

**REPUBLIC OF KENYA**  
**COUNTY ASSEMBLY OF MACHAKOS**  
**OFFICIAL REPORT**

**Wednesday, 20<sup>th</sup> March, 2024**

The House met at 11.01 a.m.

*[The Deputy Speaker (Hon. Stephen Mwanthi) in the Chair]*

**PRAYERS**

**MOTION**

**ENQUIRY ON THE STATE OF REVENUE COLLECTION WITHIN THE COUNTY**

*(Hon. Francis Kitaka on 12. 03. 2024 in Afternoon Sitting)*  
*(Resumption of Debate interrupted on 12. 03. 2024 in Afternoon Sitting)*

**Hon. Deputy Speaker:** Hon. Members, this motion had been moved and seconded and so we should continue with the debate so before we continue I invite the mover to take the House through the highlights of the report. Hon. Francis Kitaka. Hon. Brian?

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): Point of order, Mr. Speaker. I am standing on Order 31 and 32 that we have 19 Members in the House excluding yourself because you are not now a Member. You are the Speaker, and one has walked out we are now 18. So Mr. Speaker, this is a very important motion and last time I remember we adjourned because of lack of quorum and Mr. Speaker, I still believe that we need to ensure that this House functions. This House is judged with a very important responsibility of ensuring that we oversight the Executive in a very positive manner constructively so that we can give services to our people. This habit of all that time having no quorum we need to address it, Mr. Speaker. So I am moving on Standing Orders 32 and 32.

**Hon. Deputy Speaker:** Hon. Brian, I am being informed that we have quorum. We have 20 Members right now. You cannot ignore a Member who has just walked out maybe to the loo. Clerk, can you recount the Members present. Make sure you include the Whip who has just walked out and Hon. Constance because they are still around with us. How many Members do we have? Mheshimiwa Everlyn, just have a seat. No problem; just have a seat. I think now we can proceed. Hon. Francis.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you, Mr. Speaker. Hon. Members, and Hon. Speaker, we had already done quite a bit of the report and allow me to take you through the investigation into the causes of decline in revenue collection then after which I will do the committee observations then the recommendations.

The Committee carried out investigations on the state of revenue collection within the County through:

- (a) Site visit to selected revenue collection points and offices.
- (b) Meeting with various stakeholders.

#### *Site Visits*

The Committee conducted site visits in some selected revenue collection points as well as visiting revenue head office. The areas visited were:

- a) Mutituni slaughter house on 10<sup>th</sup> February, 2023.
- b) Katani and Lukenya quarries and Movoko sub-county revenue offices on 16<sup>th</sup> February, 2023.
- c) Athi River Slaughter House on 17<sup>th</sup> February, 2023.
- d) Mavoko, Lukenya and Matungulu quarries on 16<sup>th</sup> March, 2023.
- e) National Cement Company Limited (Simba cement) Company on 27<sup>th</sup> March, 2023.
- f) Machakos County Revenue Head Office on 6<sup>th</sup> April, 2023.

#### *Site visit to Mutituni slaughterhouse*

The Committee undertook a site visit at Mutituni/Ngelani Ward in Machakos Sub – County to check the mode of revenue collection at the slaughterhouse and the Committee made the following findings:

- (i) That the mode of revenue collection was not clear and Members suspected that the revenue collection was done in cash and deposited by the revenue clerks to a MPESA PAYBILL 1616160. The risk of this was that officers may deposit part of the collection and pocket the rest of the amount.
- (ii) That the revenue officers could not verify whether the traders had really paid the slaughterhouse fees as they did not have a gadget to confirm the payment done by the traders. The risk was that traders could edit the text messages. In addition, there was no officer at the entrance area to check whether those who paid were the actual ones who used the facility.
- (iii) When, asked on the mode of revenue collection, the officers stated that they receive cash and later deposit the amount in the paybill.
- (iv) That revenue officers did not have a receipt book since mid – October, 2022 when the new paybill 1616160 was introduced.
- (v) That there is no slaughterhouse manager to oversee the operations.
- (vi) That the officers slaughtering did not have protection equipment.
- (vii) That the slaughterhouse was in dilapidated state.

#### *Site visit to Athi-River slaughterhouse*

The Committee visited Athi-river slaughterhouse to check on the mode of revenue collection. The Committee made the following findings:

- (i) That revenue collection was cashless using paybill 1616160.
- (ii) That some customers who bring camels for slaughter get services and pay later and this is a loophole which may lead to revenue loss.
- (iii) The slaughterhouse operates from 7.00 a.m. to 9.00 p.m. with camels being slaughtered from 6.00 p.m. to 9.00 p.m. The revenue officer and meat inspector were overworked without overtime claim and this may lead to

compromise thus revenue losses. The officers indicated that the slaughterhouse could efficiently operate from 7.00 a.m. to 11.00 a.m. and from 6.00 p.m. to 9.00 p.m. for camels. This calls for some guidelines of operations to be put in place.

- (iv) The Committee was also informed that the slaughterhouse needed repairs, removal of the asbestos roofing and water supply. The butchers had come together to repair the slaughter house and provide gun powder and water using water boozers. This made it difficult for the revenue officers to be firm when asking for payment of slaughter fees. There was need for the County Government to offer quality services at the slaughterhouses if it wanted to continue collecting revenue.

*Site visit to Lukenya quarry sites and Mavoko sub-county revenue office*

The Committee undertook a comprehensive visit to Lukenya quarry sites because they are among the key revenue sites in the County on 16<sup>th</sup> February, 2023, 16<sup>th</sup> and 25<sup>th</sup> March, 2023. The Committee visited the quarry sites to establish the number of lorries that leave the quarries everyday so as to compare the same with the records that revenue clerks had at the Lukenya pay point/check point.

