

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

**APPEAL NO. TAT/SEZ/003/11**

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

**VS**

**VALUELINE SECURITIES & INVESTMENTS LTD..... RESPONDENT**

**BEFORE THEIR HONOURS**

**Chairman: Professor C.J Amasike**

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

**Tribunal Registrar: Mrs. Angela C. Edeko**

**Representation:**

Haruna Musa with Mrs. Ngufan Nwogu-Ikojo for the Appellant

Respondent: Not Represented



## JUDGMENT

This case was filed on 13<sup>th</sup> July, 2011, wherein the Appellant claimed against the Respondent the sum of One Hundred and Thirty – Nine Million for Hundred and ninety seven thousand, six hundred and twelve naira [N139,497,612.00] as tax liability arising from Company Income Tax and Education Tax for assessment year of 2008. It was also found as a fact that the tax liability arose out of self- assessment done by the Respondent.

On 26<sup>th</sup> October, 2011, the parties were represented by Haruna Musa & Eze Emmanuel for the Appellant and G.O. Onajason for Respondent. When the matter came up the Counsel for Appellant moved to regularize the notice of appeal and other processes which application was granted by the Tribunal. Both Counsel sought the permission of the Tribunal to explore out of Tribunal Settlement which was granted and case adjourned to 26<sup>th</sup> January, 2012, for report of settlement.

On 26<sup>th</sup> January, 2012, the Appellant was represented by Haruna Musa & Eze Emmanuel and no representation for the Respondent. Following nonchalant attitude of the parties towards taking positive steps to settle as applied for and granted by the Tribunal, the Tribunal adjourned the matter to 14<sup>th</sup> March, 2012, and warned that unless the matter was settled on or before the 14<sup>th</sup> March, 2012, the Tribunal would have no choice than to proceed with full hearing.

On the 14<sup>th</sup> March, 2012, the Appellant was represented by Haruna Musa and Eze Emmanuel. While the Respondent was represented by Ekeneme Ike. Both Counsel informed the Tribunal that they have commenced negotiation and appealed to the Tribunal to grant them another adjournment to enable them conclude negotiation and the Tribunal so granted their prayer and adjourned to 26<sup>th</sup> June, 2012, for report of settlement.

On 26<sup>th</sup> June, 2012, the parties who were represented by Haruna Musa & Eze Emmanuel for Appellant and Ekeneme Ike for the Respondent again sought for an adjournment having not concluded their negotiation which was granted and case adjourned to 14th August, 2012, for report of settlement.





On 14<sup>th</sup> August 2012, the parties informed the Tribunal that they had settled and filed the Terms of Settlement, exhibit I. A perusal of the Terms of Settlement by the Tribunal showed that the tax liability of N139,497,612.00 was now reduced to N35,407,375.92, a huge difference of One Hundred And Four Million Ninety Thousand Two Hundred And Thirty Six Naira, Eight Kobo [N104,090,236.08] and thereupon the Tribunal sought for explanations from the parties. Upon not receiving any satisfactory answers, the Tribunal issued witness summons to all the people that took part in the negotiation and subsequent reduction namely: the Regional Coordinator FIRS East [Mr. C.P. Igwe] the FIRS Team Leader/Audit Head who re-assessed the Respondent [Mr. I.O. Okereke]. The Tribunal also issued witness summons to the External Auditors/Tax Consultants for the Respondents [Messrs. Akujobi Ayininuola & Co.]. The matter was subsequently adjourned to 11<sup>th</sup> September, 2012.

On the 11<sup>th</sup> September 2012, Mr. Okereke in his testimony informed the Tribunal that the Respondent had so far paid the sum of Fifteen Million [N15,000,000.00] towards liquidating the re-assessed tax liability of N35,407,375.92. He also told the Tribunal that the External Auditors/ Tax Consultants to the Respondents did a shoddy job and had infact been dismissed by the Respondent. He was of the view that that was the reason why they [External Auditors] increased the tax liability of the Respondent. Case was adjourned to 30<sup>th</sup> October, 2012, for continuation of hearing

On October 30<sup>th</sup>, 2012, the External Auditors/ Tax Consultants for the Respondent testified and informed the Tribunal that they relied at all times on the tax documents provided by the Respondent and that their work was competent, professional and reflected the true state of affairs. They further informed the Tribunal that at the end of their work, the Respondent signed the documents signifying they agreed with the assessment and that they [Respondent] were infact responsible for filing their tax papers at FIRS.

The Tribunal was also informed that they [External Auditors] resigned their appointment as Auditors to the Respondent when they found out that the Respondent wanted to use them to carry out unprofessional services in relation to





its tax liability. The case was adjourned to 26<sup>th</sup> November, 2012, for cross-examination of the External Auditors.

On 26<sup>th</sup> November, 2012 both Counsel for Appellant and Respondent crossed examined the External Auditors to the Respondent. Mr. C.P. Igwe also gave his testimony. While apologizing for his role in the reduction of the tax liability, Mr. Igwe maintained that he did not do so for personal financial gains.

Reviewing the facts of the case and testimonies by the witnesses, the Tribunal found the explanations given by both Mr. C.P. Igwe and Mr. I. O. Okereke very unsatisfactory and unreliable with regard to the reduction in the tax liability of the Respondent. The Tribunal also found as a fact that the actions of Mr. C.P. Igwe and Mr. I.O Okereke in protecting the interest of the Respondent were reprehensible and tainted with illegality. The Tribunal found the External Auditors/Tax Consultants as a truthful witness and its testimony reliable.

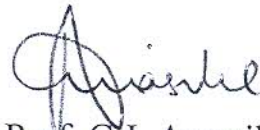
The Tribunal therefore ordered, the Respondents to liquidate the entire tax liability within two weeks or it would transfer the case to law enforcement agency as provided by paragraph 12, 5<sup>th</sup> Scheduled of the Federal Inland Revenue Service Act 2007. The case was adjourned to 16<sup>th</sup> January, 2013.

On 16<sup>th</sup> January 2013, Counsel for the Appellant reported that the entire tax liability had now been paid in compliance with the Tribunal's Order and applied that the case be withdrawn. The Tribunal sought to have evidence showing proof of full payment of the tax liability and ordered the Appellant's Counsel to file proper application annexing documents to buttress his application. The case was adjourned sine die.

On resumption of the Tax Appeal Tribunal on 25<sup>th</sup> June, 2013, Counsel for Appellant filed the amended application, showing that the entire tax liability of N139,497,612.00 had now been paid and annex document from the FIRS office to this effect which the Tribunal verified and being satisfied that the entire tax liability had now been paid **accordingly ordered and directed as follows:**



1. That the Respondent having paid the entire sum of N139,497,612.00 as its tax liability to the Federal Government of Nigeria arising from Company Income Tax and Education Tax for the year 2008, it is hereby discharge from its tax liability.
2. That the Appellants shall forthwith stop the prosecution of the Respondent in respect of the subsisting case.



Prof. C.J. Amasike

Chairman

Tax Appeal Tribunal [SEZ]

Date: 23/07/2013,

