

IN THE TAX APPEAL TRIBUNAL

NORTH CENTRAL ZONE

SITTING AT JOS

ON THURSDAY, 21st MAY 2015

BEFORE THEIR HONOURS

**HON. ABRAHAM N. YISA
HON. HASHIYA BEN UMAR (MRS)
HON. OLUSOLA IBIDAPO-OBE (MRS)
HON. JIBRIL NGATKYA USENI
HON. JOSEPH O. IHEKWEREME**

**CHAIRMAN
COMMISSIONER
COMMISSIONER
COMMISSIONER
COMMISSIONER**

APPEAL NO: TAT/NCZ/005/2014

BETWEEN

FEDERAL INLAND REVENUE SERVICE.....APPELLANT

AND

MIAMI HOTELS & TOWERS LTD.....RESPONDENT

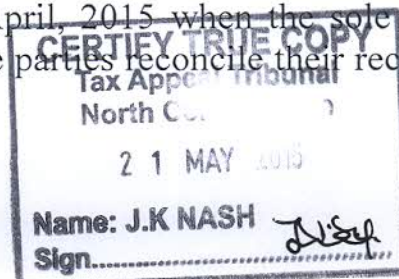
JUDGEMENT

The Appellant by a Notice of Appeal dated the 20th day of May, 2014 is claiming from the Respondent as follows:

“WHEREOF, the Appellant claims against the Respondent as follows:

(a) The sum of =N=1,669,800.00 (One Million Six Hundred and Sixty Nine Thousand Eight Hundred Naira Only) being the principal sum and penalty and interest on the unremitted Value Added Tax for the period January, 2012 to November, 2013 years of assessment with penalty being calculate at 10% per annum and interest at the rate of 21 per annum till the total debt is completely liquidated”

The matter had prior to the 29th day of April, 2015 when the sole witness of the Appellant testified been adjourned to enable parties reconcile their records which did not happen.



When the matter came up on the said 29th day of April 2015, the date fixed for Hearing; there was proof of service of Hearing Notice on one Kate who is the Receptionist of the Respondent. That being the case the Tribunal allowed the Appellant who had a witness in Court and was ready to proceed; to call their witness.

Appellant Witness No 1 was one Denis Tagrum, who affirmed to tell the truth. He testified that he is the Head of filing and Debt Enforcement of the Lokoja Micro and Small Tax Office (MSTO) of the Appellant. He testified further that he made a witness Statement on Oath which he wished to be adopted as his evidence in chief before the Tribunal. He gave evidence that he knows the Respondent in the normal course of his work schedule and that the Respondent failed to pay their VAT liability to the Appellant.

He made mention of a document in paragraph 6 of his witness Statement on Oath which he identified, and the document is the Vat Assessment for 2013-2014 in respect of the Respondent and Counsel to Appellant sought to tender it in evidence. The Tribunal admitted document titled "FIRS VAT RE-ASSESSMENT NOTICE addressed to Maimi Hotels Limited as Exhibit 1.

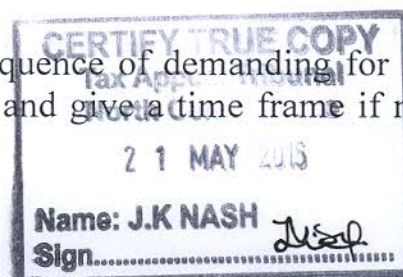
The witness made further mention to paragraph 7 of his Statement on Oath and identified a document titled "Non RENDITION OF VAT RETURNS dated the 27th day of November, 2013 and addressed to the Managing Director of Maimi Hotels and Towers". The said document was on application by Counsel admitted in evidence and marked as Exhibit 2.

The witness further testified on paragraph 8 of his Statement on Oath where he identified a document which shows the Tax payer the amount owing which counsel to the Appellant sought to tender in Evidence. The Tribunal admitted document titled "NON RENDITION OF VAT RETURNS date 28th November, 2013 addressed to the Managing Director of Maimi Hotels and Tower as Exhibit 3.

The witness further testified on the content of paragraph 9 of his Statement on Oath and identified the demand Notice sent to the Respondent that document titled "DEMAND NOTICE YEAR OF ASSESSMENT 2012-2013 and addressed to the Managing Director of Maimi Hotels and Tower dated 3/12/13 was on application of Counsel admitted in evidence and marked Exhibit 4.

The witness urged the Tribunal to pass Judgment in their favour and compel the tax payer to pay up.

When asked by the Tribunal if they have a sequence of demanding for due tax the witness testified that they do; they give a letter and give a time frame if no response they take it that the Tax payer does not object.



The Counsel urged the Tribunal to enter Judgment in view of the continued absence of the Respondent and based on the testimony of the witness.

Having listened to the Appellant witness testify the Tribunal will formulate one issue for determination in this Appeal; which is:-

Whether any VAT is due from the Respondent to the Appellant and if same is liable to penalty and interest?.

There is evidence before the Tribunal that the Respondent is registered with the Appellant in its office at Lokoja. By Exhibit 1 tendered through Appellant witness 1 the Respondent Tax Payer identification No is 143.90155-001. The same exhibit shows that the Net amount payable/refundable is N1,669, 800.00 which is the amount claimed by the Appellant in this Appeal. There is also evidence before the Tribunal that Exhibit 2 was sent to the Respondent. The said Exhibit demands for payment VAT due and calls for reconciliation of Accounts. The exhibit also invited the Respondent to the Appellants with their records for reconciliation. There is further evidence before the Tribunal that the sums stated in Exhibit 2 have not been paid.

Exhibit 3 is NON RENDITION OF VAT RETURNS sums stated in both Exhibits 1 & 2; are explicitly tabled out in Exhibit 3. Exhibit 3 shows that the sums of N1,669,800.00 is being claimed and how same was arrived at is clearly stated.

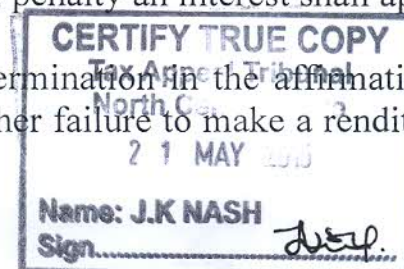
There is further testimony as shown on Exhibit 4 which was written on the 3rd day of December, 2013 that the sum stated on the earlier Exhibits i.e. 1-3 was still outstanding an unpaid. The witness finally urged the Tribunal to enter; Judgment based on this testimony and the Respondents lack of response.

Having evaluated the testimony of the Lone witness together with the Exhibits before us we are in no doubt that VAT is due from the Respondent.

The provision of the law is clear. The Respondent is by section S. 15 (1) of the Value Added Tax Act (as Amended) compelled to make rendition. Where he fails as in this case whatever is due from him is subject to penalty and interest. By section 19 (1)

“if a taxable person does not remit the tax within the time specified in S. 15 of this Act a sum equal to five percent per annum (plus interest at the commercial rate) of the amount of tax remittable shall be added to the tax and the provisions of this Act relating to collection and recovery of unremitted tax, penalty an interest shall apply.”

We shall answer the lone issue formulated for determination in the affirmative i.e. that the Respondent is liable to pay VAT and upon her failure to make a rendition of



same she is liable to pay penalty and interest on the amount due.


The Tribunal had only the evidence of Appellant witness No 1 to work with there was no evidence from the Respondents. We have evaluated the evidence before us and believe the Appellant.

We therefore enter Judgment for the Appellant against the Respondent in the N1,669,800.00 (One Million Six Hundred and Sixty Nine Thousand Eight Hundred Naira Only) being Value Added Tax for the period of January, 2012 to November, 2013 years of Assessment; with Penalty being calculated at 10% per annum and interest at the rate of 21% per annum until the total debt is completely liquidated.

Representation

- S.E Audu (Miss) for the Appellant.
- Respondent not represented.

DATED AT JOS, THIS 21st DAY OF MAY 2015



HON. ABRAHAM N. YISA
Chairman