Among the sites visited was one of the quarries operated by a company contracted by National Cement Company Limited (Simba Cement) to extract pozzolana which is the raw material and deliver to its factories along Mombasa road in Mavoko sub-county and at Kaloleni in Mombasa. The quarry foreman informed the Committee that, on average, the company could make 150 trips on tipper trucks per day. At the rate of Ksh. 2,000 per trip per lorry, the County can collect Ksh. 300,000 per day translating to Ksh. 9,000,000 per month and Ksh. 108,000,000 per year.

The Committee established that National Cement Company Limited (Simba cement) had contracted three companies to extract and deliver pozzolana (raw material) to them, implying that, on average National Cement Company Limited (Simba cement) was receiving at least 400 trucks per day. Each truck paying Ksh. 2,000.00 per trip, this translates to revenue of Ksh. 800,000 per day and Ksh. 24 million per month. The revenue collected from Simba cement on pozzolana alone would therefore be at least Ksh. 200 million per year.

At the Lukenya quarries pay point/ check point, the Committee observed that:

- (i) That the revenue clerks could not confirm whether a customer had paid or not. The revenue clerks relied on the customers' text messages. This was prone to manipulation and one text could be used to clear many trucks or trips.
- (ii) That the enforcement officers manning the pay point/check point were colluding with the traders by allowing them to pay half amount of the cess fee. This was discovered by one of the Committee members who collected half the amount after pretending to be an enforcement officer.
- (iii) That the amount of revenue collected through the pay point was very little. By noon that day of visit, only 15 trucks had paid cess whereas, the committee had met over 100 trucks as it was going into the quarries. In addition, while at the pay point and within an hour, over 50 trucks had made their way out the quarries.
- (iv) That the officers could not explain some variations on the collections. The Committee compared collections of Wednesdays and Thursdays of 1<sup>st</sup> and

2<sup>nd</sup> and 8<sup>th</sup> and 9<sup>th</sup> March, 2023 and observed that, on 2<sup>nd</sup> of March, 2023 the officers collected 13,200 while the other three days they collected between Ksh. 26,000 and Ksh. 30,000 (see annex 2(a) and (b)).

- (v) That the contracted companies delivering pozzolana to National Cement Company Limited (Simba Cement) and other companies did not pay cess at the pay point.
- (vi) That transportation of pozzolana and other building materials happened past 6.00 p.m. after revenue clerks and enforcement officers left work and this occasioned loss of revenue.
- (vii) The road to the quarry sites was in a deplorable condition.

The Committee visited the Mavoko sub-county revenue office to find out more on revenue collection at Lukenya quarry sites and authenticate some of the sample receipts acquired at the Lukenya pay point/check point. The Committee found out that some of the payments were not authentic because they never reflected in the revenue payment system. (See annex 1(a) and (b)).

The Committee took some samples of text messages and found that they were not reflecting in the system. For instance, a truck had only paid cess four times between 1<sup>st</sup> December, 2022 and 27<sup>th</sup> February, 2023. On this particular day, 16<sup>th</sup> March, 2023, the truck had not paid but it had acquired a receipt of payment.

#### *Site visit to National Cement Company limited (Simba cement)*

Further, the Committee visited National Cement Company Limited (Simba cement) Company to find out whether the Company was paying cess and through which mode. The Committee found out that:

- (i) The company utilizes between 2,500 and 3,000 tonnes a day and each truck carried at least 17 tonnes a day. This implies that the company receives between 140 to 170 trucks a day. The Committee observed that this information was similar to the information received from contractors at the quarries of 150 trucks per day implying that in a month the company should pay between Ksh. 8,400,000 and Ksh. 10,200,000 per day and Ksh. 100,800,000 and Ksh. 122,400,000 per year.
- (ii) That the company did not have evidence of the payments it makes to the County Government. The officer in-charge informed the committee that such documentations can only be obtained from the head office at Ruiru.

#### *Site visit to the Revenue Head Office at Machakos Sub-County*

The Committee made a visit to the Revenue Head office on 6<sup>th</sup> April, 2023 to find out whether Simba cement was paying revenue. The Committee found out the following;

- (i) That it was true that, the companies transporting pozzolana (raw material) to National Cement Company Limited (Simba cement) and other manufacturing companies did not pay cess at the Lukenya pay point / check point. This meant that the County was losing a substantial amount of revenue.
- (ii) That Simba cement wrote to the County Treasury on 19<sup>th</sup> January, 2021 reminding it that there was an agreement entered into between the County Government and National Cement Company Limited (Simba cement) on 18<sup>th</sup> May 2017 and which the County Government seemed to be breaching through frequent stoppage of the company's trucks by county officers (see annex 3). In the letter, the company laments

that it had not been communicated to, if there were any changes or cancellation of the agreement and further commits that it will support the County in investment and job creation.

- (iii) That the company had been issued with an invoice of Ksh. 500,000 to pay quarry extraction fees on 4<sup>th</sup> March, 2021. On the file copy obtained by the Committee, it was indicated that it was paid on 16<sup>th</sup> March, 2021 but a receipt was not availed. In addition, another invoice of Ksh. 264,000 for quarry extraction was issued to the company on 22<sup>nd</sup> May, 2022 but there was no evidence of payment (See annex 4(a) and (b)). From the records at the quarry site, over 400 trucks carried pozzolana daily and therefore, a payment of Ksh. 500,000 or Ksh. 264,000 per month was an under-estimation as this was equivalent to daily fees for the trucks.

