THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA SITTING AT KAMPALA

(COMMERCIAL DIVISION)

CIVIL APPEAL No. 0009 OF 2019

(Arising from Civil Suit No. 0546 of 2017)

STEVE WILLIAMS ……. APPELLANT

VERSUS

KYANINGA ROYAL COTTAGES LTD ……..…….…..…..…..… RESPONDENT

Before: Hon Justice Stephen Mubiru.

JUDGMENT

a) The background;

Under the name and style of "Kyaninga Lodge," the appellant filed a suit against the respondent seeking remedies for a multiplicity of causes of action related to the infringement of intellectual property rights. The respondent filed an application seeking the suit to be struck out on grounds that the plaintiff was a non-existent entity. The application was allowed with costs resulting in the dismissal of the suit on 20th September, 2018 with costs as well to the respondent. The respondent filed a bill of costs which was taxed on the basis of written submissions by both parties.

b) The taxation ruling;

In his ruling delivered on 25th February, 2019 the learned Deputy Registrar observed that some of the items had been consented to by the parties and he allowed them in accordance with the parties' consent. Having outlined the principles governing the taxation of costs, the learned Deputy Registrar then expressed his disagreement with counsel for the judgment creditor's contention justifying the fee claimed as instruction fee on basis of the complexity of the issues involved in the suit, observing that the suit was struck out on basis of a preliminary point of law. He declined to apply the scales as provided for under the amended rules on ground that the instructions were received before the rules were amended. For that and other reasons he taxed off shs. 72,000,000/= from the amount claimed as instruction fees and only allowed a sum of shs. 2,000,000/= The application seeking dismissal of the suit having been filed after the amendments to the rules had

come into force, the learned Deputy Registrar applied the scales provided for in the amended rules and thereby taxed off shs. 8,000,000/= from the amount claimed as instruction fees, and only allowed a sum of shs. 2,000,000/= For the rest of the activities, he taxed the bill in accordance with the old scale or new scale, depending on the timing of the activity; as to whether or not it occurred before or after the amendment. The respondent's costs eventually were allowed at a sum of shs. 17,094,600/= as opposed to the sum of shs. 125,000.000/= that had been claimed.

c) <u>The ground of appeal;</u>

Being dissatisfied with the decision, the appellant appealed to this court on the following ground, namely;

1. The Taxing Officer / Registrar erred in law and fact when he awarded the sum of shs. 17,094,600/= which is excessive considering the nature of the suit from which it arose, and not in conformity with the practice of the court.

Consequently the appellant prays that the amount awarded be set aside, the respondent's bill of costs be taxed afresh and that the costs of the appeal be provided for.

d) <u>The submissions of counsel for the appellant;</u>

Counsel for the appellant M/s. KTA Advocates argued that the amount awarded exceeds that prescribed by the law, is excessive and unjustified, is contrary to the practice of the court, and contravenes the principles of taxation of costs. The costs arose from a suit dismissed on account of a preliminary point of law that did not involve any level of complexity. Regulation 6 (1) and (2) of the 6th Schedule of *The Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations, 2018* specify the considerations guiding assessment of costs. The amount awarded is manifestly excessive in sis far as it is out of proportion with the value and importance of the suit and the work involved. It was erroneous of the Taxing Officer to have justified the higher than usual fees on grounds that counsel for the judgment creditor had exercised diligence, which is a quality expected pf counsel in all litigation. The point of law raised was not novel; it was a well-established principle of company law relating to corporate existence. Regulation 9 (2) of the 6th Schedule of *The Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations, 2018*

provides for a fee of shs. 300,000/= as instruction fee in interlocutory applications yet the Taxing Officer awarded shs. 2,000,000/=

e) The submissions of counsel for the respondent;

Counsel for the respondent M/s Kampala Associated Advocates, submitted that the subject matter of the suit was a trade mark to which no monetary value was attached. Reference to diligence was made as justification for a higher fee than the minimum provided for by the rules. The suit comprised six different cause of action related to intellectual property rights, which included cybersquatting and typo-squatting, which are relatively novel areas of the law. These required extensive legal research and we-based research of electronic features of the parties' domain names. The suit was of great importance to both parties since it related to their respective business undertaking in Uganda and the global environment. Use of the name "Kyaninga" for their respective established corporate activities was at stake. The learned Deputy Registrar took all these factors into account, alongside the submissions of both counsel, before determining the appropriate quantum. In fact the awards should have been higher. The learned Deputy Registrar did not misdirect himself in principle or on the facts and therefore the appeal ought to be dismissed.

