IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO. 65 OF 2012

PLASCO LIMITED ..... PLAINTIFF

VERSUS

LUQMAN CONSTRUCTION LIMITED
MOROGORO URBAN WATER SUPLLY AND SEWAGE AUTHORITY ..... **DEFENDANTS**

17th February & 26th May, 2016

JUDGMENT

MWAMBEGELE, J.:

The plaintiff's claim against the defendants is for payment of Tshs. 120,696,021/= being outstanding payment for the PVC pipes and fittings supplies which were subject to payment of Value Added Tax (VAT). The story behind it is that, the first defendant, a limited liability company, had a project with the second defendant Morogoro Urban Water Supply and Sewerage Authority (MORUWASA). The first defendant ordered and obtained from the plaintiff the said pipes in respect of which it paid her a total of Tshs. 630,678,950/= exclusive of VAT on the ground that the second defendant (MORUWASA) was exempted to pay VAT. The plaintiff then paid a total of Tshs. 113,522.211/= to the Tanzania Revenue Authority (TRA) as VAT in respect of the supply, requested for clarification from TRA and was informed

that the plaintiff was right in charging VAT whereby MORUWASA would have processed for an exemption certificate.

It is also stated that the defendant has not paid a total of Tshs. 7,173,810/= in respect of Invoice No. TINV002311. It is said that after fruitless demands, it instituted this suit claiming for:

a) Payment of Tzs. 120,696,021/=;
b) Interest on the amount stated above at the commercial rate to the date of judgment;
c) Interest at court rate of 7% from the date of judgment to the date of payment;
d) General damages to be assessed by the court;
e) Costs of and incidental to the suit; and
f) Any other relief(s) that the honorable court may deem fit.

I note from the record of the court that the plaintiff was ordered to amend the plaint and include the second defendant (MORUWASA) as defendant. They did so. But the latter did not enter defence. Therefore on record there is only one defence that of the first defendant.

In its defence, the defendant puts that the contract works being in favour of a Government Authority needed due process of VAT exemption, that as one of the terms of Agreement arrangement, for such exemption would be made, that the amount paid as VAT to TRA can be treated as deposit since it is subject to refund once exemption certificate is obtained and therefore the suit was prematurely instituted. Noting the amount alleged to have been paid as VAT, the defence further states that it was the second defendant

(MORUWASA) who was supposed to process the VAT exemption, and that Government process being customarily slow the first defendant cannot be punished for mistakes not its own.

Finally, disputing amount claimed of Tshs. 7,173,810/=, it states that the total amount is pegged on assumption of VAT being payable, whereby with VAT exemption it will be found that the defendant had overpaid Tshs. 14,551,474/= to the plaintiff. The plaintiff reply thereto is to the effect that the duty to seek exemption was on the first defendant and that the suit was not premature because it was instituted after a series of communication including demand notice.

The record has it that mediation was attempted without success. It is also disclosed therein that an argument relating to duty bearer for exemption process had ensued whereby this court (Makaramba, J.) had made an order under Order I rule 10 (2) of the Civil Procedure Code, Cap. 33 of the Revised Edition, 2002 (the CPC) to amend the pleadings and include MORUWASA. Apparently both defendants having been duly served, they had defaulted to file their defence, the court ordered the plaintiff to prove the case *exparte*. Hearing commenced on 02.05.2013 but before it could come to an end, an application to have an order for *exparte* hearing vacated succeeded on 27.05.2013.

Through the same order granting the prayer, the defendants were allowed to present their defence but only the first defendant did so. Therefore, in the absence of the second defendant, issues for determination of this suit were framed by this court. These are:

1) Whether the plaintiff paid the said Tsh. 120,696,021/= as VAT to TRA;
2) If issue No. (1) is answered in the affirmative, whether the plaintiff has the right to recover the amount so recorded from the defendant;
3) Whether there is an outstanding payment in respect of invoice No. TIN V-0023/11 as per para 8 of the plaint; and
4) To what reliefs are the parties entitled.

