IN THE TAX APPEALTRIBUNAL
SOUTH-EAST ZONE
HOLDEN AT ENUGU

APPEAL NO. TAT/SEZ/017/2015

BETWEEN:

STANDARD CHARATERED BANK OF NIGERIA LIMITED ..... APPELLANT/RESPONDENT

AND

ABIA STATE BOARD OF INTERNAL REVENUE SERVICE ..... RESPONDENT/APPLICANT

BEFORE THEIR HONOURS

Chairman: Prof. C. J. Amasike

Commissioners: Ignatius Chibututu, Esq.
Dr. (Mrs.) Josephine A. A. Agbonika
Prof. Eddy Omolehinwa
Chief Ngozi I. Amaliri Esq.

RULING

The Appellant/Respondent is a bank registered in Nigeria under the Companies and Allied Matters Act, 2004 with its registered office at 142 Ahmadu Bello Way, Victoria Island, Lagos, Nigeria. The Respondent is an agency of the Abia State Government of Nigeria with its office Behind Aguiyi Ironsi Conference Centre, Off Finbars Road, Umuahia, and is vested with the powers to ensure the effectiveness and optimum collection of all taxes and penalties due to the government of Abia State under the relevant laws.

The Respondent/Applicant filed a motion dated 20th day of November, 2015, and filed on the 24th day of November, 2015 by which it prayed the Honourable Tribunal for an order dismissing this suit.

CERTIFIED TRUE COPY
TAX APPEAL TRIBUNAL
SOUTH EAST ZONE
Sign ..... Date 18/4/18
Name Uche Ukuta
Designation Secretary

This motion was supported by a 13 paragraphed affidavit; deposed to by one C.C Onyeabor, the director of Audit of the Respondent/Applicant.

The Respondent/Applicant relied on all the paragraphs of the affidavit.

The grounds for this application are:

1. Lack of jurisdiction of the Tribunal to hear and determine the Appeal.
2. Lack of locus standi of the Appellant to bring this Appeal.
3. That the Appeal is incompetent.

1. Lack Of Jurisdiction Of The Honourable Tribunal To Hear And Determine The Appeal

In arguing the grounds, bothering on lack of jurisdiction by the Tribunal to entertain the Appeal, counsel for the Respondent stated that, the law was settled that it was the instrument establishing a body that also provided for its jurisdiction. The Tax Appeal Tribunal was established pursuant to Section 59 of the Federal Inland Revenue Service (Establishment) Act of 2007.

The powers and jurisdiction of the Tribunal they argued were as provided under the Tax Appeal Tribunal Procedure Rules, 2010 made pursuant to the Federal Inland Revenue Service (Establishment) Act of 2007.

The result was that the Tribunal cannot go outside its powers as provided under the TAT Rules, of 2010 which has circumscribed the powers of the Tribunal, they submitted.

Going further they argued that by Order III, Rule (1), of the Tax Appeal Tribunal Rules, a person aggrieved by an assessment or demand notice made upon him by the service or aggrieved by an action or decision of the service under the provisions of the tax laws administered by the service may appeal against such action, decision, assessment or demand notice within the period stipulate here under.

They argued that the "Service" referred to in this Rule was the Federal Inland Revenue Service established pursuant to Section 1 of the Federal Inland Revenue Service Establishment Act, 2007.

They further referred the Tribunal to Order 11 Rule 1 of the Rules of the tribunal, which is the interpretation section and defines "the service" to mean; the Federal Inland Revenue Service Establishment pursuant to section 1 of the Federal Inland Revenue Service (Establishment) Act, 2007.

They also argued that an Applicant can only appeal against a 'disputed decision' of the service. That is, the Federal Inland Revenue Service.

They submitted that Order 11 Rule 1 of the Tax Appeal Tribunal Procedure Rules, 2010, which is the interpretation section, defines a 'disputed decision' of the service thus;

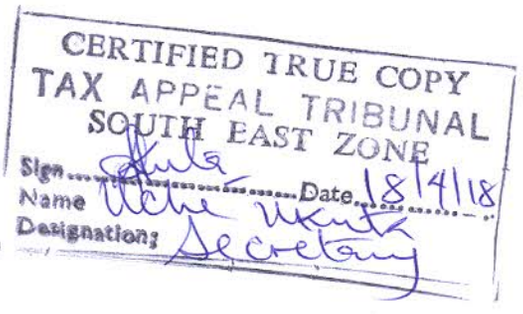
"Disputed decision" means a decision of the service against which an appeal is brought under these Rules.

