

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT MENG0

**(CORAM: ODOKI, C.J., TSEKOOKO, MULENGA,
KANYEIHAMBA, KATUREEBE, JJ.S.C.)**

CIVIL APPEAL NO.22 OF 2007

BETWEEN

**THE COMMISSIONER GENERAL
UGANDA REVENUE AUTHORITY:.....
APPELLANT**

AND

**MEERA INVESTMENTS LTD:.....
RESPONDENT**

*(Appeal arising from the judgment and decisions of the
Court of Appeal (,Mukasa- Kikonyogo,D.C.J., Okello,
Twinomujuni, JJ.A) in Civil Appeal No.03. of 2007, dated 15th
of October , 2007)*

JUDGMENT OF KANYEIHAMBA, J.S.C

This is a second appeal from the ruling and orders of the Court of Appeal in which the learned Justices dismissed the appellant's appeal.

The background to this appeal may be summarised as follows:

The respondent filed Civil Suit No.185 of 2005 in the High Court seeking specified declarations regarding its liability to pay taxes on certain properties. Counsel for the appellant raised three preliminary objections framed as follows:

- (1) That the suit was filed without the mandatory prior statutory notice.**
- (2) Alternatively, or secondly that no suit can be maintained against the Commissioner General and**
- (3) That the matter in issue is a dispute with inbuilt internal and appeal procedures laid out that exclude original jurisdiction of the High Court.**

The High Court (Okumu Wengi.J.) heard submissions on the objections and overruled them all. The necessary leave to appeal was obtained and the respondent appealed to the Court of Appeal. In that court and after inter-parties scheduling conference the following grounds were agreed to as requiring determination by that court.

- 1. The learned judge erred in law and fact in rejecting the preliminary objection that the Commissioner General of the Uganda Revenue Authority was not the proper defendant to the suit.**
- 2. The learned judge erred in law and fact in not holding (that) the proper defendant to the suit should have been Uganda Revenue Authority and further, that statutory notice of intention to sue should have been served before the suit was instituted.**
- 3. The learned judge erred in law and fact in rejecting the submission that the matter was**

prematurely before court, the plaintiff not having objected to the assessment and obtained a decision thereon.

After hearing counsel and considering their respective submissions on the framed issues, the learned Justices of Appeal found no merit in the appeal and dismissed it, upheld the learned trial judge's decision declining summary dismissal of the main suit and awarded costs to the present respondent. Hence this appeal.

In light of the nature of the subject matter of the dispute between the parties, I consider it necessary and useful to set out the salient features of this case. The appellant who was the third respondent in Miscellaneous Application No.218 of 2006 arising out of the Original Suit No.189 of 2006, is the Commissioner General and Chief Executive Officer of the Uganda Revenue Authority. The Uganda Revenue Authority is a statutory corporation. The first and second respondents in that same application were the Attorney General and the Uganda Investment Authority, respectively.

The Uganda Investment Authority, under statutory powers derived from the Investment code, statute No.1 of 1991, issued a certificate of incentives to the respondent exempting some of its properties from tax liability. Later, the Commissioner General through an officer under her decided to impose and demanded tax against some of the properties of the respondent which it claimed were included in those exempted from taxation by the Investment Authority. The respondent objected to the demands of that tax and

proceeded to sue the appellant for actions the respondent deemed to be contrary to and in conflict with the statutory powers and decisions of the Uganda Investment Authority, another statutory corporation. This is how civil suit No.189 of 2006 came to be filed and led to Miscellaneous Application No. 218 of 2006.

