IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

(CORAM: LEVIRA, J.A., MASHAKA, J.A. And NANGELA, J.A.)

CIVIL APPEAL NO. 05 OF 2024

MWENGA HYDRO LIMITED ..... APPELLANT

VERSUS

COMMISSIONER GENERAL OF

TANZANIA REVENUE AUTHORITY (TRA) ..... RESPONDENT

(Appeal from the Decision of the Tax Revenue Appeals Tribunal at Iringa)

(Ngimilanga - Vice Chairperson)

dated the 15th day of September, 2022

in

Tax Appeal No. 40 of 2021

JUDGMENT OF THE COURT

29th July & 12th September, 2025

LEVIRA, J.A.:

This appeal is against the decision of the Tax Revenue Appeals Tribunal at Iringa (the Tribunal) in Tax Appeal No. 40 of 2021 which upheld the decision of the Tax Revenue Appeals Board at Iringa (the Board) in Appeal No. 92 of 2020. Before the Board, Mwenga Hydro Company Limited, the appellant appealed against the Value Added Tax (VAT) assessment of TZS. 306, 437, 341.00 done to her company by the respondent.

It is on record that the appellant is a company whose principal activity is electricity generation and distribution in Tanzania. The respondent is a Chief Executive Officer of Tanzania Revenue Authority vested with powers to administer tax laws and enforce revenue collection. In the year 2013, the appellant received a performance grant of TZS. 1,626,714,000.00 (equivalent to USD 1,300,000.00) from the Rural Electricity Agency (REA) under a Performance Grant Contract. The grant was a subsidy for the electricity connection charges to rural households and other end users which would have been unaffordable to most of them. The appellant's understanding was that the grant was capital in nature to finance construction of power lines; while the respondent considered it a subsidy for electricity connection services provided by the appellant to households and other end users. As a result, the respondent maintained that the grant was part of consideration for the taxable electricity connection services rendered by the appellant; hence, a taxable supply subject to VAT and imposed it. The appellant objected the imposed VAT claiming that the grant was not a taxable supply subject to VAT as there was no taxable supply between REA and the appellant.

The main contentious issue between the parties all along has been whether the performance grant issued by REA to the appellant was a

revenue or capital grant which was not intended to be a subsidy to the connection charges. Having considered the entire evidence on record and applicable laws, both the Board and Tribunal arrived at a concurrent finding that, the grant received by the appellant from REA was a subsidy intended to be used as revenue to subsidize electricity connection services to rural households. Meaning that, under the contract which the grant was issued, the grant was not capital injection in the appellant's business operations.

The appellant is aggrieved by the decision of the Tribunal which upheld the decision of the Board; hence, the present appeal. The appellant's grounds of appeal are as follows:

1. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that the Board afforded parties a right to a fair hearing.*
2. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that the issue framed by the Board suo moto without affording the parties the right to argue on the same was necessary for the Board to reach a fair decision.*
3. *That the Tax Revenue Appeals Tribunal grossly erred in law by considering the hearsay testimony of RW1 contrary to the requirements of section 62 of the Evidence Act, Cap. 6 [R.E. 2019].*
4. *That the Tax Revenue Appeals Tribunal grossly erred in law by failing to consider and evaluate evidence submitted by the*

Appellant regarding REA's performance grant to the Appellant for connection of electric power lines.

5. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that Respondent was justified to impose VAT on the grant issued by REA to the Appellant.*
6. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that interest was properly imposed on the Appellant.*
7. *That the Tax Revenue Appeals Tribunal grossly erred in law by holding that the Appellant failed to discharge the burden of proof as required by the law.*

At the hearing of the appeal, the appellant was represented by Dr. Abel Mwiburi, learned advocate assisted by Dr. Hamza Ismail Abdulrahman, also learned advocate. The respondent had the services of Mr. Hospis Maswanyia, learned Principal State Attorney assisted by Ms. Julian Ezekiel, also learned Principal State Attorney and Mr. Athuman Mruma, learned Senior State Attorney.

Before commencement of the hearing of the appeal could take place in earnest, we invited counsel for the parties to address the Court on whether all the grounds of appeal raised issues of law as required by section 25 (2) of the Tanzania Revenue Appeals Act, Cap. 408 (the TRAA). Mr. Mruma submitted that save for the first, second and sixth grounds of appeal, the rest are factual grounds which, in terms of section 25 (2) of the TRAA, this Court is barred from determining them. Dr. Mwiburi forcefully

objected Mr. Mruma's observation. He maintained that all the above grounds of appeal are matters of law and promised to demonstrate so in the cause of submission. We spent considerable time discussing with the parties in that respect and finally, decided to proceed with the hearing of the appeal with a view of filtering them as we proceed with the hearing.

