

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

CIVIL APPLICATION NO. 29 OF 1996

BETWEEN

V I P ENGINEERING AND MARKETING LTD. APPLICANT

AND

SAID SALIM BAKHRESSA AND CO. LTD. RESPONDENT

R U L I N G

LUANDA, SDR-CA/TAXING MASTER:

This is a Bill of Costs arising from Civil Application No. 29/1996. The application was for a review of a judgment in Civil Appeal No. 39/1994 which application was Struck out for being incompetent at the request of the Applicant.

Mr. Chandoo, who advocated for the Respondent in this Bill of Costs is claiming TShs. 15,000,000/= as instructions fees. In defending the amount Mr. Chandoo said he prepared himself by reading the whole proceedings of the High Court and Court of Appeal. He also said he and his colleague advocate Mr. Kisusi had to look into various authorities. He submitted that there was an additional volume of work. He concluded by saying that the amount is reasonable in view of what he had stated above.

Dr. Tenga, Learned Counsel for the Applicant assisted by Mrs. Rwebangira submitted that there was nothing which necessitated Mr. Chandoo to put all input as he alleged. Further, he submitted that the proceedings was quite short. The matter was Struck out on an application made by the applicant who moved the Court to do so. So the amount claimed by Mr. Chandoo was on the high side. He submitted TShs. 5,000/= as instructions fees would be proper. He however doesnt object other items.

Paragraph 9 (2) of the Taxation of Costs - Third Schedule provides:-

The fee to be allowed for instructions to appeal or to oppose an appeal shall be such as the taxing officer shall consider reasonable, having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties the other costs to be allowed, the general conduct of the proceedings, the fund or person to bear the costs and all other relevant circumstances.

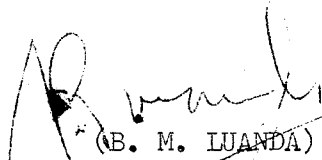
In the instant case the application was Struck out owing to its incompetence. And the Court was moved by the Applicant and not the Respondent. So there is nothing difficulty or complicated. As regards to Mr. Chandoo's submission that he had to read the proceedings of both the High Court and Court of Appeal, this submission has merit. I quite agree with him on this. But that alone doesnot entittle him TShs. 15,000,000/=. Dr. Tenga on the otherhand suggested Sh. 5,000/=. That figure to my view is on the low side.

Taking all into consideration I am of the view that Sh. 20,000/= as instructions fees is reasonable. I award the same. And as item 2 to 15 are not disputed, the same are taxed as presented.

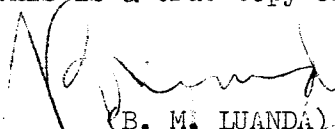
In all therefore, I award Sh. 66,000/= as Costs.

It is so taxed.

DATED at DAR ES SALAAM this 31st day of January, 1997.


(B. M. LUANDA)
TAXING OFFICER
22/1/97

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


(B. M. LUANDA)
TAXING OFFICER
22/1/97