



**Commissioner of Domestic Taxes v Lojom General Contractors Limited  
(Income Tax Appeal E001 of 2023) [2025] KEHC 12598 (KLR)  
(Commercial and Tax) (16 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 12598 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
INCOME TAX APPEAL E001 OF 2023  
H NAMISI, J  
SEPTEMBER 16, 2025**

**BETWEEN**

**COMMISSIONER OF DOMESTIC TAXES ..... APPELLANT**

**AND**

**LOJOM GENERAL CONTRACTORS LIMITED ..... RESPONDENT**

*(Being an appeal from the Ruling of the Tax Appeals Tribunal  
delivered on 4 November 2022 in Nairobi TAT No. 118 of 2021)*

**JUDGMENT**

1. The Appellant is a principal officer appointed under section 13 of the [Kenya Revenue Authority Act](#), charged with the responsibility, inter alia, of assessment, collecting, accounting and the general administration of tax revenue on behalf of the Government of Kenya.
2. The Respondent is a private limited liability company that is engaged in construction business.

**Brief Background**

3. The Appellant, in exercise of its statutory mandate, conducted a review of the Respondent's VAT and Income Tax returns for the years 2017, 2018 and 2019. According to the Appellant, the review unearthed discrepancies, including suppressed margins arising from either under-declared income or overstated purchases and expenses.
4. On 23 and 24 September 2020, the Appellant issued several additional assessments to the Respondent. These comprised of corporation tax assessment for the years 2017, 2018 and 2019, and VAT assessments for various months within the same period. The total principal tax, penalties and interest



demanded amounted to Kshs 14,324,634.49 for income tax and Kshs 4,734,659.66 for VAT, bringing the total liability to Kshs 19,059,294.15.

5. Aggrieved by these assessments, the Respondent sought to exercise its right of objection under section 51 of the [Tax Procedures Act](#). The Record of Appeal contains several Objection Application Acknowledgement Receipts generated from the Appellant's i-Tax portal, which confirm the lodging of objections against the specific assessment numbers. All are dated 22 October 2022.
6. The Appellant issued its objection decision on 15 December 2020, which was communicated vide a letter and a series of Confirmation Assessment Notices for each tax period. The decision was to fully reject the Respondent's objection, reason being the Respondent's failure to avail records/documents to support the application.
7. Dissatisfied with the decision, the Respondent moved to the Tax Appeals Tribunal, culminating in the impugned judgement. In its judgment, the Tribunal based its findings on the fact that the Respondent objected to the assessments on 10 October 2020 and the Appellant issued its objection decision on 15 December 2020. Proceeding on this premise, the Tribunal cited Section 51(11) of the [Tax Procedures Act](#), which provides that the Commissioner must make an objection decision within 60 days from the date of receipt of the notice of objection, failing which the objection shall be deemed to be allowed. Based on this, it was the Tribunal's finding that the decision by the Appellant ought to have been issued on or before 9 December 2020. Consequently, the Tribunal allowed the appeal and declared the assessments for both VAT and income tax invalid, without making any determination on the underlying dispute.
8. Aggrieved by the decision of the Tribunal, the Appellant lodged this appeal on the following grounds:
  - i. The Honourable Tribunal erred in fact and law by failing to appreciate that the Objection letter is dated 12 October 2020 and not 10 October 2020;
  - ii. The Honourable Tribunal erred in fact and law by failing to appreciate that the Objection letter dated 12 October 2020 was delivered to the KRA Meru Office on 23 October 2020. The Objection timelines thus commenced from 23 October 2020;
  - iii. The Honourable Tribunal erred in law and in fact in failing to appreciate that the Respondent lodged an online objection on i-Tax on 22 October 2020. The 60-day timeline then started to count from 23 October 2020 for the Appellant to process the objection and make a decision;
  - iv. The Honourable Tribunal erred in fact and law by failing to appreciate that the Appellant could not have commenced the objection process unless the Appellant received the Application;
  - v. The Honourable Tribunal erred in fact and law in failing to appreciate that the objection decision made on 15 December 2020 was made within statutory timelines;
  - vi. The Honourable Tribunal erred in law and fact by failing to consider the Respondent's Objection dated 12 October 2020 as well as the Appellant's Objection decision thereon dated 15 December 2020 before arriving at its findings;
  - vii. The Honourable Tribunal erred in law and fact in not making a decision on the merits of the case before it and only opted to rely on a procedural issue, which it also based on misappreciation of the principles of tax law, particularly the provisions of section 51 of the [Tax Procedures Act](#).



9. Despite being served, the Respondent did not participate in the appeal. The Appellant filed written submissions, which I have read keenly.
10. The Appellant contends that the Tribunal committed a manifest error of fact by adopting 10 October 2020 as the date of objection. It is argued that the date is not supported by the evidence on record, which conclusively shows that the online objections were lodged on 22 October 2020. The Appellant submits that this is the effective date from which the 60-day timeline should be computed.
11. Flowing from the first ground, the Appellant argues that its objection decision was made and issued within the statutory timeline. 60 days from 22 October 2020 would fall on or about 21 December 2020. Therefore, the decision rendered on 15 December 2020 was well within the prescribed time.
12. The Appellant submits that the Tribunal abdicated its statutory duty under the *Tax Appeals Tribunal Act* by failing to hear and determine the substantive appeal on its merits. By confining its decision to a procedural issue that was, in any event, based on a misapprehension of facts, the Tribunal failed to resolve the actual dispute between the parties. The Appellant argues that this is a miscarriage of justice that warrants this Court's intervention.

### **Analysis & Determination**

13. Section 51 (11) of the *Tax Procedures Act* provides that:

The Commissioner shall make the objection decision within sixty days from the date of receipt of a valid notice of objection failure to which the objection shall be deemed to be allowed.
14. The interpretation of the word 'receipt' is central to this appeal. In the modern era of tax administration, where filing is predominantly done through online portals such as i-Tax, the word 'receipt' is understood to mean the moment a document is successfully lodged and acknowledged by the system.
15. The evidence before the Court is the set of system generated acknowledgment receipts, each bearing a unique acknowledgment number and a precise date of submission, 22 October 2020. The date of 10 October 2020 which was adopted by the Tribunal is, by and large, unsupported by any of the evidence on record.
16. It is a cardinal principle of statutory interpretation, particularly in tax law, that one must look at what is clearly said. There is no room for intendment or equity in a taxing statute. Therefore, it is the finding of this Court that the effective date of receipt of the Respondent's objection was 22 October 2020. The Appellant's objection decision, having been issued on 15 December 2020 was, therefore, made and communicated with the statutory timeline.
17. The appeal is, therefore, meritorious and succeeds. I make the following orders:
  - i. This appeal is hereby allowed;
  - ii. The judgement and final orders of the Tax Appeals Tribunal in Nairobi TAT No 118 of 2021 delivered on 4 November 2022 is hereby set aside in their entirety;
  - iii. The matter is hereby remitted back to the Tax Appeals Tribunal for hearing and determination on the substantive merits before a differently constituted panel;
  - iv. Mention before the Chairperson within 30 days from the date hereof.



v. Each party shall bear its own costs of the appeal.

**DATED AND DELIVERED AT NAIROBI THIS 16 DAY OF SEPTEMBER 2025.**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

Appellant: Nyapara h/b Ms. Nyakundi

Respondent: N/A

Court Assistant: Lucy Mwangi

