

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 30 OF 2025-26

BETWEEN

M/S MASU INTERTRADE LTD APPELLANT

AND

**PUBLIC PROCUREMENT REGULATORY
AUTHORITY 1ST RESPONDENT**

**TANZANIA ELECTRIC SUPPLY
COMPANY LTD 2ND RESPONDENT**

DECISION

CORAM

- | | |
|--------------------------|-------------------|
| 1. Ms. Florentina Sumawe | - Ag. Chairperson |
| 2. Mr. Raphael Maganga | - Member |
| 3. Ms. Sarah Bisanda | - Member |
| 4. Mr. James Sando | - Secretary |

SECRETARIAT

- | | |
|-------------------------|---------------------------|
| 1. Ms. Florida Mapunda | - PALS Manager |
| 2. Ms. Agnes Sayi | - Principal Legal Officer |
| 2. Ms. Violet Limilabo | - Senior Legal Officer |
| 3. Mr. Venance Mkonongo | - Legal Officer |

FOR THE APPELLANT

- | | |
|--------------------------|------------------------------|
| 1. Mr. Joseph Rugambwa | - Advocate - ADARE Advocates |
| 2. Mr. Benjamin Simkanga | - Principal Officer |



FOR THE 1st RESPONDENT

1. Mr. Ayoub Sanga - Senior State Attorney - OSG
2. Ms. Neema Sarakikya - State Attorney - OSG
3. Mr. Wankyo Mkono - Manager Litigation Services - PPRA
4. Mr. Hilmar Danda - Principal Legal Officer - PPRA
5. Mr. Roosebert Nimrod - Legal Officer - PPRA
6. Mr. Daud Makendi - Senior Legal Officer - PPRA

FOR THE 2nd RESPONDENT

1. Mr. Ayoub Sanga - Senior State Attorney – OSG
2. Ms. Neema Sarakikya - State Attorney -OSG
3. Ms. Luciana Benedict - Legal Officer - TANESCO
4. Ms. Elizabeth Kimako - Senior Legal Officer - TANESCO
5. Ms. Hadija Sempa - Principal Procurement Officer
TANESCO
6. Mr. Mwiga Kasalama - Senior Procurement Officer
TANESCO

M/S Masu Intertrade Ltd (hereinafter referred to as **"the Appellant"**) has lodged this Appeal against the **Public Procurement Regulatory Authority** commonly known by its acronym as **"PPRA"** (hereinafter referred to as **"the 1st Respondent"**), and the **Tanzania Electric Supply Company Ltd** commonly known by its acronym as **"TANESCO"** (hereinafter referred to as **"the 2nd Respondent"**).

The appeal concerns the debarment decision issued by the 1st respondent against the appellant for submitting a forged Test Report purportedly issued by the Tanzania Bureau of Standards (**TBS**), in compliance with the requirements of Tender No.



FA/2024/2025/TR212/G/17 for Supply of Staff Uniforms under Three (3) years Framework Agreement (hereinafter referred to as "**the Tender**").

Based on the documents submitted to the Public Procurement Appeals Authority (hereinafter referred to as "**the Appeals Authority**"), the background of this Appeal may be summarized as follows: -

On 20th December 2024, the 2nd respondent floated the Tender through the National e-Procurement System of Tanzania (**NeST**), using the Restricted National Competitive Tendering method as prescribed under the Public Procurement Act, No. 10 of 2023 (hereinafter referred to as "**the Act**") and Public Procurement Regulations, GN. No. 518 of 2024 (hereinafter referred to as ("**the Regulations**").

By the tender submission deadline on 06th January 2025, the 2nd respondent received fourteen tenders, including that of the appellant and subjected them to evaluation. Among the evaluated criteria was the submission of a sample of the respective goods, evidenced by a test certificate in accordance with EN 150 ISO 20471 verified by TBS.

The record of Appeal indicates that during evaluation, it was noted that the appellant submitted a Test Report No. TL/17893/2024 dated 03rd November 2024, which purportedly was issued by TBS, demonstrating that the goods to be supplied conformed to the required specifications. Further, before completing the evaluation process, the 2nd respondent through a letter with Ref. No. SMP/MPG/PMU/24/18/141 dated 20th January 2025, sought confirmation from TBS on the authenticity of the Test Reports submitted by tenderers.

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TBS vide a letter with Ref. No. CA.451/516/01E/279 dated 06th February 2025, informed the 2nd respondent that among the 22 Test Reports referred, 11 were genuine copies issued by TBS, while 11 were not genuine. Following this response, the 2nd respondent disqualified the appellant from the Tender proceeding and submitted a debarment proposal to the 1st respondent.