The position of the law, from the ongoing they stated was that the appeal this Honourable Tribunal can hear and determine must be an appeal against the disputed decision of the Federal Inland Revenue Service established pursuant to Section 1 of the Federal Inland Revenue Service (Establishment) Act, 2007. This Tribunal they argued, cannot go outside these rules to shop for jurisdiction.

They argued that there was therefore nothing in the Rules, or any other enactment entitling the Tribunal to hear and determine an appeal against the disputed decision of the Abia State Internal Revenue Service, established not by the Federal Inland Revenue Service (Establishment) Act, 2007, but by the Abia State Board of Internal Revenue law of 2008.

They stated further, that the jurisdiction of this Honourable Tribunal was limited to those matters for which the Federal High Court is entitled to hear and determine as provided in section 251(1) of the 1999 Constitution of the Federal Republic of Nigeria.

It was because of this reason they submitted that the Tax Appeal Tribunal Procedure Rules, 2010, provided that appeals from the decision of the Tribunal will lie to the Federal High Court.



They argued that just as the Tribunal cannot entertain appeals against the disputed decision of a State Service, the Federal High Court cannot entertain appeal against the decision of State Service.

They referred the Tribunal to section 251 of the Constitution of the Federal Republic of Nigeria, 1999, and urged the Tribunal to decline jurisdiction to hear this appeal on this ground.

2. Lack Of Locus Standi Of The Appellant To Bring This Appeal

On the ground of lack of locus standi to bring this appeal, the Respondent/Applicant relied on paragraphs 6-11 (a) of the affidavit in support of the motion.

The Respondent/Applicant had deposed in those paragraphs of the Affidavit that the Appellant was not a tax payer in relation to the Respondent/Applicant's office.

They argued that Pay As You Earn [PAYE] taxes were matters between the Respondent/Applicant and the individual employees of the Appellant, who have not appealed to this Honourable Tribunal.

They referred the Tribunal to **7up Bottling Ltd V. LSIRS (2000) 3 N.W.L.R. (Pt.650). Page 565 at 603 paragraphs F-H** and argued that however, the Appellant was an agent of the Respondent for the purposes of deducting and remitting personal income taxes from the employees of the Appellant and remitting same to the Respondent/ Applicant.

The Appellant being an agent of the Respondent can only act in the interest of the Respondent, the principal and that it did not lie in the mouth of the Appellant to question the principal as long as the agency relationship existed.

They referred the Honourable Tribunal to page **412 of Topical Issues on Nigeria Tax Laws and Related Areas by Josephine A.A. Agbonika,** and submitted that in the instant case, there was no interest of the Appellant that had been affected by the decision of the Respondent/Applicant

The Appellant therefore lacked the locus standi to bring this Appeal and referred to **P.M Ltd V. M.V Dancing Sister (2012) 207. LRCN page 168 at 187 k2.**

On these grounds they urged the Honourable Court to dismiss the Appeal.

In reply to the Application, the Appellant/Respondent has filed a 7 paragraphed counter Affidavit deposed to by Mr. Tochukwu Anaenugwu, a legal practitioner in Aluko & Oyebode, the firm of legal practitioners representing the Respondent in this proceeding. The Appellant/Respondent relied on all paragraphs of the counter Affidavit. They also filed a Written Address dated 20th November, in which the Appellant/Respondent raised the following sole issue for determination;

> ***Whether having regard to the entire factual circumstances of the Application and the principles of law thereon, this Honourable Tribunal ought to grant the reliefs sought by the Applicant in the Application?***

LEGAL ARGUMENTS

The Appellant/Respondent responded to the arguments as put forward by the Applicant on each ground of the Application as follows;

1. Lack of jurisdiction by the Tribunal

On the issue of Lack of Jurisdiction by the Tribunal, they argued that it was a settled principle of law that the source of the jurisdiction of a court or tribunal was wholly statutory. As such, courts derive their jurisdiction from the statute that created them, other relevant statutes, as well as the constitution and therefore, cannot venture to assume jurisdiction over a matter, except such jurisdiction had been statutorily prescribed. They referred the Tribunal to the case of **Gov, Ekiti State v. Chairman Ilejemeje L.G** (2006) ALL FWLR (Pt. 341) 1280 at 1294 (CA).

They explained further that it was firmly established that the jurisdiction of the court was so fundamental that in its absence, the proceeding no matter how beautifully conducted will be rendered a nullity. Hence, jurisdiction of a court can neither be implied nor conferred by either the parties or the court itself but can only be conferred or extended by statute.

They referred the Honourable Tribunal to the case of **Obiuwebi v. Central Bank of Nigeria** (2011) 7 NWLR (pt. 1247) 465 the court per Adekeye, J.S.C (p. 506, paras A-B) which held as follows:

"Generally speaking, courts are creatures of statute and it is the statute that created a particular court that will also confer on it, its jurisdiction. Jurisdiction may be extended not by the courts but by the legislature."

On the authorities of: **Afribank (Nig.) Plc v. Akiwasa** (2006) 5 NWLR, pt 974 pg. 619. **Okulate v. Atuosanga** (2000) JSC 107 **Onuorah v. KRPC** (2005) 6 NWLR, pt. 921, pg. 393. **Messers Mr. Scheep v. M'V'S' Araz** (2000) 72 SC, pt. 1 pg. 164, they submitted that the arguments canvassed by the Respondent/Applicant that this Honourable Tribunal lacked the jurisdiction to entertain the Appeal was untenable, having regard to the provisions of the relevant and applicable tax legislation. He referred this Honourable Tribunal to the provisions of sections 59 of the Federal Inland Revenue Service (Establishment) Act 2007 ("FIRS Act") and Section 60 Personal Income Tax 2011 (As amended) ("PITA") which said Sections they reproduced in relevant part as follows;

Section 59 of the FIRS Act provides that,

(1) A Tax Appeal Tribunal is established as provided for in the fifth schedule to this Act.

(2) *The Tribunal shall have power to settle disputes arising from the operations of this Act under the First schedule.*

Going further they stated that in additional, paragraph 11 of the fifth schedule to the FIRS Act, provided for the jurisdiction of the Tribunal as follows;

11 (1) Tribunal shall have power to adjudicate on disputes, and controversies arising from the following tax laws (hereinafter referred to as "the tax law")

(i) Companies Income Tax Act;

(ii) Personal Income Tax Act;

(iii) Petroleum Profits Tax Act;

(iv) Value Added Tax Act;

(v) Capital Gains Tax Act; and

(vi) *And other law contained in or specified in the First Schedule to this Act or other laws made or to be made from time to time by the National Assembly.*

Furthermore they argued that, Section 60 of PITA provides for the jurisdiction of the Tribunal over disputes emanating from the operations of PITA, cited the Section which provides, quote;

> ***"The Tax Appeal Tribunal established pursuant to Section 59 of the Federal Inland Revenue Service (establishment) Act, 2007 shall have the powers to entertain all cases arising from the operations of this Act."***

From the foregoing, they submitted that a combined reading of the above reproduced sections, clearly showed that this Tribunal, in addition to the jurisdiction conferred on it by the FIRS Act, was equally statutorily vested with the jurisdiction to determine disputes that arise out of the operations of PITA, as in the instant appeal.

They submitted further that a cursory look at the reliefs sought by the Respondent/Applicant in its appeal reveal undoubtedly that the claims and issues in the Respondent's appeal, arose out of the operations of PITA and that by its appeal, the Appellant/Respondent challenged the decision of the Respondent/Applicant, in assessing and refusing to set aside the additional assessments of personal income tax, withholding tax, state development levy and business premise levy for 2012-2013 years of assessment as well as penalty and interest for the alleged late payment of the aforesaid taxes. These taxes, they argued, were levied by the Respondent/Applicant in the exercise of its powers pursuant to the provisions of PITA. They submitted, therefore, that the aforesaid claims of the Appellant/Respondent in its appeal fell clearly within the ambit of matters for which this Honourable Tribunal can validly exercise its jurisdiction and urged the tribunal to so hold.

