

**IN THE COURT OF APPEAL OF TANZANIA
AT DODOMA**

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CIVIL APPLICATION NO. 07/01 OF 2025

**TANZANIA BREWERIES PUBLIC LIMITED COMPANY APPLICANT
VERSUS**

COMMISSIONER GENERAL

TANZANIA REVENUE AUTHORITY RESPONDENT

**(Application for extension of time to lodge record of appeal – Intended
appeal against the Judgement and Decree of the Tax Revenue Appeals**

Tribunal at Dar es salaam)

(Ngimilanga RM, Chairman)

dated the 6th day of June, 2024

in

Tax Appeal No. 68 of 2023

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RULING

26th August & 4th September, 2025

MANSOOR, J.A.:

The applicant, Tanzania Breweries Public Limited Company, (TBL), moved this Court by a notice of motion dated 14th April 2025, filed under Rule 10 of the Tanzania Court of Appeal Rules, 2009, (the Rules), praying for an order of extension of time within which to lodge the record of appeal. The applicant intends to appeal against the judgment and decree of the Tax Revenue Appeals Tribunal (TRAT) in Tax Appeal No. 68 of 2023, delivered on 6th June 2024.

The application is supported by the affidavits of Mr. Noel Adam Mosha, Mr. Norbert Mwaifwani, both the learned counsel representing the

applicant and Ms. Whitney Malanda, the IT technician of the Court. The respondent, Commissioner General of the Tanzania Revenue Authority, (TRA), opposed the application by filing in court the counter-affidavit affirmed by Mr. Athuman Mruma, learned Senior State Attorney on behalf of the TRA.

Briefly, the TRAT entered a judgment and decree in favour of the TRA on 6th June 2024. Aggrieved by the decision, the TBL lodged a notice of appeal on 11th June 2024. Copies of the proceedings, judgment, and decree were supplied on the applicant on 5th February 2025. On 26th March 2025, the applicant requested for a certificate of delay from the TRAT, which was issued on 4th April 2025. The certificate excluded the period from 11th June 2024 to 5th February 2025 in computing the 60 days for lodging the record of appeal under Rule 90 of the Rules. Consequently, the deadline for filing the record was on the 6th April 2025, which fell on a Sunday. Since the 7th April 2025 was a public holiday (Karume Day), the effective deadline became the 8th April, 2025.

According to the affidavit of Mr. Mosha, the record of appeal was ready by 4th April, 2025 but he could not file it until he received the certificate of delay from the Registrar. Soon after he received the certificate of delay, he attempted to file the record online via the Judiciary of Tanzania Online Filing System (JoT-eCMS) but encountered accessibility

issues. On 6th and 7th April 2025, during weekends, he again attempted to file the record online without success. On 8th April 2025, which was a working day, he contacted Ms. Whitney Malanda, a judiciary officer working on the IT department of the judiciary, who informed him that the system was not configured to accept appeals originating from the TRAT, as it had not yet been integrated into the JoT-eCMS portal.

Mr. Mosha deposed further that, he visited the Court of Appeal sub-registry in Dar es Salaam on 8th April 2025, to have the record filed manually, but found no officers present at the registry, as they all travelled to Dodoma for the inauguration ceremony of the Judiciary Square. Unable to file on the deadline, the applicant prepared and filed the present application for extension of time, which he filed it manually in Dodoma on 15th April 2025. The application was supported by all the important annexures including call logs, WhatsApp messages confirming system issues, train tickets for travel to Dodoma, and the affidavit of Ms. Malanda corroborating the system's limitations.

At the hearing of the application on 26th August 2025, the applicant was represented by Mr. Wilson Mukebezi, learned Advocate. The respondent was represented by Mr. Athuman Mruma, the learned Senior State Attorney, assisted by Mr. Francis Wisdom, the learned State Attorney.

Mr. Mukebezi, submitted that the delay was caused by factors beyond the applicant's control. That the flaws in the JoT-eCMS system and the unavailability of court officers at the Dar es Salaam sub-registry were factors beyond his control. He emphasized that the applicant had accounted for each day of the delay and had acted diligently by preparing the record in time and making repeated attempts to file the record online.

He further argued that the respondent did not make any replies to the affidavits of Mr. Norbert Mwaifwani and Ms Whitney Malanda, thus the facts deposed therein remained uncontested.

Mr Mukebezi argues that the applicant has met all the four criteria for granting the extension of time and relied on the case of **Lyamuya Construction Company Ltd vs Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 TZCA 4 (3 October 2011), where the Court outlined four criteria for granting extension of time: (1) a good reason for the delay; (2) lack of dilatoriness or negligence; (3) accounting for each day of delay; and (4) demonstration of a meritorious appeal or arguable case. He contended that since the system flaw constituted a good reason, there was no negligence, the delay was explained day-by-day, and the appeal raised arguable points on tax matters. He therefore urged the court to grant the

extension so as he can file the record of appeal and to have the appeal argued on its merits.

