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THE REPUBLIC OF UGANDA

ATTORNEY GENERAL'S CHAMBERS
P.O. BOX 7183
Kampala, Uganda

February 9, 2024

Permanent Secretary,
Ministry of Local Government,

The Executive Director, Kampala Capital City Authority,

The Chief Administrative Officers,

Town Clerks.



PAYMENT OF TRADE LICENCE FEES BY PERSONS PRACTISING THE PROFESSION OF PHARMACY AND DRUG STORES

Reference is made to a request Ref. KA/GEN/1089/12/2024 dated 4th January 2024 from M/s Kalikumutima & Co Advocates, acting on behalf of the Uganda Pharmacy Owners Association, by which they requested my intervention to advise district officials to comply with the ruling of the Court in *Pharmaceutical Society of Uganda versus Attorney General* Miscellaneous Cause No. 260 of 2019 and halt the collection of licence fees.

Further reference is made to a letter from Bank of Uganda Ref. EDS.126 dated 11th September 2023 addressed to the Executive Director, Kampala Capital City Authority, with a copy to me, on a similar matter with respect to Forex Bureaus and Money Remittance businesses.

The background to this advisory is that the Pharmaceutical Society of Uganda was the successful party in *Miscellaneous Application No. 260 of 2019; Pharmaceutical Society of Uganda versus Attorney General*, in which it challenged the payment of trade licence fees imposed by the Ministry of Trade on persons practicing the profession of pharmacy and drug store business.

They contended that the businesses already pay licence fees under sections 14 and 15 of the National Drug Policy and Authority Act, Cap.206 and the National Drug Policy and Authority (fees) regulations SI No.31 of 2014, and that payment of the trade licence fees to NDA and Ministry of Trade, Industry and Cooperatives amounted to double taxation.

The Court held thus:

"once an entity is licensed by the regulator, it would be erroneous to be subject to trading licenses since their business involves inspection of premises to be satisfied that it is fit to be a drug store or a pharmacy. A delegated legislation can be questioned on grounds that it is inconsistent with provisions of the Parent Act or that it is contrary to some other statute applicable to the same matter. It can also be questioned on the ground that it is manifestly arbitrary and unjust or irrational....."

Similar cases related to licence fees have been determined by the Courts. In Stanbic Bank Uganda Limited and Others Vs Attorney General Miscellaneous Cause No. 4 of 2011, it was held that:

"It is also my view that the issuance of two licenses for the same business, one by the central government and another by the local government cannot be a rational manner of improving the collection of revenue. Given the financial linkages between the central government and the local governments, it appears to be a double collection that would be unfair to the licensee...."

Furthermore, in Uganda Law Society vs Kampala Capital City Authority and Attorney General, Miscellaneous Cause No. 243 of 2017, Justice Sekaana held that:

"it is clear that the money paid by the Advocates for practicing certificates and approval of chambers is paid to the central government. The imposition of licenses by the local government administration would indeed amount to double taxation"

Additionally, Court held in Uganda Forex Bureau and Money Remittance Association Vs Attorney General & KCCA Misc. Cause No. 99 of 2019 that:


"Generally speaking, the second respondent has the mandate to levy licence fees. However, on the authority of the Banks and Eaton cases, where the Bank of Uganda as the regulator of the applicant members levies licence fees on them under section 5 of the Foreign Exchange Act, it is not a rational manner of improving revenue collection"

for the second respondent to collect the same fees from them. Such collection would amount to double collection which would be unfair to them.....”

The purpose of this advisory, therefore, is to advise all the local governments to comply with the ruling(s) of the Court not to demand and /or collect trade licences from the applicants who have been successful in Courts of law, namely, pharmacies and drug stores licensed by National Drug Authority, law firms licences by Law Council, Banks and Financial Institutions licensed by Bank of Uganda and Forex Bureaus and Money Remittance businesses licensed by Bank of Uganda.

All persons and authorities are obligated to respect the decisions of the Court as per Article 128 (3) of the Constitution which stipulates that all organs and agencies of the State should accord to the courts such assistance as may be required to ensure the effectiveness of the courts, which includes the duty to respect Court orders (*see Arim Felix Clive vs. Stanbic Bank (U) Ltd SCCA No. 3 of 2015, where the Supreme Court agreed with the Court of Appeal that the Respondent had a duty and obligation to obey a Court order. that it was not open to him to disregard it whether or not it contained errors, minor or major*)

You are, therefore, advised accordingly.



Kiryowa Kiwanuka

ATTORNEY GENERAL

- c.c. Hon. Minister of Finance, Planning and Economic Development
Hon. Minister of Local Governments
Hon. Minister of Kampala Capital City and Metropolitan Affairs
Hon. Deputy Attorney General
Permanent Secretary and Secretary to the Treasury
Solicitor General
Deputy Solicitor General

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