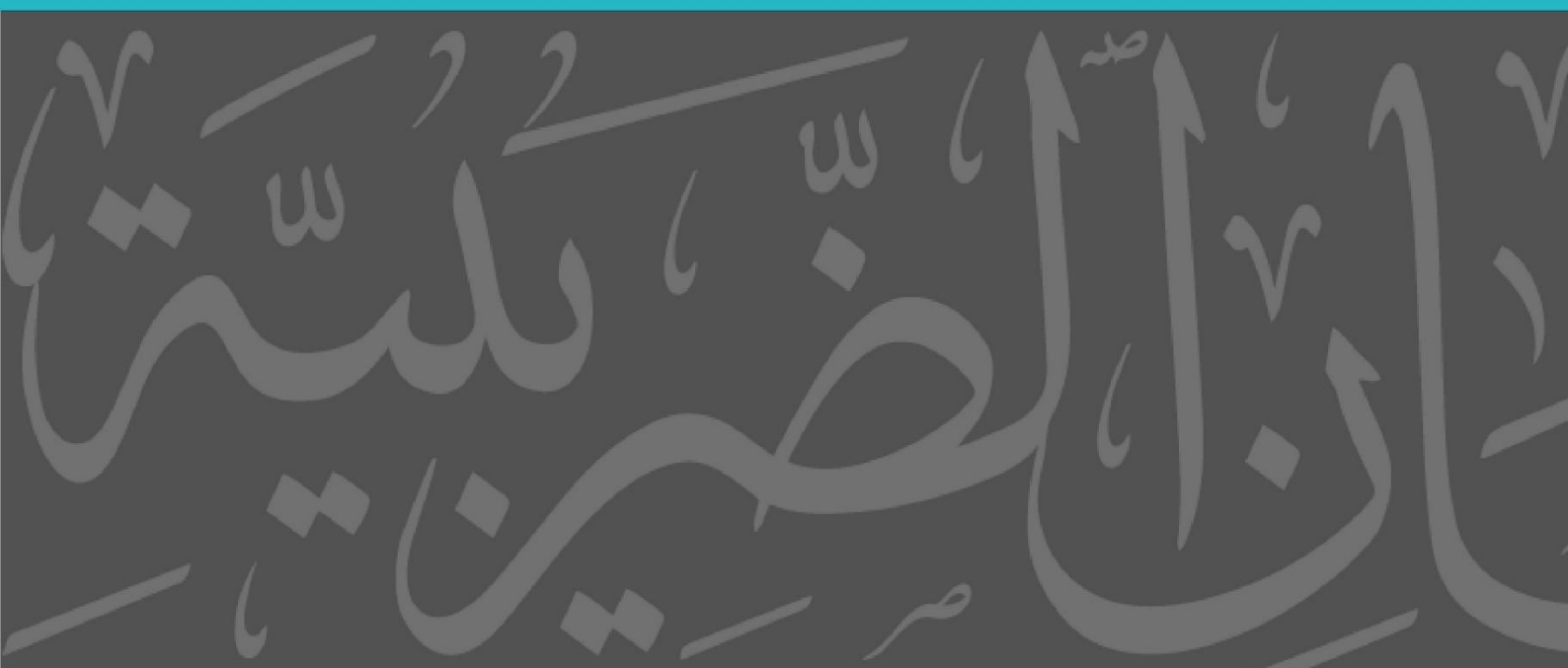




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Compendium of Decisions Issued by the Tax Committees for the Year 2024 (Value Added Tax)



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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Introduction

Praise be to Allah, Lord of the Worlds, and peace and blessings be upon the noblest of messengers, our Prophet Muhammad, and upon his family and companions. To proceed:

There is no doubt that the work carried out by courts and judicial committees, and the decisions they issue, constitutes a rich legal and jurisprudential repository of great value and worthy of attention and care. Considering the commercial and industrial renaissance witnessed by the Kingdom of Saudi Arabia and within the framework of Saudi Vision 2030, many thinkers have emphasized the importance of addressing tax issues. From this standpoint of societal responsibility assumed by the General Secretariat of the Zakat, Tax, and Customs Committees, the Secretariat has sought to establish a fundamental and reliable reference for committee members, specialists, and those concerned. This has been achieved through publishing selected judicial decisions issued by the tax committees in 2024, contributing effectively to the resolution of tax disputes. This effort is part of the Secretariat's objective to clarify the reasoning behind the committee's decisions, which in turn helps shorten the time needed for litigation, eases the burden on judges, and achieves the principle of transparency championed by the General Secretariat. Furthermore, it helps provide clear and practical answers for applied legal research, especially from a Sharia and regulatory perspective, and for academic and training institutions, among others.

We ask Allah Almighty to make this work sincerely for His noble face, to bless the efforts, and to grant success in what it aims to achieve. He is Generous and Kind.



Speech of His Excellency the Secretary General of the Zakat, Tax and Customs Committees

Praise be to Allah alone,

Guided by the vision and values of the General Secretariat of the Zakat, Tax and Customs Committees, which has committed itself to excellence in resolving zakat, tax and customs disputes, adopting innovative and effective methods, promoting transparency and impartiality, and developing cooperation between the various parties involved in the zakat, tax and customs law, and playing an effective role in raising the efficiency of legal deliberations, thereby contributing to the achievement of the objectives of Saudi Vision 2030 by enabling swift justice and adopting the values of transparency and innovation, through supporting the Zakat, Tax and Customs Committees in the swift adjudication of disputes brought before them, providing support and assistance to committees at all stages by conducting studies and research, serving those responsible for clarifying regulations, decisions and judicial precedents, and updating them periodically.

The General Secretariat also placed special emphasis on the Final Decisions issued by the Committees, as they represent a summary of the established jurisprudence and are characterized by their constant possibility of development and change according to the developments in the real world, because their decisions are aimed at resolving disputes before the judicial committees.

Moreover, the knowledge of these decisions prevents disputes and conflicts, which is a prevention, protection and assistance to them in their stance before the Committees, including the project of classifying and tabulating the tax related Decisions issued by the Tax Committees.

This prestigious status of the Decisions calls for working to extract and disseminate them to the Public; in order to achieve the principle of transparency, highlight the ongoing efforts, and enrich the scientific arena; to make it a fertile ground for scholars, specialists, and research centers.

The Secretariat's role in disseminating these Decisions is an affirmation of its relentless endeavor to achieve all that would raise the level of justice as befits it, thanks to the support and guidance of the blessed leadership, which spares no effort in its generous support for the legislative and regulatory framework.

In conclusion, I would like to thank the Custodian of the Two Holy Mosques King Salman bin Abdul-Aziz and His Royal Highness Crown Prince Mohammed bin Salman bin Abdul-Aziz, Prime Minister, for their unlimited care and support for judicial activities in various fields. I would also like to thank the staff of the General Secretariat for their outstanding efforts in issuing this publication, which I hope will achieve its objectives and be a qualitative addition in the legal field.

Secretary-General

Abdullah bin Abdulrahman Alsuhaibani



Methodology

The General Secretariat took care to select rulings that were comprehensive in nature and relevant to the merits to achieve the desired outcome. Given the importance of describing the cases before the zakat, tax and customs committees and their impact on the reasoning and basis for the decision, as this is the outcome sought by the parties to the case, and given the different facts and circumstances of tax cases, it was necessary to categorize the final tax decisions issued by the tax committees for the year 2024 AD so that researchers could review the committees' opinions on those defenses.

Based on the role of the General Secretariat of the Zakat, Tax and Customs Committees in adopting and applying the principles of continuous improvement and development in the management of Zakat, tax and customs disputes, with the aim of enabling the swift resolution of such disputes, care and attention has been given to classifying and publishing the final tax decisions issued by the tax committees. Accordingly, it was necessary to develop a comprehensive plan to publish these decisions in an easy and accessible manner. The process was divided into several stages, as follows:

- The tax decisions issued by the tax committees were thoroughly inventoried during 2024 AD.
- Keywords have been set to make it easier to search through them.
- The name of the circuit issuing the decision, the number of the decision, and the date of issuance were listed.
- A summary of the case which summarizes the most important parts of the case was developed.
- Ensuring the deletion of all data indicating the parties to the lawsuit or other parties without affecting the Decision.
- Verifying the integrity of the Decision from a linguistic and spelling perspective.
- Categorizing the Decisions by merits and placing them under the most relevant category.
- In categorizing and indexing the resolutions thematically, the Secretariat relied on the topics of the Law and its executive regulations, so that the resolutions are listed according to their appearance in the Law and its executive regulations.



- The Secretariat relied on the methodology of excluding similar decisions, as the similarity criterion is that the terms of the decisions and the requests of the lawsuit and its judgment are the same, even if the parties differ.
- Strict compliance with the text of the decision, including its facts, grounds and operative part, without any addition or modification, except for spelling and grammatical errors.



Procedural Decisions Issued by Tax Committees



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. IR-2024-167937

Case No. I-2023-167937

Keywords

VAT - Raised without legal capacity – Rejection of the appeal procedurally

Summary:

The Taxpayer objected to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2501), and where the Appeals Circuit found that the Plaintiff is a licensed lawyer and submitted the request for the petition and signed it on other than his own publications, while he was obliged to submit requests and regulations on his own publications, which resulted in the Rejection of the appeal procedurally for filing it without legal capacity.

Document:

- Article (7) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The submitted appeal was heard on: 05/01/2023, from/ (...) National ID number (...) as agent for the appellant company under Agency No. (...) And the lawyer's license No. (...), on the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2412) issued in Case No. (I-73356-2021) related to the tax assessment for the year 2015, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication circuit ruled the following:

rejecting the Plaintiff's objection in all the clauses at issue.

This decision was not acceptable to the Taxpayer (...Company), so it filed a statement of appeal, which was reviewed by the Circuit and stated that the Taxpayer requests the acceptance of its appeal and the annulment of the decision of the adjudication circuit.



on Monday, 22/1/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated: 21/04/1441 AH; after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon the Circuit's consideration of the Taxpayer's appeal, and after examining the case file, whereas verifying the capacity of the parties to the lawsuit is among the preliminary matters that must be decided before entering into the substance of the case, and whereas the Circuit reviewed the submitted petition, it became apparent that the petitioner is a licensed attorney who submitted and signed the petition on papers other than his own letterhead, while he was obligated to submit applications and pleadings on his own letterhead based on Article (13/01) of the Executive Regulation of the Legal Practice Law, which stipulated that "the attorney must adopt his own papers for submitting his writings to the authorities, and they must include his name, the name of the main and branch offices, license number and date, telephone numbers, post office box, and postal code, and he may not submit to the authorities any writing on papers that do not include such information, or papers that do not belong to him." based on Article 7 of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees, which stipulates that "the representation of the parties to the case shall be in accordance with the provisions of the Lawyers Law and its Executive Regulations." Since the appellant did not comply with the necessary conditions for valid representation, the Circuit concludes that the appeal is inadmissible because it was filed by a person without standing.

On the basis of the above and for the grounds stated, the Circuit unanimously decided as follows:

Decision:

1- Inadmissibility of the appeal request procedurally of the assigned applicant/ (...) Commercial Register (...), Distinctive Number (...), on the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2412) issued in Case No. (I-2021-73356) related to the tax assessment for the year 2015, in order to lift it without legal capacity.

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-196663

Case No. V-2023-196663

Keywords

VAT - Filing it on a person without capacity – Rejection of the lawsuit

Summary:

Objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2501), and where the Appeals Circuit found that the decision issued by the Adjudication Circuit ruled to oblige the appellant to pay the amount of VAT to Appellee, and where the appellant objects to the decision of the Adjudication Circuit because Appellee refers in the facts of his case before the Adjudication Circuit to the name of a company and hereinafter referred to as another company as shown in the appellant's case against him and in the real estate deed in question, resulting in the cancellation of the decision of the First Circuit to adjudicate and rule not to accept the case for filing it without capacity.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

the appeal filed on 09/05/2023 from/... National ID number (...) In his capacity as a representative of the appellant under the statute and the decision of the Board of Directors, on the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-136486), in the lawsuit filed by the appellant against the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

Second: On the Merits: Obliging the Defendant (...) Company, Commercial Registration No. (...), to pay the Plaintiff (...), National ID No. (...) the amount of value added tax of (59,773.60) riyals.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to oblige it to pay the amount of value-added tax to Appellee, because Appellee refers in the facts of his case before the Adjudication Circuit to the company (...), which holds the Commercial Register No. (...) Hereinafter referred to as (...) According to what is apparent in the appellant's lawsuit and in the real estate deed subject of the lawsuit, however, the appellant and the esteemed Circuit directed the lawsuit to the company (...) Which holds the Commercial Registration No. (...) It is an independent legal entity and has nothing to do with the subject of the lawsuit, and the copy of the statement of account, which shows that the deposited check is issued by a company (...) with commercial registration No. (...) According to the bank account data provided, and ended with a request to accept the appeal and cancel the decision of the Class Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



By informing the Appellate Circuit of the case papers and examining the documents and exhibits contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the adjudication Circuit obligated the appellant to pay the amount of value-added tax to Appellee, and since the appellant objects to the decision of the adjudication Circuit because Appellee refers in the facts of his case before the adjudication Circuit to the company (...) Which holds the Commercial Registration No. (...) Hereinafter referred to as (...) According to what is apparent in the appellant's lawsuit and in the real estate deed subject of the lawsuit, however, the appellant and the esteemed Circuit directed the lawsuit to (...) Which holds the Commercial Registration No. (...) It is an independent legal entity and has nothing to do with the merits of the lawsuit, and the copy of the statement of account, which shows that the deposited check is issued by the company (...) The commercial register number (...) According to the bank account data provided, and where it was proven to the Appellate Circuit that the dispute lies in the appellant's claim against the appellant to pay the amount of value added tax resulting from the real estate supply in question, and where Article V of the Unified Value Added Tax Agreement for the Gulf Cooperation Council states the definition of supply that "the supply of goods means the transfer of ownership of these goods or the right to dispose of them as an owner" and where the



appellant did not provide the appellant with evidence of the existence of a supply to the appellant, and submitted the emptying instrument (...) And that the property is mortgaged to (...) Whereas the terms of the agreement submitted by the appellant (a loan agreement for the construction or purchase of a house) included that the loan is his predecessor and in the mortgage clause, it stipulated that the ownership of the property is transferred in the name of the employee immediately and is mortgaged in the name of the company until the loan is repaid, meaning that (the mortgage is a tool to ensure the repayment of the loan) and the supply of the property to the appellant has not been proven accordingly, and since the original acquittal and evidence against the Plaintiff, and since it is established that the appellant did not receive any compensation or service and the property was not supplied to it and only disbursed a check in favor of Appellee as a good loan to its employee, which makes it clear that there is no capacity for the Defendant starting in the lawsuit filed before the adjudication, which is the appellant in this lawsuit, which leads the Appellant circuit to cancel the decision of the Adjudication Circuit.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

1- Cancellation of the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-136486), and the ruling that the lawsuit is not admissible because it is filed without capacity.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-198863

Case No. V-198863-2023

Keywords

VAT - Raised prematurely - Confirmation of the preliminary decision

Summary:

Objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2501), and where the Appeals Circuit found that the decision issued by the Adjudication Circuit ruled not to accept the case procedurally for filing it prematurely, and where the appellant objects to the decision of the Adjudication Circuit because she did not submit an objection to the appellant against her because of her claim to provide a bank guarantee, and that she filed the case directly with the General Secretariat of the Zakat, Tax and Customs Committees after the employees of the appellant against her directed her to file the case, and where it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the grounds on which it was based. Consequently, the appeal was rejected.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal was considered on 30/05/2023, from (...), National ID No. (...), in his capacity as the owner of an establishment (...) Contracting, under Commercial Registration No. (...), on the decision of the Second Circuit to settle VAT violations and disputes in the city of Riyadh No. (VSR-2023-194008), in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

The lawsuit is not accepted procedurally for being filed prematurely.

Since this decision was not accepted by the appellant, she submitted to the Appellate Circuit a statement of appeal that included her objection to the decision of the Adjudication Circuit not to accept the case procedurally for filing it prematurely, because she did not submit an objection to the appellant against her because of her claim to provide a bank guarantee, and that she filed the lawsuit directly with the General Secretariat of the Zakat, Tax and Customs Committees after the employees of the appellant against her directed her to file the lawsuit, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the notes and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled that the case was not admissible procedurally for filing it prematurely, and since the appellant objects to the decision of the Adjudication Circuit for not submitting the objection to the appellant against her because of her claim to provide a bank guarantee, and that she filed the lawsuit directly with the General Secretariat of the Zakat, Tax and Customs Committees after the appellant's employees directed her to file the lawsuit, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the grounds on which it was based, and where the Appellate Circuit did not notice the need for redress or comment in light of the arguments raised before this Circuit, which ends with a decision not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and upheld the decision of the adjudication Circuit in its conclusion.



for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by/ Establishment (...)Contracting, Commercial Register No. (...), procedurally to be submitted within the period specified by law.
- 2- Rejection of the appeal submitted by (...)Contracting Establishment, Commercial Register No. (...), merits, and endorsement of the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-194008).



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-179150

Case No. V-2023-179150

Keywords

VAT - Dismissal due to prior adjudication – Dismissal of the case

Summary:

Objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2501), and where the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled not to hear the lawsuit due to the lapse of the statutory period, and where it was proven to the Appellant Circuit that the Appellant had previously filed a lawsuit that included her objection to the same tax periods in dispute, and where it is established by jurisprudence and jurisprudence that the lawsuit may not be considered because it was previously adjudicated in the event that the litigants, the place and the reason are united. This means that regardless of the lawsuit, it has already been decided.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

the appeal was heard on 19/02/2023 from / (...) National ID number (...) In his capacity as the representative of the appellant under the power of attorney No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2501), in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

Failure to hear the lawsuit due to the lapse of the statutory period in accordance with the provisions of Article (3) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit not to hear the lawsuit due



to the lapse of the statutory period with regard to the notification of the final evaluation for the period of the third and fourth quarters of 2020 and the first, second and third quarters of 2021 and the fines resulting therefrom, because it sought to submit the objection during the statutory period, but the electronic system of the committee was disabled, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the lawsuit papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided not to hear the lawsuit due to the lapse of the statutory period in relation to the final evaluation notice for the third and fourth quarters of 2020 and the first, second and third quarters of 2021 and the fines resulting therefrom. Whereas the appellant objects to the decision of the Adjudication Circuit in order to seek to submit the objection during the statutory period, but the electronic system of the committee was disabled. Whereas, the Appellate Circuit established that the Appellant had previously filed the lawsuit No. (V-2022-152700), which included her objection to the same tax periods in dispute, namely the period (third and fourth quarters of 2020 and first, second and third quarters of 2021 and the fines resulting therefrom), and since the issuance of the two decisions in the lawsuits came on the same day on 22/01/2023, and since it is established by jurisprudence and jurisprudence that the lawsuit may not be considered because it was previously decided in the event of the union of litigants, place and reason, which leads the Appellate Circuit to accept the appeal submitted and cancel the Circuit's decision The subject of the appeal and the judgment regardless of the lawsuit.



for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the appeal submitted by (...), National ID No. (...), procedurally for submitting it within the legally prescribed period.
- 2-On the merits: Cancel the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2501) and rule regardless of the lawsuit.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-202216

Case No. R-2023-202216

Keywords

VAT - Dismissed Due to Lack of Proper Pleading- Rejection of the appeal procedurally

Summary:

The Taxpayer objected to the decision of the Third Circuit for the adjudication of VAT violations and disputes in the city of Riyadh No. (VTR-2023-192779) , and since he did not submit an appeal statement clarifying his capacity, signature and name of the applicant, and the Appellate Circuit requested him to correct his appeal and attach a signed statement of appeal with the name of the applicant, and where he did not provide it with the documents required to correct his application. This means that the appeal is not accepted procedurally.

Document:

- Article (34) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (76) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Facts:

The appeal filed on 21/06/2023 AD, by (...), National ID No. (...), on his own behalf, against the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2023-192779) in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

Inadmissibility of the case procedurally.

Since this decision was not accepted by the appellant, he submitted to the Appellate Circuit an appeal No. (R-202216-2023).



Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



After reviewing the rules of work of the Zakat, Tax and Customs Committees. and the relevant regulations.

Whereas Article (34) of the Rules of Work of the Zakat, Tax and Customs Committees stipulates that: "Without prejudice to what is stated in paragraph (2) of Article (33) of the Rules, the appeal application shall be submitted within (thirty) days from the day following the date of its receipt, through the electronic system of the General Secretariat, including the data of the appealed decision, the grounds on which the appeal is based, and the appellant's requests. The appeal application shall be considered restricted from the date of its submission. In the event that the data is not completed, the applicant must complete the shortage within (fifteen) days from the date of notification of that shortage, and if he does not fulfill what was requested of him during this period, the Circuit may rule not to accept it." Paragraph (1) of Article (76) of the Sharia Pleadings Law stipulates that: "Pleading that the court does not have jurisdiction because of the absence of jurisdiction or because of the type or value of the lawsuit, or pleading that the lawsuit is inadmissible because of lack of capacity, capacity, interest, or any other reason, as well as pleading that the lawsuit may not be considered because it has already been decided; it may be pleaded at any stage where the lawsuit is adjudicated by the court on its own initiative." Whereas the appellant did not submit an statement of appeal clarifying his capacity, signature and name of the appellant, and the Appellate Circuit requested him to correct his appeal and attach a signed statement of appeal with the name of the appellant, and where he did not provide it with the documents required to correct his application, which ends with the Circuit not accepting the appeal request procedurally.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

The appeal is not accepted procedurally.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-176649

Case No. V-2023-176649

Keywords

VAT - lack of qualitative jurisdiction - acceptance of the appeal procedurally - rejection of the appeal

Summary:

Objection to the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1877), where the Taxpayer's appeal lies on the contested decision, which ruled that its case was inadmissible due to the lack of qualitative jurisdiction of the Circuit over the field control fine, due to the issuance of the judgment in absentia. Whereas, the Appellate Circuit has established that the decision in question regarding the dispute in question was in accordance with the provisions of the Law and with the justifiable grounds on which it was based and sufficient to hold its judiciary. Consequently, the appeal was rejected.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal was considered on 08/02/2023, from (...), National ID No. (...), in her capacity as the owner of the establishment (...) Under the Commercial Register No. (...), the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1877), in the lawsuit filed by the appellant against the appellant against her.

Facts

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

" Inadmissibility of the lawsuit procedurally; due to the lack of qualitative jurisdiction of the Circuit."



Whereas this decision was not accepted by the appellant, she submitted to the Appellate Circuit a statement of appeal that included her objection to the decision of the Appeal Division, which ruled that her case was inadmissible procedurally due to the Circuit's lack of qualitative jurisdiction over the field control fine No. (...), in order to issue the judgment in absentia, and ended with a request to accept the appeal and cancel the decision of the Appeal Division.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by informing the Appellate Circuit of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided not to accept the appellant's case procedurally because the Appellant does not have specific jurisdiction over the field control fine No. (...), and since the Appellant objects to the decision of the Adjudication Circuit in order to issue the judgment in absentia, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the Circuit issuing it examined the dispute and concluded with regard to it the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required redress or comment in light of the defenses raised before this Circuit, which ends with a decision that it did not affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

for these grounds and after due deliberation, the Circuit unanimously decided as follows:



Decision:

- 1- Accepting the appeal submitted by (...), National ID No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Rejection of the appeal submitted by/ (...), National ID No. (...) Subject, and support the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1877).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2023-98272

Case No. V-2022-98272

Keywords

VAT - Non-submission of an appeal statement – Rejection of the appeal procedurally

Summary:

The Taxpayer objected to the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2021-1461), and since it is established according to the data and documents submitted in the lawsuit that the appellant did not submit an appeal statement, the Circuit has previously requested the appellant to submit an appeal statement several times and did not submit it. This means that the appeal is not accepted procedurally, because the appeal statement is not submitted.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (188/1) of [The Sharia Pleadings Law issued by Royal Decree No. \(M/1\) dated 22/01/1435AH.](#)

Facts:

The appeal was considered on 15/03/2022, from (...) National ID number (....) On the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2021-1461), filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

" Inadmissibility of the case procedurally, due to the lack of specific jurisdiction of the Circuit. "

As this decision was not accepted by the appellant, he submitted a statement of appeal, which was reviewed by the Circuit and included his claim to accept the appeal and cancel the decision of the Class Circuit.



Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

After reviewing the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/05/1445 AH, and the relevant regulations.

Whereas, it is established according to the data and documents submitted in the lawsuit that the appellant did not submit an appeal statement, and whereas the appellant was previously requested to submit an appeal statement on (10/3/2022AD - 06/11/2023 AD - 30/11/2023 AD) and did not submit this, and whereas Article (188/1) of the Sharia Pleadings Law stipulates that "the objection shall be filed with the court administration that issued the judgment, including the statement of the challenged judgment, its number, date, the grounds on which the objection was based, the requests of the objector, his signature, and the date of filing the objection memorandum.", and based on the provisions of Article (34) of the rules of work of the Zakat, Tax and Customs Committees, the Appellate Circuit concludes that the appeal is not accepted procedurally.

for these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

Not accepting the appeal procedurally.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-191061

Case No. V-191061-2023

Keywords

VAT - lapse of the statutory period – Rejection of the appeal procedurally

Summary:

The Taxpayer's objection to the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2022-2625). Whereas, it has been proven to the Appellate Circuit in the case papers that the date specified for receiving the decision subject to appeal is 21/02/2023 AD, while the appellant submitted her appeal on 28/03/2023 AD, that is, after the expiry of the period specified by law for its submission. This means that the appeal is not accepted procedurally, because the statutory period is overdue.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

the appeal filed on 28/03/2023 from/... – National ID No. (...), in his capacity as an agent for the appellant under the power of attorney No. (...), the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2022-2625) in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

Second: The Plaintiff objected on the merits to the final evaluation of the tax period in question and the resulting fine for error in the declaration.

Third: Proof of the end of the dispute regarding the late payment penalty.

As this decision was not accepted by the appellant, she submitted a statement of appeal, which was reviewed by the Circuit and included her claim to accept the appeal and cancel the decision of the Adjudication Circuit.

On Tuesday 25/07/1445 AH corresponding to 06/02/2024, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be considered, and the Circuit shall record this in the minutes of the hearing", and by appeal to the parties, the appellant's attorney/(...) (Saudi National) under National ID No. (...) And the agency number (...), also attended/ (...) (Saudi National) under National ID No. (...), under Authorization Letter No. 1445.... On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs, and upon asking the Appellant's Deputy about her appeal, he replied: He is satisfied with the statement of appeal and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein, and by presenting this to the representative of the Appellee, he replied: in a manner that does not deviate from what was previously mentioned in the response memorandum, and is satisfied with the memoranda submitted on the portal of the General Secretariat of the Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein. When both parties were asked what they wished to add, they responded by being satisfied with what was previously submitted. Accordingly, the pleading was closed and the case was referred for study, deliberation, and decision issuance.

Grounds:



Whereas, the period of appeal against the decisions issued by the Tax Violations and Disputes Adjudication Circuits in accordance with the text of paragraph (2) of Article (31) of the Rules of Work of the Zakat, Tax and Customs Committees is (thirty) days from the day following the date specified for receiving the decision, and since it is established from the lawsuit papers that the date specified for receiving the appealed decision is 21/02/2023, while the appellant filed her appeal on 28/03/2023, that is, after the expiry of the period specified by law for its submission, which means that the appeal must not be accepted procedurally.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

Not accepting the appeal request procedurally.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-169147

Case No. V-2023-169147

Keywords

VAT - Claim amount less than 50K – Appeal not accepted

Summary:

The Taxpayer objected to the decision of the Second Circuit for the adjudication of VAT violations and disputes in the city of Riyadh No. (VSR-2022-2417), and where it was proven to the Appeals Circuit that the amount in dispute did not exceed (fifty thousand riyals), which leads this Circuit to the finalization of the decision of the Adjudication Circuit, and therefore it is among the non-appealable decisions. This means that the appeal request is not accepted.

Document:

- Article (33) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

the appeal filed on 12/01/2023 from/... National ID number (...) In its capacity as agent for (...) National ID number (...) By virtue of the power of attorney No. (...), the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2022-2417), in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

Second: Reject the Plaintiff's claim on the merits.



As this decision was not accepted by the appellant, she submitted a statement of appeal, which was reviewed by the Circuit and included her claim to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



After reviewing the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/05/1445 AH, and the relevant regulations.

Whereas it is established from the decision subject to appeal, and from the documents of the lawsuit, that the amount in dispute did not exceed (fifty thousand riyals), and where Article (thirty-three) of the rules of work of the Zakat, Tax and Customs Committees stipulates that "the decisions of the adjudication Circuits shall acquire final status in the following cases: 1- Cases in which the value of the amounts due for payment does not exceed (fifty thousand) riyals. "Whereas the value of this lawsuit did not exceed fifty thousand riyals, which leads this circuit to the finalization of the decision of the adjudication Circuit, and therefore it is among the non-appealable decisions, and therefore it was decided by this circuit not to accept the appeal procedurally.

for these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

Failure to accept the appeal request.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. V-2023-84846

Case No. V-2021-84846

Keywords

VAT - Acceptance of the appeal procedurally - Proof of the end of the litigation

Summary:

The Taxpayer's objection to the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2021-908), where the Taxpayer's appeal lies on the decision of the adjudication Circuit to reject its case, due to the invalidity of imposing the tax for the basic period on time contracts (Time Charter) and the fines resulting therefrom. However, it was agreed between the Taxpayer and the Authority to stop the progress of the case and they submitted a reconciliation report to the Appellate Circuit, and since the case is held with the availability of the litigation pillar and when this pillar fails or disappears for any reason whatsoever at any stage of the case, it is necessary to rule on the end of the litigation. Whereas, the Appeal Committee established that the Appellee submitted a reconciliation report signed between the parties to the dispute. This means proving the end of the litigation.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal submitted on 02/12/2021 by the company was considered....- Commercial Register No. (...), on the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2021-908) in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

Second: Reject Plaintiff's claim (...), Commercial Registration No. (...) On the merits:

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to reject its case, due to the invalidity of imposing the tax on the basic time contracts (Time Charter) and the fines resulting therefrom, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

On Sunday, 06/11/2022, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which states: The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat. " The case file, all memoranda and documents, and the decision of the Adjudication Circuit subject of the appeal were reviewed, and the two parties were called, so the appellant's attorney was present/ (...) Civil Registry No. (...) Also attended/ (...) National ID number (...) , Representative of the Zakat, Tax and Customs Authority under the authorization issued by the Zakat, Tax and Customs Authority No. (...) 1442), dated 17/08/1442 AH and issued by the Deputy Governor for Legal Affairs, the Circuit decided to open the pleading and to ask the appellant's attorney about the case, and he replied: That he is satisfied with the statement of appeal and memorandums submitted on the portal of the General Secretariat of Tax Committees, and adheres to the grounds and defenses contained therein. By presenting this to the representative of the Appellee, he replied: From the date of being notified of the dates, the Authority was unable to review the attached documents in the case file due to a technical defect, and we request a period of time to review the documents and set a date for a subsequent hearing. Accordingly, the Circuit decided to postpone the hearing of the case to a session to be determined to inform all parties, provided that the Authority submits its response within a week before 14/11/2022. in the case file.

