



IN THE REVENUE APPEALS TRIBUNAL
PRINCIPAL REGISTRY
APPEAL NO. 2 OF 2026



IN THE MATTER BETWEEN

MINET MALAWI INSURANCE BROKERS LIMITED.....APPLICANT

- AND

COMMISSIONER GENERAL.....RESPONDENT

CORAM : H/H T.J. Chirwa
Maziko Sauti-Phiri, SC, for the Applicant
Counsel Linda Kambuwa, for the Respondent

RULING

1. Background

- 1.1. This ruling disposes of an application from the Applicant, brought under **Rule 12 of the Revenue Appeals Tribunal (Procedure) Rules**, for an extension of time within which to file a notice of appeal in this matter.
- 1.2. This application was filed on 16th January 2026. It is supported by a sworn statement of that day, and an additional sworn statement filed on 21st January 2026, of one Agness Grace Kamwiyo, the Applicant's Finance Manager.
- 1.3. The Respondent opposed it through a sworn statement of its Tax Dispute Resolution Officer, Maureen Ntopi Banda, filed on 20th January 2026.
- 1.4. It was first scheduled to be heard on 22nd January 2026. It was adjourned to, and took place on, 29th January 2026.
- 1.5. As may be gathered from the sworn statements of the parties, facts relevant to this application are that:
 - 1.5.1. On 30th June 2025, the Respondent conducted an audit on the Applicant, an insurance brokerage firm operating in this country, covering its

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'Corporate Income Tax' for the period extending from January 2020 to December 2023 which made some findings on the treatment of 'Expected Credit Losses' (ECLs) by the Applicant in its financial statements. The audit determined that the Applicant was liable to pay tax amounting to K64, 453, 897.19, ECLs that had wrongly been treated as deductible expenses.

- 1.5.2. Dissatisfied, the Applicant, on 25th July 2025, filed with the Respondent an objection to that tax decision. The Respondent entirely dismissed it by way of a letter dated 19th September 2025, received by the Applicant on 6th October 2025. This letter advised the Applicant to appeal to the Tribunal, if dissatisfied with this decision, within 30 days from the date of its receipt in line with section 59 of the Tax Administration Act.
- 1.5.3. On 20th October 2025, the Respondent was served with a letter from the Applicant, dated 16th October 2025, requesting the Respondent to consider 6th October 2025, and not 19th September 2025, as the date of the tax decision herein (for purposes of computing time for lodging their appeal in this matter). The Respondent, through a letter dated 4th November 2025, accepted this request.
- 1.5.4. As of the 30th day from receipt of the objection decision, the Applicant had not lodged its appeal with the Tribunal.
- 1.5.5. The reasons given for their failure to do so were that: (i) the period for filing an appeal in this matter coincided with the busiest time in their business as insurance brokers (because of January insurance renewals), as well as with the onset of Christmas and New Year holidays, which negatively affected them in the preparation of grounds of appeal; and (ii) the issues in dispute, relating to treatment of ECLs under International Accounting Standards and under the Taxation Act, are complex and novel, requiring the Applicant to collate its historical tax returns and other supporting data, which consumed a lot of their time such that by 21st January 2026 the Applicant had not completed the preparation of grounds of appeal.

2. Issue for Determination

- 2.1. Whether time for filing an appeal should be extended in this matter.

3. Determination

- 3.1. The relevant statutory provisions governing a right of appeal to this Tribunal are found in **section 14 of the Revenue Appeals Tribunal Act (RATA)** as read with **rule 17 of the Revenue Appeals Tribunal (Procedure) Rules (the Rules)**.

- 3.2. As for extension of time within which to lodge an appeal, the relevant provisions are in **section 15 RATA** as read with **rule 12 of the Rules**.

