



**Special Collection Services Limited v Commissioner of Investigation and Enforcement (Tax Appeal E004 of 2021) [2021] KEHC 57 (KLR) (Commercial and Tax) (24 September 2021) (Ruling)**

Neutral citation: [2021] KEHC 57 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
TAX APPEAL E004 OF 2021  
DAS MAJANJA, J  
SEPTEMBER 24, 2021**

**BETWEEN**

**SPECIAL COLLECTION SERVICES LIMITED ..... APPELLANT**

**AND**

**COMMISSIONER OF INVESTIGATION AND  
ENFORCEMENT ..... RESPONDENT**

*(Being an appeal against the judgment of the Tax Appeals Tribunal  
at Nairobi dated 25th June 2021 in Appeal No. 328 of 2020)*

**RULING**

1. The Tax Appeals Tribunal (“the Tribunal”) dismissed the Appellant appeal on 25<sup>th</sup> June 2021. The appellant has now lodged an appeal and filed the Notice of Motion dated 22<sup>nd</sup> July 2021 seeking, inter alia, orders of stay of execution and enforcement of taxes including issuing agency notices against its bankers. The Respondent is demanding taxes amounting to KES. 44,254,490.00.
2. The application is supported by the affidavit of the Appellant’s director, Leonard Mulei, sworn on 22<sup>nd</sup> July 2021. It is opposed by the Respondent (“the Commissioner”) through the Grounds of Opposition dated 9<sup>th</sup> September 2021.
3. I have considered the deposition and arguments on both sides. Having looked at the history of the parties, there is evidence showing that the Appellant has been paying instalments in the past but in manner unsatisfactory to the Commissioner. If a substantial amount is ordered as security, the Appellant will be forced to shut down its business.



4. I find a security of KES. 2,000,000.00 in the form of a Bank Guarantee from a reputable Bank would be most appropriate taking into account the circumstances of the case. For the reasons I have set out above, I allow the Notice of Motion dated 22<sup>nd</sup> July 2021 on the following terms:
- a. An order of stay be and is hereby issued staying execution of the Judgment of the Tax Appeal Tribunal dated 25<sup>th</sup> June 2021 in Tax Appeal Tribunal Appeal No. 328 of 2020 and any further enforcement action thereon pending the hearing and determination of this appeal or until further orders of the court.
  - b. In consideration of the stay in (a) above, the Appellant shall provide a Guarantee of KES 2,000,000.00 from a reputable bank in favour of the Respondent within forty-five (45) days from the date hereof. In default, stay shall stand discharged.
  - c. The costs of this application shall be in the appeal.
  - d. The court shall adjourn to issue directions for the hearing and determination of the appeal.

**SIGNED AT NAIROBI**

**D. S. MAJANJA**

**JUDGE**

**DATED AND DELIVERED AT NAIROBI THIS 24<sup>TH</sup> DAY OF SEPTEMBER 2021.**

**A. MABEYA**

**JUDGE**

Mr Thige instructed Muri Mwaniki Thige & Kageni Advocates for the Appellant.

Mr Chelang'at Advocate instructed by Kenya Revenue Authority for the Commissioner for Investigations and Enforcement.

