THE REPUBLIC OF UGANDA,

IN THE HIGH COURT OF UGANDA AT KAMPALA

(COMMERCIAL DIVISION)

MISCELLANEOUS CAUSE NO 8 OF 2012

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

KAHOORA ENTERPRISES LTD]…..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY]…..... RESPONDENT

BEFORE HON JUSTICE CHRISTOPHER MADRAMA

RULING

The Applicant filed this application under rules 3 (1) (2), 6 and 8 of The Judicature (Judicial Review) Rules, 2009 for a declaration that the Respondents action to overturn the decision made by the Tax Appeals Tribunal about the classification of the Applicants products was ultra vires; a declaration that the Applicant's goods are zero rated as by the ruling of The Tax Appeals Tribunal; an order of certiorari quashing the Respondents decision by assessing tax for the period June 2004 to June 2010 amounting to **Uganda shillings 3,133,974,827.5/=; g**eneral damages and costs of the application.

The grounds of the application are that the Applicant who is a private limited liability company applied to the Tax Appeals Tribunal in TAT 30 of 2006 which decided that the Applicant's goods qualified as zero rated goods under section 24 (2) and paragraph 1 (f) of the 3rd schedule to the VAT Act. The Respondent on 4 August 2011 wrote to the Applicant that the products of the

applicant were classified as standard rated for the period May 2005 to date and they should amend their tax returns to reflect this decision. The Applicant informed the Respondent that the Tax Appeals Tribunal had on the 24th of February 2010 classified their product as zero rated. The Respondent notified the Applicant in writing on 15 August 2011 that after testing by the Department of Food Technology and Nutrition of Makerere University it was established that the Applicant's product was standard rated and not zero rated. Consequently the Applicant objected to the decision on 18 August 2011. The grounds of the objection were that the Respondent had unilaterally met the test without notifying the Applicant and the Applicant could not confirm whether the sample used was the same as the Applicant's product. Secondly the report did not indicate or confirm that the product was standard rated. The Respondent made its decision on the 12th of September, 2011 and comprehensively audited the Applicant for the period July 2004 to June 2010 whereupon it assessed the Applicant for **Uganda shillings 3,133,974,827.5/=.** The Applicant objected to the tax assessment by letter dated 21st of December, 2011 on the same grounds. On the 27th of February, 2012 the Respondent maintained its decision. The Applicant maintains that it is in the interest of justice that the Applicant's application be granted. The notice of motion was filed on the 17th of April, 2012 and issued by the Registrar on the same day. The affidavit in support of the application repeats the grounds in the notice of motion and is sworn by Maurice Kajura, a Director of the Applicant.

In reply the Respondent's Manager Medium Taxpayers Office in the Domestic Taxes Department Mr. Kanyesigye Baguma Siraje's deposition in reply in avers that the Tax Appeals Tribunal had ruled that the Respondent had failed to provide the scientific basis for changing the tax status of the Applicant's product from zero rated to standard rated and therefore the Applicant's product qualifies for zero rated status under section 24 (4) of VAT Act as specified in paragraph 1 (f) of the third schedule to the said Act. Consequently the Respondent proceeded to carry out a scientific analysis of the Applicant's product and communicated its findings to the Applicant. Pursuant to the analysis the Respondent assessed the Applicant for VAT of **Uganda shillings 3,133,974,827/=** for the period after the Tribunal Ruling. The Respondent issued its objection decision maintaining the assessments after the Applicant further objected to the assessment. The Applicant proceeded to pursue other remedies available to it and filed an application in the Tax Appeals Tribunal in TAT 5 of 2012 in which one of the issues for

determination is whether the Respondent was justified in unilaterally determining the status of the Applicant without regard to the decision of the Tax Appeals Tribunal. The Applicant thereafter in abuse of court process filed another application in this court seeking the same or similar reliefs especially when the tribunal application has not been withdrawn. Consequently the deponent in opposition to the application avers from his information that the suit is barred by law by reason of being both time barred and procedurally bad. The Respondent maintains that the remedy of judicial review is not available where a specific remedy exists and is available to the Applicant as in this case.

