

**IN THE TAX APPEAL TRIBUNAL**

**NORTH CENTRAL ZONE**

**SITTING AT JOS**

**ON THURSDAY, 24<sup>TH</sup> JULY 2014**

**BEFORE THEIR HONOURS**

**CERTIFY TRUE COPY**

Tax Appeal Tribunal  
North Central Zone

05 MAR 2015

Name: J.K NASH

Sign: \_\_\_\_\_

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

CHAIRMAN  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER

**APPEAL NO: TAT/NCZ/003/2014**

**BETWEEN**

FEDERAL INLAND REVENUE SERVICE.....APPELLANT

**AND**

3 TREATIES BUKKA.....RESPONDENT

**JUDGEMENT**

By a Notice of Appeal dated the 18<sup>th</sup> day of February, 2014, the Appellant Federal Inland Revenue Service, sought the following reliefs against the Respondent; 3 Treaties Bukka, under item 3 of the Notice of Appeal, I quote:-

***"WHEREOF, the Appellant claims against the Respondent as follows:-***

- (a) The sum of = N = 1,431,000 (One Million, Four Hundred and Thirty One Thousand Naira Only) as the sum of the Value Added Tax for the period of January – December, 2012 and January -April 2013



- (b) **Penalty on the Unremitted Value Added Tax of = N1,431,000 (One Million, Four Hundred and Thirty One Thousand Naira Only) at the rate of 10% per annum from January – December 2012 and January – April 2013 till the total debt is completely liquidated.**
- (c) **Interest on the unremitted Value Added Tax of N1,431,000 (One Million, Four Hundred and Thirty One Thousand Naira Only) at the rate of 21% per annum from January to December 2012 and January to April 2013 till the total debt is completely liquidated"**

UsmanShamaki appeared for the Appellant and informed the Tribunal that even though the Respondent was served on the 12<sup>th</sup> day of June 2014 there was no communication on the absence of both the Respondent and their Counsel. Counsel to the Appellant was ready to proceed and the matter having been slated for Hearing, he was allowed to call his witness.

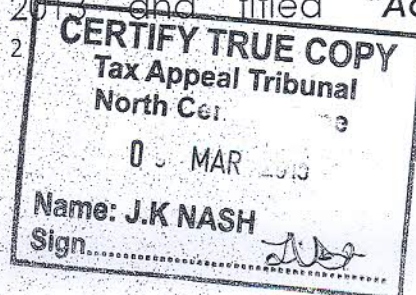
Appellant Witness 1 was Ibrahim Luka, Christian who affirmed and testified in English Language. The witness testified that he lived at No 23 Shendam Road, Lafia Nassarawa State. He works with Federal Inland Revenue Service as Head of Filing, Debt Enforcement and Awareness. He testified that he has a good knowledge of tax matters.

He remembers making a Statement on oath in this case, which he identified. The witness urged the Tribunal to take the statement as his evidence in Chief before the Tribunal.

He identified a letter and a DHL delivery record mentioned in paragraph 9 of his Witness Statement from the signature of his Tax Controller who was away in Lagos for a course. The said letter he said had been certified.

The said letter dated the 6<sup>th</sup> day of May 2013 addressed to the Managing Director of 3 Treaties Bukka titled "**Non Remittance of VAT for the period January 2012 – April 2013**" was admitted in Evidence and marked Exhibit 1.

The witness testified that in paragraph 10 of his Statement on Oath he made reference to another letter. He testified further that the said letter was dated 24<sup>th</sup> May 2013 and titled "**Administrative**





**Assessment"**, he identified the letter which had been certified. Counsel sought the letter to be admitted in evidence.

Letter dated the 24<sup>th</sup> May 2013 addressed to the Managing Director 3 Treaties Bukka titled "**Administrative Assessment**" was admitted in evidence as Exhibit 2.

The witness also testified on a letter dated 10<sup>th</sup> September, 2013 titled "Outstanding VAT returns which he signed; he identified the letter which is certified and the certified copy of letter dated the 10<sup>th</sup> September 2013 addressed to Managing Director, 3 Treaties Bukka signed by the witness was on application by Counsel admitted in evidence as Exhibit 3. The witness urged the Tribunal to enter Judgement for the Appellant.

