

28

**IN THE TAX APPEAL TRIBUNAL
IN THE SOUTH - SOUTH ZONE
HOLDEN AT BENIN CITY**

SOUTH-SOUTH-ZONE
SECRETARY

APPEAL NO: TAT/SSZ/002/2013

BETWEEN:

OKOMU OIL PALM COMPANY PLC ... APPELLANT

AND

FEDERAL INLAND REVENUE SERVICE ... RESPONDENT

TERMS OF SETTLEMENT

OKOMU OIL PALM COMPANY PLC (hereinafter referred to as "**the company**") is a company registered under the Companies and Allied Matters Act (CAMA) CAP C20, LFN 2004.

And

FEDERAL INLAND REVENUE SERVICE (hereinafter referred to as "**FIRS**"), is a body created under the Federal Inland Revenue Service (Establishment) Act 2007, charged with powers of assessment, collection of, and accounting for revenues accruable to the Government of the Federation with its Head Office at Plot 522, Sokode Crescent, Wuse Zone 5, Abuja, FCT.

BACKGROUND & PRELIMINARY ISSUES:

- 1.0. FIRS assessed and issued Notices of Assessment on the company pursuant to **Section 19 of Companies Income Tax Act (CITA), CAP C21 LFN 2004**, after a **Tax Audit Exercise** carried out in respect of 2009-2012 years of Assessment of its tax liabilities for Companies Income Tax (CIT)
- 2.0. The basis of the Notice of Assessments is the claim by the FIRS that the company has paid out *dividend as profit on which no tax payable is due to its shareholders* and the said dividend was deemed as the profit of the company for the years under reference.
- 3.0. **The Company** disagreed with the aforesaid Assessments and objected to the application of Section 19 by the FIRS to its tax liability stating that no profit was made for the years under reference.
- 4.0. The **FIRS** disagreed with the company's ground of Objection to the Assessments and sustained the validity of the aforementioned Assessment.
- 5.0. As a result, the company **filed** an Appeal before the Tax Appeal Tribunal (TAT), seeking to set aside the assessments on the ground that **FIRS** misdirected itself when it applied section 19 of CITA to its tax liability for the years under reference.
- 6.0. At the trial of this Appeal before the TAT, **the Company** requested and obtained the permission of the TAT to enter into negotiations with the FIRS with a view to arriving at an amicable settlement between the parties.

7.0. NOW THE PARTIES HAVE AGREED TO SETTLE THIS MATTER AND RESOLVE THE ISSUES AS FOLLOWS:



Assessment
Official
[Signature]
25/03/15

- a) FIRS is satisfied with the documentary evidence supplied by the company to show that certain portion of the profit was made from exported goods. The proceeds from the said exported goods were repatriated and used exclusively to purchase raw materials, plants, equipment and spare parts pursuant to **section 19 (q) of CITA which exempt such profits from taxation.**
- b) FIRS agreed to accept the sum of **N591, 948,912 (Five Hundred and Ninety- One Million Nine Hundred and Forty-Eighty Thousand Nine Hundred and Twelve Naira, Only)** as final settlement of the company's tax liability for the years under reference.
- c) FIRS has agreed to discharge the earlier Assessment of the sum of **N901, 444,800.00 (Nine Hundred and One Million Four Hundred and forty Four Thousand Eight Hundred Naira only)** and issue a revised Assessment of the sum of **N591, 948,912 (Five Hundred and Ninety- One Million Nine Hundred and Forty-Eighty Thousand Nine Hundred and Twelve Naira Only)** against the company.
- d) The company has agreed to settle the revised Assessment as follows:
- i. The sum of **N295, 974,456 (Two Hundred and Ninety Five Million Nine Hundred and Seventy Four Thousand Four Hundred and Fifty Six Naira only)** which constitutes 50% of the sum of **N591, 948,912 (Five Hundred and Ninety- One Million Nine Hundred and Forty-Eighty Thousand Nine Hundred and Twelve Naira Only)** shall be paid on or before 30th January, 2015.
- ii. That the sum of **N73,993,614 (Seventy Three Million Nine Hundred and Ninety Three Thousand Six Hundred and Fourteen Naira only)** shall be paid instalmentally in each Months of February, March, April and May 2015 respectively within which the entire tax liability will be liquidated.
- e) The parties have agreed that this Terms of Settlement shall be made the final settlement between the parties in respect of the tax liabilities in the years of assessment under reference.
- f) This Terms of Settlement is made without prejudice to section 19 CITA and binding on the parties as far as the issue raised in this Appeal is concerned and the resultant tax liability for the years under reference.
- g) Each party shall bear its own respective costs.

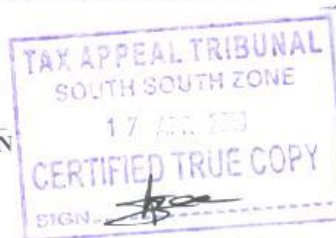
Dated this 20th day of March 2015

FOR THE APPELLANT:


CHIEF CHARLES ADOGAH SAN
(Appellant's Solicitor)

FOR THE RESPONDENT:


EXECUTIVE CHAIRMAN




BOARD SECRETARY