

IN THE TAX APPEAL TRIBUNAL  
IN THE NORTH EAST ZONE  
HOLDEN AT BAUCHI

THIS 17<sup>TH</sup> DAY OF JUNE 2015.



HON. SULEIMAN AUDU	-	-	CHAIRMAN
HON. HALIMA S. MOHAMMED	-	-	COMMISSIONER
HON. NGOZI AMALIRI	-	-	COMMISSIONER
HON. SUNDAY IDAM ISU	-	-	COMMISSIONER
HON. ALIYU ABBAS BELLO	-	-	COMMISSIONER

APP NO.: TAT/NEZ/003/2015

BETWEEN

FEDERAL INLAND REVENUE SERVICE ..... APPELLANT

AND

GEOSOLVE NIGERIA LIMITED ..... RESPONDENT

**DEFAULT JUDGEMENT**

This appeal dated 24<sup>th</sup> March, 2015 was filed in the Tribunal on the 25<sup>th</sup> March, 2015. The Appellant's claim against the Respondent is for the sum of **N290,239.00 (Two Hundred and Ninety Thousand, Two Hundred and Thirty Nine Naira) only.**

The claim was based on Notice of Assessment dated 23<sup>rd</sup> July, 2014 for Late Return Penalty on Company Income Tax (CIT), Education Tax (EDT) and Value Added Tax (VAT) for the period 2011 to 2014.

The Respondent failed to enter appearance and file its reply even after being duly served with all relevant Tribunal processes.

The Appellant is a statutory body established under the Federal Inland Revenue Service (Establishment) Act, 2007 vested with the powers to administer and manage Company Income Tax (CIT) Act, Value Added Tax (VAT) Act and Education Tax (EDT) Act as amended. The Appellant is also empowered to do other things as may be necessary and expedient for the proper assessment and collection of the Company Income Tax (CIT), Value Added Tax (VAT) and Education Tax (EDT) and account for the entire amount so collected to the Federal Government of Nigeria, through the Federal Inland Revenue Service.

The Appellant is empowered by the Act to conduct a routine Monitoring, Compliance and Audit Exercise on all companies and ensure that the companies render accurate monthly/annual returns to the Appellant as required by the law.

The Respondent is a company registered under the Companies and Allied Matters Act (CAMA) with its office at Giwo House, No. 6 Ahmadu Bello Way, Bauchi.

By virtue of the nature of its business and the Respondent being a VAT Collector, the company is liable to render to the Appellant true and accurate monthly returns, annual Company Income Tax and Education Tax. Several Assessment Notices were issued by the Appellant demanding for the returns due, and intimating the Respondent on the consequences of failure to comply, but the Respondent failed, refused or neglected to render the returns as demanded by the law. The agreement of 22<sup>nd</sup> July, 2014 and Assessment Notices of 22<sup>nd</sup> July, 2014 and 23<sup>rd</sup> July, 2014 respectively are all tendered in evidence as Exhibits (A) & (B), (B1, B2 & B3).



DEFENDANT: APPEAL NO.: TAT/NEZ/003/2015; FEDERAL INLAND REVENUE SERVICE  
Vs GEOSOLVE NIG. LIMITED 17<sup>TH</sup> DAY OF JUNE, 2015



The Appellant seeks the following reliefs from the Tribunal:-

1. AN ORDER of the Tribunal compelling the Respondent to pay to the Appellant the sum of **₦290,239.00 (Two Hundred and Ninety Thousand, Two Hundred and Thirty Nine Naira) only** as tax due from the Respondent to the Appellant for the period 2011 to 2014 for Late Return Penalty, Company Income Tax (CIT), Education Tax (EDT) and Value Added Tax (VAT).
2. Any other Order(s) the Tribunal may deem fit to make in the circumstances of the case.

