



**John Omollo t/a Ganijee & Sons v Independent Electoral & Boundaries Commission
(Miscellaneous Civil Application 332 of 2019) [2023] KEHC 3950 (KLR) (4 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 3950 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CIVIL APPLICATION 332 OF 2019**

OA SEWE, J

MAY 4, 2023

BETWEEN

JOHN OMOLLO T/A GANIJEE & SONS CLAIMANT

AND

**INDEPENDENT ELECTORAL & BOUNDARIES
COMMISSION RESPONDENT**

RULING

1. On the 3rd September 2019, John Omollo T/A Ganijee & Sons, who is the claimant herein filed a Party and Party Bill of Costs for taxation on the basis of an Arbitral Award dated 25th July 2019. In the said Award, an order had been made, among other orders, for the payment by Independent Electoral and Boundaries Commission* (hereinafter “the respondent”) of costs and expenses of the arbitration proceedings. Thus, pursuant to the Award, the claimant’s Bill of Costs was taxed on the 6th February 2020 at Kshs. 5,782,746.39 by Hon. Nyariki, DR.
2. Being aggrieved by the ruling of the taxing officer, the respondent filed a Reference vide the Chamber Summons dated 7th October 2021 seeking, *inter alia*, that the Court be pleased to set aside the taxing officer’s ruling dated 6th February 2020 in respect of the claimant’s Party and Party Bill of Costs dated 30th August 2019 on items 1, 2, 4-12, 16-27, 29-42, 44-61, 63-94, 96-104, 106-116; and that the Court be pleased to refer the matter back to the taxing officer, or another taxing master, with directions as to the proper manner of taxation. In the alternative, the respondent prayed that the Court be pleased to tax items 1, 2, 4-12, 16-27, 29-42, 44-61, 63-94, 96-104, 106-116 in accordance with the established legal principles of taxation. The respondent also prayed that the costs of the application be provided for.
3. In support of the Reference, the respondent contended that:



- (a) The taxing officer erred in law and in fact by failing to appreciate the legal principles and objectives of taxation and in so doing arrived at a wrong decision;
 - (b) The taxing master erred and misdirected himself in law by allowing, without any legal basis, items 1 and 2 of the Bill of Costs, which sums were manifestly excessive;
 - (c) The taxing master erred in law in allowing Items 4-12, 16-27, 29-42, 44-61, 63-94, 96-104, 106-116 of the claimant's Bill of Costs.
 - (d) The taxing master erred and misdirected himself both in law and in fact in respect of Items 4-12, 16-27, 29-42, 44-61, 63-94, 96-104, 106-116 of the claimant's Bill of Costs by allowing sums which were manifestly excessive, luxurious and/or unusual expenses.
 - (e) The taxing master is required to only allow such costs, charges and expenses as are necessary for the attainment of justice or for defending the rights of any party.
 - (f) The taxing officer owes it to the public to ensure that costs do not rise above a reasonable level, so as not to deny access to justice.
4. The respondent thereafter filed an Amended Chamber Summons on 13th May 2022, with the leave of the Court, by which the prayers for stay of proceedings in Mombasa High Court Civil Suit No. 61 of 2015: John Omollo Nyakongo t/a H.R. Ganijee & Sons v Independent Electoral and Boundaries Commission were deleted with a view of refining the issues for considering in the Reference. The disputed items were also amended to include Items 1-42 and 44-127. The Reference was hinged on two Supporting Affidavits sworn by Michael Goa on 7th October 2021 and Chrispine Owiye on 9th May 2022.
 5. In Mr. Goa's affidavit, it was conceded that on the 31st December 2018, Dr. Kariuki Maigua delivered an Arbitral Award in favour of the claimant; and that pursuant to that Award, the claimant's Party and Party Bill of Costs was taxed at Kshs. 5,782,746.39. The respondent complained that the Deputy Registrar not only failed to give reasons for the taxation, but also committed an error of principle while taxing the claimant's Bill of Costs. The respondent averred that in the process the taxing master, in effect, condemned the Kenyan taxpayer to shoulder the burden of financing the lavish and/or luxurious lifestyle of the respondent; and thereby failed to appreciate the national interests of Kenya under Article 201(d) of the Constitution. Thus, Mr. Goa averred that it is in the interest of justice that the orders sought by the respondent by way of reference are granted.
 6. In Mr. Owiye's affidavit sworn on 9th May 2022, he essentially reiterated the averments by Mr. Goa and added, at Paragraph 21 that, by allowing items 3 and 117 of the Bill of Costs, the taxing officer failed to take into account the sums of Kshs. 208,000/= and Kshs. 1,922,300/= which the respondent had paid to the Arbitrator towards the arbitrator's fees. He annexed the pertinent documents to the Supporting Affidavit to buttress his assertions.
 7. On his part, the claimant relied on his Replying Affidavit filed on 29th June 2022. He defended the decision of the taxing master on the ground that the instructions fee was hinged on the Arbitral Award and the applicable Advocates (Remuneration) (Amendment) Order and the receipts availed during taxation proceedings. He conceded that the respondent made certain payments after taxation and prayed that the same be deducted as appropriate.
 8. The Reference was urged by way of written submissions, pursuant to the directions given herein on 25th April 2022. In his written submissions dated 3rd October 2022, Mr. Mukele for the respondent proposed the following issues for determination and fashioned his arguments accordingly:



