

IN THE TAX APPEAL TRIBUNAL
NORTH CENTRAL ZONE
SITTING AT JOS
ON WEDNESDAY, 15TH OCTOBER 2014
BEFORE THEIR HONOURS

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

APPEAL NO: TAT/NCZ/004/2013

BETWEEN

FEDERAL INLAND REVENUE
SERVICE.....APPELLANT

AND

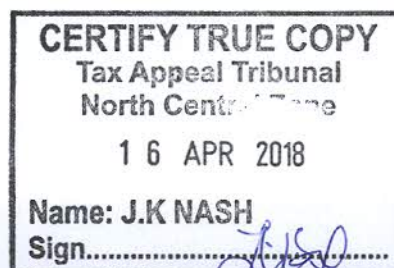
LIGHT HOUSE RESORT.....RESPONDENT

JUDGEMENT

This is an Appeal filed by the Appellant; Federal Inland Revenue Service (FIRS) claiming as follows:-

“The Respondents failed and refused to pay Value Added Tax from January 2010 to July 2013 years of assessment:

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



- (a) *The sum of = N757, 217. 00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) as the sum of the value Added Tax for the period January 2010 to July 2013 years of assessment.*
- (b) *Penalty on the unremitted Value Added Tax at the rate of 10% per annum = N757, 217.00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) from January 2010 to July 2013 years of assessment till the total debt is completely liquidated.*
- (c) *Interest on the unremitted Value Added Tax = N757 ,217.00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) from January, 2010 to July 2013 years of assessment, at the rate of 21% per annum till the total debt is completely liquidated."*

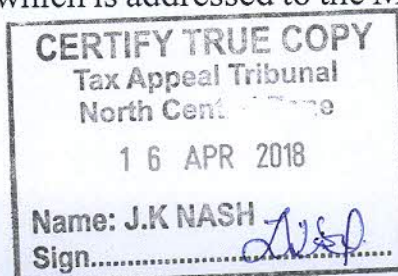
When this matter came up for hearing on the 21st day of August, 2014 neither the Respondent nor their Counsel were in Court. There was proof of service of the Hearing Notice indicating the said date on the Respondent, same was served on them on the 8th day of August 2014. Counsel to the Appellant urged the Tribunal to hear his Witness who was in Court.

The 1st Appellant Witness was Ibrahim Luka Tumba. He testified that he was the Head of the Filing, Debt Arrears and Enforcement Unit at the Lafia MSTO and that he had been Head of the Unit for about a year. He testified that he had worked with the Appellant for two (2) years and that he made a Witness Statement on Oath, which he identified by his signature.

He adopted the said statement as his evidence in Court. The Witness referred to Paragraph 6 of the said Statement where he made reference to the report of the Verification Exercise.

The report captioned "**VERIFICATION EXERCISE CARRIED OUT ON LIGHT HOUSE HOTEL WAMBA ROAD, AKWANGA ON 6TH AUGUST 2013, FOR YEAR 2012 AND JANUARY TO JULY 2013**" was admitted in evidence and marked 'Exhibit 1'.

The Witness testified further on the document mentioned in Paragraph 7 of his Witness Statement on Oath, which he identified by the signature of the Tax Controller on it. Counsel applied and sought to tender the document in evidence, same was tendered. The said document, which is addressed to the Managing Director



of Light House Resort, Wamba Road, Akwanga and titled "**Administrative Assessment**" and dated 12th August, 2013 was admitted as 'Exhibit 2'.

The Witness testified further on a document mentioned in Paragraph 8 of his Witness Statement on Oath. He testified that he signed the document himself and identified his signature on same. The said document which is a letter addressed to the Managing Director of Light House Resort Wamba Road, and titled "**VALUE ADDED TAX ACT CAP VI LFN 2007 OUTSTANDING VAT LIABILITY**" and dated 13 August, 2013 was on application by Counsel to the Appellant admitted in evidence and marked as 'Exhibit 3'.

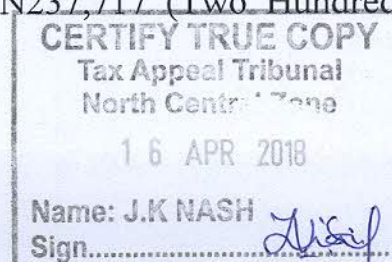
The Witness also identified a demand letter mentioned in Paragraph 8 of his Witness Statement on Oath, which he recognized by the Tax Controller's signature. Counsel sought to tender the said letter in evidence, so letter addressed to the Managing Director of Light House Resort, Wamba Road, Akwanga titled "**OUTSTANDING VAT RETURNS**" dated 18th September, 2013 was admitted in evidence and marked 'Exhibit 4'.

The Witness testified that the Respondent had not responded to any of the exhibits and that they had neither made any enquiries nor objected to any of them. He urged the Tribunal to enter Judgment in their favour and in accordance with 'Exhibit 4'.

Counsel to the Appellant closed his case after the Witness testified. The Respondent was neither represented nor did they proffer any evidence in the proceedings to counter the evidence supplied by the Appellant.