*Responses from the County Executive Committee Member, Finance*

The Committee requested information from the County Executive Committee Member for Finance, Economic Planning, Revenue Management and ICT vide letter ref: MKSCA/PSC/CMM/FRC/Vol.9/4 dated 10th July, 2023. The CECM was to provide the following information:

- (i) That, while on a site visit to Lukenya quarries and National Cement Company (Simba Cement) on 16<sup>th</sup> February, 2023 and 27<sup>th</sup> March, 2023 respectively, the Committee learnt that, the company does not pay quarry cess fees like other companies but pays quarry extraction fees as evidenced by two invoices from revenue office dated 4<sup>th</sup> March, 2021 and 17<sup>th</sup> May, 2022. In addition, the Company complained to the County Treasury vide letter dated 19<sup>th</sup> January, 2021 that County Officers were stopping company trucks frequently yet there was an agreement entered between the company and the County on 20<sup>th</sup> April, 2017 and the company was yet to receive any formal communication reversing or on cancellation of the agreement. In addition, the Assembly has made various recommendations on payment of revenue by National Cement Company and that CECM should provide response on:
  - (a) What is the status of the agreement entered into between the County and National Cement Company Ltd on 20<sup>th</sup> April, 2017?
  - (b) A breakdown of the fees that the company has paid for the FY 2022/23 with supporting documentary evidence.

The CECM, provided response to the Committee vide letter ref: MCG/CECM/FIN/MKSCA/VOL.1/16 dated 17th July, 2023 and stated as follows:

- (a) There is no such agreement between the County Government and the said company and provided a report of the Finance and Revenue Collection Committee on Revenue Enhancement and Monitoring Exercise in the County of the Second Assembly dated August, 2021.
- (b) On the amount of fees paid by the Company, the CECM informed the Committee that the company had been invoiced as per the report of the second Assembly.

*Recommendations of the Contained in the Report of Finance and Revenue Collection Committee of second Assembly*

The Finance and Revenue Collection Committee of the Second Assembly carried out an inquiry on revenue collection in the County and tabled a report titled; Revenue Enhancement and Monitoring Exercise in the County in August 2021. The Committee in observation number 4 stated that:

Exemption of cess for National (Simba) cement was against the provisions of Article 210(1) of the Constitution of Kenya which provides that no tax or licensing fee may be imposed, waived or varied except as provided by legislation. Article 185(1) of the Constitution of Kenya provides that the legislative authority of a County is vested in, and exercised by, its County Assembly. The Department of Finance and Revenue Collection should commence collecting revenue from the company with immediate effect.

The Committee under recommendation No. 4 stated that:

Within thirty (30) days of approval of this report, the Department of Finance and Revenue Collection should invoice National Cement Company (Simba Cement) and start collecting revenue and forward a report to the Assembly.

The Committee noted that the Department was required by the recommendations of the report to collect revenue from the National Cement Company and this was evidenced by the invoices provided to the Committee.

### *COMMITTEE OBSERVATIONS*

Based on the findings of the Committee during site visits and responses of the officers, the Committee makes the following observations that lead to decline and loss of revenue collection in the County:

- (i) Collection of revenue in Cash: Revenue officers are still collecting of revenue in cash and later depositing it in the MPESA paybill. This can be corroborated by what the Committee observed at Mutituni slaughter house and at Lukenya quarries pay point where a Committee member posed as an inspectorate officer and was given cash by the drivers.
- (ii) Collusion and pocketing of revenue: Revenue officers, inspectorate officers, the Department and business people have been colluding to evade payment of revenue. This was noted:
  - (a) At the quarries where a Committee member pretended to be an inspectorate officer and the truck drivers gave the member cash which was half of what was expected to be paid as cess.
  - (b) Where National Cement Company is issued with invoices that are understated by the Department of Finance, Economic Planning and Revenue Management.
  - (c) Where revenue officers fail to keep records of trucks that National Cement Company uses to transport quarry materials for ease of identification and the number of trips the trucks make in a given day.
  - (d) Where the Department fails to provide an accurate system to quantify how much revenue the National Cement Company should pay to the County.
- (iii) Inadequate services provided at County facilities: The County has not provided good services before collecting revenue thus leading to resistance in payment. This has been observed as follows:
  - a) Business people have come together to provide gun powder, water and undertake repairs of the facilities at slaughter houses.

- b) Roads to quarries are in poor state and the truck transporters also resist payment of cess as they question what service does the County offer to them.
- (iv) Inadequate guidelines of operations: Inadequate guidelines have been observed in the following:
- a. Slaughter houses operate from 7.00 a.m. to 9.00 p.m. leading to overworking of the officers whereas there is very little activity between 11.00 a.m. - 6.00 p.m. Stakeholders proposed operation hours to be from 7.00 a.m. to 11.00 a.m. and 6.00 p.m. – 9.00 p.m. but no one has taken up their proposal.
  - b. Quarry trucks undertake transportation beyond 6.00 p.m. when revenue officers have gone home as there are no guidelines of when should happen after 6.00 p.m. or when should transportation of quarry materials take place.
  - c. Failure to implement human resource guidelines for overtime for officers working long hours. Officers at the slaughter houses work from 6.00 a.m. to 9.00 pm without overtime. Officers at the quarries close down at 6.00 p.m. and leave their stations unmanned while transporters continue to transport quarry materials.
- (v) Inadequate monitoring and keeping of records: There is inadequate monitoring of revenue collection at revenue collection points. This was observed through:
- a. Failure to deploy an officer to verify whether all animals being slaughtered have been paid for.
  - b. Lack of gadgets to verify whether business people have paid for the services needed at slaughter houses and quarry pay points.
  - c. Failure to keep records of trucking passing through their pay points thus relying on the information provided by traders.
- (vi) Laxity in revenue collection: The Department has relaxed in the collection of revenue collection at Lukenya quarries the County lost revenue of approximately between Ksh 100,800,000 to Ksh. 200,000,000 per year from National Cement Company alone.