They noted that the Respondent/Applicant did not challenge or impugne the validity of the provisions of section 60 of PITA and that the Respondent/Applicant cannot seek to collect and enjoy taxes imposed by PITA while at the same time hide from the adjudication procedure prescribed by PITA.

They submitted that having established above that the jurisdiction of the Tribunal extended to matters/disputes arising out of the operations of PITA, they argued further that, it followed therefore that, the Respondent/Applicant's contention that the said jurisdiction was circumscribed by the character of the tax authority was

invalid, having regard to section 108 of PITA, which defined a 'relevant tax authority' "to mean the tax authority of a territory in which an individual is deemed to be resident" and continuing they said that the said section equally defined "tax authority' to mean "the Federal Board of Internal Revenue, the State Board or the Local Government Revenue Committee."

They argued that the rationale for the above position found support in the fact that the Respondent/Applicant being a tax authority under PITA, was being protested against by the Appellant /Respondent for the Respondent/Applicant's decision not to discharge the additional assessments levied against the Appellant/Respondent in the exercise of its functions under PITA.

In addition, they argued that another logical conclusion that can be drawn from the expansive jurisdiction conferred upon this Tribunal as well as the provision of paragraph 11(1) (ii) of the fifth schedule to the FIRS Act was that, contrary to the contention of the Respondent/Applicant that this Tribunal could not exercise jurisdiction over decision of the Applicant, any reference to the Federal Board of Internal Revenue in the Rules of this Tribunal, will necessarily be interpreted to include State Board of Internal Revenue, such as the Respondent/Applicant.

They submitted further that, the Respondent/Applicant's submission in paragraph 3.0 - 3.2 of their written address that the jurisdiction of this Honourable Tribunal was limited to matters which the Federal High Court has jurisdiction under Section 251 of the Constitution, was unmeritorious and misconceived; indeed, they did not find it surprising that the Respondent/Applicant was unable to provide any authority or even illustration to justify such a far-reaching and unfounded legal submission. They reiterated the point that the jurisdiction of a court was statutorily determined and as such, the fact that the jurisdiction of the Tax Appeal Tribunal had been extended to cover matters arising from the operations of PITA and involving state tax authorities make it imperative that its jurisdiction cannot be determined by reference to the jurisdiction of the Federal High Court.

Based on the foregoing submissions, they invited this Honourable Tribunal to hold that it possessed the requisite statutory jurisdiction to entertain and determine the Respondent's Appeal.

CERTIFIED TRUE COPY
TAX APPEAL TRIBUNAL
SOUTH EAST ZONE
Sign ..... Date 18/4/18
Name Ucha Ukuta
Designation; Secretary

2. Locus Standi

On the issue of Locus standi the Appellant/Respodent argued that it was trite that legal standing denotes the legal capacity of a plaintiff, based upon sufficient interest in a subject matter, to institute proceedings in a court of law, to pursue a specified cause. It was a threshold issue which goes to the root of a case and determines a court's jurisdiction to entertain the claims of the plaintiff they submitted.

They argued that the relevant factor which determined whether or not a plaintiff possesseD the requisite legal standing to institute an action was whether his claims disclosed a legal or justiciable right or sufficient interest in the subject matter of the action that had been adversely affected, or was under imminent threat of being affected. As such, a plaintiff, whose legal standing had been challenged, will only be able if he/she demonstrated that he/she possessed sufficient right/interest, which had been infringed or was under threat of infringement, in the subject matter of an action, aimed at seeking redress. He referred this Honourable Tribunal to case of **Owodunmi v. Registered Trustee of CCC** (2000) 10 NWLR (pt. 675) p. 315.