f) The decision;

There is no inherent, inferred or assumed right of appeal (see *Mohamed Kalisa v. Gladys Nyangire Karumu and two others, S. C. Civil Reference No. 139 of 2013*). According to section 62 (1) of *The Advocates Act* any person affected by an order or decision of a taxing officer made under that part of the Act or any regulation made under it may appeal within thirty (30) days to a judge of the High Court who on that appeal may make any order that the taxing officer may have made. It is according to Order 50 Rule 8 of *The Civil Procedure Rules* and Rule 3 of *The Advocates (Taxation of Costs) (Appeals and References) Regulations, S.I 267-5* that any person aggrieved by any order of a Registrar may appeal from the order to the High Court. The taxation ruling having been delivered on 25th February, 2019, the appeal filed on 5th March, 2019 was filed on time.

The power exercised in taxation of costs is discretionary. Discretion is the faculty of determining in accordance with the circumstances what seems just, fair, right, equitable and reasonable.

"Discretion" cases involve either the management of the trial and the pre-trial process; or where the principle of law governing the case makes many factors relevant, and requires the decision-maker to weigh and balance them. Just as the factors for consideration could never be absolute, there could never be a gauge to measure the accuracy of such decisions. Unless the exercise of discretion is obviously perverse, an appellate court should be slow to set aside discretionary orders of courts below.

Because these assessments call for value judgments in respect of which there is room for reasonable differences of opinion, no particular opinion being uniquely right, identification of error in the Registrar's exercise of discretion is the basis upon which the court will uphold the appeal. It would be wrong to determine the parties' rights by reference to a mere preference for a different result over that favoured by the Registrar at first instance, in the absence of error on his or her part. If the Registrar acted upon a wrong principle, or allowed extraneous or irrelevant matters to guide or affect him or her, if he or she mistook the facts, if he or she did not take into account some material consideration, or where it not evident how he or she reached the result embodied in his or her order, or where upon the facts the order is unreasonable or plainly unjust, the appellate court may infer that in some way there has been a failure properly to exercise the discretion which the law reposes in the Registrar thus his or her determination should be reviewed.

The general rules governing appeals from such orders seem well settled. Courts in Uganda have, as a matter of judicial policy, exercised considerable restraint in intervening in decisions characterised as involving the exercise of a discretion (see *Banco Arabe Espanol v. Bank of Uganda, S. C. Civil Appeal No. 8 of 1998*). Where the decision challenged involves the exercise of a discretion, broadly described to include states of satisfaction and value judgments, the appellant must identify either specific error of fact or law or inferred error (e.g. where the decision is unreasonable or clearly unjust). The appellate court will not interfere with the exercise of discretion unless there has been a failure to exercise discretion, or failure to take into account a material consideration, or an error in principle. It should not interfere with the exercise of discretion unless it is satisfied that the Registrar in exercising his or her discretion misdirected himself or herself in some matter and as a result has arrived at a wrong decision, or unless it is manifest from the case as a whole that the Registrar has been clearly wrong in the exercise of his

discretion and that as a result there has been injustice (see *Mbogo and another v. Shah [1968] 1 EA 93*).

It is trite that an appellate court is not to interfere with the exercise of discretion by a court below unless satisfied that in exercising that discretion, the court below misdirected itself in some matter and as a result came to wrong decision, or unless manifest from case as whole, the court below was clearly wrong in exercise of discretion and injustice resulted (see *National Insurance Corporation v. Mugenyi and Company Advocates [1987] HCB 28; Wasswa J. Hannington and another v. Ochola Maria Onyango and three Others [1992-93] HCB 103; Devji v. Jinabhai (1934) 1 EACA 89; Mbogo and another v. Shah [1968' E.A. 93; H.K. Shah and another v. Osman Allu (1974) 14 EACA 45; Patel v. R. Gottifried (1963) 20 EACA, 81;* and *Haji Nadin Matovu v. Ben Kiwanuka, S. C. Civil Application No. 12 of 1991*). A Court on appeal should not interfere with the exercise of the discretion of a court below merely because of a difference of opinion between it and the court below as to the proper order to make. There must be shown to be an unjudicial exercise of discretion at which no court could reasonably arrive whereby injustice has been done to the party complaining.