Additionally, he cited the case of the **Attorney General Vs International Electronics Company Ltd and Another**, Civil Application No. 131/16 of 2023 TZCA 932 (25 September 2024), to support the competence of the application, arguing that technical glitches in judicial systems can justify extensions without imputing negligence.

In response, Mr. Mruma, adopted the contents of his counter-affidavit and argued that the applicant was negligent as he waited until the last minute to file the record. That the applicant had sixty days from the date he filed the notice of appeal or from the date he was supplied with the record of appeal within which to file the record but had waited until the last day to have them filed in court, and this shows lack of diligence. He submitted that, if the applicant filed the records earlier, at least thirty days before the deadline, it would have allowed him enough time to resolve any technical issue that would have occurred. To buttress his arguments, he relied on the findings in the case of **Joeff Group Tanzania Limited vs Somzy International (T) Limited** (Civil Application No. 349/01 of 2024) [2025] TZCA 796 (31 July 2025), where the Court denied a prayer for extension of time due to lack of diligence in filing matters at

the last minute, arguing that a serious litigant does not wait until the deadline.

Mr. Mruma argued further that, there were discrepancies on the date the applicant attempted to file the record on line and the date of the preparation of the present application between the affidavits of Mr. Mosha which shows that the present application was prepared on 9th-10th April while the affidavit of Mr. Mwaifwani shows that he received the instructions from Mr. Mosha to prepare the application on 10th April. He argues that all these shows lack of diligence and contended that the applicant failed to meet the standards set in **Lyamuya** case.

Mr. Mruma also attacked Ms. Malanda's affidavit. He questioned her authority to give the affidavit on behalf of the judiciary as she did not identify herself as an IT officer of the court.

Mr. Wisdom, supplemented the arguments of his colleague by noting that the case of the **Attorney General Vs International Electronics (supra)**, cited by the counsel for the applicant, was not on an issue of extension of time for lodging the record of appeal but for stay of execution. He argued further that, the ground of system malfunction could only have been valid if the applicant did not ignore the requirements set in Rule 24(5) and (6) of the Judicature and Application of Laws (Electronic Filing) Rules, 2018, (Electronic Filing Rules), which requires an applicant

who encounters any challenges in the electronic filing system to make an informal application to the Registrar for verification. He argues that in the absence of compliance of Rule 24 (5) and (6) of the Electronic Filing Rules, which could have prompted the Registrar of the Court to issue a letter verifying that there were challenges in the system and to exclude such time, the claim was speculative.

Mr Wisdom also sought to expunge paragraphs 13 of Mr. Mosha's and Mr. Mwaifwani's affidavits claiming to be hearsay, as they lacked supporting affidavits from the people who were mentioned in those paragraphs of the respective affidavits. Mr. Wisdom, therefore, prayed for the dismissal of the application with costs for the application lacks merits.

In rejoinder, Mr. Mukebezi clarified that it is true that the affidavit of Mr Mosha's had mentioned the names of the counsels who attended to the matter for purposes of stating the fact that these people had travelled from Dar es Salaam to Dodoma in order to have the application filed manually. The train tickets were annexed to the affidavit as Annexures A-9 and A-10 to support the fact that the counsel had indeed travelled. He said, there were no need to have the affidavits of the people who travelled to Dodoma to have the application filed as proof that they travelled. The train tickets annexed to the affidavits were enough proof of that fact.

Regarding the challenges on the filing system of the court, he reiterated that the issue was not a mere malfunction of the system but a design flaw which rejected appeals from cases originating from the Tax Tribunals into the JoT-eCMS. He argued that, Rule 24 applies only when the system is down, not when the system is not integrated with the other systems. He also said that, in any case, the Registrar was unavailable as he was attending the inauguration ceremony in Dodoma. He in fact said that the letter from the Registrar could only be issued on the cut-off date, and had the effect of waiving the last date of filing but not the days that follows afterwards.

He argues further that, there was no lack of diligence, as the records were ready but could not have been filed before the certificate of delay was issued. That, the certificate of delay was issued on the 4th April 2025, and the attempts to file the record online started on 4th April, the date when the certificate of delay was issued.

Having carefully considered the submissions of the parties along with the affidavits and annexures on record, the sole issue for determination is whether the applicant has demonstrated sufficient cause to warrant the court to grant the extension of time under Rule 10 of the Rules.

It trite that, the power under Rule 10 of the Rules is discretionary but must be exercised judiciously, upon demonstration of good or sufficient

cause. As established in **Lyamuya Construction Company (supra)**, the guiding principles are: (1) accounting for each day of delay; (2) delay should not be inordinate; (3) absence of dilatoriness or negligence; and (4) a meritorious or arguable appeal.