He also referred the Tribunal to the case of **Re-Ijelu v. L.S.D.P.C** (266) 414, in which the court held as follows:

> ***"In order to have a locus standi in a matter, whether by way of commencement of an action or in the exercise of an appellate right, the party must go beyond mere interest to show that he has in law sufficient interest to prosecute the matter. An agglomeration of these interests or supposed or speculative interests bordering on egotism and the like will not suffice. Similarly, a mere vulgar, pretentious or community interest is not enough. So also when the interest paraded by the party before the court is only peripheral and intangible. On the contrary the party must show that that his legal interest is really at stake and that he must commence the action to retrieve a known and genuine interest which he does not necessarily share with the members of the public. See Mohammed v. Attorney- General Kaduna State and another (1981) 1 N.C.L.R.177, locus standi or standing must emanate from and be rooted in sufficient interest conferred on the party by law.***

In Chief Ojukwu v. Governor of Lagos State (1986) 2 NWLR (Pt.10) 806. This court held that the test of interest to determine a party interested in a matter is whether the person could have been joined as partly to the suit. See also Mbanu v. Mabuna (1961) 2 SCNLR 305, Maja V. John (1951) 13 WACA 194.

One other test of sufficient interest is whether the party seeking for the redress of remedy will suffer some fundamental injury or hardship arising directly from the litigation. If the court is satisfied that he will so suffer, then he must be heard as he is entitled to be heard. But the injury or hardship which must be real and tangible must be directly related to the litigation."

Having regard to the aforesaid authorities, he submitted that the Appellant/Respondent possessed the necessary legal standing to prosecute its appeal, as the Appellant/Respondent has a legal and justiciable right in the subject matter of the appeal, that will be adversely affected should the Tribunal hold otherwise, by granting the application. We will in the succeeding paragraphs, demonstrate to this Honourable Tribunal that the Appellant/Respondent possessed sufficient interest to prosecute its appeal, they submitted.

They argued that Sections 81 and 82 of PITA imposed a statutory obligation on an employer, where the tax authority so demanded to deduct the personal income tax from the emoluments paid to its employees, and remit same to the tax authority and that this obligation extended to making such employer responsible/accountable for the amount of tax deducted and remitted, such that same may be recoverable from the employer as a debt due to the tax authority. They reproduced the relevant parts of Sections 81 and 82 of PITA, as follows:

"81. (1) Income tax chargeable on an employee by an assessment whether or not the assessment has been made, shall, if the relevant tax authority so directs, be recoverable from any emolument paid, or from any payment made on account of the emolument, by the employer to the employee.

82. An employer required under a provision of this Act to make deductions from emoluments or amounts on account of emoluments paid by him to an employee shall account to the relevant tax authority in such manner as the

relevant tax authority may prescribed for the deduction so made, and in the event of failure by the employer to make the deduction, or properly to account therefore, the amount thereof together with a penalty of 10 percent per annum of the amount plus interest at the prevailing commercial rate, shall be recoverable as a debt due by the employer to the relevant tax authority."

They submitted that the purport/effect of the above sections operated to attach liability to an employer who was alleged not to have deducted the tax or failed to account properly for the tax deducted and that in essence, such employer assumes the rights and obligations of its employees with respect to the deduction and remittance of their personal income tax. They submitted further that the aforesaid section conferred sufficient interest on an employer who had deducted PAYE taxes from the emoluments of his/her employees to challenge the decision of a tax authority that alleges that such employer had under-deducted or under-remitted the taxes.

The Appellant/Respondent, in the instant application, argued in its appeal that, that they had as required by law, fully deducted and remitted the PAYE taxes due on its employees' income to the Respondent/Applicant. Going further they argued that by imposing additional assessment of tax, what the applicant had done was to claim that the Respondent had failed to perform its statutory obligation to fully deduct and remit the said taxes and hence levied the Respondent to additional assessment of taxes to make up for the amount the Respondent/Applicant claimed were not deducted and/or remitted. It was therefore their submission that, having claimed that the Respondent failed in its statutory obligation to deduct and remit the taxes in issue, the Respondent/Applicant cannot contend that the Appellant/Respondent had no legal standing to challenge its decision that imposed an additional liability on the Appellant/Respondent and urged this Honourable Tribunal to so hold. He referred the Tribunal to the case of **LSBIR v. SPDCN** (2011) 5 TLRN 6.

Further, they stated that it was also a settled principle of law that when the legal standing of a plaintiff to institute an action was challenged, the court ought to look at the plaintiff's originating processes, in order to discern if such plaintiff had the requisite right or interest to maintain such action. They referred this Honourable

Tribunal to be the case of **Ladejobi v. Oguntayo** (2001) FWLR (pt. 45) 780; **Thomas v. Olufosoye** (1988) 2 SC 325.

