



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**COMMERCIAL AND TAX DIVISION**

**CORAM: D.S. MAJANJA J.**

**TAX APPEAL NO. E002 OF 2020**

**BETWEEN**

**LEAH NJERI NJIRU .....APPELLANT**

**AND**

**COMMISSIONER OF INVESTIGATIONS**

**AND ENFORCEMENT .....1<sup>ST</sup> RESPONDENT**

**CHIEF MANAGER, DEBT COLLECTION**

**ENFORCEMENT AND ENFORCEMENT**

**KENYA REVENUE AUTHORITY ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The application for consideration is the appellant’s Notice of Motion dated 22<sup>nd</sup> January 2020. It is an application for stay pending appeal. The issue for determination is the nature and extent stay to be issued by the court as the parties have failed to agree on terms.

2. The Tax Appeal Tribunal allowed the appellant’s appeal partially and revised the appellant tax liability to Kshs. 18,006,461.00 being the principal tax exclusive of interest and penalties to date. The result of this is that the respondents are likely to proceed with enforcement action pending this appeal.

3. I heard oral submissions from the parties. The respondents insist on payment of about 60% of the principal tax which amounts to Kshs 10 million while the appellant proposes to provide a bank guarantee of Kshs. 1.8 million. Having considered the circumstances of the case and the situation obtaining, I now order as follows:

(a) A stay of execution and further enforcement of taxes of the decision of the Tax Appeal be and is hereby granted pending the hearing and determination of the appeal on condition that the appellant provides a bank guarantee to the respondent from a suitable bank for Kshs. 2,000,000.00 within 30 days from the date hereof.

(b) As the record of appeal has been filed, the appellant shall file and serve its written submissions on the appeal within 14 days.

(c) The respondent may file supplementary submissions within 14 days.

(d) Mention on 20<sup>th</sup> August 2020 for directions and further orders.

**DATED and DELIVERED at NAIROBI this 28<sup>th</sup> day of JULY 2020.**

**D. S. MAJANJA**

**JUDGE**

Ms Ng'ethe instructed by Kiiro and Partners Advocates for the appellant.

Mr Said, Advocate instructed by Kenya Revenue Authority for the Commissioner of.

Investigations and Enforcement