

High Court rules that disorganised evidence can cost taxpayers their case

On 21st July 2026, the High Court delivered an important decision reminding taxpayers that the burden of proof in tax disputes goes beyond merely producing documents. In *Income Tax Appeal No. E016 of 2024*, the Court held that a taxpayer must provide clear, specific and reconciled evidence to demonstrate that an assessment is incorrect. The Court emphasized that KRA is not required to act as a "forensic accountant" by searching through disorganised records to establish a taxpayer's case.

Where a taxpayer fails to properly organize and present evidence, the taxpayer fails to discharge its statutory burden of proof and may ultimately lose the dispute.

Background and context

The dispute arose following a desk audit conducted by KRA on the taxpayer's Income Tax and VAT returns covering the period 2017 to 2020. During the audit, KRA identified significant discrepancies between purchases declared in the taxpayer's corporation tax returns and purchases reported in its VAT returns.

As a result, KRA issued additional assessments of KShs. 29,208,766, comprising Income Tax and VAT. The taxpayer objected to the assessments and submitted supporting documentation, including invoices, bank statements and other financial records. However, KRA was dissatisfied with the manner in which the documents were presented and subsequently issued an objection decision confirming the assessments in full.

The taxpayer appealed to the Tax Appeals Tribunal (TAT), which ruled in its favour, set aside the assessments and held that the taxpayer had discharged its burden of proof by providing bulk digital files and supporting records, thereby shifting the burden to KRA. Dissatisfied with the decision, KRA appealed to the High Court.

Issue before the Court

The Court identified a single issue for determination:

Whether the TAT erred in law and fact by holding that the taxpayer had discharged its statutory burden of proof sufficiently to justify setting aside the objection decision.

Arguments by the parties

KRA's Position	Taxpayer's position
KRA argued that the taxpayer had failed to rebut the assessments because it did not provide the specific information and reconciliations requested during the objection process. According to KRA, the taxpayer merely supplied large quantities of documentation without explaining how the documents addressed the identified discrepancies. KRA further contended that the Tribunal erred by accepting unstructured documentation without assessing its relevance, competence and probative value. KRA maintained that the taxpayer's statutory burden required more than the transmission of invoices and bank statements. Instead, the taxpayer was required to specifically demonstrate why the assessments were excessive or incorrect and to reconcile the differences identified by the audit.	The taxpayer argued that it had acted diligently and transparently throughout the audit and objection processes. It maintained that it had provided comprehensive financial records, including invoices, bank statements and financial statements, and that these documents were sufficient to support its position. The taxpayer further argued that once the records had been supplied, the burden shifted to KRA to review the documents and establish the basis of any remaining discrepancies. In its view, KRA could not simply disregard the documentation and confirm the assessments without conducting a detailed examination of the records that had been provided. The taxpayer therefore urged the Court to uphold the TAT's decision.

Analysis by the Court and Judgment

Summary	High Court's analysis
The burden of proof lies with the taxpayer	The Court reaffirmed that under Section 56(1) of the Tax Procedures Act and Section 30 of the Tax Appeals Tribunal Act, the burden rests on the taxpayer to prove that a tax assessment is incorrect. A tax assessment issued by KRA enjoys a presumption of correctness and remains valid unless the taxpayer provides sufficient evidence to displace that presumption. Because taxpayers possess the records relating to their transactions, they are best placed to explain and support their tax positions.
Producing documents is not the same as proving a case	The Court rejected the TAT's finding that the taxpayer had discharged its burden merely by submitting large volumes of invoices, bank statements and other records. The Court held that the taxpayer's obligation is not simply to provide documents, but to demonstrate how those documents support its position and explain the specific discrepancies identified by KRA. A "document dump" does not amount to proof.
Evidence must be relevant, organized and properly reconciled	The Court found that the taxpayer failed to provide clear reconciliations for the discrepancies identified by KRA. It found that the taxpayer submitted documents relating to periods outside the audit period, failed to link bank payments to specific transactions, and provided explanations that were inconsistent with the underlying records. The Court stressed that evidence must be relevant, properly indexed and capable of clearly explaining the variances under dispute.
KRA is not required to reconstruct the taxpayer's case	The Court ruled that KRA is not required to act as a <i>forensic accountant</i> . When asked to explain discrepancies in its tax declarations, a taxpayer must provide a clear, specific and indexed reconciliation. Flooding KRA with unindexed, chronologically mismatched and unstructured files does not constitute compliance with a taxpayer's evidentiary obligations. The Court held that the TAT erred in law by treating such documentation as sufficient proof and prematurely shifting the burden to KRA.
Final Verdict Based on the above analysis, the High Court allowed KRA's appeal in its entirety, set aside the Tax Appeals TAT's judgment. It concluded that the taxpayer had failed to discharge its statutory burden of proof because it did not provide organized, relevant and reconciled evidence capable of explaining the discrepancies identified by KRA.	

Implications for businesses

This decision reinforces that maintaining records alone is not enough to successfully challenge a tax assessment. Taxpayers must be able to present evidence in a clear, organized and reconciled manner that directly addresses the issues raised by KRA. The Court's ruling confirms that submitting large volumes of unstructured documents does not discharge the taxpayer's burden of proof.

Businesses should treat reconciliations and supporting schedules as integral components of their tax compliance framework rather than documents prepared only when a dispute arises. The Court's finding that KRA is not required to act as a forensic accountant means that taxpayers must proactively bridge the gap between raw data and persuasive evidence. The recommended action points include:

- Prepare regular reconciliations between VAT returns, income tax returns and financial statements;
- Maintain indexed and well-organized documentation files that can be easily reviewed and traced;
- Ensure that invoices, contracts and bank payments are linked through clear audit trails and supporting schedules;
- Respond to KRA information requests with targeted explanations and reconciliations rather than bulk document submissions; and
- Periodically review tax reporting processes and internal controls to identify and resolve inconsistencies before they become audit issues.

Should you need further specific guidance on how the above changes impact your business, kindly feel free to contact any of the below or your usual RSM contact who will be always available to offer guidance and assistance that you need.

Jilna Shah
Tax Director
jshah@ke.rsm-ea.com

Samuel Maina
Senior Transfer Pricing Manager
smaina@ke.rsm-ea.com