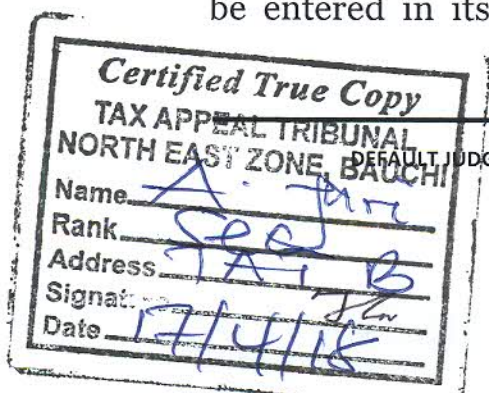
Hearing commenced on 19<sup>th</sup> day of May, 2015, Mr. A. Mohammed represented the Appellant, while the Respondent was not represented.

No oral argument was canvassed by either of the parties, neither was any written argument filed.

In the instant appeal, the pertinent question to ask is, whether the Respondent is a taxable person.

There is no doubt that the Respondent is a taxable person within the meaning of Section VIII Value Added Tax (VAT) Act. The averment in paragraphs 6 & 7 of the Notice of Appeal also emphasised that by nature of the Respondent's business it has become a taxable person, and is a going concern, particularly for the said period. This can also gleaned be from the contents of the Exhibits tendered, particularly Exhibit A, that the Respondent is a taxable person.

At the close of hearing, Appellant Counsel applied for default judgement to be entered in its favour relying on Order VIII Rule (1) of Tax Appeal



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Tribunal (Procedure) Rules 2010 and Order IX Rule(3) of Tax Appeal Tribunal (Procedure) Rules, 2010.

Having perused the processes filed and the Exhibits attached thereto, the Tribunal herein distilled a sole issue for determination as follows:

***“Whether the assessment raised against the Respondent has become final and conclusive in the absence of any objection and non-appearance by the Respondent”.***

It is the law that where a party fails to join issues with his opponent upon a fact pleaded by his opponent, that fact is deemed admitted. The party making that assertion is no longer under any burden to establish such fact. Where depositions in an affidavit filed in support of an application are uncontroverted and unchallenged, same should be treated and deemed as the truth of the matter. See **ADAMU Vs AKUKALIA (2005) II NWLR part 936, page 276 paras. F – G.**

A default judgement is binding as a judgement given after a normal trial. It acts as estoppel to the matter decided by it and can be enforced by means of all the execution process provided by enforcement of judgement.

Where the default of appearance is by the defendant, the Appellant may prove his claim so far the burden of proof lies upon him. Where hearing notices have been served on the defendant and he fails to enter appearance nor file any process, he is deemed to admit the validity of any judgement in the action and he is also bound by that judgement.

Another corollary is whether in the absence of any objection, the assessment raised based on Notice of Assessment had become final and conclusive, and whether the amount assessed has become a debt due from

**Certified True Copy**  
**TAX APPEAL TRIBUNAL**  
**NORTH EAST ZONE, BAUCHI**

Name A. Jari  
Rank Secy  
Address 1A7 B  
Signature [Signature]  
Date 17/4/18

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the Respondent to the Appellant. See **Section 76 CITA, Section I(1-3) EDT Act 2007** as amended, also **Sections 18, 19 & 20 of VAT Act 2007** as amended.

Counsel drew our attention to the fact that the Respondent failed to defend the Appeal even after being duly served, and give evidence in proof of its case. It was the view of the learned counsel for the Appellant that the Respondent's failure to defend the Appeal left the Appellant's claim unchallenged and uncontroverted.

In conclusion, we hold that the Tribunal find merit in this Appeal and accordingly same is hereby allowed.

Consequently, the Respondent **GEOSOLVE NIG. LIMITED** is hereby ordered to pay **₦290,239.00 (Two Hundred and Ninety Thousand, Two Hundred and Thirty-Nine Naira) only** as tax due from the Respondent to the Appellant for the period 2011 to 2014 within thirty (30) days from the day of this judgement.

This is the Judgement of the Tribunal.

Dated this 17<sup>th</sup> day of June, 2015.

  
CHAIRMAN

***RIGHT OF APPEAL***

***Any party dissatisfied with this decision of the Tribunal may appeal against it on a point of law to the Federal High Court upon giving notice in writing to the Secretary within thirty (30) days from the date on which such decision was made.***

