

**IN THE COURT OF APPEAL OF TANZANIA  
AT DAR ES SALAAM**

**CIVIL APPEAL NO. 3 OF 1996**

**BETWEEN**

**BOARD OF INTERNAL TRADE ..... APPLICANT  
AND  
YOHANA MAPENZI ..... RESPONDENT**

**R U L I N G**

**RUMANYIKA,DR-CA/TAXING OFFICER:**

This 33 itemized bill of costs (the bill) emanates from the decree of the Court of Appeal of Tanzania, Civil Appeal No. 3 of 1996, in which the today's taxation emanates from.

The history is that having been found by the High Court of Tanzania the respondent/Judgment debtor's services with the decree holder wrongly, was terminated hence an award of Tshs. 48,000,000/- decretal sum, the decree holder appealed successfully to the Court of Appeal of Tanzania. In which event, the latter set aside the whole High Court Judgment and decree; with order of costs to the appellant, hence this bill.

Messrs Maira and Lamwai learned counsel appeared for the Appellant and Respondents respectively.

But when this bill came up for taxation, and it is an observation I venture to make here, it was ordered the Judgment debtor to be served in person, and was so served at least twice through publication according the record. Perhaps Lamwai had been retained for services on appeal and not beyond that the Judgment debtor surely knows and could clarify but for his absence, since then todate.

The first and main item on the bill, is **instructions to defend** that purportedly, is to fetch TShs. 5,000,000/- item 27: Instructions to appeal TShs. 5,000,000/-; item 28: Preparing documents for appeal purposes Tshs. 1,000,000/- and preparing application for stay of execution thereof (Civil Application No. 67 of 1995) Tshs. 500,000/- the rest of items range between Tshs. 1,000/- and Tshs. 5,000/-. And inclusive of the rates whose summation tunes to Tshs. 12,117,000/-.

However, I have considered all the circumstances surrounding the matter, monetary value of the services rendered by the 1993 up to 1997, in which case, inflation control, that has been taking place on the land, obvious, the bill presented in items other than the four mentioned above, were and still are reasonable and I so tax the same.

Now, the said four items, given the provision of Rule 9(2) to the 3<sup>rd</sup> schedule of the Court Rules that, in taxing the bill I

should consider among other things, nature of the matter and the fund on person that is to pay I feel compelled, to look at the items critically. Presumably, he is jobless, upon having his contract of services with the decree holder, terminated. And still his whereabouts are for so long been not established. May be one is avoiding the consequences of the original matter. I am not sure. However, I have to similarly look at nature of case. It is not all that involving. Much as transport costs to and from the court were still that much low, should by standards, instructions fees be. But they seem to be too exorbitant and unreasonable. As such the bill of Tshs. 5,000,000/- (instruction to defend) Tshs. 5,000,000/- (instruction to appeal) and Tshs. 1,000,000/- (preparing documents for appeal) and Tshs. 500,000/- for preparing application for stay of execution) are completely on the high side; and not reasonable. In that regard the bills are in respect of item numbers (1), (27) (non dated) (28) (non dated) and item No. (29) (non dated) accordingly taxed at Tshs. 2,000,000/-, 1,500,000/-, 500,000/- and 300,000/- respectively.

In this case, however, no disbursements were indicatedly being claimed along with.

However, additional claim of 50% to all the items (except items 1, 27 and 29) is allowed; that is to say that, a total of Tshs. 459,500/- is added to the bill. And thus it is being taxed

totally, to the sum of Tshs. 4,837,500/- (four million nine hundred and thirty thousand only). Arithmetically;  $4,378,000 + 459,500/- = 4,837,500/-$ .

DATED at DAR ES SALAAM this 27<sup>th</sup> day of August, 2004.



  
S. M. RUMANYIKA  
TAXING OFFICER