The record of Appeal shows that upon receipt of the debarment proposal, the 1st respondent noted a discrepancy between the Test Report Number submitted by the appellant (No. TL/17893/2024) and the one mentioned in the confirmation letter from TBS (No. TL/17893/2025). Due to this anomaly, the 1st respondent refrained from making an immediate decision and initiated an investigation. During this process, the 1st Respondent requested further clarification from TBS through a letter with Ref. No. EA.179/240/44/C/30 dated 27th August 2025.

TBS responded by letter with Ref. No. CA.451/516/01F/294 dated 24th September 2025, explaining that typographical errors had occurred in its earlier correspondence to the 2nd respondent. The correct Test Report numbers were TL/15087/2024 (not TL/15087/2025) and TL/17893/2024 (not TL/17893/2025). TBS reiterated that both Test Reports were not genuine.

Following this finding, the 1st respondent determined a prima facie case against the appellant and, by letter with Ref. No. EA179/240/01 dated 19th February 2026, issued a Notice of Intention to Debar, requiring the appellant to show cause why it should not be debarred from

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participating in public procurement. The appellant submitted its written defence by letter with Ref. No. EA.179/24/01 dated 2nd March 2026.

After analysing the appellant's defence, the 1st respondent concluded that the appellant had submitted a forged Test Report and decided to debar it from participating in public procurement for one (1) year, effective from 27th March 2026, pursuant to section 72 (3) (a) of the Act and regulations 97 (3) (a) and 102 (1) (a) of the Regulations.

Aggrieved by the 1st respondent's debarment decision, the appellant filed this Appeal before the Appeals Authority on 21st April 2026.

In this Appeal, the appellant challenged the debarment on the following grounds: -

- (i) The debarment decision by the 1st respondent is a nullity for failure to observe debarment procedures.
- (ii) The 1st respondent erred in law and fact by upholding a baseless debarment proposal from the 2nd respondent while ignoring material contradictions and relying on inconsistent, afterthought evidence from TBS.
- (iii) The 1st respondent erred by failing to consider the appellant's mitigating factors and by imposing an unduly lenient punishment.

In their joint reply, the respondents stated that the appellant's debarment was just and fair as the proceedings were conducted in accordance with the prescribed procedures. They clarified that the debarment proceedings arose from the 1st respondent's own investigation, not merely the 2nd respondent's debarment proposal. The respondents asserted that the 1st respondent properly evaluated all the evidence and did not rely on contradictory or afterthought evidence as

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alleged. The debarment decision was based on verification from TBS confirming the non-genuineness of the Test Report submitted by the appellant. They further contended that the appellant's mitigating factors were duly considered, but given the seriousness of the misconduct, the sanction imposed was appropriate and within the 1st respondent's mandate.

When the matter was called on for hearing, the following issues were framed for determination, namely:

1.0 Whether the appellant's debarment was justified and in accordance with the law; and

2.0 To what reliefs, if any, are the parties entitled to?

Before the hearing commenced, Mr. Ayoub Sanga, learned Senior State Attorney from the Office of the Solicitor General, appearing for the respondents, informed the Appeals Authority that upon reviewing the record of appeal in preparation for the hearing, an irregularity was observed concerning the appellant's right to be heard. This arose from the Test Report that formed the basis of the fraud allegations against the appellant.

Mr. Sanga referred the Appeals Authority to a letter dated 27th August 2025 from the 1st respondent to TBS, which requested clarification on the authentication of two Test Reports: No. TL/15087/2024 submitted by M/S Atchefam General Supply Limited and Test Report No. TL/17893/2024 submitted by the appellant. Following this request, TBS responded by letter dated 24th September 2025, confirming that both Test Reports were not genuine. This confirmation triggered an

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investigation that led the 1st respondent to issue a Notice of Intention to Debar through a letter dated 19th February 2026.

He further elaborated that paragraph 4 of the Notice correctly referred to the Test Report No. TL/17893/2024, which was submitted by the appellant during tendering, purporting to have been issued by TBS. However, paragraph 7 of the same Notice incorrectly stated that, after receiving clarification from TBS, the 1st respondent established that the appellant's submitted Test Report No. TL/15087/2024 was not genuine and thus required the appellant to submit its written defence on why it should not be debarred.

Mr. Sanga submitted that after receiving the appellant's written defence, the 1st respondent proceeded to issue the debarment decision based on Test Report No. TL/15087/2024. However, when preparing for hearing of this Appeal, the respondents realized that the Test Report No. TL/15087/2024, which formed the basis of the appellant's debarment, belonged to M/S Atchefam General Supply Limited and not the appellant. Hence, the appellant was debarred basing on the wrong Test Report.

