

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

25th October 2011

APPEAL NO: TAT/SEZ/006/10

BETWEEN:

FEDERAL INLAND REVENUE SERVICE APPELLANT

AND

B.O. UWAJUMOGU & SONS ENTERPRISES LTD..... RESPONDENT
[TRADING AS EASTERN COMFORT HOTEL]

Chairman: Professor C.J. Amasike

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

Appearances:

Counsel for the Appellant: Haruna Musa and Eze Emmanuel

A. A. Obasi [Representative of the Respondent]

JUDGMENT

This matter was commenced against the Respondent via a writ of summons date the 12th day of September, 2005, before the defunct VAT appeal Tribunal wherein the Appellant sought to collect the sum of Four Million, Sixty Eight Thousand, Four Hundred and Eighty Nine Naira [N4, 068, 489.00] from the Respondent operations in Umuahia for the period of January 2002 to 31st day of May 2004, as a Best of Judgment liability for VAT.

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 by the Appellant through a Notice of Appeal dated the 13th day of January,



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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 25th day of January, 2011. The Appellant was represented by Ike Idume, Haruna Musa and Emmanuel Eze. There was no representation for the Respondent. The Appellant's Counsel informed the Tribunal that the Regional Coordinator of the Federal Inland Revenue Service, South East Zone, was at the verge of settling out of Tribunal with the Respondent. The Counsel stated that they were awaiting relevant document relating to the settlement, to enable them formally apply to the Tribunal for withdrawal of the matter. The matter was therefore adjourned to the 22nd day of February 2011 at the instance of the Appellant, for report of settlement.

On the 22nd day of February 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. There was no representation for the Respondent. The Appellant informed the Tribunal that they had settled with the Respondent. The Respondent was not represented at the sitting. The matter was therefore adjourned to 4th May, 2011, for further report of settlement.

At the resumed sitting of the 4th day of May, 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. There was no representation for the Respondent. The Tribunal was further informed by Counsel to the Appellant that the document [Terms of Settlement] was with the Respondent's Counsel. The Respondent Counsel was not in Court. The matter was therefore adjourned to the 30th day of June 2011, at the instance of the Appellant, for the production of the Terms of Settlement.

At the hearing of 30th day of June, 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. The Respondent was represented by A.A Obasi. Counsel for the Respondent moved the Tribunal to adopt the Terms of Settlement dated and filed on the 4th day of May, 2011, as the judgment of the Tribunal.

On a critical review of the Terms of Settlement as filed, the Tribunal observed that parties failed to give details on how a VAT liability of Four Million, Sixty Eight Thousand, Four Hundred and Eighty Nine Naira [N4, 068, 489.00] was



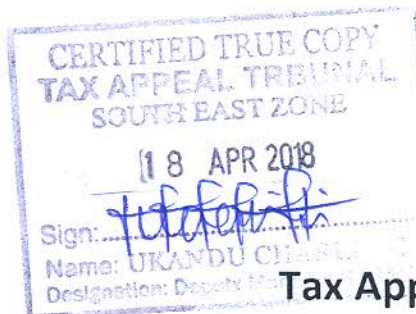
reduced and settled at Seven Hundred and Fifty Thousand Naira Only [N750,000.00] and sought for clarification on the huge difference in the VAT sum. The parties could not immediately provide an answer. The Tribunal therefore ordered that further and better particulars be supplied to explain the huge difference. The Appellant Counsel applied for a short adjournment to enable parties comply with the order of the Tribunal. The matter was thereafter adjourned the matter to 24th October, 2011.

At the sitting of 24th October, 2011, the parties filed the comprehensive and amended Terms of Settlement dated the 24th day of October, 2011. The Appellant's Counsel informed the Tribunal that the Respondent had already paid the sum of Seven Hundred and Fifty Thousand Naira [N750,000.00] being the agreed sum as per the Terms of Settlement. The Tribunal having verified and being satisfied with the facts as contained in the amended Terms of Settlement adopted the Terms of Settlement as its judgment in the matter.

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

1. That the Respondent shall pay to the Appellant the sum of Seven Hundred and Fifty Thousand Naira Only [N750,000.00] as full and final settlement of the outstanding VAT liability in this matter is discharged from the tax liability.
2. That the Appellant shall cease further prosecution of the Respondent in respect of this matter.
3. That on no account should the Appellant in future matters accept payment as settlement of tax liability of a matter pending before the Tribunal without the formal consent and leave of the Tribunal, as that practice raises this issue of lack of transparency.

Dated this 25th Day of Oct. 2011



Signed

Prof. C.J. Amasike
Chairman

Tax Appeal Tribunal, South East Zone