In this appeal, the memorandum of appeal contains four grounds framed as follows:-

- 1. The Court of Appeal erred in holding that the Commissioner General of Uganda Revenue Authority was the proper party to the suit.**
- 2. The Court of Appeal erred in not holding that the proper defendant to the suit should have been the Uganda Revenue Authority and further, that statutory notice of intention to sue should have been served before the suit was instituted.**
- 3. The Court of Appeal erred in not holding that the suit was prematurely before the High Court.**
- 4. The Court of Appeal erred in giving a certificate for two advocates.**

The appellant was represented by Dr. Joseph Byamugisha while the respondent was represented by three counsels, namely Nangwala, Rezida and Birungi. Dr. Byamugisha argued grounds 1 and 2 together and the rest separately. On the first two grounds, learned counsel contended that the Court of Appeal erred in law and fact in holding that the appellant was the proper party to the proceedings. He contended that the Commissioner General is a mere employee or servant of the Uganda Revenue

Authority which in law should have been the proper party to the suit. Consequently, the respondent sued the wrong party. In counsel's opinion, the Commissioner General of the Uganda Revenue Authority is just like a managing director of any corporation. In legal proceedings, it is the corporation and not its managing director which becomes a party. Consequently, counsel argued that the Court of Appeal erred in holding that the appellant had been properly named as the respondent in the High Court.

Citing the provisions of the **Uganda Revenue Authority Act**, Cap.196, S.12, Dr. Byamugisha contended that like any other employee of the authority, the Commissioner General ***“shall not, in his or her personal capacity be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his or her functions under the Act.”*** Counsel further contended that in any case, the functions and acts of the Uganda Revenue Authority are performed, not by the Commissioner General in person but by the Revenue Authority employees appointed in accordance with the provisions of S.11 and performing duties of the Authority on such terms and conditions as shall be approved by the Board of Directors of the Uganda Revenue Authority.

On the question of who should have been the proper party to be sued, Dr. Byamugisha emphasized that both in law and fact it was the Uganda Revenue Authority and not its Commissioner General.

In respect of ground 2, Dr. Byamugisha contended that the Uganda Revenue Authority being a statutory corporation with powers to sue and be sued in its name in any civil action against it has the right for the suing party to comply with the requirement for a statutory notice to be served in accordance with the provisions of the Civil Procedure and Limitation (Miscellaneous Provisions) Act, Cap.72. Counsel argued that therefore in so far as that compliance was conspicuously absent, the suit against the Revenue Authority or any officer acting on its behalf including the Commissioner General was defective and incompetent.

On ground 3 of the appeal, Dr. Byamugisha contended that the respondent's suit had in any event, been filed prematurely. He contended that the law establishing the Uganda Revenue Authority provides an internal mechanism for resolving any dispute arising from the assessment of and demand for tax. Counsel supported his contention on this matter by citing provisions of the **Tax Appeal Tribunal Act, (cap.196)**, which was enacted in compliance with **Article 152 (3) of the Constitution**. He cited ss .16 (1), (4), (6), (7) and 18 (a) and (b), 19, (3) and (6) 20, 22(2) of the same Act. Consequently, Counsel for the appellant contended that the suit before the High Court was premature since a dispute had to be resolved internally first before a party could invoke the jurisdiction and powers of the court. Dr. Byamugisha concluded on this ground that in effect the suit against the appellant had disclosed no cause of action in light of the statutory authorities he had cited and elaborated upon. Besides, the authorities referred to in this judgment, Dr.

Byamugisha also cited the **Civil Procedure Rules, (cap.71)1, Mulla's code of Civil Procedure, (Act V of 1908)**, and the Seventh Edition of Sir William Wade's *Administration Law*, in support of his submissions.

Finally, on ground 4, of the appeal, Dr. Byamugisha criticized the court of Appeal for granting a certificate for two counsel in favour of the respondent. He contended that no cause or reasons had been advanced or given either by counsel for the respondent or the Court of Appeal for the certification of two counsel.

