



“Building Confidence in Nigeria's Tax System”



At the Tax Appeal Tribunal, the process is simple, efficient, time-conserving, and delivery of justice devoid of technicalities

Bolanle Oniyangi
Coordinating Secretary



Tax Tribunal orders MTN to pay \$72.5m Tax Default to FIRS



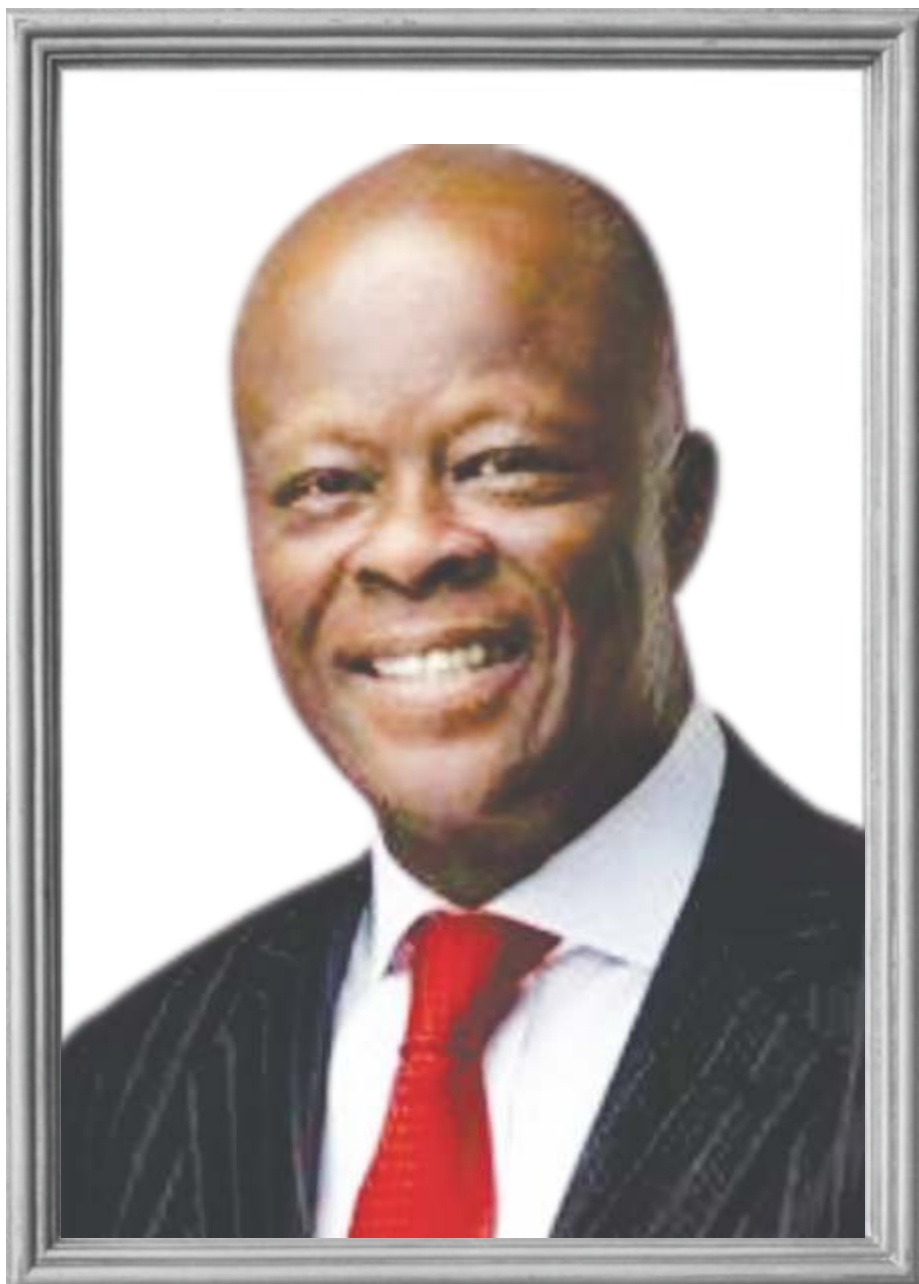
Tax Tribunal discharges firm of N488m FIRS Tax Assessment



Tax Tribunal orders NDDC to pay FIRS N20.3 billion Tax Liability







Mr. Wale Edun

**Hon. Minister of Finance and
Coordinating Minister of the Economy**



Mr. Zacch Adedeji, FCA
Executive Chairman
Federal Inland Revenue Service

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COORDINATING SECRETARY — of Tax Appeal Tribunal



Hajara Bolanle Oniyangi, Esq
Coordinating Secretary
Tax Appeal Tribunal



From the desk of **COORDINATING SECRETARY**

Tax Appeal Tribunal was established to settle disputes between the taxpayer and the tax authority. As part of the financial reform agenda of the Federal Government, the Tribunal was established by pursuant to section 59 of the Federal Inland Revenue Service (Establishment) Act, 2007. The Tribunal was actually inaugurated in 2010 by the then Federal Minister of Finance.

Since its inception, the Tribunal has exercised jurisdiction to adjudicate on disputes involving tax laws listed in the First Schedule to the FIRS Act, which includes the Companies Income Tax Act, Personal Income Tax Act, Petroleum Profits Tax Act, Capital Gains Tax Act, and Stamp Duties Act, among others.

In its quest to build confidence in the Nigerian Tax System, the Tribunal does not entertain delay in any form nor dwell on the technicalities that hamper quick dispensation of justice.

Different studies used to evaluate the impact of Tax Appeal Tribunal, in rating tax compliance by the citizenry and organisations, found that an efficient tax adjudication system has helped all revenue authorities to hold taxpayers to their responsibilities and to reduce the incidence of tax evasion.

The Tax Appeal Tribunal, over the years, has introduced many policies and innovations to make it a dynamic dispute resolution centre worthy of public trust and confidence. Some of the new innovations include the Tax Appeal Tribunal (Procedure) Rules, 2021 and the adoption of

electronic filing, e-Case Management, and automated hearing notice to parties before the Tribunal, to promote ease of adjudication, and for people to have access to the Tribunal within the comfort of their homes or offices.

On our efforts to sensitize our stakeholders, this yearly newsletter contains some highlights of the activities of the Tribunal for the 2023.

We hope you will find this document informative.

Hajara Bolanle Oniyangi, Esq
Coordinating Secretary



TAX APPEAL TRIBUNAL

TAT AT A GLANCE

The Tax Appeal Tribunal is established vide Section 59(1) of the FIRS Act of 2007 and its proceedings are guided by the provisions in the 5th Schedule to the Act and by the Tax Appeal Tribunal Procedure Rules of 2021.

Paragraph 1(1) of the 5th Schedule creates the Tribunal and gives it power to adjudicate over all matters arising from and pertaining to the Taxes contained in the 1st Schedule of the FIRS Establishment Act of 2007 As Follows:

- I. Companies Income Tax Act
- II. Petroleum Profit Tax Act
- III. Personal Income Tax Act
- IV. Capital Gains Tax Act
- V. Stamp Duties Act
- VI. Value Added Tax Act

***Tax
Appeal
Tribunal
was
established
by virtue of
FIRS ACT
2007***

VII. Any other law contained in or specified in the First Schedule to this Act or other laws made or to be made from time to time by the National Assembly.

The significance of tax payment to the government cannot be over-emphasized as it assists in complementing policies and programmes' implementation.





VISION

To be a Dynamic Tax Dispute Resolution Centre, Worthy of Public Trust and Confidence.

MISSION



To Resolve Tax Dispute on a Basis that is Just, Flexible, Speedy, Convenient, and Affordable.



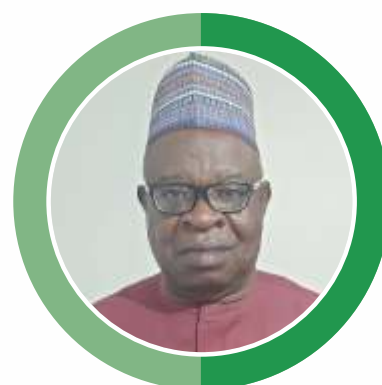


HONORABLE COMMISSIONERS — of Tax Appeal Tribunal

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Ajayi Julius Bamidele
(Member)



Iriogbe Ayo Alice
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Prof. Almustapha Aliyu
(Member)



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(Member)



Lami Abubakar
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Mrs. Titilola A. N. Akibayo
(Member)



Rasaq Adekunle Quadri
(Member)

COMMISSIONERS

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Oruche Ebere Nneka
(Member)



Adedapo Mobolaji Sobowale
(Chairman)



Akinsehinwa Kafaru Akinolu
(Member)



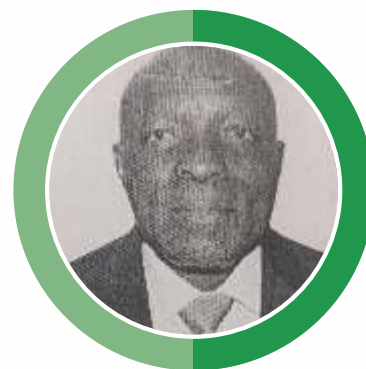
Aminu Usman
(Member)

COMMISSIONERS

LAGOS ZONE Panel 3



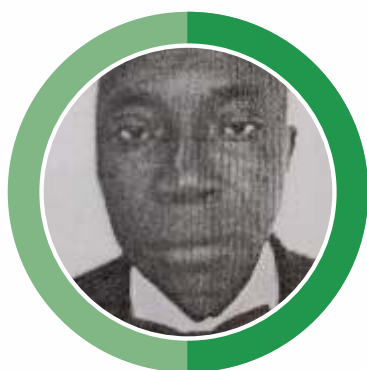
Olayemi Peter Ademola
(Member)



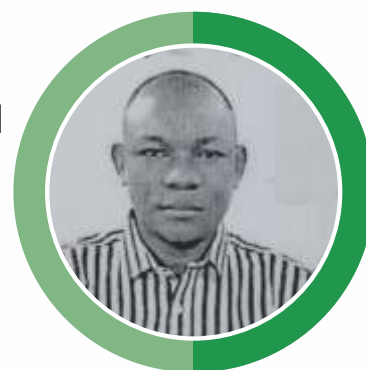
Babatunde E. Sobamowo
(Member)



