

IN TAX APPEAL TRIBUNAL
IN THE NORTH WEST ZONAL TRIBUNAL
HOLDEN AT KADUNA

HONORABLE MEMBERS:

BASHIR ABDULLAHI ALBASU con, fwc, psc, AIG (Rtd) - CHAIRMAN

EBERECHI ADELE, SAN, JP - MEMBER 1

JOSHUA MUKTA WAKLEK, mni - MEMBER 2

KHADEEJA S. HALILU (MRS) - MEMBER 3

DR. OLUMHENSE IMOISILI - MEMBER 4

FEDERAL INLAND REVENUE SERVICE v FINETEX NIG. LTD & MESSRS
BOLA OLOTU ESQ. (TAT/NWZ/KD/02/10)

RULING ON 21ST FEBRUARY, 2012

The matter was filed on 25th April, 2006 but transferred to the Tax Appeal Tribunal in 2010 and refiled on the 11th February, 2011.

Reliefs sought by the Appellant is the sum of N31,066,170.32 (Thirty one million, sixty six thousand, one hundred and seventy naira thirty two kobo only) being unremitted VAT for the period January 1999 to June 2003.

The Appellant Counsel Mr. Emem Udoh has raised an objection to continued appearance of the respondent in this appeal, on the ground that the respondent failed to enter appearance in accordance with the provision of order 8 Rule (1) and (2) of the Rules of this Tribunal. He submits that the Respondent do not wish to contest the appeal.

In reply, the Respondent counsel Mr. Osagie Esiramen submits that they are still entitled to appeal relying on Order 8 Rule (3) of the rules of this Tribunal. According to him it is optional for the Respondent to reply or not.

The records before this honorable Tribunal clearly show that the Respondent did not enter appearance in accordance with the provisions of Order 8 Rule (1) of the Rules of this Tribunal. Order 8 Rule (1) states and I quotes:

“A Respondent shall within 30 days after the service of a notice of appeal on him to enter appearance by delivering to the Secretary a respondent’s reply as in Form TAT 3 to the First Schedule to the Rules acknowledging receipt of the notice of appeal and stating therein whether he contests the appeal”.

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Certified by Hashim Abdullahi
Bank Assistant Secretary (Manager)
[Signature]

By this clear provision it is mandatory to enter appearance whether or not the Respondent wishes to contest the appeal.

The Respondent counsel misunderstood the provision of Order 8 Rule 3 of the rules of this Tribunal by stating that it gives the Respondent an option whether to reply or not. Therefore Order 8 Rule (3) relied upon by the respondent counsel is inapplicable in this situation. It will apply only when the Respondent has complied with Order 8 Rule (1) of the rules of this Tribunal.

The Tribunal is of the view that the Respondent having failed to comply with the provision of order 8 Rule (1) of the rules of this Tribunal is not entitled to be heard in this appeal.

BASHIR ABDULLAHI ALBASU
(CHAIRMAN)

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Certified by Hashim Abdullahi
Rank Assistant Secretary (Manager)
Sign. *[Signature]*