

IN THE TAX APPEAL TRIBUNAL  
NORTH CENTRAL ZONE  
SITTING AT JOS  
ON WEDNESDAY, 21<sup>ST</sup> AUGUST 2013  
BEFORE THEIR HONOURS

HON. ABRAHAM NDANA YISA	CHAIRMAN
HON. HASHIYA BEN UMAR	COMMISSIONER
HON. OLUSOLA IBIDAPO-OBE	COMMISSIONER
HON. JOSEPH O. IHEKWEREME	COMMISSIONER
HON. JIBRIL NGATKYA USENI	COMMISSIONER

APPEAL NO: TAT/NCZ/005/2012

BETWEEN

FEDERAL INLAND REVENUE  
SERVICE.....APPELLANT

AND

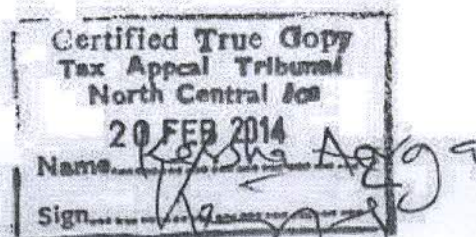
1. PILLAR POLE LIMITED
  2. THE MANAGING DIRECTOR,  
PILLAR POLE LIMITED
- .....RESPONDENTS

JUDGEMENT

The Appellant's claim in this matter was in the total sum of N4,065,807.66 (Four Million, Sixty Five Thousand, Eight Hundred and Seven, Sixty Six Kobo)excluding interest and penalty.

Upon the exchange of pleadings by Parties, Counsels had severally requested for time to for an out of Tribunal settlement.

When this matter came up today, Counsel to the Respondent, Agebe Odeh Esq informed the Tribunal that the Parties met severally and were able to do some





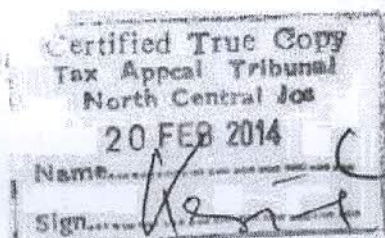
reconciliation of the claims by the Appellants. Counsel stated that the Appellants' claim according to the Notice of Appeal was from 1999 – 2005 and that they were able to reconcile 2004/2005 claims from the records and these had now been settled and dropped. According to him, at the end of exercise, the Parties arrived at a claim of N2, 330, 000.00.

Counsel further added that they (Respondents) did not intend to drag the matter beyond where it was, even though they considered the sum assessed as arbitrary. He thereafter prayed the Tribunal to exercise its power under Section 15 (8) of the FIRS Act to confirm, increase or annual any assessment and reduce the assessment to N500, 000.00 for the whole period. Counsel further posited that all the while, the Respondent's Tax had been in the region of N15, 000.00 and they had paid regularly since 1993, as such the dramatic and arbitrary increase from 1999 – 2003 cannot be justified. They actually paid Tax for the period, it is just that the revised rate was not paid, he added.

Responding, Counsel to the Appellant, Nasir Ahmed Esq stated that the figures pronounced by Counsel to the Respondent as the reconciled figures were not correct. According to him, the figure agreed was N2, 336, 317.91k. He explained that from 1999 – 2003, Companies Income Tax (CIT) was N2, 181, 896.99k while Education Tax was N154, 420.92k, adding up to a total of N2, 336, 317.91k.

On the application by the Respondents for the Tribunal to exercise its discretion under Section 15(8), Counsel stated that they wanted to put the records straight. According to him the assessment was not based on best of judgement (BOJ) but based on the actual account filed by the Respondent, as such there was no basis for the Tribunal to exercise its discretion to grant any waivers.

Mr Daniel Ameachi, Manager Tax, representing the Appellant collaborated and supported the position of the Appellants Counsel. According to him, the years under review were from 1999 – 2005 and they took cognisance of the fact that the taxpayer opened another Tax File in Enugu and was actually paying tax there. He stated that the payment to Enugu Office started in 2003, but between 1999-2002, the Respondent filed accounts in Makurdi office. He agreed with learned Counsel to the Respondent that the taxes were paid, but added that the law provides that Tax officers could review taxes paid to ensure that the Taxpayer paid what they actually ought to pay. According to him, this review was communicated to the Respondents with adequate and sufficient reminders.





With regard to the application by the Respondents for waiver, he urged the Tribunal to take into consideration the fact that the Respondent had already conceded in vacating the 2004 and 2005 BOJ assessments as well as not demanding for penalty and interest. According to him, they (Appellants) were magnanimous enough to the Respondents and that the N500, 000.00 offered to be paid by the Respondent was not sufficient as all taxes previously paid were deducted.

Responding, Counsel to the Respondents, Agebe Odeh Esq agreed that the figures given by the Appellants were the correct figures.

Mr Odeh, learned Counsel to the Respondent in this matter undertook from the Bar on 30<sup>th</sup> July 2013 to get to the root of this claim and reconcile the figures and amount payable by the Respondents. This he has done with commendable candour. We commend him for being forthright and transparent in the manner he and the Tax Office and Officers in Makurdi handled this matter.

The issues are quite clear and straightforward as stated by both parties. The sum payable by the Respondent as reconciled by the Parties is as follows: N2, 336, 317.91 representing N2, 181, 896.99 as CIT and N154, 420.92 Education Tax.

These figures are not disputed. All the learned Counsel has asked the Tribunal to do is to use our discretion to further reduce the amount payable. Nasir Ahmed in response urged us not to exercise our discretion under Section 15(8) because the Appellants had done enough for the Respondents by waiving and conceding the BOJ assessment for 2004 and 2005 and by also not demanding for penalty and interest.

According to learned Counsel, they have been magnanimous enough. That the assessment not being BOJ, the Respondents having being served with appropriate demand notices without any objection, the Respondents should pay the reconciled amount. He who comes to equity most comes with clean hands, the Counsel submitted.

Once again, we commend all Parties in this case for a job well done. We do not think that this is a case where we should further exercise our discretion under Section 15(8) to reduce the tax payable by the Respondents. It is tax based on their own submission and we observe that the Appellants have been magnanimous enough. Judgement is therefore entered in favour of the Appellant in the sum of N2, 336, 317.91k (Two Million, Three Hundred and





Thirty Six Thousand, Three Hundred and Seventeen Naira, Ninety One Kobo.  
We make no Order as to costs.

Legal Representation

- Nasir Ahmed Esq for the Appellant
- Agebe Odeh Esq for the Respondents

DATED AT JOS, THIS 21<sup>st</sup> DAY OF AUGUST 2013



HON. ABRAHAM NDANA YISA  
Chairman

