Republic v Principal Secretary, the National Treasury Economic Planning & 2 others; M/s Gaps Tech Solutions Limited (Interested Party); M/s Corprisk Africa Limited (Ex parte Applicant) (Judicial Review Miscellaneous Application E135 of 2023) [2025] KEHC 5354 (KLR) (Judicial Review) (30 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5354 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

JUDICIAL REVIEW

JUDICIAL REVIEW MISCELLANEOUS APPLICATION E135 OF 2023

RE ABURILI, J

APRIL 30, 2025

BETWEEN

REPUBLIC ..... APPLICANT

AND

THE PRINCIPAL SECRETARY, THE NATIONAL TREASURY ECONOMIC PLANNING ..... 1ST RESPONDENT

THE NATIONAL TREASURY & ECONOMIC PLANNING .. 2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL ..... 3RD RESPONDENT

AND

M/S GAPS TECH SOLUTIONS LIMITED ..... INTERESTED PARTY

AND

M/S CORPRISK AFRICA LIMITED ..... EX PARTE APPLICANT

RULING

1. Being aggrieved by the ruling and reasons for taxation on the Interested Party's Party and Party costs dated 16th May 2024 delivered by Honourable E.C. Chelule (Deputy Registrar) on 17th October 2024, the ex parte applicant M/s Corprisk Africa Limited, vide Notice of objection to taxation dated 22nd October, 2024, objected to the taxation of Item No.1- Instruction fees and the court attendances, intending to file a reference to the Judge against the decision of the Honourable Taxing Master with respect to the same.

2. Vide chamber summons dated 25th October, 2024, the ex parte applicant's reference seeks the following orders of this court, challenging the aforesaid taxation and reasons thereof that:

    1. The decision of the Honourable Taxing Master in respect of item No.1- Instruction fees and Court attendances on the Interested Parties' Party & Party Bill of Costs dated 16th May 2024 delivered on 17th October 2024 be set aside and the same be taxed to scale.

    2. The costs of the reference be awarded to the Ex-Parte Applicant.

3. The grounds upon which the reference is predicated and which are also contained in the supporting affidavit sworn by David Kimani Kiriro on 25th October, 2024. The said grounds are that:

    a) On instruction fees, the Honourable Taxing Master misdirected themselves in principle by failing to appreciate that the prayers sought in the Ex-Parte Applicants' application seeking orders of judicial review was declaratory in nature and as such the costs chargeable are provided under schedule 6A (1)(j)(ii) of the Advocates Renumeration Order thereby awarding costs that were manifestly excessive.

    b) On court attendances, the Honourable Taxing Master misdirected themselves in principle by failing to properly segregate the attendances before the Court and charge attendances appropriately in accordance with schedule 6A (7)(d) of the Advocates Renumeration Order in light of the time spent in each attendance rather than issuing an omnibus assessment of Kshs. 5,000 for each attendance regardless of the nature of the attendance and the time spent.

4. Opposing the reference, the interested party beneficiary of the taxed costs filed a replying affidavit sworn by its Managing Director, Mr. Gilbert Odadi on 4th February, 2025 in which he deposes, material to the challenged taxed costs, that the ex parte applicant's application for judicial review orders was struck out with costs on 5th April, 2024 on account that the remedies sought were premature and in blatant breach of the doctrine of exhaustion.

5. That the taxed costs are reasonable and justifiable as the taxing master relied on the correct schedule of the Advocates Remuneration Order in assessing the Bill of Costs under Schedule 6A 1(j) (ii) as the orders sought were prerogative in nature.

6. That the taxing master did not err in principle nor was the fee awarded manifestly excessive to warrant this court's interference.

7. That taxation of costs is a mathematical exercise and is entirely a matter of opinion based on experience. That the taxing master is an officer of great experience and therefore this court should not interfere with the award.

8. That the dispute was of high stakes, considering the value of the subject matter, the interest of the parties, the conduct of the proceedings including the amount of research and volume of documents from the Review Board to the Judicial Review Court.

9. According to the interested party, the taxing master has discretion to increase the instructions fees from Kshs 100,000 provided for in Schedule 6A1(j) (ii) of the Advocates Remuneration Order for Judicial Review matters, to a reasonable sum.

10. That in this case, the taxing Master exercised her discretion judicially and properly in the assessment of the interested party's costs taking into account all relevant factors, noting the nature of the dispute, the interest of the parties, the value of the subject matter and the scope of work done.

