



ABSTRACT

The practice and procedure of tax law in Nigeria is regulated by some legal regime which include the Federal Inland Revenue Service (Establishment) Act, 2007 and Tax Appeal Tribunal (Procedure) Rules, 2010, among others. This legal regime exists under the constitutional

ADDRESSING INCONSISTENCY IN TAX APPEAL PROCEDURE BETWEEN THE FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT, 2007 AND TAX APPEAL TRIBUNAL ((PROCEDURE) RULES, 2010 IN NIGERIA.

ANIEKAN J. MENDIE

Department of Business Administration and Management, Federal Polytechnic, Bauchi.

INTRODUCTION

Statutes, courts' procedure rules and judicial precedents constitute the legal framework which regulates practice and procedure of tax law in Nigeria. Examples of tax statutes in the legal framework for regulation of practice and procedure of tax law in Nigeria include Companies Income Tax Act¹, Petroleum Profit Tax Act,² Personal Income Tax Act,³ Capital Gains Tax Act,⁴ Stamp Duties Act,⁵ Value Added Tax Act⁶ and Taxes and Levies (Approved List for Collection) Act.⁷ Procedural rules of the Tax Appeal Tribunal and appellate courts also form part of the legal regime for adjudication of tax matters. The concern of this paper however, is to

1 CAP. C21 L.F.N. 2004

2 CAP. P13 L.F.N. 2004

3 CAP. P8 L.F.N. 2004

4 CAP. C1 L.F.N. 2004

5 CAP. S8 L.F.N. 2004

6 CAP. VI L.F.N. 2004

7 CAP. TI L.F.N. 2004. See section 11 (1) of the 5th Schedule to the Federal Inland Revenue Service (Establishment) Act, 2007 for list of tax laws.



structure which aims at ensuring a level playing field for any appellant, whether private person or government agency like the Federal Inland Revenue Service, (FIRS) in the exercise of right of appeal before The Tax Appeal Tribunal (TAT). However, nothing could be further from the truth when it comes to exercise of right of appeal by a government agency such as the Federal Inland Revenue Service before the Tax Appeal Tribunal (TAT). A critical reading of the Federal Inland Revenue Act, 2007 and Tax Appeal Tribunal Rules, 2010 discloses a serious inconsistency which introduces inequality in appeal procedure regarding exercise of right of filing an appeal before the Tax Appeal Tribunal between a private appellant and official appellant (example, the FIRS). This paper therefore addresses the issues of inconsistency and inequality characterizing the appeal procedure before Tax Appeal Tribunal and seeks to find solutions thereto. To that extent, the paper adopts the doctrinal approach in explaining legal rules and principles with respect to appeal procedure before the Tax Appeal Tribunal. It also adopts content analysis methodology in looking at the provisions of substantive and procedural laws regarding institution of appeals before the Tax Appeal Tribunal. The paper draws materials from primary sources such as tax statutes, rules of the tribunal and judicial precedents in developing its topical concerns. Secondary materials from the cyber space also aided the discussion of the issues under the paper. As it draws conclusion, the paper recommends that the regulatory statute be amended to allow for equality, equity and justice in the procedural process of exercising right of appeal before the Tax Appeal Tribunal.

Keywords: Tax Appeal, Procedure, Inconsistency, Act, Rules, Nigeria.

analyze the inconsistent and contradictory relationship between the Federal Inland Revenue Service (Establishment) Act, 2007 and Tax Appeal Tribunal (Procedure) Rules, 2010 in the process of initiation of appeal before the Tax Appeal Tribunal. The Tax Appeal Tribunal is established to exercise adjudicatory powers over tax appeals in the first instant. The Tribunal is expected to maintain a level playing field of



fairness for appellants appearing to file and prosecute an appeal before it. This paper also intends to spotlight the Tribunal to the extent of its attitude in the interpretation and application of the Federal Inland Revenue Service (Establishment) Act, 2007 via the Tax Appeal Tribunal (Procedure) Rules, 2010; two legal instruments existing with immanent inconsistency.

