
Tax Appeal Tribunal affirms itself as an administrative body not bound by strict court rules

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In brief

The Tax Appeal Tribunal (TAT) has ruled that it is not bound by the strict rules of evidence contained in the Evidence Act while performing its functions as an administrative tribunal charged with the responsibility of entertaining disputes between taxpayers and tax authorities.

This ruling underscores the importance of speedy resolution of tax disputes through a flexible framework which may be undermined if the tribunal operates strictly like a conventional court and follows strict procedural rules.

In detail

Background

The Tax Appeal Tribunal (TAT) was established under section 59 (1) of the Federal Inland Revenue Service Act (FIRS Act) to settle disputes arising from the operation of the FIRS Act and other tax laws in Nigeria.

As a body set up by law to deal with tax disputes, it is important that the rules of procedure at the TAT are flexible enough to facilitate speedy resolution of disputes without undermining the basic principles of justice and fair hearing.

As governments at all levels intensify effort to increase revenue generation from taxes, tax disputes become inevitable. Unless the TAT is able to adapt its proceedings to the demands

of each case without compromising the rights of the parties, it will get entangled in complicated procedural rules that are capable of delaying the resolution of disputes.

In this case, a preliminary dispute between the parties was whether the TAT was bound by the provisions of the Evidence Act when admitting evidence from the parties.

Facts of the case

The Appellants, FMC Technologies AG and FMC Technologies Puerto Rico Branch instituted the appeal at the TAT against the Federal Inland Revenue Service (FIRS). In the course of the proceeding, the FIRS attempted to present a photocopy of an email. The Appellants contested this move and argued that the TAT could

not receive the photocopy of an email in evidence as it was in breach of the provisions of the Evidence Act.

The Appellants' position

The Appellants argued that the TAT is a court as defined by the Evidence Act and was bound by the provisions of the Act. Under those provisions, a computer generated document must fulfil certain conditions before it can be received in evidence by a court.

FIRS' position

The FIRS was of the view that although the email was not presented as stipulated under the provisions of the Evidence Act, it does not prevent the TAT from admitting it as evidence.

The decision

The issue for determination was whether the standards prescribed in the Evidence Act apply to preclude the admissibility of the email presented by FIRS.

The TAT decided in favour of the FIRS and admitted the photocopy of the email in evidence.

While the TAT acknowledged the definition of “court” in the Evidence Act to include *persons legally authorised to receive evidence* and the provision of section 20 (2) (iii) of the FIRS (Establishment) Act which authorises it to receive evidence on affidavits, it reasoned that for the purposes of performing its statutory function, it is an administrative tribunal and not a court.

The TAT further held that a joint reading of sections 256 (1)

and 258 (1) of the Evidence Act is to the effect that the proceedings implied by the Evidence Act are limited to judicial proceedings and not administrative proceedings by tribunals like the TAT.

The TAT concluded that policy reasons dictate relaxation of evidence law tenets in administrative hearings as insistence on the niceties of evidence will operate to derail administrative proceedings.

An administrative tribunal is entitled, according to the TAT, to act on any material which is logically probative even if the material is not admissible evidence in a court of law.

The takeaway

This is a step in the right direction. As the TAT prepares to entertain record number of cases in the coming months, this ruling sets the stage for a

flexible framework for the resolution of tax dispute devoid of the procedural complications of the conventional court in Nigeria.

The ruling will deter representatives of parties at the TAT who may seek to take advantage of certain legal provisions or procedural demands in statutes to stall proceedings and complicate disputes in order to avoid or delay the resolution of tax disputes based on facts.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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