

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
MACHAKOS
CAUSE NO. E010 OF 2023

ANGELA KISUYACLAIMANT

-VERSUS-

NECST MOTORS KENYA LIMITED.....
RESPONDENT

RULING

1. On 31st July 2024, this Court (differently constituted) delivered judgment in favour of the Claimant in the following manner:

- 1) *The declaration that the termination was unfair.*
- 2) *The Respondent to pay the Claimant Kshs.7, 941,286.00 less PAYE by 01.10.2024 failing interest at court rates be payable thereon from the date of this judgment until full payment.*
- 3) *The Respondent to deliver the certificate of service in 30 days from today.*
- 4) *The Respondent to fully indemnify the Claimant with respect to Kenya Revenue claims with respect to failure to remit Claimant's PAYE for 2021.*

5) The Respondent to pay costs of the suit.

6) The Deputy Registrar to forthwith, within two days, deliver the case file herein back to the Machakos Sub-Registry.

2. The record bears that on 13th June 2025, the Court directed the Respondent to issue the Claimant with a computation and evidence of Pay As You Earn (PAYE) remitted to the Kenya Revenue Authority (KRA).
3. Consequently, the Respondent filed an affidavit sworn by **Robert Odundo** on 30th October 2025, annexing copies of documents he considered to be the relevant assessments and confirmations of payment evidencing the remittance of PAYE to the KRA.
4. Upon being served with the computations, the Claimant's Advocate, Mr. Musee, made an oral application in Court on 25th July 2025 seeking to cross-examine Mr. Odundo, the maker of the computations filed in Court. Counsel contended that the computations were fictitious and erroneous, failed to disclose the applicable PAYE or the relevant percentage, and did not contain sufficient particulars of the employee.

5. Consequently, on 31st October 2025, Mr. Odundo appeared before the Court for cross-examination, after which the parties were directed to file written submissions on the issue.
6. It was submitted on behalf of the Claimant that the payment slip annexed to the Respondent's affidavit does not bear her PIN, name, address, or the amount of tax allegedly paid. The Claimant therefore contended that the said remittance cannot be attributed to her deductions, as it lacks her particulars. It was further argued that the PAYE computation did not disclose the particulars of its maker, as required by law, and that the applicable tax rate was not indicated.
7. In the Claimant's view, the Respondent's PAYE computation relates to other general employees and not to her, and that the figures therein are inflated with the intention of reducing the balance payable on the decretal sum, thereby deliberately denying her the fruits of her lawful judgment.
8. The Claimant further submitted that the Respondent's PAYE computation filed on 30th October 2025 is imaginary, fictitious, unfounded, unrealistic, baseless, and misleading, and ought to be expunged entirely from the record

of this Honourable Court in light of Order (b) of the Decree issued on 12th September 2024.

9. It was further submitted that the only PAYE deduction payable to the KRA was Kshs. 348,973/- as reflected in the Claimant's iTax ledger, which amount she paid on 20th June 2025. The Claimant maintained that no additional payment is payable as per the iTax ledger report, and urged the Court to expunge the Respondent's computation from the record and adopt the PAYE remittance effected by her on 20th June 2025.

10. On the other hand, the Respondent submitted that its PAYE computation relates to the period between 1st June 2025 and 30th June 2025, and that the corresponding payments were made pursuant to the orders of the Court.

11. The Respondent further submitted that it has fully complied with the Court's orders regarding the Claimant's PAYE obligations.

12. It was also contended that there is prima facie evidence on record demonstrating that PAYE was duly remitted. The Respondent argued that if, upon conducting investigations, the Claimant believes that the PAYE was not remitted or was incorrectly assessed, then the appropriate recourse would be

to seek the intervention of the KRA rather than burden this Honourable Court with the dispute.

13. Having reviewed the computations annexed to the affidavit of Robert Odundo, the Court notes that the e-Return acknowledgment receipt in the sum of Kshs. 2,409,393.69 reflects a general tax return filed by the Respondent for the period between 1st June 2025 and 30th June 2025. I say so for the reason that there is no indication that the said payment comprised remittances attributable to the Claimant. The same observation applies to the payment slip annexed to the Respondent's affidavit. In light of the general nature of the two documents, the Court is unable to conclude that the remittances were made on account of the Claimant.

14. Needless to say, the Respondent did not produce an e-Return acknowledgment receipt or a payment slip showing PAYE remittances to the KRA bearing the Claimant's particulars and specific to her as a taxpayer.

15. In light of the foregoing, the Court finds that the documents annexed to Mr. Odundo's affidavit do not support the Respondent's assertion that it duly remitted the PAYE owed by the Claimant to the KRA as statutory deductions.

16. With respect to the Claimant's assertion that the only PAYE deduction payable to the KRA on her account was Kshs. 348,973, as reflected in her iTax ledger and reportedly paid on 20th June 2025, it is important to note that this amount pertains to the tax period from January 2021 to December 2021, and for which the Claimant was entitled to indemnity in terms of order (4) of the judgment. In contrast, the remittances referenced in Mr. Odundo's affidavit pertain to statutory deductions from the Court award, in accordance with Order (2) of the judgment.

17. In view of the foregoing, the Respondent is hereby directed to furnish the Claimant, within 30 days from the date of this Ruling, with evidence confirming that the PAYE deductions were duly remitted to the KRA. In the event of non-compliance, the Claimant shall be at liberty to execute for the balance of the decretal amount.

18. To bring this matter to a close, there will be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 4th day of February 2026

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STELLA RUTTO

JUDGE

In the presence of:

Mr. Lukano instructed by Mr. Musee	for the Claimant
No appearance	for the Respondent
Catherine	Court Assistant

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1** of **the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B** of the **Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

ORIGINAL