On Sunday, 18/12/2022, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which stipulates that: The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat. " The case file, all memoranda and documents, and the decision of the Adjudication Circuit subject of appeal were reviewed, and the two parties were called, so the appellant's attorney was present/ (...) Civil Registry No. (...) Under Power of Attorney No. (...) , also attended/ (...) Under National ID No. (...) , in his capacity as representative of the Appellee (Zakat, Tax and Customs Authority), under the authorization letter No. (...) /16139) dated 17/08/1442 AH and issued by the Deputy Governor for Legal Affairs, and by asking the representative of the Appellee about the case, he replied: The appellant company was contacted and it was agreed to stop the progress of the case, and the appellee submitted a memorandum requesting the suspension of the progress of the case based on the consent of the parties. By presenting this to the appellant, he replied: What was mentioned by the representative of the appellee is correct, as it was agreed to stop the progress of the case, so we request to stop the progress of it. By asking



both parties what they would like to add, they replied by contenting themselves with what has already been submitted. Accordingly, the pleading was closed and the case was submitted for study and deliberation. After study and deliberation, the Circuit unanimously decided: Suspension of the lawsuit based on Article 31 of the Working Rules of the Committees for the Settlement of Tax Violations and Disputes.

On 06/08/2023, the appellant submitted a request to proceed with the case.

On Tuesday, 03/10/2023, the Circuit opened the session to consider the appeal submitted, and by appealing to the parties, he attended/ (...) In his capacity as agent of the appellant under Power of Attorney No. (...), also attended/ (...) (Saudi National) under National ID No. (...), By virtue of the authorization letter No. (((...)/1444) dated 11/05/1444 AH and issued by the Deputy Governor for Legal Affairs, and upon the question of the Appellant's attorney about the case, he replied: This does not derogate from the aforementioned, and that he is satisfied with the statement of appeal and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein. By presenting this to the representative of the appellee, he replied: That the appellee requested a period of three weeks for the existence of ongoing discussions with the appellant regarding the merits of the lawsuit, and by presenting this to the appellant's attorney, he stated that the postponement was accepted, provided that it is no later than the end of October. Accordingly, the Circuit decided to accept the request for a grace period and postpone the consideration of the case to a session to be determined later.

On Tuesday, 05/12/2023, the Circuit opened the session to consider the appeal submitted, and by appealing to the parties, the appellant's attorney/ (...) (Saudi National) under National ID No. (...) And agency number (...) The representative of the Appellee also attended the Zakat, Tax and Customs Authority/ (...) (Saudi National) under National ID No. (...), under authorization letter no. 1445(...) On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs, and upon asking the Appellant's Deputy about her appeal, he replied: He is satisfied with the statement of appeal and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and he adheres to the grounds and defenses contained therein. By presenting this to the representative of the Appellee, the Zakat, Tax and Customs Authority replied: The authority shall adhere to what is stated in the regulations and the response notes submitted by the appellee. He added that a memorandum of attachment was attached to the request to adjourn the hearing of the case and by asking the appellant's attorney about it, he answered that there is no objection to the adjournment, and by asking both parties what they would like to add, they replied by contenting themselves with the above. Accordingly, the Circuit unanimously decided to grant a maximum period of time on 19 December 2023, corresponding to Tuesday, to submit what they have on the understanding about the dispute, and to postpone the hearing of the case to a later session.

On Sunday, 24/12/2023, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (1)



of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

Whereas this dispute is one of the disputes that fall within the jurisdiction of the Committees for the Settlement of Tax Violations and Disputes under Royal Decree No. (M/113) dated 2/11/1438 AH, and since the lawsuit is held with the availability of the litigation pillar and when this pillar fails or disappears for any reason whatsoever at any stage of the lawsuit, it is necessary to rule on the end of the litigation, and since the appellant submitted a reconciliation report signed between the parties to the dispute on 19/12/2023 AD for the tax period in question, the Appellate Circuit ends to prove the end of the dispute between the parties.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by/ ... , Commercial Register No. (...) Procedurally, to be submitted within the period specified by law.
- 2- Proof of the end of the dispute.



Subjective Decisions Issued by Tax Committees (Tax Base)



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2023-143102

Case No. V-2022-143102

Keywords

VAT - Tax base - Contracts concluded before the entry into force of the VAT law – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1019), where the Taxpayer's appeal lies on the clause (subjecting the contracts in dispute to VAT in the basic ratio) because of the absence of its statutory status in the case, as it is based mainly on (Zakat, Tax and Customs Authority), in addition to the violation of the decision of the Division of the rule of non-applicability of the law retroactively because the contract and implementation took place before the entry into force of the law, and where it is established to the Appellant Circle that the appellant's claim lies in accepting the subjection of the contract to zero percentage instead of the basic percentage, and the subjection of the contract in dispute was based on the written certificate submitted by the appellant. This means accepting the appeal and subjecting the contracts in dispute to zero instead of the basic percentage.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (79) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Facts:

The appeal was considered on 30/08/2022, by (...) Commercial Register No. (...), the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1019) in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

" First: Obliging the Second Defendant/ (...) , Commercial Register No. (...) , by paying an amount of (304,810.20) three hundred and four thousand eight hundred and ten riyals, and twenty halalas; to the Plaintiff: (...) Resident ID number (...)

Second: rejection of other requests. "

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to oblige it to pay an amount of (304,810.20) riyals to Appellee, due to the absence of its statutory status in the case, as it is based mainly on the (Zakat, Tax and Customs Authority), in addition to the violation of the decision of the Adjudication Circuit of the rule of non-applicability of the law retroactively because the contract and implementation took place before the entry into force of the law, and because of the appellant's fear of unjustly re-linking the tax, it asked Appellee to provide a guarantee in the event that he was provided with the written certificate, but he refused to do so, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appeals Circuit found that the decision issued by the Adjudication Circuit obligated the appellant to pay an amount of (304,810.20) riyals to the first appellant, and since the appellant objects to the decision of the Adjudication

Circuit due to the absence of its regular status in the lawsuit, as it is based mainly on the (Zakat, Tax and Customs Authority), in addition to the violation of the decision of the Adjudication Circuit of the rule of non-applicability of the law retroactively because the contract and implementation took place before the entry into force of the law The law, and fearing the appellant from re-assigning the tax unjustly, asked the appellee to provide a guarantee in the event that he was provided with the written certificate, but he refused to do so, and since it is proven to the Appellant Circuit that the appellant's claim lies in the acceptance of subjecting the contract to zero, and where it was based on subjecting the contract in dispute to the written certificate submitted by the company (...) as a violation of the Procedural conditions as it did not include the name of the supplier, the tax identification number, the name of the customer and his acknowledgment of his eligibility to deduct the value added tax, but it was proven to the Circuit that the supplier possessed the written certificate of his customer, which was done Issued on the basis of the text of Article (79), paragraph (3) of the Executive Regulations of the Value Added Tax Law, which included the "possibility of deducting inputs", which is the only "condition" on the contents and form of the written certificate specified by the regulation to be able to subject the supply to zero, with regard to the procedural matters of the certificate, which does not make it appropriate to hold him accountable for other procedural matters, which has not been proven to the Circuit the existence of a legal text specifying it contrary to what was stated in the previous article, and since the appellant's activity according to its commercial register is not expected to have an exempt supply so as not to be able to deduct the full input tax from the supply in question, which ends with the Appellate Circuit accepting the appeal submitted.

Whereas the appellee did not submit a considered document for the tax claim, through which the appellant reserves the right to deduct as inputs, such as the claim through the issuance of tax invoices for the supply in question, which means that in the event that the appellant is obliged to pay the tax, it will not be able to deduct it as an input tax and therefore will bear it as an end consumer, although it represents inputs related to its economic activity, which is contrary to the fact that VAT is an indirect tax borne by the end consumer, and that the obligation to pay resulted from subjecting the contracts in dispute to the basic percentage, and since the above clause has led to the acceptance of the appeal and subjecting the contracts in dispute to zero instead of the basic percentage, what is related to it takes its judgment, which the Appellate Circuit concludes to accept the appeal submitted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

1. Acceptance of the appeal filed by ... Commercial Register No. (...) Procedurally, to be submitted within the period specified by law.
- 2- Accepting the appeal filed by ... (...) Company Commercial Register No. (...) And canceling the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1019), and



canceling the decision of the Authority related to "subjecting the contracts in dispute to VAT in the basic amount of (6,096,204) riyals, which resulted in a tax due in the amount of (304,810.20) riyals."



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-191744

Case No. V-2023-191744

Keywords

VAT - Tax base - Taxability of refunds to customers - Partial acceptance of appeal

Summary:

Objection to the decision of the first Circuit for adjudicating value-added tax violations and disputes in Jeddah governorate (VJ-2023-)2620), where the Taxpayer's appeal lies on the clause (subjecting payments without deducting refunds) due to double taxation in collecting tax on the clause of advance payments for health club subscriptions, as the tax was supplied when the revenue was due on a monthly basis, and comparing the audited financial statements of the years shows that the revenues from health club subscriptions declared in the declarations are greater than the value of the related deposits, and that the refunds were subjected to a credit note despite the issuance of an invoice amounts refunded to customers under the pretext of not issuing a credit note despite not issuing an invoice, where the customer (hotel guests) makes an advance payment for the services provided and upon their departure, the invoice is issued with the net amount due and the amounts paid, in addition to the appellant subjecting the total value of tax payments despite the appellant's share (15%) of the revenue that is subject to tax and the rest to the transportation service provider. The Appellate Circuit found that the Taxpayer submitted documents proving the incorrectness of his tax return, with a detailed explanation of the sources of error and insufficient documentation from a full audit trail. The implication is that the appeal is partially accepted.

Document:

- Article (7) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (40) of [The Executive Regulations of the Value Added Tax Law Issued by Virtue of the Zakat, Tax and Customs Authority Council Resolution No. \(3839\) dated 14/12/1438 AH.](#)

Facts:



the appeal filed on 09/04/2023, from/... National ID number (...) In his capacity as the legal representative of the appellant under the Memorandum of Association, based on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-2620) in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To dismiss the Plaintiff's claim regarding the clause of domestic sales subject to tax for the basic tax period in question to prove the validity of the Defendant's decision.

Second: To dismiss the Plaintiff's lawsuit regarding the objection to the fine for the error in the declaration for the tax period in question to prove the validity of the Defendant's decision.

Third: To dismiss the Plaintiff's lawsuit regarding the objection to the late payment fine for the tax period in question to prove the validity of the Defendant's decision.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit a statement of appeal that included its objection to the decision of the Adjudication Circuit to dismiss its case regarding the final evaluation of the tax period for February of 2019 and the fines resulting therefrom, because the appellant did not submit the mechanism for calculating differences, as it was satisfied with the letter sent without indicating the value of each clause for each tax period, and because a settlement was requested on the fund statement without reference to the audited financial statements and the trial balance despite the large number of daily operations, including what Revenue and operations are canceled and others are not considered accounting operations, and because of the existence of double taxation in the collection of tax on the clause of advance payments for health club subscriptions, as the tax was supplied when the revenue was due on a monthly basis and by comparing the audited financial statements for the years, it is clear that the revenues of health club subscriptions declared in the declarations are greater than the value of the related deposits, and that the amounts refunded to customers were subject to the pretext of not issuing a credit note despite the absence of an invoice, where the customer (hotel guests) pays an advance payment for the services provided and when he leaves, the invoice is issued with a net amount Due, amounts paid under the account and the amount remaining or due from the customer, and therefore the issuance of a credit note for this supply does not apply because there is no amendment, in addition to the appellant subjecting the total value of taxi payments, although the appellant's share (15%) of the income, which is subject to tax, and the remaining amount to the transport service supplier, in addition to subjecting the appellee to amounts on the operations canceled in the fund statement due to an error in the registration, as they do not have an accounting and tax effect, which means that they do not represent amendments to the supply, which requires Issuing an invoice or a debit or credit note, in addition to subjecting the amounts of



the tax difference due to the matching between the fund statement and the tax paid, as the differences are due to the monthly account closures, which do not represent an output tax or an undeclared or refunded input tax, to the increase in the appellant's declarations. The appellant submitted an analytical statement to match the fund, in addition to subjecting the amounts of the income difference subject to the matching between the fund statement and the tax paid, as the appellant did not specify the differences for the clause for each month and the appellant submitted the total differences for the years in dispute, which she claims to add to her declarations. For its inability to match all the clauses and not to declare them as tax revenues, they were not declared, but rather accepted as a settlement to close the case file, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the lawsuit papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's lawsuit regarding the final evaluation of the tax period for February of 2019 and the fines resulting therefrom, and that the appellant objects to the decision of the Adjudication Circuit because the Appellee did not submit the mechanism for calculating differences, as it was satisfied with the letter sent without indicating the value of each clause for each tax period. Since a settlement was requested on the fund statement without reference to the audited financial statements and the trial balance, despite the large number of daily operations, including revenue, canceled operations and others that are not considered accounting



operations, and because of the existence of double taxation in the collection of tax on the clause of advance payments for health club contributions, as the tax was supplied when the revenue was due on a monthly basis and by comparing the audited financial statements for the years, it is clear that the revenues of health club contributions declared in the declarations are greater than the value of the relevant deposits, and that the refunds to customers were subject to the pretext of not issuing a credit note. Despite the absence of an invoice, where the customer (hotel guests) pays an advance payment for the services provided and upon his departure, the invoice is issued with the net amount due, the amounts paid on account and the amount remaining or due from the customer. Therefore, the issuance of a credit note for this supply does not apply due to the absence of any amendment, in addition to the appellee's submission of the total value of tax payments, despite the appellant's share (15%) of the income, which is subject to tax, and the remainder to the transport service supplier. In addition to subjecting the appellee to amounts on the operations canceled in the fund statement due to an error in the entry, as they do not have an accounting and tax effect, which means that they do not represent amendments to the supply, which requires the issuance of an invoice or a debit or credit notice, in addition to subjecting them to the amounts of the tax difference as a result of matching between the fund statement and the tax paid, as the differences are due to the monthly account closures, which do not represent an output tax or an undeclared or refunded input tax by the increase in the appellant's declarations. The appellant submitted an analytical statement to match the fund, in addition to subjecting the amounts of the income difference subject to the result of matching between the fund statement and the tax paid. That the appellant against her did not specify the differences from the clause for each month and the appellant submitted the total differences for the years in dispute, which she claims to add to her statements because of her inability to match all the clauses and is not a declaration of them as tax revenues that were not declared but accepted as a settlement to close the lawsuit file, and where it was proven to the Appellant that the appellant against her did not submit the required documents to the Division of adjudication and appeal and did not address the consideration of the subjection of revenues in subsequent periods and did not clarify the reason for excluding the revenues approved for her on a monthly basis, While it acknowledged not to deduct the amounts refunded to customers on the pretext that the amendment is made by the appellant in any subsequent declaration in accordance with Article (40) of the Executive Regulations of the Value Added Tax Law, which is an explicit violation of the aforementioned article and its negligence by subjecting the amounts paid without deducting the refund and subjecting the amounts of the canceled operations in the fund statement to the extent that it does not reflect the reality of the tax return for the period in question, and where the appellant submitted an audit balance for the

revenue accounts only and the financial statements for the years 2018, 2019, 2020 and the fund statement for the transfers for the month of January of 2019 and copies of the calculation of the health club subscriptions and an invoice Tax and settlement statements of the Monetary Fund for the periods in dispute and a statement of the amounts approved in the tax returns and amended by the Appellee, by reviewing the documents submitted, it is clear that the method of calculating the tax due by the appellant to deduct the amounts of municipal fees is incorrect, with inclusion as a difference in revenues and deduction of payments made for health club contributions, with unjustified differences between the amount of tax and revenues, while the full trial balance for the period in dispute was not submitted, and based on the above, It is clear that the appellant submitted documents proving the invalidity of her tax return with a detailed statement by knowing the places of error and not providing sufficient documents from a full trial balance for each tax period, sample invoices and the contract concluded with the transport service provider with incorrect and incomplete reconciliations. Whereas, the appellant acknowledged that the amounts paid without deducting the refund and subjecting the amounts of the cancelled operations in the fund statement are contrary to the provisions of Article (40) of the executive regulations of the VAT law, and it was not found that other accounts were taken, and since it is not possible to rely only on the account of the fund without referring to the rest of the accounts to avoid double taxation on the supply itself, and where the appellant did not submit the contract concluded and a sample of Invoices to the customer issued by the transport service provider to ensure the validity of what it paid as an intermediary, which ends with the Appellate Circuit partially accepting the appeal regarding the subjection of the amounts paid without deducting the refund in the amount of (145,540.88) riyals and the subjection of the amounts of the canceled operations in the fund statement in the amount of (26,326.56) riyals.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's claim to cancel those fines that resulted from the final assessment notice for the tax period in question, as it is qualified to cancel the fines based on the initiative of exemption from fines and to provide a bank guarantee, and where the Adjudication Decision did not address the payment of the appellant, and where it is not clear that the appellant imposed against her the fine for error in the declaration and incorrectly imposed on the fine for late payment as in the bill of the payment system "SADAD" dated (03/02/2022AD), while the fine for error in the declaration appears in the bill of the payment system "SADAD" dated (22/02/2022AD) and the fine for late payment appears correctly in the bill itself, and it is clear from the correspondence submitted that the appellant submitted a bank guarantee and then the payment of the original tax to stop the accumulation of fines and then the payment of fines to release the bank guarantee on (23/03/2022AD)



before the issuance of the exemption initiative, and where it is established that the payment of the amount of fines to release the bank guarantee is considered a cash guarantee and not a payment of the matter, with which the Appellate Circuit ends to accept the appeal submitted.

for these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

- 1-Acceptance of the appeal submitted by the company (....) - Commercial Registration No. (....), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal filed by ... , Commercial Register No. (...) partially, with regard to subjecting the amounts paid without deducting the refunds (145,540.88 SAR) and subjecting the amounts of canceled operations in the fund statement (26,326.56 SAR), and canceling the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2023-2620) and amending the Appellee's decision accordingly.
- 3- Accepting the appeal submitted by (....) - Commercial Registration No. (....), regarding the penalty for error in a tax return, and canceling the decision of the first Circuit for adjudicating VAT violations and disputes in Jeddah governorate (VJ-2023-2620) and canceling the decision of the Appellee.
- 4- Acceptance of the appeal filed by ... , Commercial Register No. (...) related to the late payment penalty, and canceling the decision of the First Circuit for Adjudication of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2023-2620) and canceling the Appellee's decision.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-173736

Case No. V-2023-173736

Keywords

VAT - Tax base - Compensation from insurance companies – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419), where the Taxpayer's appeal lies in the clause of other revenues on (compensation from insurance companies) in the amount of (5,409) riyals, as the evaluation notice did not clarify the direct reason for subjecting it. Whereas it has been proven to the Circuit that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount of compensation in the event that the risk insured against is realized. This means accepting the appeal and excluding the amount from the sales clause.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) Article (27) of [The Executive Regulations of the Value Added Tax Law issued by the Zakat, Tax and Customs Authority Council Resolution No. \(3839\) dated 14/12/1438AH.](#)

Facts:

the appeal filed on 30/01/2023, from / Company ... Industrial Supplies – Commercial Register No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: Modify the Defendant's decision regarding the fixed assets exclusion clause to become the taxable amount of SAR 513,762.00.

Second: Amendment of the Defendant's decision regarding the clause of other income to become the amount subject to tax in the basic amount of 872,132.79 riyals.

Third: Responding to the Plaintiff's claim regarding the objection to the rest of the clauses that have been amended by the Defendant in the clause of domestic sales subject to tax in the basic ratio.

Fourthly: Amending the fine for the error in the declaration in proportion to the operative part of the first and second paragraphs of the Circuit's decision.

Fifthly: Amending the late payment fine in line with the provisions of the first and second paragraphs of the Circuit's decision.

Whereas this decision was not accepted by the appellant, it submitted to the Appellant Circuit an appeal statement that included its objection to the decision of the Appellant Division to amend the decision of the Appellee and the appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, due to the existence of a capital loss of (50,205) riyals, which is a loss of the sale of machinery and equipment to be the net amount of (463,557), which is the amount approved in relation to the clause of exclusion of fixed assets for an amount of (513,762) riyals, and with regard to the other clause of income for an amount of (872,132.79) riyals, because the other clauses of income that were not accepted by the Appellant Circuit are represented in compensation from insurance companies in the amount of (5,409) riyals, which is a surplus recovered from insurance companies and therefore not subject to VAT, and with regard to the rest of the clauses that have been amended by the Appellee because the amount is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018,

but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations were amended and the revenues were not amended in the financial statements for the year 2018, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellant Circuit found that the decision issued by the Adjudication Circuit decided to amend the decision of the Appellee and dismiss the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Circuit regarding the clause excluding fixed assets for an amount of (513,762) riyals, and the clause of other revenues for an amount of SAR (872,132.79), and the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88), and with regard to the clause excluding fixed assets for an amount of (513,762) riyals, and since the appellant objects to the decision of the Adjudication Circuit due to the existence of a capital loss of (50,205) riyals, which is the loss of the sale of machinery and equipment to be the net amount (463,557), which is the amount approved, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook a hidden examination The dispute in it and concluded with its

conclusion in its operative part, and where the Appellate Circuit did not notice what required correction or comment in the light of the arguments raised before this Circuit, which ends with a decision not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the clause of other revenues for an amount of (872,132.79) riyals, and where the appellant objects to the decision of the Adjudication Circuit, because the other clauses of revenues that were not accepted by the Adjudication Circuit are compensation from insurance companies in the amount of (5,409) riyals, which is a recovery surplus from insurance companies and therefore not subject to VAT, and where it was proven to the Circuit that the parties to the dispute approved the classification submitted based on the "type of transaction" according to the following classification: 1- Clauses that the evaluation notice did not explain the direct reason for subjecting them to an amount of (669,651.7) riyals. 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals. Regarding the first classification: 1- Clauses that the evaluation notice did not clarify the direct reason for subjecting them to an amount of (669,651.7) riyals, and where it is represented in the following: (1/a) - Compensation from insurance companies in the amount of (5,409) riyals, and where it was proven to the Circuit that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount of compensation in the event that the risk insured against is realized, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/b) - Deduction from employees in the amount of (319,211.49) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved it and the text on which it was based to subject the amount in dispute, which was not reflected in the evaluation notice in accordance with what was previously clarified in the main clause, and where the document "requesting additional information" was not submitted to determine the place of examination through which it was reached because it represents a subject amount, which the Circuit considers to accept the appeal and exclude the amount from the sales clause.

(1/c) - Deduction of suppliers in the amount of (45,031.21) riyals, and since the original that the deductions are one of the acceptable aspects of revenue reduction in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which

was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting a document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample was reached, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/d) - A provision whose purpose has been negated in the amount of (300,000) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specification to what has been relied upon to be considered a subject supply and a statement of the document that proved that and the text on which it was based to subject the amount in dispute, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the merits of the examination because it represents a subject amount and the documents under examination based on the difference index, and where the appellant submitted the entry that is certified contrary to the provision in the calculation of other revenues, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

Regarding the second classification: 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with its conclusion in its operative part, and where the appellate circuit did not notice what required correction or comment in light of the defenses raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88) riyals, and where the Appellant objects to the decision of the Adjudication Circuit because the amount related to them is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT

declarations and do not include revenues in the financial statements for the year 2018, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations have been amended and the revenues have not been amended in the financial statements for the year 2018, and with regard to the first classification: 1- Out-of-scope sales in the amount of (12,123,959) riyals, and since the invoices in dispute represent products "imported from outside the Kingdom" and the appellant's payment against them was based on the fact that the appellant is the importer of the goods and therefore will not be able to bring them into the Kingdom until after paying the tax thereon, and this was not paid or a customs document was submitted proving the validity of the decision, as this result was reached by citing the invoices submitted by the appellant along with her appeal, and since the appellant is not a producer of goods according to the nature of her activity and the invoices she submitted for the revenue in dispute, Proof that they represent goods purchased outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom, and since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of such goods "before" importing them in accordance with the unified customs law is considered a supply made "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law, and therefore the difference in subjecting them or not is the transfer of ownership of the goods "before" importing them. The text did not stipulate that the supplier of the goods should not submit The transport service for the supplied goods to be cited as evidence of its ownership, as the text did not prevent it from providing the service of "shipping" the goods owned by its customer, and where the appellant submitted a statement of out-of-scope sales reflecting contracts of the type EX Works, which, according to its concept, allows the seller to deliver the goods at the nearest place to him, and it entails assisting the buyer in obtaining export licenses for the purpose of delivering the goods to the specified location, and in return, the buyer is responsible for paying the costs of transport, including license fees, and once they reach the specified location The buyer becomes responsible for other risks such as loading goods in trucks, transporting them to the ship or aircraft, and fulfilling customs regulations, which indicate that the "transfer of ownership" took place before the importation of the goods to the Kingdom of Saudi Arabia. The aforementioned text also did not stipulate that the same "resumed" supplier should not be contracted for another purpose, which is to provide the service of transporting goods (owned by the customer), given that the customer is the owner and therefore (bearing the risks of damage and the costs of transporting and clearing them to the Kingdom), since that service, if proven, took place after the transfer of ownership of the goods to the customer, and where the evaluation notice did not clarify the texts of the violation What was relied upon as a basis for considering that the importation took place before the transfer of ownership of the goods, which makes it possible for the Circuit to accept the appeal filed on this classification.

Regarding the second and third classifications: 2-The proceeds from the sale of assets in the amount of (463,557) riyals, 3- Payments made by customers in the amount of (3,923,691) riyals, and where it was proven to the Circuit that the amount related to the two classifications was deducted from the total amount subject to the sales clause according to the statement of appeal, which approved what the Appellee clarified through the Reply Memorandum, and where it was proven through the submitted analysis that the amount was deducted, and that the amount related to the clause is not disputed, which ends with the Circuit dismissing the above two classifications.

Regarding the fourth classification: 4- A credit notice in the amount of (1,169,058) riyals, and since the appellant objects to the decision of the Adjudication Circuit, because the amounts are related to a deduction agreement between the company and the work, and thus a credit notice is issued, and these amounts have been amended and the revenues have not been amended in the financial statements for the year 2018, and since the original is that the deductions are one of the acceptable revenue reductions in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the statutory period for deducting these notices and other texts, and therefore subjecting them without specification to the text that was violated and relied upon to subject the amount in question, which was not indicated in the evaluation notice, as it did not include any text related to the merits of the clause in dispute as explained above, and for not submitting a document "requesting additional information" to determine the subject of the examination and the statement of the sample through which was reached for the violation of the credit notice deduction regulation, which is approved on the basis of calculation, therefore, the Circuit decided the acceptance of the appeal submitted on this classification.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the taxable domestic sales clause for the basic ratio led to the partial acceptance of the appeal in accordance with the above details, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal filed by ... For industrial equipment – Commercial Registration No. (...), Procedurally to be submitted within the period specified by law.
- 2- Rejection of the appeal submitted by the company (...) Industrial Supplies – Commercial Registration No. (...), related to the clause "Fixed Assets Exclusions", and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419).



3- Accepting the appeal filed by ..(...) Company. Industrial Supplies – Commercial Register No. (...), on an amount of (669,651.7) riyals and rejecting the appeal against an amount of (202,481.09) riyals, with regard to the clause "other revenues", and amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.

4- Accepting the appeal filed by ... For industrial equipment – Commercial Registration No. (...), on an amount of (4,518,547.88) riyals and disregarding the amount of (4,387,248) riyals, in relation to "the clauses that have been amended by the Defendant in the clause of local sales subject to tax in the basic rate", and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and canceling the decision of the Appellee.

5- Accepting the appeal filed by/ (...) Company For industrial equipment – Commercial Registration No. (...), partially with regard to the fine of error in the declaration according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.

6- Accepting the appeal submitted by/ Company (...)for Industrial Supplies – Commercial Register No. (...), partially with regard to the fine for late payment according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-232234

Case No. V-2024-232234

Keywords

VAT - Tax base - Compensation for attorneys' fees - Acceptance of appeal

Summary:

the Taxpayer's objection to the decision of the Third Circuit for the adjudication of value-added tax violations and disputes in Riyadh (VTR-2023-203180), where the Taxpayer's appeal is based on the clause (attorney's fees) because the judgment is premature, as attorney's fees are paid as compensation for the amounts paid by the Plaintiff to the lawyer for the attorney's fees contract and valid receipt bonds, and that the claim is made after issuing a final and definitive judgment in the case and under an independent case that is subject to the authority and examination of the ruling Circuit to ensure the basis on which the claim is based and verify whether the Defendant is stalling in the case. the Appellate Committee found that the claimed right was not clear and established at the time of the claim in the hands of the Defendant (the appellant in this case). the implication is that the appeal is accepted.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal was considered on 21/02/2024 from (...) National ID number (...) In its capacity as the legal representative of the appellant under the power of attorney No. (...), on the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2023-203180), in the lawsuit filed by the appellant against the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: Obliging the Defendant/ (...) Commercial Registration No. (...), to pay the Plaintiff/ company (...) Real Estate Commercial Registration No. (...) , an amount of (58,214,45) fifty-eight thousand two hundred and fourteen riyals and forty-five halalas, representing the value added tax in question.

