

**THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(EWURA)**

COMPLAINT NUMBER GA.71/309/47

OIL LINK (T) LIMITED COMPLAINANT

VERSUS

STAR OIL (T) LIMITED..... RESPONDENT

MOHAMED RAMZAN MUSSA THIRD PARTY

AWARD

(Made by the Board of Directors of EWURA at its 180th Extra Ordinary Meeting held at Dar es Salaam on the 9th day of November, 2018)

1.0 Background Information

On 3rd April, 2017 the Energy and Water Utilities Regulatory Authority (“the Authority”) received a complaint from Oil Link (T) Limited (“the Complainant”) against Star Oil (T) Limited (“the Respondent”). The Complainant is claiming for payment of TZS 114, 876, 000.00 as a refund for undelivered petroleum products, TZS 185,000,000.00 as loss resulting from undelivered petroleum products, TZS 1,100,000.00 as an advance payment made by the Complainant for purchasing petroleum products, general damages and cost of the complainant. The Complainant alleges that, on 12th July, 2016 they paid to the Respondent a total of TZS 114,876,000.00 for the purpose of purchasing petroleum products from the latter. The Complainant further alleges that despite the payment made, no petroleum products were delivered by the Respondent.

Upon receipt of the complaint, the Authority ordered the Respondent to file a reply to the complaint in terms of Rule 5(1) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, 2013. The Respondent filed the reply accordingly and paved the way for further processes on the complaint. In reply to the complaint the Respondent denied any liability on the ground that all ordered petroleum products were delivered to the Complainant as per the order.

Efforts to mediate the parties were taken under the supervision of the Complaints Unit of the Authority and proved futile and thus the matter was referred to the Division of the Authority for hearing. In the course of hearing of the Complainant's case, the Respondent successfully filed a Third party Notice against one Mohamed Ramzan Mussa. It was alleged in the Notice that the Third Party was an employee of the Respondent at all material times who was responsible for all the transactions leading to this dispute. As such, the Third Party must indemnify the Respondent in case this complaint succeeds.

However, on 10th October, 2018 when the matter came for hearing, the parties, through their advocates, appeared armed with signed Deed of Settlement. The parties prayed before the Authority to adopt the settlement terms as an Award of the Authority and consequently mark the matter as "settled". The terms of settlement are:

- (a) that the Respondent agrees to pay the Complainant the sum of TZS 114,876,000.00 which shall be payable in 12 months equal monthly installments;
- (b) the Complainant shall continue to purchase fuel from the Respondent at the current prevailing prices and the amount stated in paragraph (a) herein above shall be set-off against the fuel purchases at the time of the purchase in the sum of TZS 9,500,000.00 per purchase, and the

balance of the price for the particular Order shall be paid by the Complainant in cash;

(c) the Respondent shall allow up to TZS 20,000,000.00 credit on any Order against the Complainant issuing a postdated cheque of the amount stated in paragraph (b) herein which shall be due on the following day; and

(d) that upon registration of this Deed of Settlement the matter shall be marked "settled" and the Deed shall constitute an award of the Authority.

2.0 **Decision**

The parties, having reached a Settlement Agreement and such Agreement being filing at the Authority in the form of a Deed of Settlement, the Authority hereby registers the settlement terms in the Deed of Settlement dated 9th October, 2018 between the Complainant and the Respondent as an Award of the Authority. The complaint is further marked as "settled" and each party shall bear its own cost.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this 9th day of November, 2018.

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NZINYANGWA E. MCHANY
DIRECTOR GENERAL