A. Right to Appeal

- 3.3. Section 14(1) RATA provides that a person aggrieved by an objection decision of the Commissioner General may appeal to the Tribunal.
- 3.4. The use of the word *may* in section 14(1) of the Act is significant. It has ordinarily been understood to confer power, authority, privilege or right. It is a permissive or enabling expression. See *Sheffield Corpn v Luxford, Sheffield Corpn v Morrell* [1929] 2 KB 180 at 183 cited with approval in *Galaxy Broadcasting Company Limited v Misinde & Ors. (None)* [2016] MWHC 538 (3 July 2016).
- 3.5. Here, the word 'may' denotes that the statute confers a right upon an aggrieved person to approach the Tribunal. The provision is therefore permissive rather than mandatory.
- 3.6. An aggrieved person is not obligated to appeal. Rather, the person has the discretion to elect whether to invoke the appellate jurisdiction of the Tribunal.

B. Statutory Time for Lodging an Appeal

- 3.7. While the right to appeal is discretionary, the procedure for exercising that right is governed by mandatory statutory timelines.
- 3.8. Section 14(2)(b) RATA, as does rule 17(2) of the Rules, provides that a notice of appeal shall be lodged with the Tribunal within thirty (30) days upon receipt of the decision of the Commissioner General.
- 3.9. The use of the word *shall* in the cited provision connotes an obligation that must be complied with. It is commonplace that the word 'shall' expresses duty, obligation, requirement or condition precedent. See *Galaxy Broadcasting Company Limited v Misinde & Ors, supra*.
- 3.10. In our case, this word imposes a mandatory requirement that an appeal, where a party elects to pursue it, must be lodged within the prescribed period of thirty days.

C. Computation of Time

- 3.11. Under rule 11 of the Rules, the law states as follows:

(1) *Where an act is to be done within a specified period of time after or from a specified date, the number of days shall be calculated **by excluding the specified date** and including the last day of the specified period (emphasis supplied).*

(2) *Where the last day of the specified period falls on a Saturday, Sunday or a public holiday, the number of days shall be calculated by excluding –*

(a) the specified date; and

(b) the Saturday, Sunday or public holiday as the case may be.

3.12. With respect to time for lodging an appeal with the Tribunal, section 14(2)(b) of the Act is explicit on the point from which the statutory period begins to run. The thirty-day period is calculated from the date upon which an applicant/appellant receives the objection decision of the Commissioner General, and not from the date on which the decision is made.

3.13. In the present matter, the objection decision of the Commissioner General was made on 19th September 2025. However, it is not disputed that the decision was received by the Applicant on 6th October 2025.

3.14. Material before the Tribunal shows that, upon request from the Applicant, the Commissioner General accepted that 6th October 2025 be deemed as the operative date of the decision (for purposes of computing the time within which an appeal could be lodged before the Tribunal). The parties seem also to be agreed that the 30 days' period in this matter ended on 6th November 2025.

3.15. The Tribunal finds that while the position of the parties seems to be consistent with section 14(2)(b) of the Act which clearly ties the commencement of the thirty-day period to the receipt of the decision by the aggrieved party, Rule 11 of the Rules excludes the day of receipt of the decision from the computation of time. The rule also excludes the last day of the period where it falls on a Saturday, Sunday or public holiday, as the case may be.

3.16. Accordingly, the Tribunal finds that the 30 days' time in the present matter began to run on 7th October 2025 (not on 6th October 2025) and ended on 5th November 2025 (and not on 6th November 2025).

D. Extension of Time

(i) Statutory Framework

3.17. Under section 15 RATA, the law provides as follows:

(1) The Registrar may, upon application in writing, extend time prescribed under section 14(2) or (3).