Second: Obliging the Defendant/ Alinma Bank, Commercial Register No. (...), to pay the Plaintiff/ Company (...) Real Estate Commercial Registration No. (...) , an amount of (5,821.44) five thousand eight hundred and twenty-one riyals and forty-four halalas, representing the value of the attorneys' fees in question.

Whereas this decision was not accepted by the appellant, he submitted to the Appellate Circuit a statement of appeal that included his objection to the decision of the Adjudication Circuit to oblige him to pay an amount representing the value added tax and attorneys' fees in question, because the nature of the supply resulting from the purchase contract is a real estate supply in the off-plan sale, in which the value added tax is imposed on the full amount when signing a contract to purchase a real estate unit on the map, in relation to the value added tax, and with regard to the attorneys' fees, the judgment is premature, as the attorneys' fees are paid as compensation for the amounts paid by the Plaintiff to the lawyer in exchange for holding the attorneys' fees and valid receipts, and that the claim is made after a final and conclusive judgment in the case and under an independent lawsuit subject to the authority and examination of the ruling circuit to ascertain the basis on which the claim was based and verify whether the Defendant was a delay in the lawsuit, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the lawsuit papers and examining the documents and documents contained in them, and after reviewing the notes and responses submitted by the parties, the Appellate Circuit found that

the decision issued by the adjudication Circuit obligated the appellant to pay an amount representing the value added tax and the attorneys' fees in question, and since the appellant objects to the decision of the adjudication Circuit because the nature of the supply resulting from the purchase contract is a real estate supply in the off-plan sale, in which the value added tax is imposed on the entire amount when signing a contract to buy a real estate unit on the map in relation to the value added tax, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its adjudication, as the issuing Circuit examined the dispute and concluded that it did not affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to attorneys' fees, and since the appellant objects to the decision of the Adjudication Circuit because the judgment is premature, as the attorneys' fees are paid as compensation for the amounts paid by the Plaintiff to the lawyer for the contract of attorneys' fees and valid receipts, and that the claim is made after the issuance of a final and conclusive judgment in the case and under an independent lawsuit subject to the authority and examination of the judgment-issuing Circuit to ascertain the basis on which the claim was based and verify whether the Defendant was procrastinated in the case, and since the Defendant's loading of attorneys' fees is entrusted to several grounds, including: the fact that the right is established in the Defendant's estate and his procrastination and denial of this established right, which prompts the owner of the right to resort to the judiciary to fulfill it, and therefore, since the claimed right was not clear and established in the Defendant's estate (the appellant in this case), the Appellate Circuit concludes that the appeal filed regarding the attorney's fees should be accepted by the Appellate Circuit. for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by/ ... commercial Registration No. (...), is procedurally submitted within the prescribed period.
- 2- Acceptance of the appeal submitted by/ ..., Commercial Register No. (...), related to the second paragraph of the appealed decision, which is to oblige the appellant to compensate the appellee for the litigation fees (lawyer), and to cancel the paragraph of the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2023-203180) and the ruling to reject the Plaintiff's request (company ...) , as described in the Grounds.
- 3- Rejecting the rest of the appeal requests, and upholding the decision of the Third Circuit for adjudicating VAT violations and disputes in Riyadh (VTR-2023-203180).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-196697

Case No. V-2023-196697

Keywords

VAT-Tax base-Tax resulting from the sale of real estate-Acceptance of the Plaintiff's appeal

Summary:

the Plaintiff's appeal against the decision of the First Circuit for the adjudication of VAT violations and disputes in Dammam (VD-2023-144433), where his appeal against the dismissal of his claim involving the Defendant's demand to pay VAT arising from the sale of two plots of land under the two deeds, on the grounds that the burden of paying the tax is borne by the final beneficiary (the buyer), and the buyer must prove that he is exempt from paying it and not the seller to prove it. the Appellate Committee found that the date of the sale, according to the buyer, was after the entry into force of the VAT law, and he provided supporting documents, namely the dated check, the deposit receipt deed, and the two emptying certificates, so the Circuit believes that the buyer (the Defendant) should be accepted, as he provided the supporting documents to prove that the sale took place after the entry into force of the VAT law. this means that the Plaintiff's appeal is accepted and the decision of the Adjudication Circuit is annulled.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (30) of [Unified VAT Agreement for the Gulf Cooperation Council \(GCC\)](#)

Facts:

An appeal submitted on 10/05/2023 by the Taxpayer ... National ID number (...) On his own behalf, the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2023-144433), in the lawsuit filed by the appellant against Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- dismissal of the Plaintiff's claim.



Since this decision was not accepted by the appellant, he submitted to the Appellate Circuit a statement of appeal that included his objection to the decision of the Adjudication Circuit to dismiss his lawsuit, including his claim against him to pay the value added tax arising from the sale of two plots of land under Instrument No. (...) Instrument No. (...), due to the fact that the asset in bearing the burden of paying the tax is the last beneficiary (the buyer), and the buyer must prove that he is exempt from paying it and the seller does not have to prove it, and it ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's lawsuit, including his appealed claim against him to pay the value-added tax arising from the sale of two plots of land under Instrument No. (...) Instrument No. (...), and since the appellant objects to the decision of the Adjudication Circuit because the asset in bearing the burden of paying the tax is the last beneficiary (the buyer), and the buyer must prove that he is exempt from paying it and the seller does not have to prove it, and by looking at the registration certificate, it was found that the appellant's registration in the VAT law was on 02/09/2019, but the effective date of the registration is 01/01/2018 according to the certificate submitted, and since the asset in bearing the burden of paying the tax is on the customer or the buyer as the person receiving the goods and services, except for what was exempted by a special provision from paying the tax according to certain cases explained in Article (30) of the Unified Value Added Tax Agreement for the



Cooperation Council for the Arab States of the Gulf, where Article (30) of the Convention stipulates that "Each Member State may exclude the categories below from paying the tax when receiving the goods or services in that State." whereas the Appellate Circuit proved that the date of sale according to the buyer (the Defendant) was after the entry into force of the VAT law, and provided supporting documents, namely the check dated 10/01/2018, the receipt of the deposit dated 02/01/2018, and the two emptying certificates dated 24/04/1439H corresponding to 11/01/2018, and where the appellant submitted a letter addressed to the Zakat, Tax and Customs Authority stating that the sale took place on December 25, 2017, and where Article 16(2) of the Evidence Law stipulates that "a statement is not accepted if it is contradicted by the prima facie case." therefore, the Appellate Circuit considers the buyer (the Defendant) to have provided the supporting documents to prove that the sale took place after the VAT Law came into effect, which leads the Appellate Circuit to accept the submitted appeal.

for these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), on the merits, canceling the decision of the first Circuit for adjudicating VAT violations and disputes in Dammam City (VD-2023-144433) and ruling to oblige ... - National Identity Number (...), to pay for ... - National ID No. (...), an amount of (111,843.76 riyals) one hundred and eleven thousand, eight hundred and forty-three riyals and seventy-six cents, representing the value-added tax imposed by the Zakat, Tax and Customs Authority arising from the sale of the two properties at issue in the case.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-173736

Case No. V-2023-173736

Keywords

VAT - Tax base - Deduction from employees – Acceptance of Taxpayer appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419), where the Taxpayer's appeal lies in the clause of other revenues on (deduction from employees) in the amount of (319,211.49) riyals, as the evaluation notice did not clarify the direct reason for subjecting them , and since the nature of the clause does not represent a supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved this and the text on which was based to subject the amount in dispute, and where it was proven to the Circuit that the document "requesting additional information" was not submitted by the Authority to determine the place of examination through which it was reached because it represents a subject amount, this resulted in the acceptance of the costly appeal and the exclusion of the amount from the sales clause.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) Article (27) of [The Executive Regulations of the Value Added Tax Law issued by the Zakat, Tax and Customs Authority Council Resolution No. \(3839\) dated 14/12/1438AH.](#)

Facts:

the appeal filed on 30/01/2023, from / Company ... – Commercial Register No. (...), on the decision of the First Circuit to settle VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) in the lawsuit filed by the Appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: Modify the Defendant's decision regarding the fixed assets exclusion clause to become the taxable amount of SAR 513,762.00.

Second: Amendment of the Defendant's decision regarding the clause of other income to become the amount subject to tax in the basic amount of 872,132.79 riyals.

Third: Responding to the Plaintiff's claim regarding the objection to the rest of the clauses that have been amended by the Defendant in the clause of domestic sales subject to tax in the basic ratio.

Fourth: Amending the fine for the error in the declaration in proportion to the operative part of the first and second paragraphs of the Circuit's decision.

Fifth: Amending the late payment fine in line with the provisions of the first and second paragraphs of the Circuit's decision.

Whereas this decision was not accepted by the appellant, it submitted to the Appellant Circuit an appeal statement that included its objection to the decision of the Appellant Division to amend the decision of the Appellee and the appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, due to the existence of a capital loss of (50,205) riyals, which is a loss of the sale of machinery and equipment to be the net amount of (463,557), which is the amount approved in relation to the clause of exclusion of fixed assets for an amount of (513,762) riyals, and with regard to the other clause of income for an amount of (872,132.79) riyals, because the other clauses of income that were not accepted by the Appellant Circuit are represented in compensation from insurance companies in the amount of (5,409) riyals, which is a surplus recovered from insurance companies and therefore not subject to VAT, and with regard to the rest of the clauses that have been amended by the Appellee because the amount is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018,

but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations were amended and the revenues were not amended in the financial statements for the year 2018, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellant Circuit found that the decision issued by the Adjudication Circuit decided to amend the decision of the Appellee and dismiss the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Circuit regarding the clause excluding fixed assets for an amount of (513,762) riyals, and the clause of other revenues for an amount of SAR (872,132.79), and the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88), and with regard to the clause excluding fixed assets for an amount of (513,762) riyals, and since the appellant objects to the decision of the Adjudication Circuit due to the existence of a capital loss of (50,205) riyals, which is the loss of the sale of machinery and equipment to be the net amount (463,557), which is the amount approved, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook a hidden examination The dispute in it and concluded with its

conclusion in its operative part, and where the Appellate Circuit did not notice what required correction or comment in the light of the arguments raised before this Circuit, which ends with a decision not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the clause of other revenues for an amount of (872,132.79) riyals, and where the appellant objects to the decision of the Adjudication Circuit, because the other clauses of revenues that were not accepted by the Adjudication Circuit are compensation from insurance companies in the amount of (5,409) riyals, which is a recovery surplus from insurance companies and therefore not subject to VAT, and where it was proven to the Circuit that the parties to the dispute approved the classification submitted based on the "type of transaction" according to the following classification: 1- Clauses that the evaluation notice did not explain the direct reason for subjecting them to an amount of (669,651.7) riyals. 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals. Regarding the first classification: 1- Clauses that the evaluation notice did not clarify the direct reason for subjecting them to an amount of (669,651.7) riyals, and where it is represented in the following: (1/a) - Compensation from insurance companies in the amount of (5,409) riyals, and where it was proven to the Circuit that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount of compensation in the event that the risk insured against is realized, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/b) - Deduction from employees in the amount of (319,211.49) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved it and the text on which it was based to subject the amount in dispute, which was not reflected in the evaluation notice in accordance with what was previously clarified in the main clause, and where the document "requesting additional information" was not submitted to determine the place of examination through which it was reached because it represents a subject amount, which the Circuit considers to accept the appeal and exclude the amount from the sales clause.

(1/c) - Deduction of suppliers in the amount of (45,031.21) riyals, and since the original that the deductions are one of the acceptable aspects of revenue reduction in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which

was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting a document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample was reached, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/d) - A provision whose purpose has been negated in the amount of (300,000) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specification to what has been relied upon to be considered a subject supply and a statement of the document that proved that and the text on which it was based to subject the amount in dispute, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the merits of the examination because it represents a subject amount and the documents under examination based on the difference index, and where the appellant submitted the entry that is certified contrary to the provision in the calculation of other revenues, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

Regarding the second classification: 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with its conclusion in its operative part, and where the appellate circuit did not notice what required correction or comment in light of the defenses raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88) riyals, and where the Appellant objects to the decision of the Adjudication Circuit because the amount related to them is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT

declarations and do not include revenues in the financial statements for the year 2018, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations have been amended and the revenues have not been amended in the financial statements for the year 2018, and with regard to the first classification: 1- Out-of-scope sales in the amount of (12,123,959) riyals, and since the invoices in dispute represent products "imported from outside the Kingdom" and the appellant's payment against them was based on the fact that the appellant is the importer of the goods and therefore will not be able to bring them into the Kingdom until after paying the tax thereon, and this was not paid or a customs document was submitted proving the validity of the decision, as this result was reached by citing the invoices submitted by the appellant along with her appeal, and since the appellant is not a producer of goods according to the nature of her activity and the invoices she submitted for the revenue in dispute, Proof that they represent goods purchased outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom, and since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of such goods "before" importing them in accordance with the unified customs law is considered a supply made "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law, and therefore the difference in subjecting them or not is the transfer of ownership of the goods "before" importing them. The text did not stipulate that the supplier of the goods should not submit The transport service for the supplied goods to be cited as evidence of its ownership, as the text did not prevent it from providing the service of "shipping" the goods owned by its customer, and where the appellant submitted a statement of out-of-scope sales reflecting contracts of the type EX Works, which, according to its concept, allows the seller to deliver the goods at the nearest place to him, and it entails assisting the buyer in obtaining export licenses for the purpose of delivering the goods to the specified location, and in return, the buyer is responsible for paying the costs of transport, including license fees, and once they reach the specified location The buyer becomes responsible for other risks such as loading goods in trucks, transporting them to the ship or aircraft, and fulfilling customs regulations, which indicate that the "transfer of ownership" took place before the importation of the goods to the Kingdom of Saudi Arabia. The aforementioned text also did not stipulate that the same "resumed" supplier should not be contracted for another purpose, which is to provide the service of transporting goods (owned by the customer), given that the customer is the owner and therefore (bearing the risks of damage and the costs of transporting and clearing them to the Kingdom), since that service, if proven, took place after the transfer of ownership of the goods to the customer, and where the evaluation notice did not clarify the texts of the violation What was relied upon as a basis for considering that the importation took place before the transfer of ownership of the goods, which makes it possible for the Circuit to accept the appeal filed on this classification.

Regarding the second and third classifications: 2-The proceeds from the sale of assets in the amount of (463,557) riyals, 3- Payments made by customers in the amount of (3,923,691) riyals, and where it was proven to the Circuit that the amount related to the two classifications was deducted from the total amount subject to the sales clause according to the statement of appeal, which approved what the Appellee clarified through the Reply Memorandum, and where it was proven through the submitted analysis that the amount was deducted, and that the amount related to the clause is not disputed, which ends with the Circuit dismissing the above two classifications.

Regarding the fourth classification: 4- A credit notice in the amount of (1,169,058) riyals, and since the appellant objects to the decision of the Adjudication Circuit, because the amounts are related to a deduction agreement between the company and the work, and thus a credit notice is issued, and these amounts have been amended and the revenues have not been amended in the financial statements for the year 2018, and since the original is that the deductions are one of the acceptable revenue reductions in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the statutory period for deducting these notices and other texts, and therefore subjecting them without specification to the text that was violated and relied upon to subject the amount in question, which was not indicated in the evaluation notice, as it did not include any text related to the merits of the clause in dispute as explained above, and for not submitting a document "requesting additional information" to determine the subject of the examination and the statement of the sample through which was reached for the violation of the credit notice deduction regulation, which is approved on the basis of calculation, therefore, the Circuit decided the acceptance of the appeal submitted on this classification.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the taxable domestic sales clause for the basic ratio led to the partial acceptance of the appeal in accordance with the above details, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal filed by ... For industrial equipment – Commercial Registration No. (...), Procedurally to be submitted within the period specified by law.
- 2- Rejection of the appeal submitted by the company (...) Industrial Supplies – Commercial Registration No. (...), related to the clause "Fixed Assets Exclusions", and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419).



3- Accepting the appeal filed by ..(...) Company. Industrial Supplies – Commercial Register No. (...), on an amount of (669,651.7) riyals and rejecting the appeal against an amount of (202,481.09) riyals, with regard to the clause "other revenues", and amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.

4- Accepting the appeal filed by ... For industrial equipment – Commercial Registration No. (...), on an amount of (4,518,547.88) riyals and disregarding the amount of (4,387,248) riyals, in relation to "the clauses that have been amended by the Defendant in the clause of local sales subject to tax in the basic rate", and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and canceling the decision of the Appellee.

5- Accepting the appeal filed by/ (...) Company For industrial equipment – Commercial Registration No. (...), partially with regard to the fine of error in the declaration according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.

6- Accepting the appeal submitted by/ Company (...)for Industrial Supplies – Commercial Register No. (...), partially with regard to the fine for late payment according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419)and amending the decision of the Appellee.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-173736

Case No. V-2023-173736

Keywords

VAT - Tax Base - Supplier Deduction – Taxpayer Appeal Acceptance

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419), where the Taxpayer's appeal lies in the clause of other revenues on (suppliers' deduction) in the amount of (45,031.21) riyals, as the origin of the deductions is that they are considered one of the acceptable revenue reductions in accordance with the statutory provisions. The exception for their Rejection is made in the event that the appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which was not indicated in the evaluation notice submitted by the Authority, and where it was proven to the Appellate Circuit not to submit a document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample, which resulted; accepting the appeal and excluding the amount from the sales clause.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (27) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Facts:

the appeal filed on 30/01/2023, from / Company ... Industrial Supplies – Commercial Register No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: Modify the Defendant's decision regarding the fixed assets exclusion clause to become the taxable amount of SAR 513,762.00.

Second: Amendment of the Defendant's decision regarding the clause of other income to become the amount subject to tax in the basic amount of 872,132.79 riyals.

Third: Responding to the Plaintiff's claim regarding the objection to the rest of the clauses that have been amended by the Defendant in the clause of domestic sales subject to tax in the basic ratio.

Fourth: Amending the fine for the error in the declaration in proportion to the operative part of the first and second paragraphs of the Circuit's decision.

Fifth: Amending the late payment fine in line with the provisions of the first and second paragraphs of the Circuit's decision.

Whereas this decision was not accepted by the appellant, it submitted to the Appellant Circuit an appeal statement that included its objection to the decision of the Appellant Division to amend the decision of the Appellee and the appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, due to the existence of a capital loss of (50,205) riyals, which is a loss of the sale of machinery and equipment to be the net amount of (463,557), which is the amount approved in relation to the clause of exclusion of fixed assets for an amount of (513,762) riyals, and with regard to the other clause of income for an amount of (872,132.79) riyals, because the other clauses of income that were not accepted by the Appellant Circuit are represented in compensation from insurance companies in the amount of (5,409) riyals, which is a surplus recovered from insurance companies and therefore not subject to VAT, and with regard to the rest of the clauses that have been amended by the Appellee because the amount is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018,

but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations were amended and the revenues were not amended in the financial statements for the year 2018, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellant Circuit found that the decision issued by the Adjudication Circuit decided to amend the decision of the Appellee and dismiss the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Circuit regarding the clause excluding fixed assets for an amount of (513,762) riyals, and the clause of other revenues for an amount of SAR (872,132.79), and the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88), and with regard to the clause excluding fixed assets for an amount of (513,762) riyals, and since the appellant objects to the decision of the Adjudication Circuit due to the existence of a capital loss of (50,205) riyals, which is the loss of the sale of machinery and equipment to be the net amount (463,557), which is the amount approved, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook a hidden examination The dispute in it and concluded with its

conclusion in its operative part, and where the Appellate Circuit did not notice what required correction or comment in the light of the arguments raised before this Circuit, which ends with a decision not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the clause of other revenues for an amount of (872,132.79) riyals, and where the appellant objects to the decision of the Adjudication Circuit, because the other clauses of revenues that were not accepted by the Adjudication Circuit are compensation from insurance companies in the amount of (5,409) riyals, which is a recovery surplus from insurance companies and therefore not subject to VAT, and where it was proven to the Circuit that the parties to the dispute approved the classification submitted based on the "type of transaction" according to the following classification: 1- Clauses that the evaluation notice did not explain the direct reason for subjecting them to an amount of (669,651.7) riyals. 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals. Regarding the first classification: 1- Clauses that the evaluation notice did not clarify the direct reason for subjecting them to an amount of (669,651.7) riyals, and where it is represented in the following: (1/a) - Compensation from insurance companies in the amount of (5,409) riyals, and where it was proven to the Circuit that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount of compensation in the event that the risk insured against is realized, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/b) - Deduction from employees in the amount of (319,211.49) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved it and the text on which it was based to subject the amount in dispute, which was not reflected in the evaluation notice in accordance with what was previously clarified in the main clause, and where the document "requesting additional information" was not submitted to determine the place of examination through which it was reached because it represents a subject amount, which the Circuit considers to accept the appeal and exclude the amount from the sales clause.

(1/c) - Deduction of suppliers in the amount of (45,031.21) riyals, and since the original that the deductions are one of the acceptable aspects of revenue reduction in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which

was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting a document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample was reached, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/d) - A provision whose purpose has been negated in the amount of (300,000) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specification to what has been relied upon to be considered a subject supply and a statement of the document that proved that and the text on which it was based to subject the amount in dispute, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the merits of the examination because it represents a subject amount and the documents under examination based on the difference index, and where the appellant submitted the entry that is certified contrary to the provision in the calculation of other revenues, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

Regarding the second classification: 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with its conclusion in its operative part, and where the appellate circuit did not notice what required correction or comment in light of the defenses raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88) riyals, and where the Appellant objects to the decision of the Adjudication Circuit because the amount related to them is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT

declarations and do not include revenues in the financial statements for the year 2018, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations have been amended and the revenues have not been amended in the financial statements for the year 2018, and with regard to the first classification: 1- Out-of-scope sales in the amount of (12,123,959) riyals, and since the invoices in dispute represent products "imported from outside the Kingdom" and the appellant's payment against them was based on the fact that the appellant is the importer of the goods and therefore will not be able to bring them into the Kingdom until after paying the tax thereon, and this was not paid or a customs document was submitted proving the validity of the decision, as this result was reached by citing the invoices submitted by the appellant along with her appeal, and since the appellant is not a producer of goods according to the nature of her activity and the invoices she submitted for the revenue in dispute, Proof that they represent goods purchased outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom, and since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of such goods "before" importing them in accordance with the unified customs law is considered a supply made "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law, and therefore the difference in subjecting them or not is the transfer of ownership of the goods "before" importing them. The text did not stipulate that the supplier of the goods should not submit The transport service for the supplied goods to be cited as evidence of its ownership, as the text did not prevent it from providing the service of "shipping" the goods owned by its customer, and where the appellant submitted a statement of out-of-scope sales reflecting contracts of the type EX Works, which, according to its concept, allows the seller to deliver the goods at the nearest place to him, and it entails assisting the buyer in obtaining export licenses for the purpose of delivering the goods to the specified location, and in return, the buyer is responsible for paying the costs of transport, including license fees, and once they reach the specified location The buyer becomes responsible for other risks such as loading goods in trucks, transporting them to the ship or aircraft, and fulfilling customs regulations, which indicate that the "transfer of ownership" took place before the importation of the goods to the Kingdom of Saudi Arabia. The aforementioned text also did not stipulate that the same "resumed" supplier should not be contracted for another purpose, which is to provide the service of transporting goods (owned by the customer), given that the customer is the owner and therefore (bearing the risks of damage and the costs of transporting and clearing them to the Kingdom), since that service, if proven, took place after the transfer of ownership of the goods to the customer, and where the evaluation notice did not clarify the texts of the violation What was relied upon as a basis for considering that the importation took place before the transfer of ownership of the goods, which makes it possible for the Circuit to accept the appeal filed on this classification.

Regarding the second and third classifications: 2-The proceeds from the sale of assets in the amount of (463,557) riyals, 3- Payments made by customers in the amount of (3,923,691) riyals, and where it was proven to the Circuit that the amount related to the two classifications was deducted from the total amount subject to the sales clause according to the statement of appeal, which approved what the Appellee clarified through the Reply Memorandum, and where it was proven through the submitted analysis that the amount was deducted, and that the amount related to the clause is not disputed, which ends with the Circuit dismissing the above two classifications.

Regarding the fourth classification: 4- A credit notice in the amount of (1,169,058) riyals, and since the appellant objects to the decision of the Adjudication Circuit, because the amounts are related to a deduction agreement between the company and the work, and thus a credit notice is issued, and these amounts have been amended and the revenues have not been amended in the financial statements for the year 2018, and since the original is that the deductions are one of the acceptable revenue reductions in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the statutory period for deducting these notices and other texts, and therefore subjecting them without specification to the text that was violated and relied upon to subject the amount in question, which was not indicated in the evaluation notice, as it did not include any text related to the merits of the clause in dispute as explained above, and for not submitting a document "requesting additional information" to determine the subject of the examination and the statement of the sample through which was reached for the violation of the credit notice deduction regulation, which is approved on the basis of calculation, therefore, the Circuit decided the acceptance of the appeal submitted on this classification.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the taxable domestic sales clause for the basic ratio led to the partial acceptance of the appeal in accordance with the above details, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

1-Acceptance of the appeal submitted by the company (...) For industrial equipment – Commercial Registration No. (...), Procedurally to be submitted within the period specified by law.

2- Rejection of the appeal submitted by the company (...) Industrial Supplies – Commercial Registration No. (...), related to the clause "Fixed Assets Exclusions", and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419).



3-Acceptance of the appeal submitted by the company (...) Industrial Supplies – Commercial Register No. (...), on an amount of (669,651.7) riyals and rejecting the appeal against an amount of (202,481.09) riyals, with regard to the clause "other revenues", and amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.

4- Accepting the appeal filed by ... For industrial equipment – Commercial Registration No. (...), on an amount of (4,518,547.88) riyals and disregarding the amount of (4,387,248) riyals, in relation to "the clauses that have been amended by the Defendant in the clause of local sales subject to tax in the basic rate", and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and canceling the decision of the Appellee.

5- Accepting the appeal filed by/ (...) Company For industrial equipment – Commercial Registration No. (...), partially with regard to the fine of error in the declaration according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.

6- Accepting the appeal submitted by/ Company (...)for Industrial Supplies – Commercial Register No. (...), partially with regard to the fine for late payment according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-173736

Case No. V-2023-173736

Keywords

VAT - Tax base - Provision no longer needed – Acceptance of Taxpayer appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419), where the Taxpayer's appeal lies in the clause of other revenues on (provision whose purpose has been negated) in the amount of (300,000) riyals, as the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specification to what has been relied upon is considered a subject supply and a statement of the document that proved it and the text on which it was based to subject the amount in dispute and which the evaluation notice did not indicate the evaluation submitted by the Authority, and where it was proven to the Appellant that the document "Request for Additional Information" was not submitted by the Authority to determine the merits of the examination that it represents a subject amount and the documents under examination based on the difference indicator, and where the appellant submitted the entry that certifies the contrary to the provision in the calculation of other revenues. This means accepting the costly appeal and excluding the amount from the sales clause.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (27) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Facts:



the appeal filed on 30/01/2023, from / Company ... Industrial Supplies – Commercial Register No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (V)-2022-2419) in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: Modify the Defendant's decision regarding the fixed assets exclusion clause to become the taxable amount of SAR 513,762.00.

Second: Amendment of the Defendant's decision regarding the clause of other income to become the amount subject to tax in the basic amount of 872,132.79 riyals.

Third: Responding to the Plaintiff's claim regarding the objection to the rest of the clauses that have been amended by the Defendant in the clause of domestic sales subject to tax in the basic ratio.

Fourth: Amending the fine for the error in the declaration in proportion to the operative part of the first and second paragraphs of the Circuit's decision.

Fifth: Amending the late payment fine in line with the provisions of the first and second paragraphs of the Circuit's decision.

Whereas this decision was not accepted by the appellant, it submitted to the Appellant Circuit an appeal statement that included its objection to the decision of the Appellant Division to amend the decision of the Appellee and the appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, due to the existence of a capital loss of (50,205) riyals, which is a loss of the sale of machinery and equipment to be the net amount of (463,557), which is the amount approved in relation to the clause of exclusion of fixed assets for an amount of (513,762) riyals, and with regard to the other clause of income for an amount of (872,132.79) riyals, because the other clauses of income that were not accepted by the Appellant Circuit are represented in compensation from insurance companies in the amount of (5,409) riyals, which is a surplus recovered from insurance companies and therefore not subject to VAT, and with regard to the rest of the clauses that have been amended by the Appellee because the amount is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of

the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations were amended and the revenues were not amended in the financial statements for the year 2018, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellant Circuit found that the decision issued by the Adjudication Circuit decided to amend the decision of the Appellee and dismiss the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018" and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Circuit regarding the clause excluding fixed assets for an amount of (513,762) riyals, and the clause of other revenues for an amount of SAR (872,132.79), and the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88), and with regard to the clause excluding fixed assets for an amount of (513,762) riyals, and since the appellant objects to the

decision of the Adjudication Circuit due to the existence of a capital loss of (50,205) riyals, which is the loss of the sale of machinery and equipment to be the net amount (463,557), which is the amount approved, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook a hidden examination The dispute in it and concluded with its conclusion in its operative part, and where the Appellate Circuit did not notice what required correction or comment in the light of the arguments raised before this Circuit, which ends with a decision not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the clause of other revenues for an amount of (872,132.79) riyals, and where the appellant objects to the decision of the Adjudication Circuit, because the other clauses of revenues that were not accepted by the Adjudication Circuit are compensation from insurance companies in the amount of (5,409) riyals, which is a recovery surplus from insurance companies and therefore not subject to VAT, and where it was proven to the Circuit that the parties to the dispute approved the classification submitted based on the "type of transaction" according to the following classification: 1- Clauses that the evaluation notice did not explain the direct reason for subjecting them to an amount of (669,651.7) riyals. 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals. Regarding the first classification: 1- Clauses that the evaluation notice did not clarify the direct reason for subjecting them to an amount of (669,651.7) riyals, and where it is represented in the following: (1/a) - Compensation from insurance companies in the amount of (5,409) riyals, and where it was proven to the Circuit that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount of compensation in the event that the risk insured against is realized, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/b) - Deduction from employees in the amount of (319,211.49) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved it and the text on which it was based to subject the amount in dispute, which was not reflected in the evaluation notice in accordance with what was previously clarified in the main clause, and where the document "requesting additional information" was not submitted to determine the place of examination through which it was reached because it represents a subject amount, which the Circuit considers to accept the appeal and exclude the amount from the sales clause.