The Applicant was represented by Counsel Cephas Birungye while the Respondent was represented by Counsels Habib Arike and Mathew Mugabi. The respondent's Counsel informed court that he had two preliminary objections to raise on the competence of the applicants application and the objections are:

1. Whether the application is time barred under **rule 5 (1) of The Judicature (Judicial Review) Rules, 2009; and**

2. Whether the remedy of judicial review is available to the Applicant on account of their being other alternative remedies available to the Applicant that have not been exhausted.

Counsels agreed to file written submissions on the objection of the Respondent to the application. The issue of whether the application is time barred has to be decided first because the question of whether judicial review is available to the applicant in the circumstances of this case is an alternative objection if the first objection is overruled. I will therefore begin with the first of objection.

The written submissions of the Respondent on the issue of w**hether the application is time barred under rule 5 (1) of The Judicature (Judicial Review) Rules, 2009** is as follows:

Learned Counsel for the Respondent submitted that the application is time barred under **rule 5 (1) of The Judicature (Judicial Review) Rules, 2009** which provides that an application for judicial review shall be made promptly and in any event within three months from the date when the grounds of the application first arose. Referring to paragraph 4 (d) of the affidavit in support where it is averred that on the 4th of August, 2011 the Respondent wrote to the Applicant that its

product in issue had been categorised as a standard rated for the periods May 2005 to date and the Applicant should amend their tax returns to reflect this decision. Consequently learned Counsel maintains that the grounds in support of the application first arose on the 4th of August 2011 and any application ought to have been filed before the 4th of November, 2011. This application was filed on the 17th of April 2012, 5 months late and time barred. Learned Counsel relied on the case of **Uganda Revenue Authority versus Toro Mityana Tea Company Ltd HCCS No. I of 2006** where the court ruled that time limit set by a statute is a matter of substantive law and not mere a technicality and must be strictly complied with. Learned Counsel further relied on the case of **Uganda Revenue Authority versus Uganda Consolidated Properties Ltd [1997 – 2001] UCLR 149** for the same principle. He prayed that the Applicant's application is dismissed for being time barred.

Submissions of the Applicant in reply

Learned Counsel contended that the interpretation of rule 5 (1) of **the Judicature (Judicial Review) Rules 2009** by the Respondent is flawed according to the facts of this case. He emphasised that the rule prescribes that time begins to run within three months from the date when the grounds of the application first arose. He contended that the grounds of the application arose under section 33B (5) of the VAT Act when the Commissioner made an objection decision regarding the classification of the Applicants products. He contended that the tax payer had objected to the assessments or tax decision of the Respondent and until the Respondent made an objection decision which is the final determination of the Respondents on a given matter, the issue remained inconclusive. So long as the objection decision has not been made, the Respondent could still change its decision as it was not yet *functus officio* and therefore it would be premature for the Applicant to seek for judicial review before the Commissioner made an objection decision. He relied on the decision of this court in **Ketan Morjaria versus Commissioner General and Uganda Revenue Authority** HCMA No.628 of 2010 arising from HCCS No. 398 of 2010. The objection decision of the Respondent was made on 27 February 2012 and application for judicial review was filed on 17 April 2012 less than two months thereafter. Consequently the application was made within time.

The respondent belatedly filed a written rejoinder on the court record on the 11th of July 2012 where he emphasised the words *first arose* under the provisions of rule 5 (1) of the Judicature (Judicial Review) Rules, 2009. He contended that the grounds for the review first arose on the 4th of August 2011 and is acknowledged in the affidavit in support of the Applicant's application. Counsel further relied on **Francis Bennion** on **Statutory Interpretation, London Butterworth's, 1984, Part XXI** for the proposition that the ordinary meaning of a word or phrase is its proper and most known signification. Counsel submitted that there is one ordinary meaning of the phrase "*first arose*". Secondly the case of **Ketan Morjaria vs. Commissioner General URA** (Supra) concerned an ordinary suit and not judicial review and was inapplicable to the Applicant's case. Lastly judicial review is not an appeal and the court exercises supervisory jurisdiction other than appellate jurisdiction as held in **Microcare Insurance Ltd vs. Uganda Insurance Commission MA 0218 of 2009** page 8 thereof.

Ruling

I have considered the written submissions of the parties on the objection on whether the application for judicial review is time barred. I have also carefully perused the ruling of the Tribunal, various documents attached to the affidavits in support and in rebuttal, and authorities relied on.