Mr. Rezida, lead counsel for the respondent opposed the appeal and supported the findings and decisions of the courts below on the objections. Counsel argued and made submissions on each of the grounds of appeal consecutively. He contended that the Commissioner General was the right party and was correctly joined in the proceedings before the High Court as respondent. Mr. Rezida contended that the authority to sue the Commissioner General is given by statute cited S.147 of the **Income Tax Act. (Cap 340)** which provide that notwithstanding anything contained in any written law, any officer duly authorized in writing by the Commissioner General may appear in any court on behalf of the Commissioner in any proceedings in which the Commissioner General is a party. Counsel emphasized that under both the Constitution of Uganda and other laws, the High Court has unlimited jurisdiction to hear any civil or criminal matter raised before it and therefore, the appellant's submission that that jurisdiction excludes taxation matters is wrong in law and unattainable.

Counsel for the respondent rejected the argument on behalf of the appellant that the original suit in the High Court was filed prematurely. They contended that the proceedings before court now did not arise out of a taxation matter but out of the Commissioner's decision to challenge or ignore the decision of the Uganda Investment Authority, another statutory body that exempted the respondent from various heads of taxes. Counsel contended that, therefore the dispute between the parties is not about the nature or quantum of taxes which statute empowers the Tax Appeals Tribunal to determine first, but is about whether the Commissioner General can ignore or interfere with the decisions of the Uganda Investment Authority. Consequently, it was the opinion of counsel for the respondent that the matter was properly before court. Counsel contended that the issue was not whether the tax assessment was fair or unfair but whether the Commissioner General of the revenue authority, a statutory body, has the powers to override those of the Uganda Investment Authority, another statutory body. Counsel argued that unlike the Uganda Revenue Authority, the Uganda Investment Authority has no investment tribunal to which an aggrieved investor can appeal before going to court.

Counsel contended that therefore, not only was there a cause of action but the law permitted the respondent to sue the Commissioner General as an officer of the Uganda Revenue Authority. Counsel for the respondent cited a number of authorities and explained their relevancy of some of them to the facts of and laws relevant to the appeal. The

authorities cited and seen as applicable included the **Constitution of Uganda, the Income Tax Act, cap.340, The Value Added Tax Act, Cap.349, Uganda Revenue Authority statute No.6, the Civil Procedure and Limitation (Miscellaneous Provisions) Act, Cap 72, Giella V Cassman Brown & Co Ltd [1973] E.A, 358, Kanjee Naranjee V. Income Tax Commissioner, P.C. No 47 of 1962 and Civil Appeal No 14 of 2002 (S.C), (Unreported).**

In this judgment, I will discuss and resolve consecutively, the grounds as presented in the Memorandum of Appeal and argued by the counsel for the parties.

On ground 1, whether or not the Commissioner General is a party to the proceedings in this case depends on the Courts interpretation and application of the various Acts of Parliament which were cited by the respective counsel for the parties.

Each of the Acts of Parliament included in the list of authorities or discussed in submissions of the parties to this appeal has its own purpose and its provisions are essentially different from those of others. All of them derive their authority from and are subject to the provisions of the Constitution. While the Constitution remains supreme and binding at all times, Acts of Parliament can be modified and directed to govern diverse situations by Parliament but only subject to the constitutional provisions.

In my opinion, this case is about the conflict between the provisions of the Income Tax Act and the Value Added Tax Act and their interpretation and nature of application is a

matter for a court of law and not for the parties or a tax tribunal.

Article 139 (1) of the Constitution provides that:

“The High Court shall, subject to provisions of this Constitution, have unlimited original jurisdiction in all matters and such appellate and other jurisdictions as may be conferred on it by this Constitution or other law.”

This provision remains superior and mandatory until altered or modified by that other law which, in my opinion, can only be an Act made by Parliament or a constitutional amendment by the same authority.

However, an analysis of the different Acts of Parliament alluded to earlier in this judgment indicate quite clearly the rationale of their existence and the extent of their applicability. Unless this point is clearly appreciated, there is a likelihood that perceptions of incompatibility and conflicts between them could occur.

Dr. Byamugisha for the appellant, quite rightly in my opinion, refers to the Uganda Revenue Authority Act, Cap.196 as creating a central body for the assessment and collection of specified revenue to administer and enforce the laws relating to such revenue and to provide for related matters.