OBJECTIVES OF THE PAPER

The main objective of this paper is to address the inconsistency in appeal procedure before the tax Appeal Tribunal in Nigeria with respect to filing and commencement of an appeal between the Federal Inland Revenue Service and an individual tax payer. The paper sets out also to analyze the attitude of the Tax Appeal Tribunal in the case involving the filing and commencement of an appeal by the Federal Inland Revenue Service (FIRS) against an individual tax payer.

METHODOLOGY

This paper adopts and applies the doctrinal approach in the discussion of thematic issues within its scope. The doctrinal methodology aids in explaining relevant principles, rules and concepts within the coverage of the paper. Thus, content analysis method provides the paper with a tool with which the substantive provisions of relevant tax statute and rules of the Tax Tribunal were evaluated. The paper draws materials from statutes, judicial precedents and rules of the Tax Appeal Tribunal in its analysis to fulfill its objectives. Internet materials, as secondary materials also enhance the development of the subject matter of this paper.

ESTABLISHMENT OF TAX APPEAL TRIBUNAL

The Tax Appeal Tribunal is a special tax dispute settlement avenue established under section 59 (1) of the Federal Inland Revenue Service (Establishment) Act, 2007. The Tribunal is basically established in all the six zones in Nigeria. Similar Tribunals are also established for Lagos and Abuja, making the total number of existing tribunals to be eight in Nigeria. Each Tribunal is constituted with a Chairman and four other members – Tax Appeal Commissioners who are persons of proven



integrity, knowledgeable and experienced in matters arising from the operation tax laws. The Tax Appeal Tribunal actually commenced operations on 4th February, 2010 in accordance with the Tax Appeal Tribunal (Establishment) Order, 2009 issued by the Minister of Finance of the Federal Republic of Nigeria.⁸ In its quasi-judicial status, the Tribunal operates to fulfill the mission of resolving tax disputes on the basis of fairness, flexibility, speed, convenience and affordability.⁹ It seeks to demonstrate equity among others, as its core value.¹⁰ In all, the Tribunal has many core objectives which include: a deliberate policy to “focus on facts rather than legal technicalities in order to promote early and speedy determination of tax matters without compromising the principles of fairness and equity.”¹¹ Interestingly, the establishment of the Tax Appeal Tribunal provides a commendable alternative mechanism for settlement of tax disputes.

PERSONS COMPETENT TO APPEAL BEFORE THE TRIBUNAL

Two types of persons are legally competent to file and prosecute appeal before the Tribunal. These persons are private individuals and corporate entities. The issue of the person who may commence an appeal before the Tribunal is accordingly addressed under Order III, Rules 1 and 3 of the Tax Appeal, (Procedure) Rules, 2010 which provides as follows:

- (i) A person aggrieved by an assessment or demand notice made upon him by the Service or aggrieved by any 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 stipulated hereunder.
- (iii) The Service, if aggrieved in relation to any person in respect of any provisions of the tax laws, may as in rule 2 above, file an appeal at the appropriate zone of the Tribunal.¹²

8 Coordinating Secretariat, Tax Appeal Tribunal Pamphlet (Lagos: Tax Appeal Tribunal). P. 2

9 Ibid.

10 Ibid.

11 Ibid. P. 3

12 The provisions of Order III, Rules 1 and 3 of the Tax Appeal Tribunal (Procedure) Rules, 2010 are consistent with section 13 (1) and 14 of the 5th Schedule to the Federal Inland Revenue Service (Establishment) Act, 2007 on the issue of persons competent to file an appeal before the Tribunal.



As can be observed from the provisions of Order III, Rules 1 and 3 cited above, an individual tax payer or a corporate entity, if aggrieved by action, decision, assessment or demand of the Tax Agency may commence an appeal before the Tax Appeal Tribunal against the Agency. The Federal Inland Revenue Service, the tax agency, if aggrieved by the non-compliance by a tax payer in respect of any provisions of tax laws may also appeal against such tax payer within appropriate zone of the Tribunal.

