

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

25th October 2011

APPEAL NO: TAT/SEZ/013/10

BETWEEN:

FEDERAL INLAND REVENUE SERVICE APPELLANT

AND

COSCHARIS GROUP LTD RESPONDENT

Chairman: Professor C.J. Amasike

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

Appearances:

Counsel for the Appellant: Haruna Musa and Eze Emmanuel

Counsel for the Respondent: Chinedu Maduawia

JUDGMENT

This action was commenced against the Respondent via a writ of summons dated the 3rd day of April, 2006, before the defunct VAT Appeal Tribunal, wherein the Appellant sought to recover the sum of Seven Million, One Hundred and Sixty Three Thousand and Nine Hundred and Fifty Nine Naira [N7, 163, 959.00] as a Best of Judgment assessment tax liability from the Respondent's operation in Aba for the period of 2003 to 2005. The VAT Officer maintained that the Best of Judgment assessment was as a result of the Company's failure to file requested documents to justify amount claimed by the Company in the VAT returns filed for the relevant period.

Pursuant to the establishment of the Tax Appeal Tribunal, which merged the Body of Appeal Commissioners and the VAT Tribunal, the matter was re-listed by the Appellant through a Notice of Appeal dated the 13th day of January,



2011 and filed at the Tax Appeal Tribunal, South East Zone on the 21st day of January, 2011.

The matter came before the Tax Appeal Tribunal for the first time on the 26th day of January, 2011. The Appellant was represented by Haruna Musa and Emmanuel Eze. The Respondent was represented by Chinedu Maduawia Esq. The Respondent told the Tribunal that he did not have the requisite documents following the transfer of the matter from the VAT Tribunal to TAT. He then applied for an adjournment to enable him get all the documents and also explore the possibility of an out of Tribunal settlement. The matter was therefore adjourned to the 4th day of May, 2011.

On the 4th day of May, 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. The Respondent was represented by Chinedu Maduawia. The Appellant informed the Tribunal that following the leave granted parties to explore an out of Tribunal Settlement, they had filed Terms of Settlement dated the 3rd day of May, 2011, before the Tribunal. The parties thereafter urged the Tribunal to adopt the Terms of Settlement as its judgment.

On a critical review of the Terms of Settlement as filed, the Tribunal observed that the Terms of Settlement as filed by the parties failed to give details on how a VAT liability of Seven Million, One Hundred and Sixty Three Thousand and Nine Hundred and Fifty Nine Naira [N7, 163, 959.00] was reduced and settled at Three Million, Eighty One Thousand, Nine Hundred and Seventy Nine Naira, Fifty Kobo [N3, 081, 979.50]. The parties could not immediately provide an answer. They therefore sought for an adjournment to enable them furnish the Tribunal with further and better particulars. The matter was thereafter adjourned to the 24th day of October, 2011, to enable parties furnish the Tribunal with further and better particulars.

At the sitting of 24th day of October, 2011, Appellant was represented by Haruna Musa and Emmanuel Eze. The Respondent was represented by Chinedu Maduawia. The parties filed the amended Terms of Settlement, dated the 24th day of October, 2011. The Tribunal was informed by the Appellant's Counsel that the Respondent had paid the sum of Three Million [N3,000,000.00] in settlement of its tax liability. The Tribunal having verified and being satisfied with the facts as contained in the Terms of Settlement and the explanation therein, adopted same as its judgment in the matter.



ACCORDINGLY, THE HONOURABLE TRIBUNAL DIRECTS AND ORDERS, AS ITS JUDGMENT, AS FOLLOWS:

1. That the Respondent having paid to the Appellant the sum of Three Million, Eighty-One Thousand Nine Hundred and Seventy-Nine Naira Fifty Kobo Only [N3,081, 929.50] as full and final settlement of the matter is discharged from the VAT liability.
2. That the Appellant shall stop further prosecution of the Respondent in respect of this matter.
3. That it is irregular, raises the issue of transparency, and unacceptable for the Appellant to accept payment in settlement of any tax matter pending before the Tribunal without the formal consent and leave of the Tribunal and therefore must never be repeated by the Appellant in any future case.

Dated this 25TH Day of OCT. 2011

Signed


Prof. C.J. Amasike
Chairman

Tax Appeal Tribunal, South East Zone



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