



**IN THE EAST AFRICAN COURT OF JUSTICE-FIRST INSTANCE DIVISION
AT ARUSHA**

**TAXATION CAUSE NUMBER 2 OF 2013
(Originating from Reference No. 1 of 2010)**

ELECTORAL COMMISSION OF UGANDA.....APPLICANT

Versus

HON. SITENDA SEBALU.....RESPONDENT

AND

**TAXATION CAUSE NUMNER 3 OF 2013
(Originating from Application No. 2 of 2012)**

ELECTORAL COMMISSION OF UGANDA.....APPLICANT

Versus

HON. SITENDA SEBALU.....RESPONDENT

RULING

DATE: 20TH MARCH, 2015

PROF. JOHN EUDES RUHANGISA, TAXING OFFICER

This ruling is in respect of two bills of costs filed by the Applicant herein who featured as Respondent in Reference No. 1 of 2010 and as Applicant in Application No. 2 of 2012. The Court in its judgment in Reference No. 1 of 2010 dated 30th June, 2011 struck of the 3rd and 4th Respondents, that is, Hon. Sam Njuba and Electoral Commission of Uganda, the latter who is the Applicant herein and directed that the Applicant in the Reference, who is the Respondent in

this taxation pay their costs. The Applicant in the Reference who is also the respondent in this taxation was as well awarded costs to be paid by the 1st and 2nd Respondents in the Reference, whose bill was filed and taxed by the Registrar in Taxation Cause No. 1 of 2011 *Hon. Sitenda Sebalu Vs The Secretary General of the East African Community and Attorney General of the Republic of Uganda*.

Taxation Cause No. 3 of 2013 arises from an Application No. 2 of 2012 filed by the Applicant Electoral Commission of Uganda, which was for extension of time to file his bill of costs. At the hearing of the Application on 28th March, 2012 the Respondent made an oral application for leave to file affidavits out of time and be allowed to file supplementary affidavits. By my ruling delivered on 8th June, 2012 the application for leave to file affidavits out of time and allow filling supplementary affidavits was dismissed. I further ordered that Applications number 1 and 2 of 2012 proceed for hearing without the affidavits on record and that costs out of the oral applications should be borne by the oral applicant/respondent, that is, Hon. Sitenda Sebalu.

Having given the background of these bills I would like to make the following observation. These Bills of Costs were filed following an application extension of time filed by the applicants on 29th February, 2012 on grounds that there was no effective demand for the Bill of Costs within the meaning of rule 2(2) of the taxation of costs rules and that the letter of demand was a nullity. The Respondent herein had written a letter of demand to The Secretary, Electoral Commission of Uganda. The application was opposed and I delivered a ruling on 12th February, 2013 allowing the Applicant to file its bill of costs within 14 days. On 25th

February 2013 the Applicant filed these bills of costs and they were heard together on the 29th of August 2013. I directed that I will deliver a ruling on notice.

Before I could deliver my ruling that I had written and ready to deliver in the consolidated Taxation Numbers 1, 2 and 3 of 2013, the parties by letter dated and filed on 28th January, 2014 by Semuyaba, Iga & Company Advocates filed a consent settling the matter at USD 12,000. The parties agreed that:

1. The Respondent's bills of costs in **TAXATION CAUSE NO. 02 AND 03 OF 2013** are hereby amicably settled at **USD 12, 000** as full and final settlement of ALL the claims of costs and all disbursements in this matter within a period of six months.
2. The Respondent shall not lay any further claims against the applicant after this consent order AND the matter is mutually compromised outside Court

As stated earlier the agreement between the parties was reached at the time I had already prepared the ruling awaiting delivery at a convenient date. I am tempted to say that the parties conduct in this matter was in abuse of the courts process as they should not have taken the court through all this process if they all along had the intention or seen a possibility of settling this matter out of court. The parties have wasted the courts time and resources only to settle this matter after the conclusion of the hearing.

It is not in the Courts interest to have the parties remain in dispute where they have come to an agreement. The Court has always encouraged parties to settle matters out of court and this is one of those cases where the parties have taken the initiative, although after the hearing had been conducted, to settle the matter out of court. It is against this background that the Court registered the settlement as agreed by the parties.

I therefore record the consent in the agreed terms as follows:

- (a) the Bills of Costs in Taxation Cause No. 2 and 3 of 2013 are hereby amicably settled at **USD 12, 000** and the applicant shall pay the Respondent in the Taxation Causes shall pay the Applicant in the Taxation Causes **USD 12, 000** as full and final settlement of ALL the claims of costs and all disbursements in this matter within a period of six months.
- (b) The Applicant herein shall not lay any further claims against the applicant after this order and the matter has been mutually compromised out of court.

It is so ordered.

Dated at Arusha this 20th day of March, 2015

PROF. JOHN EUDES RUHANGISA
TAXING OFFICER