11. That the ex parte applicant had not demonstrated how the taxing master erred in principle in allowing the Kshs 3,000,000 in favour of the interested party and that the amount compensates the interested party for the professional services rendered.

12. On the court attendances, the interested party deposes that the same were correctly taxed off from Kshs 7,100 to Kshs 5,000 using the lower scale as provided for in Schedule 6A (7)(d) of the Advocates Remuneration Order as the bill of costs presented had segregated the days in which the court was attended.

13. That this court should not interfere with the award which is not manifestly excessive as to prejudice or cause an injustice to the other party; and that a reduction will undermine the significant legal work involved and set a discouraging precedent for the fair compensation of legal services.

14. The interested party urged this court to dismiss the reference.

15. The parties filed written submissions wherein they reproduced their respective positions advanced in the grounds and affidavits. They also cited judicial precedents on the disputed issues.

16. I will discuss the submissions in my analysis and determination below.

Analysis and Determination

17. Having considered the applicant and interested party's positions on the reference, the main issue for determination is whether this court should interfere with the ruling of the taxing master on the items objected to by the ex parte applicant.

18. The circumstances under which a Judge of the High Court interferes with the taxing officer's exercise of discretion are now well known as was stated in the First American Bank of Kenya vs. Shah and Others [2002] 1 EA 64. These principles are:

    (1) that the Court cannot interfere with the taxing officer's decision on taxation unless it is shown that either the decision was based on an error of principle, or the fee awarded was manifestly excessive as to justify an inference that it was based on an error of principle;

    (2) it would be an error of principle to take into account irrelevant factors or to omit to consider relevant factors and, according to the Order itself, some of the relevant factors to be taken into account include the nature and the importance of the cause or matter, the amount or value of the subject matter involved, the interest of the parties, the general conduct of the proceedings and any direction by the trial judge;

    (3) if the Court considers that the decision of the Taxing Officer discloses errors of principle, the normal practise is to remit it back to the taxing officer for reassessment unless the Judge is satisfied that the error cannot materially have affected the assessment and the Court is not entitled to upset a taxation because in its opinion, the amount awarded was high;

    (4) it is within the discretion of the Taxing Officer to increase or reduce the instruction fees and the amount of the increase or reduction is discretionary; (5) the Taxing Officer must set out the basic fee before venturing to consider whether to increase or reduce it;

    (6) the full instruction fees to defend a suit are earned the moment a defence has been filed and the subsequent progress of the matter is irrelevant to that item of fees;

    (7) the mere fact that the defendant does research before filing a defence and then puts a defence informed of such research is not necessarily indicative of the complexity of the matter as it

may well be indicative of the advocate's unfamiliarity with basic principles of law and such unfamiliarity should not be turned into an advantage against the adversary.

19. Further, it has been held that the Court should not interfere with the decision of the Taxing Officer unless there has been an error in principle but should not do so in questions solely of quantum as that is an area where the Taxing Officer is more experienced and therefore more apt to the job; that the court will intervene only in exceptional cases and multiplication factors should not be considered when assessing costs by the Taxing Officer or even the Judge on appeal; the costs should not be allowed to rise to such level as to confine access to court to the wealthy; a successful litigant ought to be fairly reimbursed for the costs he had to incur in the case; the general level of remuneration of Advocates must be such as to attract recruits to the profession; so far as practicable there should be consistency in the awards made; every case must be decided on its own merit and in every variable degree, the value of the suit property may be taken into account; the instructions fees ought to take into account the amount of work done by the advocate, and where relevant, the subject matter of the suit as well as the prevailing economic conditions; one must envisage a hypothetical counsel capable of conducting the particular case effectively but unable or unwilling to insist on the particular high fee sometimes demanded by counsel of pre-eminent reputation; then one must know that what fee this hypothetical character would be content to take on the brief; clearly it is important that advocates should be well motivated but it is also in the public interest that cost be kept to a reasonable level so that justice is not put beyond the reach of poor litigants.

20. Further guidance can be found in the case of Joreth Limited vs. Kigano & Associates Civil Appeal No. 66 of 1999 [2002] 1 EA 92 where the Court of Appeal held that the value of the subject matter for the purposes of taxation of a bill of costs ought to be determined from the pleadings, judgement or settlement (if such be the case) but if the same is not so ascertainable the Taxing Officer is entitled to use his discretion to assess such instruction fee as he considers just, taking into account, amongst other matters, the nature and the importance of the cause or matter, the interest of the parties, the general conduct of the proceedings, any direction by the trial judge and all other relevant circumstances.

