

**THE REPUBLIC OF UGANDA**  
**IN THE TAX APPEALS TRIBUNAL OF UGANDA AT KAMPALA**  
**APPLICATION NO.52 OF 2023**

**BALIDDAWA JOSEPH =====APPLICANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY=====RESPONDENT**

**BEFORE: MR SIRAJ ALI, MR.GEORGE MUGERWA, MRS. CHRISTINE KATWE.**

**RULING**

This ruling is in respect of a preliminary objection raised by the respondent to the effect that the application was improperly before the tribunal for having been filed out of time.

The Applicant is in the business of real estate with his own leased property. The applicant was assessed for rental income Tax to the tune of UGX 21,702,146/=for the years of income 2017/2018 and 2018/2019. On 14<sup>th</sup> December 2021, the Applicant objected and on 12<sup>th</sup> March 2022, the Respondent issued objection decisions disallowing the objection and maintaining the tax as assessed. On 3<sup>rd</sup> April 2023, the Applicant filed the present application seeking for review of the application.

When the matter came up for scheduling on 17<sup>th</sup> August 2023, the respondent raised a preliminary objection to the effect that this matter is improperly before the tribunal for having been filed out of time and accordingly ought to be dismissed. The tribunal directed the parties to file written submissions in respect of the preliminary objection raised. At the time of writing this ruling the applicant had not yet filed its written submissions.

The Respondent submitted that S.14 (1) of the Tax Appeals Tribunal Act provides that any person aggrieved by a decision made under a taxing Act by the respondent may apply to the tribunal for a review of the said decision. The respondent submitted further that S.16(1)(c) of the Tax Appeals Tribunal Act states that an application for a review of a taxation decision shall be lodged with the tribunal within 30 days after the person making the application has been served with notice of the decision. The respondent submitted further that S.16 (2) of the Tax Appeals Tribunal provides for extension of time for filing of an application for a review within a period of 6 months. The respondent submitted on the Authority of *Uganda Revenue Authority v. Uganda Consolidated Properties Ltd, Court of Appeal 31 of 2000*, that timelines set by statute are matters of substantive law and not mere technicalities and must be strictly complied with.

The respondent argued that in the instant case the objection decision was communicated to the applicant on 12<sup>th</sup> March 2022 and an application for a review ought to have been filed by 12<sup>th</sup> April 2022. The respondent submitted that the application was instead filed on 3<sup>rd</sup> April 2023, a period of one year from the date of the service of the objection decision. The respondent submitted that the application was filed after inordinate delay and that no attempt was made by the applicant to seek extension of time within which to file the same. The respondent prayed that the application be dismissed with costs.

Having perused the evidence and read the submissions of the party, the following is the ruling of the tribunal.

S.25 (1) of the Tax Procedures Code Act provides that;

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

S.16 (1) (c) of the Tax Appeals Tribunal Act provides that;

“An application to the Tribunal for review shall be made within 30 days of being served with Notice of the decision.”

S.16 (2) of the same Act provides that;

“The Tribunal may, upon application in writing extend the time for the making of an application to the Tribunal for review of a taxation.”

It is well established following the decision of the Court of Appeal in *Uganda Revenue Authority v Consolidated Properties Ltd*, Court of Appeal Civil Appeal 31 of 2000, that;

*“Timelines set by statutes are matters of substantive law and not mere technicalities and must be strictly complied with.”*

The law relating to a party raising preliminary objections is set out as follows under Order 6 rule 28 of the Civil Procedures Rules;

*“Any party shall be entitled to raise by his or her pleading any point of law, and any point so raised shall be disposed of by the court at or after the hearing; except that by consent of the parties, or by order of court on the application of either party, a point of law may be set down for hearing and disposed of at any time before the hearing.*

This position was further expounded on in *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd* [1996] EA 696 as per Sir Charles Newbold, wherein he stated that;

*“A preliminary objection consists of a point of law which has been pleaded or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit`.*

In the instant case it is clear that the preliminary objection if successful will dispose of this application. It is not disputed that the applicant received the objection in the instant case on 12<sup>th</sup> March 2022 .The applicant ought to have filed its application for a review of the objection decision before the tribunal by 12<sup>th</sup> April 2022. The applicant instead filed its application on 3<sup>rd</sup> April 2023, a period of one year from

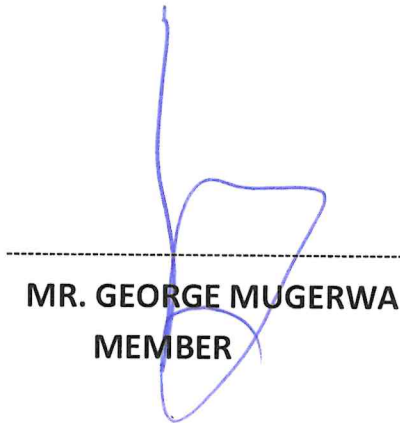
the date on which it ought to have filed the same and no reason has been advanced by the applicant for this failure. Yet S.16(1)(c) of the Tax Appeals Tribunal Act and Rule 11 of the Tax Appeals Tribunal provide for extension of time within which to file the application for review.

For the reasons above we find that the preliminary objection is allowed. The application is hereby dismissed with costs to Respondent.

Dated this 29<sup>th</sup> day of September 2023



MR. SIRAJ ALI  
CHAIRMAN



MR. GEORGE MUGERWA  
MEMBER



MRS. CHRISTINE KATWE  
MEMBER