Submitting in support of the appeal, Dr. Mwiburi first adopted the appellant's written submissions as part of his oral account and introduced the appellant as an electricity generation and distribution company. Thereafter, he argued the first and second grounds of appeal together stating that the Tribunal erred to uphold the decision of the Board because it denied the appellant the right to be heard by formulating an issue and decide on it without affording the parties the right to be heard. He referred us to page 200 of the record of appeal where the Board had the following to say:

> *"Concerning* ***whether the services by Mwenga Hydro Limited to households constituted a taxable supply or not,*** *Exhibit A 19 at paragraph 5 crystal clearly stated that the services by Mwenga Hydro Limited to households constituted a taxable supply and subsidy formed part of the consideration to top up the fees already paid up by the household's clients where on that fee VAT was also imposed and remitted to TRA. We*

concur with the respondent counsel that the portion paid by REA on behalf of the household clients was not subjected to VAT, so this disputed assessment is the one which has taxed that portion so that the full consideration of VAT is collected." [Emphasis added].

Dr. Mwiburi argued that the above issue was raised *suo mottu* by the Board and the appellant raised a complaint before the Tribunal, but it did not agree with the appellant. He referred us to page 123 of the record of appeal where he argued further that, only three issues were raised at the Board as follows: *"**One**, whether the respondent was justified in imposing VAT on grant issued to the appellant by the Rural Energy Agency (REA); **two**, whether the respondent was justified in imposing interest on disputed tax liability; and **three**, to what reliefs are the parties entitled."*

He thus faulted the Tribunal alleging that, it agreed with the Board in raising a new issue without affording the parties a right to be heard as it can be seen at page 763 of the record of the appeal. Finally, he urged the Court to allow those grounds of appeal.

In reply, Mr. Mruma, having adopted the respondent's written submissions as part of his oral account, opposed the arguments by the counsel for the appellant. It was his submission that the Board did not raise a new issue as alleged by the appellant. He referred us to the notice of

assessment found from page 40 to page 42 of the record of appeal showing the basis of the respondent's assessment to be the grant received by the appellant from REA as subsidy to the clients who were the beneficiaries of the services. He elaborated further that the grant covered the connection charges which would have otherwise been imposed on the households as per section 13 (1) of the repealed VAT Act, 1997 (the repealed law). According to him, that was the basis of the assessment by the respondent.

Mr. Mruma referred us to page 75 of the supplementary record of appeal where the performance grant agreement is found, specifically to clause 2 (a) (i), (iii) and (v) which indicates in clear terms that the duty of the appellant was to issue to customer and retain for its records, signed and stamped Certificate of Customer Acceptance after the satisfactory connection of the customer to the electricity network. Thereafter, the appellant would file her claims to REA. He went on to submit that clause 3 (a) of the said Agreement at page 78 of the supplementary record of appeal shows the obligations of REA. It reads:

> *"Make available the Performance Grant subsidies to PRACTICING COMPANY subject to verification of number of connections and compliance with the Disbursement Procedures as prescribed in the Operating Guidelines*

and the Environmental and Social Frameworks (ESMF and RMC)."

He as well referred us to page 4 of the Agreement where the subsidies amounting to United States Dollar (USD) 1,300,000.00 were for connection services. Therefore, in the final determination, the respondent stated clearly that the services rendered by the appellant constitute taxable supplies from which VAT is chargeable as stipulated under section 3 (1) of the repealed law. The appellant was further informed that where the supply of service is for a monetary consideration, section 13 (1) of the same repealed Act defined taxable supplies to be the amount of consideration excluding the VAT. Thus, the price consideration of the services rendered by the appellant to the households is inclusive of the USD 500.00 subsidy which has already been paid on behalf of the households by REA through the performance grant, then taxable value is indeed the consideration itself less the VAT on it. Therefore, Mr. Mruma said, the appellant was required to issue two types of invoices, one to REA with VAT inclusive and another to the households with VAT inclusive, but the appellant did not do so.

