

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT KAMPALA  
(COMMERCIAL DIVISION)  
CIVIL APPEAL NO. 12 OF 2021  
ARISING OUT OF TAT APPLICATION NO. 001 OF 2022**

**SAFARI CLOTHING (UGANDA) LIMITED:.....APPELLANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY:.....RESPONDENT**

**Before Hon. Lady Justice Patricia Kahigi Asiimwe**

**Judgment**

Introduction

1. This is an appeal from the Ruling of the Tax Appeals Tribunal in TAT Cause No.001 of 2021. In that Ruling, the Tribunal denied the Appellant an extension of time to file its application for review of the Respondent's objection decision.

Background

2. In 2019, the Respondent issued a public notice providing a 14-day grace period from 14<sup>th</sup> November 2019 to 3<sup>rd</sup> December 2019 to enable affected taxpayers to rectify their income tax returns. The Appellant amended the tax returns during the said grace period.
3. Following the tax return amendment, the Respondent issued a further assessment against the Appellant. The Respondent issued a penal tax of UGX 7,586,089 against the Appellant and an assessment of UGX 60,935,171 as total income tax payable.

4. The Appellant instituted an objection against the administrative assessment of the commissioner, which objection was partially allowed. The penal tax was dropped by the commissioner however the objection against the tax payable was disallowed and an amended additional assessment was issued to that effect.
5. The Appellant being dissatisfied with the amended additional assessment lodged an Application for review with the Tax Appeals Tribunal however the application was time barred. In a bid to correct the irregularity, the Applicant applied for extension of time within which to file an Application for review before the Tax Appeals Tribunal.
6. In support of the Application, the Appellant submitted that the Public Health (Control of COVID-19) Rules that led to the closure of premises during the COVID lockdown affected its ability to file an objection since the records needed to support the objection were locked up in an arcade.

#### Decision of the Tribunal

7. In its ruling delivered on 18<sup>th</sup> February 2021, The Tax Appeals Tribunal found that the Appellant obtained its objection decision on 16<sup>th</sup> September 2020 when the lockdown by the government had already been lifted in June 2020. The Tax Appeals Tribunal held that the Applicant had ample time to file an application before the Tribunal. The Tribunal dismissed the Appellant's application for an extension of time to apply for review against the objection decision. The main Application was also dismissed as it was filed out of time.

#### Grounds of Appeal

8. The Appellant being dissatisfied with the above decision of the Tax Appeals Tribunal filed a Notice of Appeal dated 16<sup>th</sup> March 2021 which did not state any of the grounds of Appeal.



9. The Appellant also filed a Memorandum of Appeal which raised two grounds of Appeal which are:

- I. That the Chairman and Learned members of the Tribunal erred in law when they failed to properly evaluate the evidence on the court record, thereby reaching a wrong decision.
- II. That the Chairman and Learned members of the Tribunal erred in law in dismissing the Appellant's Application without analyzing and considering in full the different grounds presented by the Appellant, thereby reaching a wrong decision.

#### Representation

10. The Appellant was represented by Wante & Company Advocates, and the Respondent was represented by the Legal Services and Board Affairs Department of the Respondent. Both parties filed written submissions.

#### Resolution:

##### *Preliminary Objection:*

11. The Respondent raised a preliminary objection that the appeal is incompetent because the grounds of appeal raise issues of mixed law and fact. The Respondent referred to Section 27(2) of the Tax Appeal Tribunal Act, 2014 which provides that an appeal to the High Court shall be made on questions of law only.
12. An appeal is a creature of statute (see **Attorney General Vs Shah (No. 4) [1971] EA 52**). Section 27(2) of the Tax Appeal Tribunal Act 2014 provides for the right of Appeal to the High Court from decisions of the Tax Appeals Tribunal.