

**IN THE TAX APPEAL TRIBUNAL
IN THE NORTH - EAST ZONE
HOLDEN AT BAUCHI
ON 8TH DAY OF JUNE, 2011.**

BEFORE: HON. SULEMAN AUDU	-	CHAIRMAN
HON. HALIMA SA'ADIYYA MOHAMMED	-	MEMBER
HON. ALH. ALIYU ABBAS BELLO	-	MEMBER
HON. CHIEF NGOZI AMALIRI	-	MEMBER
HON. CHIEF SUNDAY IDAM ISU	-	MEMBER

APP.NO: TAT/NEZ/004/2011

BETWEEN:

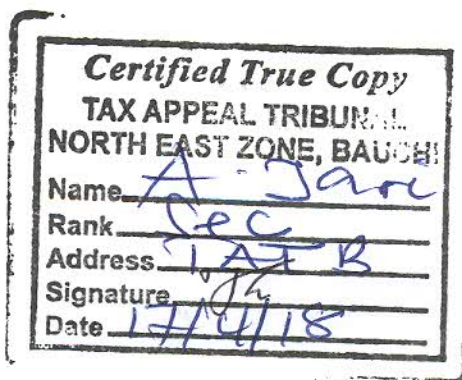
FEDERAL INLAND REVENUE SERVICE.....APPELLANT

AND

ALISS HAMDALA HOTELRESPONDENT

JUDGEMENT

The Federal Inland Revenue Service (FIRS) (hereinafter referred to as “the Appellant”) filed an appeal against Aliss Hamdala Hotel (hereinafter referred to as “the Respondent”) for tax evasion or tax default. By a notice of appeal, filed in the registry of the Tribunal, the Appellant contends that the Respondent has failed, neglected or refused to remit value Added Tax (VAT) for the periods of January, 2008 to May, 2009 in the



sum of five hundred and seventy four thousand, nine hundred and four naira ninety-six kobo (N574, 904.96K)

The Appellant came by this figure in the course of discharging its statutory duties of monitoring and compliance exercise, including auditing of companies that deal with vatable goods and services. It also ensures the monthly remittance of Value Added Tax to the Appellant's organization.

The Appellant filed along with the appeal several exhibits, comprising several demand notes and correspondence which were served on the Respondent. The Exhibits are as follows:

- a. Demand note, dated 16th July 2009 which was duly acknowledged by the Respondent;
- b. Exhibit A¹, a demand, assessment of outstanding VAT; dated 26th January 2010;
- c. Exhibit A², dated 12th November, 2010, which was duly acknowledged by one Abdullahi Adamu of the respondent;
- d. Exhibit 'B', VAT Reassessment notice of 2008;
- e. Exhibit 'B1', also VAT Reassessment notice of 2009; etc.

The Appellant also contends that there is an annexure of outstanding tax arrears showing the basis of the assessment of vatable supplies, interest charges and penalty, including the total sum owed.



In conclusion, the appellant is seeking an order of the Tribunal compelling the Respondent to pay the total sum of N574, 000.00.

In his response, the representative of the Respondent Yusuf Yahaya, conceded that payment of VAT was not done on regular basis by his company but that they are willing to pay the claim on installmental basis in the sum of N20, 000 per month until the whole sum is liquidated.

We have heard the contention of the both parties in respect of this matter. It is not in doubt that the Respondent's failure, neglect or refusal to remit the VAT due to the Appellant is in contravention of the provisions of sect 15 (1) and s.18 of the Value Added Tax Act, as amended; which provides as follows:

"S 15 (1) A taxable person shall render to the Board on or before the 21st day of the month following that in which the purchase or supply was made, a return of all taxable goods and services purchased or supplied by him during the preceding month in such manner as the Board may, from time to time, determine"

"S. 18 – Where a taxable person fails to render returns or renders an incomplete or inaccurate returns the Board shall assess, to the best of its judgment, the amount of tax due on the taxable goods and services purchased or supplied by the taxable person".

In the case of the Respondent, it is not in doubt that its goods and services are vatable, having been duly registered as such and going by the contents of the forms in Exhibits 'A' & 'B'.



As contended by the Appellant, despite the Respondent's registration and the undertakings it made while filling the registration forms, it has remained in default of remittance during the period under review contrary to the provisions of the law.

We have seriously considered your claim and we are of the view that we should be moderate in extracting this money from the Respondent. They have agreed that they are actually a going concern as a business, and they should have capacity to meet their obligation otherwise they would have gone bankrupt. We have now decided that they must clear all the claims. You have here less than N11,000 before the end of this year. You can work out the monthly remittances.

There is therefore nothing to urge in favour of the Respondent.

Accordingly, we hereby order that the Respondent shall remit without failure and in full the sum of ₦574, 000 before December 31, 2011. Failure to do so might lead to the Tribunal issuing order for the closure of the hotel business. Respondent's representative to report the hotel proprietor accordingly.

APPEARANCE:

1. A.A Alhashim Esq

With Amuta Salome for
the Appellant (FIRS)

2. Yahaya Yusuf

(Company Representative)
for Respondents.




HON. SULEMAN AUDU
CHAIRMAN

Hon. Mrs. Halima Sa'adiyya Mohammed
MEMBER

Hon. Alh. Aliyu Abbas Bello
MEMBER

Hon. Chief Ngozi Amaliri
MEMBER

Hon. Chief Sunday Idam Isu
MEMBER