To testify for the plaintiff the first witness was Ms. Samira Sumari PW1 who introduced herself as plaintiff's employee in the capacity of credit controller. She told the court that she knows the defendant as being the plaintiff's customer owing large sums of moneys. She said that through the proforma invoice the first defendant had ordered goods which they supplied for the total amount of Tshs. 778,119,616/= VAT inclusive but the first defendant paid the principal amount without VAT. It was her averment that according to the procedure, if the first defendant was to be excluded from paying VAT it was supposed to present the exemption documents from TRA but did not do so and the plaintiff was forced to pay VAT to TRA for the goods the plaintiff had supplied to the first defendant. It was her further averments that the said tax invoices comprised the total amount payable being the purchase price for the item supplied plus VAT payable thereon. To corroborate her testimony she tendered a total of five documentary exhibits namely a Court order in Commercial Case No. 65 of 2012, (Exh. P1), a Proforma Invoice (Exh. P2), a letter dated 04.11.2010 from Luqman Construction, a Tax Invoice and Delivery Notes (collectively Exh. P4).

Having described each and every invoice tendered as well as calculating in court, PW1 went on to tell the court that the invoice amount was 630,678.950/= whereas the VAT amount was 113,522.211. It was her further testimony that the first defendant paid for the invoice amount without the VAT, and that there was also outstanding amount in respect of invoice No. TINV002311 which was the total amount plus VAT for the respective goods supplied.

To prove that the first defendant had not paid the said outstanding amount in respect of that invoice, and instead paid only the invoice amount without VAT, she tendered the said invoice TINV002311 (Exh. P5), as well as statements of account for Luqman construction for payment from 01.01.2012 to 26.11.2012, 01.01.2011 to 31.12.2011 and 01.01.2010 to 31.12.2010 which were collectively admitted as Exh. P6. She went on to tender the TRA VAT returns for December, 2010, November 2010 and January 2011 which were collectively admitted as Exh. P7 in order to prove that the plaintiff had paid the said VAT to TRA in respect of the goods supplied to the first defendant.

She went on to tell the court that the plaintiff tried to demand the said payments without success whereby it decided to write to TRA to request for clarification regarding payment of VAT in respect of the supplies to the first defendant. It was her statement that the reply from TRA was to the effect that the plaintiff was correct to charge VAT from the first defendant in absence of valid tax exemption and thereafter the plaintiff, once again, wrote the first defendant attaching the said letter demanding for the payment of that amount she had already paid to TRA as VAT. To this, she tendered the said two letters from TRA and that to the first defendant which were collectively admitted as Exh. P8. She went on to tell the court that the

plaintiff sent a demand note to the first defendant which she tendered in court as Exh. P9.

In cross-examination, it was her testimony that indeed they sent a delivery note for every tax invoice in respect of any supply but for the said invoice in Exh. P5, the respective delivery note had slipped or went missing. It was her averment that that notwithstanding there was an expression on the said delivery notes to show that the first defendant had collected the goods. She went on to say that the plaintiff had paid the said VAT returns to TRA in cash at TRA and further that though there might have been receipts, TRA stamped the documents which she had tendered in court. She also told this court that despite various letters to the first defendant there was no response with regard to the matter.

In re-examination, it was her statement that they had written to the first defendant regarding the amount including that on Exh. P5 but the latter did not respond and further that in some circumstances due to urgency of the need of the goods supplied and where the same are delivered ex-factory sometimes the client would pick all the documents or would leave a copy with them and or there would be human error involved in delivery note documents.

The second witness for the plaintiff was one Herbert Kabyemela PW2 who introduced himself as an employee of TRA in the Large Tax Payers Department and whose duties were to survey debt collection, voluntary tax payment and approving tax exemptions. PW2 told this court that for a tax exemption to be approved, the applicant was supposed to be one of those recognized under the Value Added Tax Act, Cap. 148 of the Revised Edition,

2002. He said that, upon such person seeking service or goods, he could be issued with a proforma invoice which shows the price and the VAT for the particular service or goods, whereby the applicant would be required to fill special forms and attach with the proforma invoice and submit the same to TRA for approval. He said that with regard to the plaintiff and first defendant, there was no one who was tax exempt and that is why upon being approached by the plaintiff for clarification they responded that none of them was VAT exempt.