Prof. Abdulmumini B. Ahmed
(Chairman)



Samuel Newyear Ohwerhoye
(Member)



Terzungwe Gbakighir
(Member)

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(Member)



Ogbaenyi Ivan Chikwendu
(Member)



Barr. Richard U. Bala
(Chairman)

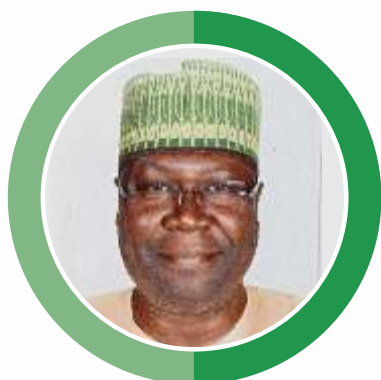


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(Member)



Saidu Baba Ahmed
(Member)

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Isa Kabir Dandago
(Member)



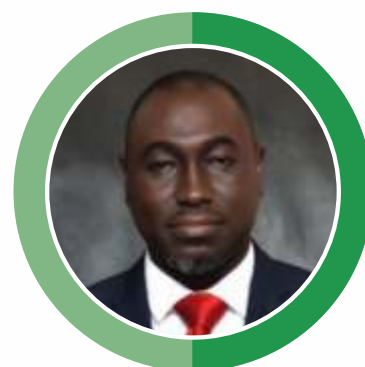
Bayero A.S. Muhammad
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Abubakar-Gwandu Sameerah
(Member)



Dr. Ahmad M. Kumshe
(Member)

COMMISSIONERS SOUTH-EAST ZONE SITTING IN ENUGU



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Obri Francis Ogar
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Ajoku Vitalis Friday
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Otusanya Olatunde Julius
(Member)

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Hilary Onwe
South- West Zonal Secretary



NEWS LETTER 2023



Tax Tribunal affirms Jurisdiction on Taxes accruable to States

The Benin- South South Zone of the Tax Appeal Tribunal has affirmed its jurisdictional power to adjudicate on all the Laws contained in the 5th Schedule of the FIRS Act including the Personal Income Tax Act (PITA) 2011 and other laws derived from the PITA as domesticated by the various States such as the Akwa-Ibom State Revenue Administration Law.

The Panel led by Obehi Odiase-Alegimenlen dismissed the objection filed by the Akwa-Ibom State Internal Revenue Service challenging its jurisdiction to hear the appeal filed by Homeland Integrated Offshore Services Ltd for lacking merit and affirmed that the Tribunal is well clothed with the competent Jurisdiction to entertain and determine the matter that falls on tax dispute.

The Tribunal held that Akwa-Ibom State Internal Revenue Service didn't follow the procedure laid down by Section 58(3) of the Personal Income Tax Act (PITA) 2011 for failure to give a notice of refusal to amend (NORA) the Revised Assessment to the Homeland Integrated Offshore Services Ltd before going to the Revenue Court, and the implication is that the purported case at the said Revenue Court cannot stand.

From facts, the Appellant- Homeland Integrated Offshore Services had filed an appeal against the re-assessment / refusal to amend / Demand Notice of the Akwa Ibom State

Internal Revenue Service on the ground that the decision of the Akwa-Ibom State Internal Revenue Service to impose the sum of #885,094,814.76 (Eight Hundred and Eighty-Five Million, Ninety-Four Thousand, Eight Hundred and Fourteen Naira, Seventy Six Kobo) only as tax liability for the years 2015-2019 after it had imposed a liability of #49,376,418.08 for the same periods which was objected to and amended to #25,634,124.21, is excessive, arbitrary and not in accordance with the provision of the personal income Tax(Amendment) Act, 2011 CAP P8 LFN 2004.

In defence, the respondent- Akwa-Ibom State Internal Revenue Service filed a Notice of Preliminary Objection urged the Tribunal to strike out the Appeal for lack of jurisdiction on the grounds that the Tribunal does not have jurisdiction to entertain matters relating to taxes accruable to the State, and the Appeal constitutes an abuse of court process, having been filed during the pendency and subsisting matters at the Revenue Court, in Akwa Ibom and Federal High Court, Lagos.

In reply, the counsel to Homeland Integrated Offshore Services Ltd, J. N. Odey maintained that the subject matter of the Appeal falls under the jurisdiction of the tribunal and urged the Tribunal to hold so.

In a well-considered ruling, the tribunal led by Hon. Prof.

Obehi Odiase-Alegimenlen as Chairman, Hon Dr. Ala-Peters David, Hon. Mrs. Hilda Ofure Ozoh, Hon. Barr. Ajoku Vitalis Friday and Hon. Prof. Olatunde Julius Otusanya as members stated that Pay as You Earn (PAYE) taxes for individuals are collected and administered by the various states through the various states' relevant tax authorities which Akwa-Ibom State is one.

The Tribunal reiterated that the principal law that governs the administration and collection of Personal Income taxes such as the PAYE, sole traders, partnerships etc is the Personal Income Tax Act (PITA) 2011 and Sections 60 of the Act provides that the Tax Appeal Tribunal established pursuant to section 59 of the Federal Inland Revenue Service (Establishment) Act, 2007 shall have the powers to entertain all cases arising from the operations of the Act.

Furthermore, the Tribunal affirmed that Section 59 of the Federal Inland Revenue (Establishment) Act, 2007 also confers jurisdiction on the Tax Appeal Tribunal to adjudicate over taxes listed in the Fifth Schedule of the Act, and also gave powers to the Tribunal to resolve disputes arising from the operations of all the tax laws listed under the First Schedule to the FIRS (Establishment) Act.



Tax Tribunal orders MTN to pay \$72.5m Tax Default to FIRS

The Lagos State Zone of Tax Appeal Tribunal has ordered MTN Nigeria Communications to pay the Federal Inland Revenue Services the sum of \$72, 551, 059.00 tax default covering years 2007 to 2017.

However, the Tribunal absolved the telecommunication firm from paying the sum of \$21,039,807, as penalties and interest on the principal sum.

A five-man panel led by Professor A. B. Hammed, gave the verdict while delivering judgment in an appeal numbered TAT/LZ/VAT/075, filed by the telecommunication company against the request by the FIRS to pay the default. Other members of the panel were P. A. Olayemi, Babatunde Sobamowo, Samuel N. Ohwerhoye and Terzungwe Gbakighir.

The facts of the matter according to the processes filed before the appeal, was that sometime in May 10, 2018, the Office of the Attorney General of the Federation issued a report of its investigation into the MTN's Forms A and M transactions. The report covered the 2007 to 2017 accounting years.

But, in a revised report dated August 20, 2018, the Office of the Attorney General of the Federation adjusted the alleged outstanding in respect of import duty and VAT to the tune of

N242.2 bn, (Form M -visible transactions) whilst the section relating to VAT and Withholding tax (WHT) was revised \$1.284 bn (Form A invisible transactions).

The FIRS averred that it informed MTN that it had received a report from the OAGF in respect of its alleged liability to VAT and WHT and consequently conducted a review of MTN's tax and accounting records and upheld the OAGF's alleged tax liability report.

However, MTN and its tax consultant, KPMG Advisory Services, held a series of meetings with FIRS to resolve the tax dispute arising from MTN's alleged tax liability but all to no avail. Thereafter, in July 2021, the FIRS issued a VAT assessment of \$93, 590, 366m to the MTN. This assessment comprised the sum of \$72, 551, 059m, as the principal liability and \$21,039,807m, for penalties and interest on the principal sum (first assessment).

MTN objected to the first assessment and the FIRS further reviewed the assessment. Accordingly, by the Notice of Assessment dated April 14, 2022, the FIRS issued a revised

assessment for US \$135,697,755m to MTN as a revised assessment.

Also MTN by a letter of notice of objection dated May 13, 2022, objected to the FIRS's revised assessment and notified

the MTN of its refusal to amend the revised assessment.

Dissatisfied with the FIRS's amended revised assessment, MTN filed the Appeal before the Tax Appeal Tribunal.

While counsel to MTN urged the tribunal to determine the issues in its favour, FIRS counsel, who includes: Abu Ocheme Director Legal FIRS, Egodi Adededeji and Moses Ideho, urged the court to dismiss the MTN's appeal, and determine the

issues raised in FIRS's favour.

In a well-considered judgment, the tribunal resolved the matter in favour of the FIRS and ordered MTN Nigeria Ltd to settle the assessed liabilities accordingly.



Tax Tribunal orders AEDC to pay FIRS N5.3 billion for Outstanding VAT, Withholding Tax

The Abuja Zone of the Tax Appeal Tribunal has ordered the Abuja Electricity Distribution Company (AEDC) Ltd to pay the cumulative sum of N5.3 billion as value-added tax (VAT) and withholding tax liability between 2013 and 2017 years of assessment.

The five-member panel, chaired by Hon. Alice Iriogbe in a judgment, held that the assessment of the VAT made by the Federal Inland Revenue Service (FIRS) on the company was valid and in accordance with the Value Added Tax Act (VATA).

AEDC had, in the appeal marked TAT/ABJ/330/2024, sued the FIRS as the sole respondent.

The FIRS, in conjunction with the Economic and Financial Crimes Commission, had, in 2018, conducted a tax

investigation on the appellant for the 2013-2017 years of assessment.

At the end of the investigation, a tax liability of N20,163,668,697 was established against the company.

The FIRS, therefore, conveyed the liability for the period to the AEDC vide a letter dated September 21, 2018, but KPMG, on behalf of the company, was said to have objected to the assessments through a letter dated November 1ember, 2018.

On November 20, 2019, the company appointed a Messrs Ascension Consulting Services Consortium, authorised to reconcile its VAT matters in the ongoing tax investigation with the FIRS and EFCC.