- (a) Whether the Ruling on Taxation should be set aside for failure by the taxing master to give reasons for the decision.
 - (b) Whether the Ruling by the taxing master complied with the provisions of the Advocates (Remuneration) (Amendment) Order and the established legal principles on taxation.
 - (c) Whether the discretion by the taxing master was exercised judicially.
9. On the basis of *Kipkorir, Titoo & Kiara Advocates v Deposit Protection Fund Board* [2005] eKLR and *Evans Thiga Gaturu, Advocate v Kenya Commercial Bank Limited* [2012] eKLR, among other authorities, Mr. Mukele urged the Court to allow the reference on the ground that the taxing officer failed to record any reasons for his decision. On whether the taxing master complied with the provisions of the applicable *Advocates (Remuneration) (Amendment) Order*, counsel made specific arguments in respect of the disputed items; which I shall revert to shortly. He relied on *Desai Sarvia & Pallan Advocates v Tausi Assurance Company Ltd* [2017] eKLR for the proposition that a taxing officer is under duty to ensure, not only that the fees charged are within the approved scale, but also that they are justified and reasonable.
10. On her part, Ms. Murage for the claimant proposed the following issues for determination *vide* her written submissions filed on 31st October 2022:
- (a) Whether the taxing master erred in awarding manifestly excessive instructions fees (Item 1) and Getting Up fees (Item 2).
 - (b) Whether the taxing officer erred in awarding the costs incurred to pay the deposit of the Arbitrator's fees (Item 3).
 - (c) Whether the taxing master erred in awarding manifestly excessive and unusual travel and accommodation expenses (Items 4-12, 16-27, 29-42, 44-61, 63-94, 96-104, 106-116).
 - (d) Whether the taxing master erred in awarding manifestly excessive attendance costs (Items 13, 28, 43, 62, 95, 105).
 - (e) Whether the taxing master erred in awarding the cost incurred to pay the balance of the Arbitrator's fees (Item 117).
 - (f) Whether the taxing master erred in allowing the expenses itemized as Items 118-127.
11. Ms. Murage took issue with the technical objection raised by the respondent as to their request for reasons for the taxation which was allegedly not responded to by the taxing officer. According to her, it is not permissible for the respondent to introduce the issue through submissions; it should have been made a ground of the reference, which was not done. She argued that, in any event, the reasons by the taxing master are contained in the ruling dated 6th February 2020; and therefore it was superfluous for the applicant to ask for reasons from the taxing officer.
12. As to the applicable principles, Ms. Murage relied on *Kipkorir, Titoo & Kiara Advocates v Deposit Protection Fund Board* [2005] eKLR for the proposition that the discretion of the taxing officer can only be interfered with if the taxing officer erred in principle in assessing costs. In this instance, she submitted, the taxing master determined the value of the subject matter strictly from the Arbitral Award, in line with the principles discussed in *Joreth Limited v Kigano & Associates* [2002] eKLR. Counsel then proceeded to submit on the disputed items while conceding that the sums that were paid by the respondent as part of the arbitrator's fees ought to be deducted from the entire sum taxed by the taxing officer. In respect of Item 117, Ms. Murage pointed out that it was paid long after the costs



had been taxed on 6th February 2020; and therefore the taxing officer justifiably awarded the same as part of the claimant's costs.