He, as well, referred us to the appellant's statement of appeal found at pages 5 through 12 of the record of appeal. At paragraph 3 (i) (m), (o) and (u) as can be observed from pages 7 to 9 of the record of appeal, it is clear that the appellant was aware of the basis of the assessment that the

grant was VAT inclusive. In her statement in reply at page 89 of the record of appeal, the respondent stated at paragraph 13 that the performance grant of USD 1,300,000.00 was a subsidy for the connection charges that would otherwise be charged to the household clients. As such, the grant formed part of the consideration for the services rendered by the appellant and therefore taxable. The respondent reiterated that position at paragraph 20, page 91 of the record of appeal. Mr. Mruma insisted that parties are bound by their pleadings.

Regarding the issues framed by the Board as quoted above, he submitted that, the first issue regarding whether the respondent was justified to impose tax was wider. Therefore, the Board had to look at legal justification and facts. The contract was the factual base for assessment and sections 3, 4, 5, and 13 of the VAT Act 1997 were the legal basis of imposing tax. He referred us to page 98 of the record of appeal where, he said, the appellant ventured to discuss the taxability of grant in isolation of the grant itself in his final closing submissions. Mr. Mruma argued that the issue before the Board was in respect of taxation of grant as part of consideration. According to him, the appellant ventured to discuss out of context.

He as well referred us to pages 106 to 115 of the record of appeal and submitted that, the respondent posed a question at page 112 of the record of appeal which shows that she knew what was the dispute and addressed it. According to him, when the Board was making determination, it was satisfied that the services rendered by the appellant were a taxable supply which is not disputed by the appellant as it can be seen at page 200 of the record of appeal.

Mr. Mruma submitted further that the appellant claimed to the Tribunal that the Board raised a new issue. The Tribunal found that it was a process of determining the issue which was raised as it can be seen at pages 763-764 of the record of appeal. He urged us to make a finding that the Board did not raise any new issue as alleged by the appellant and dismiss those grounds of appeal.

We have carefully considered the long submissions by the counsel for the parties in respect of those two grounds of appeal. We must admit that the submissions by the counsel for the parties have simplified our task of determining the appellant's complaint. The issue for our determination remains to be whether the Tribunal erred for finding that the issue framed by the Board was not new as claimed by the appellant. The answer to this issue is not farfetched. As we quoted above, the Board, while dealing with

the first issue as to whether the respondent was justified in imposing VAT on the grant issued to the appellant by REA had, as well, to consider *whether the services by the appellant to the households constituted a taxable supply or not.* As submitted by Mr. Mruma, all along the discussion between the appellant and the respondent had been on the services rendered by the appellant to the households.

The notice of assessment which the appellant was challenging even before the Board indicated that, the grant received by the appellant from REA was a subsidy to the clients who are the beneficiaries of the services and it covered connection charges. This was the center of arguments between the parties before the Board and that is why they even referred to the Performance Grant Agreement. We have examined what transpired at the Board and Tribunal and are satisfied that, the issue regarding justification of imposing VAT on the grant availed to the appellant by REA could not have been satisfactorily answered without considering *whether the services by the appellant to the households constituted a taxable supply.*

As intimated earlier, both parties had an opportunity to argue for and against the services rendered by the appellant. We do not find anything new in this issue which was not discussed and / or submitted upon by the

parties before the Board. Besides, in judgment writing, there is no law restricting a writer from being guided by questions while dealing with a specific issue, as it was in the present case. By so doing, it does not amount to violation of any parties' right to be heard, more so when the raised issue or question was the center of controversy addressed by the parties. In the circumstances, the appellant cannot be heard claiming that she was not afforded the right to be heard while the record of appeal defeats her claim.

We therefore, agree with the reasoning of the Tribunal at page 763 of the record of appeal that the issue raised by the Board was not new in any way as claimed by the appellant, but consequential to the main issue which the Board was invited to determine; that is, whether the respondent was justified in imposing VAT on the grant issued to the appellant by REA. Thus, the first and second grounds of appeal have no merit and, in our settled view, the parties were afforded a right to a fair hearing as demonstrated above. As a result, we dismiss these grounds of appeal.

