

**IN THE TAX APPEAL TRIBUNAL  
IN THE NORTH EAST ZONE  
HOLDEN IN BAUCHI  
ON 28<sup>TH</sup> MARCH, 2012.**

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

**BETWEEN:**

**FEDERAL INLAND REVENUE SERVICE .....APPELLANT**

**AND**

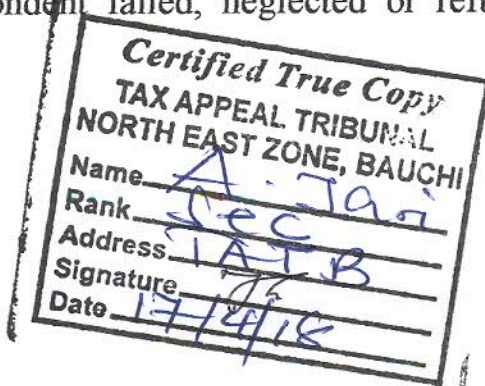
**BAUCHI STATE UNIVERSAL BASIC EDUCATION**

**BOARD.....RESPONDENT**

**JUDGEMENT**

The Federal Inland Revenue Service (FIRS) (hereinafter referred to as “the appellant”) being dissatisfied with the action of the State Universal Basic Education, Bauchi State (hereinafter referred to as “the Respondent”) filed a Notice of Appeal dated 20<sup>th</sup> April, 2011 in this tribunal.

In the Notice, the Appellant contends that for the period of 2005 to 2006 the Respondent failed, neglected or refused to remit the sum of sixty-five million, one



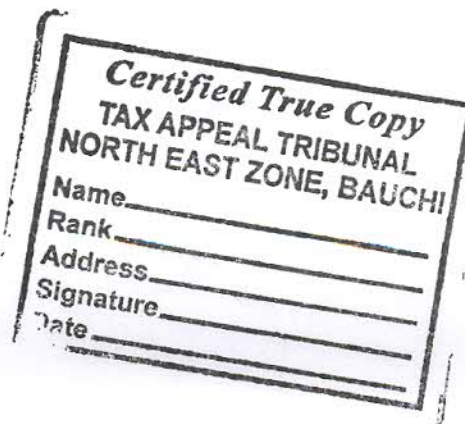
hundred and forty thousand, eight hundred and forty-two naira, twenty-two kobo (N65, 140, 842.22K) as value added tax (VAT) despite repeated demands through correspondence letters dated 22/06/09, 26/10/09 and 12/11/10 respectively.

The Appellant further contends that the Respondent being a VAT collector has failed neglected or refused to remit the said amount.

In his particulars of claim, the Appellant stated that it is empowered to collect value added tax for the Federal Government after assessing any company and ascertaining that it offers goods and services to the public. The appellant also contends that the Respondent is a vatable person having been so assessed in accordance with the law is liable to remit the sum claimed for the period under review.

A statement on oath was filed along with the said particulars of claim stating that the Respondent is a registered company with its office at Awalah Roundabout, Bauchi and at all times material, it carried on the activities of Bauchi State Universal Basic Education but that during the period under review it failed, neglected or refused to remit VAT it collected for the Federal Government.

The Respondent who is represented by counsel from the Attorney-General's Chambers, Ministry of Justice, Bauchi State however, filed a motion on Notice dated 20<sup>th</sup> June, 2011. He challenged the parameters used to arrive at the sum claimed by the Appellant as VAT owed the Appellant.





He contends that the actual tax liability is ₦51, 341, 647.91 but that in arriving at their claim the Appellant included penalty and interest thus putting the figure of their purported claim at ₦65, 140, 842.22K. Counsel further said the breakdown of the two claims are as follows: Penalty = ₦120, 000.00

= ₦13, 416, 999.99

He admitted that the interest arose out of failure to pay on time.

It is on record that part payment of ₦25, 000, 000.00 as a beginning was made by the Respondents to show their commitment to their obligations. Having done this then he sought for waiver of the said penalties and interest and suggests that the sum of N3, 000.00 would be paid monthly until the remaining sum is completely liquidated.

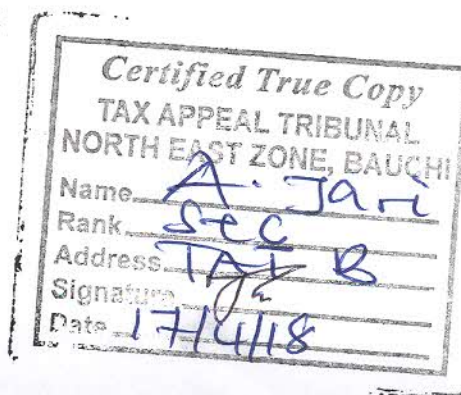
Although their application for waiver was objected to by the Appellant, in their counter-affidavit the tribunal considered the merit of the case on the ground that a new management which was not responsible for the accrued VAT owed by the Respondent, is on ground and that having made a payment of ₦33, 801, 921.51, they have shown a remarkable departure from their predecessor in office.

Accordingly the Tribunal hereby grants 50% interest waiver to the Respondent but rejects the payment for waiver of the penalty.

So the amount payable now is as follows:

Principal = ₦17, 801, 921.52

Interest = ₦6, 708, 499.59



Penalty = ₦120, 000.00

**Total = ₦24, 630, 421.11**

Having considered the presentation of the parties, the order of the Tribunal therefore is that the total sum payable is sum of ₦24, 630, 421.11.



HON. SULEMAN AUDU  
CHAIRMAN

MEMBERS:

Hon. Mrs. Halima Sa'adiyya Mohammed

Hon. Chief Ngozi Amaliri

Hon. Chief Sunday Idam Isu

Hon. Alh. Aliyu Abbas Bello



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