

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
APPEAL NO 13 OF 2020

KEROCHE BREWERIES LIMITED APPELLANT
VERSUS
COMMISSIONER FOR DOMESTIC TAXES RESPONDENT

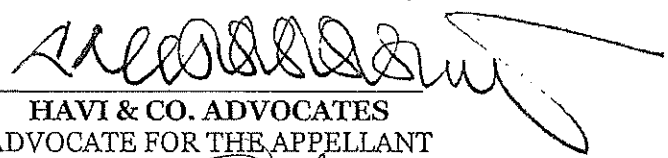
CONSENT

BY CONSENT OF THE PARTIES pursuant to the Alternative Dispute Resolution Agreement (the Agreement) dated 21st December, 2021 the Appeals Nairobi High Court Tax Appeal No. 12 of 2020 and No. 13 of 2020 shall be marked as settled under the following terms:

1. **THAT** the Excise Duty and VAT assessment on Vienna ice for the period January 2012 to February 2015 has been reviewed to KShs. 5,952,684,525 comprising of principal tax of KShs. 3,307,046,958 and interest of KShs. 2,645,637,567.
2. **THAT** the total principal Excise Duty and VAT liability on Vienna ice was KShs. 3,486,981,286 for the period January 2012 to February 2015, but the Appellant has already paid KShs. 179,934,327 which leaves an outstanding principal tax balance of KShs. 3,307,046,958.
3. **THAT** the assessment for the period 2002 to 2005 remains unchanged at KShs. 1,593,632,783 comprising of principal tax of KShs. 1,191,514,103, penalty of KShs. 66,903,401 and interest of KShs 335,215,279.
4. **THAT** the total outstanding and conceded to by the Appellant in respect to the issues in dispute under this agreement as detailed above is KShs. 7,546,317,309 comprising principal tax of KShs 4,498,561,062, penalty of KShs. 66,903,401 and interest of KShs. 2,980,852,846.
5. **THAT** out of the total outstanding principal tax balance detailed above amounting to KShs 4,498,561,062, the Appellant undertakes to pay the KShs. 500,000,000 in twenty four (24) equal monthly instalments on or before the 15th of every month commencing 15th January 2022 and ending 15th December 2023.
6. **THAT** the Appellant will be at liberty to apply for abandonment of the balance of the principal taxes of KShs. 3,998,561,062 in accordance with the law immediately upon execution of the ADR Agreement and in any case not later than one (1) month from the execution date.

7. THAT where the approval of the abandonment of taxes referred to in paragraph 6 above is not obtained within six (6) months from the date of execution of the ADR Agreement, the Respondent will be at liberty to enforce collection of the taxes in accordance with the law.
8. THAT the Appellant is at liberty to apply for remission of penalties of KShs. 66,903,401 and interest of KShs 2,980,852,846 immediately upon settlement in full of the total outstanding principal tax liability;
9. THAT in the event that the waiver of penalties and interest is not granted the Respondent shall be at liberty to enforce collection; and
10. THAT each party is to bear its cost.

DATED at NAIROBI this 26th Day of Jan., 2022


HVI & CO. ADVOCATES
ADVOCATE FOR THE APPELLANT


G.O. OCHIENG
ADVOCATE FOR THE RESPONDENT