

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. E034 OF 2020

BETWEEN

I & M BANK LIMITED.....APPELLANT

AND

COMMISSIONER OF DOMESTIC TAXES.....RESPONDENT

RULING

I have heard the submissions of the parties in respect the application dated 30th April 2020 seeking a stay of execution of the decision of the Tax Appeal Tribunal Appeal No. 72 of 2017 and consequent enforcement action. The only issue for determination is the nature and extent of the security to be offered by the appellant. The appellant is a well-known and regulated bank. It is a going concern and it is not likely that the Bank would fail to pay taxes that would be found due in the foreseeable future hence I am not convinced that failing to order security would prejudice the respondent.

However, I am convinced that some taxes may be ultimately found due therefore by balancing the positions of the appellant and respondent, I grant stay of execution of the judgment of the Tax Appeal Tribunal Appeal No. 72 of 2017 on the following terms;

1. The appellant shall pay to the respondent, the sum of **Kshs. 40 million** within 14 days.
2. Mention on 03.08.2020 for directions on the appeal.

DATED and DELIVERED at NAIROBI this 17th day of JULY 2020.

D. S. MAJANJA

JUDGE

Mr Ndungu instructed by Coulson Harney LLP Advocates for the appellant.

Mr Chabala, Advocate instructed by Kenya Revenue Authority for the Commissioner of Domestic Taxes.