PROCEDURE FOR COMMENCEMENT OF TAX APPEAL

An appeal before the Tax Appeal Tribunal is commenced via a Notice of Appeal (Form TAT 1) filed in accordance with Order III, Rule 4 of the Tax Appeal Tribunal (Procedure) Rules, 2010.¹³ In *Ani v. Otu*¹⁴, the Notice of Appeal was judicially described as the “spinal cord of an appeal; the foundation upon which an appeal is based; the originating process, valid lawful commencement of appeal”. Thus, where the notice of appeal is defective, no proper appeal can stand.¹⁵ This Notice is required to be filed within a period of 30 days from the date on which the action, decision, assessment or demand notice which is being appealed against, was made by the Federal Inland Revenue Service (FIRS).¹⁶ However where good reasons(s) is shown, an appeal may be filed by order of the Tribunal after the expiration of the prescribed period of 30 days earmarked for commencement of appeal.¹⁷

Notice of Appeal when filed, is expected to be served personally on the appellant or his representative.¹⁸ A partner may be served with Notice of Appeal where the matter involves a Partnership; and a Director or an Officer or a Representative may be served with Notice where a company is involved in the appeal.¹⁹ However, where personal service of Notice of

¹³ Section 13 (3) of the 5th Schedule to the Federal Inland Revenue Service (Establishment) Act, 2007 also provides a hint that an appeal before the Tax Appeal Tribunal must be commenced by Notice of Appeal.

¹⁴ (2017) 12 NWLJR, Pt. 1578, P. 30 at 71

¹⁵ Ibid

¹⁶ Ibid

¹⁷ See Order III, Rule 2 of the Tax Appeal Tribunal (Procedure) Rules, 2010 and section 13 (2) of the 5th Schedule to the Federal Inland Revenue Service (Establishment) Act, 2007.

¹⁸ Ibid

¹⁹ Ibid



Appeal becomes impossible, the Tribunal satisfied with reasons shown, may order that service of the initiating process be effected through any substituted means deemed appropriate in the circumstances of the appeal.²⁰ Service of the Notice of Appeal is fundamental, as it activates the Tribunal and enhances it with jurisdiction or adjudicatory powers. Jurisdiction is the superstructure upon which the judicial power of a court of law is founded.²¹ It is the life wire, bedrock and foundation of all judicial and quasi-judicial proceedings.²² In *GTB v. Toyed Nig. & Another*,²³ the court held that jurisdiction is the life blood of all trials, whether it be at the court of trial or on appeal, and without which all such trials and hearings are nullity. Thus, no progress can be made in an appeal where service of processes enhancing the tribunal with jurisdiction is not done. It is always an exercise in futility, if a Tribunal or Court takes any step in the hearing of an appeal where service of initiating Notice of Appeal and other processes is not made on the affected parties. Besides, service of Notice of Appeal and other processes filed is to be made on the parties between the hours of six O' clock in the morning and six O' clock in the evening.²⁴ It is to be noted that service of processes from the Tribunal is not to be effected on Saturday, Sunday or Public holiday, except it is otherwise ordered by the Tribunal.²⁵

To this end, the appellant who wishes to proceed to hearing of an appeal with the aid of witnesses is required to serve his Notice of Appeal together with list of witnesses, written statements on oath of the witnesses and copies of documents to be relied on against the Respondent.²⁶ A Respondent who desires to contest the appeal with evidence during hearing, is also required to file the Respondent's Reply together with list of witnesses, written statements on oath of the witnesses and copies of documents intended to be relied on against the appellant.²⁷ The Tribunal proceeds to the hearing stage of an appeal

²⁰ Ibid

²¹ Ibid Order 7 Rule 2 (b) & (c)

²² See Order 7, Rule 2 (a) of the Tax Appeal Tribunal (Procedure) Rules, 2010.

²³ Ibid. Order VII, Rule 3 (a) – (e).

²⁴ Lateef, M.A. "Jurisdiction of Courts in Nigeria." researchgate.net. Accessed on 22/5/2021.