(1/c) - Deduction of suppliers in the amount of (45,031.21) riyals, and since the original that the deductions are one of the acceptable aspects of revenue reduction in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting a document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample was reached, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

(1/d) - A provision whose purpose has been negated in the amount of (300,000) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specification to what has been relied upon to be considered a subject supply and a statement of the document that proved that and the text on which it was based to subject the amount in dispute, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the merits of the examination because it represents a subject amount and the documents under examination based on the difference index, and where the appellant submitted the entry that is certified contrary to the provision in the calculation of other revenues, which the Circuit deems to accept the appeal and exclude the amount from the sales clause.

Regarding the second classification: 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with its conclusion in its operative part, and where the appellate circuit did not notice what required correction or comment in light of the defenses raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88) riyals, and where the Appellant objects to the decision of the Adjudication Circuit because the amount related to them is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products in specific locations and the buyers are responsible for shipping costs and risk. The customer requests a certain type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that

the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax. 2- The proceeds from the sale of assets in the amount of (463,557) SAR Since it is included in the declarations and is not included in the financial statements for the year 2018 only in the profits of sale within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations have been amended and the revenues have not been amended in the financial statements for the year 2018, and with regard to the first classification: 1- Out-of-scope sales in the amount of (12,123,959) riyals, and since the invoices in dispute represent products "imported from outside the Kingdom" and the appellant's payment against them was based on the fact that the appellant is the importer of the goods and therefore will not be able to bring them into the Kingdom until after paying the tax thereon, and this was not paid or a customs document was submitted proving the validity of the decision, as this result was reached by citing the invoices submitted by the appellant along with her appeal, and since the appellant is not a producer of goods according to the nature of her activity and the invoices she submitted for the revenue in dispute, Proof that they represent goods purchased outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom, and since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of such goods "before" importing them in accordance with the unified customs law is considered a supply made "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law, and therefore the difference in subjecting them or not is the transfer of ownership of the goods "before" importing them. The text did not stipulate that the supplier of the goods should not submit The transport service for the supplied goods to be cited as evidence of its ownership, as the text did not prevent it from providing the service of "shipping" the goods owned by its customer, and where the appellant submitted a statement of out-of-scope sales reflecting contracts of the type EX Works, which, according to its concept, allows the seller to deliver the goods at the nearest place to him, and it entails assisting the buyer in obtaining export licenses for the purpose of delivering the goods to the specified location, and in return, the buyer is responsible for paying the costs of transport, including license fees, and once they reach the specified location The buyer becomes responsible for other risks such as loading goods in trucks, transporting them to the ship or aircraft, and fulfilling customs regulations, which indicate that the "transfer of ownership" took place before the importation of the goods to the Kingdom of Saudi Arabia. The aforementioned text also did not stipulate that the same "resumed" supplier should not be contracted for another purpose, which is to provide the service of transporting goods (owned by the customer), given that the customer is the owner and therefore (bearing the risks of damage and the costs of transporting and clearing them to the Kingdom), since that service, if proven, took place after the transfer of

ownership of the goods to the customer, and where the evaluation notice did not clarify the texts of the violation What was relied upon as a basis for considering that the importation took place before the transfer of ownership of the goods, which makes it possible for the Circuit to accept the appeal filed on this classification.

Regarding the second and third classifications: 2-The proceeds from the sale of assets in the amount of (463,557) riyals, 3- Payments made by customers in the amount of (3,923,691) riyals, and where it was proven to the Circuit that the amount related to the two classifications was deducted from the total amount subject to the sales clause according to the statement of appeal, which approved what the Appellee clarified through the Reply Memorandum, and where it was proven through the submitted analysis that the amount was deducted, and that the amount related to the clause is not disputed, which ends with the Circuit dismissing the above two classifications.

Regarding the fourth classification: 4- A credit notice in the amount of (1,169,058) riyals, and since the appellant objects to the decision of the Adjudication Circuit, because the amounts are related to a deduction agreement between the company and the work, and thus a credit notice is issued, and these amounts have been amended and the revenues have not been amended in the financial statements for the year 2018, and since the original is that the deductions are one of the acceptable revenue reductions in accordance with the statutory texts, and the exception for not accepting them is made in the event that the appellant is found to be in violation of the statutory period for deducting these notices and other texts, and therefore subjecting them without specification to the text that was violated and relied upon to subject the amount in question, which was not indicated in the evaluation notice, as it did not include any text related to the merits of the clause in dispute as explained above, and for not submitting a document "requesting additional information" to determine the subject of the examination and the statement of the sample through which was reached for the violation of the credit notice deduction regulation, which is approved on the basis of calculation, therefore, the Circuit decided the acceptance of the appeal submitted on this classification.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the taxable domestic sales clause for the basic ratio led to the partial acceptance of the appeal in accordance with the above details, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

1- Acceptance of the appeal filed by ... For industrial equipment – Commercial Registration No. (...), Procedurally to be submitted within the period specified by law.



- 2- Rejection of the appeal submitted by the company (...) Industrial Supplies – Commercial Registration No. (...), related to the clause "Fixed Assets Exclusions", and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419).
- 3- Accepting the appeal filed by ..(...) Company. Industrial Supplies – Commercial Register No. (...), on an amount of (669,651.7) riyals and rejecting the appeal against an amount of (202,481.09) riyals, with regard to the clause "other revenues", and amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.
- 4- Accepting the appeal filed by ... For industrial equipment – Commercial Registration No. (...), on an amount of (4,518,547.88) riyals and disregarding the amount of (4,387,248) riyals, in relation to "the clauses that have been amended by the Defendant in the clause of local sales subject to tax in the basic rate", and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and canceling the decision of the Appellee.
- 5- Accepting the appeal filed by/ (...) Company For industrial equipment – Commercial Registration No. (...), partially with regard to the fine of error in the declaration according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.
- 6- Accepting the appeal submitted by/ Company (...)for Industrial Supplies – Commercial Register No. (...), partially with regard to the fine for late payment according to the total amount accepted (5,188,199.58) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellee.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-198382

Case No. V-2023-198382

Keywords

VAT - Tax base - Payment of the tax due on the lease contract - Acceptance of the Plaintiff's appeal

Summary:

The Plaintiff's objection to the decision of the First Circuit for the adjudication of VAT violations and disputes in Dammam City (VD-2023-99040), where his appeal lies on the dismissal of his claim regarding his claim to recover the amount of VAT resulting from the rental of two properties for him, because the effective date of the registration, which is dated 01/01/2020, is the precedent, so the amount of tax he claims is for the period after the effective registration, while the Defendant argues that the contract concluded between the parties to the case did not include any obligation to pay VAT for the period after the effectiveness of the registration. Whereas it was proven to the Appellate Committee that the effectiveness of his registration was on 01/01/2018, and since the contracts that took place between the parties to the first and second deeds from 03/10/2016 until 01/09/2019, part of the period of contracts and supplies received by the lessor is subject to VAT due to the effectiveness of the law and the effectiveness of the Plaintiff's VAT registration. The effect is to accept the appeal and oblige the lessee to pay the lessor the amount of three hundred and thirty-eight thousand, one hundred and thirty-six riyals representing VAT.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

Regarding the appeal filed on 23/05/2023, from/... National ID number (...) In his capacity as the representative of the appellant under the power of attorney No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2023-99040), in the lawsuit filed by the appellant against Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

dismiss the Plaintiff's claim.

Since this decision was not accepted by the appellant, he submitted to the Appellate Circuit an appeal statement that included his objection to the decision of the Adjudication Circuit to dismiss his case in relation to his claim for the refund of the amount of value added tax resulting from the lease of two properties to Appellee, because the lesson on the date of entry into force of the registration, which dates back to 01/01/2020, becomes the amount of tax in which he claims it for the period after the entry into force of the registration, and with regard to the contract of the agreement concluded between the parties on 05/10/2019, the appellant claims that this agreement may not be considered a reason to exempt the appellant from his obligation to pay the tax, especially in light of his explicit acknowledgment of his ignorance of his obligation to pay any other bills related to the building, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appeals Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's lawsuit in relation to his claim to recover the amount of value added tax resulting from the lease of two properties to the appellant in the amount of (338,136 riyals), and since the appellant objects to the decision of the Adjudication Circuit, because the lesson is on the date of entry into force of the registration, which dates

back to 01/01/2020, The amount of tax in which the appellant claims is for the period after the registration takes effect, while the appellant argues that the contract concluded between the parties to the lawsuit did not include any obligation to pay VAT, but stipulated the appellant's obligation to pay government fees, water, electricity, sewage and communications expenses. The appellant was not assigned to supply the tax in the claimed period as he does not have a tax number, in addition to the parties concluding a final clearance on 05/10/2019 in which no mention of VAT was made, and the Circuit was informed of the case file and the documents submitted, and The decision of the Adjudication Circuit and what was submitted by the two parties, and the certificate of registration of the appellant in the value added tax, it is clear to it that the effectiveness of his registration was on 01/01/2018, and since the contracts that took place between the two parties to the lawsuit (the lessor/ ..., and the lessee/ ...) on the first two instruments with the number (.../.../...) and the second with (.../.../...) from (03/10/2016) to (01/09/2019), part of the period of contracts and supplies received by the lessor is subject to VAT due to the entry into force of the law and the effectiveness of the appellant's VAT registration. since the clearance between the two parties was dated 05/10/2019, and the lessor applied for VAT registration on 05/08/2021, i.e. the clearance was made after the lessor applied for VAT registration, and therefore it is not assumed that the clearance included VAT, as the lessor is not entitled to claim it at the time, and therefore, since the lessor claims VAT for the tenant for the rental period after the effectiveness of his VAT registration, and since the tax obligation on the Taxpayer in the face of the Zakat, Tax and Customs Authority is an obligation arising from the rental relationship between the two parties, and in accordance with the above, the Circuit concludes to accept the appeal and oblige the tenant/ ... to pay the lessor/ ... to pay the lessor/ ... the amount of (338,136) three hundred and thirty-eight thousand one hundred and thirty-six riyals representing the value-added tax that is the subject of the appeal.

for these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ... National ID number (...) the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam (VD-2023-99040) is annulled and the tenant is obliged to ... National ID number (...) by paying the lessor/... National ID number (...) an amount of (338,136) three hundred and thirty-eight thousand one hundred and thirty-six riyals, representing the value-added tax that is the subject of the appeal.



Reassessment of the Tax Return



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Riyadh

Decision No. VR-2024-230880

Case No. V-2024-230880

Keywords

VAT -Reassessment of the Tax Return - Change of the period of filing the tax return -Rejection of the Plaintiff's objection

Summary:

The Plaintiff claim to return the quarterly tax return filing period because the invoices are related to previous years' projects, after the authority changed the filing period from quarterly to monthly in 2023, while the Defendant clarified that the tax return filing period was transferred from quarterly to monthly to reach the Plaintiff's revenues of forty million riyals during a period of 12 months preceding the change decision, and it is not possible to return the tax return period from quarterly to monthly because two years have passed since the Plaintiff used the monthly tax period. Whereas, the Adjudication Committee proved that the authority changed the period of submitting the declaration to the Plaintiff from quarterly to monthly to exceed the Plaintiff's revenues of forty million riyals during the previous twelve months, and that no period of two years has passed from the Plaintiff's use of the period of submitting monthly declarations to reconsider the possibility of changing the period from monthly to quarterly, in accordance with paragraph (5) of Article (58) of the executive regulations of the value added tax law. this means that the Plaintiff's objection is rejected .

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (1,5) of Article (58) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Facts:



The facts of this case are summarized as follows: that the ...company Commercial Registration No. (...), applied by ..., National ID No. (...) In his capacity as the Director of the Company under the Memorandum of Association and the independent contract for the management of the Company No. (...), a statement of claim included a claim to return the quarterly tax return filing period because the invoices were related to previous years' projects, after the Authority changed the filing period from quarterly to monthly in 2023AD.

By presenting the statement of claim to the Defendant, she submitted a response memorandum, which the Circuit reviewed.

On Tuesday 04/06/2024, the session was opened and held via videoconference in accordance with the procedures of remote visual litigation; and based on what was stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, it was not proven that a representative of the Plaintiff was present, and... (... Nationality) under National ID No. (...), representative of the Zakat, Tax and Customs Authority under the authorization issued by the Zakat, Tax and Customs Authority No. (... \... \...) and the date is 19/03/1445 AH. By asking the representative of the Defendant about his response, he replied by adhering to what was stated in the response memorandum. Whereas the matter was mentioned, and for the validity of the lawsuit to decide on it, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:



After reviewing the lawsuit papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and on the unified value added tax agreement for the Gulf Cooperation Council countries, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 22/01/2420, and since the origin of this claim is issued by the Plaintiff unilaterally and is not related to an administrative decision issued by the Authority, which makes this claim a tax dispute, and therefore the lawsuit is filed within the regular period stipulated in paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit in tax disputes shall not be heard after five years from the date of



maturity of the amount in question or from the date of knowledge of the incident in dispute, unless there is an excuse accepted by the Committee), which must be accepted procedurally.

On the merits, by reflecting on the lawsuit papers and the response of the two parties after giving them enough time to express and submit what they have, the Circuit proved that the dispute lies in the Plaintiff's claim to return the period of submitting tax returns for the quarter because the invoices are related to previous years' projects, after the authority changed the period of submitting the returns from quarterly to monthly in 2023, while the Defendant clarified that the period of submitting tax returns was transferred from quarterly to monthly to reach the Plaintiff's revenues of forty million (40,000,000) riyals during a period of 12 months preceding the change decision, and it is not possible to return the period of submitting tax returns from quarterly to monthly because two years have not passed since the Plaintiff used the monthly tax period. Upon the Circuit's review of the complete case file and the defenses and documents it contained, it appears that the Authority changed the Plaintiff's return filing period from quarterly to monthly on 15/11/2023, effective from 01/01/2024, due to the Plaintiff's revenues exceeding forty million (40,000,000) riyals during the twelve months preceding the change decision, amounting to 44,087,232.70 riyals, based on paragraph (1) of Article (58) of the Executive Regulation of the Value Added Tax Law, issued pursuant to the decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/11/2016 corresponding to 14/12/1438 AH. Furthermore, two years have not passed since the Plaintiff's use of the monthly return filing period to reconsider the possibility of changing the period from monthly to quarterly, in accordance with what is stated in paragraph (5) of Article (58) of the Executive Regulation of the Value Added Tax Law, issued pursuant to the decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/11/2016 corresponding to 14/12/1438 AH. Consequently, the Circuit concludes by rejecting the Plaintiff's lawsuit.

the Circuit, after unanimous deliberation, decided:

Decision:

- 1- Acceptance of the claim procedurally.
- 2- Rejection of the Plaintiff's claim.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-175308

Case No. V-2023-175308

Keywords

VAT- Reassessment of the Tax Return- Services supplied to non-GCC residents- Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2022-2513), where his appeal is based on the clause (local sales subject to tax at the basic rate), which is contracts. In Relation to (the General Assembly Contract...) The Taxpayer objects to the decision of the Adjudication Circuit, because the contract expired on 28/03/2016, that is, before the entry into force of the value added tax. With regard to (the contract with ...) He refrained from paying the tax at the beginning of 2018 and after six months he paid it and included it in the June 2018 declaration. Whereas, it has been proven to the Appeal Committee in relation to (the General Authority contract...) The Taxpayer's submission of the contract, which shows its expiry before the entry into force of the value-added tax, as well as the letter issued by the Procurement and Contracts Circuit at the Ministry of Tourism in response to the certificate request, which includes the customer's confirmation that "the expiry date of the contract. With regard to (the contract with ...) It was proven that the Authority did not clarify the determinants of the tax entitlement, on the basis of which the result of the tax entitlement was reached in other tax periods, nor did it clarify what tax periods were subject to the amount in dispute based on a specific occurrence of the tax entitlement determinants mentioned in the text of Article (23) of the Agreement. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (79) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

- Paragraph (3) of Article (73) of [Unified VAT Agreement for the Gulf Cooperation Council \(GCC\)](#)
- Article (23) of [The GCC Unified VAT Agreement](#)

Facts:



The appeal was considered on 04/02/2023, from..., Resident ID No. (...), in his capacity as a legal representative of a company..., under Commercial Registration No. (...), and the appeal submitted on 05/02/2023, by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2022-2513) in the lawsuit filed by the company ... Against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

Second: With regard to the clause of domestic sales subject to tax at the zero rate for the periods objected to in the year (2018):

(a)Accepting the Plaintiff's request for company contracts...by including them in the zero-taxable sales clause.

(b) Refusing otherwise.

Third: Reject the Plaintiff's lawsuit regarding the clause of taxable exports for the basic tax periods in question for the years (2018), (2019) and (2020).

Fourth: Proof of the expiry of the deduction on the clause of taxable purchases for the basic tax periods in question for the years (2018), (2019) and (2020).

FIFTH: Modify the Defendant's decision regarding the fines in question in accordance with the conclusion of this decision in Clause (Second). "

As this decision was not accepted by the parties, the appellant (company ...) To the Appellate Circuit with an statement of appeal that included its objection to the decision of the Adjudication Circuit to reject its objection to the final evaluation of the tax periods related to the years (2018), (2019) and (2020), and the fines resulting therefrom, because the contracted client does not have branches within the Kingdom or even in the Gulf Cooperation Council countries, as for the General Authority contract... The contract expired on 28/03/2016AD, that is, before the entry into force of the value-added tax, and I submitted a letter of statement from the General Authority for Tourism about the contract, and that is the reason for the late receipt of the statement, and therefore the amount shown in the company's revenues is only proof of the payment that was due for previous work and was the equivalent of doubtful debts when the General Authority... By payment, they have been included and income tax has been paid for them, but they are not

subject to value-added tax, and as for contracts ... (3contracts) and a company contract... The Circuit reported the tax periods during which the disputed contracts were declared in relation to the contract with ... It refrained from paying the tax at the beginning of 2018 and after six months paid it and we included it in the June 2018 declaration and what also happened with the company ... Zero tax invoices were issued and when we requested the written certificate, the client did not submit it. Accordingly, the tax request was returned at the basic rate of 5%. It was included in the declaration of 12/2020 during the first initiative period, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

The appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the Adjudication Circuit to accept the exclusion of a company contract...and include it in the zero-tax sales clause, because the appellee did not submit contracts in accordance with this clause before it as well as before the Adjudication Circuit, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Appellate Circuit rejected the objection of the appellant (company ...) Regarding the final evaluation of the tax periods related to the years (2018), (2019) and (2020), and the fines resulting therefrom, and with regard to the clause of subjecting exports to tax for the basic ratio, and where the appellant objects to the decision of the Adjudication Circuit, because the contracted client does not have branches within the Kingdom or even in the Gulf Cooperation Council countries, and since it is

established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justified grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook to scrutinize the place of the dispute in it and concluded with regard to it to the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what necessitates correction or comment in light of the arguments raised before this circuit, which ends with a decision not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the appellant's objection to the taxable domestic sales clause for the basis of the contracts: (Company Contract..., Company Contract..., Company Contract..., Company Contract..., Office Contract..., Company Contract..., General Assembly Contract..., Contracts ... (3contracts) and the contract of the company ...), and with regard to the contract of the General Authority..., and where the appellant objects to the decision of the Adjudication Circuit, because the contract expired on 28/03/2016AD, that is, before the entry into force of the value-added tax and submitted a letter of statement from the General Authority for Tourism about the contract, and that is the reason for the late receipt of the statement, and therefore the amount shown in the company's revenues is only proof of the payment that was due for previous work and was in the form of doubtful debts when the General Authority... By payment, it has been included and the income tax has been paid for it, but it is not subject to value added tax, and after reviewing the documents that have been submitted, and since what is considered in determining whether the tax is due or not is the "date of supply", and in the event that it is proven that it was made on or after the entry into force of the law, the supply is subject to tax based on the text of paragraph (3) of Article (73) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf and the text of paragraph (1) of Article (79) of the Executive Regulations of the Value Added Tax Law, Whereas, the Taxpayer submitted the contract, which shows its expiry before the entry into force of the value-added tax, and the letter issued by the Procurement and Contracts Circuit at the Ministry of Tourism in response to the certificate request, which includes the customer's confirmation that "the expiry date of the contract is 28/03/2016, that is, before the date of entry into force of the value-added tax", which is considered evidence that the date of supply based on the "date of completion of the performance of the service" is a date that precedes the date of entry into force of the value-added tax law in accordance with the text (b/2) of Article (79) of the Regulations, which is contrary to the decision of the Circuit of Adjudication from the Contract, which This circuit ends with him accepting the appeal filed.

And as far as contracts are concerned... (3contracts) and the company contract..., and where the appellant objects to the decision of the Adjudication Circuit; as it informed the Circuit of the tax periods during which the contracts in dispute regarding the contract with ... It refrained from paying the tax at the beginning of 2018 and after six months it paid it and included it in the June 2018 declaration and what also happened



with the company ... Where invoices were issued with zero tax rate, and when we requested the written certificate, the client did not provide it. Accordingly, tax was re-requested at the basic rate of 5%, and it was included in the December 2020 return during the first initiative period. After reviewing the submitted documents, the Circuit found that the two tax periods during which the appellant clarified that she declared the amount related to the contracts were (June 2018 and December 2020). The June period, according to what was stated in the response memorandum of the Defendant (the Authority), is among the tax periods under examination, and the December 2020 tax period is among the periods under assessment. Despite this, the Authority did not clarify what tax liability determinants were identified, based on which the conclusion of tax liability in other tax periods was reached. It also did not clarify which tax periods the disputed amount was subjected to based on the occurrence of one of the tax liability determinants mentioned in Article (23) of the Agreement. It also did not justify the reason for not taking them into consideration when examining the two tax periods (June 2018 and December 2020) by deducting them from the total amount that was subjected, given that it was proven to have been subjected during another tax period based on liability grounds according to the Authority's statement. Since the impact on the tax debt is zero due to both parties' agreement that the contracts are subject to tax, while the difference is regarding the period during which they should have been subjected, and since the Authority, through the assessment notice and the response memorandum, did not clarify the identified liability determinant and the tax periods during which declaration should have been made based on the identified determinant, and did not explain the reason for not deducting them from the total amount that was subjected in the two mentioned periods during which declaration was initially made and which were examined within the disputed tax periods - we see accepting the Taxpayer's appeal, which contradicts what was stated in the Adjudication Circuit's decision. Consequently, this Circuit concludes by accepting the submitted appeal.

With regard to the contracts (company ..., company ..., company..., company contract..., office contract..., company contract...), and where the appellant objects to the decision of the Adjudication Circuit; because she submitted to the Adjudication Circuit part of the contracts due to the limited size of the documents that can be uploaded to the system, in addition to the fact that the office contract... The contract and delivery were completed before VAT arose, and the company's contract... Was on n 16/12/2015, any amendment was made to it and a copy of the contract and the written certificate related to it was submitted. Whereas it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it scrutinized the dispute and concluded with regard to it to the conclusion it reached in its operative part, and where the appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which ends with a decision that it does not affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines resulting from the final evaluation of the tax periods in question, and since the Circuit's decision has led to the acceptance of the appeal in relation to the General Authority contract... And contracts ... (3contracts), a company contract..., and the rejection of other contracts. Since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the partially filed appeal.

With regard to the appeal submitted by the (Zakat, Tax and Customs Authority), and since it objects to the decision of the Adjudication Circuit to accept the exclusion of a company's contract... And to include it in the zero-taxable sales clause, because the appellee did not submit the contracts in accordance with this clause before it as well as before the Adjudication Circuit, and since it was established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justified grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit examined the dispute and concluded with regard to it the conclusion it reached in its operative part, and where the appellate circuit did not notice what required redress or comment in light of the arguments raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

First: With regard to the appeal of the company ..., Commercial Registration No. (...):

- 1- Accepting the appeal procedurally for submitting it within the legally prescribed period.
- 2- Rejecting the appeal related to the subjection of the disputed exports to the "taxable sales in the basic ratio" and upholding the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513), and upholding the Authority's decision.
- 3- Partial acceptance of the appeal in relation to contracts (General Authority..., contracts ... And a company contract...) Exclude them from the sales clause subject to the basic rate and add them to the sales clause subject to zero percent tax, and reject the appeal On the merits of contracts (company ..., company ..., company ..., company contract ..., office contract ..., company contract ...) To the sales clause, and amending the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513), and amending the Authority's decision.
- 4- Partial acceptance of the appeal related to the "Error in Declaration Penalty" and amending the decision of the Second Circuit for Adjudicating VAT Violations and Disputes in Riyadh City (VSR-2022-2513), and amending the Authority's decision by limiting the acceptable amount as stated in clause (3).



5- Partial acceptance of the appeal related to the "Late Payment Penalty" and amending the decision of the Second Circuit for Adjudicating VAT Violations and Disputes in Riyadh (VSR-2022-2513), and amending the Authority's decision by limiting the accepted amount as stated in clause (3).

Second: regarding the Zakat, Tax and Customs Authority appeal:

1- Accepting the appeal procedurally for submitting it within the legally prescribed period.

2- Rejection of the appeal regarding the subjection of the (company contract...) For sales subject to the basic rate instead of sales taxed at zero percent, and upholding the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh.

3- Rejecting the appeal related to the "error in a tax return penalty", and upholding the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2022-2513).

4- Rejecting the appeal related to the "Late Payment Penalty" and upholding the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513).



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Riyadh

Decision No. VR-2024-201441

Case No. V-2023-201441

Keywords

VAT -Reassessment of the Tax Return - Claiming the Authority to pay the tax - Accepting the Authority's objection

Summary:

The Zakat, Tax and Customs Authority objected to the Taxpayer to claim payment of the amount of the tax asset resulting from the revaluation for the third quarter of 2019, the first quarter of 2020, and the second quarter of 2020. Whereas, the Adjudication Committee has proven that the Authority has implemented the statutory notifications stipulated in Article Thirteen of the State Revenue law, which stipulates: "Whoever is late in paying the debt due to the state on the specified date, the authority shall notify him in writing that it must be paid within (30) thirty working days from the date of notification." Whereas the first claim was made on 12/01/2023, and whereas the period of the first claim passed without the Taxpayer paying the debt, which was followed by the Authority sending the final claim on 27/02/2023, and whereas the period of the final claim passed without the Taxpayer paying the debt, and in light of this, the Authority's request meets the statutory requirements stipulated in the State Revenue law. The effect of this is to accept the objection of the Authority.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (13,14) of [The State Revenue Law issued by Royal Decree No. \(M/68\) dated 18/11/1431AH.](#)

Facts:

The facts of this case are summarized in the fact that the Zakat, Tax and Customs Authority submitted a statement of claim that included a request to oblige the Defendant company ... Commercial Register No.

(...), to pay the amount of the original tax resulting from the revaluation for the period of the third quarter of 2019, the first quarter of 2020, and the second quarter of 2020, and the resulting fines.

On Tuesday 06/02/2024, the first session was opened and held via videoconference in accordance with the tele-visual litigation procedures; and based on what was stated in the first paragraph of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the legal representative attended... (... Nationality) under National ID No. (...), issued by the Zakat, Tax and Customs Authority under the authorization letter No. (.../.../1444) dated 11/05/1444AH, issued by the Deputy Governor for Legal Affairs and Compliance. He attended ..., (... Nationality) under National ID No. (...), in his capacity as the legal representative of the Defendant and by asking the representative of the Plaintiff about his representative's lawsuit, he answered according to what was stated in the lawsuit sheet, and by asking the representative of the Defendant about his response, he answered by adhering to what was stated in the response memorandum, and by asking the parties to the lawsuit what they would like to add, the representative of the Defendant requested to postpone the lawsuit for further study. Accordingly, the Circuit decided to reject the request of the representative of the Defendant and to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the case papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated: 08/04/1445Hijri, the Unified Value Added Tax Agreement for the States of the Gulf Cooperation Council, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 07/06/2320 AD and the due date of the amount in question is for the years 2019AD and 2020AD, and therefore the lawsuit is filed during the regular period stipulated in paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit shall not be heard in tax disputes after the lapse of five years from the due date of the amount in question or from the date of knowledge of the incident in dispute, except in the case of an excuse accepted by the committee), which must be accepted procedurally.

With regard to the Plaintiff's request to amend the amount of the claim until before the issuance of the final decision of the Circuit to add the fines due, it is answered that the reality of the fines increasing monthly in



light of the non-payment of the amount of the tax asset, and the consequent right of appeal in the event that the amount of the claim is more than (50,000) riyals, or the non-payment of the tax asset after the decision acquires the final status, which results in the lack of stability and stability in what the Plaintiff requests, as the amounts of fines are linked to the payment of the original amount of the tax, which is not possible to know because of its multiple considerations, and since the origin in the requests is to be determined conclusively and firmly, and therefore the Circuit considers that the claim for the amounts of fines should be dismissed.

In terms of the merits, it has been proven that the dispute lies in the Plaintiff's claim to oblige the Defendant to pay the amount of the tax asset resulting from the revaluation for the third quarter of 2019 in the amount of (13618.52) riyals, the first quarter of 2020 in the amount of (208675) riyals, and the second quarter of 2020 in the amount of (256970.4) riyals, as the Authority has implemented the statutory notifications stipulated in Article 13 of the State Revenue Law issued by Royal Decree No. (M/68) dated 18/11/1431 AH, which stipulates: "Whoever is late in paying the debt due to the state on the specified date, the authority shall notify him in writing that it must be paid within (30) thirty working days from the date of notification.", and in accordance with Article Fourteen of the aforementioned Law, which stipulates: "If the debtor does not pay the debt due from him within the period referred to in Article 13, he shall be given final notice of payment within (15) fifteen working days. If this period expires and he does not pay the debt due from him, the entity shall take the necessary measures before the competent court to seize his property within the limits of the debt owed from him." Whereas the first claim was made on 12/01/2023, and whereas the period of the first claim passed without the Defendant paying the debt, which was followed by the Authority sending the final claim on 27/02/2023, and whereas the period of the final claim passed without the Defendant paying the debt, and in light of this, the Authority's request meets the statutory requirements stipulated in the State Revenue Law, which leads the Circuit to accept the Plaintiff's claim regarding the amount of the tax asset for the periods in question.