The first objection is that the application is time barred under rule 5 (1) of **the Judicature (Judicial Review) Rules, 2009.** The simple submission is that the Applicant's application is time barred because the grounds for the application for review arose on 4 August 2011 but the application was filed on 17 April 2012. On the other hand learned Counsel for the Respondent submitted that the grounds first arose from the objection decision of the Respondent communicated in its letter dated 27th of February 2012 and the application was filed within two months thereafter. Rule 5 provides as follows:

5. "***Time for applying for judicial review.***

(1) An application for judicial review shall be made promptly and in any event within three months from the date when the grounds of the application first arose, unless the ***court considers that there is good reason for extending the period within which the application shall be made.***

(2) Where the relief sought is an order of certiorari in respect of any judgement, order, conviction or other proceedings, the date when the grounds for the application first arose shall be taken to be the date of that judgement, order, conviction of proceedings if the decision is delivered in open court, but where the judgement, order, conviction of proceedings is order to be sent the parties, or their advocates, (if any), the date when the decision was delivered to the parties, their advocates or prison officers, was sent by registered post."…

The material words in the above rule for resolution of this issue are: "*when the grounds of the application first arose*". The issue is resolved by determining when the grounds of the application first arose. To establish when the grounds of application first arose requires an appreciation of the background to the dispute as disclosed by the pleadings. It is not disputed that there were previous proceedings between the parties on the question of zero rating of the Applicant's products. In application **NO TAT 30 of 2006** the Applicant challenged the classification of its cereal products as standard rated from zero rated. The decision of the tribunal was delivered on 24 February 2010. The tribunal held among other things as follows:

"… that the Respondent had failed to provide a scientific basis for changing the tax status of the Applicant's product from zero rated to standard rated. Therefore the Applicant's product qualifies for a zero rated tax status under section 24 (4) of the VAT Act and paragraph 1 (f) of the third schedule of the VAT Act. Accordingly the assessment of the VAT payable of shillings 271,068,030/= is hereby set aside. The Respondent is ordered to re-compute payable or refundable VAT on the basis that the Applicant's product or supply is zero rated."

On 4th August 2011 the Respondent communicated to the Applicant on the subject matter of "Comprehensive Audit for the Period July 2004 to June 2010". In the communication the Respondent informs the Applicant that Uganda Revenue Authority did an analysis of the product as advised by the tribunal ruling and established that it did not fit within the definition of a zero rated product under the VAT Act. The Respondent further informed the Applicant that the VAT claim for July 2004 – April 2005 had been processed for refund including payments made against the assessment which was ruled on in court according to the computation which was

attached. Apparently the period July 2004 – April 2005 concerned **TAT No. 30 of 2006** referred to above. The Respondent however worked out an assessment and sent it under a separate cover letter for the period May 2005 to June 2010 reclassifying the Applicants product as standard rated thereby making it chargeable with VAT.

On 10 August 2011 the Applicant's lawyers wrote to the Respondent objecting its decision contained in the letter dated 4 August 2011 referred to above reclassifying the Applicants Products. They contended that the issue had already been ruled upon by the Tribunal which clearly stated in its ruling of 24th of February 2010 that the Applicants product qualifies for a zero rate under section 24 (4) of the VAT Act and paragraph 1 (f) of the third schedule to the VAT Act. They contended that the Respondent was trying to circumvent the decision of the Tax Appeals Tribunal which had already pronounced itself on the matter. In a letter dated 15th of August 2011 the Respondent communicated to the Applicant's Counsel that they agreed with the decision of the Tax Appeals Tribunal of 24th of February 2010. They contended that the tribunal found that the Respondent had failed to provide a scientific basis for changing the status of the product from zero rated to standard rated. Consequently the Respondent went ahead and engaged the services of the Department of Food Technology and Nutrition of Makerere University to ascertain the contents of the Applicant's products. Pursuant to an analysis of the Applicant's products, it was established that the product did not meet the criteria for being zero rated and was reclassified as standard rated. In a letter dated 18th of August 2011 written by the Applicant's lawyers to the Respondent, Counsel for the Applicant pointed out that the analysis of the Applicant's products was carried out without the involvement of the Applicant. The Applicant reaffirmed their objection to the decision to reclassify the Applicant's product as standard rated and sought an objection decision on the same to enable them appeal the decision. In a letter dated 12th of September 2011 the Respondent again wrote to the Applicant responding to the letter of the lawyers dated 10th of August 2011 about comprehensive audit. They emphasised that the supply of the Applicant was a standard rated supply and gave their reasons therein. In a letter dated 21st of December 2011 the Applicants lawyers specifically requested for a ruling after repeating their objections to the assessment raised on the standard rated items. In a letter dated 27th of February 2012 the Respondent ruled on the second objection of 21st of December 2011 objecting to VAT and income tax assessments issued for the period July 2004 – June 2010. They

