

FHC's Game-Changing Ruling: Taxpayers Exempted from Pre-Appeal Deposits - Exploring the Daudu v. Minister of Finance Decision and Its Impact on Nigeria's Tax System

Introduction

The Federal High Court (FHC) of Nigeria recently made a significant ruling in the case of Joseph Bodunrin Daudu SAN v. Minister of Finance Budget and National Planning & 2 Ors. Prior to the decision, the practice had been that where a taxpayer intends to file an appeal at the Tax Appeal Tribunal (TAT), such taxpayer is required and mandated under the various provisions of the FIRS (Procedure) Rules 2021, the FHC (FIRS) Practice Direction 2021 and the FHC (Tax Appeals) Rules 2022 cumulatively to deposit half or 100% of the assessed amount into an interest yielding federal account pending the hearing and resolution of the appeal and the recent decision as noted above abhors this.

We examine the resultant implication of this decision and what we look out for as over the tax developmental trajectory within the tax system.

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The FHC struck down provisions that required taxpayers to pay security deposits before filing appeals at the Tax Appeal Tribunal (TAT) and the courts. The FHC's decision highlighted the importance of the right to appeal as a constitutional right and criticised the deposit requirements for imposing an undue burden on taxpayers. The offending provisions were struck down, allowing taxpayers to file appeals without payment of any deposit.

The perennial question surrounding the constitutionality or otherwise of the provisions of the Rules and Practice Directions which prescribe the payment of half or 100% of disputed assessments prior to the hearing of an appeal was laid to rest in this case as they were deemed to infringe upon taxpayers' constitutional right to fair hearing and were consequently declared null and void.

The overall implication of this ruling provides clarity on taxpayers' rights in Nigeria's tax dispute resolution process and underscores the need for transparent and fair procedures in tax administration which is unarguably in line with the provisions of the constitution under Section 36 of CFRN 1999 (as amended).

Conclusion

Applauding the above ruling, we however note that questions remain regarding the interpretation of relevant laws and the standardisation of deposit requirements which still exist in the FIRS Establishment Act. The constitutionality of rules of court and practice directions also remains contentious, indicating potential further legal challenges in the future and we recommend for a further judicial intervention on other Acts prevalent with the old position.