²⁵ Ibid.

²⁶ (2016) LPER, P. 4181.

²⁷ Opcit. Order VII, Rule 5 (1).



when it is satisfied that all processes involved in the appeal have been duly served on all parties before it. Thus, delivery of judgment marks the conclusion of proceedings in an appeal. However, any party dissatisfied with the judgment of the tribunal may file an appeal within 30 days and submit the judgment before the Federal High Court of Nigeria for appellate scrutiny.

INCONSISTENCY IN THE APPEAL PROCEDURE OF THE TRIBUNAL

The procedure for commencement of appeal proceedings of any court or tribunal is expected to be fair to both individual and official appellants. This however, is not the case before the Tax Appeal Tribunal. The combined reading of the Tax Appeal Tribunal (Procedure) Rules, 2010 and Federal Inland Revenue Service (Establishment) Act, 2007 reveals gross inconsistency and discriminatory approach in the procedure for commencement of an appeal between the private individual and official appellants, such as the Federal Inland Revenue Service (FIRS). To put it pointedly, the provisions of sections 13 (2) and 14 of the Fifth Schedule to the Federal Inland Revenue Service (Establishment) Act, 2007 and Order III, Rule 3 of the Tax Appeal Tribunal (Procedure) Rules, 2010 are clear reflections of a bundle of inconsistency, discrimination and unfairness in the appeal procedure of the Tax Appeal Tribunal. For clarity and easy comprehension of arguments, the inconsistent and discriminatory provisions of the Federal Inland Revenue Service (Establishment) Act, 2007 and Tax Appeal Tribunal (Procedure) Rules, 2010 are reproduced as follows:

Section 13 (2) of the 5th Schedule to the FIRS Act: An appeal under this schedule shall be filed within a period of 30 days from the date on which a copy of the order or decision which is being appealed against is made, or deemed to have been made by the Service and it shall be in such form and be accompanied by such fee as may be prescribed provided that the Tribunal may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for the delay.



Section 14 of the 5th Schedule to the FIRS Act: Service aggrieved by the non-compliance by a person in respect of any provision of the tax laws, it may appeal to the Tribunal where the person is resident giving notice in writing through the Secretary to the appropriate zone of the Tribunal.

Order III, Rule 2 of the Rules of the Tribunal: An appeal under this schedule shall be filed within a period of 30 days from the date on which a copy of the order or decision which is being appealed against is made, or deemed to have been made by the Service and it shall be in such form and be accompanied by such fee as may be prescribed provided that the Tribunal may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for the delay.

Order III, Rule 3 of the Rules of the Tribunal: The Service, if aggrieved in relation to any person in respect of any provisions of the tax laws, may as in rule 2 above file an appeal at the appropriate zones of the tribunal

It is clear from the provisions of section 13 (2) of the fifth schedule to Federal Inland Revenue Service (Establishment) Act, 2007 and Order III, Rule 2 of the Tax Appeal Tribunal (Procedure) Rules, 2010 reproduced in extenso above that the statutory period within which to file an appeal before Tax Appeal Tribunal is a period of 30 days from the date the decision on, assessment of, and demand for tax appeal against was made by the Federal Inland Revenue Service (FIRS). A closer observation of section 13 (2) of the fifth schedule to the FIRS Act reveals that the provisions of that section requiring an appeal to be filed within 30 days; or filed with leave of the Tribunal after the expiration of 30 days, applies only to an individual tax payer not FIRS as appellant. The implication of section 13 (2) of the fifth schedule to the Federal Inland Revenue (Establishment) Act, 2007 is that the FIRS is exempted from filing an appeal within 30 days period. Thus, the FIRS can file an appeal under section 14 of the fifth schedule to the FIRS (Establishment) Act, 2007 at



any time after the expiration of 30 days period prescribed for commencement of an appeal by an individual tax payer even without leave of the Tribunal for extension of time within which to file such an appeal.