13. In conclusion, it was the submission of Ms. Murage that there are no demonstrable errors of principle committed by the taxing officer in the taxation of the claimant's Bill of Costs dated 30th August 2019. She accordingly prayed for the dismissal with costs of the Amended Chamber Summons dated 9th May 2022.

14. The principles applicable to References such as this were well discussed in the cases of Premchand Raichand Limited & Another v Quarry Services of East Africa Limited and Another [1972] E.A. 162, First American Bank of Kenya v Shah and Others (2002) EA 64 and Joreth Ltd vs Kigano and Associates (2002) 1 EA 92. Thus, in Premchand Raichand v Quarry Services (No. 3) [1972] EA 162 the Court of Appeal for Eastern Africa held thus (per Spry, VP):

The taxation of costs is not a mathematical exercise; it is entirely a matter of opinion based on experience. A court will not, therefore, interfere with the award of a taxing officer, and particularly where he is an officer of great experience, merely because it thinks the award somewhat too high or too low; it will only interfere if it thinks the award so high or so low as to amount to an injustice to one party or the other..." (see also Republic v Ministry of Agriculture, Ex Parte Samuel Muchiri W'Njuguna & Others [2006] eKLR)

15. In the light of the foregoing, the issues that arise for determination are: -

- (a) Whether the Ruling on Taxation should be set aside for failure by the taxing master to give reasons for the decision.
- (b) Whether the taxing master erred in awarding items 1 and 2.
- (c) Whether the taxing master erred in awarding items 4-12, 14-27, 29-42, 44-61, 63-94, 96-104, 106-116 for travel and accommodation expenses.
- (d) Whether the taxing master erred in awarding items 13, 28, 43, 62, 95 and 105 for attendance costs.
- (e) Whether the taxing master erred in awarding Items 3 and 117 on arbitral fees.
- (f) Whether the taxing master erred in allowing the expenses at items 118 – 127.

[a] Whether the Ruling should be set aside for failure by the taxing master to give reasons for the decision:

16. The respondent took issue with the fact that the taxing officer did not supply the reasons for the taxation. It averred that, in spite of several requests for the reasons, the taxing officer utterly failed to supply the same; thereby putting it at a disadvantage as to how to prosecute the instant Reference in the absence of the said reasons. Mr. Mukele urged that, on this ground alone, the Reference ought to be allowed.

17. I have looked at the decisions relied on herein by learned counsel; particularly Kipkorir, Titoo & Kiara Advocates v Deposit Protection Fund Board [2005] eKLR, in which the Court of Appeal held: -

It is true that the taxing officer did not record the reasons for the decision on the items objected to after receipt of the respondent's notice. It seems that the taxing officer decided to rely on the reasons in the ruling on taxation dated 23rd February, 2004. That ruling at least indicated the formula that the taxing officer applied to assess the instructions fees. Although there was no strict compliance with Rule 11 (2) of the Order, we are nevertheless, satisfied that there was substantial compliance. The adequacy



or otherwise of the reasons in the ruling is another matter. Indeed, we are of the view, that if a taxing officer totally fails to record any reasons and to forward them to the objector, as required then that would be a good ground for a reference and the absence of such reasons would not in itself preclude the objector from filing a competent reference.

18. Thus, although the taxing master failed to respond to the respondent's request for reasons, a look at the ruling dated 6th February, 2020 shows that the taxing master justified his approach by citing the applicable Advocates (Remuneration) (Amendment) Order and the reasons for taxing off certain amounts from the claimants Bill of Costs. That, in my view, is sufficient for purposes of the Reference. I am buoyed in this viewpoint by the decision of Hon. Odunga, J. (as he then was) in *Evans Thiga Gaturu* (supra) that:

“...where there are reasons on the face of the decision, it would be futile to expect the taxing officer to furnish further reasons. The sufficiency or otherwise is not necessarily a bar to the filing of the reference since that insufficiency may be the very reason for preferring a reference. Otherwise mere adherence to the procedure may lead to absurd results if the advocate was to continue waiting for reasons...”