Based on the observations made, the Committee recommends that the Department of Finance, Economic Planning, Revenue Management and ICT should:

- i. The department provides a report to the Assembly on how it has addressed the reasons / areas that have been leading to loss / decline of revenue collection in the County.
- ii. Fully automate revenue collection across the County and embrace cashless revenue collection to reduce cases of revenue leakage.
- iii. Encourage citizens to pay revenue using the prescribed cashless channels and to report those officers' collecting revenue in cash.
- iv. Engage the Department of Agriculture to ensure all slaughterhouse structures are well maintained, supplies provided, revenue collection fully automated and operation regulations put in place.

- v. Enhance revenue monitoring in quarry sites and other areas of revenue collection and deal with the issues of revenue and enforcement officers who have been colluding with traders to rob the County revenue.
- vi. Coordinate with the department of transport to repair roads leading to the quarry sites and dig trenches on alternative routes to leave only one exit point.
- vii. Inform National Cement Company that the purported revenue waiver of April, 2017 was irregular as it was against the provisions of Articles 185(1) and 210 (1) of the Constitution of Kenya and that the Machakos County Tax Waivers Administration Act, 2021 voided any waivers entered before passage of the Act.
- viii. Collect Cess from trucks ferrying cement raw materials from quarries within the County including National Cement Company ltd.
- ix. Ensure that there are accurate County systems of recording and accounting for trucks that ferry raw materials from quarries for the companies that opt to pay cess at the end of the month including National Cement Company and Bamburi Cement Company.

Hon. Speaker, as I conclude, the Committee is grateful to the Offices of the Speaker and that of the Clerk of the County Assembly for the support accorded during the carrying out of this task. I wish to express my appreciation to Hon. Members of the Committee for their dedication and participation in the exercise.

On behalf of Finance and Revenue Collection Committee and pursuant Standing Order 190(5), it is now my duty and privilege to present to the House, the report of Finance and Revenue Collection Committee on Inquiry on the State of Revenue Collection in the County. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Francis for the highlights. I now invite Members to debate the motion. Hon. Brian.

**Hon. Brian Kisila** (Makutano/Mwala, MCCP): Mr. Speaker, I would like to thank the Chairman and the Committee for a very good report. In the last three days we have been having quality reports coming to this Assembly and this is an indication we are going in the right direction. It is unfortunate that majority of Members are not here to hear this report. My worry is I take the committee to page 13. You were my chairman in the Second Assembly and Mheshimiwa Ndeti was a Member of that committee. If you read that report the Second Assembly made very serious recommendations on this company called Simba Cement which has been evading tax with impunity. We made very serious recommendations of why a company should be exempted from paying cess and we also outlined the law that Article 210 of the Constitution provides that no tax or licensing fee may be imposed, waived or varied except without the approval of this Assembly.

There is a sacred cow here. If I take you to page 10, we are losing to the tune of Ksh. 122 million every year. If you compute that in the last 10 years, that is Ksh. 1.2 billion and that by itself it can construct water for Mwala, Yatta and Masinga. Mr. Speaker, I honestly do not know why this company is so special and we must do our oversight work with sobriety and positively. I am a bit disappointed by recommendation No. 7 of the committee. I want to draw your attention to that recommendation by that Committee. They are saying; inform National Cement



that the purported revenue waiver of April, 2017 was irregular as it was against the provisions of Articles.... Mr. Speaker, what does the word inform mean. It is like you are begging them.

So, I am moving an amendment in the floor of the House that we need to revoke that waiver as an Assembly and we demand payment of all the arrears which have not been paid to date because the waiver is illegal, Mr. Speaker.

If we do not do that as an Assembly, then we will be failing and this is not about sacred cows here and if we want to help, H.E. the Governor to achieve her vision we must do what is right. None of us is above the law and I am even going further to make a recommendation that the CECM finance should come to the floor of this House with a statement of what he has done to that recommendation and what he is going to do to ensure that we revoke and collect all the arrears which have been since the Second Assembly which you sat as the chairman and I was a Member and Mheshimiwa Ndeti.

Good enough there is history in this because we know the date it was August 2021. We made that recommendation then and it has not been adhered to Mr. Speaker, then I do not see why my people in Mwala are paying cess in a small *duka* in Kyawango, struggling to pay revenue so I do not see why big companies are being waived from paying. In fact, we should focus on the bigger companies and see how the small ones in our wards can pay less because times are hard.

Mr. Speaker, why would we waive tax for a company which is making so much money? Hon. Members, please, I beg you to accept my amendment and Mr. Speaker we should also put timelines to when this should be implemented. Failure to which, we will be left with no option as an Assembly but to move and close the operations of that company until they meet the required laws just like anyone else. If we start having rules being applied on some people and not on others, then there is no reason why we should start demanding revenue from other people.