The submitted that a perusal of the Appellants/Respondent's Notice of Appeal, together with other supporting documents and exhibits, clearly show that the additional tax assessments were directed at the Appellants/Respondent itself and not on its individual employees, on the basis that the Appellants/Respondent under-deducted and under-remitted the taxes due from the income of its employees to the Respondent/Applicant and that in addition, these additional assessments were made final and conclusive against the Appellan/Respondent, mandating the Respondent to pay over the assessed liability immediately. These assessments were levied directly against the Appellant/Respondent, whom by its notice of appeal, sought to challenge the veracity and authenticity of the figures stated therein.

Continuing, they argued that, the case of **7up Bottling Co. Plc v. L.S.B.I.R.** (2000) 3 NWLR (pt. 650) 565, relied upon by the Respondent/Applicant in support of its contention that the Appellant/Respondent did not have the requisite legal standing to prosecute their appeal did not support its content, having regard to the peculiar factual circumstances of Appellant/Respondent's Appeal. They argued that rather the case rather supported the Appellant/Respondent's position that, since the additional tax assessments were directed at the Appellant/Respondent itself and not on individual employees, on the basis that the Appellant/Respondent under-deducted and/or under-remitted the taxes due from the income of its employees to the Respondent/Applicant, the Appellant/Respondent could validly object to the assessments and that this position was endorsed by the Court of Appeal in the case, (Pp 616, paras. E-F) where it held per Nzeako, JCA., as follow:

> ***One issue kept recurring in one's mind as the complaint of the appellant in this appeal was being considered. It is that due to the provisions of Decree 104 of the 1993 which is applicable to the matter in consideration, It would appear that the party which ought to complain if unjustly assessed or taxed is the tax payer, not the employer such as the appellant herein. For, the duty of the employer is to deduct tax in accordance with the law and the directive of the relevant tax authority. Respondent's counsel also raised this point. There is however in my view of this qualification that an employer who is accused of failure to deduct and***

remit tax pursuant to section 72 of the Decree, is entitled to the type of defence such as that being put up by the appellant in this case that such tax is not deductible. But, then, that employer also has a duty, it must be stated, to proffer sufficient evidence to buttress his defence that the relevant tax, either under the PAYE or WHT system, is not deductible.

They argued that in the case of **LSBIR. v SPDCN** (supra), the court when faced with the question, on who was legally competent to object to a personal income tax assessment in respect of PAYE liability, applied the decision in **7up Bottling Co Plc v. L.S.I.R.B** (supra), and held "that although objections to an assessment can only be made by an employee, there exists deserving cases where an employer can challenge an assessment imposed on him in respect of a PAYE obligation, such as where the tax authority serves a demand notice on the employer and not the employee." In the words of the court (p. 77)

"The court finds the claimant's demand notice dated 29th March 2005 (Exhibit CW4) having being served on the defendant who is the employer and not the employee, can be validly objected to by the defendant."

From the foregoing, they submitted that to the extent that the additional tax assessments were levied against the Appellant/Respondents and not against the individual employees of the Appellant/Respondent, and having regard to the fact that the Appellant/Respondent had the obligation to deduct and remit the assessed sum, the Appellant/Respondent thereby had sufficient interest to vest it with the requisite legal standing to ventilate its claims before this Tribunal.

They further submitted that, it was preposterous to suggest as the Respondent/Applicant had done, that the Appellant/Respondent, who had been moved by the statutory scheme into the shoes of a debtor to the Respondent/Applicant, did not have the requisite locus standi, to maintain an action in court, challenging the debt and/or the process employed at arriving at such debt. They submitted that the Appellant/Respondent had a legal and justiciable right conferred upon it by virtue of sections 81 and 82 of PITA, which will be adversely affected, if the Respondent is denied access to this Honourable Tribunal to ventilate her claims and urged this Honourable Tribunal to so hold.

