



IN THE TAX APPEAL TRIBUNAL

IN THE LAGOS ZONE

HOLDEN AT LAGOS

BEFORE

K. SOFOLA (SAN) (CHAIRMAN)

C. A. AJAYI (MRS) (HON MEMBER)

D. H. GAPSISO (ESQ) (HON MEMBER)

C. ASUZU (ESQ) (HON MEMBER)

MUSTAFA BULU IBRAHIM (HON MEMBER)

19/06/2015

SUIT NO: TAT/LZ/028 /2013

BETWEEN

HPZ LIMITED

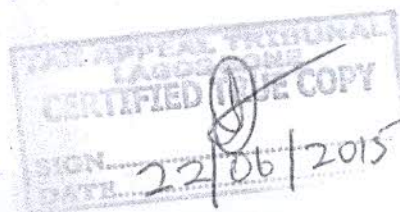
AND

FEDERAL INLAND REVENUE SERVICE

Parties: Absent.

Representation for Appellant: Sixtus Onuka Esq.

Representation for Respondent: Mrs A. Ukpi.




Mr Onuka: We have settled and filed our terms of settlement. We seek to enter it as judgment of the Tribunal.


Mrs Ukpi: This is the position.

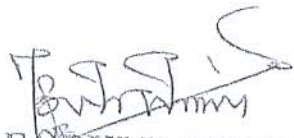
Tribunal: We hereby enter the Terms of Settlement dated 4th June 2015 as the judgment of this Tribunal.


DATED THIS 19TH DAY OF JUNE 2015


KAYODE SOFOLA SAN (Chairman)


CATHERINE AJAYI
Commissioner


D. HABILA GAPSISO
Commissioner


MUSTAFA BULU IBRAHIM
Commissioner


CHINUA ASUZU
Commissioner

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ORIGINAL

IN THE TAX APPEAL TRIBUNAL
LAGOS ZONE

Filed at 1:00PM

TAX APPEAL TRIBUNAL LAGOS ZONE RECEIVED	
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DATE.....	4/6/15

APPEAL NO: TAT/LZ/028/2013

BETWEEN

HPZ LIMITED APPELLANT

AND

FEDERAL INLAND REVENUE SERVICE RESPONDENT

TERMS OF SETTLEMENT

WHEREAS:

- a. On 08 October 2013, the Respondent served on the Appellant the following Notices of Additional Tax Assessments of N1,116,198,078 (One Billion, One Hundred and Sixteen Million, One Hundred and Ninety Eight Thousand, Seventy Six Naira Eighty Seven Kobo) as Company Income Tax and Education Tax payable by the Appellant for the 2006 to 2008 Fiscal Years together with interest and penalties, assessed on the basis of application of Commencement Rule at the expiration of the Appellant's Pioneer Status Incentive (PSI), which was wrongly computed from 01 June 2006.

Year of Assessment	Date of Issue	Tax Type	Assessment Nos.	Additional Assessment (Including penalties and interest) (N)
2006	17-03-13	CIT	LTO/NON-OIL/LG/AUD/CIT/GA/180A	263,450,945.27
2007	17-03-13	CIT	LTO/NON-OIL/LG/AUD/CIT/GA/180C	662,515,285.37
2008	17-03-13	CIT	LTO/NON-OIL/LG/AUD/CIT/GA/180C	121,127,396.22
			TOTAL-CIT	1,047,093,626.86
2006	17-03-13	EDT	LTO/NON-OIL/LG/AUD/CIT/GA/152C	25,457,955.08
2007	17-03-13	EDT	LTO/NON-OIL/LG/AUD/CIT/GA/152B	43,642,208.96
2008	17-03-13	EDT	LTO/NON-OIL/LG/AUD/CIT/GA/152A	4,285.97
			TOTAL -EDT	69,104,450.01
			GRAND TOTAL (CIT+EDT)	1,116,198,076.87

Paul Usoro & Co
Legal Practitioners

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- b. The Appellant, challenged the assessments and computations vide a Notice of Objection dated 25 October 2013 on grounds, amongst others, of misapplication of the Commencement Rule and the application of a wrong commencement date for the taxation.
- c. The Respondent in reaction to the Notice of Objection served on the Appellant a Notice of Refusal to Amend dated 05 November 2013, ("**NORA**") thereby refusing to amend the assessments.
- d. The Appellant being dissatisfied with the tax assessments and the NORA issued by the Respondent, appealed to this Honourable Tribunal against the assessments and the NORA, vide a Notice of Appeal dated 04 December 2013, which was subsequently amended vide an Amended Notice of Appeal dated 14 April 2014 pursuant to an Order of this Honourable Tribunal made on 16 May 2014.
- e. The Amended Notice of Appeal, dated 14 April 2014, sought from this Honourable Tribunal a number of Reliefs endorsed therein.
- f. The Respondent, on 08 May 2014, filed a Reply of same date to the Amended Notice of Appeal, urging this Honourable Tribunal to dismiss this appeal and hold that the assessment issued through Assessment Notice dated 17th October 2013 was validly raised in accordance with relevant tax Laws.
- g. Sequel to negotiations for amicable resolution of the disputes between the parties, the Respondent, vide its letter dated 01 July 2014 –
- i. Agreed to disregard the PSI that was granted to the Appellant by the Nigerian Investment Promotion Commission (NIPC);
 - ii. Granted a waiver of accumulated penalties levied against the Appellant for non-payment of tax for the year 2001 to 2008 tax years; and
 - iii. Directed a re-computation of the Appellant's tax liability for the 2001 to 2008 tax years as though the Appellant had no Pioneer Status and did not enjoy the Pioneer Status Incentive, which re-computation, according to the Respondent's letter of 12 September 2014, brought the Appellant's tax liability to the principal sum of N670,211,704.00 (Six Hundred and Seventy Million, Two Hundred and Eleven Thousand, Seven Hundred and Four Naira only), and N54,205,167.00 (Fifty-Four Million, Two Hundred and Five Thousand, One Hundred and Sixty-Seven Naira, only) as interest, as against the total sum of N623,842,914.00 (Six Hundred and