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(2) *The extension of time under subsection (1) shall not exceed thirty days from the expiry of the time prescribed under section 14(2) or (3).*

(3) *An extension of time under subsection (1) may be granted owing to absence from Malawi, ill health, or any other reasonable cause that may have prevented the appellant from complying with provisions of sections 14(2) or 14 3".*

3.18. Further to this, Rule 12 of the Rules is in the following terms:

(1) *A party who intends to take any action after expiry of the time prescribed under the Act or these Rules shall file an application for extension of time with the Tribunal.*

(2) *The application under subrule (1) shall be supported by a sworn statement stating the reasons for the failure to take the action within the prescribed time.*

(3) *The party who files the application under subrule (1) shall serve the application on the other party within seven days of filing the application.*

(4) *Where the party served with an application under subrule (3) wishes to be heard on the application, the party shall, within fourteen days from the date of service, respond to the application by filing a sworn statement stating the reasons why the application should be refused.*

(5) *An application for extension of time filed under subrule (1) shall be heard by the Registrar or Deputy Registrar.*

(6) *The Registrar or Deputy Registrar may, if satisfied with the reasons given by the applicant, grant the application and order that the time be extended for such period as the Registrar or Deputy Registrar considers adequate in the circumstances of the particular case to enable the applicant to take the required action.*

(7) *The extension of time granted under subrule (6) shall not exceed the period prescribed for taking the action under the Act or these Rules.*

(i) ***Legal Authority to Determine an Application for Extension of Time***

3.19. At first glance, Rule 12(1) of our procedural rules refers to filing the application with the *Tribunal*, whereas section 15(1) RATA expressly provides that the *Registrar* may extend time. These provisions must be read harmoniously to give effect to the legislative intention embodied in the Act.

3.20. The Act is the parent statute governing the jurisdiction and powers of the Tribunal and its officers. Rules made under the Act are intended to regulate procedure and cannot override or contradict substantive provisions of the statute.

- 3.21. Section 15(1) of the Act expressly vests the power to extend time in the Registrar. The language of the provision is clear and unambiguous. It states that “the Registrar may... extend the time prescribed.” Accordingly, the statutory power to determine an application for extension of time lies with the Registrar.
- 3.22. Rule 12(1), properly interpreted, merely prescribes the procedural requirement that an application for extension of time must be filed with the Tribunal registry. It does not confer the power to determine such an application on the Tribunal as constituted by the Chairperson or Deputy Chairperson sitting with Members, as is the case in Uganda. See **Human Rights Focus v Uganda Revenue Authority (In the Tax Appeals Tribunal of Uganda sitting at Gulu, Miscellaneous Application No. 2 of 2022, unreported)**.
- 3.23. The effect of these provisions being read together is therefore that the application is filed with the Tribunal registry in accordance with the Rules; but the determination of the application is made by the Registrar pursuant to section 15(1) of the Act.
- 3.24. It follows that such applications are administrative or interlocutory matters falling within the statutory functions of the Registrar and not matters to be determined by the Tribunal sitting as a panel consisting of the Chairperson or Deputy Chairperson and Members.

(ii) *Nature of the Registrar’s Power*

- 3.25. Section 15(1) RATA provides that the Registrar may extend time. The use of the word *may* signifies that the Registrar is vested with discretion to grant or refuse the application. However, such discretion is not unfettered. It must be exercised judiciously and upon proper consideration of the circumstances of the case.
- 3.26. Courts have consistently held that the grant of extension of time is a discretionary remedy which must be exercised judicially and upon sufficient explanation for the delay.
- 3.27. The meaning of *exercising discretion judiciously* has been explained in several judicial authorities. In **Mbogo and Another v Shah [1968] EA 116**, the Court stated that judicial discretion must be exercised:

“...to avoid injustice or hardship resulting from accident, inadvertence, or excusable mistake or error, but it is not designed to assist a person who has deliberately sought to obstruct or delay the course of justice.”

