

6 May 2008

Taxation No. 5 of 2008; Reference No. 1 of 2007

EAST AFRICAN COURT OF JUSTICE

JAMES KATABAZI AND 21 OTHERS

v.

SECRETARY GENERAL OF THE EAST AFRICAN COMMUNITY AND THE
ATTORNEY-GENERAL OF THE REPUBLIC OF UGANDA

RULING

BEFORE: TAXING OFFICER: Dr. John Eudes Ruhangisa

Citation: James Katabazi and 21 others v. Secretary General of the East African
Community, Tax. No. 5, Ref. No. 1, Ruling (EACJ, May 6, 2008)

DR. J. E. RUHANGISA, TAXING OFFICER

[1] In this Bill of Cost filed by Mr. Geoffrey Komakech learned Counsel for the Applicant, a total of USD 176,000 including tax is claimed as cost incurred by the Applicants in the course of conducting the suit Reference No.1 of 2007. Out of that total amount, Item 1 in the Bill of Cost presents a claim of USD 140,000 being destruction fees; USD 547 in Items 2 to 23 relate to professional charges whereas a claim of USD 8,864 as reflected in Items 24 to 61 relate to disbursements. On the all, the claims brought against the Attorney-General of the Republic of Uganda relate to the time invested in the preparation work done by the advocates and the nature of the case in terms of clarity, magnitude and peculiarity.

[2] In this matter, Mr. Henry Oluka, the Counsel for the Respondents, represented the respondents in opposing the figure of USD 140,000 in Item 1 of the bill as an arbitral one. The basis of his argument was that the Bill of Cost did not abide by the rules governing the awards of cost in taxation that are well established in Premchand Raichand Ltd and Another Vs Quarry Services of East Africa Ltd and Others [1972] EA 162, which was also followed in a reference of the Supreme Court of Uganda in Civil Application No.23 of 1999. He thus requested that the cost be kept 'to a level that is reasonable, affordable and do not deter anybody from the East African States' from seeking justice from the Court and at the same time be proportionate for purposes of remunerating any advocate.

[3] Against this background, Mr. Oluka found the figure of USD 9,411, which is the sum total of all professional charges, disbursement and miscellaneous costs in items 2 to 61 of the Applicants Bill of Cost to be a very fair figure to the Applicants. It must be appreciate that Mr. Oluka was not ignorant of the fact that there were 22 Applicants, all of whom are

party to Reference No.1 of 2007; he therefore, requested that the Applicant accept a figure of USD 50,000 as reasonable instruction fee plus the miscellaneous cost of USD 9,411 fee.

[4] Mr. Komakech, Counsel for the Applicants accepted the proposal by Mr. Oluca for the award of USD 59,411 as a fair amount in a spirit to resolve the matter amicably thus saving the Court's time. I also find USD 59,411 a reasonable amount representing the cost reasonably incurred by the Applicant in prosecuting their case. Given that the above figure is ordinarily considered a source of income, VAT has to be leveled on it at a rate of 18 per cent. That said, 18 per cent of USD 59,411 works out to be USD 10,694. Therefore, in total this Bill is taxed at USD 70,185 only. It is so taxed.

Dated at Arusha this day of 2008

8th May 2008

DR. JOHN EUDES RUHANGISA

TAXING OFFICER