

**IN THE COURT OF APPEAL**  
**AT NAIROBI**  
**CORAM: JOEL NGUGI, LILAN, SILA, JJ.A.)**  
**CIVIL APPEAL (APPLICATION) NO. E328 OF 2021**

**BETWEEN**  
**THE COMMISSIONER OF DOMESTIC TAXES.....APPELLANT**  
**AND**  
**STURROCK SHIPPING (K) LIMITED.....RESPONDENT**

*(Being a reference from the decision of a single judge  
(Kimaru, J.A.) delivered on 10<sup>th</sup> November 2022, and an  
application dated 21<sup>st</sup> May 2021 seeking to strike out the  
appeal for having been filed out of time)*

*in*

**Civil Appeal (Application) No. E328 OF 2021**

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**RULING OF THE COURT**

1. Before us is a reference from the decision of a single judge, brought pursuant to Rule 57 of the Court of Appeal Rules, 2022 and an application dated 21<sup>st</sup> May 2021, seeking to strike out the appeal, both of which have been filed by the respondent. The respondent is seeking to set aside the ruling of Kimaru J.A delivered on 10<sup>th</sup> November 2022, vide which the appellant was granted leave to file memorandum and record of appeal out of time, and seeks that her application to strike out the appeal, for having been filed out of time, be allowed.

2. The application herein is similar to an application made in the case ***Nairobi Civil Appeal (Application) No. E198/2021, The Commissioner of Domestic Taxes vs. W.E.C Lines Kenya Limited***, of which we have made a comprehensive determination. In that decision we have not found merit in the reference from the decision of the single judge and neither have we been persuaded to allow the application to strike out the appeal.

3. We order that the said ruling in the said case ***Nairobi Civil Appeal (Application) No. E198/2021, The Commissioner of Domestic Taxes vs. W.E.C Lines Kenya Limited*** to also apply *mutatis mutandis* to the reference and application herein.

**Dated and delivered at Nairobi this 30<sup>th</sup> day of April, 2026.**

**JOEL NGUGI**

.....  
**JUDGE OF APPEAL**

**PAUL LILAN, MBS SC**

.....  
**JUDGE OF APPEAL**

**MUNYAO J. SILA**

.....  
**JUDGE OF APPEAL**

I certify that this is a  
true copy of the original  
Signed

**DEPUTY REGISTRAR**