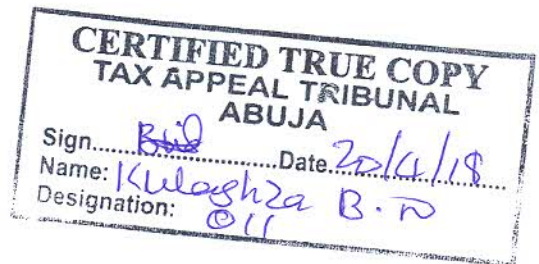


**TAX APPEAL TRIBUNAL
HOLDEN AT ABUJA
ABUJA
[THIRD QUARTER 23RD SITTING]**



4TH AUGUST, 2015

APPEAL NO: TAT/ABJ/APP/033/2014

FEDERAL INLAND REVENUE SERVICE APPELLANT

VS

HOTEL LA DON LIMITED RESPONDENT

Commissioners: Hon. Nnamdi Ibegbu (SAN)

Hon. Jude Rex-Ogbuku

Hon. A.M Gumel

Tribunal Registrar: Barr. Adedokun Abdulakeem.

Representation:

Ifeoma Ihenacho for the Appellant

Aloysius Ezenwa for the Respondent

Parties:

No representation for the Appellant

Geofrey Ior [Accountant] for the Respondent

Tribunal: This is the Ruling of this Tribunal in this matter.

RULING

On the 6th day of May, 2015 Judgment was delivered in this case by this Honourable Tribunal. The Respondent/Applicant applied by a Motion dated and filed on the 20th day of May, 2015 for instalmental payment. The Appellant/Respondent's counsel opposed the motion. Both Counsel filed written submissions.

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Sign: B. O. B. Date: 20/4/15
Name: Kelagha B. O.
Designation: O.I.

The Appellant and the Respondent's Counsel adopted their written submissions. When they were arguing; both Counsel agreed that their respective argument were based on the legal position which existed before the suit was filed before the Tax Appeal Tribunal. Both counsel agreed that the decision with respect to instalmental payment in this circumstance is entirely at the discretion of the Tribunal.

This Tribunal must point out that the affidavit of the Applicant should contain full and frank facts including a correct and accurate account and description of the applicant's income, assets, interest and properties as well as his obligations and liabilities. See **JOSIAH CORNELIUS LTD VS EZENWA [2000] 8 NWLR PART 670 PG 616 @ 626 Para A.**

The Appellant's counsel failed to furnish the Tribunal with such facts.

Furthermore, it should be noted that the law is that poverty or impecuniosities is no valid ground to grant an application of this nature. See **FRANCHAL [NIG] LTD VS N.A.B LTD [2000] 9 NWLR PART 671 PG 1 @ 22.** See also **DAILY TIMES OF NIGERIA PLC VS KUSAMO [2000] 15 NWLR PART 790 PG 401 @421 Paras B – H.**

It goes without saying that a party who seeks the exercise of Court's discretionary power should put all his cards on the table and make available all the necessary and relevant materials required to assist the court in deciding whether to exercise such discretion in his favour or otherwise. See **NEW NIGERIA BANK PLC VS I.B.W ENTERPRISES NIG. LTD [1998] 6 NWLR PART 554 PG 446 @454 B – D, 455E.**

Be that as it may, this Honourable Tribunal in exercise of its discretion in view of the fact that the Respondent /Applicant as some point in time paid some amount of money to the Appellant/Respondent, though minimal, hereby decides to exercise its discretion to put this matter to an end. This Tribunal orders that the Respondent/Applicant shall pay the Judgment debt to the Appellant/Respondent in three equal monthly installments from the month of August, 2015 and ending in October, 2015. This is the Ruling of this Tribunal.


R.Counsel: Your Honors, we are most grateful for the well considered Ruling.

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Sign.....
Sign.....
Name: Kulagha B.P
Designation: Off

Date: 22/4/18

Signed:


Hon. Nnamdi Ibegbu (SAN)

Acting Chairman


Hon. Jude Rex-Ogbuku

Commissioner


Hon. A.M. Gumel,

Commissioner