PW2 went on to testify that despite the fact that MORUWASA was one of the tax exempt institutions, the first and second defendants were supposed to pay the VAT unless the exemption procedure was followed by the person who was buying the goods or services. This is because, said PW2, the said invoices indicated Luqman and PLASCO; MORUWASA was not there and therefore none between them could claim exemption. He said that if they wished to enjoy such exemption procedurally, Luqman should have invoiced MORUWASA with total costs of the projects including VAT; then MORUWASA could present the same to TRA indicating such amount charged by the Contractor (Luqman) whereby TRA would approve the exemption so that none between Luqman and PLASCO could be forced to charge the VAT on the said supplied goods. He added that the beneficiary of the goods/services; that is MORUWASA, was the one supposed to initiate the exemption process.

in cross examination, it was his statement that the VAT is paid through filing the returns and when asked as to whether the plaintiff had paid the said VAT to TRA his response was that so far TRA had no any claim against the plaintiff. He also stated that even where a person has tax relief, he is supposed to fill the special forms together with the proforma invoices for the

goods or services to be supplied to him whereafter TRA would approve the same and issue him exemption. It was his testimony that MORUWASA was tax exempt per the law and further evidence that the supplier of the goods or services is the one required to collect the VAT and pay the same to TRA at the end of each month of sales. As to the fact that exemption was processed but delayed by TRA, he said that he could not know who was responsible.

In re-examination, he told this court that on the face of the invoices sent to Luqman by PLASCO, there could be no exemption because none between them is a tax exempt. He went on to say if Luqman had been charged VAT for the services rendered to MORUWASA who is exempt, the latter had the right to claim for refund from the TRA or upon completion of the exemption process, the tax assessment for Luqman would have been zero and as such he could not have paid any tax in that regard. With regard to the VAT payment procedure to TRA, his testimony was that the VAT collections for the whole month of all sales made were supposed to be returned to TRA within 30 days after the month of sales. He said that the forms should describe the amount collected as VAT for the services rendered and goods sold as well as amounts paid as VAT for the services obtained as well as goods purchased whereby the difference was the amount payable. Therefore, said PW2, there was no way that returns could be of a single transaction but a representation of various transactions within a month. On being examined by this court, he said that he had appeared to testify in regard of the tax payment system and not confirming as to whether the plaintiff had paid the VAT to TRA or not.

To testify for the defendant, the sole witness was one Deus Lyapembile DW1 who introduced himself as Operations Director of the first defendant. He said that in that capacity he had participated in securing the plaintiff as their

supplier and that it was agreed that the plaintiff could be paid after supplying the goods whereby MORUWASA had a duty to process the VAT relief. He said that the plaintiff then issued the proforma invoice in September 2009, November 2010 and July 2011 for the same supply.

It was his testimony that there were problems with regard to issuance of proforma invoices and processing of the relief at Procurement Unit of the second defendant because the latter told the first defendant that the same was supposed to be brought within five days whereby the former could process for the relief. It was his averment that they were being forced to go back to the plaintiff to seek for another proforma invoices whereby for the last time the plaintiff refused to issue another invoice whereupon the dispute ensued. He said that the first defendant paid the debt to the plaintiff of about 630 Million without VAT because by then the second defendant had told them that the five days had expired and therefore they were requiring other proforma invoices to process the relief but the plaintiff refused to issue it. It was his evidence that the problem was with MORUWASA and TRA and that when they were still making follow-ups they received a demand note from the plaintiff which they copied to the second defendant with a letter requesting them to respond. To this, he tendered copies of the letters dated 18.11.2011 and 14.6.2012 from Luqman to Managing Director of MORUWASA which were collectively marked as Exh. D1.

He went on to tell this court that the reply from the second defendant (MORUWASA) was that they should give them some time to process the relief but until the date he was testifying, it was not yet processed. He went on to tell the court that he had personally served the third party notice to the second defendant upon an order of this court but she did not appear and that

if it happens that the first defendant is found liable, it is the second defendant who should be ordered to pay the claimed amount as VAT because he was the consumer of the services. Regarding the extra claims in respect of the allegedly unpaid invoice, it was his testimony that the same amount of Tsh. 7,100,000/= had been included in the paid 630 million. It was his averment that according to his understanding the government taxes were supposed to be paid and therefore MORUWASA as supposed to get the relief so that the plaintiff and defendant should not be burdened to pay the tax and for that reason MORUWASA should be ordered to pay the claimed amount.

In cross examination, he told this court that his company was not a tax exempt and therefore it was paying all Government taxes. He said that the first defendant had agreed to pay VAT for the supply from the plaintiff but did not and were not ready to pay the said VAT for the supplies from the plaintiff because it was the second defendant who was liable. Upon being referred to exhibits P4 and P5 it was his response that the second defendant was supposed to pay the said VAT. He went on to say that upon receipt of the proforma invoice from the plaintiff they were supposed to send them to the second defendant for processing the tax relief. He also said that the first defendant had issued the second defendant with the invoices for the whole project work including the pipes that were obtained from the plaintiff but their invoices did not include the VAT because the second defendant was tax exempt and further that in their claim to MORUWASA they never included the plaintiff's claim for VAT. He also told the court that normally their invoices were supposed to include VAT and thereafter MORUWASA could process the relief.

