



JUDGEMENT ON KIRIN PIPES LTD VS KRA : *In what circumstances can KRA deem all deposits into your bank account as income and therefore taxable?*

Kenya's tax regime operates on a self-assessment model, taxpayers calculate their own liabilities, file returns, and pay what they owe. The Kenya Revenue Authority (KRA), is not bound by this self assessment, drawing on any information available to it, including bank records, the KRA can issue additional assessments. When it does, the burden of proof shifts squarely onto the taxpayer to demonstrate why those assessments are wrong.

This principle was put to the test in the recent, **Kirin Pipes Ltd v. KRA**, which examined whether KRA was justified in deeming all bank deposits by the company as taxable income.

KRA conducted an investigation into Kirin Pipes Ltd.'s tax affairs for 2019–2022. Reconciling the company's declared turnover with deposits into its bank accounts, the Authority noted significant discrepancies. It proceeded to treat the entire sum of the bank credits as taxable income and raised additional tax assessments.

Kirin Pipes objected, arguing that the deposits included: Shareholder capital injections; Loan proceeds; Inter-account transfers; and Advance customer payments, later invoiced and declared.

The company explained that capital injections had been routed through Zhonghao Overseas

Construction Engineering Co. Ltd (China), and that it had also received a loan from Nanchang Municipal Engineering Development.

Kirin insisted that these were not taxable gains or profits under the Income Tax Act. It further argued that KRA was imposing an “unreasonably high and unsupported” evidentiary standard by demanding contracts and specific documentation. The company maintained that it had submitted a certificate of incorporation, bank swift confirmations, and financial statements that should have sufficed.

KRA, however, was not convinced. It argued that Kirin Pipes failed to discharge its burden of proof. Without concrete evidence linking the deposits to capital injections or verifiable loan terms, the Authority maintained that the monies were indistinguishable from taxable income.

The Tax Appeals Tribunal agreed with the KRA. It noted that while Kirin Pipes produced uncertified bank statements and swift confirmations, these could not without corroborating documentation prove that the deposits were capital injections. No shareholder resolutions, deposit analyses, or official company search (Form CR12) were presented to trace the funds back to actual shareholders.

The Tribunal was also skeptical about the loan from Nanchang. The loan agreement, it observed, was “open-ended”, interest-free, with no fixed repayment period. From 2019 to the time of assessment in 2024, Kirin Pipes did not provide any proof of repayments. The Tribunal concluded that such vague terms made it difficult to treat the amount as a bona fide loan.

Citing the case of *Alfred Kioko Muteti v Timothy Miheso & Another (2015) eKLR*, the Tribunal emphasized that “*a party can only discharge its burden upon adducing evidence... Merely making pleadings is not enough.*”

KRA has in the past flagged taxpayers who filed NIL returns yet went on to buy property. The inevitable question followed, *if you declared no income, where did the money come from?* Without a credible answer backed by documents, the deposits were treated as taxable income.

The lesson is clear, any money that lands in your bank account is fair game for taxation unless you can demonstrate, with solid evidence, that it isn't income.

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