

**IN THE TAX APPEAL TRIBUNAL
SOUTHWEST ZONE**



HOLDEN AT IBADAN

THIS TUESDAY, 25TH FEBRUARY, 2014

APPEAL NO: TAT/IB/009/2010

BEFORE:

- | | |
|-------------------------------|----------------|
| 1. Honourable Joseph A. Ushie | (Chairman) |
| 2. Honourable Cyril I. Ede | (Commissioner) |
| 3. Honourable Jibril N. useni | (Commissioner) |

FEDERAL INLAND REVENUE SERVICE - **APPELLANT**

AND:

TAIKAB ENGINEERING LTD - **RESPONDENT**

JUDGEMENT IN DEFAULT OF APPEARANCE UNDER ORDER IX
RULE III OF THE TAX APPEAL TRIBUNAL RULES 2010

INTRODUCTION

This Appeal was commenced by the Appellant in January, 2011, claiming the sum of N3,021,600.00, being outstanding VAT liability for the years January 1996 –

December 1998, which the respondents refused or neglected to remit same into the FIRS account.

The Respondents have, since the commencement of this appeal, refused or failed to file a defence to the Notice of the Appeal against them, inspite of the Tribunal's order that they should formally enter a defence to the claim. Instead of complying with the Tribunal's order, respondents' counsel brought an application under order XIV rule 1 of TAT Rules 2010 for the discontinuance of the appeal filed by the appellant against them.

The application was accordingly dismissed for being grossly incompetent on 16th August, 2012. The appeal was adjourned to Tuesday 25th September, 2012, for definite hearing.

Thereafter the appeal suffered series of adjournments due to the absence of the respondents and their counsel Mr. Taiwo Okunsanya-Tychus

On Wednesday, 14th November, 2012, Appellant Counsel, Mrs. Y. Adeyeoluwa Matthew opened her case and examined her only witness Mr. Asaolu Julius, Asst. Manager, Tax, Head of Filing Department and Enforcement Unit, Adeoyo Tax Office, Ibadan. The witness testified and tendered the following documents:

1. VAT Registration Certificate tendered and admitted as Exhibit 'A'.
2. VAT of N3,021,600.00 for 1996-1998 based on audited account as the claim against the Respondents.
3. Certified demand letters, Assessment Notices and proof of service tendered and admitted as Exhibit B1-3.
4. Letters of reminder and proof of service tendered and admitted as Exhibit C1-2.

5. FIRS Web. Portal TIN generation dated 12/07/2011 showing the movement of respondents from Ibadan to Lagos tendered and admitted as Exhibit 'D'.

ISSUE FOR DETERMINATION

WHETHER THE PROVISIONS OF ORDER IX RULE III OF THE TAT RULES 2010 IS APPLICABLE IN THE CIRCUMSTANCE OF THIS APPEAL:

ORDER IX (III) provides thus:

"If on the day of hearing or on any adjourned date, the appellant appears, the Tribunal may whether the respondent appears or not, proceed to the hearing or further hearing and determination of the appeal and shall give its decision according to the merits of the appeal."

The Respondents have failed or refused to reply to all the demand Notices served on them nor filed a defence against the claim as directed by the Tribunal. They stopped appearing before the Tribunal after the dismissal of their misconceived application to discontinue appellant's appeal.

We agree with the submission of the Appellant's counsel that the sole issue for determination in this Appeal is whether on the bundle of documents front loaded, the testimony of her sole witness before the tribunal and a 16 paragraph affidavit in support of the application for a judgement in default of appearance, appellant is entitled to default judgement.

DECISION OF THE TRIBUNAL:

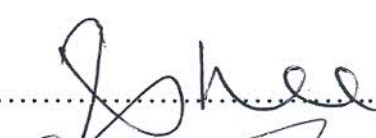
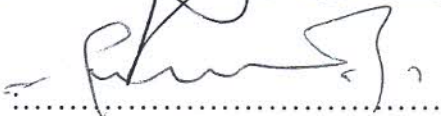
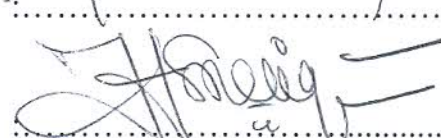
1. The Respondents refused to reply to all the letters of demand served on them by the Appellant.

2. The Respondents refused to enter a formal defence against the appeal as directed by this Hon. Tribunal. Rather they brought an application to discontinue the Appellant's appeal which was dismissed.
3. This appeal is manifestly qualified for the application of the provisions of Order IX (III) of TAT Rules 2010.
4. We have considered the foregoing and all the tendered documents and we are satisfied that the Respondents have no valid defence to the Appellant's claim.
5. Therefore, judgement is hereby entered for the sum as per the claim. The Respondents are liable to collect VAT and remit same to the Appellant and are hereby ordered to pay the sum of N3,021,600.00 to FIRS, the Appellant, being the unremitted VAT for the period of January 1996 – December, 1998.

This is a unanimous decision of the Tribunal.

DATED AT IBADAN THIS 25 DAY OF Feb. 2014



1. Honourable Joseph A. Ushie: 
2. Honourable Cyril I. Ede 
3. Honourable Jibril N. Useni 

Appellant present.

Yejide Adeyeoluwa-Mathew for the appellant.