

**THE REPUBLIC OF UGANDA
IN THE TAX APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO. 56 OF 2019**

STANBIC BANK HOLDINGS LIMITED:..... APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY:..... RESPONDENT

BEFORE: HW WAMAI SOLOMON. DEPUTY REGISTRAR

RULING

This is a ruling in a taxation of bill of costs filed by the applicant in the above mentioned matter. At the hearing of the main application on 17th October 2019, counsel for the respondent raised a preliminary objection that the applicant's application was filed out of time and should be dismissed with costs. The tribunal allowed the parties to file written submissions. The preliminary objection was finally resolved in favor of the applicant with costs hence this bill of costs.

Mr. Allan Katanganza represented the applicant in this taxation hearing and Mr. Alex Ssali Aliddeki Ssali represented the respondent.

In submission, learned counsel for the respondent opposed the taxation of this bill and submitted that the bill of costs is unfounded without locus because the main application is at a hearing stage. The respondent argued that whereas the preliminary objection was decided in favor of the applicant, the tribunal did not direct that the bill of costs should be taxed in that regard. The respondent argued that the applicant should withdraw this bill of costs.

In reply, counsel for the applicant submitted that this bill of costs arises from the ruling of the tribunal which granted costs to the applicant. He argued that there is no law that prevents the applicant from presenting this bill of costs for taxation before this

honourable tribunal. Learned counsel for the applicant further submitted that this bill of costs relates to a specific preliminary objection for which costs were granted to the applicant. Learned counsel for the applicant noted that this court can as well postpone this taxation until the determination of the main application.

In rejoinder, the respondent's counsel insisted this bill of costs cannot be taxed now. He submitted that since the applicant is in agreement with the respondent that the taxation should be deferred, I reiterate my earlier prayers that this bill should be withdrawn.

Having taken into account the submissions of both counsel, this is the ruling of this court;

It is the established principle of law that costs of any action, cause or matter shall follow the event unless court for good cause orders otherwise. S. 27 of the Civil Procedure Act Cap.71 provides;

“(1) Subject to such conditions and limitations as may be prescribed and to the provisions of any law for the time being in force, the costs of an incident to all suits shall be in the discretion of the Court or Judge, and the Court or Judge shall have full power to determine by whom and out of what property and to what extent those costs are to be paid, and to give all necessary directions for the purposes aforesaid.

(2) The fact that the Court or Judge has no jurisdiction to try the suit shall be no bar to the exercise of the powers in subsection (1); but the costs of any action, cause or other matter, or issue, shall follow the event unless the Court or Judge shall for good reason, otherwise order.”

In *Republic v Rosemary Wairimu Munene* Judicial Review Application No. 6 of 2014; court held as follows:-

“The issue of costs is the discretion of the court as provided under the above section. The basic rule on attribution of costs is that costs follow the event... It is well recognized that the principle costs follow the event is not to be used to penalize the losing party;

rather it is for compensating the successful party for the trouble taken in prosecuting or defending the case.

The effect of the words the event means the result of all the proceedings to the litigation. The event is the result of the entire litigation. It is clear however, that the word event is to be regarded as a collective noun and is to be read distinctively so that in fact it may mean the “events” of separate issues in an action. Thus the expression “the costs shall follow the event” means that the party who on the whole succeeds in the action gets the general costs of the action, but that, where the action involves separate issues, whether arising under different causes of action or under one cause of action, the costs of any particular issue go to the party who succeeds upon it. An issue in this sense need not go to the whole cause of action, but includes any issue which has a direct and definite event in defeating the claim to judgment in the whole or in part.

The clear intention of the tribunal can be, be clearly gathered from its ruling dated 17th January 2020 on page 9 where the tribunal observed that;

“... the tribunal has not exercised fully and finally its jurisdiction in this application...”

This meant that the costs of the proceeding to which they refer are to abide the result of the final trial. I note that there was no formal application before this court. Be that as it may, both counsel are in agreement that the taxation of this bill of costs should be differed until the main application is finally determined by the tribunal. Though the tribunal awarded costs, it was not supposed to be taxed immediately.

According to John O’ Hare “*Civil Litigation*” (1997) 8th edition at page 523, the general principles is set down that as between litigants, costs follow the event. The loser will be ordered to pay costs to the winners and will be left to bear his own. This was a re-statement of the principle set down in the case of *Donald Campbell v Pellock* [1923] AC 732 at page 815; Lord Atkinson held that;

“... there is a settled practice of the courts that in absence of special circumstances, a successful litigant should receive his costs, that it is necessary to show some ground for exercising discretion... The discretion must be judiciously exercised.”

In *Rwantale v Rwabutoga* [1988-1990] HCB 100, it was held that a successful party is generally entitled to costs but that entitlement is discretionary. In *Dinah Busiku v Uganda Land Commission & Masuba Francis* HCT-04-CV-MA -0050- OF 2012 Hon. Mr. Justice Henry I. Kawesa held that;

“The prayer for taxed costs is rejected and replaced with an order that the applicant pays costs of the Respondents(thrown away) in this application. These costs will be assessed and paid at the end of the main trial regardless of the outcome of the same.”

In the interest of justice, it is prudent to first determine the main application before the applicant can file a bill of costs. It appears that the tribunal never intended the applicant to file the bill of costs before the conclusion of the main suit. If this bill of costs is taxed the way it is presented, it implies that the applicant has predetermined the fate of the main application. In the circumstances, this bill of costs shall be stayed until the final determination of the TAT No.56 of 2018.

Each party shall bear its own costs.

Dated this 28th Day of April 2021

WAMAI SOLOMON

DEPUTY REGISTRAR

Delivered in the presence of;