Learned counsel for the appellant cites, again quite correctly in my opinion, the provisions of Section 2 (2) of the same Act which provides as follows:

“(2) the authority shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and subject to this Act, may borrow money, acquire and dispose of property and do all such other things as a body corporate may lawfully do.”

As can be discerned from its provisions, the purpose of the Act is to establish the Uganda Revenue Authority as a **central body** for the assessment and collection of specified revenue, to **administer** and **enforce the laws**, relating to such revenue and to provide for **related matters**. Section 2 emphasizes the main functions of the Authority as to **sue and to be sued in its corporate name, to borrow money, acquire and dispose of property and do all such other things as a body corporate may lawfully do** (emphasis provided).

In my opinion, it is only in relation to what the law specifically provides for as its purpose and functions that the Uganda Revenue Authority may sue and be sued in its corporate name. In this respect and as a scheduled corporation, it would be entitled to the right of receiving a statutory notice under the Civil Procedure and Limitation (Miscellaneous Provisions Act, Cap 72. To this extent, I would agree with Dr. Byamugisha’s submissions.

However, the rights, powers and obligations prescribed under the Uganda Revenue Authority Act are not exclusive to the Authority. Part IV of the same Act establishes the Office of the Commissioner General, other Offices and Staff. Under

Section 10 (1), The Commissioner General is appointed by the Minister responsible on the recommendation of the Board of Directors who work on a part-time basis section 10 (2) of the Act provides that:

“The Commissioner General shall be the Chief Executive of the Authority and, subject to the general supervision and control of the Board, shall be responsible for the day to-day operations of the Authority, the management of funds, property and business of the Authority and for the administration, organization and control of the other officers and staff of the authority.”

Section 10 (3) provides that:

“The Commissioner General shall devote his (or her) full time to the duties of his/her office and shall not engage in any business, profession, occupation or paid employment elsewhere.”

Section 104 of the Income Tax Act provides:

- 1) “Tax when it becomes due and payable is a debt due to the Government of Uganda and is payable to the Commissioner in the manner and at the place prescribed.**
- 2) Tax that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner acting in the commissioner’s official name, subject to the general directions of the Attorney General.**

3) In any suit under this section, the production of a certificate signed by the Commissioner stating the name and address of the person liable and the amount of tax due and payable by the person shall be sufficient evidence of the amount of tax due and payable by such a person.”

Under the Value Added Tax Act, the Commissioner General may make an assessment of the amount of tax payable by any person. Under S. 63 of the same Act, an Officer may appear in any court on behalf of the Commissioner General in proceedings in which he or she is a party.

It is thus abundantly clear that the Commissioner General is a competent party to a suit under these Acts. Certainly, if he or she can sue to recover tax, he or she can be sued by a party unhappy with the tax assessments made by the Commissioner General or officers under him or her.

The constitutionality of the original and unlimited jurisdiction of the High Court was emphatically pronounced by the Court of Appeal in **M/s Rabo Enterprises (U) Ltd and M/s Elgon Hardware Ltd.v. Commissioner General, Uganda Revenue Authority** C.A No. 51 of 2003. where in the lead judgment (Okello, J.A. as he then was) declared that:

“An Act of Parliament cannot oust the original jurisdiction of the High Court, except by an amendment of the Constitution”.

Emphasizing this principle later in the judgment, the learned Justice of Appeal, observed:

“The conferment of the appellate jurisdiction on the High Court by section 27 of the Tax Appeal Tribunal has no effect on the original jurisdiction of the High Court conferred by Article 13 (1) of the Constitution. That means that a party who is aggrieved by the decision of the tax authorities on tax matters may choose either to apply to the Tax Appeals Tribunal for review or file a suit in the High Court to redress the dispute. The choice is his/hers. Once he/she goes direct to the High Court, that court cannot chase him/her away on the ground that it lacks original jurisdiction in the matter”.