The appellate court will intervene where the court below acted un-judicially or on wrong principles; where there has been an error in principle (see *Sheikh Jama v. Dubat Farah [1959] 1 EA 789; Hussein Janmohamed and Sons v. Twentsche Overseas Trading Co Ltd [1967] 1 EA 287; Banco Arabe Espanol v. Bank of Uganda, S. C. Civil Appeal No. 8 of 1998* and *Thomas James Arthur v. Nyeri Electricity Undertaking [1961] 1 EA 492*). As such, the Registrar is entitled to deference in the absence of an error in law or principle, a palpable and overriding error of fact, or unless the decision is so clearly wrong as to amount to an injustice. Generally, appellate courts will only interfere with exercise of discretion by a court below where the court has incorrectly applied a legal principle or the decision is so clearly wrong that it amounts to an injustice. Although there is a presumption in favour of judicial discretion being rightly exercised, an appellate court may look at the facts to ascertain if discretion has been rightly exercised.

The formulation and application of the above rule reflects an inherent tension where legislation both confers a power on a judicial officer to make a subjective choice and also provides a right of

appeal from that choice. An appeal of this nature requires the appellate court to exercise judgment as to the appropriateness of its intervention, while deferring to the exercise of discretion by the Registrar, in light of the nature of the appeal, the issues of fact and law involved, the primary facts and inferences presented to the Registrar, the level of satisfaction, the value judgments involved, rule-application, reasonableness of the decision, proportionality and rationality of the decision, in particular as to whether its decision will provide a more just outcome.

The circumstances in which a Judge of the High Court may interfere with the Taxing Officer's exercise of discretion in awarding costs have been stated in *Thomas James Arthur v. Nyeri Electricity Undertaking, [1961] EA 492*; *Bank of Uganda v. Banco Arabe Espanol, S.C. Civil Application No. 23 of 1999; [1999] EA 45; Steel construction and Petroleum Engineering (EA) Ltd v. Uganda Sugar Factory Limited [1970] EA 141; Kabanda v. Kananura Melvin Consulting Engineers, S. C. Civil Application No. 24 of 1993 and Makumbi and another v. Sole Electrics (U) Ltd [1990-1994] 1 EA 306,* and generally are that;

i. Where there has been an error in principle the court will interfere, but questions solely of quantum are regarded as matters which taxing Officers are particularly fitted to deal with and the court will intervene only in exceptional circumstances.
ii. Where the fee allowed is higher than seems appropriate, and is so manifestly excessive as to justify treating it as indicative of the exercise of a wrong principle.

Therefore, allowing an appeal from the discretionary orders made in taxation of costs is predicated on proof of: (i) "specific error," i.e. an error of law (including acting upon a wrong principle), a mistake as to the facts, relying upon an irrelevant consideration or ignoring a relevant consideration, or (exceptionally) giving inappropriate weight to such considerations (relevancy grounds); and (ii) "inferred error," i.e. where, in the absence of identification of specific error, the decision is regarded as unreasonable or clearly unjust. Where inferred error is found, this will have been brought about by some unidentifiable specific error.

Taxation of bills of costs is not an exact science. It is a matter of opinion as to what amount is reasonable, given the particular circumstances of the case, as no two cases are necessarily the same.

The power to tax costs is discretionary but the discretion must be exercised judiciously and not capriciously. It must also be based on sound principles and on appeal, the court will interfere with the award if it comes to the conclusion that the Taxing Officer erred in principle, or that the award is so manifestly excessive as to justify treating it as indicative of the exercise of a wrong principle or that there are exceptional circumstances which otherwise justify the court's intervention. Application of a wrong principle is capable of being inferred from an award of an amount which is manifestly excessive or manifestly low (see *Thomas James Arthur v. Nyeri Electricity Undertaking, [1961] EA 492* and *Bank of Uganda v. Banco Arabe Espanol, S.C. Civil Application No. 23 of 1999).* Even when it is shown that the taxing officer erred on principle, the judge should interfere only on being satisfied that the error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to one of the parties.

In the instant appeal, while counsel for the appellants contend the awards are excessive, counsel for the respondents contend that they are exceedingly low and not assessed in accordance with *The Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations, 2018*. Common to both the appeal and the cross-appeal is the argument that the learned Registrar as Taxing Officer misconstrued or disregarded the true value of the subject matter of both appeals and the applications.

