

PRESS STATEMENT BY KEROCHE BREWERIES CEO ON THE KRA vs KEROCHE BREWERIES MATTER

Thursday, March 12, 2020

Yesterday, 11th March 2020, the Kenya Revenue Authority issued a Press Statement titled “KRA wins case to collect Kshs 9 billion from Keroche Breweries”. KRA massively circulated this statement on both mainstream and social media. This statement was designed to mislead the public.

We responded by pointing out that the Tax Appeals Tribunal decision is not the final verdict. It is important that the public understands how this process works. If you have any dispute with the KRA, the first step is to take the matter to the Tax Appeals Tribunal. Only when this fails is one allowed to go to court.

This is where we are. In other words, the case has just began.

As a law abiding company, we expected that KRA would abide by the process in which we had 30 days by law to appeal the TAT decision. We are shocked that KRA has no intention of respecting the legal process.

The statement issued yesterday was a public gimmick to mislead and influence the public to support a KRA operation to stop Keroche Breweries from operating.

Today morning, we woke up to an agency notice issued by KRA directed to our banks to collect Kshs 9 billion. This means Keroche Breweries cannot withdraw any money or transact any business from their accounts until KRA collects the alleged Kshs 9 billion. In short, as we speak, they have halted all our operations.



This injustice cannot be allowed to stand. Our lawyers are currently in court to stay this KRA order. However as this goes on, this is what the company has to say to our consumers and the general public;

This is absolute misuse of power that we the people have bestowed on KRA. They have lied to the public that we owe them KShs 9 billion. They know very well; the legal process in this matter has just began. Immediately the Tax Appeals Tribunal made a decision, we have 30 days to appeal. The Tribunal made its decision 2 days ago, Monday 9th March 2020.

Even as we speak, we do not have the TAT ruling. Our lawyers have been advised to wait for it. Our assumption has been that KRA too don't have the ruling. Is KRA influencing the Tribunal?

Even as we await the ruling, let's also look at the issues. There were 2 issues at the TAT.

1. The Appeal by KRA against Keroche win in the 2006 Tax Dispute
2. The confusion in the correct applicable rate of our Viena-Icc-Ready to-Drink vodka

The 2006 Keroche vs KRA Tax Dispute;

KRA provided a tariff which we used between 1997 (when Keroche was founded) to 2006. In 2006 they informed us that the tariff they had given us for Viena Fortified Wine in 1997 was wrong. In November 2006, they now gave a new higher tariff which they backdated for 5 years with a Kshs 1.2 billion demand. We protested the backdating as we had not collected the claimed taxes from consumers.

This is the landmark case Keroche Breweries Ltd won in the High Court in 2007, 14 years ago. KRA appealed the ruling. The judge ruled that KRA can advance their appeal if they presented new documents of evidence. The matter has been lying at the Tribunal awaiting KRA to produce new evidence.



During the Arbitration process, KRA did not present any new evidence. They filed the same letters that they had used 14 years ago in the case the court had quashed. We feel aggrieved that Tax Appeals Tribunal clearly failed to abide by the guidelines on new evidence. This is why we are appealing the TAT decision to the High Court.

The Case of Viena Ice Ready to Drink Vodka

Our dispute with the KRA is on the confusion of the correct applicable rate of our Viena-Ice-Ready to-Drink vodka. This is a product developed in 2007 to encourage responsible drinking. It is composed of 312ml distilled water and 188ml vodka which adds to 500ml (15% alcohol content) Ready to Drink Vodka. It is mixed to precision to reduce Kenyans intake of hard liquor.

Our dispute with KRA is based on their attempt to tax the water used to dilute the vodka at the same rate as the vodka. That means that the water used to dilute our vodka to make it RTD (ready to drink) should be charged at Kshs 253 per litre plus VAT. This makes it the most expensively charged water in the world. The computation done by KRA is punitive, unacceptable and amounts to robbing Kenyans in broad day light.

Furthermore, KRA cannot purport to collect from us what they very well know **we have never charged the public for**. Whatever we have charged the public – the 188ml vodka- we have religiously remitted as the applicable tax for the last 12 years.

As I conclude I would like to ask:

Mr Commissioner General, what kind of a show are we putting on here?

In 6 months your organization has made unexplainable and unrealistic demands that have now reached KShs 23 billion.

Why are you destroying the Manufacturing Agenda that we claim is one of our economic pillars?

Does this country only favor foreign investors?



The President has stated many times that local and multinationals have equal rights. The government in line with other governments should not shy off from providing locals the right incentives to grow Kenya's economy.

Let it be known that the management of this issue and its impact goes beyond the wellbeing of Keroche Breweries. It has a global effect on the future of Kenya's business environment. At stake are the dreams of many local entrepreneurs and investors who Keroche Breweries has inspired to believe that it can be done.

To our fellow citizens, thank you for your thousands of messages of encouragement. To our millions of consumers, we are grateful for your loyalty. This is our country. To grow our economy, we must support and stand with the local investors. We shall prevail.

Tabitha Karanja MBS



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