

LEGAL UPDATE – Court of Appeal confirms that TRA “other decisions” and “omissions” under the Tax Administration Act are appealable to the Tax Revenue Appeals Board: *Wilbert Basilius Kapinga v Commissioner General, TRA* (Civil Appeal No. 145 of 2022) (delivered 5 February 2026)

In *Kapinga*, the Court of Appeal overturned decisions of the Tax Revenue Appeals Board (“the Board”) and the Tax Revenue Appeals Tribunal (“TRAT”) that had declined jurisdiction on the basis that the dispute did not arise from a completed “objection decision” on a tax assessment. The Court’s central clarification is that, under the then section 53(1) of the Tax Administration Act, a taxpayer may appeal to the Board not only against an objection decision, but also against an “other decision” and an “omission” by the Commissioner General under that Part.

Background and the jurisdiction objection

The dispute arose from a jeopardy income tax assessment issued to Wallis Trading Inc. (a non-resident company), with Mr. Kapinga copied as a purported local representative/dependent agent. Mr. Kapinga denied that capacity, lodged an objection and simultaneously applied for waiver of the statutory payment condition for admission of the objection.

TRA responded by a letter rejecting the waiver on the ground that the waiver application had been filed out of time, and the taxpayer attempted to challenge that position before the Board.

Before the Board, TRA raised a preliminary objection that the Board lacked jurisdiction because a waiver refusal is not a decision “on an objection to tax.”

The Board upheld that objection; the TRAT agreed, reasoning (among other things) that even if there had been delay, it could not amount to an “omission” appealable under section 53(1), and treating prior Court of Appeal decisions in *Pan African Energy Tanzania Limited* as binding authority that only objection decisions are appealable.

The Court of Appeal’s decision

The Court rejected the proposition that the Commissioner General enjoys unfettered discretion to “sit” on waiver applications or objections without timeline discipline, emphasising that public officers are required to decide within a reasonable time or within prescribed statutory timeframes.

It further held that non-compliance with mandatory timelines is a breach of statute that should not be excused as a matter of “impunity and immunity.”

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Critically, the Court anchored its holding in the plain wording of the then section 53(1), which expressly allows an appeal by a person “aggrieved by an objection decision or other decision or omission of the Commissioner General under this part.”

The Court agreed with the appellant’s submission that the statutory scheme therefore recognises three appealable categories—objection decisions, other decisions, and omissions—and that an omission to determine a waiver application within the period specified by law can be challenged by way of appeal to the Board.

On precedent, the Court held that the lower fora overstated the precedential value of the *Pan African Energy* line and failed to read those decisions in their proper factual and statutory context.

The Court expressly cautioned against adopting an interpretation that would “lock out” taxpayers from the Board where grievances arise from TRA delay or inaction, and noted that such an outcome would be inconsistent with the statutory right to object and appeal.

It also clarified that those earlier decisions were not intended to establish a blanket rule that the Board has no jurisdiction over grievances concerning inactions/omissions unless an objection decision already exists.

Disposition

The appeal was allowed with costs; the decisions of the Board and the TRAT were quashed and set aside; and the Board was directed to hear and determine the matter on the merits expeditiously.

Why this matters in practice

First, *Kapinga* materially strengthens taxpayer access to the statutory dispute-resolution architecture where the complaint is procedural delay or inaction by TRA under the objection/waiver framework. The decision is also a direct signal that “jurisdictional objections” should not be used to defeat remedies where the legislature has expressly recognised “other decisions” and “omissions” as appealable triggers.

Second, the Court’s reasoning reinforces that statutory timelines and timely decision-making are not merely administrative preferences; they are integral to public accountability and tax administrative efficiency. This framing provides a principled basis for challenging excessive delays and for resisting arguments that delayed decisions remain immune from scrutiny simply because they were eventually issued.

Third, the judgment is a practical authority to cite where a taxpayer is kept “in limbo” by delayed waiver decisions or delayed action on steps that are statutorily required under the same Part of the Tax Administration Act. The Court was explicit that it is not in the domain of TRA to keep taxpayers in suspense with no clear timeline for resolution.