

transport etc. was allowed at shs. 500,000/= without proof of disbursements. We pray that the bill be taxed afresh.

In response Mr. Abbas Bukenya submitted that the taxing Officer applied the relevant principles and did not depart. He was not aware though whether there was a taxation ruling on the file. He relied instead on the certificate of taxation and argued that based on that certificate, the principles were followed and he never departed from his earlier rulings on this matter. By annexure "A" to the affidavit in reply, he referred to this bill which was filed by counsel for the applicant now and he placed the instruction fee at shs. 30,000,000/= he set the standard and therefore he is estopped from arguing to the contrary. The applicant also admitted that the subject matter is in the range of shs. 500,000,000/= He prayed that the appeal be dismissed with costs. In the event that the court finds that absence of a ruling was a fundamental defect, then each party ought to bear their own costs.

Having perused the record of the Taxing Officer, I find that there is no taxation ruling and as such it is difficult to discern the principles that guided him as he went about the taxation. Considering that the process of taxation of costs relies heavily on the discretion of the Taxing Officer, the parties have a right to know the considerations upon which that discretion was exercised, in short, to understand them. At the very least, the Taxing Officer must be able to justify his or her decision. The giving of reasons is one of the cornerstones of the judicial function and a central aspect of the rule of law (see *Breen v. Amalgamated Engineering Union* [1971] 2 QB 175 at 191). In *Stefan v. General Medical Council* [1999] 1 WLR 1293, Lord Clyde stated as follows: “the advantages of the provision of reasons have often been rehearsed. They relate to the decision making process, in strengthening that process itself, in increasing the public confidence in it and in the desirability of the disclosure of error where error exists. They relate also to the parties immediately affected by the decision, in enabling them to know the strengths and weaknesses of their respective cases and to facilitate appeal where that course is appropriate.” Therefore, parties are entitled to know on what grounds the costs have been awarded. An appellate Court is also entitled to the assistance of the Taxing Officer by an explicit statement of the reasons for deciding as he or she did.

The duty imposed on a Taxing Officer to give reasons is a function of the rule of law and therefore of justice. Its rationale has two principal aspects. The first is that fairness surely requires that the parties, especially the judgement debtor, should be left in no doubt why they have to pay the quantum awarded. This is especially so since without reasons the judgement debtor will not know whether the Taxing Officer has misdirected himself or herself and thus whether he or she may have an available appeal on the substance of the award. Where no reasons are given it is impossible to tell whether the Taxing Officer has gone wrong on the law or the facts, the judgement debtor would be altogether deprived of his or her chance of an appeal unless the appellate Court entertains the appeal based on the lack of reasons itself. The second is that a requirement to give reasons concentrates the mind; the resulting decision is much more likely to be soundly based on the material before the Taxing Officer than if it is not. The Taxing Officer must enter into the issues canvassed before him or her and explain why he or she preferred one case over the other.

The extent to which this duty to give reasons applies will vary according to the nature of the bill of costs to be taxed, in the light of the circumstances of the case. The Taxing Officer's reasons need not be extensive if the decision makes sense. The degree of particularity required will depend entirely on the nature of the issues falling for decision. In the instant case though, the most striking feature of the taxation by the Taxing Officer is that the award is unreasoned and unexplained. In light of the duty to give reasons, even when the Taxing Officer chooses to deliver a summarised taxation ruling, he or she should at a minimum by way of reasons provide an outline of the principles that have guided allowing or rejecting items in the bill of costs, a summary of the basic factual conclusions about the items and a statement of the reasons which have led to assessment of the quantum awarded. A decision of a judicial officer without reasons is no decision at all as it deprives both the unsuccessful party and the appellate court of a basis for scrutinising its propriety. In the final result, I hereby set aside the award of the Taxing Officer and direct that the bill of costs be taxed afresh and reasons for the resultant award be given to the parties in a ruling of the Taxing Officer. Each party is to bear their own costs of this appeal.

Dated at Arua this 19th day of March, 2018.

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Stephen Mubiru
Judge, 19th March, 2018.