It appears that section 13 (2) of the fifth schedule to the FIRS (Establishment) Act, 2007 have given a leeway to the FIRS to file an appeal before the Tribunal without leave for extension of time after expiration of the appeal period of 30 days. Yet, private tax payers must obtain leave for extension of time before they can file an appeal before the Tax Tribunal after the expiration of 30 days. It is clear that official appellant (FIRS) and the unofficial appellants (private tax payers) are not given equal opportunity to commence an appeal before the Tax an Appeal Tribunal. The relevant point to make here is that section 13 (2) of the schedule to the FIRS (Establishment) Act, 2007 couched and made only for the compliance of the unofficial appellant is smack of legislative discrimination capable of introducing inequality and inequity between the official and unofficial appellants in the process and procedure for commencement of an appeal before the Tax Tribunal. This constitutes a disincentive to exercise of right to equal access to justice before the Tribunal.

Of interest is Order III, Rule 3 of the Tax Appeal Tribunal (Procedure) Rules, 2010 which provides that:

The Service, if aggrieved in relation to any person in respect of any provisions of the tax laws, may as in rule 2 above file an appeal at the appropriate zones of the tribunal

From the provision of Order III, Rule 3 of the Rules of the Tribunal cited above, an official appellant, the FIRS to be specific, may file an appeal in a manner consistent with provision of Order III Rule 2 of the Rules of the Tax Appeal Tribunal which provides that appeal is required to be filed within 30 days or filed outside 30 days with leave for extension of time within which to file such an appeal duly granted by the tribunal. It appears that the Ministry of Finance, Federal Republic of Nigeria noticed the unequal treatment that may occur between the official and unofficial



appellants with the application of section 14 of the 5th Schedule to FIRS (Establishment) Act, 2007 in the process of filing and commencing an appeal before the Tax Appeal Tribunal, then he made Order III, Rule 3 to address the inequality. The point is that the provision of Order III Rule 3 of the Tax Appeal Tribunal (Procedure) Rules, 2010 is inconsistent with section 14 of the 5th Schedule to the FIRS (Establishment) Act, 2007. The inconsistency of Order III, Rule 3 of the Tax Appeal Tribunal (Procedure) Rules, 2010 with section 14 of the fifth Schedule to the FIRS (Establishment) Act, 2007 was recognized by the Tribunal at Bauchi, North East Zone in the Appeal between them. Federal Inland Revenue Service v. Sule Abayomi Abbas.²⁸ In that appeal the Tribunal held that Order III Rule 3 of the Rules of the Tribunal is inconsistent with paragraph 14 of the 5th Schedule to the FIRS (Establishment) Act, 2007, and therefore void.²⁹

ATTITUDE OF THE TRIBUNAL TOWARD INCONSISTENCY BETWEEN TAX APPEAL TRIBUNAL (PROCEDURE) RULES, 2010 AND FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT)) ACT, 2007

The Tax Appeal Tribunal tends to strictly embrace the provisions of the FIRS (Establishment) Act, 2007 where the provisions of the Tax Appeal Tribunal (Procedure) Rules, 2010 become inconsistent with the provisions of the Act. For instance, in Sule Abayomi Abbas,³⁰ the issue was that of non-compliance by the FIRS with the 30 days period for filing of an appeal under Order III, Rule 3 of the Rules of the Tribunal. The Tribunal held that: “Order III, Rule 3 of the Rules of the Tribunal is inconsistent with paragraph 14 of the fifth Schedule to the FIRS (Establishment) Act, 2007, and therefore void.”³¹ The Tribunal further held that:

If the law maker had intended that the 30 days appeal period should equally apply to the Service, they could have

²⁸ Ibid. Order VII, Rule 5 (2).

²⁹ Ibid. Order III, Rule 5 (a)-(c).

³⁰ Ibid. Order VIII, Rule 3 (a)-(c).