Mr. Speaker, what also this report did not tell us is how much revenue have collected to date because we have given this committee a lot of money on revenue systems and I am sure they have done a lot but Mr. chairman I would imagine that in your half year report, I am privy to the information that you have done well. So, in your next report please tell us how far you have gone on revenue collection *vis-a-vis* the previous years to date so that we can also see if we are doing well or stagnating. If you are doing well, when you are punishing the small trader and waiving for the big cows, then it is a sin. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Brian, you had requested for an amendment. We have not seen your seconder.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): Yes, I am calling upon Hon. Ndeti to second my amendment.

**Hon. Helen Ndeti** (Nominated, WDM-K): I second the comments and proposals made by Mheshimiwa Brian Kisila.

**Hon. Deputy Speaker:** Yes, Hon. Dee and I hope it is on this amendment. Now, we have to ventilate on the amendment and if Members agree with it or not because that becomes like a motion. So, if he succeeds to amend, well, if it does not it is now about the Members to make.

**Hon. Dee Kivuva** (Nominated, WDM-K): I have a question Mr. Speaker. If I contribute on the amendment, will I again be allowed to contribute on the report?

**Hon. Deputy Speaker:** Yes, this is a different subject.

**Hon. Dee Kivuva** (Nominated, WDM-K): Then in that case Mr. Speaker, I second and also move another amendment so that they can be taken together. It is true the language the Chair used in that recommendation is very friendly and it will bring nothing. Just 'informing' is very casual so I am in support of what Mheshimiwa Brian Kisila has proposed that we be hard on them and then my other proposal is that before we adopt the report, I am proposing that the committee should attach the report on revenue collection so that they can go together. Let us not wait for another six months; it is better we wait for just three four or five days they attach the revenue report so that now we can adopt. Thank you.

**Hon. Deputy Speaker:** Thank you, Hon. Engineer, over the same matter of amendment?

**Hon Vincent Mutie** (Upper Kaewa, WDM-K): Thank you, Mr. Speaker. In fact, I did not know what we are amending, are we removing the word inform to substitute it with what. Perhaps, I would give him a better proposal that we should substitute the entire No. 7 and say that the County Treasury should implement the recommendations of the finance committee of the Second Assembly because they had given an express order. I thought it would be prudent that we substitute this with those recommendations that our predecessors had come up with. Perhaps that would be explicit. Thank you.

**Hon. Deputy Speaker:** Hon. Brian, can you clarify the amendment that you want us to make.

**Hon Brian Kisila** (Makutano/Mwala, MCCP): Mr. Speaker, I am seeking your guidance because I agree with the Engineer and my Chairman Health. The issue is, they did not implement what we told them to in the Second Assembly and maybe that would be stronger but is there a stipulated period. An order by the Assembly should have been implemented. Maybe the Clerks at the Table can guide us on that because several years have passed and that must have been done.

Mr. Speaker, I am being guided by the good Clerks at the Table that we have that reports on how resolutions. Standing Order 181 states that within 60 days of a resolution of the House or adoption of a report of a select committee, the relevant Executive committee Member under whose portfolio the implementation of the resolution falls, shall provide a report to the relevant committee to the House in accordance with Article 183 of the Constitution. So, if we say we implement what the Second Assembly said we implement, are we going to be within the provisions of the Standing Orders?

Secondly, if we can still make the amendments the way I am proposing them and demand that within 60 days that the CECM comes in to this Assembly with the implementation of that resolution. Mr. Speaker, I would like your guidance on that.

Also, in this report we need to tabulate the revenue we have lost since August 2021 and it needs to be invoiced to that company fully and at once. So, my amendment has gone further that we need to tabulate from 2021 up to date how much revenue we have lost because we have the

numbers here and that needs to be invoiced to the company. That is another amendment which I am calling upon my seconder Mheshimiwa Ndeti to second.

**Hon. Helen Ndeti** (Nominated, WDM-K): I stand to second the proposals made by Mheshimiwa Brian Kisila.

**Hon. Deputy Speaker:** I hope our Clerks at the Table will do the needful and so far, the Members that we have all supported. You want to proceed? No, you had your time. Hon. Muoki.

**Hon. Muoki wa Musila** (Ndithini, WDM-K): Thank you, Mr. Speaker. I start by congratulating the Chair for highlighting the report that was brought to us.

**Hon. Deputy Speaker:** We are still on the amendment.

**Hon. Muoki wa Musila** (Ndithini, WDM-K): Yes, that is where I am coming, Mr. Speaker. I wanted to go straight to the recommendations. Along the report, I think they singled out some companies and areas where they visited yet they are after revenue. Revenue is widespread through the County of Machakos but they concentrated in some areas. I would have wished in your recommendations and maybe it is an amendment that I will also be seeking that the County Government buys weigh bridges and take them to my place like Ndithini were we have quarries of sand as well yet we do not how much we collect from there. Hon. Dee is a Member of the transport committee---

**Hon. Deputy Speaker:** Hon. Muoki, I think we are coming to that. You are still debating the whole report and now we are on Hon. Kisila's amendment on to amend recommendation No. 7 so that we complete that before going to the main report.

**Hon. Muoki wa Musila** (Ndithini, WDM-K): Mr. Speaker, I was bringing in an amendment so that it can be enjoined with what Hon. Kisila is seeking to amend.

**Hon. Deputy Speaker:** Hon. Kisila has already pronounced himself and the amendment that is required unless you are introducing yet another amendment to the same report.