We now proceed to determine the third ground of appeal. Dr. Abdulrahman submitted in respect of this ground faulting the decision of the Tribunal for relying on the hearsay evidence of the witness (Placidus Mweyo – RW1) at the Board, as it can be observed at page 136 of the record of appeal. He, as well, referred us to page 198 of the record of

appeal where in its decision, the Board referred to the evidence of Mr. Mweyo to hold that the assignment in the contract was to provide connection to households and other end users of the electricity. To bolster his argument, he cited the case of **Leopard Mutembei v. Principal Assistant Registrar of Titles Ministry of Lands Housing and Urban Development & Another,** Civil Appeal No. 57 of 2017 [2018] TZCA 213 (11 October 2018), where the Court held that, hearsay and unconfirmed evidence cannot be relied upon by the court. In the present case, Dr. Abdulrahman argued that the Board and Tribunal relied on hearsay evidence contrary to section 62 of Evidence Act Cap 6 RE 2019. As such, he said, since the respondent's evidence was not direct, both the Board and Tribunal were wrong to rely on it.

Mr. Mruma submitted in reply to this ground of appeal, stating that, the same is factual and urged us to dismiss it. Nonetheless, in alternative, he argued that, what was referred to as hearsay evidence by the appellant, was not hearsay. He referred us to page 136 of the record of appeal where Placidus Mweyo was cross examined and *replied "I was told (hearsay)".* According to the learned Senior State Attorney, the above statement referred to as hearsay does not state clearly which part of the evidence was hearsay. He went on to state that, the Board considered the direct

evidence of the said witness and all the documents tendered to arrive to its decision. He thus urged us to dismiss this ground of appeal.

Following the parties' submissions on this ground of appeal and having gone through the record of appeal, the question as to whether the evidence of Placidus Mweyo was hearsay evidence need not detain us much. First of all, we agree with Mr. Mruma that, this ground may lead us to deal with factual issues despite the provision of the law allegedly violated. However, without prejudiced, we observe that, Placidus Mweyo was a witness from the respondent's office. The said witness being an officer employed by the respondent dealt with the appellant's objection to the respondent and gave direct evidence on what he did as it can be seen from page 134 to page 135 of the record of appeal.

It is our further observation that at page 136 of the record of appeal where the counsel for the appellant referred us, was a response made during cross examination and it is not clear what he was asked. For easy reference, to appreciate what he said, we find it relevant to quote part of the response hereunder:

> *"Grant might be taxable; it is taxable supply. Performance grant is a taxable supply. If the bank is registered then is taxable. I do not remember. I voted the invoice. I knew I voted the invoice.* ***I was told***

(hearsay). *A – 19 para 4 we got it in the contract A12 (4) we did it from the total amount. Grant for performance. Mwenga Hydro did generate and distribute electricity."* [Emphasis added].

Looking at the above excerpt, only the phrase: *I was told (hearsay)* is what the appellant is complaining about. With respect, it is not even clear what kind of question was the witness asked taking into consideration that, it was during cross examination where random questions can be asked. Besides, there is nowhere on the record showing that the credibility of RW1 was even questioned. Thus, this response alone, in our settled view, cannot invalidate or make the whole evidence of that witness hearsay evidence. Nothing in his evidence in chief indicates that Mr. Mweyo was giving hearsay evidence. The Tribunal made a thorough examination of his evidence and come up with a finding that his evidence was direct evidence being an officer who was involved in determination of the appellant's objection before the respondent. We do not have any justifiable reason to fault the finding of the Tribunal. We are, as well, satisfied that the evidence of Placidus Mweyo was not hearsay evidence as alleged by the appellant. Consequently, we dismiss the third ground of appeal for lack of merit.

In the fourth ground of appeal the appellant faults the Tribunal for failure to consider and evaluate her evidence submitted in relation to

connection of electric power lines. Submitting in respect of this ground, Dr. Mwiburi stated that the appellant is challenging the imposition of VAT by the respondent on a grant. His arguments relied on what is stated at page 13 of the appellant's written submissions where reference was made to the Agreement signed between REA and the appellant (Exhibit A10); Exhibits A 12 and A 18 which are letters from REA allegedly confirming that the purpose of grant was not intended to be used as revenue to subsidize the electricity connection to rural households, businesses and other rural establishments. Further that, a number of 2,600 connections referred to in the Grant Agreement were meant to be used as project performance indicators, as well as, means of allocating the capital grant contrary to the respondent's claim that the grant was a subsidy since there was a requirement on the 2,600 connections of USD 500.00 each provided for in the Agreement.

In reply to this ground, Mr. Mruma submitted that the ground as substantively argued by the appellant becomes a matter of fact. This, he said, is due to the fact that the appellant had cited the contract clause and letters from REA exhibits A 12 and A 18 while trying to persuade that the grant was not meant for subsidizing connection charges, rather it was for the purpose of construction of electric power lines. In the circumstances,

he submitted that in terms of section 25 (2) of the TRAA, the Court is barred to determine it.

