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## Client Alert

## Supreme Court Affirms Jurisdiction of the Tax Appeal Tribunal: *Implications for Tax Disputes in Nigeria*

### Overview

On May 9, 2025, the Supreme Court of Nigeria delivered a landmark judgment in *TSKJ Construcoes Internacional Sociedade Unipessoal LDA v. Federal Inland Revenue Service (SC/955/2017)*, finally laying to rest the long-standing controversy regarding the jurisdiction of the Tax Appeal Tribunal (TAT) in adjudicating tax disputes.

### Background

The Appellant, TSKJ Construcoes Internacional (TSKJ), a non-resident Portuguese company, upon obtaining a contract for the execution of a Liquefied Natural Gas (LNG) project for Nigeria LNG Limited, incorporated TSKJ Nigeria Ltd to provide local logistics and other support services to effectively execute the contract. Within the duration of executing the project, the Appellant filed and paid its taxes using a self-assessment on deemed profit basis (Turnover Assessment) and made deductions of what it called "Recharges", being the cost paid to its local subsidiary, TSKJ Nigeria Ltd.

Upon review, the Federal Inland Revenue Service (FIRS) disallowed the "Recharges" deductions and issued additional assessments to the tune of \$12,924,947 (Twelve Million, Nine Hundred and Twenty-Four Thousand, Nine Hundred and Forty-Seven Dollars).

TSKJ contested the additional assessments at the Tax Appeal Tribunal (TAT), lost, and subsequently appealed to the Federal High Court (FHC), which set aside the TAT's decision and restrained the TAT from adjudicating on tax matters by virtue of Section 251(1)(a) & (b) of the Constitution of the Federal Republic of Nigeria, 1999 (CFRN). The FHC further ordered the Minister of Finance to disband the eight (8) TATs located in Nigeria.

FIRS, being dissatisfied with the decision of the FHC appealed to the Court of Appeal which in its judgment overturned the FHC's judgment, reinstating the TAT's decision. TSKJ aggrieved by the decision of the Court of Appeal, appealed to the Supreme Court of Nigeria.

## Key Holdings

The Supreme Court upon review of the arguments of the parties, upheld the decision of the Court of Appeal and reinstated the decision of the TAT, conclusively ruling that:

1. **The Tax Appeal Tribunal (TAT) is not a court of law but an administrative tribunal** carrying out quasi-judicial functions as established under section 59 of the Federal Inland Revenue Service (Establishment) Act, 2007 (FIRSEA), and is empowered to adjudicate tax disputes.

The apex court further held that Paragraph 20(3) of the Fifth Schedule to Federal Inland Revenue Service (Establishment) Act (FIRSEA), which provides that TAT proceedings "shall be deemed to be judicial proceedings" and that the tribunal "shall be deemed to be a civil court," does not elevate the TAT to the status of a constitutional court. Rather, it underscores its quasi-judicial nature. For if it was a court, it will not need a provision deeming it as one. Therefore, the TAT does not conflict with the provision of Section 251(1)(b) of the CFRN 1999, nor does it usurp the function of the Federal High Court as pertains to adjudication on tax matters.

2. **The TAT serves as a condition precedent to invoking the jurisdiction of the Federal High Court.** A taxpayer must first ventilate its grievance at the TAT before appealing to the Federal High Court, strictly on points of law. A combined reading of paragraph 11 and 17 of the Fifth Schedule to the FIRSEA is to the effect that the Tax Appeal Tribunal is an inferior tribunal subject to the supervisory jurisdiction of the Federal High Court. It was not set up to exercise concurrent jurisdiction with the Federal High Court or to usurp the jurisdiction conferred on the Federal High Court pursuant to section 251 of the Constitution.
3. **The TAT's existence is consistent with global best practices** where tax administrative tribunals serve as first-instance dispute resolution bodies for tax related matters. The judgment referenced international models in the UK, India, and Australia.

## Implications for Taxpayers and Practitioners

- **Reinforcement of the TAT's role:** The Supreme Court's judgment affirms the TAT's central role in Nigeria's tax dispute resolution framework.
- **Jurisdictional clarity:** The decision removes the long hovering ambiguity over the hierarchy and perceived jurisdictional clash between the TAT and the Federal High Court, which had caused jurisdictional objections and consequent delays in many pending tax cases.
- **Procedural discipline:** Appeals from the TAT to the Federal High Court must be strictly on points of law, and taxpayers should structure their cases accordingly.

## Conclusion

This judgment marks a significant development in Nigeria's tax jurisprudence. It not only affirms the legality and functionality of the TAT but also aligns Nigeria's tax dispute resolution framework with international best practices. It further clarifies the distinctive jurisdictions of the TAT and the Federal High Court, creating a clear distinction between the jurisdictional powers of both bodies.

Should you require specific legal advice on how the judgment impacts your business or further clarification, our team at Templars is available to assist.

***If you require any further clarification, do not hesitate to contact us.***