

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
COMMERCIAL DIVISION
AT DAR ES SALAAM

MISC. COMMERCIAL APPLICATION NO.29228 OF 2025

AIRTEL TANZANIA LIMITED.....APPLICANT

VERSUS

KMJ TELECOMMUNICATIONS LIMITED.....RESPONDENT

RULING

Date of Last Order: 06/03/2026

Date of Ruling: 10/04/2026

MKEHA, J:

The applicant has moved the court for an order having effect of extending time within which to file a notice of appeal against the decision of the High Court of Tanzania (Commercial Division) in Miscellaneous Commercial Cause No. 34 of 2019 dated 9th June 2020. The application is made under section 14(1) of the Appellate Jurisdiction Act. The Chamber Summons is supported with an affidavit sworn by Mr. David Lema, the Head of Legal Department and Company Secretary of the applicant. On the other hand, the application is resisted through a counter affidavit affirmed by Mr. Shehzada Walli, the respondent's counsel.

The application was orally argued. Whereas Ms. Edna Mwankenja learned advocate represented the applicant, Ms. Felister Mtani and Mr. Shehzada Walli learned advocates represented the respondent.

When the learned advocate for the applicant was invited to argue the application, she adopted the contents of the applicant's skeleton arguments and the contents of the affidavit supporting the application as her submissions in chief. The gist of the contents of the applicant's affidavit and those of the skeleton arguments was that, the applicant had initially lodged a notice of appeal that led to registration of Civil Appeal No. 15 of 2024. However, on 06/11/2025, the appeal was struck out along with the initial notice of appeal for reasons of incompleteness of the record of appeal. In view of the applicant's counsel therefore, the delay was technical one.

It was explained in the applicant's affidavit that, the period between 7th and 10th November 2025 was spent by the applicant in waiting for the Court of Appeal's ruling, receiving advice on the way forward and later giving instructions to the lawyers for the filing of the present application. And that, the period between 10th and 13th November 2025 was spent by the applicant's counsel in drafting and ultimately filing the present

application. According to the learned counsel for the applicant, granting of the application would serve the interests of justice.

Ms. Felister Mtani learned advocate submitted in reply that, the applicant had failed accounting for the delay. According to the learned advocate for the respondent, the applicant's affidavit merely narrated events without specifically accounting for every single day of delay as the law required. According to the learned advocate, at two different occasions, the applicant's appeal had been struck out due to incompleteness of record which omission demonstrated negligence and lack of diligence on part of the applicant. The learned advocate invited the court to dismiss the application.

There was no dispute that, the initial appeals had been timely preferred by the applicant. Therefore, the delay being a technical one, the only period for which the applicant was to account for the delay was the period from 06/11/2025 to 13/11/2025. As a matter of fact, the applicant accounted for the delay through the affidavit supporting the application. That, the period between 7th and 10th November 2025 was spent to wait for the Court's ruling, receiving legal advice on the way forward and giving instructions to the lawyers for the filing of the present application. And that, the period between 10th and 13th November 2025 was spent by the

applicant's lawyers in drafting and filing the instant application. It is therefore my holding that, the applicant has successfully accounted for the delay.

For the foregoing reasoning, the application is granted. Thirty (30) days' period is given to the applicant for the filing of fresh notice of appeal. I make no order for costs.

DATED at DAR ES SALAAM this 10th day of APRIL 2026.




C.P. MKEHA

JUDGE

10/04/2026

COURT: Ruling is delivered in the presence of Ms. Edna Mwankenja learned advocate for the applicant and Ms. Gilian Nestory learned advocate for the respondent.



C.P. MKEHA

JUDGE

10/04/2026