

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 9TH DECEMBER, 2013

This is an appeal filed by the Federal Inland Revenue Service (FIRS), (The Appellant) against the 1st Respondent, Finetex Nig Ltd and the 2nd Respondent Mr. Bola Olotu Esq. as Receiver for failure to pay Value Added Tax (VAT) returns for the period from January 1999 to June 2003.

The 2nd Respondent (now applicant) filed a motion on notice on the 11th day of January 2013 pursuant to section 36 of the Constitution (As Amended) and Order 10 Rules 1 and 2 of TAT Rules of Procedure praying for an order striking out the 2nd Respondent from this appeal.

The application is supported by a 15- paragraph affidavit deposed to by one Peter Iwunor, the litigation officer in the applicant's Law firm. The application is also supported by three Exhibits, Exhibit BO1, BO2 and BO3. According to the applicant as averred in the affidavit in support, the reason for asking this Tribunal to strike out his name from this appeal is because he was appointed a Receiver on the 17th April, 2002 and discharged as Receiver in September, 2005 upon the 1st Respondent settling its debts to the Intercontinental Bank PLC. The applicant further avers that the VAT claimed in this appeal is for periods before he was appointed a Receiver and after he was discharged from the Receivership.

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Certified by Hashim Abdullahi
Bank Assistant Secretary (Manager)
Signature: 

The Appellant/Respondent is opposing the application and in doing so, filed a counter-affidavit where they maintained that the VAT being claimed in this appeal is that assessed before, within and after the period the 2nd Respondent Applicant was appointed a Receiver.

The 1st Respondent is also opposing the application. It filed a counter-affidavit of 4 paragraphs and contends that during the period the 2nd Respondent Applicant was appointed as Receiver, he was seized of both the floating and fixed assets of the 1st Respondent. It further contends that the VAT liability falls within the period the 2nd Respondent was Receiver.

This Tribunal has carefully looked at this application together with all the affidavits, exhibits and arguments of Counsel and it is clear from the Exhibits filed that the Applicant was appointed a Receiver on the 17th April, 2002 as clearly shown in Exhibit BO1 and discharged as Receiver on the 26th September, 2005 as shown in Exhibit BO3.

As we noted earlier in this Ruling, the VAT returns being claimed in this appeal is from January 1999 to June, 2003 indicating that the VAT liability in this appeal obviously precedes the period of the Applicant's Receivership. The Tribunal therefore rejects the Applicant's contention that the VAT claimed in this appeal is for periods before he was appointed a Receiver and after he was discharged as such.

In any case it is immaterial whether the applicant was appointed before or after the VAT liability because once he was appointed a Receiver, he inherited both the assets and liabilities of the 1st Respondent and had the duty to settle the Tax liabilities of the 1st Respondent.

In the circumstances therefore, this Tribunal rejects this application and holds that the applicant is a necessary party to this appeal. The application is therefore dismissed. There is no order as to costs.

BASHIR ABDULLAHI ALBASU

(CHAIRMAN)

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Rank Assistant Secretary (Manager)
Signature