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LEGAL NEWS

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Court of Appeal Guides on TRAB Member's Dissenting Opinion against Validity of Judgment

On 9 April 2026, the Court of Appeal of Tanzania (the Court) delivered its judgment in Civil Appeal No. 425 of 2023. In this decision, the Court interprets the provisions of section 20 of the Tax Revenue Appeals Act, Cap. 408 [R.E. 2023] read together with rule 15(3) of the Tax Revenue Appeals Board Rules, 2018, and provides guidance on the role of the Tax Revenue Appeals Board (Board) Members in the decision-making process vis-à-vis the veto power of the Chairman or Vice Chairman in arriving at the final decision of the Board and/or Tax Revenue Appeal Tribunal (Tribunal), as the case may be. The Court concludes that in any trial conducted with the aid of assessors (members), reasons must be given in case of disagreement between the opinions of a member or members and the chairman, who participated in the hearing of the case.

Background

The Appellant (taxpayer) was assessed by the Respondent (TRA) to pay additional Corporate Income Tax for years of income 2013, 2014 and 2021 following the disallowance of the Appellant's expenses claimed to have been incurred in the production of its income. Subsequent to the issuance of the said assessments, the Appellant challenged the same unsuccessfully at the objection, Board and Tribunal levels, hence the appeal before the Court. The appeal at the Court was premised on three grounds of appeal, namely: (i) the Tribunal erred in law in interpreting the relevant provisions of the law and holding that the expenses were not wholly and exclusively incurred in the production of the Appellant's income; (ii) the Tribunal erred in law by failing to consider the relevant provisions of the law and the OECD TP Guidelines in disallowing the Appellant's expenses; and (iii) the Tribunal erred in law by failing to hold that the Board was wrong for contradicting the requirements of section 20 of the Tax Revenue Appeals Act read together with rule 15(3) of the Tax Revenue Appeals Board Rules, 2018.

Arguments Raised by Parties

Considering that the third ground of appeal involves a point of law capable of determining the appeal in its own without necessarily dealing with other grounds, the Court focused on the third ground alone. The Appellant's argument in relation to the third ground was that the Board's Vice Chairman simply disagreed with the opinion of one member without giving reasons for doing so as required by section 20 of the Tax Revenue Appeals Act read together with rule 15(3) of the Tax Revenue Appeals Board Rules, 2018. As such, the Appellant argued that non-compliance with the above requirement rendered the judgment defective.

The Respondent opposed the argument and submitted that the Vice Chairman's failure was inconsequential. Further, the Respondent argued that the difference of opinion of one member could not change the decision because the other member did not have a different opinion. As such, the Respondent insisted that in the circumstances, the Tribunal cannot be faulted for having failed to find that the Board's judgment was defective.

Decision of the Court

Having considered the arguments of the parties, the Court observed that it is common ground that, in making decisions, the Chairman or Vice Chairman of the Board is not bound by the opinion of his assessors. When he disagrees with them however, he must record their opinion and give reasons for his disagreement. This is in accordance with section 20 of the Tax Revenue Appeals Act read together with rule 15(3) of the Tax Revenue Appeals Board Rules, 2018. Further, giving reasons is important in determining whether the Chairman or Vice Chairman of the Board or Tribunal, as the case may be, was justified to disagree. Finally, the Court observed that failure to comply with the requirement of providing reasons renders the judgment fatally defective. Consequently, the judgment of the Board was quashed and set aside and so were the proceedings and the judgment of the Tribunal. It was, therefore, ordered that the record should be remitted to the Board for it to compose a new judgment in accordance with the law.

To read the Judgment [click here](#)

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