The tribunal, however, observed that during the oral testimony of the AEDC's witness, Martins Aroge, it was clear that KPMG (another tax consultant) was mandated to reconcile the appellant's withholding tax liability matters.

The FIRS, while giving its evidence, argued that the appellant, through its agents, Ascension Consulting Consortium and KPMG, held several reconciliation meetings with the respondent (FIRS) and came up with N4, 534,358,874.00 revised computations as their own reconciled liabilities for the company and N780, 307,078.00 as withholding tax (totalling N5, 314, 665, 952) through two letters dated March 24, 2021 and September 10, 2021.

But the AEDC, dissatisfied with the assessment contained in the FIRS' Notice of Refusal to Amend (NORA) dated February 24, 2022, appealed against the Federal Revenue agency's decision.

Giving a three-ground appeal, the electricity firm said the FIRS was wrong to have assessed the tax based on an unauthorised representation by its agent and to have issued a VAT assessment of over N4.53 billion based on a purported letter instead of relying on the legal basis of the VAT Act, among others.

Delivering the judgment, the five-member panel held that the action of its agents bound the AEDC, Ascension Consulting Services Consortium (comprising of Ascension Consulting Services, TBS Professional Services and The Eminent Konsult) appointed to act on its behalf for reconciliation of VAT in respect of the tax investigation/reconciliation exercise.

"This honourable tribunal, therefore, compels the appellant to pay N4,534,358,874 only as VAT liability for 2013 – 2017 as contained in the Notice of Refusal to Amend (NORA) to the respondent (FIRS) forthwith. This honourable tribunal

compels the appellant to pay the sum N780,307,078 only as withholding tax liability for 2013 and 2016 as established by its consultant KPMG," it ordered.

The tribunal also ordered AEDC to pay the N100.000 pending cost awarded in favour of the FIRS during the proceeding.

According to the tribunal, the appellant is also liable to interest on the judgment sum at the prevailing CBN rediscount rate from the judgment date until the debt is liquidated.

OBJECTIVE

The taxpayer is at liberty to file his or her case and defend himself or herself. One does not necessarily need to engage a lawyer, you can bring in your professionals, accountants, entrepreneurs, or staff to stand in for you as witnesses.



Tax Tribunal validates FIRS Powers to Appoint Bolt Operations as Tax Collector Agent

The Lagos Zone of the Tax Appeal Tribunal has dismissed the case filed by Bolt Operations challenging the legality of the Federal Inland Revenue Service to appoint her as agent of collection of the Value Added Tax from the Food vendors and the Ride-hailers.

The Panel led by Hon. (Prof.) A. B. Ahmed held that the action of the Federal Inland Revenue Service to have appointed Bolt Operations to act as Agent of the Federal Government of Nigeria in the collection of VAT on the goods and services supplied by the food vendors and Ride-hailers on the Platform of the Appellant is patently not Ultra-Vires Section 10 of the VAT Act.

From facts, the Appellant- Bolt Operations had submitted that it's not an entity incorporated in Nigeria and the company operates under a marketplace model by matching independent businesses with consumers and earning commission from the service of connecting the businesses with the customers or consumers.

The company averred that the drivers who make use of its platform are not its employees but rather independent providers of cab services and the company does not own any of the cars used by the drivers.

Bolt Operations asked for a determination of whether the Federal Inland Revenue Service erred in law when it appointed the Appellant, a Non-Resident Supplier as the agent to charge, collect and remit VAT on supplies made by

Nigerian resident suppliers to their customers using the Appellants platform.

The Company objected to the obligation of charging VAT and argued that its not in line with the provisions of the VAT Act with regards to Non-Resident Service and also the Federal Inland Revenue Service's imposition of the obligation to charge and account for the VAT which the drivers on its platform are legally exempted from doing is without any legal basis, and urged the Tribunal to grant the reliefs sought. In defense, the Respondent- Federal Inland Revenue Service urged the Tribunal to hold that the provisions of the VAT Act having not been repealed, nor its powers constrained, the agency has unfettered powers to appoint any person or any other person including the Bolt Operations as an agent for collection under the VAT Act.

The Revenue Service further submitted that Bolt Operations having variously referred to itself as an agent to the drivers on its platforms, the Respondent is further relieved from the burden of having to so prove and urged the Tribunal to dismiss the Appeal for want of merit and make an Order declaring that the Respondent acted lawfully when it appointed the Appellant as a collecting agent for VAT in Nigeria.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. (Prof.) A. B. Ahmed as Chairman, Hon. P. A.

Olayemi, Hon. Babatunde Sobamowo, Hon. Samuel Ohwerhoye and Hon. Terzungwe Gbakighir as members held that by virtue of the VAT Act, the Federal Inland Revenue Service is empowered to appoint any such other person to collect and remit VAT to the Federal Government of Nigeria and the discretion to so appoint "such other person" without any criteria is exclusively that of the agency.

The Tribunal held that the Suppliers of the goods (Food Vendors) or services (Ride-hailing) enlisted on Bolt's platform renders taxable goods or service for which there is an obligation to withhold and remit VAT, and the Federal Inland Revenue Service leveraged on the power granted by

the VAT Act to appoint the Appellant to act as the Agent of both the Food Vendors and Ride-Hailers that are on the platform of the Bolt Operations to charge, collect and remit the amount collected to the Revenue Service is valid.

The Tribunal ruled that the locus to challenge the decision to appoint Bolt Operations as the Agent of collection on the ground of exemption of goods and services supplied is not within the Company but the Food Vendors and Ride-hailers, that it will be a very tall order to require the tax administration to follow each individual food vendors and ride-hailers to collect the tax.



Bank is not liable to remit Stamp Duty Deduction to Abia State Internal Revenue- Tax Tribunal rules

The Enugu- South East Zone of the Tax Appeal Tribunal has declared that Abia State Internal Revenue Service has no legal basis to demand remittances of deductions on electronic receipts from banks, including the Unity Bank PLC, that the Finance Act, 2021 has provided that the arrears of stamp duty collections between 2015 and 2019 should be paid to the States by the Federal Government, and this provision has completely resolved the demand of the Abia State Internal Revenue Service.

The Tribunal held that after painstaking examination of the Stamp Duties Act, 2004, as amended, it could not find among

the provisions where the Abia State Internal Revenue Service is authorised to issue to the Bank a Best of Judgment Assessment for alleged unpaid stamp duties.

The Panel led by Hon. Chukwuemeka Eze held that by virtue of sections 4 (1) and (2), 24, 89 and Item 4 under the exemption of receipts in the Schedule to the Stamp Duties Act, Sections 53 and 54 of the Finance Act, 2019, Section 48 of the Finance Act, 2020, Unity Bank is not liable under the prevailing laws or under any obligation in law to remit records of Stamp Duty deductions to the Abia State Internal Revenue Service.

The Tribunal granted an order of perpetual injunction restraining Abia State Internal Revenue Service by itself, servants, agents, privies and/or workmen from doing anything inconsistent with the Unity Bank's interest including but not limited to distraining or levying warrant of distraint on the Unity Bank's business premises across the State Territory.

From facts, the Unity Bank PLC had stated that it had already remitted stamp duty deductions before May 2020 to CBN/NIPOST account but from May 2020 to CBN FIRS STAMP DUTY ACCOUNT to the Federal Inland Revenue Service (FIRS) as required by CBN Circulars and was not satisfied with the Abia State Internal Revenue Service demand for records/documents of Stamp Duties deductions and Best of Judgment assessment in the sum of N2,168,259,500.00 (Two Billion, One Hundred and Sixty-Eight Million, Two Hundred and Fifty-Nine Thousand, Five Hundred Naira) for 2016 - 2020 issued against it through various correspondences dated between January 12, 2021, and August 3, 2021.

The Bank maintained that Abia State Internal Revenue Service went contrary to the provisions and interpretation of section 4 (1-2) of the Stamp Duties Act in demanding for remittance of records of Stamp Duty deductions, and having fully complied by remitting the said audit report to the Federal Inland Revenue Service cannot remit same again to the Respondent as same would amount to double taxation, and urged the court to grant the reliefs sought.

In defense, the Respondent- Abia State Internal Revenue Service filed a Preliminary Objection challenging the jurisdiction of the tribunal and the objection was dismissed for lacking merit.

However, despite serving hearing notices on Abia State Internal Revenue Service, it refused to file a reply to the appeal and did not participate in the hearing of the appeal.

In its final submission, Unity Bank submitted that if Abia Internal Revenue Service is aggrieved by the couching of the

Stamp Duties Act, as regards to tax due and flowing to the Federal Government, the appropriate step to take, is to institute an action against the Federal Government of Nigeria and not innocent banks who go about in their ordinary course of business. That the Abia Revenue Service can toe the path of other State who has sued the Federal Government of Nigeria in respect of the subject matter and leave the innocent banks alone and urged the Honourable Tribunal to so hold.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by HON. CHUKWUEMEKA EZE, HON. IDE JOHN C. UDEAGBALA, HON. OBRI, FRANCIS OGAR, PROF. JOHN ANYADUBA, HON. (MRS.) ANNE C. AKWIWU held that the Unity Bank's position that it paid all stamp duties on banking transactions pursuant to section 4(1) of the Stamp Duties Act amended by section 53(a) of the Finance Act, 2019 has posed no loss to Abia State Internal Revenue Service as the Federal Government is bound to give it its share pursuant to section 163 of the Constitution.

The tribunal stated that as for the year 2020, section 54 of the Finance Act, 2019 had amended section 89 of the Stamp Duties Act to remove the lid on the taxation of electronic receipts but placed stamp duty collection on them by the Federal Government.

The tribunal stated that that the issue of collection of stamp duty on electronic receipts from transactions involving individuals resident in a State by banks is the thrust of the issues for determination pending before the Supreme Court, and while Abia State Government is demanding for N4.9 billion for these fateful years, it is simultaneously demanding for an arbitrary sum from the Union Bank which is a clear case of double taxation if it had succeeded.



In Kaduna, Tax Tribunal orders firm to immediately pay FIRS N1.1m Tax Liabilities Assessment

The North West Zone of the Tax Appeal Tribunal holden in Kaduna has ordered Al-Juruj Synergy Ltd to immediately pay Federal Inland Revenue Service the judgment sum of N1,115,120.00 (One Million, One Hundred and Fifteen Thousand, One Hundred and Twenty Naira) as Tax liabilities for the 2018 to 2020 Years of Assessment.

The tribunal led by Hon. Umar Adamu unanimously held that the Federal Inland Revenue Service has presented credible evidence to justify the award for the total claim against Al-Juruj Synergy Ltd.

From facts, the Appellant- Federal Inland Revenue Service had submitted that it conducted an audit exercise and served Al-Juruj Synergy Ltd Notice of Assessment vide letter dated 27th June 2022 with Several other notices and the company failed and refused to pay its Tax liabilities for the 2018 to 2020 Years of Assessment.

The Revenue Service sought for summary judgment pursuant to Order XVI Rule 1 of the Tribunal Rules 2021 on the ground that the Respondent neither raised any objection to the various demand notices nor appealed against same, and urged the Tribunal to grant the application in the cumulative sum of N1,115,120.00 (One Million, One Hundred

and Fifteen Thousand, One Hundred and Twenty Naira) only representing the total tax liability of the Respondent in the matter.

The Counsel to the FIRS, Muhammad Nasambo Esq and 6 others argued that since Al-Juruj Synergy Ltd has neither raised an objection to the Assessments nor filed an appeal against it, the assessment is final and conclusive and has no defence to the FIRS's claim, and urged the tribunal to grant the reliefs sought in the interest of justice.

In a well-considered judgment, the tribunal led by Hon. Umar Adamu as Chairman, Hon. Kabiru Dandago, Hon. Bayero Muhammad, Hon. Sameerah Gwandu, Hon. Ahmed Kumshe as members held that where a respondent fails to file a Notice of Intention to defend as prescribed by the tribunal Rule and the Tribunal is satisfied that the respondent was properly served the Notice of Appeal, the Tribunal shall proceed to hear the appellant and thereafter deliver a decision in respect of the appeal.

The Tribunal held that the Federal Inland Revenue Service has presented credible evidence to justify the award for the total claim against Al-Juruj Synergy Ltd in the cumulative sum of N1,115,120.00 (One Million, One Hundred and Fifteen

Thousand, One Hundred and Twenty Naira) only.

"In the result, judgement is hereby unanimously entered in favour of the Appellant against the Respondent. The Respondent is therefore hereby ordered to pay to the Appellant forthwith, the cumulative sum of N1,115,120.00 (One Million, One Hundred and Fifteen Thousand, One Hundred and Twenty Naira) only." Tribunal ruled.

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Tax Tribunal orders School to pay Plateau Revenue Agency N4.2m Tax Liability within 30 days

The North Central Zone of the Tax Appeal Tribunal holden in Jos has ordered Remus Private School to pay Plateau State Internal Revenue Service the judgment sum of N4, 230,197.89. (Four Million, Two Hundred and Thirty Thousand, One Hundred and Ninety-Seven Naira, Eighty Nine Kobo only) being payment for Pay-As-You-Earn, Staff Development Levy and other tax assessment components for the year 2016 to 2021 within 30 days.

From facts, the Appellant-Plateau State Internal Revenue Service had averred that Remus Private School was notified of its intention to audit the tax records of the School with regard to the 2016 to 2021 tax years, pursuant to the Personal Income Tax Act and requested the school to furnish it with the required records.

The Remus Private School through its tax consultant stated why it could not furnish the Revenue Service with the records. Dissatisfied, the Plateau State Internal Revenue Service gave the School 7-day ultimatum to comply, otherwise, it shall apply the Best of Judgment (BOJ) Assessment.

The Plateau State Internal Revenue Service after auditing the records of the Remus Private School established a tax liability of N4, 230,197.89. (Four Million, Two Hundred and Thirty Thousand, One Hundred and Ninety-Seven Naira, Eighty

Nine Kobo only) consists of PAYE, Staff Development Levy and other components and the same was communicated to the School for payment.

In addition, the Plateau State Internal Revenue Service argued that upon service of the Demand Notice, Remus Private School failed to liquidate the same and did not file any objection within the time provided for under the enabling law, and urged the Tribunal to grant the application for Summary Judgment.

However, the Respondent- Remus Private School did not file any Notice of Intention to defend as required by the Rules of the Tribunal, and the decision of the parties on the report of settlement were to no avail and the matter proceeded for Summary Judgment.

The Counsel to Plateau State Internal Revenue Service adopted its written address and urged the Tribunal to grant the application for Summary Judgment based on the facts before the tribunal in the interest of justice.

In its well-considered judgment, the tribunal led by Hon. Richard Bala as Chairman, Hon Zaidu Abdullahi, Hon. Ukera Emmanuel, Hon. Ogbaenyi Chikwendu and Hon. Saidu Ahmed as members held that the tribunal has no difficulty

in coming to the conclusion that Remus Private School has no defence to the case for failure to file a Notice of intention to defend within 7 days as prescribed by the Tax Appeal Tribunal (Procedure) Rules, 2021 and entered judgment for the Plateau State Internal Revenue Service in the sum of N4, 230,197.89. (Four Million, Two Hundred and Thirty Thousand, One Hundred and Ninety Seven Naira, Eighty Nine Kobo only).

However, the tribunal refused the Plateau State Internal Revenue Service's claim for 10% post-judgment interest for lacking merit.

The Panel led by Hon. Richard Bala held that in Summary Judgments of this nature, a claim for interests on liquidated money demands must be based on affidavit evidence that provides the basis for such interest rate claimed otherwise same must be subjected to trial.



The Lagos Zone of the Tax Appeal Tribunal has ordered the Federal Inland Revenue Service (FIRS) to re-assess Tourist Company of Nigeria Plc tax Liabilities for the 2016 year of assessment.

The Panel led by Hon. Olanrewaju Lassise-Phillips allowed the Tourist Company of Nigeria Plc sum of N114,803,000.00 impairment claim as well as N365,644,00.00 cost of sales but disallowed the turnover difference in the sum of N177,817,000.00 and bad debt of N44,121,000.00.

From facts, the appellant- Tourist Company of Nigeria Plc had appealed against the FIRS's Notice of Additional/Amended

Assessment of W14,281,060.00 (Fourteen Million, Two Hundred and Eighty-One Thousand, Sixty Naira) for the Appellant's 2016 year of assessment.

The company urged the tribunal to set aside EDT Notice of Additional/Amended Assessment, and a declaration that the Appellant was not liable to pay FIRS any additional EDT for the 2016 year of assessment on the ground that FIRS's computation of its turnover did not take into account the company internal revenue arising from promotions and incentives given to its customers as a reward for their patronage, impairment/bad debt ought to be allowed as deductible expenses.

In defense, the Respondent- Federal Inland Revenue Service filed a Preliminary Objection challenging the competence of the Appeal by reason of the Tourist Company of Nigeria Plc's failure to await the issuance of the Notice of Refusal to Amend (NORA) prescribed under the Companies Income Tax Act before approaching the Tribunal.

The FIRS stated that it conducted a tax audit and informed the Appellant of the additional liability to Tertiary Education Tax in the sum of N14,281,060.00 (Fourteen Million, Two Hundred and Eighty -One Thousand, Sixty Naira) only for the 2016 year of assessment on the grounds that the turnover reported by the firm was less than its actual turnover, and the sums recorded as impairment/bad debt were non-allowable expenses and there was a difference between the cost of sales reported by the firm and the actual cost of sales during the audit.

In opposition, the Tourist Company of Nigeria Plc argued that the FIRS's incorrect application of the relevant laws and the evidence provided has resulted in an incorrect computation of education tax in the Notice of Assessment, and urged the Tribunal to allow the turnover difference in the sum of N177,817,000.00 as deductible expense.

On the cost of sales in the sum of N365,655,000.00, Tourist Company of Nigeria Plc's Counsel submitted that the Notice of Assessment issued by the FIRS was based on an erroneous computation of the company cost of sales.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. Olanrewaju Lassise-Phillips as Chairman, Hon. Mark Dike, Hon. Titilola Akibayo, Hon. Rasaq Quadri, Hon. Kaneng Adole as members dismissed the FIRS's objection and held that an aggrieved taxpayer can apply to the tribunal without first receiving a Notice of Refusal to Amend from the Federal Inland Revenue Service.

The panel stated that the procedure before the Tribunal is governed by the provisions of the Fifth Schedule to the Federal Inland Revenue Service (Establishment) Act (FIRS Act) and does not require a Notice of Refusal to Amend (NORA) from tax authorities to an aggrieved taxpayer before the latter can approach the Tribunal for redress.

The tribunal reiterated that internal control documents are not necessarily proof that an expense has passed the WREN test, and in an adversarial system of tax dispute adjudication like ours, a taxpayer who desires the Tribunal to find in its favour concerning any legal right or liability which is dependent on the existence of any facts which it asserts must prove that those facts indeed exist.

The panel held that FIRS was right to have added back the sum of N177,817,000.00, and there is no credible evidence of the existence of bad debt in the sum of N44,121,000.00 in this case, and the respondent was right to have taxed it as it did.

On Impairment in the sum of N114,803,000.00; and Bad Debts of N44,121,000.00, the tribunal held that the Respondent failed to address the issue of impairment and the testimony given by the Appellant remains unchallenged.



Tax Tribunal dismisses Stanbic IBTC appeal against Niger State Internal Revenue Service

The North Central Zone of the Tax Appeal Tribunal holden in Jos has dismissed the appeal filed by Stanbic Ibt Bank Plc against Niger State Internal Revenue Service for lacking merit.

The Panel led by Hon. Richard Bala held that Stanbic IBTC has not placed any evidence before the Tribunal to be entitled to the reliefs sought, and the Niger State Internal Revenue Service has a right to distrain any tax defaulter the moment the tax assessment becomes final and conclusive.

From facts, the Appellant - Stanbic IBTC had asked for an order of the Tribunal nullifying and discharging any purported warrant of distrain obtained by the Niger State Internal Revenue Service to be levied against the bank. Likewise, a declaration that the threat of the Niger State Internal Revenue Service's intention to levy warrant of restrain is premature, oppressive and unconstitutional amongst others.

