

9 April 2025



Court of Appeal Delivers Decision on WHT on Loan Interest

- Defines the term 'payment' widely
- Declares the term 'payment' as a technical one
- WHT on loan interest to be accounted by corporations on accrual basis just as CIT
- Applies the principle of strict interpretation of tax statutes
- Reverses findings of the Board and Tribunal
- Taxpayer condemned to interest for late payment of WHT

On 8 April 2025, the Court of Appeal of Tanzania (the Court) delivered its judgment in Civil Appeal No. 485 of 2023. In this appeal, the Appellant, the Tanzania Revenue Authority (the TRA), sought to challenge the concurrent findings of the Tax Revenue Appeals Board (Board) and the Tax Revenue Appeals Tribunal (Tribunal), which held that withholding tax (WHT) on interest on loan is due and payable to the TRA when interest is actually paid and not when the same accrues.

Background of the Case

The dispute between the Appellant and the Respondent (the taxpayer) in this appeal was on the interpretation of section 82(1) of the Income Tax Act, 2004 (the ITA). While the Respondent interpreted the law that the obligation to pay WHT on loan interest matures when the actual payment of the said interest is made, the Appellant held the view that WHT on loan interest is payable when such interest is accrued and not necessarily when actually paid. As a result of these differences in views, the Appellant issued an assessment claiming payment of interest for the late payment of WHT on loan interest.

The Respondent challenged the TRA's position and was able to secure concurrent decisions of the Board and the Tribunal in its favour. The TRA appealed to the Court arguing that the Board and the Tribunal erred in law in holding that the WHT on loan interest obligation arises where the said interest is actually paid and not on accrual basis.

The Judgment

In its determination of the appeal, the Court framed two issues for its consideration, namely: (i) whether sections 3, 21, 23 and 82 of the ITA can be construed harmoniously or whether section 82 overrides sections 3, 21 and 23; and (ii) whether there is any ambiguity in the meaning of the word payment in section 3 of the ITA.

The Court observed that the word payment in section 3 of the ITA has been given a technical meaning and not a literal meaning. In that regard, the definition of payment has wider implications, for it includes the transfer of assets or money, the transfer or decrease of liability, the provision of services, the use or availability for use of money or an asset, and the creation of an asset in another person. The Court concluded that section 3 of the ITA encompasses technical meanings which do not necessarily imply there was transfer or exchange of money from one person to another.

Further, the Court noted that WHT as one of the taxes corporations are obliged to pay, follows the same principle that it should be paid on accrual basis and not cash basis. In cementing its position, the Court emphasized on its earlier precedent that once words in a statute are clear, then Courts of law which are guided to interpret statutes strictly cannot create a situation in the statute that was not intended by the Legislature.

Based on the above reasoning, the Court found the TRA's appeal to have merits and allowed the same. Additionally, the Court quashed and set aside the proceedings and judgments of the Board and Tribunal, and allowed the TRA's appeal.

To read the judgment [click here](#)

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