extension will not prejudice the Respondent, whereas denying it would result in undue tax liability without a fair hearing. Citing ***Boney Katatumba v.***

Waheed Karim, the Applicant reiterates that justice requires granting extensions where delays are justified, even if prolonged, to prevent unfair outcomes.

7. The determination by the Tribunal

Having read the submissions of both parties, this is the decision of the Tribunal.

The Applicant was assessed for Pay As You Earn (PAYE) amounting to Shs. 710,026,525 for the financial year 2022. The Applicant disputed Shs. 538,549,860 and acknowledged liability for Shs. 171,476,665.

Following an objection lodged on June 8, 2022, the Respondent issued an objection decision on September 6, 2022, disallowing the Applicant's objections due to failure to provide requested documents. The Applicant contended that the Respondent failed to notify them of this decision, only learning of it upon receiving an agency notice on April 25, 2023. The Applicant argued that the delay in filing an appeal was caused by the Respondent's failure to communicate the decision and the ongoing reconciliation process.

Whether the Application for extension of time should be granted.

The Tribunal acknowledges that statutory timelines under tax law are substantive and must be strictly adhered to. However, judicial precedent has established that extensions may be granted where sufficient cause is demonstrated.

Section 16 of the TAT Act provides for timelines for filing an application for review of a taxation decision and it states;

"16. Application for review of a taxation decision

(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 for 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 application in writing, extend the time for the making of an application to the tribunal for a review of a taxation decision.

3) An applicant to a tribunal shall serve a copy of the application on the decision maker within five days after lodging the application with the tribunal.

(4) Where an application for review relates to a taxation decision that is an objection decision, the applicant is, unless the tribunal orders otherwise, limited to the grounds stated in the taxation objection to which the decision relates.

(5) An application to a tribunal for review of a taxation decision is not taken to have been made unless the prescribed nonrefundable fee, if any, in respect of the application has been paid.

(6) *The Civil Procedure and Limitation (Miscellaneous Provisions) Act shall not apply to an application for review.*

(7) *An application for review of a taxation decision shall be made within six months after the date of the taxation decision".*

Section 27 of the Tax Procedures Code Act states:

"27. Review of objection decision

(1) *A person dissatisfied with an objection decision may, within thirty days after being served with a notice of the objection decision, lodge an application with the Tribunal for review of the objection decision.*

(2) *A person dissatisfied with a decision of the Tribunal may, within thirty days after being served with a notice of the decision, lodge an application with the High Court for review of the decision".*

The maxim **"Equity aids the vigilant, not those who slumber on their rights"** is instructive in this matter. This principle discourages laxity in pursuing legal remedies, ensuring fairness and certainty in legal proceedings. The Respondent argues that the Applicant, having delayed for more than two years, failed to act diligently and should not be excused.

The Respondent cites the case of ***URA v Consolidated Properties Ltd (Civil Appeal No. 31 of 2000)***, emphasizing that statutory timelines are substantive and must be complied with. Moreover, the doctrine **"Ignorance of the law is no excuse"** applies here—the Applicant,

being a registered taxpayer, was obligated to act within statutory timelines and cannot plead ignorance as justification for its failure.

A perusal of the objection decision notices on file indicates that the same were issued on 6 September, 2022 and yet this application was filed in the Tribunal on 24 March, 2025, being 2 years, 6 months and 18 days from the date of issuance.

However, judicial precedent has carved out exceptions where procedural lapses on the part of an administrative authority justify the grant of an extension. In the case of ***Asiimwe Eunice v. URA (Misc. Cause No. 21 of 2025)***, the Tribunal held that delays caused by procedural lapses, such as non-service of an objection decision, constitute sufficient grounds for an extension.

Similarly, in the case of ***Boney M Katatumba v. Waheed Karim, SCCA No. 27 of 2007***), Justice J. N. Mulenga stated that, "It follows that where it is not shown that enforcement of limitation of time would result in manifest denial of justice, extension of time is not justified. This imposes on the Applicant, the burden to show that if he is not allowed to appeal out of time, he would suffer an injustice".

This is however distinguishable from the facts at hand because, in this particular case, the Respondent has demonstrated that the Applicant failed to respond within the statutory timelines. The Tribunal notes that the email address and user portal to which the decision was served are manned by the Applicant which ought to have exercised due diligence accessing it. The objection decisions were served via the Applicant's online account on the Respondent's portal. The Applicant ought to have regularly checked their account for correspondences from the Respondent, especially having previously objected to an assessment. Any reasonable taxpayer would check their account for a decision in respect of their objection and not wait for the Respondent's notification. The Applicant could also have objected to the third-party agency notice of 25 April 2023 and did not.

Additionally, no evidence was adduced to the effect that the Applicant was neither in operation nor had closed its business. This clearly implies that the Applicant was laissez-faire about their tax compliance obligations.

In the Supreme Court decision 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".*

In light of the foregoing, we find that the application for extension of time is inordinately late i.e by 2 years, 6 months and 18 days and therefore time barred. In the circumstances, we find that the Applicant has not demonstrated sufficient grounds justifying the delay. This application is dismissed. Costs are hereby awarded to the Respondent.

Dated this 20 day of May 2025



CRYSTAL KABAJWARA
CHAIRPERSON



STELLA.N. CHOMBO
MEMBER



REBECCA.P. NAMBI
MEMBER