**Hon. Muoki wa Musila** (Ndithini, WDM-K): I am introducing a new amendment.

**Hon. Deputy Speaker:** Then I would request we first finish with Kisila's amendment then you introduce yours.

**Hon. Muoki wa Musila** (Ndithini, WDM-K): Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Muoki. Any other Member?

*(A Hon. Member spoke of record)*

You cannot interject at this time. I will give you time to reply because it is already a motion. Hon. Members, if you get time to debate on a matter you cannot do it twice, I am not

denying anyone any one time to speak but that is what our Standing Orders say. Hon. Johana proceed.

**Hon. Johana Munyao** (Mutituni/Ngelani, MCCC): Thank you, Mr. Speaker. I support that amendment Mr. Speaker because we are in agreement as read by the mover of that amendment, there is a law which guides how to propose and execute waivers because that was not followed. I think we are admitting it is an illegality which was done and the only fair thing is for us would be to revoke with immediate effect as suggested and possibly recover what has already been lost for this County. Thank you.

**Hon. Deputy Speaker:** Thank you. Hon. Brian, I think you can now reply.

**Hon. Brian Kisila** (Makutano/ Mwala, MCCC): Mr. Speaker, I am very happy with what Engineer Vincent has proposed because any laws passed by the First Assembly, Second Assembly and Third Assembly are binding. If we make the amendment to read like we are revoking from now, we will be letting these people off the hook. Mr. Speaker, the amendment should be as per what we agreed. That we implement the recommendations of the Second Assembly which you were chairing and in that amendment, we tabulate the amount of revenue lost since that time of the resolution up to now and invoice to the company and the CECM should file a report to this Assembly within 60 days.

That way, we have actually gotten those guys by their whatever. We will save this County a lot of money and in the process; we will also send a message that this Assembly is a serious one. So, I take Mheshimiwa Vincent's advice and it is also what Mheshimiwa Dee wanted to say and Mheshimiwa Helen too. So, the amendment should read; implement the Second Assembly's recommendations which we did and tabulate the amount of money we have lost since that time and invoiced to the company and the CECM within 60 days should come to this Assembly and table a report on that recommendation. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Brian. Hon. Helen. On the same? Okay then let us first finish with Hon. Kisila's amendment. I would like to read the amendments that we are about to do so that we may also confirm that that is your expectation so recommendation No. 7 will read:

That implemented recommendation of the report of the Second Assembly and the CECM tabulates the amount of revenue lost since August, 2021 and invoice the company and file a report to the Assembly in 60 days.

*(Question, that the words to be added be added,  
put and agreed to)*

Thank you, Hon. Members now we may now proceed with the report. Hon. Paul.

**Hon. Paul Wambua** (Kibauni, PTP): Thank you, Mr. Speaker. Thank you, my very able chairman. Mr. Speaker, I will start by commending my committee Members for doing their work diligently culminating to this report that is in this House today. Mr. Speaker, the amounts that we lose by exempting National Cement Company from payment of cess if calculated you will be very surprised. When we went for the site visit, within 10 minutes you would count over 50

trucks and what other people have done is that they also take advantage because they know National Cement Company does not pay they take advantage and have stickers on their trucks of National Cement Company and they pass through without paying. So we lose a lot coming from the National cement company and other operators.

Mr. Speaker, one thing that we should realize as a County is that we are losing a natural resource that we will never recover and if we do not benefit from that natural resource right now then even our coming generations will have lost because we will not have done anything to show from our natural resources including that sand that Mheshimiwa Musila says come from Ndithini although I know there are rules surrounding sand issues. From Mwala we do not allow any sand harvesting. I do not know how Ndithini allow sand harvesting. We agreed that in Mwala unless we are given water we will not sell our sand because that is our source of water.

So, Mr. Speaker we are losing revenue and we are losing a natural resource. We need to be very careful and firm and I support fully that amendment by Mheshimiwa Kisila although I have heard that the CECM should file a report but I think your recommendations was he should appear before this House I do not know but we will get to that. My thinking was he was supposed to appear and give a report to this House. Mr. Speaker, the department of finance did revenue mapping for the whole of this County as a committee we are yet to see that report and we have demanded for it because that was then forming the basis for the targets that were set and the targets that we are not meeting.

Mr. Speaker and Members, as 31st December, 2023 this County had collected revenue amounting to a paltry Ksh. 323,000,000 only and that is half year against a target of Ksh. 4 billion. Therefore it means that we will be way off our targets by the end of the financial year. We need to see that report on revenue mapping because we have given the department a lot of resources. We have given them the authority to hire and they have hired lot of people. We have given them finances to buy systems and gadgets which will enable them to close the revenue leakage but we are not seeing the results from that.

For instance, I will tell you for a fact when we visited the Machakos Country Bus Park at the entry where they put the barrier that offices is manned by five people who collect at the end of the day less than Ksh. 3,000 that is what they told us. Money that cannot even pay them leave alone doing anything for this County. We have a lot of staff in this County Mr. Speaker, what we have not done is the proper distribution of staff in this County. The only sector that can say because that is a specialized area is health but these other staff should be redeployed to areas where they are needed because you find a lot of people as you go to Nairobi at Kathome you will find the cess point there, there are several guys who sit there but if you ask them how much did you collect a day it is not even enough to pay them their salaries.

So, Mr. Speaker, we need to keep on pushing that we regularize our staff allocations. There is a small market in my area called Katulani now there are two revenue officers manning that market but that market if you go there, Mr. Speaker, you will wonder because the only economic activity is selling bread and milk and a few other things there is no much economic activity so why do we have two people there. They need to be redeployed to areas where Mheshimiwa Zora comes from that there is a lot of mining going on there and other areas where we need these people. I think we need to get the committee on labor should recommend to the Executive on deployment of staff in areas where they will be effective.