The Circuit, after unanimous deliberation, decided:

Decision:

First: Procedurally:

- 1- Acceptance of the lawsuit regarding the amount of the tax asset.
- 2- Disregarding the claim for the amounts of fines.

Second: On the Merits:

- 1- Obliging the Defendant company ..., Commercial Registration No. (...), to pay the Plaintiff/Zakat, Tax and Customs Authority an amount of (13,618.52) riyals, representing the value added tax resulting from the revaluation for the third quarter of 2019.



2- Obliging the Defendant company ..., Commercial Registration No. (...), to pay the Plaintiff/Zakat, Tax and Customs Authority an amount of (208,675) riyals, representing the value added tax resulting from the revaluation for the first quarter of 2020.

3- Obliging the Defendant company ..., Commercial Registration No. (...), to pay the Plaintiff/Zakat, Tax and Customs Authority an amount of (256,970.4) riyals, representing the value added tax resulting from the revaluation for the second quarter of 2020.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Riyadh

Decision No. VR-2024-217369

Case No. V-2023-217369

Keywords

VAT – Reassessment of the Tax Return - Tax adjustment from 5% to 15% - Acceptance of the Taxpayer's objection

Summary:

The Taxpayer objected to the final evaluation notice for the month of April of 2021 issued by the Zakat, Tax and Customs Authority, in which it amended the percentage of subjecting the disclosed sales to be (15%) instead of (5%), as the Taxpayer stated that the contract of the project in dispute was extended until 30/01/2022, while the authority clarified that the Taxpayer did not provide proof of the extension or renewal of the contract, in addition to that it does not apply the requirements for the application of the provisions of the transitional period contained in the executive regulations of the value added tax law. Whereas, the Adjudication Committee was proven after reviewing the letter of notification of the Taxpayer issued by the company (the client) on (14/05/2019), that is, before (11/05/2020), which stated the decision to extend the contract until (30/01/2022), and therefore the validity of (5%) on the contract and the non-validity of the basic percentage after the amendment (15%), based on paragraph (10/c) of Article (79) of the Executive Regulations of the Value Added Tax Law. This means accepting the objection of the Taxpayer and canceling the decision of the Authority.

Document:

- Article (5) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph(10/c) of Article (79) of [The Executive Regulations of the Value Added Tax Law issued by the Zakat, Tax and Customs Authority Council Resolution No. \(3839\) dated 14/12/1438AH.](#)
- Paragraph (3) of Article (79) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)



Facts:



The facts of this case are summarized as follows: ..., National ID No. (...) As agent for the Plaintiff under agency number (...) And a lawyer license No. (...), submitted a statement of claim that included his objection to the Authority's decision on the final re-evaluation for the month of April 2021, and requests the cancellation of the decision.

By presenting the statement of claim to the Defendant, she submitted a response memorandum, which the Circuit reviewed.

On Tuesday 13/02/2024, the first session was opened and held via videoconference in accordance with the tele-visual litigation procedures; and based on what was stated in the first paragraph of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case; attended ..., National ID No. (...) In his capacity as an agent for the Plaintiff under the power of attorney No. (...), and attended ..., National ID No. (...), the representative of the Zakat, Tax and Customs Authority under the authorization issued by the Zakat, Tax and Customs Authority No. (.../.../1444), and after verifying the validity of the attendance of the parties to the case by presenting their national ID cards through a magnifying window and verifying the status of each of them, I decided to proceed with the case. By asking the Plaintiff's attorney about his client's lawsuit, he answered according to what was stated in the statement of claim submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhering to what was stated in it, and by asking the representative of the Defendant about his response, he answered by adhering to what was stated in the response memorandum. By asking the parties to the lawsuit whether they have anything to add? Each party was satisfied with what was provided. Whereas the matter was mentioned, and after discussion, the Circuit decided to close the pleading and adjourn the session for deliberation and issuance of the decision.

Grounds:



After reviewing the lawsuit papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and on the unified value added tax agreement for the Gulf Cooperation Council countries, and the relevant laws and regulations.



Procedurally: Whereas this dispute is considered one of the disputes within the jurisdiction of the Tax Adjudication Committee Circuits under the rules of work of the Zakat, Tax and Customs Committees, and where the Plaintiff is informed of the result of the objection on (26/12/2022), and the Plaintiff company registered Case No. (V-2023-167904) on 05/01/2023, but it was closed because the documents were not completed, and the company's representative indicated by communicating with the unified mail of the Secretariat that they were able to enter this case for a problem in the law, which prompted them to register this case for the same period for the case that was closed. Accordingly, the case was filed within the prescribed period in accordance with the text of Article (5) of the rules of work of the Zakat, Tax and Customs Committees, and where the case was submitted by a person in a capacity, which requires the Circuit to accept the case procedurally.

In terms of the merits, the Circuit contemplated the case papers and the response of the two parties after giving them enough time to express and submit what they have, and since the dispute lies in the Plaintiff's objection to the final evaluation notice for the month of April of 2021, in which the Defendant amended the percentage of subject to the disclosed sales of (1,180,039.93) riyals in the approval of the period in dispute to be (15%) instead of (5%), where the Plaintiff stated that the project contract... The subject of the dispute was extended until 30/01/2022 and the work of the extract No. (19) was completed until (08/03/2021), while the Defendant explained that the Plaintiff did not provide proof of the extension or renewal of the contract in dispute, in addition to the fact that the contract in dispute does not meet the requirements for the application of the provisions of the transitional period contained in paragraph (10/c) of Article (79) of the executive regulations of the value added tax law. After reviewing the Plaintiff's notification letter issued by the company ... (The client) on (14/05/2019), i.e. Before (11/05/2020), which stated the decision to extend the contract until (30/01/2022), and therefore the validity of (5%) on the contract and the non-validity of the basic percentage after the amendment (15%), based on paragraph (10/c) of Article (79) of the Executive Regulations of the Value Added Tax Law that the validity of the basic percentage after the amendment is based on the occurrence of the extension or renewal of the contract after the date of 11/05/2020 and not before it because of the possibility of amendment to the basic percentage applied to the contract, and since the Plaintiff submitted a written certificate issued by the company ... (Client) dated (10/06/2018) to the Plaintiff for the project ... During the period of application of the transitional period, it refers to its right to deduct and recover the full input tax in relation to the supply of goods and services in accordance with the provisions of the tax, the highest of which is the name of the project from which the disputed extract was issued and appended to the registration number of the client of the tax Plaintiff in accordance with the second condition contained in the text of paragraph (10/c) of Article (79) of the Regulations in order to prove the right to deduct, and where paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax Law stipulates that: "The supplier may treat any supply of goods or services made in connection with a contract in which VAT was not expected to be applied in relation to the supply as a zero-rate supply transaction, and this shall remain the case until the expiry or



renewal of the contract or by 31 December 2018, whichever is earlier, provided that: A- The contract must have been concluded before 30 May 2017 B- The customer shall be entitled to deduct the full input tax in relation to the supply of goods or services or the refund of the tax. (c)The customer submits a written certificate to the supplier that the full input tax can be deducted from the supply.", Whereas the Plaintiff has fulfilled all the requirements mentioned in paragraph (10/c) of Article (79) of the Executive Regulations of the Value Added Tax Law for the contract ..., which ends with the Circuit to accept the Plaintiff's lawsuit.

The Circuit, after unanimous deliberation, decided:

Decision:

1- Accepting the claim procedurally.

2- On the merits:

Cancel the Defendant's decision to subject the amount of (1,180,039.93) riyals to tax at a rate of (15%), and subject it to (5%) instead, for the period of April 2021.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Riyadh

Decision No. VSR-2024-226058

Case No. V-2023-226058

Keywords

VAT-Revaluation of the tax return-Objection to the increase in tax- Rejection of the Plaintiff's objection

Summary:

The Plaintiff disputes the Defendant's claim for value-added tax (VAT), which represents the amount in excess of the government subsidy, and that he paid it to the seller, thus requesting judgment that the Defendant (the bank) is not entitled to recourse against him. The committee found that the Defendant financed the Plaintiff's purchase of the property, which leads to the existence of two independent sales transactions, the first transaction between the seller and the bank (Defendant), and the second transaction between the seller (Defendant) and the buyer (Plaintiff), which shows the validity of the Defendant's claim to the Plaintiff for the difference in the amount of tax. This means that the Plaintiff's objection is rejected .

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (8) of Article (67) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Facts:

The facts of this case are that ..., (... Nationality) under national ID No. (...), on his own behalf, submitted a statement of claim that included that the Defendant (bank ...) He claims VAT in the amount of SAR 15,000, representing the amount in excess of the government subsidy, and that he paid it to the seller, and therefore requests a judgment that the Defendant has no recourse against him.

By presenting the statement of claim to the Defendant, he submitted a response memorandum, which was shared with the Circuit.

On Wednesday, 06/03/2024, the first session, which was held via videoconference, was opened in accordance with the remote visual litigation procedures, based on what is stated in Clause No. (1) of Article (15) of the Zakat, Tax and Customs Committees Rules issued by Royal Decree No. (25711) dated: 08/04/1445 AH; By calling on the parties to the lawsuit, the Plaintiff attended.. (... Nationality) under National ID No. (...), and attended ... (... Nationality) under a national identity No. (...), in his capacity as an agent of the Defendant bank under the power of attorney No. (...), and the license to defend private legal personality No. (...), and by asking the Plaintiff what is necessary to edit his lawsuit, he answered that the Defendant is asking him for value-added tax in the amount of (15,000) riyals representing Mazad for the amount of government support, and that he paid it to the seller, and therefore he requests a ruling that the Defendant is not entitled to refer to him for the amount referred to in this way, and by asking the Defendant's agent for his response, he answered in accordance with what was stated in the response memorandum and adheres to what was stated in it, and by asking the parties what they would like to add, they decided to suffice with what was previously presented in this lawsuit, and accordingly the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the case papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the Zakat, Tax and Customs Authority No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the committees for the adjudication of tax violations and disputes issued by Royal Decree No. (25711) dated: 08/04/1445Hijri, the Unified Value Added Tax Agreement for the States of the Gulf Cooperation Council, and the relevant laws and regulations.

In terms of form, the Circuit, after reviewing the documents of the lawsuit, found that the capacity of the two parties is achieved, and it was also found that the lawsuit was filed during the legal period stipulated in paragraph (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit in tax disputes shall not be heard after five years from the date of maturity of the amount in question or from the date of knowledge of the incident in dispute, unless there is an excuse accepted by the Committee), which means that the lawsuit must be accepted procedurally.

In terms of the merits, it was found that the Plaintiff filed his lawsuit objecting to the Defendant's claim to pay the amount of value added tax in excess of the amount of exemption from the purchase tax of the first dwelling, amounting to (15,000) riyals, as he paid the amount of tax, amounting to (15,000) riyals, to the son of the seller on 19/07/2020, and informed the Circuit of the deed of the property No. (...), which showed



that the Defendant financed the Plaintiff in its purchase, which entails the existence of two independent sales, The first operation took place between the seller and the bank (the Defendant), and the second operation took place between the seller (the Defendant) and the buyer (the Plaintiff), which shows the validity of the Defendant's claim to the Plaintiff for the difference in the amount of tax. As for the bank transfer attached by the Plaintiff regarding the amount of tax to the son of the seller, according to the principle, the Plaintiff does not have a relationship with the seller of the property, and accordingly, that transfer does not affect the Defendant's claim to the Plaintiff, as it is another independent relationship between the seller and the Plaintiff, and since the Defendant is not a party to this relationship, the claim by him correct, with which the Circuit ends up dismissing the case.

Accordingly, the Circuit, after unanimous deliberation, decided:

Decision:

Dismissal of the Claim.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Dammam

Decision No. VD-2024-232807

Case No. V-2023-232805

Keywords

VAT-Revaluation of the tax return-Rejection of the commercial register-Rejection of the Taxpayer's objection

Summary:

The Taxpayer objected to the final assessment decision issued by the Zakat, Tax and Customs Authority on May 2020 for the fourth quarter of 2018, where his objection lies in the fact that he waived the commercial register on February 2018, according to the statement of the Ministry of Commerce attached to the case files, and therefore, due to the precedence of the transfer of the commercial register over the decision, he believes that the decision is invalid and demands the transfer of the assessment to the new owner, while the Authority argued that its decision is valid based on the provisions of the VAT regulation. Whereas, the Committee was established in accordance with the provisions of Articles (8) and (17), which stipulate that the Authority must be notified in the event of a change in legal status or a change in taxable persons, and where the Taxpayer admitted at the hearing that he did not comply with notifying the Authority of this. The implication of that; rejection of the Taxpayer's objection.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (8) of Article (17) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Facts:

The facts of this case are summarized to the extent necessary to issue the decision, ... National ID number (...) (Distinctive number...), submitted an objection to the Defendant's decision regarding the tax assessment issued against him for the fourth quarter of 2018. He stated that these amounts are due after the waiver of the Commercial Register under the attached statement from the Ministry of Commerce in



which the date of the waiver of the register is indicated. The Defendant argued that the Plaintiff did not submit a notification to the Authority of this change within twenty days, in accordance with paragraph (30) of Article Seventeen of the Executive Regulations of Value Added Tax.

On (Monday) 08/07/2024 AD, the Circuit held its remote session to consider the case, with the participation of the Plaintiff in person...according to a national ID No. (...), and the participation of the Defendant's representative, the Authority ... National ID number (...) In his capacity as the representative of the Zakat, Tax and Customs Authority under the authorization letter No. (.../.../1445) dated 19/03/1445 AH issued by the Deputy Governor for Legal Affairs and Compliance, the session was opened by asking the Circuit whether the Authority had been notified of the transfer of the commercial register. He said that neither of the parties to the lawsuit adheres to his previous statements, and that the parties to the lawsuit were asked if they had any additional negative answers. Accordingly, the Circuit decided that the parties to the lawsuit shall temporarily withdraw from the visual circuit to deliberate and issue the decision, and accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case:

In terms of form, and since the Plaintiff aims to object to the Defendant's decision, the Defendant's decision on the tax assessment issued against him for the fourth quarter of 2018, based on the value added tax law and its executive regulations, and after reviewing the text of Article (1), which defined the Taxpayer as: The taxable person under the tax regulations " Since the Defendant's decision to assess the tax period for the fourth quarter of 2018 was issued after the Plaintiff's assignment to another individual, according to the statement issued by the Ministry of Commerce No. (...) Date 22/Dhu al-Hijjah/1439AH corresponding to 02/February/2018AD - attached in the case files - as the date of the decision was on 05/May/2020AD. As for the date of transfer 02/February/2018AD, it is clear that the Plaintiff is not bound by the statutory periods because it is not subject to the rules as it is not expensive according to the definition above to clarify it in advance, which requires the Circuit to accept the case procedurally.



In terms of the merits, the Circuit contemplates the lawsuit and what was submitted in it, and after granting its parties sufficient deadlines to submit what they have, where the Plaintiff objects to the final evaluation decision issued on 05/May/2020 for the fourth quarter of 2018, where he argues that he has waived the commercial register on 02/February/2018 according to the statement of the Ministry of Commerce attached to the lawsuit files, and therefore, due to the precedence of the transfer of the commercial register over the decision, he considers the decision invalid and demands the transfer of the evaluation to the new owner, while the Defendant argued the validity of its decision is based on what is stated in the Value Added Tax Regulation Article (8), where paragraph (7) of the article stipulates the following: "The person registered with the Authority shall notify it in the event of any change in the information of the registration application, within twenty (20) days from the date of the change." It also relied on the provisions of paragraph (3) of Article (17) of the same regulation, which stipulates that " In cases where the transfer of economic activity gives rise to an obligation on the supplier or recipient to register or cancel the registration, the Authority shall be notified of this within thirty (30) days from the date of the transfer" The Authority confirms that it has not been notified by the Plaintiff in accordance with the provisions of the aforementioned articles, and demands the dismissal of the lawsuit. Whereas, by reviewing the texts of articles (8) and (17) of the Value Added Tax Regulations, it becomes clear that the Authority must be notified in the event of a change in the legal status or a change in the taxable persons, and where the Plaintiff decided at the session that he did not comply with not notify the Authority of this, which requires the Circuit to dismiss the Plaintiff's lawsuit.

Based on the above and in accordance with the provisions of the Unified Agreement, the VAT Law and its Executive Regulations, and the working rules of the committees for adjudicating tax violations and disputes, the Circuit decided after deliberation unanimously:

Decision:

Dismiss the Plaintiff's claim.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Dammam

Decision No. VD-2024-209912

Case No. V-2023-209912

Keywords

VAT -Reassessment of the Tax Return -Tax in insurance compensation - Rejection of the Taxpayer's objection

Summary:

The Taxpayer's objection to the decision issued by the Zakat, Tax and Customs Authority regarding the revaluation of the tax period for the month of April 2020 to demand its cancellation, as his objection lies in providing vehicle insurance services in return for insurance premiums received from the insured and VAT is imposed on the received premiums. The chapter committee found that the Taxpayer deducts the input tax incurred in return for a supply by a third party (the insurance company), which entails paying the tax for the value of the compensation received and corresponding to the input tax deducted by the Taxpayer in accordance with the correct law and regulations. The implication of that; rejection of the Taxpayer's objection.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (14) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The facts of this lawsuit are that the company..., Commercial Registration (...) Submitted by ..., National ID No. (...) In his capacity as an agent for the Plaintiff under the power of attorney No. (...), with a statement of claim that included an objection to the revaluation of the tax period for the month of April 2020 and requesting the cancellation of the Defendant's decision.

By presenting the statement of claim to the Defendant, she replied as follows: "By reviewing the above statement of claim, it is clear that it includes the Plaintiff's grievance against the final evaluation decisions

issued by the Authority for the full tax periods for the year (2020), including (this lawsuit). Accordingly, the Authority summarizes its response as follows:

1 The Authority has issued the final evaluation of the tax periods for the above cases based on paragraph (1) of Article (26) of the Value Added Tax Law and paragraph (1) of Article (64) of the Executive Regulations of the Law.

2 Regarding the clause of sales adjustment due to bad debts for the period (December 2020): The Plaintiff acknowledged in the original amendment field in the tax return an amount of (96,956,137.62) riyals, and the authority revalued the clause by excluding an amount of (92,106,733.81) riyals, so that the value of the amount after the amendment is (4,849,403.81) riyals, of which an amount of (4,605,336.19) riyals relates to bad debts and its tax is (230,266.81) riyals. The Authority considers that the person hoping to pay the Plaintiff proves to him his acknowledgment of the collection of the consideration for the supply without the tax, and the Authority invokes this to clarify that it is permissible to reduce the output tax from the value of the calculated tax mentioned in paragraph (7) of Article (40) of the Executive Regulations of the Value Added Tax Law. In the event that the supply consideration was not collected and not when the tax was not collected, it is established that the Plaintiff collected the installments "any supply consideration" but did not collect its tax, which is contrary to the aforementioned text, and therefore he is not entitled to reduce the tax since he collected the supply consideration, but he is entitled to deduct the bad debts that appeared in the certificate of the chartered accountant, which shows that the value of the unpaid consideration is (4,835,603) riyals and should be reflected in the tax return, and the amount mentioned in the certificate is considered the uncollected consideration covered by VAT. In view of the amount of bad debts, it is clear that it includes VAT, and in order to calculate the value of the tax in accordance with paragraph (2) of Article (45) of the Executive Regulations of the VAT Law. It should also be noted that the Plaintiff has acknowledged in the sales amendments clause by (5%) that the amount of (96,956,137.62) riyals, which will be offset by a deduction from the output tax (4,847,806.88) riyals, which is contrary to the amount mentioned in the certificate of the chartered accountant attached above. Based on the above, the action taken by the Plaintiff to reduce the amount of tax appears to be invalid. With regard to the third party compensation clause (for all the tax periods in question): The Plaintiff elaborated on the preamble to explain the transaction related to the clause and the parties to the contractual relationship associated with the insurance policies. The Plaintiff then summarized the transaction and the relevant considerations, as the Plaintiff mentioned the following aspects:

1. "Nature of Transaction: The compensation received from the other insurance company is not for goods or services, but is compensation for the losses incurred, and the Authority responds that the Plaintiff has resupplied repair and maintenance services to the insurance company to the second party. Whereas, the cost of the receipt and maintenance is mainly related to the activity of the insurance company of the second party and not to the activity of the Plaintiff (who will reduce his costs by the value of the receipt and



maintenance recovered from the insurance company of the second party), who will treat those amounts as costs associated with his activities (insurance policies issued to its insured customer). 2 "No added value: VAT means Value Added Tax. In this case, there is no added value, as the insurance company only compensates for the cost it incurred "and the Authority has summarized its response to this paragraph within the response to the previous paragraph. 3 Double taxation: "If the original repair service is subject to VAT, the imposition of VAT may be considered a double tax, and this may be contrary to the principle of taxation and unfair to the supplier, who is not the final consumer." The Authority responds that it has taken into account total loss compensation and monetary compensation and has not subjected them to tax, and has only subjected the refunds that are offset by the costs of repair (that is, its tax has already been deducted from its inputs), and therefore there is no double taxation as mentioned by the Plaintiff. 4 "Justice: It is necessary for tax laws to work fairly, as imposing VAT on compensation will place an unjustified financial burden on insurance companies, which may increase costs for all consumers in the long term. "As the Authority contemplates what the Plaintiff has stated, it appears to it that it is related to the policy of preparing tax laws, which has no place in the lawsuit, and is not productive in it. 5 "International Comparative Application: The GCC countries, Europe and the United Kingdom, in addition to other countries that apply VAT, do not impose any tax on compensation received from insurance companies...etc. "The Authority responds that the content of the Plaintiff's payment is similar to the previous paragraph, as it discusses the tax policy of a group of countries, and not the subject of that lawsuit. 6 "Contractual Obligation: Compensation is the result of a contractual obligation, not a sale of goods or services, as it is a transfer of money to pay off a debt, and not a commercial transaction that adds value. " The Authority responds to this from two sides, the first: The argument that compensation results from a contractual obligation does not negate that it results from a supply, as the adequacy of the tax obligation is performed as a result of a contractual obligation, and does not arise from nothing. Second, the Authority has clarified in paragraph (1.3) of the memorandum the nature of the supply that has been subjected by the Authority. In order to avoid prolongation, the Authority refers to what is stated in that paragraph. 7 "No use of goods or services: The other insurance company, in this case, is not the beneficiary of any goods or services. The beneficiary is the insured party who repaired his car. " The Authority responds that the benefit was achieved as a result of the supply process explained in paragraph (1.3) of this memorandum. 8 "Flow of money versus flow of goods/ services: Despite the existence of funds from one insurance company to another, on the other hand, there is no exchange of goods or services between the two parties, as the exchange of goods/ services is carried out by the repair service provider and the insured party. " The Authority responds that it has clarified in paragraph (1.3) of the memorandum the nature of the supply that has been subjected by the Authority, and in order to prevent prolongation, the Authority refers to what is stated in that paragraph. 9 "Administrative simplicity: From an administrative perspective, not to consider these compensations as a supply for VAT purposes makes the tax law simpler and clearer. "The Authority responds that the content of the Plaintiff's payment is similar to what is stated in more than one paragraph, as it discusses the approval

of the policy of preparing tax laws, and not the subject of that lawsuit. 10 "VAT Intent: The main objective of VAT is to impose a tax on consumption, not compensation because it is compensation for the costs incurred, not consumption of goods or services. " The Authority responds that consumption is achieved when the supply exists, and the Authority has clarified in the previous paragraphs that the supply exists and is achieved, and therefore what corresponds to it is considered consumption. 4 Reply to the transaction breakdown and correct tax application: 4.1 In paragraphs (a) and (b), the Plaintiff elaborated on the transaction related to the clause and the parties to the contractual relationship associated with the insurance policies. 4.2 The Plaintiff's subrogation of the insured mentioned in paragraph (c) of the statement of claim and resulting in what is stated in paragraph (3) of Article (2.5) and Article (8) of the comprehensive vehicle insurance rules issued by the Central Bank is without prejudice to the result communicated to it by the Authority in subjecting the compensation to VAT in the basic rate, and to clarify this, and by reviewing the documentary cycle of the insurance policy contract with the Plaintiff's client and then the traffic accident to compensate the other insurance company, it becomes clear that these claims arise when the error rate in accidents is less than (100%) for the Plaintiff's client, as the third party (the one who caused the damage) is claimed for its percentage of error, and then the third party is asked for us on the value of a star or traffic estimate or an estimate or an estimate from the workshop (...) Which may be less than the maintenance costs incurred as the claim is made without tax, and then the third party is claimed by issuing a debit note for the value of the claim, and in the event that the insured's car is repaired, invoices are issued from the workshop in the name of the Plaintiff, and a credit note is issued to the workshop and payment is made on behalf of the customer in accordance with the Plaintiff's obligations arising from the insurance policy, and the Plaintiff has the right to deduct the input tax incurred in the course of exercising his economic activity, provided that he has the right to make the deduction in accordance with the provisions of the VAT executive regulations. The Authority also wishes to refer to Circular No. (ت.ع.م. /233/2021AD) dated (13/12/2021AD) issued by the General Administration of Insurance Supervision at the Central Bank of Saudi Arabia on the mechanism of compensating third parties (the third party) in the unified policy of compulsory vehicle insurance in accordance with the provisions related to value added tax issued by the competent authorities: The insurance companies shall, when settling the vehicle claims of the third party, clarify its entitlement to compensation for the amount of VAT and explain the mechanism of compensation for it, and shall, upon compensation, comply with the following: On the repair costs issued by the competent authority to assess vehicle damage. - Compensation for the amount of VAT under repair invoices issued according to the requirements of the competent authority. 4 In the introduction to page (6) of the statement of claim, the Plaintiff repeated his arguments regarding the concept of supply and its verification of compensation or not, and also repeated the evil nature of compensation and how to collect it, which was answered by the Authority in more than one place of this memorandum. 4.5 With regard to the Plaintiff's payment related to deducting the input tax on the costs incurred by the vehicle repair shop, " the Authority clarifies that when an accident occurs that requires claiming payments such as a vehicle accident, there are two cases: Case 1:



In which the damage is caused by the policy holder (i.e. The Plaintiff's customer), therefore, the output tax that corresponds to the input tax related to repair and maintenance costs is the value of the sold policy. (In accordance with the Plaintiff's obligations arising from the insurance policy). Case 2: (The case of disagreement) These claims arise when the error rate in accidents is less than 100% for the Plaintiff's client, meaning that the person causing the damage is a customer of another insurance company or any third party, and the Plaintiff directs his client to one of the maintenance centers contracted with the repair vehicle, and the maintenance centers issue tax invoices in the name of the Plaintiff and deducts the input tax associated with the maintenance costs in full, including the third party's share of the costs, and then issues a debit notice and claims the other insurance company or the third party causing the damage for its percentage of the error, meaning that these repair costs, whose input tax has been deducted, were not fully incurred by the Plaintiff in the course of practicing his economic activity, as he claims the third party for his share of these costs. Upon receipt of compensation, the Taxpayer does not subject the received compensation, making the compensation the output tax that corresponds to the input tax related to the repair costs recovered from the other insurance company. While the Plaintiff submitted the "comparative application", the Authority considers that the response has already been made within this memorandum. It also considers that the Plaintiff has exceeded what is included in the nature of the lawsuit, from submitting requests and defenses to requesting a legislative amendment to the law and the regulation, which has no place in the lawsuit and has no effect in it. Accordingly, the authority shall adhere to the validity of its action subject of the lawsuit. The Authority requests the dismissal of the case. Its reply is completed.

On Sunday 07/01/2024, the session was held in accordance with the procedures of remote visual litigation, so he attended... National ID No. (...), in his capacity as an agent for the Plaintiff under the power of attorney and the license to defend the private legal personality attached to the case file, and also attended/ ... In its capacity as a representative of the Zakat, Tax and Customs Authority under the authorization letter No. (.../.../...) Dated 11/05/1444 AH and issued by the Deputy Governor for Legal Affairs and Compliance. By asking the Plaintiff's attorney about the lawsuit, he answered according to what was stated in the statement of claim submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhering to what was stated in it, and by asking the Defendant's representative about her response, she answered by adhering to what was stated in the response memorandum. By asking the parties to the lawsuit what they would like to add, they decided to settle for what was previously presented. Accordingly, the Circuit decided that the parties to the lawsuit shall temporarily leave the visual circuit for deliberation.

Grounds:



After reviewing the case papers and after auditing, and based on the Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees

issued by Royal Decree No. (25711) dated 08/04/1445 AH. And the Unified Value Added Tax Agreement for the States of the Gulf Cooperation Council, and the relevant laws and regulations.

In terms of form, since the Plaintiff aims from her lawsuit to cancel the Defendant's decision related to the revaluation of the tax period for the month of April 2020, and since this dispute is one of the disputes within the jurisdiction of the Zakat and Tax Adjudication Committee Circuits under the rules of work of the Zakat, Tax and Customs Committees, and where the Plaintiff was informed of the result of the objection on (22/08/2023), and submitted the lawsuit through the electronic portal on (19/09/2023), therefore, the lawsuit was submitted within the prescribed period in accordance with the text of Article (5) of the rules of work of the Zakat, Tax and Customs Committees, and where the lawsuit was submitted by a person of capacity, which requires the Circuit to accept the lawsuit procedurally.

In terms of the merits, the Circuit contemplates the case papers and the response of the two parties after giving them enough time to express and submit what they have with regard to the sales amendment clause due to the compensation of the third party, and since the company's objection was focused on the revaluation of the tax asset for the tax period in question, and where Article (14) of the executive regulations of the value added tax law stipulates: "Without prejudice to Article 2 of the Law, and for the purposes of implementing the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the importation of goods into the Kingdom."