Exhibit 1 is a Report on the Verification Exercise carried out by the Appellants on the Respondents. The said Exhibit 1 which is set out in columns; show the months of January to December 2011 as having a turnover of N2,005,867.00 (Two Million, Five Thousand Eight Hundred and Sixty Seven Naira Only) and a total VAT liability of N100,295.00 (One Hundred Thousand Two Hundred and Ninety Five Naira Only); while the months of January to July 2013 showed a turnover of N1,416,100.00 (One Million, Four Hundred and Sixteen Thousand One Hundred Naira Only) and attracting a VAT liability of N78,305.00 (Seventy-Eight Thousand Three Hundred and Five Naira Only).

Page 2 of Exhibit 1 added the total VAT liability of N178,600.00 due above to the outstanding for the years 2010 and 2011 which is put at N519,500 (Five Hundred and Nineteen Thousand Five Hundred Naira Only), which when added with penalty and interest for 2012 and 2013 of N237,717 (Two Hundred and Thirty-Seven



Thousand Seven Hundred and Seventeen Naira Only) amounts to the total sum of N757,217 (Seven Hundred and Fifty Seven Thousand, Two Hundred and Seventeen Naira) being claimed by the Appellant.

Exhibit 2 is a breakdown of the Turnover and VAT liability of Respondent for the years 2010 and 2011. VAT liability is put at N519,500.00 (Five Hundred and Nineteen Thousand Five Hundred Naira Only) and the Respondent was given two weeks from the date of the Exhibit to settle the liability.

Exhibits 3 and 4 demanded for the outstanding sums for January 2010- July 2013 granting the Respondent 7 days from date of service of the Exhibits to effect payment, a demand they failed to honour.

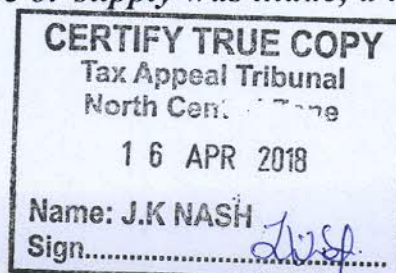
The Witness testified that the Respondent did not respond to the Exhibits. Similarly the Respondent failed to furnish the Tribunal with any explanation to controvert the VAT claims put forward by the Appellant.

After evaluating the evidence put forward by the Appellant through their sole Witness, we believe the Appellant that the sum of N757,217.00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) is due from the Respondent based on the administrative assessment carried out by the Appellants on the Respondent Company. The evidence of the Witness is unchallenged. There are no elements in his evidence to make us disbelieve him. The Respondent having not challenged the assessment made by the Appellants, the same became conclusive and binding on them when after one month they failed to raise an objection.

The cumulative effect of Sections 15, 18, 19, and 20 of the VAT Act, 1993 is that after the Respondent who is a VAT agent with a duty to render Value Added Tax returns, failed to render returns, he is liable to a Best of Judgement assessment as in this case. And where the VAT arrived at as a result of administrative assessment of the Respondent's records is communicated to the Respondent and he still fails to remit or object to the assessment, the Appellant is left with no alternative but to resort to the only available option of recovery, an appeal to this Tribunal.

We also believe that despite the fact of the Respondent's attention been drawn in Exhibits 3 and 4 the provisions of the VAT Act S.15 (1) that:-

"A taxable person shall render to the Board, on or before the 21st day of the month following that in which the purchase or supply was made, a return of all taxable



goods and services purchased or supplied by him during the preceding month in such manner as the Board may, from time to time determine”;

they still failed to settle their VAT liability and so hold.

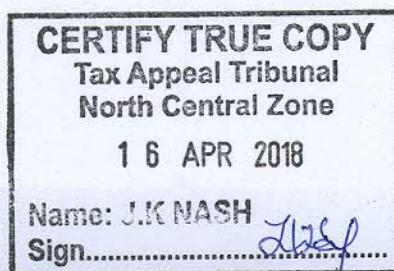
We order that:

- (1) The Respondent pay to the Appellant the sum of N757, 217.00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) as the sum of un-remitted VALUE ADDED TAX (VAT) for the period January, 2010 to July 2013 years of assessment;
- (2) Penalty for the unremitted Value Added Tax of N757, 217.00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) from January, 2010 to July 2013 years of assessment at the rate of 10% per annum amounting to the sum of N271,366.09;
- (3) Interest on the unremitted Value Added Tax of N757,217.00 (Seven Hundred and Fifty Seven Thousand Two Hundred and Seventeen Naira) from January, 2010 to July 2013 years of assessment at the rate of 21% (Twenty-One Percent) per annum amounting to the sum of N569,805.79.

Representation

- Nasir Ahmed Esq for the Appellant.

DATED AT JOS, THIS 15TH DAY OF OCTOBER 2014



~~AA S~~
1. HON. ABRAHAM NDANA YISA
Chairman

~~HON. Umar~~
2. HON. HASHIYA BEN UMAR
Commissioner

~~HON. Jibril~~
4. HON. JIBRIL NOATKYA USENI
Commissioner

3. HON. OLUSOLA IBIDAPO-OBE
Commissioner

~~HON. Joseph~~
5. HON. JOSEPH O. IHEKWEREME
Commissioner