Mr. Speaker, the other thing that the department will have to do is to set realistic targets and I have noted that we are not able to meet our targets as is right now and when we do budgets we budget against those targets. For instance, when we were doing the last budget we said that

we expect to collect Ksh. 1 billion from hospitals, we expect to collect another Ksh. 3 billion from other revenue sources and budgeted against that. What does it mean at the end of the day when we do not meet our targets?

It means that the services that we budgeted for will not be offered, Mr. Speaker. It means that we will be short and we will be shooting ourselves in the foot starting from the top the Governor because She promised people that I will do this 1-2-3 things based on the budget and she went around did public participation and was given the projects that need to be done but if we do our budgets based on unrealistic targets then we are bound to fail.

Mr. Speaker, I support this report with all my body parts and I want to support Mheshimiwa Kisila's sentiments. If we let off the big revenue payers then no one has business coming to Kibauni coming to ask for any revenue. No one has any mandate to come to Kibauni because I will go and tell my people in Kibauni, Kilala, Ikalaasa, Katulani and elsewhere because the law should apply collectively to everyone. Mr. Speaker, this has to be done like yesterday. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Paul. Hon. Mulinge.

**Hon. Joseph Mulinge** (Muvuti/Kiima Kimwe, MCCP): Thank you, Mr. Speaker. First I will start by applauding so much to the Chairman and the committee for Finance for the good report they have given us giving the status of revenue collection of Machakos County year 31st 2022 (??). Mr. Speaker, I have looked at the report very keenly and I have a lot to say of the report and a lot to recommend on the report.

Mr. Speaker the report was drawn more of last year 31st December, 2022, site visits they were done in early April 2022 and maybe what we are talking a lot what was happening is more of last year. That is very okay because it is giving us pictures of what the County was supposed to have done but Mr. Speaker I am saying there are a lot of delays of reports to see the eye of at the Assembly because if this report we had it last year at around June, the recommendations we are making they could have worked to our Machakos County.

Mr. Speaker, on the report the Finance committee has dwelt majorly on Mavoko Sub County and partially in Mutituni wards. Mavoko more on the quarries and Mutituni more on the slaughter houses so I recommend next time get what is happening in the whole County Machakos, Marikiti market and other areas and you enlarge your areas of visit so that you can give us comprehensive report of what is happening.

Mr. Speaker, the report is saying there was a decline in collection of revenue, that is accepted Mr. Speaker. You know 2022 we had issues of *maandamano* and that was affecting businesses and that is in our domain and at the same time businesses they were ailing from corona virus pandemic again that is acceptable but what has come clearly is about the big industries being exempted from paying revenues. He has talked about Mombasa Cement and it means that if the research was done properly it is like the big industries---

**Hon. Deputy Speaker:** It is Simba Cement.

**Hon. Joseph Mulinge** (Muvuti/Kiima Kimwe, MCCP): No I am saying if the research was done properly because I am not getting how someone can exempt only one company and if you talk with them very well you are going to be exempted. I am more on the recommendations and the changes Hon. Kisila was making. What the report has not taught us is the reason why

they did the exceptions because I have seen a letter the company wrote to the County Government telling them remember we had an agreement to support to invest in Machakos County. I do not know how they were investing and again to support giving employment to our people exemptions.

It happened when the country was having issues of corona the big and small people were exempted from paying taxes so exemptions are not bad but we need to be told why Simba Cement was exempted if it was not a collusion to deprive County Government of Machakos resources.

Again I would like to make these recommendations for the committee of finance to add these recommendations. He has talked about the workers colluding with the lorry guys to deprive the County from getting taxes. The people who are collecting taxes, I would recommend for them to be taken for training because through the training they will be equipped on the importance of doing what they are supposed to be doing at the right time and at the same time how to expand the revenue base so that they can help our County. Thank you so much.

**Hon. Deputy Speaker:** Thank you, Hon. Mulinge. Hon. Johanna.

**Hon. Johanna Munyao** (Mutituni/Ngelani, MCCC): Thank you again Mr. Speaker. I want to applaud the committee.

**Hon. Deputy Speaker:** Let us be brief.

**Hon Johanna Munyao** (Mutituni/Ngelani, MCCC): Yes. I want to applaud the committee for such an elaborate report. Mr. Speaker, the committee was making an enquiry on the state of revenue collection in the County and it is very important that they used some specifics possibly to generalize on the state based on what aspects they were considering on those specifics in terms of collection of revenue. Mr. Speaker, just to cite one of the cases my Ward the slaughter house in Mutituni has been used as a case and one of the challenges which has been faced over time is lack of services and maintenance of that slaughter house.

As we speak, Mr. Speaker, some works were started and left at the slab level and I remember one time the same slaughter house had been closed by NEMA and I was forced to mobilize the business community there to contribute some funds to do some repairs for us to have the same opened for operations. Mr. Speaker, I was looking at the observations and I have seen that the observations are really very good but Mr. Speaker recommendations are supposed to be based on the observations. So, Mr. Speaker, one observation made by this committee is that there have been inadequate services provided at County facilities with that slaughter house being one of them and other entities across the County.

Mr. Speaker, on that I was expecting a general recommendation touching on the same. What are they proposing in terms of the inadequacy of the services being given in such facilities across the County? Mr. Speaker, another observation was on inadequate guidelines on operations. I have looked at the recommendations and Mr. Speaker, I seem not to see a recommendation talking on what they have to say as a committee regarding the guidelines on operations because they touch so many entities because whatever has been discussed here was just some few entities which were picked at random and you never know there could be other entities which are suffering the same challenges.

