



**Kenya Revenue Authority v Jinsen Company Limited & 3 others (Miscellaneous Application E001 of 2024) [2025] KEHC 770 (KLR) (31 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 770 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
MISCELLANEOUS APPLICATION E001 OF 2024  
RC RUTTO, J  
JANUARY 31, 2025**

**BETWEEN**

**KENYA REVENUE AUTHORITY ..... APPLICANT**

**AND**

**JINSEN COMPANY LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**HAN ZONGFENG ..... 2<sup>ND</sup> RESPONDENT**

**BIN XU ..... 3<sup>RD</sup> RESPONDENT**

**REGISTRAR OF COMPANIES ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. By an amended Notice of Motion dated 20<sup>th</sup> June 2024, the applicant brings this application under sections 916 and 917 of the [Companies Act](#) and section 3A of the [Civil Procedure Act](#) seeking the following reliefs:
  1. That this Honourable Court be pleased to issue an order to the 4<sup>th</sup> respondent to restore the 1<sup>st</sup> respondent to the register of companies;
  2. That the costs the (sic) application be provided for;
  3. That this Honourable Court be pleased to grant any further orders and directions that it deems fit in the interest of justice.
2. The application is supported by the grounds on the body of the Motion and the supporting affidavit of Victor Mino, officer of the applicant appointed pursuant to the provisions of section 13 of the [Kenya Revenue Authority Act](#). According to the applicant, the 1<sup>st</sup> respondent is registered under PIN P051399558Y intended to account for its taxes. The 2<sup>nd</sup> and 3<sup>rd</sup> respondents are its directors.



3. The applicant avers that upon its own application, the 1<sup>st</sup> respondent was struck off the register of companies by the 4<sup>th</sup> respondent by dint of section 897 (1), (3) and (4) of the *Companies Act*. The application was published in the Kenya Gazette No. 13228 Vol. CXXIV – No. 226 of 28<sup>th</sup> October 2022.
4. Further, that the 1<sup>st</sup> respondent failed to serve that application to the applicant as required by section 900 of the *Companies Act*. Additionally, the 1<sup>st</sup> respondent failed to apply to the Commissioner for deregistration of its tax obligations as set out in section 36 of the *Value Added Tax Act* read with section 10 of the *Tax Procedures Act*. In the circumstances, the applicant urged that, it could be deduced that the 1<sup>st</sup> respondent was acting with intent to conceal its dissolution from the applicant.
5. The applicant further pointed out that as per the i-tax ledger report the 1<sup>st</sup> respondent owes it Kshs. 21,992,117.49 being unpaid corporation income tax of Kshs. 15,005,108.64, unpaid Pay-As-You-Earn income tax of Kshs. 79,998.80, unpaid rental income tax of Kshs. 240,000.00, unpaid withholding income tax of Kshs. 139,213.75 and unpaid value added tax of Kshs. 6,527,796.30. Those sums continue to accrue interest and penalty. Accordingly, the 1<sup>st</sup> respondent's failure to apply for deregistration of its tax obligations as governed by section 36 of the Value Added Tax and sections 3 and 10 of the *Tax Procedures Act* has accrued a penalty of Kshs. 1,000,000.00 as set out in section 81 (2) and (3) of the Tax Procedure Act. That amount continues to remain unpaid.
6. It was the applicant's submission that in view of the provisions of Articles 201 (b) (i) and 210 of *the Constitution*, it is in the greater public interest that the 1<sup>st</sup> respondent be restored to the companies register to account for taxes owed by it prior to its removal from the register.
7. This court notes that despite the respondents being served with the application and hearing date, they did not file any response thus the applicant urged this court to allow the application as prayed.
8. I have considered the application, the affidavit, the annexures thereto and the law and the issue for determination is whether or not the 1<sup>st</sup> respondent should be restored to the companies register?
9. According to the applicant, the 1<sup>st</sup> respondent proceeded to apply to be struck off the register of companies. That application was made pursuant to section 897 (1) of the *Companies Act*. Pursuant to the powers donated by section 897 (3) of the *Companies Act*, the 4<sup>th</sup> respondent accordingly struck out the 1<sup>st</sup> respondent and published this decision in the Kenya Gazette No. 13228 Vol. CXXIV – No. 226 dated 28<sup>th</sup> October 2022.
10. While that is not disputed, the applicant's position is that there was no compliance with section 900(1) (c) of the *Companies Act*. Section 900 (1) (c), requires that an application under section 897 be served upon the creditors within seven days of the application being made. The applicant's position is that it was not served with the application as a creditor within the stipulated seven days. Furthermore, under section 36 (1) of the *Value Added Tax Act*, the 1<sup>st</sup> respondent failed to apply in writing to the Commissioner for the cancellation of the person's registration within 30 days of the date on which the person ceases to make taxable supplies.
11. Further, that the 1<sup>st</sup> respondent also failed to comply with section 10 of the *Tax Procedures Act* which provides that a person who ceases to be required to be registered for the purposes of a tax law shall apply to the Commissioner for deregistration. Accordingly, the 1<sup>st</sup> respondent's failure to apply for deregistration of its tax obligations as governed by section 36 of the Value Added Tax and sections 3 and 10 of the *Tax Procedures Act* has accrued a penalty of Kshs. 1,000,000.00 as set out in section 81 (2) and (3) of the Tax Procedure Act.



12. The applicant explained that as per the respondent itax ledger, the respondent is indebted to it and it ought to have been served with the application under 897 (1) by dint of section 900 (i)(c ) of the *Companies Act*.
13. In the absence of any rebuttals, I find that the 1<sup>st</sup> applicant, being a creditor was not notified of the intended deregistration as required under Section 900(1)(c), consequently, the 1<sup>st</sup> respondent's application to be struck off the Register of Companies was flawed for failing to meet the mandatory requirements couched in section 900 (1) (c) of the *Companies Act*.
14. In view of the foregoing, I find that the application has met the criteria set out in section 916 (1) (c) (ii), (2) (f) and 917 of the *Companies Act*. Consequently, the application is allowed as follows:
  1. An order be and is hereby issued to the 4<sup>th</sup> respondent to restore the 1<sup>st</sup> respondent to the register of companies;
  2. The applicant shall have costs of this application.

It is so ordered.

**RHODA RUTTO**

**JUDGE**

**DELIVERED, DATED AND SIGNED THIS 31<sup>ST</sup> DAY OF JANUARY 2025**

For Appellant:

For Respondent:

Court Assistant:

