

IN THE TAX APPEAL TRIBUNAL  
SOUTH WEST ZONE

HOLDEN AT IBADAN

ON WEDNESDAY THE 17<sup>TH</sup> DAY OF DECEMBER, 2014

APPEAL NO: TAT/IB/010/2010

**BEFORE :**

- |    |                      |   |          |
|----|----------------------|---|----------|
| 1. | HON. JOSEPH A. USHIE | - | CHAIRMAN |
| 2. | HON. CYRIL I. EDE    | - | MEMBER   |
| 3. | HON. JIBRIL N. USENI | - | MEMBER   |

**BETWEEN:**

FEDERAL INLAND SERVICE - APPELLANT

**AND:**

COLODENCE NIG. PLC - RESPONDENT

**RULING:**

The Appellant brought this application for the Discontinuance of this appeal under Order XIV rule 1 (a) and (b) of the Tax Appeal Tribunal Rules 2010, dated 20<sup>th</sup> November, 2014, and supported by a four paragraph affidavit.

The Appellant is praying for an order of this Honorable Tribunal to withdraw the appeal pending when further and better information on the whereabouts of the Respondent is obtained by the Appellant.

Paragraph 4 (d) of the supporting affidavit is relevant here. It states "*That the motion to withdraw the appeal is necessary at this stage in order not to waste the time of the Honourable Tribunal*". Thus it is necessary to observe here that this Honourable Tribunal had previously granted the Appellant two Orders for substituted service. The last Order has not been executed and therefore stands time barred under the circumstance.

The right or power to discontinue an appeal before this Honourable Tribunal under Order XIV (1) is at the discretion of the Appellant and not otherwise.

Order XIV (1) provides thus;

1. *An appellant may -*
  - (a) *At any time before the hearing of an appeal withdraw the appeal by filing a notice of discontinuance as in Form TAT 5 signed by the appellant or his representative stating that the appeal is withdrawn,*
  - (b) *At the hearing of the appeal and with the leave of the Tribunal, withdraw the appeal.*

IN AMINU TANKO VS THE STATE (2009) Volume XIV page 1 at page 12 the Supreme Court held that:

*"Where a statute provides for a particular method of performing a duty regulated by the statute, that method, and no other, must have to be adopted".*

On the foregoing authority, this Honourable Tribunal is of the considered opinion that the application is competent and proper before it and therefore grants the Order as prayed. This appeal is accordingly struck out.

DATED AT IBADAN THIS 17 DAY OF DECEMBER, 2014

1. Hon. Joseph A. Ushie
2. Hon. Cyril I. Ede
3. Hon. Jibril N. Useni

(Chairman)

(Member)

(Member)

The block contains three handwritten signatures in black ink. The first signature is at the top, corresponding to the Chairman. The second and third signatures are below it, corresponding to the two Members. The signatures are stylized and cursive.