The bank submitted that Niger State Internal Revenue Service through a letter dated 27th April 2021 demanded the sum of N54, 245,812.38 (Fifty-Four Million, Two Hundred and Forty-Five Thousand, Eight Hundred and Twelve Naira, Thirty-Eight Kobo) as unremitted Pay-As-You-Earn (PAYE) for the 2018 -2020 tax years which it

objected to, and after series of correspondences between the parties, the revenue agency raised a revised assessment demanding payment of the sum of N6, 395,447.48 (Six Million Three Hundred and Ninety-Five Thousand, Four Hundred and Forty-Seven Naira, Forty-Eight Kobo) for non-filing /late filing of monthly returns on new customer accounts for the period of June 2011 – March 2021.

Stanbic IBTC again objected to this particular demand for including matters that were already settled at the meeting, and Niger State Internal Revenue Service finally issued the Notice of Refusal to amend (NORA) with a further threat to execute distrain against the bank consequent upon which the appeal was instituted.

Counsel to Stanbic IBTC averred that the bank having filed a valid objection to the demand notice, the assessment cannot be said to be final, and urged the Court to grant the reliefs sought.

In defence, the respondent- Niger State Internal Revenue Service argued that Stanbic IBTC failed to challenge the said assessment within the time allowed by law and by implication, it has failed to activate the jurisdiction of the Tribunal, that the appeal before the Tribunal is frivolous and academic.

The Niger State Internal Revenue Service urged the court to dismiss the appeal with cost.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. Richard Bala as Chairman, Hon. Zaidu Abdullahi, Hon. Ukeru Emmanuel, Hon. Ogbaenyi Chikwendu and Hon. Saidu Ahmed as members held that no evidence was placed before the Tribunal to prove that the Stanbic IBTC objected to the revised assessment within the statutory period of 30 days as permitted by Statute.

The tribunal maintained that Stanbic IBTC failed to attack the legal validity or otherwise of the bank's NORA of 24 December 2021 neither was there a specific prayer made by the bank requesting the Tribunal to quash the NORA in

question, that Stanbic IBTC dissipated so much man hours and industry on an alleged threat by the Respondent to shut down and seal the business premises.

On the alleged distraint, the tribunal clarified that Niger State Internal Revenue Service has a right to distraint any tax defaulter the moment the tax assessment becomes final and conclusive.

The tribunal held that Stanbic IBTC had not placed any evidence before the Tribunal to be entitled to the reliefs sought, and dismissed the case for lacking merit.



Tax Tribunal orders Lagos Internal Revenue to raise fresh Tax assessment on Construction firm

The Lagos Zone of the Tax Appeal Tribunal holden at Lagos has ordered the Lagos State Board of Internal Revenue to raise a fresh tax assessment on the Construction and Allied Technical Ltd and the name of the company Managing Director should not be part of the assessed liability.

The panel led by Prof. A. B. Ahmed held that the Managing Director of the Construction and Allied Technical Ltd presented evidence before the Tribunal that he was no longer resident in Lagos during the year of assessment under review and that he has relocated to Ogun State since 2014,

and the evidence of his tax payment in Ogun State were also established before Tribunal.

The Panel further held that following the fact and the evidence presented before the Tribunal, the Lagos State Board of Internal Revenue had not complained or raised any objection when he received the payment of Three Hundred and Fifty Thousand Naira (#350,000.00) only,

from the Construction and Allied Technical Ltd in 2017, and also had agreed that their computation of the penalties and

.interest was wrong

From facts, the appellant- Lagos State Board of Internal Revenue had submitted that as a result of the Construction and Allied Technical Ltd under deductions and under remittances, the company was served a Demand Notice accompanied by a Notice of Assessment of its established liability for Personal Income tax, With-holding taxes covering the period of 2015 year of assessment in the sum of #2,491,281.67 (Two Million, Four Hundred and Ninety-One Thousand, Two Hundred and Eighty-one Naira, Sixty-Seven Kobo) Only and failed to pay the assessed sum or objected to the assessed liability within 30days of receipt of the assessment and Demand Notice.

The Lagos State Board of Internal Revenue stated that Construction and Allied Technical Ltd was served a notice of its intention to obtain a Warrant of Distrain and advised the company to pay up the outstanding liability within 7 days of receipt of the letter, and the Respondent up till date refused to pay the liability and neither did it appeal the assessed liability.

In defense, the Respondent- Construction and Allied Technical Ltd maintained that the tax assessment was only issued 13 months after the Respondent had paid its taxes, more so the assessment did not consider the taxes already remitted.

The company stated that, upon being served with the Notice of Appeal, it commissioned an audit which actually established that they had underpaid and for which reason they immediately raised the balance and paid with the penalties, that the tribunal has a duty to do equity in this case, especially as the assessment which is sought to be made final does not reflect the true position of the company's financials for the affected year.

The Construction and Allied Technical Ltd contested the Lagos State Board of Internal Revenue inter alia on the grounds that, the Lagos Internal Revenue did not use the

accurate records of its payroll in preparing an assessment of the Respondent's tax liability and that, if the Tribunal is not inclined to dismiss the claims, the justice of the case will require that the Tribunal directs the Appellant to issue a fresh and correct assessment taking into consideration accurate facts.

In reply, the Lagos State Board of Internal Revenue stated further that, the payment which ought to have been made since 2015 was made in August 2016, three clear months after the auditors had submitted their report. It is the position of the Appellant that the said PAYE payment was a late payment and did not reflect in the assessment because the audit report did not capture the payment.

The Lagos Internal Revenue Board submitted that, as such, the assessment has become final and conclusive and the said payment can be deducted as a set-off from the assessed liability as provided for in Section 68 of PITA.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. (Prof.) A. B. Ahmed as Chairman, Hon. P. A. Olayemi, Hon. Babatunde Sobamowo, Hon. Samuel Ohwerhoye and Hon. Terzungwe Gbakighir as members unanimously affirmed that once an assessment is final and conclusive, and the tax authority issues a Notice of Refusal to Amend the assessment, the tax payer loses its right of appeal to the tax authority for further amendment and the latter's right to begin recovery and enforcement of tax due is activated.

However, the tribunal observed that the Construction and Allied Technical Ltd was not proactive in the matter because not only that they have left the matter not attended to, and nothing was said or done by the Lagos Internal Revenue when the company made a payment of Three Hundred and Fifty Naira (#350,000.00) only to the Appellant in 2017 in respect of their Tax liability for the period under review.

The Tribunal held that PAYE is a tax imposed on the employee, not the company. The employer's responsibility to deduct and remit PAYE to the relevant tax authority arises only after the taxpayer's liability has been determined.



In Kaduna, Tax Tribunal orders firm to immediately pay FIRS N7m Unremitted Tax Assessment

The North West Zone of the Tax Appeal Tribunal holden at Kaduna has ordered the Panacea Pharmaceutical Chemist And General Enterprises to immediately pay Federal Inland Revenue Service the sum of N7,000,000.00 (Seven Million Naira) only plus penalty and interest at 10% per annum EACH on the unremitted Companies Income Tax until the sum is fully liquidated.

The Panel led by Hon. Umar Adamu held that the Federal Inland Revenue Service has proved its case to the satisfaction of the tribunal and the failure of the Panacea Pharmaceutical Chemist And General Enterprises to respond to the suit amounts to admission.

From facts, the Appellant- Federal Inland Revenue Service had expressed dissatisfaction of the failure and refusal of the

Panacea Pharmaceutical Chemist to pay its Companies Income Tax for the 2016 to 2021 Years of Assessment, and urged the tribunal to grant the reliefs sought.

The Federal Inland Revenue Service averred that Panacea Pharmaceutical Chemist duly acknowledged the letter of notice of Judgment Assessment for the 2016 to 2021 Years of Assessment, requesting for the immediate settlement of the Tax Debt in the cumulative sum of ₦7, 000, 000.00 (Seven Million Naira) only.

However, despite service processes on Panacea Pharmaceutical Chemist through substituted means, it failed to file defence and never attended any of the sittings of the Tribunal upon been served the hearing notices

The Federal Inland Revenue Service maintained that the Tribunal having taken the evidence of its witness without any challenge or rebuttable from the Panacea Pharmaceutical Chemist, it is presumed that the Respondent had decided not to challenge or controvert the action of the Appellant, and it should be deemed to have been admitted.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. Umar Adamu as Chairman, Hon. Kabiru Dandago, Hon. Bayero Muhammad, Hon. Sameerah Gwandu and Hon. Ahmed Kumshe as members unanimously held that the Revenue Agency has proved its case as demanded

by law and is therefore, entitled to all the Reliefs sought.

The Tribunal held that where a party places before a Court unchallenged, cogent and credible evidence in support of his claim, the Court is under a duty to grant the relief sought by the party.

The Tribunal reiterated that when an opportunity is given to a party to respond to a claim against him, he is expected to debunk the allegations leveled against him, and failure to respond will amount to admission.



Tax Tribunal orders firm to pay Plateau Revenue Service N14m tax assessment within 30 days

The North Central Zone of the Tax Appeal Tribunal holden in Jos has ordered Vidan Pharmacy Limited to pay Plateau State Internal Revenue Service the judgment sum of N14, 482,050.00 (Fourteen Million, Four Hundred and Eighty-Two Thousand, Fifty Naira) being the Pay As You Earn, Development Levy, Withholding Taxes, Levies, Commissions and Penalties for the 2009 -2014 tax years within 30 days.

The Panel led by Hon. Richard Bala held that Plateau State Internal Revenue Service has established the failure of Vidan

Pharmacy to object to the tax assessment within the time required by law and a tax assessment becomes final and conclusive when the taxpayer loses the right to question or challenge the amount of tax imposed due to his failure to carry out some steps within specified period set out under the applicable laws.

However, the tribunal declined the Plateau State Internal Revenue Service claim for 10% post-judgment interest for

lacking merit.

From facts, the Appellant- Plateau State Internal Revenue Service had an Appeal dated the 3rd day of April 2023 under the Summary Appeal Procedure, sought from Vidan Pharmacy Limited an established tax debt in the total sum of N14, 482,050.00 (Fourteen Million, Four Hundred and Eighty-Two Thousand, Fifty Naira) only, comprising of PAYE, Development Levy, Withholding Taxes, Levies, Commissions and Penalties for the 2009 -2014 tax years.

Despite service of processes and hearing notice, the Vidan Pharmacy failed to enter defence against the Appeal as required by the Rules of the Tribunal.

Counsel to the Plateau State Internal Revenue Service, argued that Vidan Pharmacy had prior to the institution of this appeal failed to raise any objection to Exhibit SA4 within the period stipulated under the Personal Income Tax Act (PITA).

Counsel finally submitted that the Tribunal is empowered by law to enter judgment in favour of the Appellant where there is no defence by the respondent, and urged the Tribunal to grant the summary reliefs sought.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. Richard Bala as Chairman, Hon. Zaidu Abdullahi, Hon. Ukeru Emmanuel, Hon. Ogbaenyi Chikwendu and Hon. Saidu Ahmed as members held that the first key requirement for dispensing with appeals under the Summary Appeal Procedure is that the appeal must

involve a claim for the recovery of a tax debt that is certain, unarguable and undisputed in law and fact or tax debt that is final and conclusive.

The Tribunal affirmed that Vidan Pharmacy failed to object to the Tax Assessment done by the Plateau Internal Revenue

Service within the time required by law and a tax assessment becomes final and conclusive when the taxpayer loses the right to question or challenge the amount of tax imposed due to his failure to carry out some steps within specified period set out under the applicable laws.

The tribunal reiterated that once the Vidan Pharmacy fails to file a counter affidavit disclosing its intention to defend the Appeal under the Summary Appeal Procedure, the Tribunal is under a mandatory obligation to hear the appellant and deliver a decision in respect of the appeal provided that proof of service is established by the Tribunal to its satisfaction.

In defense, the Respondent- Federal Inland Revenue Service filed a Preliminary Objection challenging the competence of the Appeal by reason of the Tourist Company of Nigeria Plc's failure to await the issuance of the Notice of Refusal to Amend (NORA) prescribed under the Companies Income Tax Act before approaching the Tribunal.

OBJECTIVE

TAT is set up by the Federal Government to adjudicate on all tax disputes arising from operations of various Tax Laws contained in the 1st schedule of FIRS.



Tax Appeal Tribunal reiterates commitment to effective Tax Dispute Resolution

The Tax Appeal Tribunal has reiterated its commitment to an effective and efficient Tax Dispute resolution and urged legal practitioners, business owners and citizenry to comply with tax regulations in the country because tax offences are strict liability offences and do not require strict rules of evidence.

The Chairman of the Tax Appeal Tribunal, South East Zone, Hon (Dr) Chukwuemeka Eze stated this at the Monthly Meeting of the Nigerian Bar Association, Abuja Branch (Unity Bar) held on Friday 7th of July 2023, at NBA House, Central Business District, Abuja.

While delivering lecture on the practice and procedures of the Tribunal, Hon (Dr) Chukwuemeka x-rayed the decisions of the Tribunal over the years which are in tandem with best global practices.

He further urged the Bar to take advantage of the technological innovation deployed by the Tribunal to ease the judicial process and stressed that taxation is global and sui generic, no technicalities are allowed and cases are decided between 3 to 6 months.

Also at the meeting, Chief Magistrate Ibrahim Vera Ene of the Small Claims Court Committee stated that the Small Claims Court is modelled after the Small Claims Court in England, and was launched on the 6th of July 2023.

The Chief Magistrate further said that it is for liquidated monetary demand which does not exceed 4 Million Naira. It accommodates a Counter Claim not exceeding 7 Million Naira, and the entire proceedings would last for only 60 days from start to finish. Parties have a right of appeal after 14 days of Judgement.

The Chairman of the Branch, Afam O. Okeke, Esq thanked Tax Appeal Tribunal for partnering with the branch. He also thanked Chief Magistrate Ibrahim Vera Ene for sensitising members on the practice and procedure of the newly introduced Small Claims Court.

The branch Chairman also thanked Mr. Amobi Ezeaku, Esq. (Head, Sports & Entertainment Law Section Lexsetters LLP and the Scholar at the UEFA Academy (NYON), Switzerland) for their talk on the importance of exercise.

The branch meeting was well attended (onsite and virtual) by members of the bar. Chief Dr Ogwu James Onoja SAN appreciated the branch officers for the good job they are doing, he also appreciated members of the branch for their support for the branch. Prof Paul Idornigie SAN gave the vote of thanks to the host (TAT) of the meeting. Chief A. A. Malik SAN, Adekola Mustapha SAN and a host of others were in attendance.



Tax Tribunal discharges firm of N488m FIRS Tax Assessment

The Lagos Zone of the Tax Appeal Tribunal has discharged the Federal Inland Revenue Service N488m Notice of Assessment dated February 2nd 2022 raised on INT Towers Ltd being 1% PBT levy imposed on telecommunications companies and GSM Service providers pursuant to section 12(2)(a) and the Third Schedule to the NITDA Act.

The Panel led by Hon. Adedapo Sobowale declared that INT Towers Ltd is a network facilities provider and not a telecommunications company and is therefore not liable to pay the 1% PBT NITDA levy.

From facts, the appellant- INT Towers Ltd had appealed against the N488m Notice of Assessment raised by the Federal Inland Revenue Service as National Information Technology Development Fund ("NITDA Fund") Levy and maintained that it is not a telecommunications company but only provides support services, being an infrastructure service provider.

The appellant's counsel argued that his client is not a telecommunications company and thus not liable to pay the levy. He averred that the Notice of Assessments issued by the Federal Inland Revenue Service for 2021 is illegal, ultra vires, null and void and unenforceable.

In defense, the FIRS contended that INT Towers Ltd is a licensee of the Nigerian Communications Commission authorized to provide infrastructure sharing and collocation services as a network facilities provider, and liable to pay 1% PBT levy pursuant to the NITDA Act on telecommunications companies and GSM service providers.

The FIRS's learned counsel submitted that INT Towers Ltd has waived its rights to be considered a non-telecommunications company, having been granted PSI as a telecommunications company and is estopped from denying that it is not a telecommunications company, and urged the Court to dismiss the case in its entirety.

In opposition, the learned counsel to INT Towers Ltd argued that the FIRS failed to appreciate the distinction between "telecommunications" and "telecommunications services" set out in the license for infrastructure sharing issued by NCC that no tax can be imposed on a taxpayer in Nigeria without express words in an act of parliament clearly showing legislative intent to lay a tax burden on the taxpayer, urged the Court to grant the reliefs sought in the interest of justice.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunalled by Hon. Adedapo Sobowale as Chairman, Hon. Olatunde Balogun, Hon. Ebere Oruche, Hon. A. K. Akinsehinwa and

Hon. Aminu Usman as members after careful evaluation of the submission of both parties held that a combined reading of Exhibits tendered show that INT Towers Ltd is a Network Facilities Provider and not a telecommunications company.

The Tribunal ruled that INT Towers Ltd is not liable for the payment of 1% PBT levy chargeable on GSM Services

providers and telecommunications companies under section 12(2)(a) and the Third Schedule to the NITDA Act.

The Tribunal declared that INT Towers Ltd is a network facilities provider and not a telecommunications company and is therefore not liable to pay the 1% PBT NITDA levy.



Tax Tribunal orders Airtel Networks to pay Plateau Revenue Agency N19.4m Tax Liability within 30 days

The Jos- North Central Zone of the Tax Appeal Tribunal has ordered Airtel Networks Limited to pay Plateau State Internal Revenue Service the sum of N19,485,191.79 (Nineteen Million, Four Hundred and Eighty-Five Thousand, One Hundred and Ninety -One Naira, Seventy -Nine Kobo) being the outstanding PAYE tax liability, WithHolding Tax and interest for the period of 2013 – 2016 within 30 days.

The Panel led by Hon. Richard Bala held that Plateau State Internal Revenue Service is empowered by the provisions of the Personal Income Tax Act, 2011 and the Regulations made thereunder to demand and collect PAYE and WHT from the Respondent and has adduced sufficient evidence to the relief sought.

From facts, the Appellant- Plateau State Internal Revenue Service had submitted that the Respondent is indebted to it

in the sum N27,881,079.77(Twenty-Seven Million, Eight Hundred and Eighty –One Thousand, Seventy –Nine Naira, Seventy –seven kobo) only for tax liability comprising of PAYE underpayment, WHT, Development Levy, Business Premises, Previous Audit Balance and Statutory Penalties, all of which Respondent refused to pay despite series of demands.

The Plateau Revenue Agency evidenced that it was after a decision was reached between the agency and Airtel Networks regarding the outstanding tax liabilities that the exhibit tendered was sent as final and conclusive tax liabilities, and all efforts to get paid were to no avail. Despite several adjournments, the Respondent- Airtel Networks Limited failed to file defence and was foreclosed.

The Plateau State Internal Revenue Service contended that it

has placed credible oral and documentary evidence before which remains unchallenged by the Respondent, and urged the Tribunal to grant the reliefs sought in the interest of justice.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal led by Hon. Richard Bala as Chairman, Hon Zaidu Abdullahi, Hon. Ukera Emmanuel, Hon. Ogbaenyi Chikwendu and Hon. Saidu Ahmed held that it is not a general rule that whenever the evidence tendered by the Plaintiff as in the instant case is unchallenged and uncontradicted that the Plaintiff is automatically entitled to judgment.

The panel ruled that the Tribunal has a duty even in an

undefended case to evaluate the evidence placed before it to ascertain that such evidence is indeed credible and sufficient to sustain the claim, and ruled in favour of the Appellant.