19. A similar position was taken in *Ahmednasir Abdikadir & Co. Advocates v National Bank of Kenya Limited* (2) [2006] 1 EA 5 as follows:

“...where the reasons for the taxation on the disputed items in the bill are already contained in the considered ruling, there is no need to seek for further reasons simply because of the unfortunate wording of subrule (2) of rule 11 of the Advocates Remuneration Order demands so. The said rule was not intended to be ritualistically observed even when reasons for the disputed taxation are already contained in the formal and considered ruling...”

20. In the premises, I find no merit in the submission that the Reference should stand dismissed for the reason that the taxing officers did not respond to the request for reasons.

[b] Whether the taxing master erred in awarding items 1 and 2:

21. The basis for determining the instructions fee was well articulated by the Court of Appeal in *Peter Muthoka & another v Ochieng & 3 others* [2019] eKLR, thus:

“...It seems to us quite plain that the basis for determining subject matter value for purposes of instruction fees is wholly dependent on the stage at which the fees are being taxed. Where it happens before judgment, it is the pleadings that form the basis for determining subject value. Once judgment has been entered, and for what seems to us to be an obvious reason, recourse will not be had to the pleadings since the judgment does determine conclusively the value of the subject matter as a claim, no matter how pleaded, gets its true value as adjudged by the court.

Where, however, a suit is settled, then, from a literal and practical reading of the provision, the subject matter value must be sought by reference, in the first instance, to the terms of the settlement. Just as one would not start with the pleadings in the face of a judgment, it is indubitable that one cannot start with the pleadings where there is a settlement...”

22. In this case, there can be no contention that the subject matter of this case is Kshs. 12,759,644.64/ = being the Arbitral Award issued on the 31st December, 2018. The taxing master relied on the Advocates (Remuneration) (Amendment) Order, 2014, which parties all agree was the proper order.



I am therefore satisfied that the instruction fee was taxed in accordance with Part A Schedule 6 of the Advocates (Remuneration) (Amendment) Order, 2014. I see no reason to interfere with the same.

23. As for Item 2, the Getting Up fees, Schedule 6 of the Advocates (Remuneration) (Amendment) Order, 2014, provides: -

In any case in which a denial of liability is filed or in which issues for trial are joined by the pleadings, a fee for getting up and preparing the case for trial shall be allowed in addition to the instruction fee and shall be not less than one-third of the instruction fee allowed on taxation:

Provided that—

- (i) this fee may be increased as the taxation officer considers reasonable but it does not include any work comprised in the instruction fee;
 - (ii) no fee under this paragraph is chargeable until the case has been confirmed for hearing, but an additional sum of not more than 15% of the instruction fee allowed on taxation may, if the judge so directs, be allowed against the party seeking the adjournment in respect of each occasion upon which a confirmed hearing is adjourned;
 - (iii) in every case which is not heard the taxing officer must be satisfied that the case has been prepared for trial under this paragraph
24. Considering that the matter was resolved by way of arbitration after several attendances, the taxing officer cannot be faulted for having awarded Getting Up fees. The amount was correctly premised on the instructions fees.

[c] Whether the taxing master erred in awarding items 4-12, 14-27, 29-42, 44-61, 63-94, 96-104, 106-116 for travel and accommodation expenses:

25. Items 4-12, 14-27, 29-42, 44-61, 63-94, 96-104, 106-116 on travel and accommodation were taxed as drawn. The taxing master took the view that they were reasonable expenses as opposed to luxuries, as submitted by counsel for the respondent. I have considered the respondent's contention that some of the attendances were unnecessary as they were akin to mentions and did not require personal attendance of the respondent's Advocate, and thus, the travel and accommodation were unreasonable. This argument was raised in respect of Items 4-12; 14-20; 21-27 and 29-30. I note however that the claimant produced receipts to prove their travel and accommodation expenses; which evidence was un rebutted before the taxing officer.
26. Although the respondent submitted, at Paragraph 43 of its written submissions that the receipts were not compliant with Section 19 of the *Stamp Duty Act*, that argument, having been raised for the first time on appeal, is clearly untenable. As was pointed out in *Kenneth Kiplagat T/A Kiplagat & Associates v National Housing Corporation* [2005] eKLR, an issue that is not raised before the taxing officer cannot be the subject of an objection by way of reference. In determining a reference from the decision of a taxing officer, this court exercises appellate jurisdiction. It cannot determine an issue that was not raised before the taxing officer. The same position was taken in *Showcase Property Limited v Mugambi & Company Advocates* [2020] eKLR (Ruling No. 2) thus: -
6. I have read the documents filed before the Deputy Registrar and in none of them did the parties raise the issue of lack of a retainer. The Client chose to respond to the Bill of Costs through its affidavit and the issue of a retainer, which is an issue of fact, was not raised. The issue