³¹ Unreported Appeal No. TAT/NEZ/002/2015 in which judgment was delivered on 22/7/2020. See <http://tat.gov.ng>. Accessed on 19/2/2021



as well included it the same way they did in section 13 (2) of the 5th Schedule.³²

Fortifying itself in making the above decision, the Tribunal cited and relied on: *Abubakar v. Yar Adua*³³ where the Supreme Court of Nigeria held that: “Rules of Court include Practice Direction and Practice Direction will not have the force of law, if they are in conflict with the Constitution or the statute which enables them”. The Tribunal also cited and relied on *Israel v. INEC*³⁴ where it was held that the authority of an enactment overrides the provisions of rules of court.

It is of interest to note that the Tribunal in the case of *Sule Abayomi Abbas* cited above, observed the manifest inconsistency existing between the section 14 of the 5th Schedule to the FIRS (Establishment) Act, 2007 and Order III Rule 3 of the Tax Appeal Tribunal (Procedure) Rules, 2010 regarding the 30 days period for commencement of an appeal. However, the Tribunal exercises no power to push for a level of playing field with respect to the compliance with the 30 days period for commencement of appeal between the official and unofficial appellants. The Tribunal articulated the view that the 5th Schedule to FIRS (Establishment) Act, 2007 did not expressly state that the FIRS, an official appellant must appeal against non-compliance by any tax payer with tax law to the Tax Tribunal within 30 days. The Tribunal in the case of *Sule Abayomi Abbas*,³⁵ indeed, strictly followed the principle of law enunciated in *Abubakar v. Yar’ Adua*³⁶ and *Israel v. I.N.E.C. & Ors*³⁷ in holding that the provisions of the 5th Schedule to the FIRS (Establishment.) Act overrides the Order III Rule 3 of the Rules of the Tax Appeal Tribunal regarding compliance with prescription of 30 days for commencement of appeal in case of the FIRS. It is submitted that rules of Court or Tribunal are also meant to be obeyed. Thus, it would serve the interest of equality, equity and justice where it is held that the official appellant- the FIRS has 30 days period within which to appeal before the

³² Ibid.

³³ Ibid.

³⁴ (2008) 5 NWLR, Pt. 1078, P. 465 at 511

³⁵ (2010) LPELR, P.9082.

³⁶ Opcit.

³⁷ Opcit.



Tax Tribunal after the expiration of 30 days available for the private appellant- the individual tax payer to appeal. Equality is equity, and as such there is no gain saying that equality of access to court or tribunal by litigants is equity.

FINDINGS

Regarding the topic and issues discussed, this paper makes some findings as follows: It is discovered that the 30 days period prescribed for commencement of an appeal before the Tax Appeal Tribunal under Order III, Rule 2 of the Tax Appeal Tribunal Rules, 2010 and section 13 (2) of the 5th Schedule to the FIRS (Establishment) Act is applicable only to the unofficial appellant (individual tax payer) not the official appellant, the FIRS.

There is no express provision specifically stating the number of days within which the FIRS may appeal against the non-compliance by an individual tax payer with any tax law. Thus, section 19 of the 5th Schedule to the FIRS (Establishment) Act, 2007 which renders inapplicable any statute of limitation of action to any appeal brought before the Tribunal may be very advantageous to the FIRS. This implies that the FIRS can Appeal to the Tax Tribunal at any time, even in years after the expiration of 30 days period of appeal meant for the unofficial appellant.

There is manifest inconsistency between Order III, Rule 3 of the Rules of the Tax Appeal Tribunal and section 14 of the 5th Schedule to the FIRS (Establishment) Act, 2007 with respect to commencement of an appeal within 30 days; in the case of the FIRS being the appellant. The attitude of Courts, including the Tribunal tends to favour a declaration that the inconsistency between the Act (FIRS (Establishment) Act, in this case) and procedural rules of Courts makes the provisions of the procedural rules to become null and void.

