HIGH COURT
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IN THE CHIEF RESIDENT MAGISTATE'S COURT SITTING AT BLANTYRE AS A SPECIAL ARBITRATOR UNDER THE TAXATION ACT

ARBITRATION APPEAL NO 1 OF 2013

CHIBUKU PRODUCTS LIMITED ..... **APPELLANT**

AND

MALAWI REVENUE AUTHORITY ..... **RESPONDENT**

CORAM:	Ligowe	: Special Arbitrator/ Chief Resident Magistrate
	Sauti Phiri	: Counsel for Appellant
	Chungu	: Counsel for Respondent
	Magwira	: Court Clerk

DETERMINATION

1. In a letter dated 30th September 2009, Malawi Revenue Authority (MRA) wrote to Chibuku Products Ltd. that following an audit MRA carried at Chibuku Products Ltd. around 7th September 2009, they discovered that for the tax period between April 2005 and August 2009 Chibuku Products Ltd had not deducted and remitted non-resident tax on management fees amounting to K351 014 880 paid to SABMiller Management BV of Netherlands through the Accounts Department of UK based SABMiller Plc. MRA found this contrary to S. 76A of the Taxation Act, as the Double Taxation Agreement between Malawi and the Kingdom of the Netherlands does not exempt management fees from taxation by Malawi. Consequently MRA found that non-resident tax amounting to K52 652 232 was due and payable, plus a penalty of K15 795 670 being 30% of the total tax due.

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