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**THE REPUBLIC OF UGANDA**

**IN THE TAX APPEALS TRIBUNAL AT KAMPALA**

**MISCELLANEOUS APPLICATION NO. 185 OF 2020**

**FARID MEGHANI .....APPLICANT**

**VERSUS**

**UGANDA REVENUE AUTHORITY.....RESPONDENT**

**BEFORE DR. ASA MUGENYI, DR. STEPHEN AKABWAY, MR. GEORGE MUGERWA**

**RULING**

This ruling is in respect of an application to extend time within which to file an application to review the respondent's objection decision.

This application is brought under Sections 14 and 16 of the Tax Appeals Tribunal Act, Rule 11 of the Tax Appeals Tribunal (Procedure) Rules and S. 98 of the Civil Procedure Act. It is for prayers that time for lodging an application for review to the tribunal be extended and for costs of the application.

The applicant was represented by Mr. Arnold Nogan Kimara, Ms. Martha Nuuna and Mr. David Oluka while the respondent was represented by Mr. Sam Kwerit.

This application is supported by two affidavits of the applicant which states the facts of this application as follows; That the applicant was issued two assessments. He made an objection on 27th December 2019. On 24th March 2020 the respondent served him with an objection decision. He was prevented from pursuing a review of the decision by the Presidential directives of COVD 19 on 18th March 2020 restricting social interaction and movement of private and public transport issued. The applicant also states that he went abroad for treatment of a back ailment in November 2019. He suffers great pain which has limited him.

The applicant submitted that an aggrieved tax payer may file an application before the Tribunal within 30 days of the objection decision under Sections 14 and 16 of the Tax Appeals Tribunal Act. Under Rule 11 the taxpayer may file for extension of time. The applicant submitted that there is sufficient cause to extend time to file an application for review of the taxation decision. He cited **Parimal v Veena**, [2011] 3 SCC 545 where sufficient cause was defined. He also cited **Eriga Jos Perion v Vuzzi Victor & 2 others** HCMA 9/2017 where it was stated that an order for enlargement of time to file an appeal should ordinarily be allowed unless the applicant is guilty of unexplained and inordinate delay in seeking the indulgence of court. The applicant submitted that he was affected by the Lockdown which was effected on 21st March 2020 by the President. On 30th March 2020 the President effected a transport ban. The lockdown extended for three months.

In reply, the respondent submitted that the application was brought after the six months' statutory time limit. The respondent contended that the COVID-19 restrictions were lifted allowing the applicant to file an application within time. The final restrictions were removed by the President on 22nd June 2020. The applicant has not explained the reasons for the delay from 2nd June 2020 to 11th December 2020 which cannot be attributed to the COVID 19 restrictions. Therefore, he has not disclosed sufficient cause.

In rejoinder the applicant reiterated its submissions. He contended that not only was he affected by the COVID lockdown but also his back ailment. The applicant has demonstrated sufficient cause to file the application.

Having read the pleadings and submissions of the parties, this is the ruling of the Tribunal.

S. 16 (1) (c) of the Tax Appeals Tribunal Act provides that an application to a tribunal for review of a taxation decision shall be lodged with the tribunal within thirty (30) days after the person making the application has been served with notice of the decision. S. 16 (7) of the same Act also provides that an application for review shall be made within six months of the taxation decision. Rule 11(6) provides that the tribunal may extend time if satisfied that the

taxpayer was unable to file the application because of illness, absence from Uganda or any other reasonable cause.

In order to qualify for extension of time there is need for the applicant to show that it has reasonable cause as to why the application was not filed in time. Courts have however provided guidance in determining what amounts to reasonable cause. **In Tight Security Limited v Chartis Uganda Insurance Co. Limited** Misc. Application 8 of 2014, the court held that;

> "Good Cause relate to and include the factors which caused inability to file within the prescribed period of 30 days. The Phase 'good cause' is however wider and includes other causes other than causes of delay such as the public importance of an appeal and the court should not restrict the meaning of good cause. It should depend on the facts and circumstances of each case and prior precedents of appellate courts on extension of time."

In **Mulindwa George William v Kisubika Joseph** Civil Appeal 12 of 2014, The Supreme Court of Uganda set out the following factors that should be considered in an application for extension of time;

i. The Length of delay.
ii. The reason for the delay.
iii. The possibility or chances of success.
iv. The degree of prejudice to the other party.

The applicant was served with an objection decision on the 24th March 2020. He had up to 24th April 2020 to file an application for review. On failure to lodge the application for review, the applicant has an extension of six months to file an application for extension of time. S. 16(7) of the Tax Appeals Tribunal Act provides that an application for review shall be made within six months after the date of the taxation decision. Six months from 24th March 2020 ends on 24th September 2020. The applicant filed his application on 11th December 2020 which is outside the prescribed statutory six months period. The Tribunal can only exercise its discretion if an application for extension of time is brought within the statutory six months period prescribed by law. After that it has no discretion to exercise. The lockdown was finally lifted on the 22nd June 2020. The applicant has time from 22nd June 2020 to 24th September

2020 to file an application for review. The Tribunal therefore notes that the length of delay by the applicant is beyond the time within which the tribunal can exercise its discretion. The reason for delay after 22nd June 2020 is wanting. To grant such an application would prejudice the respondent as it is out of time.

Taking the above into consideration, the Tribunal accordingly dismisses this application with costs.

Dated at Kampala this 29th day of January 2021.

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| **DR. ASA MUGENYI** | **DR. STEPHEN AKABWAY** | **MR. GEORGE MUGERWA** |
| **CHAIRMAN** | **MEMBER** | **MEMBER** |