RECOMMENDATIONS

Analysis of the provisions of the FIRS (Establishment) Act, 2007 and Tax Appeal Tribunal (Procedure) Rules, 2010 regarding the period available for commencement of an appeal before the Tax Appeal Tribunal in this paper has brought to the fore the inconsistency inherent between the



Act and Rules. It is therefore recommended that a deliberate legislative step be taken to insert provisions prescribing appeal period for the FIRS - the official appellant under the FIRS (Establishment) Act, and make them work in the fair spirit of the provision of Order III, Rule 3 of the Rules of the Tax Appeal Tribunal which provides that FIRS, if aggrieved should appeal within 30 days, or appeal with leave of the Tribunal after the expiration of 30 days meant for commencement of appeal by a tax payer. It is specifically recommended that the period of 30 days for commencements of an appeal by the FIRS should begin to run after the expiration of the 30 days meant for the individual (unofficial) appellant. This makes sense because the FIRS may appeal when the tax payer fail to appeal against tax demand after 30 days in accordance with Order III, Rule 2 of the Rules of Tribunal and section 13 (2) of the 5th schedule to the FIRS (Establishment) Act, 2007.

The Courts, including Tribunal should apply necessary activism to interpret the provisions of FIRS (Establishment) Act with respect to commencement of an appeal by FIRS to demonstrate fairness, equality and non-discrimination between official and unofficial appellants. The application of judicial activism and liberality would create a level playing field for both the official and unofficial appellants. Besides, judicial or quasi-judicial attitude prescribing 30 days appeal period for both official and unofficial appellants (FIRS) would be seen to be in line with the principle of fair hearing guaranteed under section 36 of the Constitution of the Federal Republic of Nigeria with a sense of equality to all litigants.

CONCLUSION

The discussions in this paper have shown the unequal footings given to the official and unofficial appellants by the FIRS (Establishment) Act, 2007 when it comes to filing and commencing an appeal within 30 days. It is only the individual appellant (the tax payer) that must comply with 30 days period in commencing an appeal before the Tax Appeal Tribunal from the language of section 13 of the 5th Schedule to the FIRS (Establishment) Act, 2007. The FIRS can appeal at any time after the expiration 30 days meant for individual appellants. This practice demonstrates procedural inequity, discrimination and lack of fairness in



the process of commencing an appeal between the official and unofficial appellants. The practice also flies in the face of the rule of law which requires every appellant to be given equal access to Court or Tribunal. Thus, it would be consistent with justice, if Court, including the Tax Appeal Tribunal insists on placing the official and unofficial appellants on the same footing when commencing an appeal before it; based on fairness that should characterize judicial or quasi-judicial proceedings under section 36 of the Constitution of the Federal Republic of Nigeria, 1999 as amended.

REFERENCES

- Abubakar v. Yar' Adua (2008) 5 NWLR, Pt. 1078, P. 465 at 511
Ani v. Otu, (2017) 12 NWLJR, Pt. 1578, P. 30 at 71
Capital Gains Tax Act, CAP. C1 L.F.N. 2004
Companies Income Tax Act, CAP. C21 L.F.N. 2004
Coordinating Secretariat, Tax Appeal Tribunal Pamphlet (Lagos: Tax Appeal Tribunal).
P. 2
Constitution of the Federal Republic of Nigeria, 1999
First Inland Revenue Service v. Sule Abayomi Abbas. Unreported Appeal No.
Petroleum
GTB v. Toyed Nig. & Another, (2016) LPER, P. 4181.
Lateef, M.A. "Jurisdiction of Courts in Nigeria." researchgate.net. Accessed on
22/5/2021.
Inland Revenue Service (Establishment) Act, 2007.
Israel v. I.N.E.C. & Ors (2010) LPELR, P.9082.
Personal Income Tax Act, CAP. P8 L.F.N. 2004
Profit Tax Act, CAP. P13 L.F.N. 2004
Stamp Duties Act, CAP. S8 L.F.N. 2004
Taxes and Levies (Approved List for Collection) Act, CAP. TI L.F.N. 2004. Federal
Tax Appeal Tribunal (Procedure) Rules, 2010
TAT/NEZ/002/2015 in which judgment was delivered on 22/7/2020. See
<http://tat.gov.ng>. Accessed on 19/2/2021
Value Added Tax Act, CAP. VI L.F.N. 2004