



**IN THE CHIEF RESIDENT MAGISTRATE'S COURT SITTING AT BLANTYRE AS A SPECIAL
ARBITRATOR UNDER THE TAXATION ACT
ARBITRATION APPEAL NO 2 OF 2013**

NICO HOLDINGS LIMITED APPELLANT

AND

COMMISSIONER GENERAL , MALAWI REVENUE AUTHORITY..... RESPONDENT

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

JUDGMENT (PHASE 1)

- 1 This is an appeal by NICO Holdings Ltd against the decision of the Commissioner General on an appeal against the decision by the Malawi Revenue Authority requiring NICO Holdings Ltd to pay capital gains tax amounting to K114 689 550 upon disposal of some capital assets and acquisition of replacement assets.
- 2 Let me, before I go into the matter at hand; take the opportunity of this case to discuss issues of costs and fees in an arbitration of this nature. There are more and more appeals and references coming before Resident Magistrates under the Taxation Act, Customs and Excise Act and the Value Added Tax Act. In these cases issues of costs and fees will inevitably arise, which have to be put in proper perspective. This is what I would like to do now. As I do this, it will be noted that the law as provided in the Taxation Act, Customs Act and the Value Added Tax Act does not sufficiently deal with the subject. Hence this discussion. And to that end I will deliver the judgment in two phases.