- 3.28. Similarly, in **Baraka Apparel EPZ (K) Ltd v Rose Mbula Ojwang t/a Faida 2002 Carters Civil Appeal no. 280 [2007] eKLR**, the Court of Appeal of Kenya emphasised that discretion must be exercised on sound legal principles and not capriciously or arbitrarily.
- 3.29. The exercise of judicial discretion requires the decision-maker to consider relevant factors, disregard irrelevant considerations, and reach a decision that is fair and just in the circumstances.
- 3.30. Indeed, it is settled law that, to justify an extension of time, there must be material upon which a court or tribunal could exercise its discretion. In **Finding v. Finding (1939) 2 All E.R.173 at 177**, Henn Collins. J. said:
- “We are asked by the appellant to extend an indulgence to him. The court can do that only on settled principles, the chief of which is that it has an absolute discretion in the matter. That discretion must be exercised judicially, and, having regard to certain not very sharply defined principles - necessarily not sharply defined, inasmuch as one is dealing with a question of discretion, which must vary with every case. As was pointed out by COTTON, L.J., in the passage which LANGTON, J., has read, one who asks the court to grant him that indulgence must show something which entitles him to the exercise of it. That something is, as a rule either lack of means, mistake, or accident. Those are only instances, and certainly they do not constitute an exhaustive list”.*
- 3.31. In **Ratnam v Cumarasamy & Anor - [1965] 1 MLJ 22**,¹ the Privy Council held that a court (tribunal) must be satisfied that the applicant has provided a satisfactory explanation for the failure to comply with the prescribed time. To justify an extension of time, there must be material upon which a court (or tribunal) could exercise its jurisdiction, for otherwise a party in breach would have an unqualified right to an extension of time which would defeat the purpose of the rules which was to provide a timetable for the conduct of litigation. See also **Chiume v Attorney General [2001-2002] MLR 102 (SC)**.
- 3.32. And, in **Leo Sila Mutiso v Rose Hellen Wangari Mwangi Civil Appeal No. 27 of 2019**,² the Kenyan Court of Appeal held that in determining whether to extend time the court may consider factors such as the length of delay, the reason for the delay, and the possible merits of the intended appeal.

¹Available on [Ratnam v. Cumarasamy & Anor - \[1965\] 1 MLJ 22 Case Study Analysis - Studocu](#). Accessed on 22nd February 2026.

²Available on <https://new.kenyalaw.org/akn/ke/judgment/keca/2019/463/eng@2019-07-19/source>. Accessed on 22nd February 2026.

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3.33. Accordingly, in determining an application for extension of time, the Registrar must exercise his/her discretion in accordance with established legal principles and the demands of justice in each particular case.

(iii) Reasons for Granting an Extension of Time

3.34. Section 15(1) RATA empowers the Registrar to extend time for compliance with the provisions of section 14.

3.35. On the other hand, Rule 12(1) of the Rules provides for the procedure by which such an application may be made, while rule 12(2) requires that the application be supported by a sworn statement stating the reasons for the failure to act within the prescribed time.

3.36. The Tribunal observes that the Rules do not prescribe the nature or categories of reasons that may justify an extension of time. The Rules merely require that the reasons be disclosed on oath.

3.37. The substantive grounds upon which an extension of time may be granted are instead provided in section 15(3) of the Act, which states that an extension may be granted owing to –

- (a) absence from Malawi;
- (b) ill-health; or
- (c) any other reasonable cause that may have prevented the appellant from complying with the provisions of section 14.

3.38. It therefore follows that the permissible grounds for extension fall under the three heads specified in the Act.

3.39. The Tribunal particularly notes that the Act does not define what constitutes “any other reasonable cause.” The determination of whether a particular reason amounts to reasonable cause must therefore depend on the circumstances of each case.

3.40. The Tribunal considers that in determining whether “any other reasonable cause” has been established, it may properly consider matters such as –

- (a) the length of the delay, including whether it is inordinate;
- (b) the explanation offered for the delay;
- (c) whether the explanation demonstrates that the failure to comply was beyond the applicant’s control;
- (d) whether the applicant acted promptly once the impediment ceased; and

(e) the nature or novelty of the issues raised in the intended appeal, where such circumstances may reasonably have contributed to the delay.

3.41. These factors are not exhaustive but serve as useful guides in determining whether a particular explanation constitutes reasonable cause. The overriding consideration is whether, in the circumstances of the case, the interests of justice warrant the extension of time.