"Taxation" generally means the assessment of the amount of legal costs by the court. The fixing of costs is not simply a mathematical exercise where a fixed discount is applied to the actual legal costs incurred for a step in the proceeding. Rather, the discretion of the court must be exercised in light of the specific facts and circumstances of the case. The general principles which guide taxation of bills of costs were stated *Premchand Raichand Ltd and Another v. Quarry Services of East Africa Ltd and others [1972] EA 162,* and applied in *Attorney General v. Uganda blanket Manufacturers S.C. Civil Appeal No. 17 of 1993*; *Bashiri v. Vitafoam (u) Ltd S. C. Civil Application No. 13 of 1995* and *Habre international Ltd [2000] EA 98* as follows;

1. That costs should not be allowed to rise to such a level as to confine access to the courts to the wealthy;
2. That a successful litigant ought to be fairly reimbursed for the costs that he has had to incur;

3. That the general level of remuneration of advocates must be such as to attract recruits to the profession; and
4. That so far as practicable there should be consistency in the awards made;
5. The court will only interfere when the award of the taxing officer is so high or so low as to amount to an injustice to one party;
6. In considering bills taxed in comparable cases allowance may be made for the fall in value of money;
7. Apart from a small allowance to the appellant for the responsibility of advising the undertaking of the appeal there is no difference between the fee to be allowed to an appellant as distinguished from a respondent;
8. The fact that counsel from overseas was briefed was irrelevant: the fee of a counsel capable of taking the appeal and not insisting on the fee of the most expensive counsel must be estimated

The general principles of taxation were further spelt out in the case of *Makumbi and another v Sole Electrics (U) Ltd [1990–1994] 1 EA 306*. At pages 310 – 311 Manyindo DCJ, said:

> The principles governing taxation of costs by a Taxing Master are well settled. First, the instruction fee should cover the advocates' work, including taking instructions as well as other work necessary for presenting the case for trial or appeal, as the case may be. Second, there is no legal requirement for awarding the Appellant a higher brief fee than the Respondent, but it would be proper to award the Appellant's Counsel a slightly higher fee since he or she has the responsibility to advise his or her client to challenge the decision. Third, there is no mathematical or magic formula to be used by the Taxing Master to arrive at a precise figure. Each case has to be decided on its own merit and circumstances. For example, a lengthy or complicated case involving lengthy preparations and research will attract high fees. In a fourth, variable decree, the amount of the subject matter involved may have a bearing. Fifth, the Taxing Master has discretion in the matter of taxation but he must exercise the discretion judicially and not whimsically. Sixth, while a successful litigant should be fairly reimbursed the costs he has incurred, the Taxing Master owes it to the public to ensure that costs do not rise above a reasonable level so as to deny the poor access to Court. However, the level of remuneration must be such as to attract recruits to the profession. Seventh, so far as practicable there should be consistency in the awards made (see *Raichand v. Quarry Services of East Africa Limited and others [1972] EA 162*; *Nalumansi v. Lule, S. C. Civil Application No. 12 of 1992*; *Hashjam v. Zanab [1957] 1 EA 255 and Kabanda v Kananura Melvin Consulting Engineers, S. C. Civil Application No. 24 of 1993*)

It is evident that every case must be decided on its own merit and in variable degrees, the instructions fees ought to take into account the amount of work done by the advocate, and where relevant, the value of the subject matter of the suit as well as the prevailing economic conditions. The Taxing Officer should envisage a hypothetical counsel capable of conducting the particular case effectively but unable or unwilling to insist on the particular high fee sometimes demanded by counsel of pre-eminent reputation, then award a fee this hypothetical character would be content to take on the brief. Clearly it is important that advocates should be well motivated but it is also in the public interest that costs be kept to a reasonable level so that justice is not put beyond the reach of poor litigants.

Instruction fees are governed by the complexity, value and importance to the litigants of the matters in dispute. It follows that where the responsibility entrusted to counsel in the proceedings is quite ordinary and calls for nothing but normal diligence such as must attend the work of a professional in any field; where there is nothing novel in the proceedings on such a level as would justify any special allowance in costs; where there is nothing to indicate any time-consuming, research-involving or skill engaging activities as to justify an enhanced award of instruction fees or where there is also no great volume of crucial documents which counsel has to refer to, to prosecute the cause successfully or where the matter was not urgent, a certificate of complexity will not be granted. The mere fact that counsel does research before filing pleadings and then files pleadings informed of such research is not necessarily indicative of the complexity of the matter as it may well be indicative of the advocate's unfamiliarity with basic principles of law and such unfamiliarity should not be turned into an (see *First American Bank of Kenya v. Shah and others, [2002] 1 EA 64*).