“In the final analysis, judgement is entered in favour of the Appellant in the total sum of N19,485,191.79 (Nineteen Million, Four Hundred and Eighty-Five Thousand, One Hundred and Ninety-One Naira, Seventy-Nine Kobo) comprising the sum of N801,758.78 only as Respondent's outstanding PAYE tax liability, N14,072,433.43 as WHT, N1,487,419.22 being 10% penalty and N3,123,580.36k being 21% interest on the principal sum. Respondent is ordered to pay the Appellant the judgment sum within 30 days from the date of this judgment.” The Tribunal ruled.



Tax Tribunal orders firm to pay Bayelsa Revenue Board N264m Tax Liability

The Benin- South South Zone of the Tax Appeal Tribunal has ordered Century Exploration & Production Ltd to pay Bayelsa State Board of Internal Revenue the sum of N264,000,000.00 (Two Hundred and Sixty-Four Million Naira only) inclusive of interest and penalties being the assessed tax liability for the years, 2011 to 2018 in accordance with the relevant tax legislations.

The Panel led by Obehi Odiase-Alegimenlen held that Century Exploration & Production's assertion that the

Jurisdiction of the tribunal is limited only to the enforcement of laws imposing taxes, levies and fees in respect of Federal Government Agencies does not fly in the face of reality.

The Tribunal held that it is well clothed with jurisdiction to hear the matter as it relates to claims for the Bayelsa State Infrastructural Maintenance Levy and Development Levy as well as the operation of the entire Personal Income Tax Act (PITA) 2011 (as amended).

From facts, the Appellant- Bayelsa State Board of Internal Revenue had appealed before the Tribunal for not being satisfied with Century Exploration & Production Ltd's failure to file and pay the assessed tax liability in the sum of N264,000,000.00 (Two Hundred and Sixty-Four Million Naira only) in respect of PAYE, Withholding taxes, Development Levy, Bayelsa State Infrastructural Maintenance Levy.

The revenue board sought among others, AN ORDER directing the Respondent to pay the assessed sum inclusive of interest and penalties being the assessed tax liability for the years, 2011 to 2018 due to the agency in accordance with the relevant tax legislations.

In defense, the Respondent- Century Exploration & Production Ltd averred that it objected to the Notice of Assessment but the revenue board failed to accord any regard to the said objection or consider the same that the PAYE due to the Appellant for the period of its operation in Bayelsa State is the sum of N11,578,873.51(Eleven Million, Five Hundred and seventy-Eight Thousand, Eight Hundred and Seventy-Three Naira, Fifty-One Kobo).

The company objected to the suit and argued that the Tribunal does not have the jurisdiction to hear the matter as it relates to the imposition and enforcement of Development and Infrastructure levies.

The Respondent's counsel, Olalekan Kareem contended that the Jurisdiction of the Tribunal by the enabling laws is limited only to enforcement of those laws specifically referred to and mentioned in the FIRS (Establishment) Act 2007 which are laws imposing taxes, levies and fees in respect of Federal Government Agencies.

In opposition, the revenue agency through its counsel I.M. Beinbein maintained that the law empowers the Tax Authority to resort to Best of Judgment Assessment where the tax payer refused to submit returns or documents, that

the Respondent was given enough time to render returns or furnish the Revenue agency with relevant documents and information but choose not to do so, and urged the court to dismiss the company's objection in its entirety and grant the reliefs sought.

In its well-considered judgment after careful evaluation of the evidence and submissions of both parties, the tribunal

led by Hon. Prof. Obehi Odiase-Alegimenlen as Chairman, Hon Dr. Ala-Peters David, Hon. Mrs. Hilda Ofure Ozoh, Hon. Barr. Ajoku Vitalis Friday and Hon. Prof. Olatunde Julius Otusanya as members affirmed the jurisdiction of the tribunal of its power to adjudicate not only on the Taxes and Levies (Approved List for Collection) Act or other laws imposing taxes, levies and fees in respect of Federal Government Agencies but all other Laws mentioned in the Fifth Schedule to the FIRS (Establishment) Act 2007 including the Personal Income Tax Act (PITA) 2011 and other laws derived from the PITA and domesticated by the various States.

The Tribunal held that it is well clothed with jurisdiction to hear the matter as it relates to claims for the Bayelsa State Infrastructural Maintenance Levy and Development Levy as well as the operation of the entire Personal Income Tax Act (PITA) 2011 (as amended).

The panel held that the Appellant has proved its Case as required by Law to be entitled to the reliefs sought.

"In the final analysis, judgement is entered in favour of the Appellant in the total sum of N19,485,191.79 (Nineteen Million, Four Hundred and Eighty-Five Thousand, One Hundred and Ninety-One Naira, Seventy-Nine Kobo) comprising the sum of N801,758.78 only as Respondent's outstanding PAYE tax liability, N14,072,433.43 as WHT, N1,487,419.22 being 10% penalty and N3,123,580.36k being 21% interest on the principal sum. Respondent is ordered to pay the Appellant the judgment sum within 30 days from the date of this judgment." Tribunal ruled.



Tax Tribunal orders firm to pay Bayelsa Internal Revenue N195m Tax Liability

The Benin- South South Zone of the Tax Appeal Tribunal has ordered Baklang Consultant Limited to pay Bayelsa State Board Of Internal Revenue the sum of N195,993,729.40 (One Hundred and Ninety-Five Million, Nine Hundred and Ninety-Three Thousand, Seven Hundred and Twenty Nine Naira, Forty Kobo only) inclusive of interest and penalties being the assessed tax liability for the years 2008 to 2013 in accordance with the relevant tax legislation.

The Panel led by Obehi Odiase-Alegimenlen held that the Bayelsa State Board of Internal Revenue has proved its case against Baklang Consultant Limited and is entitled to the reliefs sought in the interest of justice.

From facts, the Appellant- Bayelsa State Board of Internal Revenue had appealed to the Tax Appeal Tribunal over the failure of Baklang Consultant Limited's failure to file and pay the assessed tax liability in respect of PAYE, Development Levy, and Bayelsa State Infrastructural Maintenance Levy on the grounds that unremitted taxes has become a debt owed by the firm to the Bayelsa State Government.

Consequently, the Bayelsa State Board of Internal Revenue sought an order directing the Baklang Consultant Limited to pay the revenue agency the assessed tax liability in accordance with the relevant tax legislations, and a declaration that the failure, refusal and/or neglect of the firm to deduct and remit its P.A.Y.E. of its staff are in breach of Sections 81 and 82 of the Personal Income Tax Act 2011 (as amended) amongst others.

In defense, the Respondent- Baklang Consultant Limited filed a preliminary objection and urged the Tribunal to strike out the Appeal for lack of jurisdiction. The Tribunal in its ruling dismissed the objection and affirmed jurisdiction.

The Baklang Consultant filed another Motion on Notice and sought the Tribunal to stay proceedings, and the tribunal refused the stay of Proceeding for lacking merit and ordered that Hearing Notice be served on the Respondent for the continuation of the hearing.

However, despite service of hearing notices on the Baklang Consultant, the firm failed and refused to

defend the suit.

The learned counsel to the Bayelsa State Board of Internal Revenue urged the tribunal to grant the reliefs sought in the interest of justice.

In a well-considered judgment after careful evaluation of the evidence tendered, the tribunal led by Hon. Prof. Obehi Odiase-Alegimenlen as Chairman, Hon Dr. Ala-Peters David, Hon. Mrs. Hilda Ofure Ozoh, Hon. Barr. Ajoku Vitalis Friday and Hon. Prof. Olatunde Julius Otusanya as members held that the Bayelsa State Board of Internal Revenue has made out a case to be entitled to the judgment of the Tribunal.

The Panel held that Baklang Consultant Ltd is indebted to the Bayelsa State Board of Internal Revenue in the sum of N195,993,729.40 (One Hundred and Ninety-Five Million, Nine Hundred and Ninety-Three Thousand, Seven Hundred and Twenty Nine Naira, Forty Kobo only) being unremitted PAYE of its Staff, Development Levy and Bayelsa State Infrastructural Maintenance Levy in accordance with Section 1(b) and (d) of the First Schedule to Personal Income Tax Act (Amendment) 2011, Taxes and Levies (Approved List for Collection) Act and Bayelsa State Infrastructural Maintenance Levy Law 2003.

The Tribunal also ordered Baklang Consultant Ltd to file Its tax returns with the Bayelsa State Board of Internal Revenue as prescribed by law.

The tribunal stated that as for the year 2020, section 54 of the Finance Act, 2019 had amended section 89 of the Stamp Duties Act to remove the lid on the taxation of electronic receipts but placed stamp duty collection on them by the Federal Governme

The tribunal stated that that the issue of collection of stamp duty on electronic receipts from transactions involving individuals resident in a State by banks is the thrust of the issues for determination pending before the Supreme Court, and while Abia State Government is demanding for

N4.9 billion for these fateful years, it is simultaneously demanding for an arbitrary sum from the Union Bank which is a clear case of double taxation if it had succeeded.

OBJECTIVE

**The Court of Appeal
has affirmed that the
Tax Appeal Tribunal is the
first point of call in cases
involving Tax Dispute
in Nigeria.**



Tax Tribunal orders NDDC to pay FIRS N20.3 billion Tax Liability

The Benin- South South Zone of the Tax Appeal Tribunal has ordered Niger Delta Development Commission (NDDC) to pay the Federal Inland Revenue Service the Sum of N20,338,795,939.00 (Twenty Billion, Three Hundred & Thirty-Eight Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Thirty-Nine Naira only) liquidated tax liability.

The Panel led by Obehi Odiase-Alegimenlen held that the Federal Inland Revenue Service has proved its case in line with the Summary Appeal Procedure.

From facts, the Appellant- Federal Inland Revenue Service had notified the NDDC of tax liability of N28,798,494,924.29k (Twenty Eight Billion, Seven Hundred and Ninety-Eight Million, Four Hundred and Ninety-Four Thousand, Nine Hundred and Twenty-Four Naira, Twenty Nine Kobo only) resulting from a tax investigation exercise which the Respondent did not object or challenge but rather contested and requested for the waiver of the Interest and the penalties and made a commitment to pay ?100,000,000.00 (One Hundred Million Naira) monthly instalment payment to offset the total liability.

