

**IN THE FAIR COMPETITION TRIBUNAL
AT DAR ES SALAAM**



TRIBUNAL APPEAL NO. 4 OF 2019

**TANZANIA ELECTRIC SUPPLY CO. LIMITED
(TANESCO).....APPELLANT**

VERSUS

**ABDUL AZIZ BRUNO
NGOMUO.....RESPONDENT**

**ENERGY AND WATER UTILITIES REGULATORY
AUTHORITY(EWURA).....RESPONDENT**

ORDER

When this appeal has called for hearing, the Tribunal noted that the notice of appeal which institute this appeal was filed out of time contrary to Rule 9(2) of the FCT Rules, 2012 read together with section 36(2) of the EWURA Act, Cap. 414 RE 2002, Which requires the notice to be filed within 21 days from the date of the decision. This issue was raised by the Tribunal *suo motto* and invited the learned counsel for parties to address it on the point. Mr. Kibamba learned Principal State Attorney conceded to the incompetency of the appeal in that the notice was filed

out of time and prayed this appeal be struck out with leave to refile the same.

On the part of the learned counsel for the 1st Respondent he conceded to the defect and prayed that this appeal be struck out with costs as they have incurred expenses to prepare themselves.

On the part of the 2nd Respondent Mr. Kidiffu had nothing to submit but left to the Tribunal to decide on the matter.

In deed there is no dispute that the instant appeal notice was filed out of time without this Tribunal's leave.

In the circumstances, we find this appeal incompetent and it deserve^s one order to be struck out. In the vein, the instant appeal is hereby struck out with no order as to costs as the said competency was raised by the Tribunal *suo motto*. The prayer for leave is hereby not granted and if Mr. Kibamba wish to pursue this matter should follow the laid down procedures. It is so ordered.



Hon. Stephen M. Magoiga – Chairman



Hon. Butamo K. Phillip – Member



Hon. Susan Mkapa – Member

19/11/2019