(f) Statutory Limits on Extension of Time

3.42. The power of the Registrar to extend time is provided under section 15(1) RATA.

3.43. The Act, however, places a clear statutory limitation on that power. Section 15(2) provides that:

“The extension of time under subsection (1) shall not exceed thirty days from the expiry of the time prescribed under section 14(2) or (3)” (emphasis supplied).

3.44. In addition, Rule 12(6) of the Rules provides that the Registrar or Deputy Registrar may, if satisfied with the reasons given by the applicant, grant the application and order that time be extended for such period as the Registrar or Deputy Registrar considers adequate in the circumstances of the particular case to enable the applicant take the required action. Rule 12(7) further provides that:

“The time granted under subrule (6) shall not exceed the period prescribed for taking the action under the Act or these Rules.”

3.45. The combined effect of section 15(2) of the Act and Rule 12(7) of the Rules is that the period of extension that may be granted by the Registrar cannot exceed 30 days.

3.46. Under section 14(2)(b) of the Act, the time prescribed for lodging a notice of appeal is thirty (30) days from the date of receipt of the objection decision of the Commissioner General. Accordingly, the Rules make it clear that any extension granted must not exceed that prescribed period.

3.47. The statutory framework therefore establishes the following position:

- (a) The original statutory period for lodging an appeal is 30 days from the date of receipt of the objection decision;
- (b) The Registrar may grant an extension of time where appropriate; and
- (c) The extended period cannot exceed 30 days.

- 3.48. The Registrar therefore retains discretion to extend time for any period less than thirty days, depending on what is considered adequate in the circumstances of the particular case. The extension needs not necessarily be for the full thirty days; it may be for a shorter period, provided that it remains within the statutory limit.
- 3.49. Now, section 15(2) provides that the extension of time shall not exceed thirty days from the expiry of the time prescribed under section 14(2) or (3). Two possible interpretations arise from this provision:
- (a) That the provision merely limits the duration of the extension that may be granted, such that the extended time granted must not go beyond thirty days from the expiry of the original period; or
 - (b) The provision not only limits the duration of the extension but also prescribes the date from which the extended period is to run.
- 3.50. Upon careful consideration, the second interpretation better accords with the wording and structure of the Act. Observably, section 15(2) does not expressly prescribe a time limit within which an application for extension must be filed. Rather, it limits the extent of the extension that may be granted. The provision therefore regulates, foremost, the duration of the extension, not necessarily the time for bringing the application.
- 3.51. Also, the language of section 15(2) makes it clear that the extension relates to the period “from the expiry of the time prescribed” under section 14. This means that the extended time operates immediately after the expiry of the initial thirty-day period, and the extension must be calculated from that point of expiry.
- 3.52. In practical terms, this creates a statutory structure consisting of:
- (a) The initial appeal period: 30 days from the date of receipt of the Commissioner General’s decision.
 - (b) The permissible extension period: A further period not exceeding 30 days, calculated from the expiry of the first 30 days.
- 3.53. Accordingly, the extended time granted must not run beyond thirty days after the expiry of the original appeal period.
- 3.54. Given the wording of section 15(2), the Registrar's power to extend time is statutorily capped such that the extended time cannot go beyond thirty days

from the expiry of the original appeal period. If an application were to be granted after the expiry of that second thirty-day period, the Registrar would be unable to grant an extension that complies with section 15(2), because any extension granted would necessarily operate beyond the statutory maximum period permitted by the Act.

- 3.55. As rightly argued by the Respondent, a tax statute requires strict interpretation. A court, and a tribunal by parity of reasoning, is supposed to look at what the law clearly states. Where words in a tax law are clear, there is no need to give it a general or purposive interpretation. See **Chibuku Products Limited v Malawi Revenue Authority, Civil Appeal No. 26 of 2015, High Court (Revenue Division)**.
- 3.56. Applying a strict interpretation to section 15(2) RATA, the effect is that once sixty days have elapsed from the date on which the appellant received the decision of the Commissioner General, the statutory window within which the Registrar may validly extend time closes.
- 3.57. Consequently, although the Act does not expressly state that an application must be filed within that period, the practical and legal effect of section 15(2) is that the Registrar cannot grant an extension once that outer limit has been exceeded. The Registrar therefore lacks jurisdiction to extend time after the expiry of the second thirty-day period.