Consequently, the NDDC recomputed its liability and netting off all the remittances it has made from the above said sum and arriving at a liability of ?20,338,795,939.00 (Twenty Billion, Three Hundred and Thirty-Eight Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Thirty-Nine Naira only).

The Appellant- FIRS sought an Order of the Tribunal declaring that the failure/refusal and/or neglect of the Respondent to pay the balance of Withholding Tax (WHT) and VAT Tax liability in the sum of ?25,498,494,924.29k (Twenty-Five Billion, Four Hundred and Ninety-Eight Million, Four Hundred and Ninety-Four Thousand, Nine Hundred and Twenty-Five Naira, Twenty Nine Kobo only) is in violation of FIRS Establishment Act, Company Income Tax Act and Value Added Tax Act. Likewise the sum of ?500,000,000.00 (Five Hundred Million Naira) only as general damages for non-payment of the assessed tax despite repeated demand.

In response, the Respondent- NDDC averred that the outstanding balance and the sum stated in the FIRS's Notice of Summary Appeal Procedure is not a liquidated sum of money and it accepted to pay the FIRS ?7,000,000,000.00

(Seven Billion Naira only) and urged the Tribunal to transfer the balance of N18,798,494,924.00 (Eighteen Billion, Seven Hundred and Ninety-Eight Million, Four Hundred and Ninety-Four Thousand, Nine Hundred and Twenty-Four Naira, Twenty Nine Kobo only) to the general cause list.

In opposition, the FIRS submitted that the amount has become a debt or liquidated sum and can be resolved through the Summary Appeal Procedure, and urged the tribunal to grant the reliefs sought.

In a well-considered judgment, the tribunal led by Hon. Prof. Obehi Odiase-Alegimenlen as Chairman, Hon Dr. Ala-Peters David, Hon. Mrs. Hilda Ofure Ozoh, Hon. Barr. Ajoku Vitalis Friday and Hon. Prof. Olatunde Julius Otusanya as members held that the sum of ₦23,038,795,939.00 (Twenty-Three Billion, Thirty-Eight Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Thirty-Nine Naira only) consented to by the Respondent and the ₦3,300,000,000.00 (Three Billion, Three Hundred Million Naira only) remittances agreed by both parties are no longer in contest, and the balance of N20,338,795,939.00 (Twenty Billion, Three Hundred & Thirty-Eight Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Thirty-Nine Naira only) has become a debt or liquidated sum that is to be resolved summarily through the Summary Appeal Procedure.

"The question to be asked is on what basis did the Respondent arrive at that ₦7,000,000,000.00 (Seven Billion Naira only) it is hastily agreeing after previously accepting to monthly liquidate the actual accessed liability of ₦23,038,795,939.00 (Twenty-Three Billion, Thirty-Eight Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Thirty-Nine Naira only) which it has also complied with remittances to the tune of ₦3,300,000,000.00 (Three Billion, Three Hundred Million Naira only). It is the position of the law that you cannot both appropriate and reprobate.

"We therefore, enter judgement in favour of the Appellant in the sum of ₦20,338,795,939.00 (Twenty Billion, Three Hundred & Thirty-Eight Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Thirty-Nine Naira only) which the Tribunal is of a strong opinion that it is the debt owed by the Respondent or the liquidated amount." The Tribunal ruled

OBJECTIVE

This tribunal is a national one for all the states of the federation, including the FCT and the Federal Inland Revenue Service.



[Capacity Building] Tax Tribunal Organizes International Workshop for Hon. Commissioners, Others

Capacity building is not a one-time effort but a continuous improvement strategy toward the creation of sustainable organizational success and sustainability. It occupies an invaluable niche in any successful organization.

On this note, the management of the Tax Appeal Tribunal put together a leadership and management development training for its Honourable Commissioners, on Human Capacity Development anchored by one of the leading International Human Development firms, Texem, United Kingdom on "STRATEGIC LEADERSHIP FOR SUCCESS IN AN UNKNOWN TOMORROW" which was held between Monday, 15th to Friday, 19th May 2023, in London, United Kingdom.

The Tax Appeal Tribunal was established under section 59(1) of the FIRS Establishment Act No. 13 of 2007, with the mandate for expeditious, convenient and pocket-friendly resolution of tax disputes in the Nigerian Tax System.

The Co-ordinating Secretary of the Tax Appeal Tribunal, Barrister Bolanle Oniyangi explained that the object of the training is to prepare the participants to understand and appreciate the changing dynamics in resolving tax disputes for the economic sustainability of Nigeria.

The training also featured in practical terms the exchange of expositions on processes of the Tax Tribunal System of the United Kingdom and Nigeria's Tax Tribunal System to enable the participants to compare and contrast processes in the two jurisdictions for better dispute adjudication.

Another take-home benefit is that the participants were given an exciting exposition on "Conceptualizing Leadership", on the need to appreciate the ramifications of leadership as a concept.

On his part, Ambassador Charles Crawford, a newspaper columnist, speechmaker, public speaker, author and former Diplomat with the UK Diplomatic Service, Former British Ambassador to Poland, Serbia and Bosnia with experience in strategic policy issues lectured on "Strategic Leadership, Unknown Tomorrow" spoke on what leaders and followers need from each other, and the art of selling new ideas.

Also in attendance were the Zonal Secretary, and administrative staff.



Tax Appeal Tribunal receives FIRS States' Coordinator Gbenga Daniel on Courtesy Visit

In Ibadan, the Tax Appeal Tribunal Southwest Zone on the 11th November 2023 received the State Coordinator of the Federal Inland Revenue Service FIRS of Oyo, Ogun and Osun States, Mr Gbenga Daniel and his team in an interactive session with the Hon. Chairman and Hon. Commissioners.

In his remark, Mr. Gbenga Daniel saluted the effort of the Tax Appeal Tribunal for living up to the expectation on the adjudication of Tax disputes arising from operations of the various Tax Laws as spelt out in the Fifth Schedule to the FIRS (Establishment) Act 2007.

On his part, the Chairman of the SouthWest Zone of the Tax Appeal Tribunal, Hon. Ajibola Akinmade reiterated the commitment of the tribunal to be a dynamic resolution centre, worthy of public trust and confidence on Tax disputes devoid of any form of technicalities.

Hon. Commissioners in attendance were Hon. Atitola Felix Bimbo, Hon. Falade Sufian Alani, Hon. (Mrs.) Queensley Seghosime, Hon. Princess Ebilah, and the Secretary of the Zone, Mr. Hilary Onwe.

OBJECTIVE

**At the Tax Appeal Tribunal,
Tax disputes are resolved
on a basis that is just,
flexible, speedy, convenient,
and affordable.**



In Benin, Tax Tribunal dismisses FIRS N52m Tax Assessment levelled against Firm

The South-South Zone of the Tax Appeal Tribunal held in Benin has dismissed the sum of N52,072,309 Companies Income Tax, Educational Tax and VAT Additional Tax Assessment for 2017 levelled by Federal Inland Revenue Service against Jubilant Multi-Concept Ltd in its entirety for lacking merit.

The tribunal led by Hon. Prof. Obehi Odiase-Alegimenlen unanimously held that Jubilant Multi-Concept Ltd is not liable to pay any tax on the alleged payment by SPDC to the Appellant in the sum of N316,015,124.04 (Three Hundred and Sixteen Million, Fifteen Thousand Naira, One Hundred and Twenty-Four Naira and Four Kobo only) or N316,015,124.04 USD as such payment does not exist.

From facts, the Appellant- Jubilant Multi-Concept Ltd had alleged that the review of the 2017 year of Assessment of Tax returns carried out by the Federal Inland Revenue Service against the firm was wrongful.

Jubilant Multi-Concept Ltd averred that the Tax assessment was carried out by the Revenue Agency against the firm when it did not execute any contract to the amount being claimed by the FIRS and all entreaties made to the FIRS to issue her tax clearance from 2018 to date were to no avail.

In defence, the Respondent- Federal Inland Revenue Service insisted that the Jubilant Multi-Concept Ltd earned the sum of \$316,015,124.4 as proceeds of the contract and liable to pay Company Income Tax, Education Tax and Value Added Tax, that the Respondent is under statutory obligation to deny any taxpayer Tax Clearance Certificate for failure to settle its Tax liability.

The Federal Inland Revenue Service also alleged that when the Jubilant Multi-Concept Ltd replied and furnished the agency with the requested bank statements, it was discovered that the date of the transaction in question was missing thereby making it difficult to attach any credibility to it as it has been doctored.

The FIRS also filed a Notice of Preliminary Objection challenging the jurisdiction of the Honourable Tribunal to hear the Appeal on the grounds that the pre-action Notice was not given as statutorily required by the Federal Inland Revenue (Establishment) Act 2007, an argument was dismissed by the tribunal for lacking merit.

In a well-considered judgment, the tribunal led by Hon. Prof. Obehi Adetokunbo Odiase-Alegimenlen as Chairman, Hon Dr. Ala-Peters David, Hon. Mrs. Hilda Ofure Ozoh, Hon. Barr. Ajoku Vitalis Friday and Hon. Prof. Otusanya Olatunde Julius

as members discountenanced the submission of the FIRS on the assertion of omission on the bank statements provided by the Appellant and held that there was no transaction on that day.

The Tribunal further stated that if the FIRS is not comfortable with that piece of evidence tendered by the Jubilant Multi-Concept Ltd on the alleged \$316,015,124.04 contract, it is the responsibility of the revenue agency to prove that such a transaction exists as the law provides that once a claimant has proved its case, the burden of proof then shifts to the Respondent.

The Tribunal admonished that the FIRS could have written to the bank for confirmation of the Bank Statement or even written to the bank for the confirmation of the Transaction as the law provides exceptions to the duty of confidentiality of Banks to its customers."Conclusively, based on the evidence of both parties, it is our opinion that the Appellant has made out a case to be entitled to the judgement of this Tribunal."

OBJECTIVE

The adoption of **e-filing application for the tribunal is to promote ease of dispute adjudication and for people to be able to have access to the tribunal within the comfort of their homes or offices.**



GALLERY



GALLERY





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