Commissioner of Domestic Taxes v Jakoline Enterprises Limited (Income Tax Appeal E016 of 2024) [2026] KEHC 11141 (KLR)

High Court reaffirms the taxpayer's evidential burden in tax disputes

August 2026

Background

The Commissioner of Domestic Taxes conducted a desk audit of Jakoline Enterprises Limited's Income Tax and VAT affairs for the period 2017 to 2020. During the audit, KRA identified material variances between purchases declared in the taxpayer's Corporation Tax returns and those declared in its VAT returns, leading to additional assessments of approximately KES 29.2 million

The taxpayer objected to the assessments and provided various bank statements, invoices and electronic records in support of its position. Following confirmation of the assessments by the Commissioner, the taxpayer appealed the decision to the Tax Appeals Tribunal.

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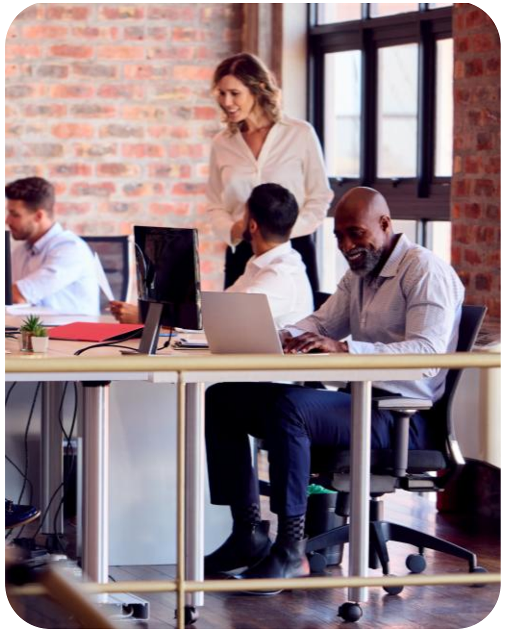
Brief background of the case at the Tax Appeals Tribunal (TAT)

- The Tribunal ruled in favor of the taxpayer and set aside the assessments.

- In reaching its decision, the Tribunal concluded that the taxpayer had discharged its burden of proof by providing substantial documentary records, including bulk electronic files and bank statements. The Tribunal further held that it was incumbent upon the Commissioner to trace and analyse the information provided.



Brief background of the case at the High Court

- The Commissioner appealed the Tribunal's decision.

- The Commissioner argued that the taxpayer had failed to specifically reconcile the identified variances or provide relevant documentation supporting the transactions under review. Instead, the taxpayer provided voluminous records that neither addressed the discrepancies identified nor demonstrated the correctness of the tax position adopted. The High Court agreed with the Commissioner and overturned the Tribunal's decision, reinstating the assessments in full.

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The High Court's Key Findings

1. The taxpayer bears the burden of proof

The Court reaffirmed that under Section 56(1) of the Tax Procedures Act and Section 30 of the Tax Appeals Tribunal Act, the burden of proof rests on the taxpayer to prove that an assessment is incorrect. The Court emphasized that a taxpayer must do more than merely challenge an assessment; it must positively demonstrate why the assessment is wrong.

2. Not all documentation is good documentation

A key feature of the judgment is the Court's distinction between the existence of documents and the evidential value of documents. The taxpayer had provided large volumes of invoices and bank records. However, the Court noted that some of the invoices related to periods that were not under review and that the taxpayer failed to provide reconciliations linking the records to the variances identified by KRA.
The Court therefore found that the documentation provided was insufficient to discharge the taxpayer's burden of proof.

3. The Commissioner is not a forensic accountant

The Court held that where KRA identifies a discrepancy, the taxpayer must provide a clear, specific and properly indexed explanation supported by relevant documentary evidence.

Why this decision matters

1. Documentation must answer the specific issue raised
Many taxpayers assume that producing thousands of pages of records is sufficient to satisfy KRA's inquiry. The decision confirms that the relevant question is not the volume/quantum of records produced, but whether the records directly address the issue under dispute.

2. Reconciliations are as important as source documents
Invoices, bank statements and ledgers may not be enough on their own. Taxpayers should be able to demonstrate:

- how transactions flow through their accounting records;
- how variances arose;
- how amounts reported in returns were derived; and
- how supporting documentation ties back to the tax position adopted.

3. The burden does not shift simply because documents have been submitted
The Court reaffirmed that the presumption of correctness attaching to KRA assessments remains intact until a taxpayer provides competent and relevant evidence capable of rebutting the assessment.

Practical Lessons for taxpayers

- Focus on the relevance of documents, not merely the volume.
- Provide indexed and organized records during tax audits.
- Prepare reconciliation schedules addressing specific KRA queries.
- Ensure supporting documentation aligns with the tax period under review and a justification where records cover cross-periods.
- Maintain a clear audit trail linking transactions, accounting records and tax filings.
- Remember that KRA is not responsible for reconstructing a taxpayer's case from unstructured records.

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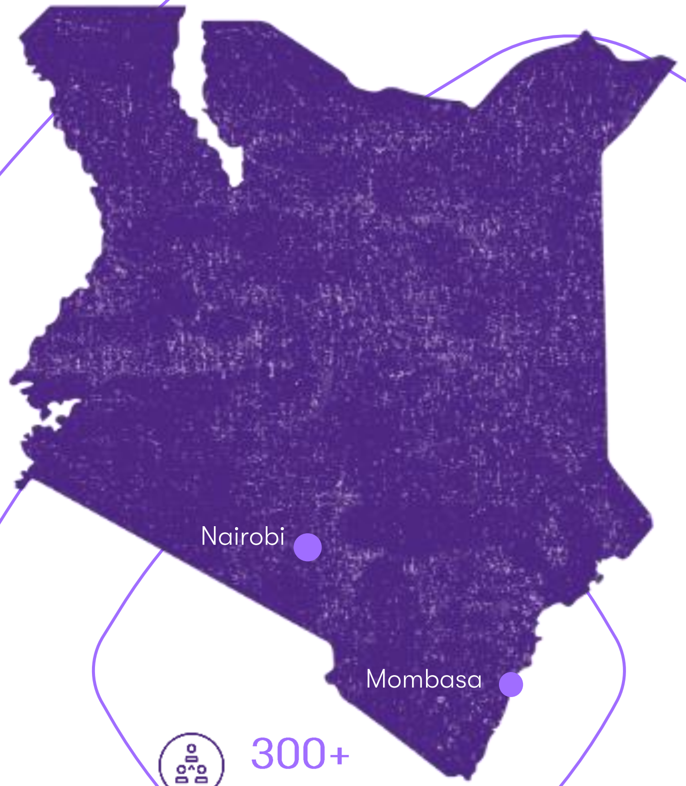

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