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KENYA REVENUE AUTHORITY

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Press Release **21st September, 2018**

KRA, Darasa Settle Tax Dispute Out of Court

The Kenya Revenue Authority (KRA) has agreed to release 40, 000 metric tonnes of sugar owned by Darasa Investment Ltd in an out of court settlement.

The agreement shall be guided by a consent signed by KRA and Darasa lawyers, ensuring that Darasa Investment Ltd clears the Ksh. 2.5 Billion duty and VAT arrears.

Darasa Investment Ltd is bound by the consent to seek clearance from relevant government agencies not limited to Kenya Bureau of Standards (KEBS), Port Health, Agriculture & Food Authority and the Radiation Board. The clearance is conducted to ensure that the sugar is fit for human consumption, before Customs allows the lodgement of import entry.

Darasa is further required to settle a Ksh. 547, 846, 969 in ninety (90) days if waiver of interest and penalties is not granted as per the East African Community Customs Management Act. If the waiver is not granted within the 90 days, the money will be paid to KRA.

Upon completion of the due payments, KRA will release the consignments.

The out of Court settlement brings to an end the prolonged court battles between KRA and Darasa to ensure a finality on any claims related to the consignment.

Darasa had intended to bring into Kenya 40, 000 metric tonnes of sugar free of duty purporting that it was imported under a duty free window gazetted by the Cabinet Secretary, National Treasury. KRA however insisted that duty was payable on the sugar since it didn't fall under the Duty free window. Darasa won the case in The High Court, KRA then appealed in The Court of Appeal and won.

At the time of settling the case, the dispute was pending hearing at The Supreme Court, on account of a petition of appeal filed by Darasa challenging the decision of the Court of Appeal, which favoured KRA.

KRA has embarked on Alternative Dispute Resolution (ADR) to solve cases through a fair hearing done out of court. ADR is legally provided for in Article 159 (2)(c) of the Constitution as well as in other tax legislations.

The Tax Procedures Act under Section 55 (1) allows parties, to hold a tax dispute, within 90 days to resolve a matter while the Tax Appeals Tribunal Act, in Section 28(1), allows parties to resolve a tax dispute, outside the tribunal, at any stage of the proceedings.

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KRA continues to explore ADR as an option to reducing the number of court cases being handled and providing a platform for fair hearing of any complainants. So far, over Ksh. 8.3 Billion has been collected from 181 companies through ADR.

Commissioner for Legal Services and Board Coordination