

25 October 2019



Tax Board delivers Ruling on controversial jurisdictional issue over waiver appeals

- Board confirms that it has jurisdiction to determine waiver rejection appeals
- Board distinguishes Court of Appeal's recent decision

Brief Background

The Appellants (Sunshine Group of Companies) in Tax Appeals Nos. 325, 326 and 327 of 2018 preferred to appeal to the Tax Revenue Appeals Board (the Board) against decision of the Commissioner General, Tanzania Revenue Authority (TRA) relating to the denial of a waiver to deposit one-third of the tax assessed.

When the appeals were called for hearing at the Board, the Respondent (TRA) raised a preliminary objection that based on the Court of Appeal's decision in PanAfrican Energy Tanzania Limited vs. Commissioner General, TRA, Civil Appeal No 121 of 2018, the Board has no jurisdiction to hear and determine appeals emanating from non-objection decisions of the Respondent. Also, the TRA based their argument on the preliminary objection on the provisions of section 16(1) of the Tax Revenue Appeals Act (as amended by the Tax Administration Act, 2015). The said section states that any person aggrieved by the objection decision of the Commissioner General may appeal to the Board.

On the other hand, the Appellant insisted that according to section 7 of the Tax Revenue Appeals Act, the Board has original and exclusive jurisdiction to hear and determine all disputes that are civil in nature emanating from the interpretation of revenue laws administered by the TRA.

Decision of the Board

Based on the above, the issue which the Board was invited by the parties to determine was whether the Board has jurisdiction to entertain appeals arising from non-objection decisions of the Respondent, particularly denial of one-third waiver. The Board, while distinguishing the PanAfrican decision, jealously confirmed that by virtue of section 7 of the Tax Revenue Appeals Act, the Board has exclusive jurisdiction to entertain all appeals of civil nature emanating from the TRA's decisions in administering revenue laws. Furthermore, the Board distinguished PanAfrican's Court of Appeal decision by stating that the PanAfrican case was based on the interpretation of section 16(1) of the Tax Revenue Appeals Act and section 53(1) of the Tax Administration Act while in the present matter the Board was dealing with section 7 of the Tax Revenue Appeals Act.

This new decision by the Board means that taxpayers aggrieved by any non-objection decisions, including waiver rejection decisions, may appeal to the Board. This is a welcome decision for all parties as it streamlines and clarifies on procedural law.

For further information on legal updates please contact:

E: info@fbattorneys.co.tz

About FB Attorneys

FB Attorneys is an all service law firm based out of Dar es Salaam, Tanzania.

We cover all aspects of the law and specialise in all corporate and commercial matters including Mining, Oil & Gas, Tax, Litigation, Competition, Banking & Intellectual Property law.

FB Attorneys has been ranked as a tier 1 law firm by the IFLR 1000 in the Energy & Infrastructure and Financial & Corporate sectors, tier 1 by Legal 500 and band 1 by Chambers and Partners General Business Law.

FB Attorneys

8th Floor, Amani Place, Ohio Street
P. O. Box 19813
Dar es Salaam, Tanzania
T: +255 22 2135994/5
E: info@fbattorneys.co.tz
W: www.fbattorneys.co.tz

Disclaimer

Information found in this legal update and any attachments are confidential and may be privileged or otherwise protected from disclosure, and intended solely for the use of the individual or entity to whom it is addressed to. If you are not the intended recipient, please notify the sender immediately and delete this message and any attachment from your system. Any views or opinions expressed in the message or its attachments are not necessarily those of FB ATTORNEYS.

© FB Attorneys 2019. All rights reserved.



PROUD MEMBER OF