After reviewing the case documents and the arguments contained therein, it became clear that the Plaintiff provides vehicle insurance services in exchange for insurance premiums received from the insured and VAT is imposed on the received premiums. When the Plaintiff receives a claim from the insured, the Plaintiff sends the vehicle to one of the workshops contracted by the Plaintiff and then after repairing the vehicle, the workshop issues a tax invoice to the Plaintiff, who in turn pays the costs of repair, including VAT, and deducts it in the tax return.

In the event that the damage is caused by a third party (non-insured), the Plaintiff shall first compensate the injured (whether in cash or by bearing the costs of repairing the vehicle) and then claim the person causing the damage or the insured insurance company for the value paid by him to repair the injured vehicle by issuing a debit note, which the Plaintiff referred to as third party compensation. It is clear with him that the compensation in this case is not subject to VAT due to the failure of the Plaintiff to actually supply (vehicle repair service) in addition to the fact that the responsibility of repairing the injured vehicle is linked to the activity of the insurance company of the person causing the damage because the person causing the damage has entrusted the task of repairing the vehicle to the insurance company, which in turn guarantees the responsibility of compensating the insurer and ensuring compensation and repair, whether he is the cause of the damage or the injured. The "third party compensation" in this case is only the compensation of



the value paid by the Plaintiff, which has no effect on the supply chain. In addition, the fact that the third party insurance company compensated the Plaintiff, which results in the transfer of the supply responsibility from the Plaintiff to the third party insurance company, which means that the responsibility for the supply of the output tax lies with the insurance company to the person who caused the damage (the third party) and the deduction of the input tax incurred for this supply is a legitimate right of the insurance company and not the Plaintiff. However, it became clear that the Plaintiff deducts the input tax incurred in exchange for a supply by a third party (the insurance company), which necessitates the payment of the tax for the value of the compensation received and corresponding to the input tax that was deducted by the Plaintiff in accordance with the correct law and regulations, which ends with him with the Circuit to dismiss the Plaintiff's lawsuit.

Based on the above and in accordance with the provisions of the Unified Agreement, the VAT Law and its Executive Regulations, and the working rules of the committees for adjudicating tax violations and disputes, the Circuit decided after deliberation unanimously:

Decision:

Repeal the Plaintiff's claim regarding the amendment of the sales clause for the tax period in question.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Riyadh

Decision No. VR-2024-235365

Case No. V-2024-235365

Keywords

VAT - Reassessment of the Tax Return -compensation in traffic accidents - acceptance of the Plaintiff's objection

Summary:

The Plaintiff objected to not being fully compensated by the Defendant (the insurance company) for a traffic accident, as it was partially compensated in the amount of 20,426.25 riyals, while 3,063.93 riyals were deducted, and it was found from the final damage assessment report that the total cost of damages is 23,490.19 riyals, which includes an estimate of labor wages and spare parts with a statement that the percentage of payment by the Defendant is at a liability rate of (100%). Whereas, the adjudication committee has established that the Plaintiff has the right to receive full compensation, and that there is no legal basis that gives the insurance company the right to deduct VAT from the value of the compensation because it is obligated to pay in accordance with its obligation under the insurance policy. The effect of this is to accept the Plaintiff's claim and oblige the Defendant to pay the value-added tax amount of (3,063.93) riyals.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)

Facts:

The facts of this case are summarized in the fact that..., ID No. (...), on his own behalf, submitted a statement of claim that included a claim to oblige the Defendant to pay an amount of (3,063.93) riyals, which represents the value added tax for the amount of compensation resulting from a traffic accident.

On Tuesday, 23/07/2024 AD, and by reviewing paragraph No. (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees, including the permissibility of holding the sessions of the Circuit by means of modern technology, and by calling on both parties, he attended / ... (... Nationality, National ID number (...)) In his capacity as a principal in the lawsuit. The representative of the Defendant did not attend, and at the hearing, the circuit asked the Plaintiff about his lawsuit, so he answered in accordance with what was stated in the statement of claim and adhered to what was stated in it and sealed his statements accordingly. Accordingly, the circuit decided to adjourn the session for deliberation, in preparation for issuing the decision.

Grounds:



After reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/60/1425 AH and its amendments, and after reviewing the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 25/04/2024 AD, and the due date of the amount in question is 20/02/2024 AD, and therefore the lawsuit is filed within the regular period stipulated in paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit in tax disputes shall not be heard after five years from the due date of the amount in question or from the date of knowledge of the incident in dispute, except in the case of an excuse accepted by the committee), which must be accepted procedurally.

In terms of the merits, the Circuit contemplates the case papers and the response of the two parties after giving them enough time to express and submit what they have, as the dispute lies in the Plaintiff's objection to not being compensated by the Defendant with the full estimated amount of (23,490.19) riyals to compensate for a traffic accident, where he was partially compensated with an amount of (20,426.25) riyals only and deducted an amount of (3,063.93) riyals, as evidenced by the final damage assessment report attached to No. (...) That the total cost (23,490.19) riyals, which includes an estimate of the wages of labor and spare parts with a statement that the percentage of payment by the Defendant (company ...) With a liability rate of (100%), and since the Defendant as an insurance company has deducted part of the value of the compensation represented by the value-added tax, and since the Plaintiff has the right to obtain the full value of the compensation as there is no statutory bond that grants the insurance company the right to deduct the value of the value of the compensation, and since in the event that the insurance company pays the value of the compensation for the damage to the insured, it is outside the scope of application of the tax because it is obligated to pay in accordance with its obligation under the insurance policy, and therefore the



Circuit considers accepting the Plaintiff's claim to oblige the Defendant to pay the remaining part of the value of the compensation (3,063.93) riyals.

Accordingly, the Circuit, after unanimous deliberation, decided:

Decision:

- 1- Acceptance of the claim procedurally.
- 2- On the merits: Obliging the Defendant company ..., Commercial Registration No. (...), to pay the Plaintiff ... National ID No. (...), VAT amount of (3,063.93) riyals.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appellate Adjudication Committee for Tax Violations and Disputes

First Adjudication Circuit for VAT Violations and Disputes in Jeddah Governorate

Decision No. VJ-2024-226555

Case No. V-2023-226555

Keywords

VAT - Reassessment of the Tax Return – Tax in the Judgments issued by the courts – Dismissal of the Plaintiff's Lawsuit

Summary:

The Plaintiff claim to oblige the Defendant to pay an amount of 15,000 riyals as value added tax on the amount sentenced in a judgment issued by the Commercial Court in Riyadh, and claiming that this amount is the result of a lawyer's fee contract between her and the law firm. Whereas it has been proven to the adjudication committee that the Defendant is not a party to this contract, and that the judgment issued by the court obligated the Defendant to pay 35,000 riyals as compensation for damage, and not for a service as stated in the contract, and since it is established that value added tax is imposed on services and goods, and the amount claimed to be taxed in this case is in fact compensation. The effect of this is to dismiss the Plaintiff's claim.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)

Facts:

The facts of this case are summarized in that/ Company ..., Commercial Register No. (...), submitted by ..., a Saudi national under National ID No. (...), in his capacity as an agent for the Plaintiff under Power of Attorney No. (...), and under a lawyer's license No. (...), a statement of claim that included a claim to oblige the Defendant/ company ..., Commercial Register No. (...), to pay an amount of (15,000.00) fifteen thousand riyals representing the value added tax resulting from the judgment instrument issued by the Nineteenth

Circuit of the Commercial Court in Riyadh No. (...) And the date is 01/09/1444 AH. And supported by virtue of the judgment issued by the First Circuit of the Court of Appeal in Riyadh No. (...) Dated 10/11/1444AH, which includes; "Obliging the Defendant Company ... (...) By paying the Plaintiff a company ... (...) An amount of (35,000) thirty-five thousand riyals and refused otherwise for the grounds explained, may God bless our efforts. "

On Tuesday 19/03/2024 AD, the session was opened for the First Circuit to adjudicate on VAT violations and disputes in Jeddah Governorate, which is held via videoconference in accordance with the remote visual litigation procedures. Based on what was stated in Clause (First) of Article (15) of the Rules of Work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. By calling on the parties to the case, the presence of the Plaintiff or his representative was not proven, despite being notified of the date of the session in order, and because the date of the session specified in order has lapsed, and accordingly the Circuit unanimously decided to dismiss the case, in accordance with the provisions of Paragraph (2) of Article (nineteen) of the Rules of Work of the Zakat, Tax and Customs Committees.

On 21/03/2024, the Plaintiff submitted a request to retry the case.

On Wednesday 15/05/2024 AD, the session was opened for the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate, which is held via videoconference in accordance with the remote visual litigation procedures; based on what is stated in Clause (First) of Article (15) of the Rules of Work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; to consider the lawsuit filed by the Taxpayer ...against the Defendant company ..., and by calling on the parties to the lawsuit, he attended ...(.. Nationality) under National ID No. (....) Acting on behalf of the Plaintiff under Power of Attorney No. (...) The representative of the Defendant did not attend, and by asking the Plaintiff's attorney about his lawsuit, he answered in accordance with what was stated in the regulation submitted to the General Secretariat of the Tax Committees and adhering to what was stated in it. By asking the attendant about the case what he would like to add, he decided to settle for what was previously submitted. Accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the lawsuit papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated



08/04/1445 AH, and on the unified value added tax agreement for the Gulf Cooperation Council countries, and the relevant laws and regulations.

Procedurally: Whereas the Plaintiff aims from his lawsuit to demand the Defendant to pay the value added tax resulting from the judgment instrument issued to oblige the Defendant to pay the Plaintiff an amount of (35,000) thirty-five thousand riyals, and since the date of the emergence of the right in question is 30/05/2023 AD, and the Plaintiff registered her lawsuit on 19/11/2023 AD, accordingly, the lawsuit was filed within the regular period stipulated in paragraph (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): That "the lawsuit in tax disputes shall not be heard after the lapse of five years from the date of maturity of the amount in question or from the date of knowledge of the incident in dispute, except in the case of an excuse accepted by the Committee", which requires the Circuit to accept the lawsuit procedurally.

On the merits: By contemplating the lawsuit papers and the response of the two parties after giving them enough time to express and submit what they have, it has been proven to the Circuit that the dispute lies in the Plaintiff's claim to oblige the Defendant to pay an amount of (15,000.00) fifteen thousand riyals representing the value added tax resulting from the judgment issued by the Nineteenth Circuit of the Commercial Court in Riyadh No. (...) And the date is 01/09/1444 AH. And supported by virtue of the judgment issued by the First Circuit of the Court of Appeal in Riyadh No. (...) On 10/11/1444AH, which includes; "Obliging the Defendant company (A) to pay the Plaintiff company (B) an amount of (35,000) thirty-five thousand riyals and rejecting otherwise for the grounds explained." Whereas, the Circuit was informed of the case file, and the documents submitted therein, and whereas the Plaintiff aims, from its lawsuit, to oblige the Defendant to pay an amount of (15,000.00) riyals on the basis of saying that it represents the value added tax resulting from the attorneys' fees contract concluded between the Plaintiff and the attorney's office...; and whereas the Defendant is not a party to the aforementioned fees contract; and the instrument of judgment issued by the Nineteenth Circuit of the Commercial Court in Riyadh No. (...) It has ended up obligating the Defendant with an amount of (35,000.00) riyals contrary to what is stated in the contract; which confirms with him that the amount awarded is compensation for damage and not an amount resulting from an agreed service; and since it is established that value added tax is imposed on services and goods, and the amount claimed to be taxed in this case is in fact compensation, which ends with the Circuit dismissing the Plaintiff's claim.

Based on the foregoing, the Circuit unanimously decided:

Decision:

- 1- Acceptance of the claim procedurally.
- 2- On the merits: To dismiss the Plaintiff's claim in relation to the tax claim in question.



The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes in
Riyadh

Decision No. VTR-2024-228066

Case No. V-2023-228066

Keywords

VAT-Reassessment of the Tax Return-Revocation of recruitment contract-Acceptance of Plaintiff's claim

Summary:

The Plaintiff's claim to compel the Defendant to refund SAR 1,044.09, which is the remaining amount of VAT he paid under a recruitment contract that was canceled between the parties and based on the VAT Law and its Executive Regulations, the Plaintiff is entitled to recover the tax paid upon cancellation of the contract. Whereas it has been established to the Adjudication Committee that the Plaintiff stated that he recovered part of the contract value, including part of the tax amounting to 391.41 riyals, but he still claims the remaining amount of 1,044.09 riyals. According to Article (14) of the Implementing Regulations of the Value Added Tax law, tax is imposed on goods and services, and upon termination of the contract, the Plaintiff is entitled to a tax refund. This means accepting the Plaintiff's claim and requiring the Defendant to pay the amount of SAR 1,044.09, which represents the remaining VAT that is the subject of the claim.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (14) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The facts of this case, to the extent necessary for the issuance of the decision, are that..., ... Nationality under National ID No. (...), on his own behalf, filed a lawsuit against the Defendant Office ..., Commercial Registration No. (...) His claim included obliging the Defendant to recover an amount of (1,435.5) riyals

representing the value added tax resulting from the termination of a recruitment contract concluded between the two parties.

By presenting this to the Defendant, he did not submit a Reply.

On Sunday 12/05/2024 AD, the Circuit held its remote session to consider the case in accordance with the procedures of remote visual litigation; and based on what was stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the Plaintiff attended in person ... (... Nationality) under National ID No. (...), and the representative of the Defendant did not attend. At the beginning of the session, the Plaintiff stated that he was claiming the value of the tax from the recruitment office in exchange for the termination of a recruitment contract that was a total of 11005.50 riyals, including the tax. This amount included the value of the service 9570 riyals and the amount of 1435.50 riyals, adding that part of the amount of the value of the contract had already been recovered, which included part of the tax amount within the limits of 391.41 riyals, and that he was claiming an amount of 1044.09 riyals only, and that he attached in the case file proof of this. Asked what he would like to add, he decided to settle for the above. In view of the validity of the lawsuit for adjudication, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and the executive regulations of the law

Issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case:

In terms of form, and since the Plaintiff aims from his lawsuit to claim the Defendant to recover the value-added tax as a result of the termination of a recruitment contract, based on the value-added tax law and its executive regulations, and therefore this dispute is one of the disputes within the jurisdiction of the Circuit.

In terms of the merits, the Circuit contemplated the lawsuit and what was submitted in it, and after granting the two parties sufficient deadlines to submit what they have, it was proven to the Circuit that the dispute lies in the Plaintiff's claim to the Defendant to recover an amount of (1044.09) riyals representing the value added tax as a result of the termination of a recruitment contract concluded between the two parties. And to inform the Circuit of the case file, the documents submitted therein, the unified contract for mediation

services for the recruitment of domestic workers and the like, concluded between the two parties on 01/03/2022 at a cost of (11005.5 riyals), and the paid invoice No. (...) Issued on 28/02/2022, with an amount of (9,570 riyals), value added tax of (1,435.5 riyals), and the judgment of the General Court in Riyadh No. (...) Ruling to obligate the Defendant to pay 9,270.6 riyals, which included the Plaintiff's response in that lawsuit stating his receipt of a check from the Labor Office worth 2,604 riyals from the contract value including tax, which equals without tax an amount of (2,213.4) riyals. Based on the meeting minutes of the committee stamped by the Ministry of Labor and Social Development at the Labor Office in Riyadh Region - ... Offices - for execution against the Defendant after stopping his services, canceling his license, and withdrawing from his bank guarantee, which concluded with disbursing 2,604 riyals due to creditor competition, with the Plaintiff having the right to complete his lawsuit by claiming before the competent courts. It became clear to her that the recruitment contract concluded between the parties was terminated. Since the Plaintiff stated in the session held on 12/05/2024 that he had previously recovered part of the contract value amount, which included part of the tax amounting to approximately 391.41 riyals, and that he is claiming only an amount of (1,044.09 riyals). Accordingly, and based on the text of Article (14) of the Executive Regulation of the Value Added Tax Law, issued pursuant to the decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/11/2016 corresponding to 14/12/1438 AH, which stated: "Without prejudice to Article 2 of the Law and for the purposes of applying the Convention and the Law in the Kingdom, the tax is imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the import of goods into the Kingdom." the Circuit concluded by accepting the Plaintiff's claim and requiring the Defendant to pay the Plaintiff the amount of SR 1,044.09, representing the remaining VAT at issue.

Based on the foregoing, and after deliberation, the Circuit unanimously decided:

Decision:

1- Order the Defendant, Office of ..., Commercial Registration No. (...), to pay the Plaintiff ... (... Nationality) under National ID No. (...), the amount of (1,044.09) thousand, forty-four and nine riyals, representing the remaining VAT in the case.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-194097

Case No. V-2023-194097

Keywords

VAT -Reassessment of the Tax Return -Imports subject to VAT to which the reverse calculation mechanism applies 5% - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2023-113041), where his appeal lies in subjecting the amount in dispute to the clause "Imports subject to VAT to which the reverse calculation mechanism applies (5%)" as a result of the evaluation related to the second quarter of 2019. Whereas, the Appeal Committee established that the final evaluation notice did not clarify the legal and detailed basis for calculating the tax, and only indicated that the amendment to the purchases by the reverse calculation mechanism prevents the Taxpayer from deducting the input tax, based on Article (47) of the Executive Regulations and Article (9) of the Unified Agreement. Whereas, these provisions apply only in the event that the amount is not acknowledged in the main column, while in the case of the Taxpayer, he was entitled to a deduction, making the tax due zero riyals, but the Authority included the amount in the amendment column instead of the main column, which led to depriving the Taxpayer of deducting the input tax on all purchases. This means that the Taxpayer's appeal is accepted and the Authority's decision is overturned.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (47) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Paragraph (2) of Article (64) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Article (9) of [The GCC Unified VAT Agreement](#)

- Paragraph (1) of Article (46) of [The Unified Value Added Tax Agreement for the States of the Cooperation Council for the Arab States of the Gulf](#)

Facts:



The appeal filed on 01/05/2023, from ..., National ID No. (...) Was considered In his capacity as the statutory representative of the Diriyah Gate Development Authority under the mandate No. (...), on the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2023-113041), in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- Rejection of the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit a statement of appeal that included its objection to the decision of the Division to reject its claim regarding the subjection of an amount of (742,938.68) riyals to the clause "Imports subject to value added tax to which the reverse calculation mechanism applies (5%)" as a result of the evaluation related to the "second quarter of 2019", because one of its actions was to organize historical events for the purpose of attracting tourists and investors to the region and renting shops and hotels in order to achieve sustainability and independence by diversifying its sources of income by carrying out economic activities with the aim of working on the autonomous operation of government agencies, and because the withholding tax is a different law from the value added tax because the rules of disclosure and calculation differ in each of them, and the evaluation notice did not clarify the basis of calculation, as it indicated that "the reason for amending purchases with the reverse calculation mechanism is not entitled to deduct its input tax based on Article 47 of the Regulation and Article 9 of the Agreement", and since the two texts referred to indicate that the person is obligated to disclose the services in the amount under clause (9) in the tax return form, and to accept the appeal and cancel the decision of the Adjudication Circuit.

On Tuesday 24/08/1445 AH corresponding to 05/03/2024 AD, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at its discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing.", and by appeal to the parties, the Appellant's representative/ ... By virtue of ID No. (...) By virtue of authorization No. (...) On 09/7/1444, the representative of the appellee/ ... (... Nationality) under National Identity No. (...), under Authorization Letter No. /... /... /... Dated

19/03/1445AH and issued by the Deputy Governor for Legal Affairs. Asked by the representative of the appellant about her appeal, he replied: That he requests to stop the progress of the lawsuit for submitting a settlement request to the Appellee.

By presenting this to the representative of the appellee, he replied that a written approval had been attached to the case file to start the settlement procedures. By asking both parties what they would like to add, they replied with sufficiency. Accordingly, the Circuit unanimously decided: Suspension of the progress of the lawsuit for a period of 180 days in accordance with the controls mentioned in Article (43) of the rules of work of the Zakat, Tax and Customs Committees.

On Monday 27/10/1445 AH corresponding to 06/05/2024 AD, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, and by appeal to the parties, the representative of the appellant/ ... By virtue of ID No. (...) Also attended/ ... (... Nationality) under National ID No. (...), under the authorization letter No .../.../.../11093 dated 19/03/1445 AH issued by the Deputy Governor for Legal Affairs and Compliance. By asking the representative of the appellant about the lawsuit, he replied that he does not depart from the aforementioned, and that he is satisfied with the appeal regulations and the memoranda submitted on the portal of the General Secretariat of the Zakat, Tax and Customs Committees, and he adheres to the grounds and defenses contained therein. By presenting this to the representative of the appellee, she replied: This does not derogate from what was previously mentioned in the response memorandum and the memorandums submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein, and it also requested an additional period to submit an annexed memorandum. Accordingly, the Circuit decided to give the Appellant until 09/05/2024 to submit the final memorandum, and also decided to give the Appellee 14/05/2024 a deadline to submit the final memorandum, provided that the pleading is closed after that.

On Wednesday, 07/11/1445 AH corresponding to 15/05/2024 AD, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference. The case file was reviewed, and the representative of the appellee attached an additional deadline to submit the final memorandum. The Circuit decided to open the pleading and accept the request for a grace period, provided that the deadline for submitting the final memorandum is one week from its date.

On Monday, 18/12/1445 AH corresponding to 24/06/2024 AD, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference. The case file, memoranda and related documents were reviewed, and the decision of the adjudication Circuit subject of the appeal was reviewed.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

In terms of the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Appellant's Division rejected the Appellant's case regarding the subjection of an amount of (742,938.68) to the clause "Imports subject to VAT to which the reverse calculation mechanism applies (5%)" as a result of the evaluation related to "Q2 2019", Whereas, the appellant objects to the decision of the Adjudication Circuit because one of its tasks is to organize historical events for the purpose of attracting tourists and investors to the region and renting shops and hotels with the aim of achieving sustainability and independence by diversifying its sources of income by carrying out economic activities with the aim of working on the self-employment of government agencies, and because the withholding tax is a different law from the value-added tax because the rules of disclosure and calculation differ in both of them, and the evaluation notice did not clarify the basis of calculation, as it indicated that the reason "the amendment to purchases by the reverse calculation mechanism does not entitle the Taxpayer to deduct its input tax based on Article 47 of the Regulations and Article 9 of the Agreement", and since the two texts referred to make it clear that the Taxpayer is obligated to disclose Services in the amount under clause No. (9) in the tax return form, and where it was proven to the Appellate Circuit that the final evaluation notice did not clarify the reason for the decision in question and the basis on which the purchases were calculated "calculating the evaluation", the notice only stated that the reason "amending purchases made by the reverse calculation mechanism does not entitle the Taxpayer to deduct its input tax based on Article (47) of the Regulations and Article 9 of the Agreement", which are the texts on which it is acceptable to rely in the event that Acknowledgement of any amount if it was added in the main column according to the appellant's case as it proved her right to deduct with regard to the amount in dispute, which will result in a tax due of zero riyals, but the amount was added in the amendment column, which resulted in depriving the appellant of deducting the tax on all purchases despite the appellant's approval of the appellant's possession of the right to deduct, which is not clear with the basis for calculating the valuation, which violates the text of paragraph (2) Article (64) of the executive regulations of the VAT law, and the "reverse assignment" means that the appellant is treated as a buyer and supplier At the same time, and to prove that the purchases are related to the economic activity of the appellant; therefore, the declaration must be made in the first column "the original amount" next to the clause, and the model available on the law will assume the existence of revenues and expenses corresponding to it "with the same"



value and therefore the result is a tax due by zero riyals according to the appellant's case, but the appellant amended the column "amendment", which resulted in not allowing the appellant to deduct any purchases from it, and therefore resulted in a tax due on it as a result of the evaluation decision to not allow it to deduct any purchases related to it, although it was not proven that these purchases were "not related" to its economic activity, as the text of paragraph (1) of Article (46) of the Unified Value Added Tax Agreement of the Cooperation Council for the Arab States of the Gulf was not cited to do so, which led the Appellate Circuit to accept the appeal submitted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... Procedurally, to be submitted within the period specified by law.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ... , by adding an amount of (742,938.68) riyals related to the clause of imports subject to VAT to which the reverse calculation mechanism applies (5%), and canceling the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2023-113041) and canceling the decision of the Appellee.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2023-136547

Case No. V-2022-136547

Keywords

VAT -Reassessment of the Tax Return - Taxable imports for the basic rate - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority objected to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-875), where its appeal lies on the clause (imports subject to VAT for the basic rate) due to the incomplete conditions of the tax invoice. Whereas, the Appeal Committee has established that the Authority based its decision on Article (48) of the Agreement and Articles (49) and (53) of the Regulations, which stipulate that the input tax may not be deducted on goods that are prohibited from circulation. It also relied in its decision on amending the executive regulation of the Anti-Smoking Law, which specified the date of preventing the circulation of the goods in dispute from the date of publication of the amendment in the Official Gazette. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (49,53) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Paragraph (2) of Article (45) of [The Unified Value Added Tax Agreement for the States of the Cooperation Council for the Arab States of the Gulf](#)
- Paragraph (2) of Article (48) of [The Unified Value Added Tax Agreement for the States of the Cooperation Council for the Arab States of the Gulf](#)



Facts:



The appeal was considered on 20/12/2022, from the Taxpayer ..., National ID (...) As the owner of the institution. , Commercial Register No. (...) The decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-875) in the lawsuit filed by the Taxpayer ...against the Zakat, Tax and Customs Authority.

The appeal filed on 17/07/2022 by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-875) was also considered in the lawsuit filed by... Against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: Proof of the end of the litigation in relation to the two fines in question.

Second: Accepting the Plaintiff's claim regarding his request to exclude what the Authority added to his sales in the tax return in the amount of 1,000,000 riyals only .

Third: Accepting the Plaintiff's claim regarding his request to deduct his input tax from the entire clause of imports.

Fourth: Reply other requests.

As this decision was not accepted by the parties, the appellant (...) To the Appellate Circuit with an statement of appeal that included his objection to the decision of the Adjudication Circuit to amend the decision of the Zakat, Tax and Customs Authority regarding the clause of taxable sales in the basic ratio and subjecting the amount of (1,309,523.81) riyals to a tax of (65,476.19) riyals, that the balance of review submitted shows a debit balance of (426,040) riyals in the customer account No. (1102). There is also an amount of (375,000) riyals credit movement and the balance of the end of the period (51,040) riyals and was approved by the customer as attached. It demands the adoption of an amount of (375,000) riyals as payment of previous dues and the cancellation of the final evaluation notice, and ended with the request to accept the appeal and cancel the decision of the Adjudication Circuit.

The Appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the Adjudication Circuit with regard to the taxable sales clause in the basic ratio, and demanding the cancellation of the Circuit's decision to amend the Authority's decision as a result of amending the taxable sales clause in the basic ratio, because the reasoning of the Adjudication Circuit as soon as the hawala is described as financing the account is insufficient to take it out of the Supply Circuit, and that by analyzing the bank deposits, it was found that there are advance payments that have not been declared in accordance with Article (23) of the unified agreement and are subject to tax in accordance with Article (14) of the Regulations. With regard to the clause of imports subject

to VAT for the basic rate, which is paid at customs and demands the cancellation of the Authority's decision for the clause of imports subject to VAT and paid at customs for the tax period in the first quarter of 2020, in order to exclude imports based on the incompleteness of the terms of the tax invoice based on Article (48) of the Convention and Article (49) and (53) of the Executive Regulations, pointing out that the findings of the Adjudication Circuit are incorrect.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

With regard to the Taxpayer's appeal, since the period of appeal against the decisions issued by the Tax Violations and Disputes Adjudication Circuits in accordance with the text of Article (34) of the Zakat, Tax and Customs Committees' work rules is (thirty) days from the day following the date specified for receiving the decision, and since it is established from the lawsuit papers that the date specified for receiving the decision is 08/06/2022, while the appellant did not submit his appeal until 20/12/2022, that is, after the expiry of the period specified by law for submitting it, which means that the appeal must not be accepted procedurally.

As for the appeal of the Zakat, Tax, and Customs Authority, and since by reviewing the documents of the lawsuit and the statement of appeal submitted, the circuit finds that the conditions for hearing the appeal have been fulfilled procedurally in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which makes the appeal acceptable procedurally for submission by a person of similar capacity, and within the statutory period prescribed for its conduct.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided to amend the decision of the Zakat, Tax and Customs Authority regarding the final evaluation notice for the tax period (Q1 2020) and the fines resulting therefrom, and with regard to the appeal submitted by the (Zakat, Tax and Customs Authority), and since it objects to the decision of the Adjudication Circuit regarding the clause of sales subject to tax in the basic ratio. This is because the reasoning of the Adjudication Circuit once the remittance is described as funding

for the account is insufficient to remove it from the Supply Circuit, and that by analyzing the bank deposits, it shows that there are advance payments that have not been acknowledged. Whereas the Appellee (...) He indicated in his memorandum that the trial balance presented shows a debit balance of (426,040) riyals in the account of customers No. (1102). There is also an amount of (375,000) riyals in credit movement and the balance of the end of the period (51,040) riyals and was approved by the customer as attached. It demands the adoption of an amount of (375,000) riyals as payment of previous dues and the cancellation of the final evaluation notice.

Whereas, the Appellant (Zakat, Tax and Customs Authority) pays the validity of its procedures, as it relied on the Appellee's disclosure (...) During the examination phase, it is clear from the analytical statement submitted that the details of the bank deposits with a total amount of (1,375,000) riyals are inclusive of the tax and that the amount of (35,000) riyals and part of the amount of (500,000) riyals is a payment from the customer for the rest of the invoice No. (1005) with a previous amount of (391,039.96) riyals and that the remaining amounts with a total value of (948,960.04) riyals are advance payments inclusive of the tax. By reviewing the attestation dated (15/01/2020) submitted by the Appellee (...) It was found that the establishment of...in the Commercial Register No. (...) Represented by the Invitee ... The status of the record is canceled after referring to the website of the Ministry of Commerce. Whereas the decision of the Adjudication Circuit indicated that the amount of (1,000,000) riyals received from his father under the description of the account feed in the statement of account and its inclusion in the trial balance within the account of various creditors that is not related to the supply of goods or services and its removal from the Tax Entitlement Circuit, despite the Appellant's failure to submit documents to the Adjudication Circuit, and where the Appellee did not deny the analytical statement and e-mail sent from him, especially with his acknowledgment of the submission of the analysis of bank deposits in his statement of claim to the Adjudication Circuit, and where the advance payments are subject to tax in accordance with the provisions of Article (23) of the unified agreement, the Appellate Circuit shall end up accepting the appeal submitted by the Zakat, Tax and Customs Authority.