The recommended practice when a Taxing Officer is to award an unusually high sum as instruction fee on account of novelty, complexity or deployment of a considerable amount of industry on the part of counsel, is found in *Republic v. Minister of Agriculture and 2 others Exparte Samuel Muchiri W'Njuguna and others [2006] 1 E.A.359* where it was held that;

> The complex elements in the proceedings which guide the exercise of the taxing officer's discretion must be specified cogently and with conviction. The nature of the forensic responsibility placed upon counsel, when they prosecute, the substantive proceedings, must be described with specificity. If novelty is involved in the main

> proceedings, the nature of it must be identified and set out in a conscientious mode. If the conduct of the proceedings necessitated the deployment of a considerable amount of industry, and was inordinately time consuming, the details of such a situation must be set out in a clear manner. If large volumes of documentation had to be clarified, assessed and simplified, the details of such initiative by counsel must be specifically indicated apart of course from the need to show if such works have not already been provided for under a different head of costs.

Under Item 1 (1) of the *6th Schedule* of *The Advocates (Remuneration and taxation of costs) Rules,* as amended in 2018, instruction fees are calculated on the basis of the value of the "subject matter," where the value can be ascertained from the pleadings. The expression "subject-matter" is neither defined in *The Civil Procedure Act*, nor *The Civil Procedure Rules*, nor *The Advocates (Remuneration and Taxation of Costs) Rules*. It does not necessarily mean physical property. Depending on the context, it may refer to; (a) in a money suit to the amount claimed and (b) in a suit relating to property to the right or title of the plaintiff alleged to have been infringed. In the latter context, it has reference to a right in the property which the plaintiff seeks to enforce.

The expression "subject matter" includes the cause of action and the relief claimed. It may mean "the primary right asserted by the plaintiff," "the legal issue presented for consideration," or "the cause of action." It is frequently defined as "the right which one party claims as against the other," *Black's Law Dictionary* (4th ed. 1968); *The Cyclopedic Law Dictionary* (3d ed. 1940); *Cyclopedia of Law and Procedure* (William Mack, ed. 1911); William C. Anderson, *Anderson's Dictionary of Law* (T.H. Flood & Co., 1895). It is also sometimes defined as the "cause" or "cause of action." *Black's Law Dictionary*; *Cyclopedic Law Dictionary*; *Bouvier's Law Dictionary* (William Edward Baldwin, ed., Banks Baldwin Publishing Co., 1934); 27 American and English *Encyclopedia of Law* (Charles F. Willaims & David S. Garland, eds., Edward Thompson Co., 1896); *Anderson's Dictionary of Law*.

At common law, the "subject matter" of a suit is understood to refer to the primary right or core legal claim of the plaintiff, as opposed to the underlying facts of a case or the property in relation to which the right springs. Consequently the value of the subject-matter of suit is not necessarily the value of the property in respect of which the suit is filed. When the suit is founded on some claim to or question respecting property, it is the value of the claim or question and not the value

of the property which is the determining factor. Just as different legal issues may arise from the same underlying facts, so may they arise out of the same physical property. It follows that claims of a different nature based upon the same physical property would not necessarily be the "same subject matter." It is constituted by the plaintiff's main or primary right which has been broken, and by means of whose breach a remedial right arises. It is the right which one party claims as against the other, and demands the judgment of the court upon. In determining the value of a claim the court should consider what was at stake on the appeal, and not what was at stake on the original suit (see *Cooper and another v. Nevill and another [1959] 1 EA 74 at 76*).

For example in *The Registered Trustees of Kampala Institute v. Departed Asians Property Custodian Board, S. C. Civil Application No.3 of 1995*, the applicants instituted a suit in the High Court against the respondent seeking certain declaratory orders, *inter alia*, that *The Expropriated Properties Act, 1982* applied to the suit land. The suit and the appeals therefrom were subsequently dismissed with costs to the respondent, on the ground that the lease under which the applicants had held the property had expired in 1981 and the property had reverted to Kampala City Council, the Controlling Authority. When taxing respondent's bill of costs, the Taxing Officer allowed shs. 70,000,000/= as the instruction fee. The taxing officer arrived at that figure on the basis that the value of the suit property was shs. 2,100,000,000/= as assessed by valuers.