was also not broached in the detailed written submissions on the matter. It is only when the Client denies the retainer that the Advocate is called upon to prove it (see *Omulele Tollo and Company Advocates v Mount Holdings Ltd MSA CA Civil Appeal No. 75 of 2015 [2016] eKLR*). In this case the issue of the retainer was not in contention before the Deputy Registrar, it cannot be raised in the reference. The reference is in the nature of an appeal and the High Court determining a reference cannot entertain a matter that was not raised before the Deputy Registrar. This position is confirmed by the fact that letter seeking reasons for the taxation dated 17th January 2020 was only in relation to the instruction fee and not whether or not there was a retainer. Prayer 1 of the application is accordingly dismissed...”

27. I have equally gone through the documents filed before the taxing master and ascertained that the issue of compliance with Section 19 of the *Stamp Duty Act* never arose before the taxing master and therefore the respondent cannot be allowed to raise it for the first time in this reference.
28. Further, the respondent complained that the claimant and his Advocate spent unnecessary time in Nairobi and indicated that some attendances were taxed at Kshs. 5,000/= and therefore two-day stays in Nairobi was unjustified. This was the case for Items 36-45; 55-61; 63-64; 75-88; 89-97; 98 -104 and 106-107.
29. The respondent also urged that Items 65 -74 be taxed off as the claimant had already been compensated for the said travel and accommodation costs on the 30th June, 2019. It has been indicated that the arbitrator had given directions for the respondent to settle the Claimant’s costs, which they did in the sum of Kshs. 208,000/=; and therefore items 65-74 should be taxed off.
30. It was the respondent’s case that Items 31-35; 46-54; 108 – 116 should be taxed off as there is no activity that occurred within that period. That the costs of the said items have not been justified as there is no proof of attendance before an arbitrator and thus there was no basis upon which those costs are based.
31. In Response to these claims the claimant, indicated that items 4-12, 14-27, 29-42, 44-61, 63-94, 96-104, 106-116 were proved by way of receipts; which evidence was not rebutted by the respondent at the time of taxation. Hence, the claimant took the stance that it was too late in the day for the respondent to object to the said items in the Reference herein.
32. Having looked at items 4-12; 14-20; 21-27 and 29-30, I find them reasonable. Moreover, there is no plausible justification for the respondent’s contention that mentions do not warrant personal attendance by an Advocate. Once retained, and Advocate is under duty to advance the interests of his client as best he can; including attending court for mention purposes.
33. Similarly, Items 36-45; 55-61; 63-64; 75-88; 89-97; 98 -104 and 106-107 are in respect of expenditures that were properly incurred by the claimant. It is therefore my finding that these items are reasonable and I see no reason to disturb them.
34. As for Items 65-74, the respondent indicated that the amounts in issue were already settled as per the directions issued by the Arbitrator on the 17th February, 2017. I have looked at the said directions and I have seen that the respondent was ordered to settle the claimant’s costs for the adjourned hearing. The pertinent Replying Affidavit that was relied on before the taxing master shows that the claimant through his Advocates, M/s Oduor Siminyu & Co. Advocates wrote a letter on the 8th March, 2017 and demanded a sum of Kshs. 208,000/= being costs awarded on the 17th February, 2017.
35. According to the respondent, the costs of Kshs. 208,000/= were settled on the 30th June, 2019 and a payment voucher was attached to that effect. There being no justification for Items 65-74, they are all disallowed for the sole reason that the claimant had already been paid in respect of those attendances.



36. In respect of Items 31-35; 46-54; 108 – 116, the respondent asserted that there was no activity before the Arbitrator to warrant such payments. I have looked at items 31-35 and 108 -116 and I agree with the respondent that no activity is indicated to justify the said items. In the premises, the said amounts are hereby taxed off. As for items 46-54, it is my finding that they are reasonable, taking into account the assertion by the respondent that they had travelled for the purpose of filing documents as indicated under items 48 and 51. Hence, given the above observations, items 31-35;65 -74 and 108 -116 are taxed off.