In my opinion, the learned Justice of Appeal is correct on this interpretation of the constitutional provisions vis-vis Acts of Parliament. As I observed earlier in this judgment the dichotomy is more pronounced in a case like the present one where a taxpayer is actually challenging the Commissioner General’s powers to impose tax on property. That kind of dispute properly belongs to the jurisdiction of the High Court and not of a tax tribunal.

I notice that in her letter to the respondents, Jacqueline Kobusingye signed herself as Commissioner (for) Domestic Taxes Department. In my view, this fact does not alter the legal position that it is the Commissioner General who is responsible and liable in an official capacity for the acts of revenue officers under her in accordance with the provisions of Section 10 (2) of the Uganda Revenue Authority Act (*supra*) which empowers her/him to be responsible for the

day to-day operations of the authority, the management of funds, property and business of the authority and for the administration, organization and control of **other officers and staff of the authority** (*emphasis supplied!*)

There can be no doubt in my opinion, that it is only the Commissioner General who has the responsibility, powers and knowledge about tax matters to assist court and that is fully recognized by section 104 (3) of the Income Tax Act, Section 104(3) that empowers her to sue for taxes due but unpaid.

In my view, he or she who is empowered to sue is also made liable by necessary implication to be sued. Counsel for both parties have cited common law reports including those of East Africa which are littered with numerous authorities indicating that in taxation matters, it is the Commissioner's Generals who are normally the parties to legal proceedings. Apart from those cited by counsel in this appeal and already referred to in this judgment, the following are clear examples of this phenomenon:
Commissioner of Income Tax, v. Bell (T.M.) (C.A.), (E.A)224

Commissioner of Income Tax, v. Godinho (Maria R.S.)
(U) (E.A) 977

R. v. Commissioner General of Income Tax, I.E.A.T.C 36

R. v. Commissioners of Income Tax (1889) 22 Q.B.D. 296

Commissioner General of Income Tax.v Kigange Estates Ltd (1968) E.A 464

In all these situations, neither the Commissioner General nor his or her Officers, or indeed the person liable or

challenging the assessed taxes have any fixed time in which to submit the assessments or alternatively pay, deny or submit to liability.

In my opinion, the purpose of empowering the Commissioner General to assess, demand, collect and sue for any tax not paid is to ensure that Uganda revenues are settled, collected and paid expeditiously. Indeed, the letter written by Jacqueline Kobusingye reads as follows:

“REF: URA/DTD/B95-1005-5714-Y

**The Managing Director
Meera Investments Limited,
P.O.Box 3673
KAMPALA**

Dear sir,

RE: TAX AUDIT FOR THE YEARS 1996 TO 2003.

Following the Audit exercise conducted on your company for the period 1996 to 2003, below is the position as per documentation availed to the Audit team:-

1. The Uganda Revenue Authority stand on the following issues remains as per our letter of 15th November 2005.

- Loans**
- Incentives**
- Interest on loans**

2. Repairs and maintenance

This item awaits your submission of the required information.

3. Penalties

These are imposed in accordance with the provisions of Section 151, 153 and 154 of The Income Tax Act Cap. 340 and section 65(3) of The Value Added Tax Act Cap 349.

4. Summary of liability

| Tax Head | Principal Tax | Penalty | Total |
|-----------------|----------------|----------------|----------------|
| Corporation Tax | 8,591,984,231 | 18,870,745,307 | 27,462,728,538 |
| Vat | 2,270,339,088 | 6,781,718,748 | 9,052,057,836 |
| Total | 10,862,323,319 | 25,652,464,055 | 36,514,786,374 |

Notices of assessment are enclosed and workings showing the liability are attached.

Please arrange to pay the outstanding tax liability to avoid accumulation of interest.

Yours faithfully,

Jacqueline Kobusingye

COMMISSIONER DOMESTIC TAXES DEPARTMENT

Remit payment at once to avoid accumulation of interest”.