21. Thus, it is not really in the province of a Judge to re-tax the bill. If the Judge comes to the conclusion that the taxing officer has erred in principle, he should refer the bill back for taxation by the same or another taxing officer with appropriate directions on how it should be done. The Judge ought not to interfere with the assessment of costs by the Taxing Officer unless the officer has misdirected himself on a matter of principle.

22. In principle, the instruction fees is an independent and static item, is charged once only and is not affected or determined by the stage the suit has reached. The Taxing Officer whilst taxing his bill of costs is carrying out his functions as such only. He is an officer of the Superior court appointed to tax bills of costs.

23. Specifically, regarding the taxing of instruction fees, the following guidelines were provided by Ojwang J. (as he then was) in Republic vs. Ministry of Agriculture & 2 Others Ex parte Muchiri W'Njuguna & 6 Others, (2006) e KLR:

> " 1. . the proceedings in question were purely public-law proceedings and are to be considered entirely free of any private-business arrangements or earnings of the tea production sector;
>
> 2. the taxation of advocates' instruction fees is to seek no more and no less than reasonable compensation for professional work done;

3. the taxation of advocates' instruction fees should avoid any prospect of unjust enrichment, for any particular party or parties;

4. so far as apposite, comparability should be applied in the assessment of advocate's instruction fees;

5. objectivity is to be sought, when applying loose-textures criteria in the taxation of costs;

6. where complexity of proceedings is a relevant factor, firstly, the specific elements of the same are to be judged on the basis of the express or implied recognition and mode of treatment by the trial judge;

7. where responsibility borne by advocates is taken into account, its nature is to be specified;

8. where novelty is taken into account, its nature is to be clarified;

9. where account is taken of time spent, research done, skill deployed by counsel, the pertinent details are to be set out in summarised form."

24. These guidelines were also applied by Odunga J. (as he then was) in Nyangito & Co Advocates v Doinyo Lessos Creameries Ltd, [2014] eKLR, where the learned Judge in addition also held that the taxing officer must first recognize the basic instructions fee payable before venturing to consider whether to reduce or increase it.

25. I have perused the impugned ruling by the Taxing Officer dated 16th May, 2024 and note that she properly applied Schedule 6A 1(j) (ii) of the Advocates Remuneration Order, (Amendment No. 2 of 2014 and noted that the basic instruction fee was Kshs 100,000. She also noted that the case proceeded before the Honorable Judge and the same was struck out for lack of jurisdiction vide judgment dated 5th April, 2024.

26. The Taxing Master relied on the decisions in Joreth Ltd v Kigano & Associates NRB *CA 66 of 1999* on discretion of the taxing master and Republic v County Government of Nyeri ex parte Central Coffee Mills Ltd [2017]eKLR, the latter which was a judicial review matter where the court held that in judicial review matters, instructions fees should not turn on the value of the subject matter and that the matter was not complex to warrant issuance of instructions fees charged based on awards in similar matters and taking into account the principle that in so far as possible, there should be consistency in taxation of costs for judicial review matters.

27. After citing the above decisions, the taxing master stated as follows:

> " From the foregoing, it is clear that that courts have set precedents indicating that the value of the subject matter should not be the sole basis when dealing with matters that seek prerogative orders under the schedule VI1 (J) ARO. However, it cannot be understated how the value of a given subject matter directly relates to the interest of the parties in the suit and thus will in one way or another affect how a suit is defended before court."

28. On the conduct of proceedings, the taxing master observed that the matter had been disposed of expeditiously within four months from 7th December, 2024 and determined on 5th April 2024. She also observed that the matter did not satisfy the criteria of being a complex matter and that the volume of documents on record do not show any complexity, the matter having been determined after parties filed submissions.

29. The taxing master then observed, quite correctly, that she had the discretion to increase the amount taking into account factors such as the value of the work done by an advocate to ensure that advocates are fairly appropriately and justly rewarded for the fees bearing in mind all the skill they exercised, time taken, importance of the matter, interest of the parties, the volume of the pleadings, scope of the work done and nature and the nature of the dispute before awarding Kshs 3,000,000.

30. In other words, from the ruling of the taxing master, she applied herself to the principles established for the taxation of costs in judicial review proceedings and exercised her discretion in arriving at the figure that she did.

