



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT02749ADJ2026

In the matter between:

WAHEEDA MAHOMED

APPLICANT

and

**COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION**

RESPONDENT

Presiding Member of the Companies Tribunal: DR MINAH TONG-MONGALO

Date of Decision: 21 August 2026

DECISION (Reasons and an Order)

A. INTRODUCTION

1. This is an application by Waheeda Mahomed (the Applicant) in terms of section 160 of the Companies Act 71 of 2008 (the Act), read with regulation 13 of the Companies Regulations, 2011 (the Regulations), to set aside a Notice Refusing Name Reservation issued by the Companies and Intellectual Property Commission (the Respondent) on 12 May 2026 under reference number 9458114169.
2. The initiating Form CTR 142 asks the Tribunal to direct the Respondent to reserve the name AMWASA for use by the Applicant's non-profit company. The Applicant explains that AMWASA is an acronym for Association of Muslim Women Authors in South Africa and that the suffix NPC was included in the reservation application in error.
3. The Respondent has not delivered an answer. The Applicant accordingly seeks a default order in terms of regulation 153. A default order is not automatic: the Tribunal must first be satisfied that the initiating application was adequately served and that the procedural conditions for default have been met.

B. THE PARTIES

4. The Applicant is an adult female residing in Durban. She states that she is the founder and director of the Association of Muslim Women Authors in South Africa, a non-profit company registered under enterprise number K2026371076, and that she brings the application both on behalf of that entity and in her personal capacity as the applicant for the name reservation.
5. The Respondent is the Companies and Intellectual Property Commission, established in terms of section 185 of the Act. It issued the impugned Form CoR 9.5 notice and is cited as the administrative decision-maker against whom the relief is sought.

C. FACTUAL BACKGROUND AND RELIEF SOUGHT

6. The Applicant states that AMWASA was established to support, develop and promote Muslim women authors in South Africa. Before its formal incorporation, it operated as a community initiative for approximately three years and used AMWASA publicly as its established trading identity.
7. On 11 May 2026, the Applicant applied to reserve, in order of preference, the names AMWASA NPC and Association of Muslim Women Authors in South Africa NPC.
8. On 12 May 2026, the Respondent refused both proposed names. It stated that entity-type suffixes are impermissible at the name-reservation stage and that confusingly similar names existed. In relation to AMWASA, it identified AMWA, AL AMWAAL ASSET MANAGEMENT, AMWA PROPERTIES and AMWAAL UR RIHLAH. In relation to the longer name, it identified ASSOCIATION OF MUSLIM SCHOOLS KZN and ASSOCIATION OF MUSLIM THEOLOGIANS OF SOUTH AFRICA.
9. In the founding affidavit, the Applicant accepts that the inclusion of NPC was a procedural error. She asks that AMWASA, without the suffix, be evaluated on its merits; that the refusal notice be set aside; and that the Respondent be directed to reserve AMWASA for use by the non-profit company.

10. The later Form CTR 145 and supporting affidavit formulate the requested default relief somewhat differently. They refer to the setting aside of the rejection of Association of Muslim Women Authors in South Africa, abbreviated as AMWASA, and seek approval and registration of that name with the abbreviation. That formulation is not identical to the narrower relief stated in the initiating Form CTR 142.

D. PROCEDURAL CHRONOLOGY AND DEFAULT

11. The Form CTR 142 is dated 14 May 2026. The Tribunal's received stamp on that form records that it was received on 19 May 2026 at 15:33:38. The matter was allocated case number CT02749ADJ2026.
12. The Applicant's proof of service shows that, on Friday, 15 May 2026 at 10:44, she emailed the application bundle to corporatelegalservices@cipc.co.za and Dispatch@cipc.co.za. The email described the attachments as Form CTR 142, the supporting affidavit and the Form CoR 9.5 refusal notice.
13. An automated reply from the corporate legal services mailbox stated that the mailbox was reserved for service of legal documents on the Respondent. There is therefore objective evidence that the service email reached a mailbox used by the Respondent for that purpose.
14. The Applicant calculates the Respondent's 20-business-day period for answering from 15 May 2026 and states that it expired on 12 June 2026. On 1 July 2026, she signed and filed Form CTR 145 together with a supporting affidavit seeking default relief.
15. The supporting affidavit asserts that the initiating application was filed on 14 May 2026. The record, however, contains no Tribunal acknowledgment, receipt or date stamp reflecting filing on 14 May 2026. The only official filing endorsement before the Tribunal is the received stamp dated 19 May 2026.

