

**IN THE TAX APPEAL TRIBUNAL
SOUTH EAST ZONE
HOLDEN AT ENUGU**

25th October 2011

APPEAL NO: TAT/SEZ/005/10

BETWEEN:

FEDERAL INLAND REVENUE SERVICE APPELLANT

AND

ICHANGA NIGERIA LTD RESPONDENT

Chairman: Professor C.J. Amasike

Commissioners: Ignatius Chibututu [Esq]
Professor Eddy Omolehinwa
Dr. [Mrs.] Josephine A.A. Agbonika

Appearance

Counsel for the Appellant: Eze Emmanuel

Fidelis Nwaneke [Managing Director of the Respondent, for the Respondent]

JUDGMENT

This matter was commenced by the Appellant before the defunct VAT Tribunal, wherein, the Appellant sought to recover from the Respondent the sum of Three Million One Hundred and Ninety Five Thousand Forty Four Naira Ninety Seven Kobo [₦3, 195,044.97] as VAT liability for the period of 1997 to 2004, based on a Best of Judgment assessment.

Pursuant to the establishment of the Tax Appeal Tribunal, which merged the Body of Appeal Commissioners and the VAT Tribunal, the matter was re-listed before the Tax Appeal Tribunal by the Appellant, by a Notice of Appeal dated the 13th day of January, 2011 and filed at the Tax Appeal Tribunal, South East Zone on the 21st day of January, 2011.

The matter came before the Tax Appeal Tribunal for the first time on the 23rd day of January, 2011. The Appellant was represented by Eddy Nweke, Haruna



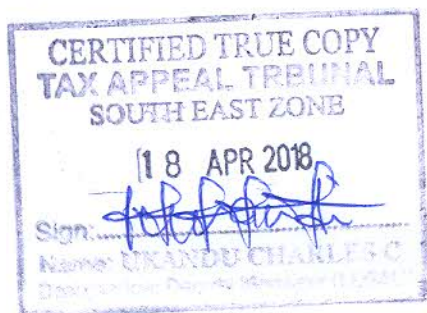
Musa and Emmanuel Eze. The Respondent was represented by C.O.N Anyiam. The Respondent informed the Tribunal that by a letter dated the 2nd day of February, 2011, addressed to the Appellant, he protested that the Best of Judgment assessment issued by the Appellant was arbitrary and unjustifiable and should be reviewed. To enable the Appellant respond to the letter, the matter was adjourned to the 23rd day of February, 2011, for further mention.

On the 23rd day of February 2011, the Appellant was represented by Haruna Musa and Emmanuel Eze. There was no representation for the Respondent. The Appellant by a motion on Notice dated the 18th day of January 2011 and filed on the 21st day of January 2011, moved the Tribunal to regularise its processes before the Tribunal.

The Tribunal granted the prayers as contained in the Motion on Notice, after being satisfied that the Respondent was properly served. The Appellant thereafter applied for leave to settle with Respondent out of Tribunal. The Tribunal therefore granted the parties leave to explore out of Tribunal settlement. The matter was adjourned to the 4th day of May, 2011 for hearing or report of settlement.

At the resumed sitting of 4th May, 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. The Respondent was represented by Fidelis Nwaneke. The Appellant informed the Tribunal that following the leave granted to the parties to explore out of Tribunal Settlement, that they on the 24th day of March, 2011, filed Terms of Settlement at the Tribunal. Parties therefore urged the Tribunal to adopt the Terms of Settlement as its judgment.

Upon a critical review of the Terms of Settlement, the Tribunal found that the parties failed to give details on how a VAT liability of Three Million, One Hundred and Ninety Five Thousand and Forty-four Naira, Ninety Seven kobo [N3, 195, 044.97] was reduced and settled at One Hundred and Fifty Thousand Naira [N150, 000.00]. Parties could not immediately provide an answer. Following this, the Tribunal ordered that further and better particulars be filed to explain the huge difference in the sum. The Appellant therefore sought for an adjournment to enable parties file a further and better particular on the



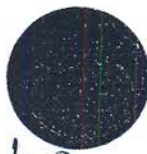
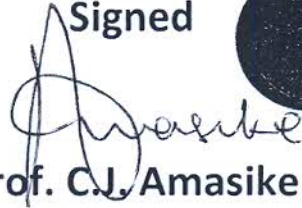
Terms of Settlement. The matter was thereafter adjourned to 24th day of October, 2011 for hearing or report of settlement.

On the 24th day of October 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. The Respondent was represented by Fidelis Nwaneke. The parties filed the comprehensive and amended Terms of Settlement dated the 24th day of October, 2011. The Tribunal was informed by the Appellant that the Respondent had since paid the agreed sum as per the Term of Settlement. The Tribunal having verified and being satisfied with the facts as contained in the amended Terms of Settlement adopted it as its judgment in the matter.

ACCORDINGLY, THE HONOURABLE TRIBUNAL DIRECTS AND ORDERS, AS ITS JUDGMENT, AS FOLLOWS:

1. That the Respondent having paid to the Appellant the sum of One Hundred and Fifty Thousand Naira Only [N150, 000.00] as full and final settlement of the matter is discharged from the VAT liability.
2. That the Appellant shall stop further prosecution of the Respondent in respect of this matter.
3. That the practice of receiving money in settlement of tax liability of a matter pending before the Tribunal, without the consent and leave of Tribunal must stop.

Dated this 25th Day of Oct. 2011

Signed 

Prof. C.J. Amasike
Chairman

Tax Appeal Tribunal, South East Zone