He further stated that, since the Test Report referred to in the Notice of Intention to debar and the subsequent debarment decision did not belong to the appellant, consequently the appellant was denied the right to be heard before its debarment. The correct Test Report, allegedly forged by the appellant is No.TL/17893/2024. Therefore, since the appellant was not accorded with the right to be heard regarding the alleged forgery of Test Report No. TL/17893/2024, its debarment based on Test Report No. TL/15087/2024 was improper.

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Mr. Sanga emphasized that the right to be heard is a fundamental right enshrined under Article 13(1) and (6)(a) of the Constitution of the United Republic of Tanzania, 1977 as amended. He argued that since the appellant was not given the right to be heard on the correct Test Report, allowing the debarment to stand would result in injustice and contravenes Article 13(1) and (6)(a) of the Constitution.

In support of his submissions, Mr. Sanga cited the case of ***Basai General Supplies Ltd versus Public Procurement Regulatory Authority and another***, PPAA Appeal Case No. 48 of 2024-25 where the Appeals Authority nullified a debarment order due to the 1st respondent's failure to consider the appellant's written representation. He urged the Appeals Authority to apply the same principle in this appeal, as the appellant was denied the right to be heard.

Following this observation, Mr. Sanga requested the Appeals Authority to lift the debarment order without costs, and if the 1st respondent intends to proceed with the debarment proceedings, it shall start the process afresh in accordance with the law.

On his part Adv. Joseph Rugambwa, representing the Appellant, submitted that the Respondents had admitted failing to accord the appellant a right to be heard on the alleged forgery of Test Report No. TL/17893/2024. Therefore, allowing the debarment decision to stand would render it a nullity in the eyes of the law, as it prejudiced the appellant's rights. The learned advocate did not object to the respondents' prayer of lifting the debarment order without costs.

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Having heard both parties' submissions on this point, the Appeals Authority reviewed Article 13 (1) and (6) (a) of the Constitution of the United Republic of Tanzania, 1977 as amended which reads: -

"Art.13 (1) All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.

(6) To ensure equality before the law, the state authority shall make procedures which are appropriate or which take into account the following principles, namely:

*(a) **when the rights and duties of any person are being determined by the court or any other agency, that person shall be entitled to a fair hearing and to the right of appeal or other legal remedy against the decision of the court or of the other agency concerned".***

(Emphasis supplied)

Under these provisions, all persons are entitled to protection and equality before the law and in determining their rights, courts or other agencies should accord them the fundamental right to be heard.

This right is also reinforced by case law. In ***Kumbwandumi Ndemfoo Ndosu versus Mtei Bus Services Limited***, Civil Appeal No. 257 of 2018, Court of Appeal of Tanzania, at Arusha (unreported) while referring to ***Abbas Sherally and Another versus Abdul S.H.M Fazalboy***, Civil Application No. 33 of 2002 (unreported), it observed the following:

"The right of a party to be heard before adverse action is taken against such a party has been stated and emphasized



by courts in numerous decisions. That right is so basic that a decision which is arrived at in violation of it will be nullified, even if the same decision would have been reached had a party been heard, because the violation is considered to be a breach of natural justice'.

(Emphasis supplied)

In the instant Appeal, the respondents admitted that they requested the appellant to make a defence on an incorrect Test Report, thereby denying it a fair hearing before issuing the debarment decision. Based on article 13 (1) and (6) (a) of the Constitution of the United Republic of Tanzania and the respondents' own admission, we find the 1st respondent's debarment decision invalid for denying the appellant the right to be heard regarding the correct Test report.

Accordingly, we find that the 1st respondent's decision to debar the appellant basing on a wrong Test Report occasioned a miscarriage of justice. Consistent with article 13 (1) and (6) (a) of the Constitution, the 1st respondent's findings contained in the debarment decision cannot be allowed to stand.

Consequently, we find the debarment decision by the 1st respondent to be a nullity in the eyes of the law and we accordingly quash it.


It is so ordered. Each party shall bear its own costs.

This Decision is binding and enforceable in accordance with section 121 (7) of the Act.

The Right of Judicial Review under section 125 of the Act is explained to the parties.



This Decision is delivered in the presence of parties this 08th day of May 2026.



Ms. FLORENTINA SUMAWE
Ag. CHAIRPERSON

MEMBERS:

- 1. MR. RAPHAEL MAGANGA** 
- 2. MS. SARAH BISANDA** 