[d] Whether the taxing master erred in awarding items 13, 28, 43, 62, 95 and 105 for attendance costs

37. Items 13, 28, 43, 62, 95 and 105 were all on attendance. The contention of the respondent is that the taxing master erred when he allowed Item 13 in respect of the date 14th July, 2016; which date was for a preliminary meeting. Counsel proposed that the item ought to have been taxed at Kshs. 1,100, which is the rate for attendance lasting half an hour or less, and not Ksh. 4,000 allowed. I have looked at the items herein and it is my finding that they have been taxed to scale. In fact, Item 13 complained of was taxed at the amount of Kshs. 1,100/=. I therefore find no reason for disturbing the taxing master's decision on Items 13, 28, 43, 62, 95 or 105.

[e] Whether the taxing master erred in awarding Items 3 and 117 on arbitral fees:

38. The respondent has averred that the taxing master erred when he taxed **items 3 and 117** without taking into consideration that it had already paid the sum of Kshs. 1,922,300/= to the arbitrator towards the settlement of the arbitrator's fees. On his part, the claimant submitted that Item 3 was rightly taxed as he was thereby seeking to be reimbursed the sum of Kshs. 435,000/= that he paid as a deposit for the Arbitrator's of fees. As for item 117, the claimant defended the taxing master's decision in allowing the item at Kshs. 2,974,600/= contending that part of what was being claimed as the sum of Kshs. 1,487, 300/= was only paid by the respondent after the Bill of Costs had already been taxed. Hence, the claimant rightly conceded that Item 117 be reduced to Kshs. 1,487, 300/=.

[f] Whether the taxing master erred in allowing the expenses at items 118 – 127:

39. It is important to mention that the respondent did not make any submissions on items 118 – 124 and, having examined them vis-à-vis the Advocates (Remuneration) (Amendment) Order, 2014, I find them reasonable, I see no reason to disturb them.

40. As for items No. 125 to 127 the respondent urged that items 125 to 126 be taxed at Kshs. 1,000/= each in accordance with paragraph 7 (a) of the 6th Schedule of the Advocates (Remuneration) (Amendment) Order, 2014. Counsel for the respondent further submitted that item 127 should be taxed off as there was no evidence produced to demonstrate that these expenses were incurred during the arbitration proceedings.

41. I have looked at items 125 and 126 and I find them to be reasonable and I shall not interfere with them. Item 127 is on telephone, postage and sundries, and by their nature, these are items that required proof. As no such proof, say by way of receipts was availed before the taxing officer, Item 127 is taxed off.

42. Lastly, on the respondent's submission on the unnumbered item being VAT on instruction fees, I take the view that, this being a Party and Party Bill of Costs, VAT is not recoverable. The purpose of the Party and Party Bill of Costs is to compensate the successful party for the costs that the party incurred



in either prosecuting and/or defending the case. I therefore agree entirely with the position taken in *Pyramid Motors Limited v Langata Gardens Limited* [2015] eKLR, that: -

“...On the final issue of VAT, I hold the simple view that in allowing the same the Master erred under the *Value Added Tax Act*, 2013 particularly section 5 thereof. Value Added Tax (VAT) is chargeable in taxable supply made by any registered person. There was no taxable supply of either goods or services made to the Applicant herein by the Respondent herein. The Bills herein concerned Party and Party costs and VAT could then not apply as neither party fetched nor supplied services to the other. True, legal services were rendered but it is not the Advocate who was being compensated herein. The Master could only have awarded VAT if the Bills were Advocate-Client Bills or if there was tendered evidence before the Master that the Plaintiff had paid VAT and was consequently entitled to indemnity. But yet that again is also debatable whether the Plaintiff was a taxable person. I would vacate the award on VAT as the Master erred...”

43. The unnumbered item indicated as VAT is accordingly hereby taxed off.
44. In view of the above this Reference by way of the Chamber Summons dated 7th October 2021 as Amended on 9th May, 2022 is hereby partially allowed in that items 31-35;65 -74 ;108 -116; 127 and VAT are taxed off. Item No. 117 is taxed at Kshs. 1, 487, 300/= . The Bill of Costs is, therefore, retaxed in the sum of Kshs. 3, 824,470.53. The court has exercised the discretion to tax the Bills in view of the delay in rendering this ruling.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 4TH DAY OF MAY 2023

OLGA SEWE

JUDGE

