

REPUBLIC OF KENYA

IN THE TAX APPEALS TRIBUNAL

APPEAL NO. 197 OF 2015

BETWEEN

NYERI WATER AND SEWERAGE COMPANY LIMITED....APPELLANT

AND

THE COMMISSIONER OF DOMESTIC TAXESRESPONDENT

RULING

When this Appeal was first called out at 9.15 a.m. this morning during the call over the Appellant did not appear, the Respondent appeared with a large team ready to proceed for hearing, directions were given at that point that the Appeal would proceed later. It is now 12.47 p.m. the Appeal having been called out and there is still no appearance for the Appellant.

When the Appeal was initially called out in the morning the registry brought to the attention of the, Tribunal a letter purportedly written by the firm of Sichangi & Co. Advocates on the 23rd March, 2016 requesting that this matter be taken out of today's cause list as the advocate who was to deal with this matter was not able to attend the hearing.

The Tribunal takes great exception to the letter, disregards the contents thereto entirely and wishes to point out for the record that adjournment of Appeals cannot be done by mere letters. Before the matter could proceed, the Respondent applied for the Appeal to be dismissed and for costs to be paid for the reason that four officers who were coming

to participate in the Appeal namely Mr. Majiwa, Mr. Koome, Ms. Mwendu and Ms. Njambi travelled from Nyeri yesterday and spent a night in Nairobi ready for the Appeal to proceed this morning.

The Tribunal having considered this application very carefully and in obedience to *Section 27(2)* of the Tax Appeals Tribunal Act and *Rule 11(1)* of the Tax Appeals Tribunal Rules it is of the considered view that the Respondent's application is merited with the result that this Appeal is dismissed.

The Tribunal further orders that the Appellant pay the Respondent the sum of Kshs. 45,000/= which sum of money should be paid within fourteen (14) days from the date hereof and a sum of Kshs. 20,000/= to the Tribunal.

These are the orders of the Tribunal.

Dated and delivered in Nairobi this 7th day of April, 2016.

A.G.N KAMAU (CHAIRMAN)

JOSEPHINE K. MAANGI

OMAR J. MOHAMMED

PONANGIP ALII R. RAO

WILFRED N. GICHUKI