

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 IPASS BDC LTD
(TAT/NWZ/KD/CIT/001/15)

RULING ON 20TH MAY, 2015

The matter was filed on 26th of March, 2015.

Reliefs sought by the Appellant is the sum of N345,000.00 (Three hundred and forty five thousand naira only) being penalty for late filing of CIT returns for 2011 to 2013; and N250,000.00 (Two hundred and fifty thousand naira only) being penalty for late filing of VAT returns for October 2010 to November 2014.

The jurisdiction of this Tribunal is to settle disputes and controversies arising out of the operation of the Tax Acts. Looking at page 5 of the filed Notice of Appeal, reliefs sought from the Tribunal, paragraph 'b' under reliefs sought by the Appellant that the Respondent should file its Company Income Tax returns from 2011 to 2014, to pay the Tax due. It is not the duty of this Tribunal to compel the Respondent to file its returns. The 3rd paragraph also seeks to compel the Respondent to file its Value Added Tax returns. Same also is not part of the duties of this Tribunal.

The proper thing to do if I may guide you, where a taxpayer fails to file its annual returns it is for the Tax Authority to take or make an audit of that firm, after the audit they issue best of judgment assessment and after issuing that best of judgment assessment they have 30 days within which to respond or to object or whatever. After the expiration of 30 days, if they fail to respond then you can file your appeal before this Tribunal. Therefore, we cannot ask them to file returns. The Appellant should ask them to file returns failure to do that, give them best of judgment and if they fail then you can come back to us.

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Rank Assistant Secretary (Manager)
Signature: *Hashim Abdullahi*

In addition, you are asking for penalties. Penalties must be anchored on specific provisions of the law and you are asking them to pay penalties, you have not mentioned that they have not paid any Taxes. Penalties are supposed to be on Taxes not paid, so this shows you have not done your work well. You need to go back and do proper homework making sure that you follow the provisions of the law.

So in the circumstance, when you have done what you are supposed to do you can come back and re-list this case, for now we are going to strike out this case.

We are going to strike out. When you give them best of judgment and they fail to comply, you come back and re-list.

I can see the next two (2) cases are all the same.

So the same position applies, we will just indicate in our files that we are striking out the matters when you give the assessments and they don't comply you come back and re-list them.

This matter is hereby struck out together with:

1. FIRS vs. Full Compliance BDC Ltd – TAT/NWZ/KD/CIT/002/15.
2. FIRS vs. Venture Capital BDC Ltd - TAT/NWZ/KD/CIT/003/15

BASHIR ABDULLAHI ALBASU
(CHAIRMAN)

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Certified by Bashir Abdullahi
Rank Assistant Secretary (Manager)
Sign: 