In my opinion, it appears not to be rational and fair that the Commissioner General can proceed with haste to assess, demand and sue for taxes from an individual or a corporation, but when the latter deny liability and wish to resist the imposed tax by speedily going to court, the Commissioner General not only ignores their defence but also attempts to hide behind the shield of statutory notice to

gain ample time which the tax payer does not have to shelter behind.

In this particular case, there are two statutory bodies, namely the Commissioner General and the Investment Authority each purporting to have exercised their functions. In my view, it would be unjust for either or both to impose their will without the victim seeking a judicial remedy within reasonable time. Secondly, the requirement of a statutory notice would unreasonably delay the receipt of Uganda revenues from reaching into the Consolidated Fund expeditiously. In my opinion, this would not be in the nation's interests. In any event, the reading of the statutes applicable show that the law permits the Commissioner General or his or her agent to sue expeditiously for taxes owed. Therefore, in my views that the respondent should also have the corresponding right to sue without hindrances

In my opinion, it would be just and proper that where liability for tax is in issue, the dispute should be disposed of quickly so that the uncertainty is eliminated at once and the country is accorded its rights at the earliest opportunity.

For the reasons I have given, ground 1 and 2 of this appeal ought to fail.

With regard to ground 3 of appeal, the matter is simple and straightforward. Having found that this case was not concerned with the mere assessment, demand and refusal to pay tax but with the interpretation of and relationship between the Uganda Revenue Authority Act and the Uganda Investment Act, the issue of the suit being premature does

not arise. I therefore find no merit in this ground which accordingly ought to fail.

Lastly, on ground 4, I agree with the submissions of Dr. Byamugisha that counsel for the respondent have not shown reasonable grounds for this Court to grant a certificate for two counsel either in this Court or those below. Moreover, in granting the certificate for two counsel, the Court of Appeal gave no reasons whatsoever. Consequently, in my opinion this ground ought to succeed and I would allow it.

All in all, however this appeal substantially fails. I would dismiss it with $\frac{3}{4}$ costs to the respondent. I would order that original suit No.185 of 2005 be remitted to the High Court and be disposed of expeditiously on merit.

Dated at Mengo this 20th day of January 2008

**G.W.KANYEIHAMBA
JUSTICE OF THE SUPREME COURT**

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT MENGO

**(CORAM: ODOKI, CJ, TSEKOOKO, MULENGA, KANYEIHAMBA, AND
KATUREEBE, JJ.SC)**

CIVIL APPEAL NO. 16 OF 2007

BETWEEN

COMMISSIONER GENERAL ::: APPELLANT

AND

**MEERA INVESTMENT
LTD ::: RESPONDENT**

[Appeal from the judgment of the Court of Appeal at Kampala (Mukasa-Kikonyogo, DCJ, Okello and Twinomujuni, J.J.A) dated 15th October 2007 in Civil Appeal No. 3 of 2007]

JUDGMENT OF ODOKI, CJ

I have had the benefit of reading in draft the Judgment prepared by my learned brother Kanyeihamba JSC, and I agree with him that this appeal should substantively fail. I concur in the orders he has proposed.

As the other members of the court also agree, this appeal is dismissed. There will be orders in the terms proposed by Kanyeihamba, JSC.

Dated at Mengo this 20th day of January 2009.

B J Odoki
CHIEF JUSTICE

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT MENGO

**(CORAM: ODOKI, CJ; TSEKOOKO, MULENGA,
KANYEIHAMBA AND KATUREEBE, JJSC.)**

CIVIL APPEAL NO. 22 OF 2007

BETWEEN

COMMISSIONER GENERAL :::::::::::::::::::::::::::::::::::::: APPELLANT

AND

MEERA INVESTMENTS LTD :::::::::::::::::::::::::::::::::::::: RESPONDENT

JUDGMENT OF TSEKOOKO, JSC.:

I have had the advantage of reading in draft the Judgment prepared by my learned brother, Kanyeihamba, JSC, which he has just delivered and I agree with his conclusions that the appeal ought to be dismissed and that the respondent should get $\frac{3}{4}$ of its costs here and in the two courts below for only one counsel.

