

13 June 2022



Jurisdiction of the Board in Tax Decisions still a Nightmare

- Court of Appeal insists on objection decision as the only basis of appeal
- TRA's demand for payment of tax not appealable decision
- TRA's other decisions and omissions still not appealable
- Court interprets strictly the right to appeal in tax matters
- Court invokes revisional jurisdiction and nullifies proceedings

In what seems to be the Court of Appeals' consistent position on appealability of some tax decisions, the Court has recently cemented its position that only objection decisions of the Commissioner General made under the Tax Administration Act are appealable to the Tax Revenue Appeals Board (the Board). This is one among a number of decisions of the Court of Appeal of Tanzania (the Court) whereas the Court has persistently demanded presence of an objection decision as the basis of an appeal to the Board.

On 30 May 2022, the Court, in Civil Appeal No. 444 of 2020, delivered a judgment relating to appealability of some decisions of the Tanzania Revenue Authority (the TRA). By way of background, the Appellant in the above appeal had challenged unsuccessfully at the Tribunal a tax assessment issued by the TRA. The Appellant attempted to challenge the decision of the Tribunal at the Court whereas such an appeal was struck out for being incompetent. While the Appellant was in the process of instituting a fresh appeal to the Court, the TRA issued a demand for payment of the disputed tax against the Appellant.

Believing that this demand was an appealable decision, the Appellant lodged an appeal to the Board. The appeal was based on the grounds that TRA's decision of demanding payment was illegal for not following the execution process as required by the law; and the TRA had no automatic right to recover tax arising from the decision of the Tribunal. On the other hand, the TRA argued that the Board had no jurisdiction to entertain a fresh appeal arising from the execution of the Tribunal's decree. The Board ruled in favour of the TRA and held that it was legally proper for the TRA to demand payment of tax due without an application for execution. Equally, the Tribunal dismissed the Appellant's Appeal on the ground that the application for execution was unnecessary.

Aggrieved by the decision of the Tribunal, the Appellant preferred an appeal to the Court challenging the decision of the Tribunal. During the hearing of the matter at the Court, a point of law was raised regarding the jurisdiction of the Board to entertain an appeal which did not arise from an objection decision in the light of section 16 (1) of the Tax Revenue Appeals Act, Cap 408 R.E. 2019 (TAA).

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 2022. All rights reserved.



PROUD MEMBER OF



LEGAL UPDATE

FB ATTORNEYS

13 June 2022

Based on the foregoing, the point of law for which the Court was invited to determine was whether or not the TRA's demand for tax was an appealable decision. In its judgment the Court held that the right to appeal against decisions of the TRA is limited to objection decisions only as prescribed by section 16(1) of TRAA. Therefore, since the Appellant's purported appeal was based on a non-objection decision, the said appeal was incompetent. The Court further observed that the Board assumed jurisdiction which it did not have in entertaining the Appellants appeal from a non-objection decision contrary to the above mentioned section. Finally, the Court invoked its revisional jurisdiction under section 4(2) of the Appellate Jurisdiction Act and nullified the proceedings before the Board and the Tribunal for being a nullity.

The Court seems to insist that, as long as other decisions or omissions of the TRA do not arise from objection decisions, the same are not appealable decisions within the strict interpretation of section 16(1) of the TRAA.

To read the judgment [click here](#).

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 2022. All rights reserved.



PROUD MEMBER OF

