

18 September 2020



Board has jurisdiction for non-objection decisions

- Board states that it has jurisdiction on decision not emanating from objection decisions
- Cites the case of New Musoma Textiles
- Rules waiver rejections can be directly appealed to the Board

In what will be a decision of the year, the Tax Revenue Appeals Board (Board) has today ruled in Appeal No 23 of 2020 (Appeal No 23) that it has jurisdiction to entertain decisions by TRA that are not objection decisions.

Background

The Taxpayer in Appeal No 23 had directly appealed to the Board against the TRA's decision not to grant a waiver to the Taxpayer (Appellant). TRA raised a preliminary objection to the effect that the Board had no jurisdiction to entertain the Appeal as it did not emanate from an objection decision as ruled in the Tax Revenue Appeals Tribunal (Tribunal) case of Tanzania Portland Cement Company in January 2020 whereby the Tribunal cited the PanAfrican Energy case of the Court of Appeal of June 2019.

Board's decision

The Board in ruling that it has jurisdiction to entertain non-objection decision appeals, relied on the recent decision of the Court of Appeal, TRA v. New Musoma Textiles Limited where the Court of Appeal in dismissing one of the grounds of appeal stated the following:

"To be sure, the Tribunal was conscious that the Board had the sole original jurisdiction over the intended proceeding, it being one of civil nature in respect of a revenue law administered by the TRA in terms of section 7 of the Tax Revenue Appeals Act and that an appeal from the Board lay to it in terms of section 11(1) of the same law. In this sense, the complaint in the first ground is but an attempt to make a mountain out of a molehill. We dismiss it."

The Board ruled that in the PanAfrican case, the Board was moved under section 16(1) of the Tax Revenue Appeals Act (TRAA) whereas Appeal No 23 was filed under section 7 of TRAA, hence in a different context. The Board further stated that its jurisdiction is derived from section 7 of the TRAA as stated in the New Musoma Textiles case.

Finally, in the ruling, which should be a welcome decision to both taxpayers and the TRA as it brings clarity, the Board ruled that with the recent New Musoma Textiles decision section 7 of TRAA allows a taxpayer to challenge to the Board even the decisions of the Respondent (TRA) which are not objection decisions.

With the Board's decision in Appeal No 23, the Board has now confirmed that it will not only entertain appeals from objection decisions but also those from any other decisions of the TRA. Hence for waiver rejection decisions, the Taxpayer will now not be required to object a second time to the TRA wasting valuable time and resources of taxpayers and the TRA, unless of course if the TRA chooses to appeal this decision and the Tribunal reverses it.

A copy of the ruling in Appeal No 23 is awaited.

To read the New Musoma Textiles decision [click here](#).

To read a previous jurisdiction update of FB Attorneys [click here](#).

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E: info@fbattorneys.co.tz

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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

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