The respondents were dissatisfied with the decision of the taxing officer and therefore referred the matter to a single Justice of the Court who heard the reference and allowed it by reducing the amount of the instruction fee from shs. 70,000,000/= to shs. 7,000,000/= From that decision the applicant made a reference to the full bench. The full bench agreed with the single Justice that the Taxing Officer erred in his ruling and misdirected himself when he took into account the value of the property, for purposes of taxation of costs, yet the matter before the court had been limited to a declaration regarding entitlement to a repossession certificate. The Court held that "

> Value can be and is often taken into account during taxation but in this case that could not and should not have been the method….. the decision of this Court concerned the correct interpretation of Section 1 (1) (c) of the Act in relation to the suit land. The Court declared the status of the applicant in relation to the suit land. By that decision the applicant became "former owners" with the consequence that the applicants can

> lodge [an] application for repossession….. the value of the suit property was not a proper basis for taxation of costs….. We have already stated that in appropriate cases value of the subject matter can be a basis for the taxation of a bill of costs. But in our view we repeat that the decision in this case is such that value cannot nor could it be a basis for taxation of the instruction fee. We think that the learned judge properly applied the relevant principles to the matter before him.

In the instant case, costs were awarded in respect of the application to strike out the suit and the suit itself. They both concerned procedural issues, non-determinative of property rights. In none of those proceedings did "the legal issue presented for consideration" directly involve rights asserted in the underlying intellectual property. The Taxing Officer therefore properly directed himself when he found that the value of the subject matter was u=unascertained.

When the value of the subject matter is neither discernible nor determinable from the pleadings, the judgment or the settlement, as the case may be, the Taxing Officer is permitted to use his or her discretion to assess instructions fees in accordance with what he or she considers just, taking into account, among other matters, the nature and importance of the cause or matter, the interest of the parties, the general conduct of the proceedings, any direction by the trial judge and all other relevant circumstances (see *Joreth Ltd v. Kigano & Associates [2002] 1 E.A. 92*).

The suit having been dismissed on basis of an interlocutory application, none of the proceedings was determinative of rights in the intellectual property in dispute. The starting point therefore is item 1 (e) vii (b) and item 9 (2) of the 6th schedule of *The Advocates (Remuneration and Taxation of Costs) Rules*, as amended, which provide that the instruction fee should not be less than shs.300,000/= in respect of interlocutory applications. That sum should then be increased taking into account the factors mentioned. The Taxing Officer must envisage a hypothetical counsel capable of conducting the particular case effectively but unable or unwilling to insist on the particularly high fee sometimes demanded by counsel of prominent reputation. Then the Taxing Officer must determine the fee this hypothetical character would be content to take on the brief.

In doing that, the Taxing Officer is expected to take into account the importance to the litigants, of the matters in dispute, as well the complexity or the extent to which the matter at hand required deployment of a considerable amount of industry on the part of counsel. In this regard the Taxing

Officer took all that into account. The Taxing Officer was not only alive to the principles and factors which guide taxation of costs, but also applied them appropriately to the facts before him. I am not persuaded by counsel for the appellant's argument that the Taxing Officer justified the fees on grounds that counsel for the judgment creditor had exercised diligence. That was only one of the factors he took into account and I have not found evidence to show that he gave it undue weight. Questions solely of quantum are regarded as matters which Taxing Officers are particularly fitted to deal with and a Judge will intervene only in exceptional circumstances.

I have neither found "specific error," i.e. an error of law (including acting upon a wrong principle), a mistake as to the facts, relying upon an irrelevant consideration or ignoring a relevant consideration, or (exceptionally) giving inappropriate weight to such considerations (relevancy grounds), nor "inferred error," i.e. in the absence of identification of specific error, a basis for considering the award as unreasonable or clearly unjust. Even if it had been shown that the Taxing Officer erred on principle, I am not satisfied that the error substantially affected the decision on quantum and that upholding the amount allowed would cause injustice to the appellant. For those reasons the appeal fails and is accordingly dismissed with costs to the respondent.

Delivered electronically this 31st day of May, 2022

……Stephen Mubiru……..
Stephen Mubiru
Judge,
31st May, 2022.