upheld the assessment on the ground that the Applicant's products "Nguvu" and "Umkomboti" did not qualify for zero rating.

A subsidiary issue to resolve is a question of fact as to what decision or action the Applicant seeks to have reviewed to determine the objection on time bar.

The order sought in prayer (a) of the notice of motion is for a declaration that the Respondent's action overturning the decision made by the Tax Appeals Tribunal about the classification of the Applicant's products was ultra vires. In the order sought in paragraph (b) the Applicant seeks a declaration that its goods are zero rated according to the ruling of the Tax Appeals Tribunal. Finally it is for an order of certiorari in ground (c) to quash the Respondents decision in (a) by assessing tax for the period June 2004 to June 2010 amounting to Uganda shillings 3,133, 974,827.5/=. It is clear from the above that the Applicant is complaining about the reclassification of its product and secondly assessments for VAT based on that classification.

The intention to assess the Applicant for VAT based on reclassification of the Applicants product as standard rated was communicated in the letter of the Respondent dated 4th of August 2011 annexure "B" to the affidavit in support of the notice of motion. The assessment was supposed to be sent under a separate covering letter. Annexure "G" shows that an assessment was issued by assessment notice dated 18th of October 2011 for the period first of July 2004 – 30th of June 2010 for a sum of 3,133, 974,827.5/=. The date of payment was 2nd of December 2011. Annexure "G" shows that it was received but the photocopied notice of assessment is very faint on the part where it was received and cannot be read.

I have carefully scrutinised the documents attached to the notice of motion. It is a glaring fact that on 12 September 2011 Uganda Revenue Authority wrote to the Applicants lawyers in their letter reference URA/DTD/BP/15/1000033865 in which they communicated an objection decision on the objection of the Applicants Counsel in their letter dated 10th of August 2011. The letter reads as follows:

> ***"We are in receipt of your correspondence to the Manager Medium Taxpayers Office dated 10th of August 2011 and referenced as above in which you expressed your client's objection to the decision by us to standard rate their products, namely; Umkomboti and Nguvu. Our objection decision is as follows;"***

By omission or design this letter annexure "F" has no second page though it evident that the letter continues to other pages. Notwithstanding that omission, paragraph 1 of the letter is explicit about the fact that it is communicating an objection decision to the Applicant. Paragraph 2 of the letter concludes the matter and reads as follows:

> ***"We have taken cognizance of the ruling that was entered by TAT in Kahoora Enterprises Ltd versus Uganda Revenue Authority, vide TAT application number TAT number 30 of 2006, that notwithstanding, we have come to the conclusion that the supply of, Umkomboti and Nguvu by your clients is a standard rated supply; the following are the reasons for this treatment;***

As I have noted above the reclassification of the Applicants products was communicated to the Applicant in August 2011. Thereafter on 12th September 2011 after the Applicant's objection in the letter of its Counsel dated 10th and 18th of August 2011, the Respondent made an objection decision confirming its classification of the Applicants product as standard rated. The Respondents argument about the decision of the Tribunal is that its reclassification dealt with a different period other than that ruled on by the Tribunal in February 2010 and was founded on scientific analysis done subsequent to the Tribunal ruling. In other words it deals with a separate taxable period.