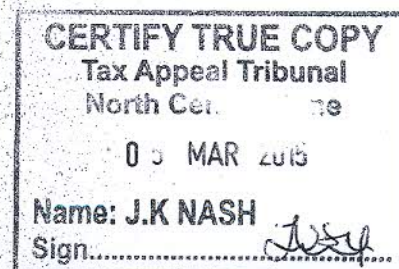
The witness testified further that the books of the Respondent were assessed by the Respondent's Audit Department, not by Appellants. He testified that they usually enlighten Taxpayers on the importance of paying Tax. He testified that he is aware that the Respondents received all the letters sent to them and that after the first letter, subsequent ones were sent through DHL and after assessment, a staff of the Appellant named Jibril visited the Respondent. Counsel to the Appellant also urged the Tribunal to enter Judgement.

The only evidence before the Tribunal is that given by the Appellants' Witness; who was the only person that testified before the Tribunal in this Appeal. The only evidence on the stance of the Respondent in this matter is that provided by Appellant through their witness, that is the refusal of the Respondent to remit Value Added Tax even when same had been assessed.

A Taxable person is compelled to render returns.

Section 15(1) of the value Added Tax Act provides:-

15(1) *"A Taxable person shall render to the Board, on or before the 21<sup>st</sup> day of the month following that in which the purchase or supply was made, a return of all taxable goods and services purchased by him during the preceding month in such manner as the Board may, from time to time determine"*





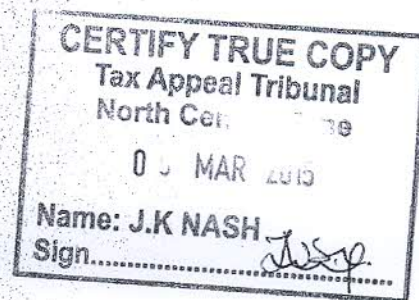
- date" and according to the evidence adduced by the Appellant the sum is still outstanding.

These sums as shown on the Exhibits have been due from periods ranging from "**January 2012 to April 2013**"

Section 32 (1) (a) and (b) of the Federal Inland Revenue Service (Establishment) Act 2007 provides:-

*"32 (1) subject to subsection (3) of this section, if any tax is not paid within the periods prescribed:-*

- (a) *A sum equal to 10 percent of the tax payable shall be added thereto, and the provisions of the Act relating to collection and recovery of tax shall apply to the collection and recovery of such sum;*
- (b) *In the case of Naira remittances, the tax shall carry interest at the prevailing minimum rediscount rate of the Central Bank of Nigeria plus spread to be determined by the Minister from the date when the tax becomes payable until it is paid, and the*





**provisions of the Act relating to collection and recovery of tax shall apply to the collection and recovery of interest."**

We believe the Appellant Witness that the sums as shown on Exhibit 2 are still unpaid and it follows that if the said sums have not been remitted at the time they became due by the above provisions of the FIRS Act, the sum attracts penalty and interest. We also believe that the Respondent was served but chose not to put up any appearance.

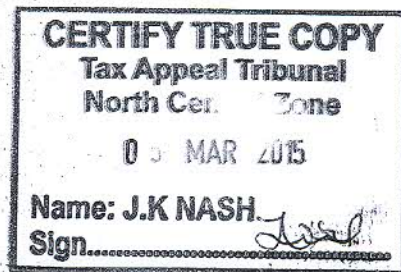
Having observed earlier in this Judgement that the only evidence supplied is that provided by the Appellant which we believe, the Tribunal enters Judgment for the Appellant against the Respondent in the following terms:-

- (a) Judgment is entered for the Appellant against the Respondent in the sum of N1,431,000.00 (One Million, Four Hundred and Thirty One Thousand Naira Only) being the sum of Value Added Tax for the period of January to December, 2012 and January to April 2013.
- (b) The Respondent shall pay penalty on the unremitted Value Added Tax of N1,431,000.00 (One Million, Four Hundred and Thirty One Thousand Naira Only) at the rate of 10% per annum from January to December, 2012 and January, to April, 2013 till the total debt is completely liquidated.
- (c) The Respondent is to pay interest on the unremitted sum of N1,431,000.00 (One Million, Four Hundred and Thirty One Thousand Naira Only) at the rate of 21% per annum from January to December, 2012 and January, to April, 2013 till the total debt is completely liquidated.

That will be our Judgment.

#### Representation

- UsmanShamakiEsq, with S.E. Audu for the Appellants.
- Respondents not represented.





DATED AT JOS, THIS 24<sup>th</sup> DAY OF JULY 2014



**ABRAHAM NDANA YISA**

Chairman

**CERTIFY TRUE COPY**  
Tax Appeal Tribunal  
North Central Zone

05 MAR 2015

Name: J.K NASH

Sign.....