

DIGEST OF CASES REPORTED

APPEALS

Admission of objection - When Commissioner admits an objection without receiving the tax not in dispute, such tax not in dispute remains payable until the final determination of the objection

Quality Group Limited v. Commissioner General....[2007] 1 TTLR 116

Appeal against notice of assessment - When time to appeal starts to run against the taxpayer

Tanzania Breweries Limited v. Commissioner General...[2007] 1 TTLR 104

Statutory time limit - Appeal filed out of the statutory period – Effect

M/s Ethiopian Airlines v. Commissioner General[2007] 1 TTLR 1

Waiver – Respondent’s refusal to admit notice of objection - Whether such refusal renders refusal to waive payment redundant – Sections 12(4) and 40 of the Tax Revenue Appeals Act, 2000

Karibu Textile Mills Limited v. Commissioner General....[2007] 1 TTLR 15

ASSESSMENTS

Notice of assessment – What constitutes a valid notice of assessment

Tanzania Breweries Limited v. Commissioner General...[2007] 1 TTLR104

CAPITAL GAINS TAX

Basis of chargeability - Any profit or gain accruing from sale of investment or capital asset

Quality Group Limited v. Commissioner General....[2007] 1 TTLR 116

INCOME TAX

Add backs – When add backs are justified

Shivacom (T) Limited v. Commissioner General....[2007] 1 TTLR 54

Allowable costs - Only costs supported by proper accounting documents are allowable

Quality Group Limited v. Commissioner General....[2007] 1 TTLR 116

Deductibility of expenditures - Expenditures of capital nature and those incurred not “wholly and excessively for the production of income” not allowable

Quality Group Limited v. Commissioner General....[2007] 1 TTLR 116

Tax audits – Ratio obtained from tax audit of one year used to make adjustments for previous years – Whether just

Shivacom (T) Limited v. Commissioner General....[2007] 1 TTLR 54

Tax avoidance – Net of tax arrangement for the purpose of enhancing production and economic power – Whether the purpose is intended to avoid tax
Tanga Cement Company Limited v. Commissioner General[2007] 1 TTLR 71

LIMITATION

Additional income tax assessment made/raised after time of limitation – Legal basis thereof
Azania Bancorp Limited v. Commissioner General.....[2007] 1 TTLR 155

Appeal filed out of statutory time limit - Effect
M/s Ethiopian Airlines v. Commissioner General[2007] 1 TTLR 1

Assessment made/raised three years after the year of income to which it relates - Whether time barred
Azania Bancorp Limited v. Commissioner General.....[2007] 1 TTLR 155

Tax exempt status – Procedure of getting a tax exempt status
National Health Insurance Fund v. Commissioner General.....[2007] 1 TTLR 30

INTERPRETATION

Words “the value of the supply is reduced” interpreted
Bidco Oil & Soap Ltd v. Commissioner General[2007] 1 TTLR 184

JURISDICTION

Jurisdiction of the Board – Whether the Board has jurisdiction to interpret non-revenue laws
National Health Insurance Fund v. Commissioner General.....[2007] 1 TTLR 30

PRACTICE AND PROCEDURE

Appeal against notice of assessment - When time to appeal starts to run against the taxpayer
Tanzania Breweries Limited v. Commissioner General.....[2007] 1 TTLR 104

Powers of the Board - The Board not vested with powers to interpret non revenue laws
National Health Insurance Fund v. Commissioner General.....[2007] 1 TTLR 30

Waiver – Respondent’s refusal to admit notice of objection - Whether such refusal renders refusal to waive payment redundant – Sections 12(4) and 40 of the Tax Revenue Appeals Act, 2000

Karibu Textile Mills Limited v. Commissioner

General[2007] 1 TTLR 15

PRELIMINARY OBJECTION

Appeal against notice of assessment filed long after statutory time limit – Whether appeal properly before the Board - Section 16(3)(a) of the Tax Revenue Appeals Act 2000 as amended

Tanzania Breweries Limited v. Commissioner

General.....[2007] 1 TTLR 104

Appeal filed out of time – Effect

M/s Ethiopian Airlines v. Commissioner

General[2007] 1 TTLR 1

STAMP DUTY

Dutiable instruments – Whether invoices issued by a non-resident are dutiable

Goudhurst Pty Limited v. Commissioner

General.....[2007] 1 TTLR 7

When Duty Payable – Importance of a receipt

Goudhurst Pty Limited v. Commissioner General.....[2007] 1 TTLR 7

STATUTORY INTERPRETATION

Whether the National Health Insurance Fund is an insurance institution as opposed to a health provider

National Health Insurance Fund v. Commissioner

General.....[2007] 1 TTLR 30

TAX AVOIDANCE

Net of tax arrangement for the purpose of enhancing production and economic power – Whether the purpose is intended to avoid tax

Tanga Cement Company Limited v. Commissioner

General.....[2007] 1 TTLR 71

VALUE ADDED TAX

Assessment - Application of section 43 (1) of VAT Act, 1997 by the Commissioner General in assessing additional VAT on imported services – Whether proper

Mbeya Cement Company Limited v. Commissioner

General.....[2007] 1 TTLR 213

Assessment on imported services – Powers of the Commissioner General
**Mbeya Cement Company Limited v. Commissioner
General.....[2007] 1 TTLR 213**

Compliance with Value Added Tax (Imported Services) Regulations, 2001 –
Whether such compliance results in nil tax
**Mbeya Cement Company Limited v. Commissioner
General.....[2007] 1 TTLR 213**

Difference between reduction in value of supply and discount rate - Regulations
11 (1) (c) and 9 (2) (f) of the VAT General Regulations of 1998
Bidco Oil & Soap Ltd v. Commissioner General.....[2007] 1 TTLR 184

Discounts – When a discount may be made
Bidco Oil & Soap Ltd v. Commissioner General ..[2007] 1 TTLR 184

WITHHOLDING TAX

Failure to deduct withholding tax – Effect on the withholding agent
**Tanga Cement Company Limited v. Commissioner
General.....[2007] 1 TTLR 71**

Gross up method – Whether compliant with statutory withholding requirement
**Tanga Cement Company Limited v. Commissioner
General.....[2007] 1 TTLR 71**

Gross up method – Whether the gross up method has a legal backing in Tanzania
**Tanga Cement Company Limited v. Commissioner
General.....[2007] 1 TTLR 71**

When paid on behalf of a chargeable person – Whether such payment qualifies
as expenditure wholly and exclusively incurred in the production of income of
the withholding agent – Section 16(1) Income Tax Act, 1973
**Tanga Cement Company Limited v. Commissioner
General.....[2007] 1 TTLR 71**

WAIVER

Respondent's refusal to admit notice of objection - Whether such refusal renders
refusal to waive payment redundant – Sections 12(4) and 40 of the Tax Revenue
Appeals Act, 2000
**Karibu Textile Mills Limited v. Commissioner
General[2007] 1 TTLR 15**