What are we saying about exemptions? Could there be other entities which are also enjoying the same exemptions so what the committee is recommending in terms of why and what are the procedures if it is very necessary to exempt an entity. So, Mr. Speaker, I would propose that the committee still digs further and comes up with the general recommendations which cut across the entities in the County and the operations across the entire County. Thank you.

**Hon. Deputy Speaker:** Thank you, Hon. Johanna. Hon. Helen then I call the mover to reply. Hon. Dee you will allow us because we do not have time there is no member who amended our time there so it might be tricky but just prepare yourself for one minute then we proceed.

**Hon. Helen Ndeti** (Nominated, WDM-K): I sit in this committee, Hon. Members. I think the committee has done their best through site visits. Whatever you are reading is what is on the ground but I can assure you this committee will ensure that whatever has appeared in this report will be implemented. We will follow it up the way to the letter.

The only other thing that I would want to advice members is that this waiver for payment of cess obtained by Simba Cement was done way back in 2017. The initial waiver was for 30 years exemption from paying cess but our committee in the Second Assembly fought and we said no waiver and I do not know why this has taken so long but I think what Mheshimiwa Brian Kisila has said is that we ensure that as a committee and even in the Implementation Committee and the entire House, we should ensure that this is done away with. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you for being brief, Hon. Helen. Hon. Dee.

**Hon. Dee Kivuva** (Nominated, WDM-K): My brother Engineer MCA for Kiimani was clapping when you overruled me. He was saying I am writing notes and I have been so I am speaking now. Mr. Speaker, I want to applaud what the committee led by the Chair has done and I wish when the law will be amended for the Governor to appoint CECMs from this House because this is a nice designate finance CECM of accounts because he speaks and I can tell you guys Wiper can bring good people if you can read what he has done and what Engineer brought yesterday, the sky is the limit.

Mr. Speaker, we have lost a lot of revenue. On Monday I attended a Senate meeting then we were bought lunch in a hotel designated as being in Machakos County. It is called Argyle and it is a five-star hotel they said it is in Machakos County but it pays. I was seated with an MCA from Nairobi but it is in Machakos County but we do not get any revenue from it. So next time Mr. Chair go and prone near our borders in Nairobi County that is an area that we have been losing a lot of money in terms of revenue.

My chair of Transport Committee wanted to say what I am about to say and Deputy Speaker I am very happy you are there, we went round in Ndithini inspecting roads and the Engineer planted one of his aids in the office where we receive cess from the truck drivers of sand. The aide counted 117 lorries and when we went there in the evening the lady at the office had collected from 17 lorries so 100 lorries just disappeared into her pockets. We dug further and found that that lady has seven lorries herself and she is a Standard Six dropout when she knew



that we are after her Mr. Speaker you know what happened she came to you *na akasema anaonewa*.

So we have been losing a lot of revenue. Machakos is one of the potential Counties to get the highest number of Own Source Revenue. We can collect even Ksh. 10 billion. You know this is an area that we should all unite if we want the Governor to come back and we should unite and make sure that every penny which should be collected is collected and given to her so that she can fully utilize her mandate. Otherwise thank you very much. I had an amendment but since it is overtaken by events so I will leave it. Thank you.

**Hon. Deputy Speaker:** Thank you Hon. Dee, I now call Hon. Francis to reply.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you, Hon. Speaker. I would want to take this opportunity to thank Hon. Members for their contributions and support of the report. I would want also to point out that this was a representative sample putting in mind that for you to gather a report for the entire County it might take us a number of days before you compile it but the sample that we picked will depict and see the status of the entire County. So Mheshimiwa Mulinge, I think this one you can agree with me that the report what is portrayed from the sample that we got shows the performance of the entire County so it is important that we improve on our collections based on the report.

On the other part of it Hon. Johanna, from our observations, when you look at the report you find that in the areas that we visited, the CECM finance and his team are mandated to follow the observations that we have put and act upon them so we should not worry about the status of the slaughter house. I know it is pathetic but I am sure that after this we will be able to make a follow up and see whether it has been improved on.

Hon. Speaker, I hereby thank the Members for the support and also once thank the committee on finance and revenue collection and we promise this House that we are going to do our best to support the workings of our County and ensure that we make the positive step together. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Francis. Thank you, Hon. Members. I think this is the best route we are supposed to take and I still insist that as an Assembly committee we need to move around and make sure that revenue is collected and banked as required by the law. In the report there is some indication that some of the revenue clerks are still picking money and cash which we do not support and if we do not follow up in and have several site visits, Members, we may not be informed on some of the happenings that are happening.

Also on the issue of Simba Cement, it is unfortunate that they indicated that it is like they have never received any communication from the Executive although there is a letter that they done indicating that they were being stopped. That is on page 11. They did a letter to the County. I think this a company which is just playing around with the County Government of Machakos and they requested the committee to visit their rural offices which in the Second Assembly we did we still went there and it is a serious thing that needs to be looked into because as a County we are losing we do not know as they are indicating that they have been employing our people.

We do not have any record showing anything positive and it is just the other day when a Member was saying that they use their lorries to ferry casuals from Nairobi so it is like it might be a company of no help for our people and something serious need to be done on that. So, thank you, Hon. Members.

*(Question put and agreed to)*

### **ADJOURNMENT**

**Hon. Deputy Speaker:** The House adjourns to Wednesday, 20<sup>th</sup> March, 2024 at 2.30 p.m.

The House rose at 12.30 p.m.