

# Court saves SportPesa from assets seizure in KRA dispute



SportPesa chief executive Ronald Karauri. --FILE

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SportPesa, its owners and executives have been spared asset seizures, bank accounts freeze and travel bans after a tribunal ruled that betting firms are partially exempted from the Kenya Revenue Authority (KRA) enforcement actions.

The Tax Appeals Tribunal (TAT) has ruled that the taxman cannot apply the enforcement actions on betting firms like SportPesa while pursuing withholding taxes.

The KRA had sought to freeze the bank accounts of SportPesa after it issued agency notices to its lenders while pursuing a claim of Sh1.66 bil-

lion withholding tax, penalties and interest accrued for 2018, prompting the betting firm to file an appeal at TAT.

The tribunal ruled that agency notices and other enforcement actions contained in the Tax Procedures Act, 2015 can only be used to recover money related to

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excise duty, value-added tax (VAT) and income tax.

"A plain reading of the provision indicates that the Tax Procedures Act does not apply to the Betting Lotteries and Gaming Act (BLGA). As such, the respondent cannot apply enforcement mechanisms set out under the TPA to enforce collection of taxes owed under the BLGA," the tribunal said.

The Tax Procedures Act of 2015 allows the taxman to issue travel bans on suspected tax cheats and collect duty directly from suppliers and bankers of

defaulters and prosecute those in arrears.

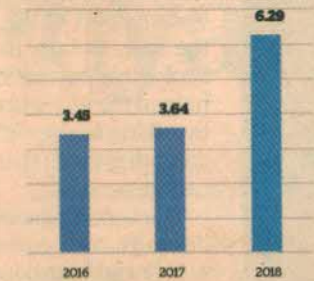
Taxpayers in breach could also see their assets seized and auctioned and their personal identification numbers (PINs) disabled.

Deregistration of PINs has the effect of cutting off individuals and businesses from making transactions that require proof of active registration as a taxpayer.

The list of transactions that requires proof of an active PIN certificate includes registration of land titles, approval of development plans, registration, transfer and licensing of mo-

## SportPesa tax paid to KRA (Sh bn)

SPORTPESA PAID TAXES WORTH SH6.28BN IN 2018. THE TAXMAN IS DEMANDING SH1.7BN IN WITHHOLDING TAX



SOURCE: KRA

tor vehicles and registration of business names and companies.

The KRA collects taxes from third parties like banks and suppliers through the agency notices.

"The respondent's (KRA) agency notices issued on August 25, 2020 and any other enforcement notice issued in enforcement of payment of betting tax are hereby set aside," the tribunal said in its ruling on the SportPesa suit.

SportPesa was halting operations due to a drastic hike in taxes on betting stakes amid mounting demand from the

KRA, which was initially demanding Sh10.3 billion in withholding tax from betting game winners for the period between 2015 and 2016.

### NOTHING TO PAY

The tax assessment covering 2015 and 2016 indicated SportPesa disbursed Sh80 billion to winners, an amount that attracted Sh7.6 billion in tax.

The KRA, in addition, imposed Sh1.5 billion penalties and interest of Sh1.1 billion, bringing the total tax due to Sh10.3 billion.

SportPesa says it has nothing to pay to the taxman, as it al-

ready disbursed the money to the winners without deducting any withholding tax as per the court order.

Online sports betting companies such as SportPesa had grown rapidly, riding a wave of enthusiasm for sports, with the government saying the gaming industry achieved a combined revenue of Sh204 billion last year. That sparked government concern about the social impact of betting, and in May Kenya introduced new gambling regulations, including a ban on advertising outdoors and on social media.