In the alternative, he argued that both the Board and Tribunal considered and evaluated the evidence submitted by the parties before making decisions. He referred us to pages 768 – 770 of the record of appeal where the Tribunal made analysis of evidence and arguments by the parties before making its decision. Finally, Mr. Mruma urged us to find this ground without merit and dismiss it.

We have carefully considered arguments for and against this ground of appeal, record of appeal and written submissions by the parties and in determining it, we propose to start with Mr. Mruma's point that the ground raises issues of fact. Section 25 (2) of the TRAA provides that:

> *"Appeals to* ***the Court of Appeal shall lie on matters involving questions of law only*** *and the provisions of the Appellate Jurisdiction Act and rules made thereunder shall apply mutatis mutandis."* [Emphasis added].

Guided by the above provision, we wish to state at the outset that the question as to whether or not the grant was a capital grant or a subsidy to electricity connection to rural households, in our considered view, cannot be answered without going into the reevaluation of evidence, which task, in our assessment, was well performed by both Board and Tribunal. As it

can be observed, while submitting, counsel for parties based on factual matters. For that reason, indeed, as said by Mr. Mruma, this Court lacks jurisdiction to determine this ground of appeal in terms of section 25 (2) of the TRAA in a manner the appellant would wish.

As regards the fifth ground of appeal, the appellant is complaining that the Tribunal erred to hold that the respondent was justified to impose VAT on the grant issued by REA to the appellant. The counsel for the appellant submitted that, the respondent was not justified to impose VAT on the grant issued by REA to the appellant because VAT is a tax imposed to the final consumer of the taxable supply which is not the case herein as the appellant is not a final consumer. He referred to section 5 (1) of the VAT Act, 1997 which defines a taxable supply to include supply of goods or services made by the taxable person in the course of or in furtherance of his business. According to him all the three requirements above do not exist in the present case. He also referred us to the evidence of Mr. Deograsias Massawe (AW1) who testified for the appellant comparing it with the defence evidence of Mr. Placidus Mweyo, the respondent's witness at the Board as it can be seen at page 17 of the appellant's written submissions. His main prayer in this ground is for the Court to declare that the Tribunal

erred to hold that the respondent was justified to impose VAT on the grant issued by REA to the appellant.

This ground of appeal was resisted by Mr. Mruma on account that it is a matter of fact and this Court lacks jurisdiction to entertain it. In alternative, he submitted that the respondent was justified to impose VAT on the grant issued by REA to the appellant since the same was part of consideration that would otherwise be paid by household customers and other end users for services relating to electricity connection. As such, he said, it was a subsidy grant to the appellant.

As regards section 5 (1) of the VAT Act, 1997 referred to by the counsel for the appellant, Mr. Mruma argued that all the incidents constituting taxable supply mentioned therein constitute supply of goods and no details of what amounts to services are provided. In the respondent's written submissions various clauses, including clauses 1, 3 (a), 2 (a) (iv) and (v), 4 (a) and 8 (c) of the Performance Grant Agreement were referred to in supporting the respondent's position, as they appear at pages 75 to 82 of the supplementary record of appeal. He insisted that, the purpose of the grant was to subsidize the connection charges as all of the features of the contract attribute the grant as revenue and not as a capital to the company. He urged us to dismiss this ground of appeal.

Having heard the parties and gone through the record of appeal, it is crystal clear that this ground of appeal takes us back to the facts to reevaluate whether the grant was a subsidy or capital injection to the appellant's business so as to be in a position to either fault or agree with the findings of the Tribunal. We agree with Mr. Mruma that, just like the fourth ground of appeal, determination of this ground also leads us to deal with factual issues than law, which is not within the powers of the Court. We thus refrain from entertaining the fifth ground of appeal.

We now move to consider the complaint in the seventh ground of appeal. In this ground, the Tribunal is faulted for holding that the appellant failed to discharge the burden of proof as required by the law. Dr. Mwiburi submitted that the appellant discharged her burden of proof as required by section 18 (2) (b) of the TRAA by submitting enough evidence to substantiate her position of the assessment in dispute. He submitted further that, the tax payer has to prove that the assessment was wrong as it was stated in **Insignia Limited v. The Commissioner General Tanzania Revenue Authority,** Civil Appeal No. 14 of 2007 [2011] TZCA 246 (30 May 2011). According to Dr. Mwiburi, the appellant was only required to give reasonable explanation on the balance of probability. He contended that, the respondent did not understand what was contained in

the Agreement between REA and the appellant. According to him, the transaction between REA and the appellant did not constitute a taxable supply.

