

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

APPEAL NO. TAT/SEZ/016/15

BETWEEN:

**FEDERAL COLLEGE OF EDUCATION, EHA-AMUFU.....APPLICANT/RESPONDENT
AND**

ENUGU STATE BOARD INTERNAL REVENUE SERVICE.....RESPONDENT/APPELLANT

BEFORE THEIR HONOURS

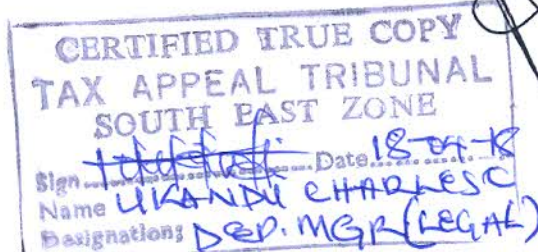
Chairman: Prof. C.J. Amasike

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

RULING

The Applicant/Respondent had informed the Honourable Tribunal that he had filed an appeal against the Judgment of this Honourable Tribunal delivered on 15th September, 2015 in case of Enugu State Board Internal Revenue Service V. Federal College Of Education, Eha-Amufu Appeal No. TAT/SEZ/016/15 and that the said appeal had been received by the Federal High Court.

He further told this Honourable Tribunal that the implication of this is that the Honourable Tribunal should not deliver the Ruling it was meant to deliver on the 19th of January, 2016, in respect of the Application for Stay of Execution of its previous judgment delivered on 15th September, 2015.



He further cited the cases of:

1. Ezoma V. Attorney-General Bendel State [1986] 4 NWLR [pt.38] p.448
2. Muhammed V. Hussein [1998] 14 NWLR [pt. 584] p.108
3. Ogunremi V. Dada [1962] 2SCNLR p. 417

We have listened to his oral application in which he did not indicate the Order of the Tax Appeal Tribunal [Procedure] Rules, 2010, he was relying on, and also found out that there is no evidence whatsoever that an appeal had been lodged, received and listed by the appellate court and we are unable to believe him until proof is provided that Federal High Court is seized of this matter.

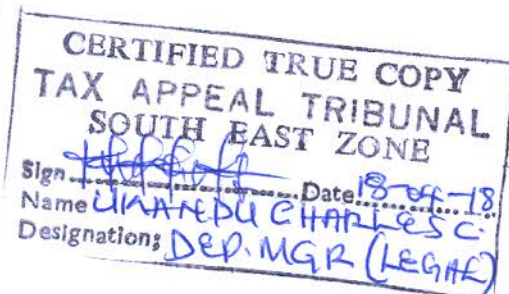
We also note that the Respondent in this application, the Enugu State Board Internal Revenue Service, was also not put on notice and consequently was unable to reply to this application.

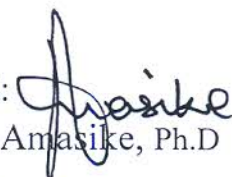
This Honourable Tribunal therefore hereby orders as follows:

1. That the Application should come by way of motion in compliance with Order XI Rule 3 of The Tax Appeal Tribunal [Procedure] Rules 2010,
2. That the Applicant should put the Respondent, the Enugu State Board Internal Revenue Service, on notice,
3. That Applicant should show proof that an appeal had been lodged, received, and listed by the Federal High Court in this matter – see the Supreme Court decision in **John Akujobi Nwabueze V. Obioma Nwaosu [1998] 9SC, p.68.**

Pursuant to the above, this application is hereby dismissed and this Honourable Tribunal shall therefore proceed with the ruling which was scheduled for 19th January, 2016, but which was arrested/suspended in view of the oral application of the Applicant made on the said 19th January, 2016.

This is the Ruling of this Honourable Tribunal and parties are liberty to appeal against it.



Signed: 
Prof. C.J. Amasike, Ph.D
Chairman

Tax Appeal Tribunal, South East Zone
Date: 21st Jan. 2016