That is all in respect of the testimonies and evidence tendered by the respective witnesses. At the closure of their cases, counsel for the parties had sought for leave to file their closing submissions. They were accordingly allowed to do so by this court and I commend them for their compliance with the schedule. I have gone through their entire submissions and I appreciate their industry.

I will now deal with the issues in the order of their sequence. However, at the outset, I note that, the requirement for payment of VAT in respect of the supplies made by the plaintiff to the first defendant is not in dispute. Accordingly, the testimony and exhibits in relation to inclusion of the VAT returns in the fees chargeable for the supplies; that is, in the tax invoice which were admitted vide PW1 as Exh. P4 collectively, is also not disputed. What is at the centre of controversy here as far as the first and second issues are concerned relates to the actual payment of the said amount as VAT, as well as on whose shoulder the same should be placed.

In my view, these questions; that is, the first and the second issues are separate but interdependent. I say so because, upon affirming the first issue, then, in my considered view, the second will be easily answered, upon discovering as to who, between the plaintiff and the defendants is to bear the VAT charges. But if the first issue is negated, then the second one dies a natural death.

Before I delve into the testimonies of witnesses and exhibits, with regard to the issues, suffice to lay the basic foundation in so far as VAT is concerned. As the name suggests, Value Added Tax is a tax chargeable as an added value of a taxable supply of goods or services. As such the dictates of tax

laws particularly the Value Added Tax Act, have it that the said additional value tax is chargeable on the amount of the consideration of a supply of goods or services - see section 13. As per sections 3 (1), 4 (1) read together with sections 17 (1) and 24, the said amount of tax is collected, accounted for and remitted to the responsible authority; the Tanzania Revenue Authority, by the supplier of the particular goods or services. In that accord therefore, both business practice and law have it that the consideration or price payable in respect of the goods or services supplied and received includes the component of VAT - see regulation 9 (3) (c) of the he Value Added Tax (General) Regulations - GNs Nos. 177 of 1998 and 366 of 2000. Apparently, said tax is chargeable on the receiver and or beneficiary of the services and or goods supplied such as the first defendant in this case. I say the first defendant because, the supplies of the said goods which is not disputed was made to the first defendant.

Consequently, the law requires that, upon charging such VAT on the supplies made, be it of goods or services, the taxable person or supplier, must issue or provide the beneficiary of the goods or services receipt of such goods or services with tax invoices containing information about the supply made, recipient thereof and amount of the VAT - see section 29.

As intimated earlier, the amount collected during any accounting period must be remitted or returned to the responsible Authority. In terms of section 26 (1), the said tax return is lodged or made through a prescribed form containing information relating to the supply of goods on services by such a person; the accounting person.

In my view, the above background lays a foundation sufficient to deal with the dispute before me. Thus, in so far as VAT is concerned, the law has it that it is payable on every supply made by such supplier and that the said amount is indirectly payable by recipient of the goods or services as part of consideration or purchase price.

Clearly therefore, the law imposes such taxes on the recipient of the services or goods and not the supplier, though the latter is duty bound to account for, collect, and remit the same to the revenue collection authority vide the prescribed forms.

With the totality of the foregoing as a sieve, I will throw them onto the pleadings, testimonies and exhibits tendered so as to establish the veracity or otherwise of the claims.

In respect of the first issue, as to whether the plaintiff paid a total of Tshs. 120,696,021/= as VAT, PW1; the plaintiff's Credit Controller tendered in evidence a bundle of 12 tax invoices and one delivery note which were admitted and marked as Exh. P4 collectively. On the face of the said invoices, indeed, they materially conform to the prescription under the law; that is, section 29 (1) read together with regulation 9 of the General Regulations. I have keenly studied the same, and found that they bear a total of Tshs. 113,532,311/= as total of VAT chargeable in respect of the goods supplied by the plaintiff to the first defendant. Let the said invoices speak for themselves here:

S/No.	Date	Inv. No	VAT (18%)
1.	29.11.2010	TINV001540/10	15,513,469.92
2.	29.11.2010	TINV001541/10	11,632,896.00
3.	2.12.2010	TINV001558/10	11,001,960.00
4.	2.12.2010	TINV001559/10	9,410,418.00
5.	3.12.2010	DTINV001560/10	975,780.00
6.	6.12.2010	TINV001567/10	13,444,920.00
7.	7.12.2010	TINV001571/10	9,343,080.00
8.	8.12.2010	TINV001576/10	13,367,026.08
9.	10.12.2010	TINV001578/10	9,207,898.56
10.	13.12.2010	TINV001589/10	2,803,410.00
11.	13.12.2010	TNV001587/10	10,110,817.44
12.	17.12.2010	TINV001610/10	2,835,630.00
13.	22.12.2010	TINV001616/10	3,874,905.00
		TOTAL	**113,532,311.00**

PW1 stated that the first defendant had paid the purchase price in exclusion of the VAT amount. It was her testimony that the plaintiff had made returns to the TRA and had indeed paid the said amount as VAT. In this respect, she tendered Bill-wise details and ledger accounts (collectively Exh. P6) to show the amount paid to the plaintiff by the defendant as well as the Tax Returns Forms accompanied by a list of invoices in respect of the payments received for the months of November and December, 2010 as well as January, 2011. This witness went on to tender one tax invoice dated 11.01.2011 with No. TINV0023/11 whose VAT amount was Tshs. 1,094,310/= and the total value

for the supplies being 6,079,500/= making a total of Tshs. 7,173,810 claimed to be an amount outstanding.

On being cross-examined, it was her testimony that the said tax returns indicated amount of VAT paid in respect of supplies made for the first defendant and that plaintiff could not demand payment of VAT from second defendant because the goods were supplied to the first defendant.

The learned counsel for the defendant has all along, through his line of cross-examination and final submission, been attempting to dispute the plaintiff's payment of the said VAT in respect of the supplies to the first defendant. Contrary thereto however, I find this issue to have been answered affirmatively through the evidence of the tax returns (exh. P4 collectively). As rightly stated by PW2 during cross-examination, since there were no claims maintained by TRA in respect of the plaintiffs Tax responsibilities, and further in the absence of any other better evidence by the defendant to counter the said tax returns filed to TRA by the plaintiff, nothing can be affirmatively said to disprove the fact that indeed the said amount was remitted to TRA in respect of the said supplies to the first defendant.

Counsel for the defendant endeavored to challenge the returns on the reasons that there is no specific reference to the returns in respect of the supplies made to the first defendant and rather it refers to the general supplies. However, there are attached lists of the items supplied to the defendant as well as the amount of VAT paid corresponding to the respective tax invoices. The first defendant has not in any way attempted to counter that too. That apart, as can be gathered from the written statement of defence, the defendant, in the main, does not categorically dispute the fact

that the plaintiff paid the said VAT but rather states that it was a rush to come to court demanding for the payment while they were still waiting for processing the tax exemption by the second defendant. For these reasons the first issues is answered in the affirmative.

As to the second issue, on the basis of the law as elaborated hereinabove together with PW2's testimony, the plaintiff has the right to recover the amount paid to TRA from first defendant. This is apparently because the first defendant was the recipient of the goods. Thus, despite the fact that the said supplies were in respect of the project for the second defendant, as rightly stated by PW1, the sale contract was between the first defendant and the plaintiff and therefore there was no possibility for the plaintiff to demand neither purchase price nor VAT from the second defendant.

In the light of the exposition above and as elaborately said by PW2, if the first defendant wanted to be released from payment of the said VAT, it should have seen to it that the procedure for VAT exemption was complied with. Thus, in my view, delay or otherwise failure to obtain exemption, whether caused by MORUWASA or TRA, cannot be a basis to exonerate her and instead impose the liability on the plaintiff. Thus, the second issue is answered in the affirmative as well.