Twenty-Three Million, Eight Hundred and Forty Two Thousand, Nine Hundred and Fourteen Naira Only) as principal sum and N50,349,088.00 (Fifty Million, Three Hundred and Forty-Nine Thousand, and Eighty-Eight Naira only) as interest, earlier computed by the Appellant.

- h. As proof of its readiness to pay its duly assessed tax liabilities and its commitment to an amicable settlement of the dispute, the Appellant made two separate and equal instalment payments of the sums of N156,604,250.00 (One Hundred and Fifty-Six Million, Six Hundred and Four Thousand, Two Hundred and Fifty Naira only) each to the Respondent on 05 June 2014 and 20 August 2014, respectively via direct money transfer. The two payments totalled N313,208,500.00 (Three Hundred and Thirteen Million, Two Hundred and Eight Thousand, Five Hundred Naira only).
- i. On 17 October 2014, the Appellant further paid the sum of N360,983,502.00 (**Three Hundred and Sixty Million, Nine Hundred and Eighty Three Thousand, Five Hundred and Two Naira**) to the Respondent thus bringing the total amount paid to the Respondent between 05 June 2014 and 17 October 2014 to N674,192,002.00 (**Six Hundred and Seventy Four Million, One Hundred and Ninety-two Thousand, Two Naira only**), the said amount representing payment of the Appellant's Company Income Tax and Education Tax liabilities for the 2001-2008 tax years, inclusive of interest as per the Appellant's computations based on waiver of its Pioneer Status Incentive.
- j. Further to the above payments by the Appellant, it was mutually agreed between the Appellant and the Respondent that the Appellant has discharged its additional tax liabilities that constitute subject matter of this Appeal.

CONSEQUENT UPON THE AFORE-STATED, IT IS HEREBY FURTHER AGREED BY THE PARTIES AS FOLLOWS:

1. In consideration of the total sum of N674,192,302.00 (**Six Hundred and Seventy Four million, One Hundred and Ninety-two Thousand, Three Hundred and Two Naira only**) already paid by the Appellant to the Respondent (the receipt of which the Respondent hereby acknowledges), the Respondent hereby irrevocably and unconditionally discharges the Appellant from both the additional Company Tax and Education Tax assessments detailed in paragraph (a) above and for which the Respondent had issued the NORA referenced in paragraph (c) above, which is the subject matter of this Appeal.



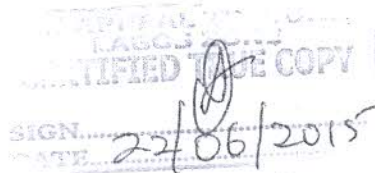
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2. The settlement of this Appeal does not howsoever extinguish the respective rights and obligations of the Appellants and the Respondents in relation to other matters arising under the ongoing tax audit exercise in respect of the Appellant's 2003 to 2009 accounts, which is at an advanced stage of final resolution.
3. The Parties expressly represent and warrant to each other that the execution of this Terms of Settlement and compliance with their respective obligations thereunder is fully authorised by each of them and that the person(s) signing this Terms of Settlement have the necessary and appropriate authority to do so on the Parties' behalf.
4. This Terms of Settlement shall be entered as the Judgment of this Tribunal in respect of this Appeal and shall bar or extinguish completely the Parties' respective further claims in respect of the subject matter of this Appeal.
5. This Terms of Settlement constitutes the entire understanding and agreement between the Parties in relation to the subject matter of this Appeal.

DATED this 4th day of June 2015

Duly executed by the authorized officers of within-named parties

SIGNED BY



SIGN.....
DATE 22/06/2015


EXECUTIVE CHAIRMAN, FIRS

In the presence of:

SECRETARY TO THE BOARD OF FIRS

Name: Abdulkali Sabhu

Signature: 

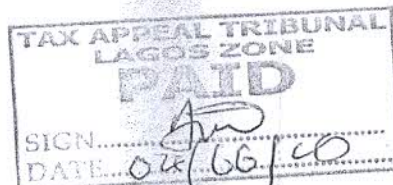

DIRECTOR, HPZ

In the presence of:

COMPANY SECRETARY, HPZ

Name: Rotimi Ode

Signature: 

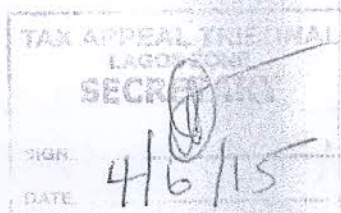

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Paul Usoro & Co
Legal Practitioners

Re NGW 2152594

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