31. The only issue is whether the amount that she arrived at when she exercised discretion to increase the instructions fees from the minimum of Kshs 100,000 to Kshs 3,000,000 was manifestly excessive and therefore whether that discretion to increase the instructions fees was exercised judiciously.

32. As stated above, the costs were in respect of judicial review proceedings and arising from public Procurement Administrative Review Board. It follows that although the taxing master had the discretion to increase the instructions fees, that discretion had to be exercised judiciously and the figure to be arrived at had to be materially consistent with other taxations in judicial review matters, more so, and as much as possible, in public procurement matters that often come to this court for determination.

33. The principles applied by the taxing master are those outlined in Republic vs. Ministry of Agriculture & 2 Others Ex parte Muchiri W'Njuguna & 6 Others (supra). However, discretion must be exercise judiciously and in taxation matters, whereas advocates should be remunerated for the work done which is their labour, there should be no unfair advantage which is punitive to the other party. Unjust enrichment is also detested.

34. In my perusal of the matter subject of the striking out judgment, the issue was a very simple one which could have been resolved by way of a preliminary objection, being, non-exhaustion of available remedies. That means that the parties did not have to wait for a merit determination of the matter, since the issue as determined was a pure point of law.

35. Additionally, in public procurement matters of this character, the actual issue before the Review Board is decision-making process of the Tender Committee awarding the tender and if it was proper. In other words, such a dispute is not on the quantum of the tender but on the tender award process and decision, hence the tender amount cannot be applied as the yardstick for computing instructions fees.

36. Courts have time and again held that taxation is not a mathematical exercise but an essentially rational process requiring rationalization so as to compensate a party or an advocate for their effort in a litigation without the aim of enriching them or merely rewarding them.

37. In Alex S. Masika v EPCO Builders Ltd [2008] eKLR, where the issue for determination was similar to the instant one, the court in rejecting an argument by an Advocate observed as follows:

> " The issue before the Board was the decision-making process of the committee and whether the Tender awarded was upholdable. The value of the Client's tender could not be applied to determine the fee payable to the Advocate, as it was not the value of the subject matter before the Board."

38. Having said that, as to what would be appropriate instructions fees, similar cases assist the court in determining this, since assessment of costs is not mathematical exercise.

39. In Gachuba t/a Mwaniki Gachuba Advocates v Gypto Security Company Limited (Miscellaneous Civil Application E769 of 2021) [2024] KEHC 4498 (KLR) (Commercial and Tax) (15 March 2024) (Ruling) the learned Judge upheld the taxing officer's certificate of costs where the proceedings related to the award of a tender where the contract value was Ksh.52,734,600, taxing the costs at Kshs at Kshs 506,600 applying the above principles. In the above case, the Applicant had in the Advocate-Client Bill of Costs, pegged the instructions fees on that value of Ksh 52,734,600. The taxing officer in taxing the said Bill, declined to use that figure in computing the instructions fees. Her reason was that the issue before the Tribunal was not the said humongous value of the tender (i.e., Ksh 52,734,600=), but merely the setting aside of the decision that denied the Respondent that tender.

40. This decision is a very useful guide to the taxing masters and in my view, the taxing master in the instant case ought to have applied the principle espoused in the decision, in exercising discretion to increase ethe basic instructions fees from Kshs 100,000 upwards.

41. In upholding the taxing master's decision/ award in the above Mwaniki Gachuba Advocates (supra) case, the learned judge stated:

> " I also hold as did the taxing officer that the issue before the said Board, was the propriety, correctness and supportability of the Tender Award Committee's decision of rejecting the Respondent's bid and accepting the rival's bid hence awarding the tender to the latter. That to me is sound jurisprudence.
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> In procurement matters of this character, the actual issue before the Review Board is decision-making process of the Tender Committee awarding the tender as it did was proper. In other words, such a dispute is not on the quantum of the tender but on the tender award process and decision, hence the tender amount cannot be applied as the yardstick for computing instructions fees when the advocate later files his Advocate-Client Bill of costs."

42. Again in Republic v Cabinet Secretary, Internal Security & 2 others; Federation of Kenya Employers & another (Interested Parties) Ex parte Gragory Oriaro Nyauchi [2019] eKLR, the Court of Appeal held that the taxing officer rightly found the applicable basic instruction fee as Kshs 100,000 Considering that the judicial review proceedings were opposed and defended by the interested party, and also that she considered the importance of the subject matter and the proceedings to the Kenyan public, she properly exercised her discretion in increasing the instruction fees to Kshs. 1,000,000. The amount was considered not excessive in the circumstances.