Regarding the objection of the appellant (Zakat, Tax and Customs Authority) to imports subject to VAT in the basic ratio, due to the incomplete conditions of the tax invoice based on Article (48) of the Convention and Article (49) and (53) of the Executive Regulations. Looking at the attachments to the lawsuit, it is clear that the Circuit indicated in its decision that the Appellant's decision is not based on a regular basis and the right of the Appellee to deduct imports based on the customs declaration on (27/01/2020) after the entry into force of the decision to ban the packages from (15/11/2020), that is, after the entry of the goods and their release from customs. By reviewing the documents submitted, it was found that the customs declaration No. (15641) dated (27/01/2020) and that the amendment of the executive regulations of the anti-smoking law announced in the Umm Al-Qura newspaper on (29/05/1441 AH) corresponding to (24/01/2020AD) and in accordance with Article (M8/8-1) prevents the sale of the goods in dispute from

the date of publication in the Official Gazette in accordance with Article (20-1). Whereas the Adjudication Circuit based its decision on the appellant's procedures submitted in accordance with the amendment of the executive regulations of the anti-smoking law as in paragraph (4) and the prohibition of trading on (15/11/2020), while the executive regulations of the anti-smoking law prevented the circulation of the disputed goods from the date of publication, although the basis for calculating the valuation was based on the incompleteness of the conditions of the tax invoice based on Article (48) of the Convention and Article (49) and (53) of the executive regulations, while the deduction of the input tax for imports in accordance with paragraph (2) of Article (48) of the Convention and paragraph (2) of Article (45) of the Convention, which included the inadmissibility of deducting the input tax related to prohibited goods, with which the Appellate Circuit ends up accepting the appeal submitted in the aforementioned clause.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

First: Regarding the Taxpayer's appeal..., a national identity (...) Unique number (...).

1- Not accepting the appeal procedurally.

Second: regarding the Zakat, Tax and Customs Authority appeal:

1- Accepting the appeal procedurally.

2- Accepting the Authority's appeal, rejecting the Taxpayer's appeal related to the clause of taxable sales in the basic ratio, canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-875), and supporting the Authority's decision.

3- Accepting the appeal related to the clause of imports subject to value added tax and paid at customs and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-875) and supporting the decision of the Authority.



Exports



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2023-154609

Case No. V-2022-154609

Keywords

VAT-Reassessment of the Tax Return-Exports-Taxable exports at basic rate-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Third Circuit for the adjudication of VAT violations and disputes in Riyadh (VTR-2022-1182), where his appeal is based on the imposition of the basic rate of VAT on the service provided because the basis of the reinsurance brokerage service is not closely related to the property insured by the insurance company, and the brokerage service here does not affect the area of the property insured by the insurance company and is not related to a specific area of it. The Appellate Committee found that according to paragraph (1) of Article (33) of the Executive Regulations of the VAT Law, the supply of services by a taxable person to a non-resident customer is subject to the zero rate, except for the cases stipulated in paragraph (2) of the same article. Since the exception in paragraph (2) does not apply to this service, the supply is considered zero-rated. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1,2) of Article (33) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Resolution No. \(3839\) dated 14/12/1438AH.](#)

Facts:

The appeal was considered on 13/10/2022 from the Taxpayer ...— Resident ID No. (...) In his capacity as the legal representative of the appellant company under the memorandum of association, based on the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No.(VTR-2022-1182) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- Rejection of the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to reject its case regarding the final revaluation of the period related to September 2019, and the fines resulting from it, because the basis of the reinsurance mediation service is not closely related to the property insured by the insurance company, and the mediation service here does not affect the area of the property insured by the insurance company and is not related to a specific area of it, and it ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appeals Circuit found that the decision issued by the Adjudication Circuit rejected the appellant's case regarding the final revaluation of the period related to September 2019, and the fines resulting from it, and since the appellant objects to the decision of the Adjudication Circuit because the basis of the reinsurance mediation service is not closely related to the property insured by the insurance company, and the mediation service here does not affect the area of the property insured by the insurance company and is not related to a specific area of it, and since it is established in accordance with paragraph (1) of Article (33) of the Executive Regulations of the Value Added Tax Law, which reads: "Except as provided in the second paragraph of this Article, a supply

of services made by a taxable person to a non-resident customer in any Member State shall be deemed to be subject to the zero rate." Since none of the cases listed in paragraph (2) of Article (33) of the same regulation apply, the supply is zero-rated, which leads the Appellate Circuit to accept the appeal.

With regard to the objection to the two fines of error in the declaration and delay in payment, and since the appellant is demanding the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from it, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal submitted.

For these grounds and after deliberation, the Circuit decided by majority:

Decision:

- 1- Accepting the appeal filed by ... - Commercial Registration No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal filed by ... - Commercial Register No. (...), in relation to taxable exports for the basic rate, and canceling the decision of the Third Circuit for adjudicating VAT violations and disputes in Riyadh (VTR-2022-1182) and canceling the decision of the Appellee.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the penalty for error in a tax return, and canceling the decision of the Third Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VTR-2022-1182) and canceling the decision of the appellant against her.
- 4- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the late payment penalty, and canceling the decision of the Third Circuit for adjudicating VAT violations and disputes in Riyadh (VTR-2022-1182) and canceling the decision of the appellant against her.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2023-141098

Case No. V-2022-141098

Keywords

VAT-Reassessment of the Tax Return-Exports-Domestic exports subject to zero percent tax-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam (VD-2022-1346), where his appeal is based on the final reassessment of the tax period and the resulting fines, because he submitted all contracts and invoices to the Authority and attached a list of all export customers, and explained that the failure to submit documents was due to circumstances of data confidentiality with the customers. The Appellate Committee found that the supply of services by a taxable supplier resident in a GCC member state to a non-resident customer who utilizes this service outside the GCC territory is subject to a zero percent tax in accordance with Article 34 of the GCC Unified VAT Agreement. The documents provided, including a list of customers, show that the Taxpayer provided export services during the year with the invoice number, date of service, value of exports, type of service, and country of the customer, resulting in zero percent taxable exports. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (32,33) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Article (34) of [The GCC Unified VAT Agreement](#)



Facts:



The appeal was considered on 16/08/2022, from the Taxpayer ...— National ID No. (...) In his capacity as an agent of the appellant company under the power of attorney No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-1346) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- The dismissal of the Plaintiff's claim.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the Adjudication Circuit's decision to dismiss its case regarding the final re-evaluation of the tax period related to the fourth quarter of 2018 and the resulting fines, in order to submit all contracts and invoices previously to the Appellee. The statement of all export customers was attached. It was clarified that the failure to submit the documents was due to the conditions of confidentiality of the data with the customers. During the discussion with the Settlement Committee, it was approved to provide it with the documents. Samples previously requested by the Appellee were submitted. A letter of approval was received to present the decision of the Zakat and Tax Disputes Settlement Committee and it was approved. However, an email was received stating that the settlement request was rejected without mentioning the grounds for the refusal, and that the nature of its activity was the export of services. Therefore, there is no export statement of that proof as the proof that it can provide is the contracts with customers (non-residents) as well as the invoices issued to them, and ended with the request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in

the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Appellant's Appellant Circuit to dismiss the Appellant's case on the final revaluation of the tax period related to the fourth quarter of 2018 and the fines resulting therefrom, and since the Appellant objects to the decision of the Appellant's Circuit to submit all contracts and invoices previously to the Appellee, and the statement of all export customers is attached. It was clarified that the failure to submit the documents was due to the confidentiality of the data with the customers. During the discussion with the Settlement Committee, it was agreed to provide them with the documents. Samples were previously requested by the Appellee. A letter of approval was received to present the decision of the Zakat and Tax Disputes Settlement Committee and it was approved. However, an email was received stating that the settlement request was rejected without mentioning the grounds for the rejection, and that the nature of its activity is the export of services. Therefore, there is no export statement for that proof, as the proof it can provide is the contracts with customers (non-residents) as well as the invoices issued to them, and since it is established in accordance with Article (34) of the Unified Agreement of the Tax law The added value of the GCC countries, entitled (Supply outside the GCC region), that the supply of services by a taxable supplier residing in a member state to a non-resident customer who benefits from this service outside the GCC region is subject to tax at a rate of zero percent, except in the cases stipulated in Articles (17 to 21), none of which has been proven to be applicable to the appellant, and where it has been proven to the Circuit through a document (statement of customers) that shows the appellant's exports for the full The year, which shows the invoice number, the date of service, the value of exports, the final beneficiary, the type of service and the country of the customer, in addition to the appellant's submission of a sample of invoices, through which it is proven that the appellant provides a research service to customers outside the Kingdom of Saudi Arabia, which states that the final consumer is not inside the Kingdom in accordance with the provisions of Article (32) of the Executive Regulations of the Value Added Tax Law, and where, in accordance with the conditions contained in Article (33) of the Executive Regulations of the Value Added Tax Law, the appellant provides services to a customer outside the Kingdom and the service is not on tangible goods or real estate, and the consumer of the service is a customer outside the Kingdom; As a result, they are subject to zero percent tax on exports, which leads the Appellate Circuit to accept the appeal filed.

With regard to the objection to the two fines of error in the declaration and delay in payment, and since the appellant is demanding the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clause has led to the acceptance of the appeal, and since the



finances resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal filed in the fines in question.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the appeal of - Commercial Registration No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the appeal filed by ... - Commercial Register No. (...), related to the clause of domestic exports subject to zero percent tax, and canceling the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Dammam City No. (VD-2022-1346) and canceling the decision of the Appellee.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), related to the penalty for error in a tax return, canceling the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam City No. (VD-2022-1346) and canceling the decision of the appellant against her.
- 4- Accepting the appeal filed by ... - Commercial Register No. (...), related to the late payment penalty, canceling the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam City No. (VD-2022-1346) and canceling the decision of the appellant against her.



Sales



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-191093

Case No. V-2023-191093

Keywords

VAT-Reassessment of the Tax Return-Sales Tax-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh (VSR-2022-2630), where his appeal is based On the meritsion of the disputed amount to the (sales) clause, because the Circuit of Adjudication was confused between the verification of the definition of supply for the disputed partial damage claims compensation transaction by verifying the existence of a supply of goods or services and verifying the requirements for the Taxpayer's deduction of input tax for the costs of repairing the partial damage. The Appellate Committee found that the amount does not represent a presumed supply that was subjected to the related inputs deduction because the presumed supply relates to the supply of goods or services, which does not correspond to the disputed case, as the disputed amount represents compensation resulting from damage agreed to be insured under the Taxpayer's client's insurance policy. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (2) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (1) of [The GCC Unified VAT Agreement](#)

Facts:

The appeal submitted on 28/03/2023 was considered by the Taxpayer ... – National ID No. (...), in his capacity as the representative of the appellant under the power of attorney No. (...), on the decision of the

Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2022-2630) in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: The Plaintiff objected on the merits to the final evaluation of the tax period in question and the resulting fine for error in the declaration.
- Third: Proof of the end of the litigation regarding the late payment fine in question.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the adjudication Circuit to reject its objection to subjecting the disputed amount to the "sales" clause as a result of the evaluation related to "March 2020" and the resulting fines, because the adjudication Circuit confused the matter between achieving the definition of supply on the treatment of compensation for the disputed partial damage claims by verifying the existence of a supply of goods or services and verifying the requirements of the appellant's deduction of input tax for the costs of repairing partial damage. Whereas, the compensation is not a supply for services, but a right of recourse against the third party to fulfill the compensation paid by the appellant to others, whether this compensation is a cash payment made in favor of the insured or an obligation to repair the damaged parts in the vehicle as a result of the accident, and that these compensation are limited only to the repair costs incurred without VAT, as for the costs deducted as inputs directly related to the sold insurance policies, whose sales are subject to tax in the basic proportion, which is the main activity of the appellant, and in return, it deducts the purchases related to them and deducts the repair expenses because they relate to documents The taxable insurance for the entire basic ratio, regardless of whether there is a part of the expenses that will be refunded by a third party in accordance with the regulations and instructions issued by the Central Bank, as its sales are limited to the insurance policy and it does not perform any services for any party because there is no contract between it and them and therefore the consideration represents compensation and not revenue for a supply. Therefore, due to the absence of the supply element, the tax is not imposed, and it ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

On Tuesday 25/07/1445 AH corresponding to 06/02/2024, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held

remotely, shall be deemed to be held in presence, and all its effects shall be considered, and the Circuit shall record this in the minutes of the hearing", and by appeal to the parties, the appellant's attorney/... (... Nationality) under National ID No. (...) And the agency number (...), also attended/ ... (... Nationality) under National Identity No. (...), under Authorization Letter No /... /... /... On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs, and upon asking the Appellant's Deputy about her appeal, he replied: He is satisfied with the statement of appeal and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein, and by presenting this to the representative of the Appellee, he replied: in a manner that does not deviate from what was previously mentioned in the response memorandum, and is satisfied with the memoranda submitted on the portal of the General Secretariat of the Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein. When both parties were asked what they wished to add, they responded by being satisfied with what was previously submitted. Accordingly, the pleading was closed and the case was referred for study, deliberation, and decision issuance.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and exhibits contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit rejected the appellant's objection to subjecting the amount in dispute to the "sales" clause as a result of the evaluation related to "March 2020" and the fines resulting therefrom, and since the appellant objects On the decision of the Adjudication Circuit, because the Adjudication Circuit confused the matter between achieving the definition of supply on the treatment of compensation for partial damage claims in dispute, by verifying the existence of a supply of goods or services, and verifying the requirements of the appellant's deduction of the input tax for the costs of repairing partial damage, as the compensation is not a supply for services, but a right of recourse against the third party to fulfill the compensation paid by the appellant to others, whether this compensation is a cash payment made in favor of the insured or an obligation to repair the damaged parts in the vehicle as a result of the accident, and that these compensation are limited only to the repair costs incurred without VAT, and the costs deducted as inputs are directly related to the insurance policies sold, which Its sales are subject to tax in the basic ratio, which is the main activity of the appellant. In return, it deducts the purchases related to it and deducts the repair expenses because they relate to the insurance policies subject to tax in the basic ratio in full, regardless of whether there is a part of the expenses that will be refunded by a third party in



accordance with the regulations and instructions issued by the Central Bank. Its sales are limited to the insurance policy and do not perform any services for any party because there is no contract between it and them. Therefore, the consideration represents compensation and not revenue for a supply. Therefore, due to the absence of the supply element, the tax is not imposed. Whereas it has been proven to the Circuit that the main activity of the appellant is the supply of the insurance policy, the value of which is subject to tax in the basic ratio and is not subject to dispute, and that the subject of the dispute is the amount of "compensation" in the event of partial damage resulting from the realization of the insured risk, which is the "accident" and which is paid by the appellant to its client, and then recovered from the insurance company to the opposing party in the event that the error is on the opposing party according to the percentage of error, and since the compensation is actually paid by a third party to the appellant's client and that the appellant's role is limited to paying the amount to her client Whereas "compensation" does not constitute a form of supply of goods or services according to the definition of "supply" contained in the text of Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and whereas it is not a consideration obtained as a result of goods or services according to the definition of consideration contained in the text of Article (1) of the aforementioned agreement, and whereas the tax is imposed on the import and supply of goods and services according to the text of Paragraph (1) of Article (2) of the Value Added Tax Law, which is not consistent with the imposition of Tax on an amount resulting from "compensation" payable to the insured and did not result in the supply of goods or services, but rather an amount resulting from the obligation contained in the insurance policy with regard to bearing the total value of the damage estimated through "Estimation Company" based on the percentage of fault tolerance according to the report of "Najm" or "Traffic", which is the damage incurred as a result of the realization of the risk insured against by the opponent, which includes compensation for "all costs" that will be incurred by the injured as a result of the occurrence of the insured risk "accident", which consists of "the original value of the repair" as well as "the original value of the parts" in addition to The "Value Added Tax" imposed, which is part of the value of the damage that will be borne by the insured resulting from the occurrence of the damage, and thus the final bearer of the value added tax instead of the insured is the appellant, according to the bearing rate or the insurance company for the deductible in the event that the error rate is on him, on behalf of the policyholder based on the insurance policy, which results in the insurance company bearing the wrong party for the "total" value of the damage caused to the insured due to the accident, provided that the amount of compensation is recovered from the third party if he is responsible For "compensation" according to the error rate, and when the customer "the insured" receives the total amount of compensation and sells the car instead of repairing it and retains the value of compensation or repairing it and benefit from it or repairing and selling it, in the event that the insured "the appellant's customer" incurs purchases such as the value of spare parts or the cost of repair, the appellant is not entitled to deduct them as inputs, as they are purchases that do not relate to it, but to the customer and the actual bearer of compensation is the insurance company deducted in the case of insurance against third parties based on



the insurance policy against third parties to the other party, which is not entitled to deduct a tax for a party. It bears it, and since the amount does not represent an assumed supply that was subjected because of the deduction of the inputs related to it, because the supposed supply relates to the supply of goods or services, which does not correspond to the disputed situation, because the disputed amount represents compensation resulting from the occurrence of damage agreed to be insured under the insurance policy to deduct the appellant's customer in the event that the amount represents a refund from another insurance company and not in return for the supply of a good or service that was not sold and was subject to it on the basis of deducting the purchases related to it, which is contrary to the decision of the Adjudication Circuit, with which the Appellate Circuit ends to accept the appeal submitted.

With regard to the fine for error in the declaration, and since the appellant is demanding the cancellation of that fine that resulted from the notice of final evaluation of the tax period in question, and since the clause of domestic sales subject to tax in the basic ratio above has led to the acceptance of the appeal, and since the fine resulted from it, what is related to it takes its judgment, which ends with the Appellate Circuit accepting the appeal filed.

With regard to the late payment fine, and since the appellant is demanding the cancellation of that fine that resulted from the notification of the final evaluation of the tax period in question, and where it was proven that the Appellee retracted what the Adjudication Circuit stated regarding the cancellation of the late payment fine, and since the clause of domestic sales subject to tax in the basic ratio above has led to the acceptance of the appeal, and since the fine resulted from this, what is related to it takes its judgment, which ends with the Appellate Circuit accepting the appeal submitted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the company's appeal. - Commercial Registration No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the company's appeal. - Commercial Register No. (...), regarding the subjection of the disputed amount to the "sales" clause, canceling the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh City (VSR-2022-2630) and canceling the decision of the appellant against her.
- 3- Accepting the company's appeal. - Commercial Register No. (...), related to the penalty for error in a tax return, canceling the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh City (VSR-2022-2630) and canceling the decision of the appellant against her.



4- Accepting the company's appeal. - Commercial Register No. (...), related to the late payment penalty, canceling the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City (VSR-2022-2630) and canceling the decision of the appellant against her.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-194275

Case No. V-2023-194275

Keywords

VAT-Reassessment of the Tax Return-Sales-Zero taxable sales-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979), where his appeal is that the decision canceled the decision of the Zakat, Tax and Customs Authority for part of the customer contracts and did not cancel the decision for all customers regarding the final assessment for the fourth quarter of 2018, and the resulting fines. Whereas, it was proven to the Appellate Committee through reviewing a sample of the submitted contract documents and written certificates according to the submitted zero-rated sales statement that the contracts were concluded before (30/05/2017) and included their tax numbers, which proves sufficient to consider all of them as zero-rated taxable contracts based on paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax law. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (79) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Facts:

The appeal filed on 03/05/2023, from (...), National ID No. (...) As the owner of ... Under the Commercial Register No. (...), the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95979) in the lawsuit filed by the Taxpayer ...against the Zakat, Tax and Customs Authority.

As well as the appeal submitted on 03/05/2023 by the Zakat, Tax and Customs Authority, against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95979) in the lawsuit filed by ...against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: On the Merits: Cancel Defendant's decision for contracts concluded with (Company .../ Establishment ...) Which was subject to VAT in the basic rate, and the amendment of the amount of the late payment fine and the fine of error in the declaration resulting therefrom.

As this decision was not accepted by the parties, the appellant (...) To the Appellate Circuit with an statement of appeal that included his objection to the decision of the Zakat, Tax and Customs Authority to cancel the decision of the Zakat, Tax and Customs Authority for part of the customers. The decision was not canceled for all customers regarding the final evaluation for the fourth quarter of 2018 and the resulting fines, because all contracts are similar and represent a unified model, in addition to fulfilling the conditions prescribed in paragraph (3) of Article (79) of the executive regulations of the VAT law, as all contracts were concluded before 30/05/2017, and written certificates were submitted by customers that the input tax could be deducted from the supply, in addition to that he did not take a tax from these customers, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

The appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the Adjudication Circuit to cancel its decision regarding the contracts concluded with (the company ... / institution ...) And the resulting penalties, because a written certificate from the supplier must be provided that the input tax can be deducted in full in the same tax period, and that in relation to the contract of a company ... The Taxpayer did not submit the full contract, which prevents us from knowing whether the value-added tax was expected in the contract and the agreed periods and periods to verify the applicability of all requirements so that it can be treated as a zero-taxable supply. As for the contract of the Foundation ... The Taxpayer did not submit any contract until it was possible to ascertain the applicability of the requirements of paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax Law and was satisfied with a brief purchase order in a non-Arabic language. In addition, it was dated at a date later than the tax period in question that cannot be treated on

the basis that it is a zero-taxable supply, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided to cancel the decision of the Zakat, Tax and Customs Authority for part of the customers and the decision was not canceled for all customers regarding the final evaluation for the fourth quarter of 2018, and the resulting fines, and since the appellant (...) He objects to the decision of the Adjudication Circuit because all contracts are similar and represent a unified model, in addition to fulfilling the conditions stipulated in paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax Law, as all contracts were concluded before 30/05/2017, and written certificates were submitted by customers that the input tax could be deducted from the supply, in addition to that he did not take a tax from these customers, and where it was proven to the Appeals Circuit by reviewing a sample of the submitted contract documents and written certificates according to the zero sales statement submitted for 2018, which are the following: (Company... (666,500) SAR, a company ... Worth (138,600) riyals) that the contracts were concluded before the date of (30/05/2017) and include their tax

numbers, which proves their sufficiency to be considered contracts subject to zero percent tax based on paragraph (3) of Article (79) of the Executive Regulation of the Value Added Tax Law. The basis for the appellee's exclusion, according to their written response memorandum submitted before the Adjudication Circuit, is the written certificate and that some clients are individuals not registered in the tax system, indicating that it lacks two of the requirements without specifying the contracts. Consequently, the Appellate Circuit concludes by accepting the appeal to subject the remaining contracts to zero percent tax in the amount of (814,600) riyals.

With regard to the two fines of error in the declaration and late payment, and the appellant's claim (...) By canceling those fines that resulted from the final assessment notice for the tax period in question, and where the above result has led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal in the fines in question.

With regard to the appeal submitted by the (Zakat, Tax and Customs Authority) and since it objects to the decision of the Adjudication Circuit to cancel its decision regarding the contracts concluded with (the company ... / institution ...) The resulting fines, because a written certificate from the supplier must be provided that the input tax can be deducted in full in the same tax period, and that with regard to the contract of the company...the Taxpayer did not submit the full contract, which prevents knowing whether the value-added tax was expected in the contract and the agreed periods and periods to verify the applicability of all requirements so that it can be treated as a zero-taxable supply, as for the contract of the institution ... The Taxpayer did not submit any contract until it was possible to ascertain the applicability of the requirements of paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax Law and was satisfied with a brief purchase order in a non-Arabic language. In addition, it was dated at a date later than the tax period in question against which it could not be treated on the basis that it is a zero-rate taxable supply. Since it was established that the decision in question regarding the dispute in question was in accordance with the provisions of the Law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, the issuing Circuit examined the place of the dispute and concluded with regard to it the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which ended up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds. For these grounds and after due deliberation, the Circuit unanimously decided as follows:



Decision:

First: Regarding the Taxpayer's appeal..., Resident ID No. (...):

- 1- Accepting the appeal procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal related to the clause of local sales subject to tax at the basic rate, amending the decision of the first Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979) and canceling the decision of the Zakat, Tax and Customs Authority.
- 3- Accepting the appeal related to the penalty for error in a tax return, amending the decision of the first Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979), and canceling the decision of the Zakat, Tax and Customs Authority.
- 4- Accepting the appeal related to the late payment penalty, amending the decision of the first Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979) and canceling the decision of the Zakat, Tax and Customs Authority.

Second: regarding the Zakat, Tax and Customs Authority appeal:

- 1- Accepting the appeal procedurally for submitting it within the legally prescribed period.
- 2- Rejecting the appeal on the merits.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-192792

Case No. V-2023-192792

Keywords

VAT-Reassessment of the Tax Return-Sales-Sales subject to the 5% rate-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam (VD-2022-61746), where his appeal is based on the clause (sales subject to 5%) because the Authority did not approve the Taxpayer's amendment of his tax return with sales returns related to the tax period due to his failure to submit credit notes as stipulated in paragraph (3) of Article (54) of the Executive Regulations of the VAT Law. The Appellate Committee found that the Taxpayer submitted the documents supporting the validity of his action, namely (the accounting entry proving the cancellation of the invoice, the canceled invoice, and the credit note for the invoice) this proves that the Taxpayer complied with the provisions of Article 54(1) of the Regulations. This means that the Taxpayer's appeal is accepted and the Authority's decision is overturned.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (53) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Paragraph (1,3) of Article (54) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Facts:

The appeal filed on 26/04/2023, from ..., National ID No. (...) Was considered Acting on behalf of the Appellant under Power of Attorney No. (...), on the decision of the First Circuit to settle VAT violations and disputes in the city of Dammam No. (VD-2022-61746) in the lawsuit filed by the Appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

Rejection of the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to dismiss its case regarding the revaluation of the tax period related to the month of September 2018, and the fines resulting from it, due to its obligation to submit the legal documents and the fact that those documents "credit notes" submitted are in accordance with the provisions of paragraph (3) of Article (54) and the provisions of Article (53) of the Executive Regulations of the Value Added Tax, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

On Tuesday 12/03/2024, the Circuit opened the hearing to consider the appeal submitted, and by appealing to the parties, the appellant's attorney/ ... By virtue of ID No. (...) Under Power of Attorney No. (...), the representative of the Appellee/ ... (... Nationality) under ID No. (...) By virtue of Authorization Letter No .../.../.../... Dated 19/03/1445AH and issued by the Deputy Governor for Legal Affairs. Asked by the appellant's attorney about her appeal, he replied: He is satisfied with the statement of appeal and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and he adheres to the grounds and defenses contained therein, and by presenting this to the representative of the Appellee, she replied: In what does not go beyond what was mentioned in the response note, and is satisfied with the memorandums submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein, and by asking both parties what they wish to add, they replied by contenting themselves with what was previously submitted, and accordingly the door of pleading was closed and the case was submitted for study and deliberation.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's case regarding the revaluation of the tax period related to the month of September 2018, and the fines resulting therefrom, and with regard to the clause (sales subject to 5%), where the appellant objects to the decision of the Adjudication Circuit; due to its obligation to submit the statutory documents and because those documents



are "credit notes" submitted in accordance with the provisions of paragraph (3) of Article (54) and the provisions of Article (53) of the Executive Regulations of the Value Added Tax, and where the Circuit found that the dispute lies in the appellee's failure to adopt the appellant's amendment to its tax return of sales returns related to the tax period for the appellant's failure to submit credit notes as stipulated in paragraph (3) of Article (54) of the Executive Regulations of the Value Added Tax Law, and where the appellant submitted the documents supporting the validity of its procedure, which is (the accounting entry proving the cancellation of the invoice – the canceled invoice – the credit note of the invoice with a serial number and reference to the canceled invoice number in the amount of (1,060,347.80) riyals, which proves Its commitment to the text of paragraph (1) of Article (54) of the Regulations, which is the notice related to the invoice for the full value of the invoice, and therefore it has been proven to the Circuit that the appellant issued and possessed the credit notice, which included a reference to the basic invoice related to it, which leads the Appellate Circuit to accept the appeal submitted.

