

9 February 2026



Court of Appeal Restores Appeal Rights in Waiver Cases

- Delayed determination of waiver request constitutes an appealable omission
- Substantive right of appeal in respect of omissions cemented
- Jurisdiction of TRAB cannot be ousted by precedents or Courts of law
- TRAB's jurisdiction provisions extensively analysed
- TRA held not to enjoy unfettered power on statutory timelines
- Previous decisions barring appeals on omissions distinguished
- Statutory timelines, accountability, and procedural fairness reinforced
- Concurrent decisions of the Board and Tribunal reversed

On 5 February 2026, the Court of Appeal of Tanzania (the Court) delivered its judgment in Civil Appeal No. 145 of 2022. In this appeal, the Appellant challenged the concurrent decisions of the Tax Revenue Appeals Board (TRAB) and the Tax Revenue Appeals Tribunal (TRAT), which had declined jurisdiction to entertain an appeal arising from the Commissioner General of the Tanzania Revenue Authority's (TRA) delayed determination of an application for waiver of the statutory one-third tax deposit.

Background of the Case

The dispute arose from a jeopardy income tax assessment issued by the Commissioner General against a non-resident company, on the basis that the Appellant was allegedly its dependent agent in Tanzania. Upon being copied on the assessment, the Appellant lodged a notice of objection and simultaneously applied for a full waiver of the one-third tax deposit required for admission of the objection under the Tax Administration Act (the TAA). Although the application for waiver was filed within time, the Commissioner General issued a response well outside the statutory timeframe, rejecting the application on grounds that it was preferred out of time.

Aggrieved by the delayed rejection, the Appellant appealed to the TRAB, arguing that the Commissioner General's failure to act within the prescribed time constituted an appealable omission under section 53(1) (currently section 64(1) of the TAA (R.E. 2023). Both the TRAB and the TRAT declined jurisdiction, relying on *PanAfrican Energy Tanzania Limited vs. Commissioner General (TRA)*, Civil Appeal No. 121 of 2018 (*PanAfrican I*) and Civil Appeal No. 172 of 2020 (*PanAfrican II*).

The Judgement

In determining the appeal, the Court considered whether the Commissioner General's failure to determine an application for waiver within the statutory timeframe constitutes an appealable omission under section 53(1) of the TAA; and whether the TRAB had jurisdiction to entertain such an appeal notwithstanding the decisions in *PanAfrican I* and *II*. The Court framed the matter as one turning on the proper interpretation of section 53(1) of the TAA and the scope of the Board's statutory mandate, noting that the issue was whether the omission complained of fell within the category of decisions or omissions appealable to the Board.

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The Court observed that section 53(1) of the TAA expressly grants a right of appeal against objection decisions, other decisions, and omissions of the Commissioner General. Emphasising the plain wording and statutory scheme, the Court held that an aggrieved taxpayer is entitled to appeal against “three types or lack of decisions thereof by the Commissioner General, namely objection decisions, other decisions and omissions.” It expressly affirmed that the Commissioner General’s failure to determine a waiver application within the prescribed period “is an omission which, in terms of section 53(1) of the Tax Administration Act, could be challenged by way of appeal to the Board.”

Further, the Court underscored the principle of accountability in public administration, rejecting the notion that the Commissioner General enjoys unlimited discretion in dealing with waiver applications. In strong terms, the Court dispelled what it described as a “myth” that the Commissioner General may sit on applications indefinitely, stating that such a position “goes almost against all sense of public accountability” and allows taxpayers to be left “in suspense indefinitely.” Furthermore, the Court stressed that statutory timelines are mandatory and form “a key component of public accountability and tax administrative efficiency,” warning that failure to adhere to prescribed time limits “is a breach of the relevant statute that should not be allowed to pass with impunity and immunity.”

On the reliance placed by the TRAB and the TRAT on PanAfrican I and II precedents, the Court held that those decisions were confined to their specific factual and statutory contexts. The Court cautioned against an overstated application of precedents, observing that “the precedential value that the two cases hold for future similar cases is being overstated.” The Court made it clear that jurisdiction conferred by statute cannot be displaced by judicial precedent, holding that “the jurisdiction vested in the Board by statute cannot be simply ousted by any court’s decision irrespective of such court’s level in the judicial hierarchy.” Based on the above reasoning, the Court found the appeal to have merit and held that the concurrent decisions of the Board and the Tribunal were “overreaching and erroneous,” quashed and set aside those decisions, and directed the Board to hear and determine the appeal on its merits expeditiously.

This landmark decision in tax administration marks a decisive shift from the position that had prevailed for quite a long time under which taxpayers were effectively left without a remedy where the Commissioner General delayed determination of waiver applications. The Court has now made it clear that statutory timelines bind the Commissioner General and that delay or inaction is legally consequential and actionable. Also, for taxpayers, the judgment restores access to the appellate framework by confirming that failure by the Commissioner General to act within prescribed time limits constitutes an appealable omission. It removes the procedural deadlock that had previously insulated administrative delay from challenge, and affirms that delayed determinations of waiver applications cannot be left in limbo without recourse.

To read the judgment [click here](#)

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