Based on the foregoing canvassed arguments, the Appellant/Respondent urged this Honourable Tribunal to wholly discountenance the submissions and the authorities relied on by the Respondent/Applicant, having demonstrated that:

a. This Tribunal has the requisite jurisdiction to entertain the Respondent's Appeal.
b. The Respondent has the legal standing to prosecute her Appeal.

TRIBUNAL

The Tribunal commended the manner that counsel on both sides have argued.

1. JURISDICTION

on the issue of jurisdiction, we must state that, jurisdiction is the life wire of every case and can be raised at any time. When it is so raised, it must be considered before delving into any voyage of discovery in respect of the matter. See **Governor of Ekiti State v. Chairman Ilejemeje L.G.** (Supra).

The Respondent/Applicant's argument that the TAT lacked the jurisdiction to hear and determine this Appeal, unless it is an appeal against a disputed decision of the Federal Inland Revenue Service, and placing reliance on Section 1 of the FIRS (Establishment) Act is restrictive and misconceived. There is no doubt that the word 'Service' as defined by the FIRS Act 2007 means Federal Inland Revenue Service as defined by Section 1of FIRS Act 2007, but a combined reading must be given to section 59 FIRS Act, paragraph 11 of the Fifth Schedule, Section 60 PITA to know the extent of the jurisdiction of TAT.

We are not unmindful of Section 59 which created the TAT and the various laws which by the 5th Schedule in paragraph 11(1) it is obliged to adjudicate on.

The TAT no doubt have jurisdiction to handle all disputes arising from the laws mentioned thereunder. Personal Income Tax being one of the taxes so mentioned is therefore under the jurisdiction of the Tax Appeal Tribunal.

TAT is not conferred with the powers provided under section 251 of the Constitution as that is the prerogative of the Federal High Court. Indeed appeals from the TAT ... to the Federal High Court [FHC]. The powers of TAT are derived from Section 59 FIRS Act and assessments such as additional assessments

of Personal Income Tax, Withholding Taxes and Levies and Business Premises Levies from 2006 to 2011 as well as penalties and interests come under the purview of its scope of adjudication anticipated by section 60 of PITA. We are persuaded by all the arguments of the Appellant/Respondent in this regard and hold that this Tribunal possesses the requisite statutory jurisdiction to entertain and determine this appeal.

2. LOCUS STANDI

On the issue of locus standi, we are also persuaded by the arguments of the Appellant/Respondent. The Respondent/Applicant's contention is that the Respondent/Appellant not being the taxpayer in respect of Personal Income Tax, had no locus standi to sue. But the Appellant/Respondent is the agent of the Respondent/Applicant for the purpose of deducting and withholding those amounts from its employees and remitting same to the Respondent/Applicant. Where the Appellant/Respondent fails to deduct or deducts and fails to remit the Respondent/Applicant can proceed against them for the amount involved. The duty to deduct and remit is statutorily imposed on employers in this case on the Appellant/Respondent by Sections 81 and 82 PITA.

In **Owodunmi v. Registered Trustees of CCC** (2000) 10 NWLR (Pt. 675) p. 315, it was held that, a plaintiff whose legal standing has been challenged will duly be able to succeed if he demonstrate that he has sufficient right or interest which has been infringed or is under threat of infringement in the subject matter of an action, aimed at seeking redress.

Since there is liability on the Appellant/Respondent to deduct and remit to the Respondent/Appellant or account for sums as a debtor to the Respondent/Applicant where they fail to so do, they are of course liable.

We hold therefore that the Appellant/Respondent has the locus standi to institute this action.

The Tribunal holds for the Appellant/Respondent on the issues of jurisdiction and locus standi raised and dismisses the preliminary objection. As regards the issue of competence of the appeal, neither of the parties argued that ground. It is deemed

abandoned and therefore struck out. This is our ruling. No orders as to costs. Parties are entitled to appeal.

Signed:

Prof. C.J. Amasike, LL.B[Hons]; Ph.D; FCI.Arb; F.DRI; M.ADRg; ACIT
Chairman,
Tax Appeal Tribunal, South East Zone
Date: 3rd June, 2016

CERTIFIED TRUE COPY
TAX APPEAL TRIBUNAL
SOUTH EAST ZONE
Sign ..... Date 18/4/18
Name Uche Ukuk
Designation Secretary