E. THE APPLICABLE LAW

16. Regulation 142(1) provides that a person applies to the Tribunal by completing and filing Form CTR 142 with the recording officer together with a supporting affidavit setting out the facts on which the application is based.
17. Regulation 142(2) requires the applicant to serve a copy of the application and affidavit on each named respondent within five business days after filing it. The sequence is express: filing must precede service.
18. Regulation 143 requires a respondent who wishes to oppose an application to serve an answer on the initiating party and file it with proof of service within 20 business days after being served with the initiating document.
19. Regulation 153(1) allows an initiating party to apply for the order sought if a person served with an initiating document has not filed a response within the prescribed period. Under regulation 153(2)(b), the Tribunal may make an appropriate order only if it is satisfied that the notice or application was adequately served.
20. Table CR 3 recognises delivery by electronic mail where the recipient has an address for receiving electronic mail. Compliance with an authorised mode of delivery does not, however, dispense with regulation 142(2)'s requirement that service take place after filing.
21. In *Ratlou v Ndweni*,¹ paras 7-16, the Tribunal dealt with an application served by email before the Tribunal issued the date-stamped Form CTR 142. It held that the premature delivery did not comply with regulation 142(2), could not be condoned in the absence of a proper condonation application, and did not support default relief under regulation 153.
22. The same principle was recently applied in *Merch Lab (Pty) Ltd v Merchlabs Africa (Pty) Ltd*². Referring also to *Teljoy Group (Pty) Ltd v Teljoy Bed Furnitures (Pty) Ltd*,³ the Tribunal held that service before filing is legally ineffective for purposes of regulation 142(2) and cannot found a default order.

¹ (CT01221ADJ2022) [2023] COMPTRI 23 (10 March 2023).

² (CT02570/ADJ/2026) [2026] COMPTRI 60 (19 June 2026) paras 15-29.

³ (CTR004/12/2012) [2014] COMPTRI 6 (22 January 2014).

23. Regulation 153 permits only the order as applied for to be issued in default. It does not authorise materially broader or different relief from that contained in the initiating application, because the respondent must know from the papers served what case it is required to meet.

F. EVALUATION

24. The automated response satisfies me that the email address used on 15 May 2026 was a mailbox maintained by the Respondent for service of legal documents. The defect is not the choice of email address or the mode of transmission.

25. The decisive difficulty is chronology. The initiating papers were emailed to the Respondent on 15 May 2026, while the Tribunal's received stamp records filing on 19 May 2026. On the objective record, service therefore preceded filing.

26. The handwritten date on Form CTR 142 records the date inserted by the Applicant; it is not, without more, proof that the Tribunal received and filed the application on that date. The assertion in the default affidavit that filing occurred on 14 May 2026 cannot displace the Tribunal's official endorsement, particularly when no earlier acknowledgment or transmission record to the Tribunal has been produced.

27. There is also no evidence that the filed application was served again on or after 19 May 2026. The Respondent was thus not served in the sequence required by regulation 142(2). The service on which the default application depends is procedurally ineffective for purposes of regulation 153(2)(b).

28. No application for condonation of the premature service, or for an extension of the period within which to effect proper service, is before the Tribunal. In those circumstances, the Tribunal cannot treat the irregularity as cured or conclude that the Respondent was placed in default.

29. It follows that the 20-business-day period for an answer was not validly triggered by the email of 15 May 2026. The Respondent's failure to answer does not entitle the Applicant to a default order.

30. The difference between the relief stated in Form CTR 142 and that later sought in Form CTR 145 would, in any event, prevent the Tribunal from granting the enlarged formulation in default. That issue need not be decided finally because the service defect is dispositive.

31. Because the application fails at the threshold required by regulation 153(2)(b), it is neither necessary nor appropriate to decide whether AMWASA is confusingly similar to the names identified by the Respondent or whether the Respondent acted within the powers conferred by sections 12(2) and 12(3) of the Act. Those questions remain open for determination in procedurally competent proceedings.

- G.** The Respondent did not participate and no costs were sought or incurred in opposition. There is no basis for a costs order.

ORDER

32. In the result, the following order is made:

33. The Applicant's application for a default order in terms of regulation 153 of the Companies Regulations, 2011 is dismissed.

34. No determination is made on the merits of the initiating application.

35. The Applicant may, if so advised, institute fresh proceedings after rectifying the procedural deficiencies identified in this decision. Any further application must address the applicable time period under section 160(2) of the Companies Act 71 of 2008 and, if necessary, seek condonation in the prescribed manner.

36. There is no order as to costs.

37. The Recording Officer of the Companies Tribunal is directed to serve this decision and order on the parties.

Dr MINAH TONG-MONGALO
Member of the Companies Tribunal