A comment on grounds 1 and 2 which are formulated as follows:

- 1. The Court of Appeal erred in holding that the Commissioner General of Uganda Revenue Authority was the proper party to sue.**

- 2. The Court of Appeal erred in not holding that the proper defendant to the suit should have been Uganda Revenue Authority, and further, that statutory notice of intention to sue should have been served before the suit was instituted.**

The two grounds are two sides of the same coin which is whether the Commissioner General can be sued under her official title and if yes whether a statutory notice of intention to sue is a prerequisite to Institution of Court Proceedings.

Dr. Byamugisha for the appellant argues that the appellant cannot be sued whilst Mr. Rezida for the respondent contends the contrary and that there is no requirement to serve statutory notice of intention to sue.

S.104 (2) of the Income Tax Act states:

“Tax that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner acting in the Commissioner’s official name, subject to the general direction of the Attorney General .“

These provisions empower the appellant to recover tax through a court action. Likewise the preceding Sections 100 and 101 give a right to a tax payer to challenge assessment of income tax through Courts of law through appeals procedure. A party to such appeals would be the Commissioner-General, I think. In these circumstances I cannot find any legal basis in support of the view that the Commissioner General who can sue and maintain a suit in his/her official name cannot be sued in the same name in any competent court.

It therefore follows that there is no need to serve a notice of intention to sue before instituting a suit against the Commissioner General.

The two grounds must fail.

Although I agree that ground four must succeed, I would dismiss this appeal.

Delivered at Mengo this 20th day of January 2008.

J. W. N. TSEKOOKO.
JUSTICE OF SUPREME COURT.

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT MENGO

**(CORAM : ODOKI, CJ; TSEKOOKO, MULENGA,
KANYEIHAMBA, KATUREEBE, JJ.SC.)**

CIVIL APPEAL NO. 16 OF 2007

BETWEEN

COMMISSIONER GENERAL,
UGANDA REVENUE AUTHORITYAPPELLANT

AND

MEERA INVESTMENTRESPONDENT

[An appeal from the decision of the Court of Appeal at Kampala (Mukasa-Kikonyongo, DCJ, Okello, and Twinomunjuni, J.J.A) dated 15th October 2007 in Civil Appeal No. 3 of 2007]

JUDGMENT OF MULENGA JSC.

I had the benefit of reading in draft the Judgment prepared by my learned brother Kanyeihamba JSC. I agree that this appeal ought to fail and I concur in the orders he proposes.

DATED at Mengo this 20th day of January 2009.

J. N. Mulenga

Justice of Supreme Court

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT MENG0

**(CORAM: Odoki, CJ; Tsekooko, Mulenga,
Kanyeihamba and Katureebe, JJ.SC).**

CIVIL APPEAL NO. 22 OF 2007

B E T W E E N

**COMMISSIONER GENERAL
UGANDA REVENUE AUTHORITY : : : : : APPELLANT**

AND

MEERA INVESTMENTS LTD : : : : : RESPONDENT

[Appeal from the judgment and decisions of the Court of Appeal (Mukasa-Kikonyogo, DCJ., Okello, Twinomujuni, JJ.A) in Civil Appeal No. 3 of 2007, dated 15th of October, 2007].

JUDGMENT OF KATUREEBE, JSC.

I have had the benefit of reading, in draft, the judgment of my brother Kanyeihamba, JSC, and I agree with him that this Appeal ought to be dismissed.

I also agree that the respondent should get $\frac{3}{4}$ of costs here and in the two Courts below for one counsel.

Dated at Mengo this 20th day of January 2008.

Bart M. Katureebe
Justice of the Supreme Court