These principles have been consistently applied by the court in a plethora of cases, such as the case of **Jamaat v Shabhay** (Civil Application 48 of 1997) [1997] TZCA 159 (18 November 1997), the Court emphasized that those who come to courts of law must not show unnecessary delay in doing so; they must show great diligence. Similarly, in **Joeff Group Tanzania Limited v Somzy International (T) Limited (supra)**, the Court denied extension of time where the applicant failed to demonstrate diligence, underscoring that last-minute actions invited scrutiny.

In the present matter, the applicant's primary reason is the JoT-eCMS system's inability to accept appeals originated from the Tax Tribunals. This is not a mere technical glitch but a systemic design issue, as deposed by Ms. Malanda in her affidavit that the Tribunals were not integrated into the portal. The respondent's contention that this is a speculation overlooks the uncontroverted evidence on record, which includes the call logs (Annexure A-8) and WhatsApp messages (Annexure A-7), which confirmed the widespread system problems.

Again, as correctly submitted by Mr Mukebezi, Rule 24(5) and (6) require approaching the Registrar for verification only when the system has encountered challenges and not when the systems between two institutions have not been integrated. The challenges encountered by the applicant when filing the records are recognised as technical challenges and can amount to a valid ground for granting an extension of time.

Rule 24 (5) and (6) of the Electronic Filing Rules provides:

- (5) *Where party misses a filing deadline due to technical problems referred to in sub-rule (1) the party shall move informally and ex-parte the Registrar or the magistrate in-charge not later than 15:00 hrs of the following working day for appropriate relief.*
- (6) *Where the Registrar or magistrate in-charge is satisfied that there was good cause for missing the deadline, he shall grant the request under sub-rule (5) in writing.*

True as submitted by Mr Mukebezi that this is not a technical problem envisaged in rule 24 (1) of the Electronic Filing Rules as it is not that the electronic filing system was not in operation, but the system was totally not integrated with the tax tribunals, and the Registrar under such circumstances was not empowered to exclude any such time. The only available option was for him to file the record manually, and could not file

it in Dar es Salaam on the following day as everybody in Dar es Salaam had travelled to Dodoma for the official inauguration of the Judiciary Square. In any case, even if the Registry in Dar es Salaam was open, the applicant could not have filed it as he was already out of time, and the only available remedy was to apply for extension of time to have more time to file the records, as he correctly did.

Again, a technical delay is sufficient ground for extension of time as said in **Attorney General V International Electronics Company Ltd and Another (supra)**, in which the Court recognized technical delays in judicial processes as valid grounds for extension, provided they are not attributable to the applicant. Here, the delay from 8th to 15th April, 2025 is explained of and has been accounted for. The applicant was able to show that from 4th to 8th, he attempted to file the record online but failed, on 8th to 10th he approached the IT of the judiciary to find out the problems of the system and on 11th to 14th, he travelled to Dodoma to be able to file the application for extension of time manually, and had actually filed it on 15th April, 2025.

The minor discrepancies on the dates, if any, in the affidavits of Mr. Mosha and Mr. Mwaifwani does not undermine the core narrative, as held in **Hezron Ndone vs Republic** (Criminal Appeal No. 263 of 2021) [2024]

TZCA 15 (6 February 2024), where the Court overlooked trivial inconsistencies in favour of substantive justice.

On lack of diligence as held in **Joeff Group (supra)**, the argument of the respondent on this is misplaced. In that case, the applicant showed no effort before the deadline; here, the applicant was able to show that he has been taking steps to pursue the appeal from the word go. He was able to show that the records were ready even before the 4th of April 2025, but he could not have filed them until he received the certificate of delay from the Registrar. He was also able to demonstrate that he made several attempts to file the record online as soon as the certificate of delay was issued, and the steps taken thereafter which demonstrated proactivity and diligence on the part of the applicant.

In any case, the application at hand shows that there is a *prima facie* arguable case and there are issues which needs to be fully determined on merits in the appeal. The applicant's prompt actions after missing the deadline supports a meritorious intent.

In sum, the applicant has met the criteria for allowing the extension of time. The flaws in the electronic filing system constituted sufficient reason for the court to exercise its discretionary powers given under Rule 10 of the Rules. As stated above, the kind of flaw needed no verification from the Registrar and a confirmation from the IT officer of the court

constituted a verification. In the circumstances of this matter, Rule 24 (5) and (6) of the Electronic Filing Rules, would not have been applicable.

Therefore, based on the above, the application is allowed. The applicant is granted 14 days from the date of this ruling within which to file the record. Costs shall be determined in accordance with the outcome of the main appeal.

DATED at **DODOMA** this 4th day of September, 2025.

L. A. MANSOOR

JUSTICE OF APPEAL

The Ruling delivered this 4th day of September, 2025 in the presence of Mr. Mahamoud Mwangia, learned counsel for the Applicant, Mr. Athuman Mruma learned Senior State Attorney, Mr. Francis Wisdom learned State Attorney for the Respondent and Elias Nkwabi Court Clerk via virtual court; is hereby certified as a true copy of the original.





D.P. KINYWAFU

DEPUTY REGISTRAR
COURT OF APPEAL