



**IN THE EAST AFRICAN COURT OF JUSTICE-APPELLATE DIVISION  
AT ARUSHA**

**TAXATION CAUSE No. 3 OF 2017**

**(Arising from Taxation Reference No. 1 of 2016)**

*(Arising from Taxation Cause No. 1 of 2015; arising from Reference No. 5 of 2013 and consolidated Application Nos. 8 and 9 of 2012)*

**THE INSPECTOR GENERAL**

**OF GOVERNMENT OF UGANDA.....APPLICANT**

**VERSUS**

**GODFREY MAGEZI.....RESPONDENT**

**RULING**

DATE: 2/08/2018

**YUFNALIS OKUBO – TAXING OFFICER**

This ruling is arising from a Bill of costs filed by the Respondent Applicant herein arising from a taxation cause number 1 of 2015 where the Applicant Respondent herein had filed a bill of costs which was dismissed in favour of the Respondent Applicant.

The Parties had reached consent on all matters including disbursement but when I drew their attention to the provisions of Rule 4(2) the Applicant Respondent opposed all the disbursements on grounds that the Respondent Applicant had failed to comply with the mandatory provisions of Rule 4(2) which provides:

*“Receipts for disbursements shall be produced to the taxing officer and copies served to the other party at least fourteen (14) days before taxation”*

The receipts on the file show they were filed on 5<sup>th</sup> March 2018 while the hearing was on 6<sup>th</sup> March 2018. The said receipts were all photocopies although originals were later availed to the Court but without a Court stamp to show when they were filed. Counsel for the Respondent Applicant indeed admitted in Court that it was an oversight not to have produced the receipts at least 14 days before the hearing.

This court has severally pronounced itself on the issue of disbursement in *Taxation cause No.2 of 2012 (Plaxeda Rugumba Vs Hon. Ag of Rwanda)*, *Taxation cause No. 1 of 2013 (Hon. Sam Njuba Vs Hon. Sitenda Sebalu)*, *Taxation cause no 4 of 2013(Hon. Sitenda Sebalu Vs Secretary General of EAC)*, *Taxation cause no 5 of 2013 (Among Anita Vs Hon Attorney General of Uganda)*.

Having made the admission and despite party autonomy to initially consent on disbursement I shall disallow the whole item on disbursement for failing to comply with a mandatory provision of the rules.

The only other issue for determination is instruction fees. The subject matter leading to this taxation reference was defending or opposing a reference by the Inspector General of the Government of Uganda seeking to set aside the Taxing Masters ruling made on 28<sup>th</sup> day of March, 2016 denying the Counsel for the Inspector General of Uganda instruction fees in Taxation Cause No. 1 of 2015. Item No 1 is framed in almost the exact words I have stated above without any monetary value of the subject matter being mentioned.

Rule 113(3) of the EACJ Rules of Procedure provides:



*"the costs shall be taxed in accordance with the rules and scales set out in the Third Schedule for the....."*

In the rules for taxation set out in the Third Schedule, Rule 11(1) provides that:

*"on taxation the taxing officer shall allow such costs, charges and disbursements as shall appear to him or her to have been reasonably incurred for the attainment of justice but no costs shall be allowed which appear to the taxing officer to have been incurred through overpayment, extravagance, over caution, negligence or mistake or by payment of special charges or expenses to witness or other persons or by other unusual expenses."*

At this stage may I also refer to Rule 9(2) of the Third Schedule that provides:

*"the fees to be allowed for instructions to institute a suit or a reference or to oppose a suit or a reference shall be such sum as the taxing officer shall consider reasonable, having regard to the amount involved in the reference, its nature, importance and complexity, the interest of parties, the other costs to be allowed, the general conduct of the proceedings, the person to bear the costs and all other relevant circumstances"*

In the case of **Joreth limited versus Kigano and Associates (2002) 1 EA 92** Justice R.O.Kwach said:

*'.....the taxing officer is entitled to use his discretion to assess such instruction fees as he considers just, taking into account amongst other matters, the nature of the cause or matters, the nature and importance of the subject matter, the interest of the parties, the general conduct of the proceedings, any directions by the trial judge and other relevant circumstances'.*

This was a reference seeking declaration with no monetary value.

The above rule gives me discretion to allow costs where it appears to me to have been reasonably incurred and to disallow where it appears to be an unreasonable expense. I have looked at the authorities cited to oppose the instruction fees and

the arguments from both sides in support of their respective positions. It is clear the Respondent Applicant is entitled to instruction fees and the Applicant Respondent does agree to that. Having taken all matters into consideration I would allow a sum of USD 7600 as reasonable fees for instructions. To that I will add 18% VAT which will amount to USD 8,968.0. In doing so I have been guided by the nature of the subject matter, complexity, the interest of the parties, the general conduct of the proceedings, the party that will ultimately bear the costs and the relevant authorities submitted.

The Taxation is therefore summarized as hereunder

Item 1 - USD7, 600, Item 2 - USD 205, Item 3 - USD 5, Item 4 – USD 5, Item 5 - USD 3, Item 6 - USD 3.5, Item 7 - USD 3, Item 8 - USD 3, Item 9 - USD 30, Item 10 - USD 190, Item 11 - USD 9, Item 12 - USD 3, Item 13 - USD 140, Item 14 - USD 125, Item 15 - USD 30, Item 16 – USD 9, Item 17 - USD 4, Item 18 - USD 0, Item 19 - USD 0, Item 20 - USD 0.

**TOTALS.....USD 9,735.5**

In conclusion, I tax the bill at a total figure of **USD 9,735.5 (United States Dollars Nine thousand, seven hundred thirty five and five cents only)** computed as follows: instruction fees at **USD 8,968.0** inclusive of **18%VAT** and **USD 767.5** awarded for all other items to cover among others attendance, perusals and drawings.

I so tax.

Dated at Arusha this

2<sup>nd</sup>

day of

August

2018

**YUFNALIS OKUBO  
TAXING OFFICER**