(g) Treatment of the Tribunal's Earlier Position in CDH Investment Bank v Commissioner General, Appeal No. 3 of 2025

- 3.58. The Tribunal is mindful that in **CDH Investment Bank v Commissioner General**, it granted an application for extension of time for filing the grounds of appeal and directed that the extended period run for fourteen (14) days from the date of the Tribunal's order of 26 August 2025.
- 3.59. Upon closer consideration of the statutory framework, the Tribunal observes that section 15(2) RATA limits the extension of time that may be granted to a period not exceeding 30 days from the expiry of the prescribed time under section 14. Properly construed, therefore, any extension granted by the Tribunal must run from the date of expiry of the original statutory period, and not from the date of the Tribunal's order.
- 3.60. In a matter, the Supreme Court can adopt a position that departs from its earlier one on an identical question of law. It can hold that a precedent was made per incuriam, because it was made on an oversight of an important piece of law. This is exemplified by the case of **Mutharika & Anor. v Chilima & Anor. (MSCA Constitutional Appeal 1 of 2020) [2020] MWSC 1 (8 May 2020)** in

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which the Supreme Court disregarded its earlier decision in **Chakuamba and Others v Attorney General and Others [2000-2001] MLR 26 (SCA)** on an interpretation of the word 'majority' in section 80(2) of the Constitution of the Republic of Malawi.

- 3.61. By extension, this Tribunal, as is the High Court, can say its earlier decision was decided per incuriam and should not be followed. As such, to the extent that the order in **CDH Investment Bank v Commissioner General** directed that the extension run from the date of the order rather than from the expiry of the statutory period, the Tribunal accepts that the order was made per incuriam, as the statutory limitation in section 15(2) was not fully applied.
- 3.62. That said, the Tribunal notes that the applicant in that matter filed its grounds of appeal on 11th September 2025 in reliance on the Tribunal's order of 26th August 2025. In the interests of fairness, procedural certainty, and the orderly administration of justice, it would not be appropriate to invalidate procedural steps taken in compliance with an order of the Tribunal. The filing of the grounds of appeal in that matter was, and are, therefore, treated as regular considering Rule 10 of the Tribunal's procedural rules. This is more so considering that the Commissioner General did not file an appeal with the Chairperson or Deputy Chairperson against that order.
- 3.63. For avoidance of doubt, the Tribunal clarifies that going forward, where an extension of time is granted under section 15 of the Act, the extended period shall be computed from the date of expiry of the statutory time limit, and shall not exceed 30 days from that date. This clarification ensures fidelity to the statutory scheme while preserving the validity of procedural steps previously taken in reliance on the Tribunal's orders.

4. Disposal

The Tribunal therefore determines that:

- 4.1. The Registrar may extend time, depending on what is considered adequate in the circumstances of the case.
- 4.2. The extended period runs from the expiry of the original thirty-day appeal period, and the extension granted must not go beyond (but can be less than) thirty days after that expiry.
- 4.3. Once sixty days have elapsed from the date on which the appellant received the objection decision, the statutory limit under section 15(2) is exhausted, and the Registrar no longer has jurisdiction to extend time.

- 4.4. The Tribunal has no jurisdiction to extend period in this matter as sought by the Applicant. The original period for filing a notice of appeal run from 7th October 2025 to 5th November 2025; the next 30 days run thereafter to 5th December 2025. This application ought to have been made within that period.
- 4.5. The application herein is thus declined.
- 4.6. Any party aggrieved with this ruling may appeal to the Chairperson or Deputy Chairperson within 14 days from the date hereof, as is permitted under **section 6(3) RATA**.

So ordered.

This 13th day of March 2026 at Blantyre.



Timothy John Chirwa
Registrar