There is no dispute that the application for review was filed on the 17th of April 2012. Before I conclude this matter, the first two orders sought in the notice of motion are about the classification of the Applicant's product. The order sought in (c) is for certiorari to quash the Respondent's decision and is consequential upon the classification of the Applicant's product. It is should be pointed out that the grounds of the notice of motion clearly indicate that the Respondent confirmed its decision on 15 August 2011 and the Applicant further objected to the decision on 18 August 2011. Ground (g) shows that the Respondent maintained its decision on 12 September 2011 and comprehensively audited the Applicant for the period July 2004 – June 2010 and raised an assessment of over 3 billion. Paragraph (h) of the affidavit in support of the notice of motion confirms that the Respondent maintained its decision on 12 September 2011. It further shows that upon assessment of the Applicant for over 3 billion Uganda shillings the Applicant further objected to the tax assessment by letter dated 21st of December 2011. It is

therefore an admitted fact in the pleadings of the Applicant that the respondent made an objection decision on the classification of its products in its letter dated 12th September 2012.

The Applicant does not clearly state when it received notice of the actual assessment as between September and October 2011. If we go by the submissions of learned Counsel for the Applicant that time begins to run from the date of the objection decision, then the objection decision was made on 12th of September 2011 and communicated thereafter. It can also be concluded that the tax assessment notice objected to was received before 21 December 2011. However the tax assessment notice may be a result of the classification of the Applicant's products. It follows therefore that the grounds for review, if any, arose by September 2011. This is purely based on the submissions of the Applicant's Counsel that the grounds arose pursuant to the objection decision. It is also without prejudice to the contention that the grounds first arose on the 4th of August 2011. However for the moment there is no need for me to determine whether the grounds for the review, if any, first arose in August 2011.

It is my conclusion that the subsequent objection of the Applicant to the tax assessment is an objection generated by the assessment of over 3 billion Uganda shillings. The foundation of the assessment maybe the classification of the Applicant's products which classification was objected to and a decision made by the Respondent in September 2011. However I do not need to determine this point either. This is because the Applicant cannot escape from its own arguments and pleadings in the notice of motion. Ground (g) of the notice of motion avers that the Respondent maintained its decision on 12 September 2011. This decision is specified in ground (e) of the notice of motion showing that on 15 August 2011 the Respondent informed the Applicant confirming an earlier decision that the Applicants product was standard rated and not zero rated. It is my conclusion that the grounds of the application for review arose between 4 August 2011 and 15 September 2011. Even if it arose in October 2011 or November 2011, it will still be time barred. The Respondent's Counsel relied on rule 5 (1) of the Judicature (Judicial Review) Rules 2009 to argue time bar. Even if we go by the submissions of learned Counsel for the Applicant that the grounds arose when the Respondent made an objection decision, then the applicable rule would be sub rule 2 to determine when to start reckoning time for purposes of limitation. Rule 5 (2) reads as follows:

(2) Where the relief sought is an order of certiorari in respect of any judgement, order, conviction or other proceedings, the date when the grounds for the application first arose shall be taken to be the date of that judgement, order, conviction or proceedings if the decision is delivered in open court, but where the judgement, order, conviction or proceedings is ordered to be sent to the parties, or their advocates, (if any), the date when the decision was delivered to the parties, their advocates or prison officers, or sent by registered post."…

The objection decision can be said to arise from other proceedings where a decision is delivered and communicated. It would still be out of time under sub rule 1. The Applicant did not challenge the applicability of the law prescribing the limitation period. Learned Counsel for the Applicant premised his entire argument on the question of fact as to when the grounds for judicial review first arose. The question of classification of the Applicant's product is the whole basis of the application for judicial review. There is no other ground in the notice of motion for the orders that are being sought. The Applicant's application does not show that it is time barred or exempted from the period of limitation. It is not indicated that the discretion of the court was sought to enlarge the period within which to file the application.

The applicant has attempted to use the issuance of the second objection decision on the 27th of February 2012 as the time when the grounds first arose. In the case of **Cable Corporation versus Commissioner General Uganda Revenue Authority High Court Civil Appeal No. 1 of 2011** this court held that once an objection decision has been issued by the Commissioner General, the respondent becomes *functus officio* and further jurisdiction for review is vested in the Tax Appeals Tribunal or the High Court under the Income Tax Act. I said:

"An objection decision by its nature is made pursuant to a challenge to the assessment and is equivalent to a review of an assessment. The matter which aggrieves the tax payer from the objection decision becomes a dispute and where it is in dispute as in the appellants case, it is in my opinion the general rule that the Commissioner or the Respondent as in this case may be considered to be functus officio after making the objection decision provided for under section 99 (5) and 100 (1) of the Income Tax Act. Obviously the Commissioner should have powers to correct errors made in an objection

decision. What I want to emphasise is that the Income Tax Act specifically gives powers of review of an objection decision to the Tax Appeals Tribunal. As we shall later on establish, this is further supported by the Tax Appeals Tribunal Act. It is a question of jurisdiction. The Commissioner exercises judicial or quasi judicial powers when making an objection decision under section 99 of the Income Tax Act and should give a hearing (even if in writing) to the tax payer. After the objection decision is made, it shall be communicated to the tax payer who may accept it or take further measures to oppose the same. Generally the commissioner would after communicating the objection decision have exhausted its jurisdiction on the matter and further jurisdiction is vested in the High Court or the Tax Appeals Tribunal."

The above principles also apply to objection decisions by the Respondent under the Value Added Tax Act. The Respondent made an objection decision on 12 September 2011 on the question of classification of the Applicant's products. This was after the Applicant objected to the classification of its products as standard rated. The Respondent was therefore generally *functus officio* as far as the question of classification of the Applicant's products is concerned.

This brings me to the second issue raised by the Applicant namely that the Respondents decision to reclassify the Applicants product as standard rated when the Tribunal had ruled that it was zero rated in the year 2010 was in breach of that ruling and in contempt of the Tribunal. To the extent that the Applicant has raised the question of contempt of the Tribunal's ruling and without determining whether the acts of the Respondent amount to such contempt, this court can make some comments about the powers of the Tax Appeals Tribunal in the enforcement of its own orders. Under section 14 of the Tax Appeals Tribunals Act cap 345 the tribunal in the discharge of its functions is independent and shall not be subject to the direction or control of any person or authority. This supports the traditional view that every court has the power to enforce its own orders. Section 19 (6) of the Tax Appeals Tribunal Act provides that the decision of the Tribunal shall have effect as and be enforceable as if it were a decision of a court. Section 34 of the Act further creates the offence of contempt of the Tribunal. Under the Tax Appeals Tribunal (Procedure) Rules, rule 30 thereof provides that in any matter relating to the proceedings of the Tribunal for which the rules make no provision, the practice and procedure of the High Court shall apply subject to necessary modifications by the tribunal. In the case of **Z Ltd vs A and**

Others [1982] 1 ALL ER 556 at 567 Eveleigh LJ notes that contempt of Court may take a wide variety of forms:

> ***"However, contempt of court may take a wide variety of forms and the fact that it is regarded as an absolute offence in one form does not necessarily require it to be so treated in another form. It is very much a matter of public policy. In A-G v Times Newspapers Ltd [1973] 3 All ER 54 at 71, [1974] AC 273 at 308*** Lord Diplock said***:***
>
> > ***'… no sufficient public interest is served by punishing the offender if the only person for whose benefit the order was made chooses not to insist on its enforcement.'***
>
> ***I do not regard those words as saying that the court should ignore the fact that there has been a wilful disobedience of its order, but they emphasise the importance of the general public interest which exists in so many forms of contempt. It does not seem to me to be in the public interest that a person with no wrongful intent should be brought before the court, let alone be punished, unless there is some overriding public interest to the contrary." (Emphasis added)***

The question of whether there has been a breach of its orders should directly concern the Tribunal and they have residual powers of a court to deal with the allegation. Additionally article 28 (12) of the Constitution of the Republic of Uganda allows any court (or tribunal) to punish any person for contempt of its own orders. The question of whether there has been a breach of the orders of the Tribunal is a matter in controversy before the tribunal and I do not need to dwell on it though of public interest. In the premises, the applicant will have an opportunity to address the tribunal on any matter that the tribunal may have jurisdiction to determine including whether there was contempt of its orders.

In the premises ground one of the preliminary objection succeeds and there is no need for to consider ground two of the preliminary objection. The application for judicial review is time barred under the **Judicature (Judicial Review) Rules 2009, rule 5 (1)** thereof. In the premises, the Applicant's application is dismissed with costs.

Ruling read in open Court this 13th day of July 2012

Hon. Justice Christopher Madrama

Ruling delivered in the presence of:

Diana Kasabiiti holding brief for Cephas Birungye for the appellant

Nakuma Juma on holding brief for Mathew Mugabi

Ojambo Makoha Court Clerk,

Hon. Justice Christopher Madrama

13 July 2012