As to the third issue, the same must be answered in the affirmative too. The defendant endeavoured to state that the claimed amount through invoice No. TINV0023/11 dated 11.01.2011 whose VAT amount was Tshs. 1,094,310/= and the total value of Tshs. 7,173,810/= was included in the Tshs. 630 Million paid. However, despite such mere statement, there was no concrete proof to counter the said invoice which was tendered in court. There is no detailed

account of how payment was made to the plaintiff particularizing the said amount as inclusive in the said 630 Million which was paid without VAT. That apart, the first defendant admits through its pleadings as well as the testimony of DW1 that they only paid the purchase price of the goods supplied without VAT. The question which they did not answer is how come they included this amount which was the purchase price plus the VAT thereof? Or why was it not expressly stated in its pleadings and or testimony that the said amount paid to the plaintiff included partly the VAT in respect of that invoice? The learned counsel for the defendant attempted to discredit this piece of evidence on the basis that there was no corresponding delivery note. However, the testimony by DW1 to the effect that the said amount was included in the already paid amount without VAT and further lack of evidence to prove non-delivery of the materials in respect of the said invoice suffice to vindicate my affirmative answer to this third issue.

In sum therefore, it can be put thus, on the basis of the pleadings, testimony, exhibits and in the light of the law, it is evident that:

1) The plaintiff paid a total of Tshs. 120,696,021/= as VAT for the goods it supplied to the first Defendant;
2) The Plaintiff has a right to recover the said amount from the first defendant as a beneficiary/receiver of the goods supplied in terms of the Value Added Tax Act; and
3) There is an outstanding payment in respect of TINV-0023/11 for Tshs. 7,173,810 which is the purchase price including VAT thereof.

Coming to the last issue, the plaintiff has put up a total of six prayers in his plaint. At the outset, the 6th one was a mere chorus, for in my view, there is

no any other relief I deem fit to grant. However, having affirmatively found, as I have hereinabove for the first, second and third issues, the plaintiff is entitled to costs of this suit. Therefore the plaintiff fifth prayer is granted as prayed.

That notwithstanding, I am alive to the principle that general damages are awardable at the discretion of the Court. In this case, the fact that the plaintiff had to utilize its monies which was obviously part of her proceeds to discharge the first defendant's statutory obligations, the consequent failure to re-cycle such proceed is lucid. It is a ground sufficient for this court to exercise its discretion to award general damages. I find an amount of Tshs. 5,000,000/= to be adequate for that matter. The rest of the prayers are also granted as prayed; that is, the plaintiff is entitled to recover the Tshs. 120,696,021/= from the first defendant as well as interest thereon at the commercial rate of 19% from the date of filing this suit to the date of judgment and at court rate of 7% from the date of this judgment to the date full and final satisfaction, both interests being on the principal sum and the decretal sum respectively.

The first defendant through DW1 has stated that should it be found liable as I have found hereinabove, then it is the second defendant that should be ordered to pay the said amount. I refrain from entertaining such a rather afterthought request for the very reason that the sale contract was between the plaintiff and the first defendant and as such, the latter was duty bound to pay the VAT as required by the law. Any further arrangements as between the second defendant and its client in so far as statutory obligations are concerned remained a matter in their undertaking which has nothing to do

with the plaintiff's obligations to collect, account for and remit the taxes charged for the supplies made within a month.

That apart, it is clear from the testimony by DW1 that the first defendant knew it was duty bound to pay the VAT in respect of the purchases from the plaintiff. Despite being so aware, it was the testimony of DW1 that they have never invoiced their client; the second defendant including the VAT charges on the goods supplied by the plaintiff despite the invoices sent including all charges of the contract works. His response was that they did not include the VAT because they knew that the second defendant was VAT exempt. The question would be that if they so knew, then from whence can the same be subjected to payment of the claimed amount to the plaintiff.

As elaborated by PW2, if at all the first defendant is desirous of recouping such amount, it has a right to claim the same from them as a refund upon fulfilling the requirements for tax exemption in respect of the service that it had rendered to the second defendant. Otherwise, as the matter stands, it is liable to the plaintiff's claim to the extent explained hereinabove.

In fine therefore, I proceed to enter judgment for the plaintiff and pronounce thus:

1. The first defendant shall pay the plaintiff a total of Tshs. 120,696,021/= as an amount paid to TRA as VAT plus an amount outstanding for the invoice numberTINV-0023/11;
2. The first defendant shall pay the plaintiff interest on the principal sum above at the rate of 19% per annum from the date of filing this suit to the date of judgment;

3. The first defendant shall pay the plaintiff a further interest on the decretal sum at the court rate of 7% from the date of this judgment till final and full satisfaction;
4. The first defendant shall pay the plaintiff Tshs. 5,000,000/= as general damages; and
5. The first defendant shall pay the plaintiff costs of this suit.

Order accordingly.

DATED at DAR ES SALAAM this 26th day of May, 2016.

J. C. M. MWAMBEGELE
JUDGE