43. Similar findings were made in the cases of Direct Line Assurance Company Limited v Hamilton Harrison & Mathews Advocates (Miscellaneous Civil Application E1003 of 2020) [2021] KEHC 259 (KLR) and Ochieng, Onyango, Kibet and Ohaga Advocates v Adopt Light Limited [2007] eKLR. In the latter decision, it was held, inter alia:

> " The taxing master must consider the case and the labour required in the matter, the nature or importance of the matter more so the amount or value of the subject matter involved, the interest of the client in sustaining or losing a brief and the complexity of the dispute. In assessing an amount commensurate to the work undertaken, it is of fundamental importance to consider the value of the subject... And when the subject matter is unknown, the court is empowered to make what is available as a point of reference."

44. In Republic -vs¬ Ministry of Agriculture & 20 Others ex- parte Muchiri Wa Njuguna (2006) (supra), cited in the case of Kamunyori & Company Advocates vs. Development Bank of Kenya Limited (2015) Civil Appeal 206 of 2006 where the Court held inter alia, that:

> " Where it is shown that the sum awarded was so manifestly excessive as to justify interference, an error of principle can be inferred."

45. In a similar and more recent decision case of Republic v Public Procurement Administrative Review Board; Energy Regulatory Commission & another (Interested Parties) (Application 496 of 2017) [2024] KEHC 7730 (KLR) (Judicial Review) (29 June 2024) (Ruling), Ngaah J had this to say, where in a public procurement judicial review matter, the taxing master had awarded Kshs 3,000,000 as instructions fees:

> " 33. Ordinarily volume of the documentation would be described in folios or paginated; and it would have helped for the learned taxing officer to state in more certain terms the volume of the documents in terms of these folios which, by the way, is the term employed by the Remuneration Order. Again, it is noted in the cited case that- "if the conduct of the proceedings necessitated the deployment of a considerable amount of industry, and was inordinately time consuming, the detail of such a situation must be set out in a clear manner". Accordingly, it is not enough for the taxing officer to arrive at any particular figure on the basis of "the work employed by counsel" without giving the details of the extent of the work or counsel's involvement. As much as the learned taxing officer cited the decision in Muchiri W'Njuguna case, it appears that she did not follow it through and apply it to the letter.
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> 34. More crucially, the value of the subject matter ought not to have influenced the decision of the taxing officer in assessment of costs. As far as I can gather from the pleadings, the suit was all about a decision that had been made by the Public Procurement Administrative Review Board with respect to procurement proceedings that were underway at the Energy Regulatory Commission. This is apparent from the prayers in the motion that formed the suit against the Commission and the Public Procurement Administrative Review Board. Besides the prayer for costs, the rest of the prayers were captured as follows: "....."

46. The learned Judge went ahead and set aside the taxation by the taxing master.

47. In the instant case, it is my finding that while the Taxing Master did take into account most of the relevant considerations, it is apparent that the basis upon which she increased the instructions fees from Kshs 100,000 to 3 million which is thirty (30) times the basic instructions fees is not justifiable and is manifestly excessive, the taxing master having found that the value of the subject matter could not be the sole factor, that the matter was not complex, that it involved parties filing submissions and that the application was struck out for non-exhaustion of remedies, besides the matter having been determined expeditiously.

48. In making the above finding, I am conscious of the decision in Republic v Minister for Agriculture & 2 Others ex parte Samuel Muchiri W'njuguna & 6 Others [2006] eKLR, Ojwang, J (as he then was) inter alia, that the taxation of costs is not a mathematical exercise; it is entirely a matter of opinion based on experience. A Court will not, therefore, interfere with the award of a taxing officer, particularly where

he is an officer of great experience, merely because it thinks the award somewhat too high or too low; it will only interfere if it thinks the award so high or so low as to amount to an injustice to one party or the other.

