



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

**MILIMANI LAW COURTS**

**COMMERCIAL AND TAX DIVISION**

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

**TAX APPEAL NO. 24 OF 2017**

**BETWEEN**

**GUACA STATIONERS LIMITED.....APPELLANT**

**AND**

**COMMISSIONER OF DOMESTIC TAXES.....RESPONDENT**

***(Being an appeal against the judgment of the Tax Appeals Tribunal***

***on 22<sup>nd</sup> May 2017 in Nairobi Tax Appeal No. 215 of 2017)***

**RULING**

1. This is an appeal from the decision of the Tax Tribunal dismissing the appellant's appeal.
2. The respondent carried out an in-depth audit of the appellant for the years 2007 and 2008 and raised assessments on various heads being Income Tax, PAYE, VAT and Withholding Tax amounting to Kshs. 38,409,067/-, Kshs. 4,929,453/-, Kshs. 115,822,812/- and Kshs. 126,706/- respectively. The assessments were communicated to the appellant by a letter dated 30<sup>th</sup> July 2012.
3. The appellant objected to the assessment by its letter dated 24<sup>th</sup> August 2012 and lodged an objection notice with the respondent. The respondent dismissed the objections and confirmed the assessment by the letter dated 17<sup>th</sup> October 2013. The appellant, being aggrieved with the decision to confirm the assessment, lodged an appeal with the Tax Appeals Tribunal ("the Tribunal").
4. At the hearing of the appeal before the Tribunal, the parties settled several issues by consent except the following issue which was framed for determination, "*Whether the Respondent was within the law in confirming the assessment of VAT amounting to Kshs. 10,511,139/- due to failure of the appellant to produce the necessary documents.*" In its decision dated 22<sup>nd</sup> May 2017, the Tribunal dismissed the appeal. It is this decision that has now precipitated this appeal.
5. Unfortunately, the appellant did not furnish the court with the letters of assessment dated 30<sup>th</sup> July 2012, the letter of objection dated 24<sup>th</sup> August 2012 and the letter confirming assessment was dated 17<sup>th</sup> October 2013. All these letters, comprising the original complaint and decision of respondent which was subject of the appeal, are necessary for the determination of this appeal and ought to have been filed by the appellant as part of its record.
6. In the interests of justice and in order to deal with the matter exhaustively, I direct the appellant to file and serve the said letter of assessment and the letter of objection by way of a supplementary record of appeal within 7 days from the date hereof.

**DATED and DELIVERED at NAIROBI this \_\_\_ 17<sup>th</sup> \_\_\_ day of \_\_JANUARY\_\_ 2020.**

**D. S. MAJANJA**

**JUDGE**

Court Assistant: Mr M. Onyango.

Mr Wakwaya instructed by Rachier and Amollo Advocates LLP for the appellant.

Mr L. Lemiso, Advocate instructed by the Commissioner of Domestic Taxes.