

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**  
**MISCELLANEOUS CAUSE NO. 39 OF 2024**

TUSAIDIANE UGANDA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

BEFORE: Ms. STELLA NYAPENDI, Ms. ROSEMARY NAJJEMBA, Mr. WILLY NANGOSYAH.

**RULING**

This ruling is in respect of an application brought under Section 16 (2) of the Tax Appeals Tribunal Act (TATA), Rule 11(6) of the Tax Appeals Tribunal (Procedure) Rules, Section 25 of the Tax Procedure Code Act (TPCA). The Applicant seeks the following orders:

- a) Extension of time be granted to file an application for review of a taxation decision.
- b) Costs of the application be provided for.

The application is supported by the affidavit of Mr. Tomusange Ivan, the Director of the Applicant which briefly states as follows:

**1. Background facts**

The Applicant filed income tax returns for the period 2021/2022 and was issued an assessment of Shs. 7,785,561 on grounds of interest free loan that the former director Mr. Kess Cornelis Ebskamp issued to the Applicant worth Shs. 23,450,000.

After the assessment the Applicant experienced challenges as the company director was facing illness and was undergoing treatment in the Netherlands therefore was unable to attend to company issues. The Applicant lodged an objection which was disallowed.

**2. Representation**

The Applicant was represented by Ms. Eva Nambalirwa the Respondent by Ms. Eseza Victoria Ssendege and Mr. Simon Orishaba.

decision, the Tribunal only exercises its discretion where the Applicant demonstrates sufficient cause for failure to file his/her application for review within the stipulated time.

The Respondent relied on ***Cable Corporation (U) Ltd v Uganda Revenue Authority, HCCA No.1 of 2011***, where the High Court stated: *"the 30 days laid down in S.16 of the Tax Appeals Tribunal Act, start to run on the receipt of the letter communicating the decision from the Respondent"*.

The Respondent contended that in this case, the objection decision was issued on 27 December 2023 and communicated to the Applicant via email on the same day. The 30 days started running from then.

The Respondent cited the case of ***Uganda Revenue Authority v Consolidated Properties Ltd Court of Appeal. Civil Appeal No.75*** where the Court of Appeal held that: *"Timelines set by statutes are matters of substantive law and not mere technicalities and must be strictly complied with."*

The Respondent cited Section 16 (7) of the Tax Appeals Tribunal Act which provides that: *"an application for review of a taxation decision shall be made within six months after the date of the decision"*.

The Respondent contended that since the objection decision was issued on 27 December 2023, the Applicant had until 27 January 2024 to lodge its application for review of the objection decision. Failure of which, the Applicant had until 27 June 2024 to lodge this application for extension of time to lodge an application for review, however, the Applicant waited until 03 July 2024 to lodge this application for extension of time.

The Respondent relied on ***Eringa Jos Perino v Vuzzi Azza & 2 Others HCMA No.9 of 2017*** where it was held: *"an order for enlargement of time to file an appeal should ordinarily be allowed unless the applicant is guilty of unexplained and inordinate delay in seeking the indulgence of court"*.

The Respondent submitted that time has elapsed between 27 December 2023 when the objection decision was issued and the date when the application for extension of time was brought.

was unable to attend to the affairs of the Applicant. The Respondent opposed the appeal because the Applicant has no evidence of sufficient cause as to why time should be extended.

The Tribunal relied on Section 16 (1) (c) of the TATA which provides:

*“(1) An application to a Tribunal for review of a taxation decision shall-*

*(c) be lodged with the tribunal within 30 days after the person making the application has served with notice of the decision”.*

Section 16 (2) of the Tax Appeals Tribunals Act further provides:

*“A Tribunal may, upon application in writing, extend time for the making of application to the Tribunal for review of the taxation decision”.*

Section 16 (7) of the TATA further provides:

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

Section 25 (1) of the TPCA provides:

*“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”.*

We relied on ***Uganda Revenue Authority v Consolidated Properties Ltd, Court of Appeal. Civil Appeal No.75***, the court of appeal held that: *“Timelines set by the statute are matters of substantive law and not mere technicalities. Consequently, such timelines must be strictly complied with”.*

Despite the above, the tax law envisages situations where a taxpayer may not be able to comply with the above timelines due to extraneous circumstances which are beyond the taxpayer's control.

Rule 11 (1) of the TAT Procedure Rules provides that the Tribunal may, in its discretion, upon the application of the Applicant in writing, extend the time for making an application. The Tribunal must be guided by the considerations laid out in Rule 11(6) of TAT Procedure Rules, which are:

The Applicant attached a travel ticket on its submissions showing the Director had traveled. This is sufficient evidence to show that the Director was out of the country. This qualifies as a consideration as per Rule 11 (6) (a) which provides for absence from Uganda.

In *Mount Meru Millers Uganda Ltd v URA Misc Cause No. 44 of 2024*, while citing *Farid Meghani v URA HCCS No. 0006 of 2021*, the Tribunal stated that: "...the principle of exercise of judicial discretion which made a determination as to whether URA's decision was justified and whether the courts should exercise judicial discretion to grant relief to the Applicant. Both the Tribunal and the High Court underscore the importance of reasonableness, fairness and adherence to legal standards in the exercise of discretionary powers by tax authorities".

Section 22 of the TATA provides:


"A proceeding before the Tribunal shall be conducted with as little formality and technicality as possible, and the Tribunal shall not be bound by the rules of evidence but may inform itself of any matter in such manner as it thinks appropriate".

In the instant case, the Applicant is a small business owner and the tax in dispute is Shs. 7,785,561. Allowing this Application will not cause prejudice to the Respondent.

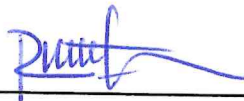
In the interest of justice, the Tribunal exercises its discretion to allow this application to be heard on its own merit. The Applicant is directed to deposit 30% of the tax in dispute upon filling the main application.

No orders to costs.

Dated at Kampala this 25<sup>th</sup> day of September 2024.



**STELLA NYAPENDI**  
CHAIRPERSON



**ROSEMARY NAJJEMBA**  
MEMBER



**WILLY NANGOSYAH**  
MEMBER