49. In Opa Pharmacy Ltd vs. Howse & Mcgeorge Ltd Kampala HCMA No. 13 of 1970 (HCU) [1972] EA 233, it was held:

> " Whereas the taxing officer is given discretion of taking into account other fees and allowances to an advocate in respect of the work to which instructions fees apply, the nature and importance of the case, the amount involved, the interest of the parties, general conduct of the proceedings and all other relevant circumstances and taking any of these into consideration, may therefore increase the instruction fees, the taxing officer, in this case gave no reason whatsoever for doubling the instruction fee. Had the taxing officer given his reasons at least there would be known the reason for the inflation. As it is he has denied the appellant a reason for his choice of the figure, with the result that it is impossible to say what was in the taxing officer's mind. The failure to give any reason for the choice, surely, must, therefore, amount to an arbitrary determination of the figure and is not a judicial exercise of one's discretion."

50. The Court of Appeal of Uganda in Makula International v. Cardinal Nsubuga & Another [1982] HCB 11, the Court pronounced itself as follows:

> " The taxing officer should, in taxing a bill, first find the appropriate scale fee in schedule VI, and then consider whether the basic fee should be increased or reduced. He must give reasons for deciding that the basic fee should be increased or decreased. When he has decided that the scale should be exceeded, he does not arrive at a figure which he awards by multiplying the scale fee by a multiplication factor, but places what he considers a fair value upon the work or responsibility involved. Lastly, he taxes the instruction fee, either by awarding the basic fee or by increasing or decreasing it."[emphasis added

51. In the case of Paul Ssemogerere & Olum vs. Attorney General - Civil Application No.5 of 2001 [unreported] the Court held:

> " In our view, there is no formula by which to calculate the instruction fee. The exercise is an intricate balancing act whereby the taxing officer has to mentally weigh the diverse general principles applicable, which sometimes, are against one another in order to arrive at the reasonable fee. Thus, while the taxing officer has to keep in mind that the successful party must be reimbursed expenses reasonably incurred due to the litigation, and that advocates, remuneration should be at such level as to attract recruits into the legal profession, he has to balance that with his duty to the public not to allow costs to be so hiked that courts would remain accessible to only the wealthy. Also, while the taxing officer is to maintain consistency in the level of costs, it is settled that he has to make allowance for the fall, if any, in the value of money. It is because of consideration for this intricate balancing exercise that taxing officer's opinion on what is the reasonable fee, is not to be interfered with lightly. There has to be a compelling reason to justify such interference."

52. In Danson Mutuku Muema vs. Julius Muthoka Muema & Others Machakos High Court Civil Appeal No. 6 of 1991 which was cited in Republic vs. Ministry of Agriculture & 2 others Ex parte Muchiri W'njuguna & 6 Others (supra) Mwera, J (as he then was) held that:

> " Whereas the Court was entirely right to give the costs within its discretion, the amount allowed being ten times the sum provided for, the Court did not think the said sum was reasonable and found that it was definitely excessive as opposed to three or four times." [Emphasis added]

53. As earlier stated, the taxing master awarded the instructions fees 30 times the basic instructions fees. The reasons given for the award as stated above, cannot justify that award which I find manifestly excessive as to warrant interference by this court. I therefore find that it is just and fair to set aside the sum awarded.

54. On the court attendances, the taxing master stated as follows in her taxation ruling:

> " Under this head, the interested party seeks fees for court attendance for half a day. I do mote that the interested party has used the higher scale instead of the lower scale and some other items are manifestly excessive. I hereby allow each of the items under this head as Kshs 5,000/ each and proceed to tax off the excess."

55. The court observes that attendances in court were more than once being on 20th December 2023, 30th January, 2024, 1st February 2024, 20th March 2024 and 5th April, 2024. The ex parte applicant made submissions regarding each of those dates and it is clear from the record that on the occasions, the attendances were mentions, hearing and judgment day.

56. In her ruling, which is impugned, there is no segregation of the dates and the reasons for the attendance. The award of Ksh 5,000 on each occasion presupposes that on all the dates, the attendance was for the same purpose and the time taken in court was the same. One cannot tell the difference between attending court half day, one hour, or whole day and for what purpose, whether it was for mention or hearing. In the circumstances, I find no justification for the award of a global figure of Kshs 5,000/ = for attendances.

57. In the end, I find the reference merited. I allow it, set aside the taxation ruling dated 17/10/2024 and direct the bill of costs to be returned to the same taxing master to apply the guidelines espoused in this ruling in undertaking merit re-taxation of the challenged items in the bill of costs dated May 16, 2024.

58. Each party to bear their own costs of this reference.

59. I so order.

DATED, SIGNED AND DELIVERED AT NAIROBI VIRTUALLY THIS 30TH DAY OF APRIL, 2025

R.E. ABURILI

JUDGE