

IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM

CIVIL APPEAL NO. 119 OF 2012

(CORAM: OTHMAN, C.J., MASSATI, J. A. And, MUGASHA, J. A.)

SOUTHCOMM EAST AFRICA LIMITED.....APPELLANT

VERSUS

COMMISSIONER GENERAL OF
TANZANIA REVENUE AUTHORITY..... RESPONDENT

(Appeal from the Judgment and Decree of the Tax Revenue Appeals
Tribunal of Tanzania at Dar es Salaam)

(Hon. Chairman, Twali, J.)

dated the 25th day of October, 2011
in
Tax Appeal No. 18 of 2011

RULING OF THE COURT

18th February, & 22nd August, 2016

OTHMAN, C.J.

This is a preliminary objection raised under Rule 107(1) of the Court of Appeal Rules, 2009 by Mr. Premi Telespori, learned Advocate for the respondent that the decree contained in the record of appeal contravened Rule 21 of the Tax Revenue Appeals Tribunal Rules, 2001 for having been signed only by the Chairman and not by all the members of the Tribunal who heard the appeal. He prayed for costs on the ground that the

- appellant should have been diligent in ensuring that a proper appeal was
- before the Court.

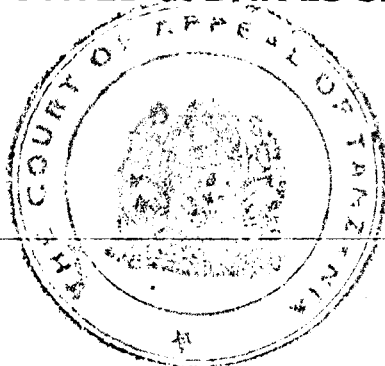
On his part, Mr. Martin Matunda, learned Advocate for the appellant readily conceded that the decree was defective, rendering the appeal incompetent. He sought the Court's indulgence for the appellant not to be condemned with costs as the defect in the decree was also shouldered by the Tribunal.

Considering the common position of the parties that the decree is defective and particularly Mr. Matunda's ready concession to that defect, we are constrained to agree that the purported decree incorporated in the record of appeal is invalid, which renders the appeal incompetent.

In the result, we strike it out with no order as to costs.

Ordered accordingly.

DATED at **DAR ES SALAAM** this 23rd day of February, 2016.




M. C. OTHMAN
CHIEF JUSTICE

S. A. MASSATI
JUSTICE OF APPEAL

S. E. A. MUGASHA
JUSTICE OF APPEAL

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


J. R. KAHYOZA
REGISTRAR
COURT OF APPEAL