Mr. Mruma resisted this ground of appeal on account that, it is, as well, a factual issue which will require the Court to determine whether the appellant tendered sufficient evidence before the Board contrary to section 25 (2) of the TRAA.

In alternative, he submitted that the Board was correct to hold that the appellant failed to discharge the burden of proof on how she utilizes the grant. He added that, the Tribunal evaluated the evidence, as well. According to him, the burden was on the appellant but she failed to give reasonable explanation and the burden never shifted. Instead, he argued, the appellant failed to tender evidence before the Board to prove that the grant intended to cater for materials and associated construction costs as observed by the Tribunal at page 770 of the record of appeal. He thus distinguished the present case from the case of **Insignia Limited**, cited by the counsel for the appellant. Finally, Mr. Mruma urged us to dismiss this ground of appeal.

We have respectfully considered the rival arguments by the parties in this ground of appeal, the impugned decision of the Tribunal and the

entire record of appeal. The question as to whether the appellant discharged the burden of proof by tendering sufficient evidence to prove that the grant she received from REA was for materials and construction costs, was well addressed by the Tribunal after assessment of the record from the Board. At page 769 – 770 of the record of appeal, the Tribunal had this to say:

> *"Again clause 3 (a) of the contract which provides for obligation of the REA states out clearly that the grant was the subsidy and not of the capital nature as claimed by the appellant.... Regard to the submission of the appellant that the grant was intended to cater for materials and associated construction,* ***no documentary evidence was tendered before the Board to that effect.*** *Under normal circumstances, such fact supposed to be supported by financial statement of the Appellant Company showing the utilization or status of the said grant whether it was a revenue or capital grant. Under section 18 (2) (b) of the Tax Revenue Appeals Act, Cap. 408, it is the appellant who is duty bound to provide proof of his alleged fact."* [Emphasis added].

As it can be observed from the excerpt above, the Tribunal reached to that conclusion after reevaluating the evidence tendered before the Board. As rightly pointed out by Mr. Mruma at the beginning, this ground

of appeal invites us to take up the entire evidence from both parties, reevaluate it, weight it and come up with finding on which party led evidence with more weight than the other. This we cannot do; to find out which evidence weighed more than the other is a question of fact and not of law. Having so stated we have no jurisdiction to determine this ground of appeal.

It is not insignificant to restate that, we engaged parties to address us on whether those three grounds of appeal were pure points of law but Dr. Mwiburi was adamant insisting that, indeed they are points of law contrary to Mr. Mruma's submission. We have spent our considerable time to discuss them as above and we could not find any justification of the line of argument by Dr. Mwiburi. At the expense of clarity, we restate that the Court is not mandated to reevaluate evidence or deal with factual matters in terms of section 25 (2) of the TRAA.

In the sixth ground of appeal, the appellant is complaining about the interest that it was not properly imposed on her. Counsel for both sides were at one that this ground is consequential to the success of other grounds of appeal, which we agree. Having dismissed grounds 1, 2 and 3 on one hand, and having found the Court to have no jurisdiction in respect

of grounds 4, 5 and 7, on the other, we find no reason to labour on it. As a result, we dismiss the appeal with costs.

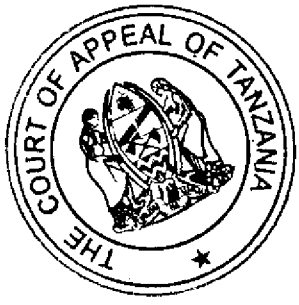
DATED at **DODOMA** this 9th day of September, 2025.

M. C. LEVIRA
JUSTICE OF APPEAL

L. L. MASHAKA
JUSTICE OF APPEAL

D. J. NANGELA
JUSTICE OF APPEAL

Judgment delivered this 12th day of September, 2025 in the presence of Dr. Hamza Ismal Abdulrahman assisted by Dr. Esther Mlingwa both learned counsel for the Appellant and Mr. Athumani Twaha Mruma, learned Senior State Attorney for the Respondent via vitual Court from Dar es Salaam and Magesa Mgeta, Court Cleark; is hereby certified as a true copy of the original.



O. H. KINGWELE
DEPUTY REGISTRAR
COURT OF APPEAL