

**IN THE TAX APPEAL TRIBUNAL
IN THE NORTH - EAST ZONE
HOLDEN AT BAUCHI
ON 29TH DAY OF MARCH, 2012.**

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

APP.NO: TAT/NEZ/002/2011

BETWEEN:

FEDERAL INLAND REVENUE SERVICE.....APPELLANT

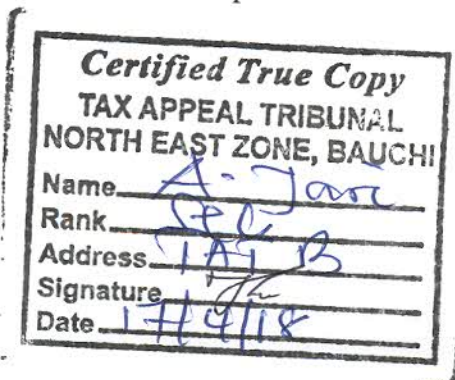
AND

SOGIJI HOTEL LIMITEDRESPONDENT

JUDGEMENT

The Appellant is a statutory body established by S.I (1) of the Federal Inland Revenue Service (Establishment) Act, 2007. It is vested with the power to administer and manage the value Added Tax Act of 1993.

In accordance with its statutory powers, the Appellant conducts routine monitoring and compliance exercise. It audits companies that deal in vatiable goods and services, and also ensures periodic returns of value added tax on monthly basis as required by the law.



So by a notice of Appeal dated 30th March, 2011 the Appellant contends that the Respondent has failed, neglected or refused to file returns and remit company Income Tax for the period of 2005 – 2008 in the sum of five hundred and forty eight thousand, one hundred and eighty five naira three kobo (N548, 185.03k)

The Appellant further contends that despite several demand letters dated 25/05/09, 24/05/09 and 12/11/10, the Respondent was adamant hence the appeal to the Tribunal.

The Respondent however, made a token payment of ₦20, 000 during the appeal, thus bringing the balance to ₦528, 185.00 which amount was not disputed by the Appellant.

The Respondent also intimated the Tribunal of their intention to invoke the provisions of Order 11, Rules 1 & 2 of the Tax Appeal Tribunal (Procedure) Rules, 2010 which deals with installment payments. As a result of the application for installment payment the Tribunal gave the parties time to reach consensus with regard to the amount to be paid installmently until the whole sum is liquidated.

It is now necessary to give a summary of the Appeal of the Appellant.

The Appellant filed several grounds of Appeal, but the main one is that the Respondent being a taxable person has failed, neglected or refused to file returns and remit company income tax for the periods of 2005, 2006, 2007 and 2008 respectively.



The grounds of appeal of the Appellant are supported by particulars. However, what is worth considering is the evidence of the Appellant as borne out in the witness statement on oath.

The tax liability of the Respondent is ₦548, 185.03 which is based on the Company Income Tax Act, 2004.

Exhibit 'B' contains 'Boj' Notices of Assessment in the form of Exhibits 'B', 'B¹', 'B²' and 'B³' giving rise to the total claim of the Appellant in the sum of ₦548, 185.03kobo.

The Appellant's prayer therefore is that he is urging the Tribunal to order the Respondent to make full payment at once.

On the other hand, the Respondent made an oral application from the Bar urging the Tribunal to order instalmental payment of the debt as it is allowed by law and that he proposes a monthly payment of fifty thousand naira (₦50, 000.00) only until final payment is done. However, the Appellant rejected the request of ₦50, 000 installmental payment.

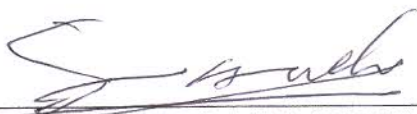
Having considered the different positions of the two parties, the order of the Tribunal is that the Respondent shall pay the appellant within a period of six months at the rate of eighty-eight thousand and thirty naira (₦88, 030.00) every month until the whole amount is paid.

Certified True Copy	
TAX APPEAL TRIBUNAL	
NORTH EAST ZONE, BAUCHI	
Name	_____
Rank	_____
Address	_____
Signature	_____
Date	_____

The Tribunal wishes to note here that the Respondent is represented by counsel and does not object to the claim of the Appellant but is concerned only with the rate of instalmental payment, as according to him his client does not generate more than ₦20,000 per day in the business.

It is the order of the Tribunal therefore that the Respondent shall make full payment to the Appellant within a period of six months at the rate of (₦88, 030.83K) only. Payment is scheduled to start from April, 2012.




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

A