With regard to the two fines of error in acknowledgment and delay in payment, and the appellant's request to cancel those fines, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal submitted.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the company's appeal... - Commercial Registration No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the company's appeal. - Commercial Register No. (...), regarding the sales adjustment clause subject to 5%, and canceling the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam City (VD-2022-61746), and canceling the decision of the appellee (the Authority).
- 3- Accepting the company's appeal. - Commercial Register No. (...), regarding the error in a tax return penalty clause for the tax period in question, and canceling the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam City (VD-2022-61746), and canceling the decision of the appellee (the Authority).
- 4- Accepting the company's appeal. - Commercial Register No. (...), regarding the late payment penalty clause for the tax period in question, canceling the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam City (VD-2022-61746), and canceling the decision of the Appellee (the Authority).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA -2024-192463

Case No. V-2023-192463

Keywords

VAT -Reassessment of the Tax Return-Sales-Local sales subject to the basic rate (15%) - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate (V)-2023-94063), where his appeal is based on the fact that as a brokerage company he executed the transactions of a company ... On behalf of its clients. When executing transactions, a trading fee is charged by the company to..., and then recharged to its clients. The CRA considered these fees that are recharged to clients to be a supply subject to VAT, which means that a 15% tax should be levied on these amounts and the brokerage firm should be obliged to pay it. Whereas it has been proven to the Appeal Committee that Tadawul is the original supplier and not the brokerage company in accordance with Article (64) of the Executive Regulations of the Value Added Tax Law, and accordingly the brokerage company cannot be held responsible for paying the tax because the original owner of the service is a company ..., which is the entity that must bear the tax on its commission. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (2) of Article (64) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Paragraph (1) of Article (23) of [The Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)
- Article (26) of [The GCC Unified VAT Agreement](#)

Facts:



The appeal filed on 18/04/2023, from / Company ... – Commercial Register No. (...), on the decision of the First Circuit to settle VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063), in the lawsuit filed by the Appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: Responding to the Plaintiff's lawsuit regarding the objection to amending the local taxable sales clause in relation to the basic tax period in question to prove the validity of the Defendant's decision.
- Second: Responding to the Plaintiff's lawsuit regarding the objection to the clause of exports subject to tax in relation to the basic tax period in question to prove the validity of the Defendant's decision.
- Third: To dismiss the Plaintiff's lawsuit regarding the objection to the fine for the error in the declaration for the tax period in question to prove the validity of the Defendant's decision.
- Fourth: To dismiss the Plaintiff's lawsuit regarding the objection to the late payment fine for the tax period in question to prove the validity of the Defendant's decision.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to dismiss its case in relation to the final assessment of the tax period for the fourth quarter of 2018 and the fines resulting therefrom, because the asset is that each transaction executed is subject to trading fees, which the appellant recharges to the concerned customers in relation to the transaction they requested and charges VAT at 15% on these fees. Accordingly, the appellant recharged trading fees to customers as expenses (i.e. Not subject to tax) on the basis that these fees are incurred by customers who are counterparties to the relevant transaction and who are responsible for paying the fees, and the appellant did not request a refund of the 15% input tax imposed by Tadawul on the fees and did not add the additional output tax to the reloading on customers, considering this as payments of any direct supply from Tadawul to the end customers, despite this, the Appellee has assessed to the reloading of trading fees as a taxable supply in relation to the local sales subject to tax for the basic For the amount of (1,663,411.63), and with regard to exports subject to tax at a rate of zero percent for the amount of (10,496,979.74) riyals, as the reason for the objection lies in the fact that the VAT liability account probably includes reloading the trading fees and fees of the Capital Market Authority on non-resident customers, and therefore it is likely that the Appellee linked it on the basis that the appellant is obliged to pay VAT twice on trading amounts and may also have imposed VAT on the reloaded amounts of the Capital Market Authority, which the appellee agreed against it as not subject to VAT, and concluded with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the lawsuit papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's lawsuit regarding the final assessment of the tax period for the fourth quarter of 2018 and the fines resulting therefrom, and since the appellant objects to the decision of the Adjudication Circuit regarding domestic sales subject to tax for the basic amount of (1,663,411.63), This is because the asset is that each transaction executed is subject to trading fees, where the appellant reloads it to the concerned customers in relation to the transaction they requested and charges 15% VAT on these fees. Accordingly, the appellant reloaded trading fees to customers as expenses (i.e. Not subject to tax) on the basis that these fees are incurred by customers who are counterparties to the relevant transaction and responsible for paying the fees. The appellant did not request a refund of the 15% input tax imposed by Tadawul on the fees and did not add the additional output tax to the reload on customers, considering this as payments Any direct supply from Tadawul to the end customers, despite this, the Appellee has linked to the reloading of trading fees as a taxable supply, and where it was proven to the Appellate Circuit that the parties certified that the sales mentioned in the self-report submitted by the Appellant included the acknowledgment of the "commission of the brokerage company" and that it is not the subject of dispute and did not include the acknowledgment of the share of the "Capital Market Authority", which must be done in relation to this part because it is revenue from an activity practiced by a government entity in its capacity as a public authority and is not subject to tax accordingly, but the subject of dispute is in relation to the non-recognition of the share of the "company ..." of the supply. Upon reviewing the "Final Assessment Notice" document and the "Objection Request

Cancellation Notice" document, it appears that they indicated that the amendment was made based on the text of Article (26) of the Unified Agreement for Value Added Tax of the Gulf Cooperation Council Countries, which addressed the fair market value of goods. However, all cases mentioned in paragraph (1) of Article (38) of the Executive Regulation of the Value Added Tax Law must be verified in order to apply the fair market value of the supply and demonstrate the documents through which that conclusion was reached. Additionally, the tax liability determinants are the date of "supply" or "invoice issuance" or "receipt of consideration partially or fully" (whichever is earlier) as stated in paragraph (1) of Article (23) of the Unified Agreement for Value Added Tax of the Gulf Cooperation Council Countries. Therefore, the assessment related to the disputed period must reflect the tax due for it "only" based on identifying one of the tax liability determinants during the disputed period, in order to comply with the previously mentioned statutory provisions, which set a precise date for tax liability and declaration to avoid "duplication" of subjecting revenue in more than one tax period. Since recording revenue "accounting-wise" in the financial statements is not sufficient evidence of the occurrence of one of the tax liability determinants, and since the company... In the disputed case, the intermediary "the appellant" is the original supplier, which does not make it possible to hold the intermediary "the appellant" accountable for the related tax, which is contrary to the text of paragraph (2) of Article (64) of the Executive Regulations of the VAT Law. Therefore, it is the party required to supply the tax in relation to its commission on the supply because the appellant provides the service as an intermediary to access the service as it is authorized to trade according to the requirements of the Capital Market Authority, which leads the Appellate Circuit to accept the appeal submitted.

With regard to exports subject to tax at a rate of zero percent for the amount of (10,496,979.74) riyals, and since the appellant objects to the decision of the Adjudication Circuit, because the calculation of the value-added tax obligation likely includes reloading the trading fees and fees of the Capital Market Authority on non-resident customers, and therefore it is likely that the appellee assessed them on the basis that the appellant is obligated to pay value-added tax twice on trading amounts, and may also have imposed value-added tax on the reloaded amounts of the Capital Market Authority, which the appellee agreed as not subject to value-added tax, and since the subject of the dispute in this clause relates to the following: A- The share of the Capital Market Authority and the company (b) The brokerage commission claimed as exports subject to the zero rate. With regard to the share of the Capital Market Authority and the company ..., and since this part is not subject to tax based on the text of paragraph (5) of Article (9) of the Executive Regulations of the Value Added Tax Law, and based on the fact that the activity practiced by a government entity in its capacity as a public authority is not considered an economic activity in accordance with the purposes of the Law and its Executive Regulations, and with regard to the share of a company ... It is not subject on the basis that the appellant's capacity as "mediator" and not "original" in the disputed supply as detailed in the first clause in relation to that part of the clause, which leads the Appellate Circuit to accept the appeal in relation to that part of the clause. With regard to the mediation commission claimed as exports subject to the zero rate, and since it is established that the decision in question regarding the dispute in

question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with its conclusion in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the defenses raised before this circuit, which ends with a decision not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the two fines of error in acknowledgment and delay in payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the above result led to the partial acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by/the company... - Commercial Registration No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the subjection of the disputed amount to the "local sales subject to tax at the basic rate", and canceling the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Jeddah Governorate (VJ-2023-94063) and canceling the decision of the Appellee.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), partly in relation to the share of the Capital Market Authority and ... Regarding the "Exports" clause and dismissing the rest of the requests, and amending the decision of the first Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063) and amending the Appellee's decision accordingly.
- 4- Accepting the appeal filed by ... - Commercial Register No. (...), in part with respect to the penalty for error in a tax return, and amending the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063) and amending the decision of the appellant against her as stated in paragraph (II) and (III) above.
- 5- Accepting the appeal filed by ... - Commercial Register No. (...), partially in relation to the late payment penalty, and amending the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063) and amending the decision of the appellant against her as stated in paragraph (II, III) above.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA -2024-198844

Case No. V-2023-198844

Keywords

VAT-Re-evaluate Tax Return-Sales-Citizens Sales-Acceptance of Taxpayer Appeal

Summary:

The Taxpayer objected to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-96347), where the decision included partial acceptance of the objection, by excluding an amount of (43,468) riyals from the clause of local sales subject to tax for the basic rate, while refusing to exclude the remaining amount of (24,085) riyals, in connection with the final evaluation of the first quarter of 2019 and the fines resulting therefrom. Whereas, it was proven to the Appeal Committee that the Authority rejected the document related to the student (A) in the amount of (4,837) riyals, and the student (B) in the amount of (29) riyals, on the grounds that there is no identity number, despite the acceptance of these data in previous and subsequent periods, with their identity numbers included in the Excel file submitted. As for other students, their total fees amounts amounted to (19,219) riyals, but it was not proven, according to the documents submitted, that their data and national identities are correct. The effect of this is to accept the Taxpayer's appeal and exclude the amount of (4,866) riyals from the clause of local sales subject to tax in the basic ratio, and to amend the decision of the Adjudication Circuit and the decision of the Authority accordingly to be the excluded amount of (48,334) riyals.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal filed on 30/05/2023, from ..., National ID No. (...) Was considered As an entrepreneur... Under the Commercial Register No. (...), the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-96347), in the lawsuit filed by the appellant against the appellant against her.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- The end of the dispute regarding the clause of sales of citizens, an amount of (1,241,788) riyals.
- Accepting the Plaintiff's lawsuit regarding the clause of sales of citizens an amount of (43,468) riyals and responding to other requests regarding this part.
- Assigning the Authority to recalculate the fines in question in accordance with the provisions of this decision.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the Adjudication Circuit's decision of partial acceptance to exclude an amount of (43,468) riyals from the clause of local sales subject to tax for the basic rate and the rejection of the remaining (24,085) riyals in relation to the final evaluation of the first quarter of 2019 and the fines resulting therefrom, in order to validate the data provided in the case file (documents of students' data from the Noor law - statement of account of citizens' sales of citizens of the first quarter of 2019- sample of tuition bills issued in the names of students and their national numbers and identities), and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

In terms of the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellant found that the decision issued by the Classroom Circuit ruled to partially accept the exclusion of

an amount of (43,468) riyals from the clause of local sales subject to tax for the basic rate and the rejection of the remaining (24,085) riyals in relation to the final evaluation for the first quarter of 2019 and the fines resulting therefrom, and since the Appellant objects to the decision of the Classroom Circuit due to the validity of the data provided in the case file (documents of students' data from the Noor system - Statement of account of sales of citizens "citizens of the first quarter of 2019" - sample of tuition bills issued in the names of students and their national numbers and ids), and where it was proven to the Appellate Circuit through the document submitted by the Appellee containing the result of its verification of the national identity of each applicant that it rejected the document related to the applicant (...) An amount of (4,837) riyals for the lack of ID number despite its acceptance of it in an earlier period (the third quarter of 2018) and a later period in (the third quarter of 2019), and for the validity of the national ID number (...) According to the Excel file submitted by the appellee and according to the data of the Noor system submitted by the appellant, in addition to the appellee's rejection of the document related to the applicant (...) (29) riyals for the lack of ID number despite its acceptance in the previous period (third quarter of 2018), and a subsequent period in (second quarter of 2019) and included his ID number (...) In the same Excel file provided.

With regard to the following students and the total amount of fees (19,219) riyals, it has not been proven according to the documents submitted that their data and national identities are correct:

- (...) SAR (5,750)
- (...) SAR (5,750)
- (...) (344) riyals
- (...) (1,625) riyals
- (...) SAR (5,750)

This leads the Appellate Circuit to accept the appeal submitted and exclude an amount of (4,866) riyals from the clause of local sales subject to tax in the basic ratio, and to amend the decision of the Circuit of Cassation and amend the decision of the Appellee accordingly to be the amount excluded from the clause of local sales subject to tax in the basic ratio of (48,334) riyals.

With regard to the two fines of error in acknowledgment and delay in payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clause has partially led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

For these grounds and after deliberation, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.

Second: Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the exclusion of the sales of citizens from the tax in the amount of (4,866) riyals, and the amendment of the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-96347) and the amendment of the decision of the appellee to be the amount excluded from the clause of domestic sales subject to tax in the basic rate of (48,334) riyals out of (67,533) riyals and refused otherwise.

Third: Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the fine for error in the declaration, amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-96347) and amending the decision of the Appellee in accordance with paragraph (II) above.

Fourth: Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the late payment fine, amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-96347) and amending the decision of the Appellee in accordance with paragraph (II) above.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA -2024-173489

Case No. V-2023-173489

Keywords

VAT-Reassessment of the Tax Return-Sales-Out of band sales-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the first Circuit to settle VAT violations and disputes in Jeddah Governorate (VJ-2022-2421), where his appeal is based on the sales agreement, which states that the buyer bears all costs, responsibility and subsequent risks, including all export procedures from the time the goods are loaded until they reach the buyer's headquarters, and accordingly, the company's sales delivered outside the Kingdom are not subject to VAT. The Appellate Committee found that the assessment notice did not clarify what provisions were violated and what was relied upon as the basis for considering that the "import" took place "before the transfer of ownership of the goods". Consequently; the Taxpayer's appeal is accepted and the decision of the circuit is canceled.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (27) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The appeal submitted on 30/01/2023 was considered by the Taxpayer ... – Commercial Register No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421) in the lawsuit filed by the Taxpayer ... against the Zakat, Tax and Customs Authority.

The appeal filed on 30/01/2023 by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421) was also considered in the lawsuit filed by the Taxpayer ... against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: Amendment of the Defendant's decision regarding the taxation of the fixed assets amounting to SAR 3,572,152.75 in the basic rate.
- Second: Rejection of the Plaintiff's claim in relation to other clauses of income for taxable domestic sales clause in relation to the basis for proving the validity of the Defendant's decision.
- Third: Amending the fine for the error in the declaration in proportion to the operative part of the first and second paragraphs of the Circuit's decision.
- Fourth: Amending the late payment fine in line with the provisions of the first and second paragraphs of the Circuit's decision.

As this decision was not accepted by the parties, the appellant (company ...) To the Appellate Circuit with an statement of appeal that included its objection to the decision of the adjudication Circuit to subject the amount in dispute to the clause "sales" as a result of the evaluation related to "December 2020", because its activity includes the supply of machinery, equipment, spare parts and industrial machinery, as they are dealt with by a company ... And And the issuance of (work) to issue a purchase order in the name of the appellant as a supplier. The purchase order includes the delivery of the required goods outside the Kingdom. The purchase order falls under the international shipping agreement EX Work. When the goods are ready for supply, the appellant communicates with the local customer, who in turn communicates with the shipping companies to ship them inside the Kingdom. The customs clearance is carried out in the name of the local customer directly. Accordingly, the appellant issues an invoice without tax due to the fact that the supply and delivery process took place outside the Kingdom EX Work. The aforementioned agreement under which the buyer bears all costs as well as responsibility and subsequent risks, including all export procedures from the start of loading the goods until they reach the buyer's headquarters. Accordingly, the sales of the company supplied and delivered outside the Kingdom are sales that do not apply to VAT, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

The appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the adjudication Circuit to amend its decision regarding the subjection of the disputed fixed assets and to amend its decision regarding the fines resulting therefrom, because the tax on the fixed assets was calculated from the trial balance due to the unavailability of the financial statements for the year 2020 at the date of examination and the financial statements were not submitted to verify that the book cost of the excluded assets amounted to (3,572,152.75) and that the depreciation aggregate amounted to (3,372,186.67) and the net book cost of the excluded assets amounted to (199,966) and the value of the sale of the assets amounted to (200,966). The daily entries for exclusion were not submitted to match them with the excluded assets data. It also did not provide a detailed statement of sales invoices to match the sale value and the tax rate, and that the minutes of the destruction of the unsuitable assets for reuse were not approved by an external auditor and did not submit the entries related



to exclusion, and ended with a request to accept the appeal and cancel the decision of the adjudication circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and exhibits contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Appellate Circuit ruled on subjecting the amount in dispute to the "sales" clause as a result of the evaluation related to "December 2020" and the fines resulting therefrom, and since the appellant (the company ...) It objects to the decision of the Adjudication Circuit because its activity includes the supply of machinery, equipment, spare parts and industrial machinery, which are handled by a company ... And... The issuance of a purchase order in the name of the appellant as a supplier. The purchase order includes the delivery of the required goods outside the Kingdom. The purchase order falls under the international shipping agreement EX Work. When the goods are ready for supply, the appellant communicates with the local customer, who in turn communicates with the shipping companies to ship them inside the Kingdom. The customs clearance is carried out directly in the name of the local customer. Accordingly, the appellant issues an invoice without tax due to the fact that the supply process The delivery took place outside the Kingdom EX Work, and since the aforementioned agreement under which the buyer bears all costs as well as responsibility and subsequent risks, including all export procedures from the start of loading the goods until their arrival at the buyer's headquarters, and accordingly the sales of the company supplied and delivered outside the Kingdom are not subject to VAT, and where it was proven to the Circuit through the evaluation notice that no amount was recognized in the clause "Imports subject to VAT at the basic rate and paid at customs" in the declaration in question and did not specify the period during which

the import was monitored, as this result was reached by citing invoices submitted by the appellant (company ...), and where the appellant It is not a producer of goods according to the nature of its activity and the invoices it provided for the revenue in question, which proves that it represents goods purchased from outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom. Since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of those goods "before" importing them in accordance with the unified customs law is considered to have been "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law. Thus, the difference in subjecting them or not is the transfer of ownership of the goods before importing them, and where the text did not stipulate that the supplier of the goods does not provide the transport service for the goods supplied to be cited as evidence of their ownership, and where the appellant submitted a statement of out-of-scope sales with a total amount of (15,536,184.53) riyals, and where most of the statement reflects EXW contracts, which is the short code for EX Works, which according to its concept, allows the seller to deliver the goods at the nearest place to it and entails assisting the buyer in obtaining export licenses for the purpose of delivering the goods to the specified location, and in return, the buyer is responsible for paying the costs of transport Including licenses fees, and once they reach the specified location, the buyer becomes responsible for other risks such as loading the goods in trucks, transporting them to the ship or plane, and fulfilling customs regulations, which indicates that the "transfer of ownership" took place before importing the goods to the Kingdom. The evaluation notice did not clarify the texts that were violated and what was relied upon as a basis for considering that the "import" took place "before transferring the ownership of the goods", which contradicts the decision of the Adjudication Circuit, with which the Appellate Circuit ends up accepting the appeal regarding subjecting "out-of-scope sales because they took place outside the Kingdom" to the "sales" clause, which represents part of the differences between the financial statements and tax declarations with a total amount of (15,536,184.53) riyals.

With regard to the objection of the appellant (company ...) On the two fines of error in the declaration and delay in payment, and since the appellant is demanding the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which ends with the Appellate Circuit accepting the appeal of the fines in question.

With regard to the appeal submitted by the (Zakat, Tax and Customs Authority), and since the decision of the Adjudication Circuit decided to amend its decision related to the subjection of the disputed fixed assets and to amend its decision regarding the fines resulting therefrom, and since it objects to the decision because the tax on the fixed assets was calculated from the trial balance due to the unavailability of the financial statements for the year 2020 at the date of examination and the financial statements were not submitted to verify that the book cost of the excluded assets amounted to (3,572,152.75) and that the total depreciation amounted to (3,372,186.67) and the net book cost of the excluded assets amounted to

(199,966) The value of the sale of assets amounted to (200,966) and the journal entries for exclusion were not submitted to match them with the data of the excluded assets. It also did not provide a detailed statement of sales invoices to match the sale value and the tax rate. The minutes of destruction of the assets that are not suitable for reuse were not approved by an external auditor and did not provide the entries related to exclusion. Whereas it was established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook the examination of the dispute and concluded its conclusion In its operative part, and where the Appellate Circuit did not notice anything that warrants rectification or comment in light of the arguments raised before this Circuit, which ends with a decision that it does not affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

First: regarding the resume of , Commercial Register No. (...)

- 1- Accepting the appeal procedurally.
- 2- Accepting the appeal regarding the subjection of "out-of-scope sales as they took place outside the Kingdom" to the "Sales" clause, which represents part of the differences between the financial statements and tax returns for a total amount of (15,536,184.53) riyals, and canceling the decision of the First Circuit to settle VAT violations and disputes (VJ-2022-2421) and canceling the decision of the Zakat, Tax and Customs Authority in Jeddah Governorate.
- 3- Accepting the appeal in part with respect to the "error in a tax return penalty" and amending the decision of the first Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421) and amending the decision of the Zakat, Tax and Customs Authority as stated in paragraph (2) above.
- 4- Accepting the appeal in part regarding the "Late Payment Penalty" and amending the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421) and amending the decision of the Zakat, Tax and Customs Authority as stated in paragraph (2) above.

Second: regarding the Zakat, Tax and Customs Authority appeal:

- 5- Acceptance of the appeal procedurally.
- 6- Rejecting the appeal regarding the "Fixed Assets" clause for the amount of SAR (3,572,152.75), and upholding the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421).
- 7- Rejection of the appeal regarding the fine for the error in the declaration.
- 8- Rejection of the appeal regarding the late payment fine.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA-2023-152586

Case No. V-2022-152586

Keywords

VAT -Reassessment of the Tax Return - Sales - Taxable sales refunds at the basic rate of 15% - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority objected to the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1039), where its appeal lies on the clause (sales returns subject to tax at the basic rate of 15%) because it excluded returns due to the existence of credit notes that the Taxpayer did not acknowledge in the same period in which it was issued. Whereas it was proven to the Appeal Committee that the Taxpayer acknowledged the credit notice in December 2020, and where it was proven that it violated the text of paragraph (5) of Article (40) of the same regulation, and since the supply is related to the service of the Taxpayer here is the supplier, therefore, when there was a change in the value of the service, it issued the credit notice, which is considered to be the late event, which results in the invalidity of its action, and this does not affect what it indicated along the customer's procedures for approving the credit notice because the credit notice is issued by it as a supplier. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1,5) of Article (40) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The appeal filed on 28/09/2022 by the Zakat, Tax and Customs Authority against the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1039) was considered in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- Cancel the decision of the Defendant/Zakat, Tax and Customs Authority regarding the final evaluation of the tax period related to the month of December 2020, the subject of the lawsuit and the resulting fines.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Classification Circuit to cancel its decision related to the final evaluation for the period of December 2020 and the resulting fines, due to the existence of credit notes issued in October 2020 and not approved by the Taxpayer in the same period in which it issued any after the lapse of the period in which the return occurred, in relation to sales subject to 5%, and with regard to the sales of scrap subject to tax at the basic rate of 15% for adding differences between sales in the sales statement and the declaration submitted resulting from the wrong registration of the sale of scrap, and with regard to the returns of sales subject to the basic rate of 15% because it excluded sales returns due to the existence of credit notes that were not approved by the Taxpayer in the same period in which it was issued, and with regard to the purchases subject to tax at the rate of 5%, and the fact that the Adjudication Decision came with facts and details that were not objected by the Taxpayer and the appellant did not take action in it, and ended with a request to accept the appeal and cancel the decision of the Classification Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided to cancel the appellant's decision related to the final evaluation for the period of December 2020 and the fines resulting therefrom, and since the

appellant objects to the decision of the Adjudication Circuit due to the presence of credit notes issued in October 2020 and not approved by the Taxpayer in the same period that was issued In which, after the lapse of the period in which the return incident occurred, with regard to sales subject to 5%, and based on paragraph (1) of Article (40) of the Executive Regulations of the Value Added Tax Law, it becomes clear that it has given the right to amend the value of the supply when there is a cancellation of the supply or a refund of the goods or if the value of the supply changes after the issuance of the tax invoice, where the supplier issues a credit note to the customer, and since paragraph (5) of the same article required the amendment in the tax return for the period in which the incident occurred or in the tax return for the period in which the notice was issued The creditor to the customer, whichever occurred late, and where it was proven through the credit notices submitted by the appellant that the credit notice was issued in October 2020 regarding the provision of services, while the Appellee approved the credit notice in December 2020, and where it was proven that it violated the text of paragraph (5) of Article (40) of the same regulation, and since the supply is related to a service and the Appellee here is the supplier, therefore, when there was a change in the value of the service, it issued the credit notice, which is considered to be the late event, which results in the invalidity of the appellant's action against it, and this does not affect what the Appellee indicated in the length of the client's procedures to approve the credit notice because the credit notice is issued by it as a supplier, which leads the Appellant Circuit to accept the appeal submitted.

With regard to the sales of scrap subject to tax at the basic rate of 15%, and since the appellant objects to the decision of the Adjudication Circuit in order to add differences between the sales in the sales statement and the declaration submitted resulting from the wrong registration of the sale of scrap, and since it is established that the decision in question regarding the dispute in question came in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook the examination of the dispute in which it was located and concluded with regard to it to the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this Circuit, which ended up deciding not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to sales returns subject to tax at the basic rate of 15%, and since the appellant objects to the decision of the Adjudication Circuit because it excludes sales returns due to the existence of credit notes that were not acknowledged by the Taxpayer in the same period in which they were issued, Based on paragraph (1) of Article (40) of the Executive Regulations of the Value Added Tax Law, it is clear that it has given the right to amend the value of the supply when there is a cancellation of the supply or a refund of the goods or if the value of the supply changes after the issuance of the tax invoice, where the supplier issues a credit note to the customer, and since paragraph (5) of the same article requires that the amendment be in the tax return for the period in which the incident occurred or in the tax return for the period in which the

credit notice was issued to the customer, whichever is later, Whereas, it was proven through the credit notes submitted by the appellant that the credit notice was issued in October 2020 regarding the provision of services, while the Appellee approved the credit notice in December 2020, and where it was proven that it violated the text of paragraph (5) of Article (40) of the same regulation, and since the supply is related to a service and the Appellee here is the supplier, therefore, when there was a change in the value of the service, it issued the credit notice, which is considered to be the late event, which results in the invalidity of the appellant's action against it, nor This is undermined by what the Appellee indicated by the length of the client's procedures for approving the credit note, as the credit note is issued by her as a supplier, which leads the Appellate Circuit to accept the appeal submitted.

With regard to taxable purchases at 5%, and since the appellant objects to the decision of the Adjudication Circuit because the adjudication decision came with facts and details that were not objected to by the Taxpayer and the appellant did not take action in it, and where it was proven to the appellant circuit that the appellee did not object to the procurement clause at all, in addition to the fact that the final evaluation notice shows that there was no amendment to the procurement clause, which leads the appellate circuit to cancel the decision of the Adjudication Circuit.

With regard to the fine for error in the declaration, and the appellant's request to cancel the decision to amend those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clauses have led to the acceptance of the appeal in relation to the clause of domestic sales subject to tax at the basic rate of 15% and the acceptance of the appeal in relation to the returns of sales subject to tax at the basic rate of 15%, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal and amend the decision of the Fines Adjudication Circuit subject to appeal.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, procedurally for submitting it within the legally specified period.
- 2- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, regarding the clause of local sales subject to tax at the basic rate of 5%, and canceling the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1039).
- 3- Rejection of the appeal submitted by the Zakat, Tax and Customs Authority, regarding the clause of sales of scrap subject to tax at the basic rate of 15%, and supporting the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No.(VTR-2022-1039).
- 4- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, regarding the clause of taxable sales returns at the basic rate of 15%, and canceling the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1039).
- 5- Cancel the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VTR-2022-1039) related to the clause of purchases subject to tax at the basic rate of 15%.



6- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, regarding the fine of the error in the declaration, and amending the decision of the Third Circuit to adjudicate VAT violations and disputes in the city of Riyadh No.(VTR-2022-1039) in accordance with the operative paragraphs of the above decision.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA -2024-191505

Case No. V-2023-191505

Keywords

VAT-Re-evaluation of Tax Return-Sales-Medical Goods and Instruments-Acceptance of Taxpayer Appeal

Summary:

The Taxpayer's objection to the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-2582), where his appeal lies in subjecting the sales of medicines and medical goods to VAT for the basic rate and only citing a procedural violation of the invoice, although this is in the event that the subject of the dispute is the imposition of a fine. Whereas it has been proven to the Appeal Committee that basing the decision on the procedural violation and being satisfied with it as evidence that the medical goods and instruments are subject to the basic percentage is irrelevant because the zero rate applies to the supplies of any qualified medicines or qualified medical goods according to the text of Article (35) of the Executive Regulations of the Value Added Tax Law. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (2) Article (45) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (1,2) of Article (35) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:



The appeal filed on 04/04/2023 by the Zakat, Tax and Customs Authority against the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-2582) was considered in the lawsuit filed by the company ... Against the Zakat, Tax and Customs Authority.

The appeal was also considered on 06/04/2023, from the Taxpayer ...— National ID No. (...) As agent for the appellant company under Agency No. (...) And a lawyer's license No. (...), based on the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-2582) in the lawsuit filed by the company ... Against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

li: In relation to the taxable sales clause for the Base Ratio:

1- Rejection of the Plaintiff's lawsuit regarding the taxation of zero sales for the basic tax period in question.

2- Cancel the Defendant's decision regarding the taxation of the deductions rejected by the insurance company for the basic tax period in question.

Third: Amendment of the Defendant's decision regarding the fines in question in accordance with the conclusion of this decision in Clause (Second/2).

As this decision was not accepted by the parties, the appellant (company ...) To the Appellate Circuit with an appeal statement that included its objection to the decision of the Adjudication Circuit to reject its objection regarding the final evaluation of the tax period related to the month of October 2020 and the fines resulting therefrom, because during the objection study stage, it provided the Authority with a sample of the package invoices issued to insurance companies as well as to uninsured individuals, and that the Authority commented only on the sales invoices of the package issued to insurance companies and subject the sales of medicines and medical goods to VAT for the basic rate; and provided a sample of Sales invoices issued to uninsured individuals and sales invoices issued to insurance companies, which show that the clause code (the classification of the drug according to the Saudi Food and Drug Authority) was included as a qualifying clause for zero percent within the elements of the company's tax invoice. The Circuit did not request any additional documents during the deliberation phase of the dismissal sessions confirming its view on this clause. It was satisfied with the documents and excel sheets attached to the objection. The documents and excel sheets, from which it is clear that what the Adjudication Circuit stated was submitted to the Authority during the stage of studying the objection in the Authority and before the Adjudication Circuit within the case documents for the period under appeal It was referred to as the Statement of Objection. It provided an analytical statement (Excel) showing the details of the invoices of the package and

the eligible and ineligible clauses included in it, the applicable tax rate for each clause, and their matching with the list of medicines and medical equipment eligible for the zero percent approved by the Saudi Food and Drug Authority. The law also gave the authority the right to impose penalties and fines in relation to violating the provisions of the law or the regulation and not to impose VAT at the basic rate on medical goods subject to the zero percent rate on the pretext of not showing the tax percentage in the tax invoice, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

The appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the Adjudication Circuit to cancel its decision on the final re-evaluation of the tax period for the month of October 2020, because it was clear from the documents submitted by the company that what it called discounts or settlements in favor of insurance companies are only insurance rejections, meaning that the insurance company refuses to pay part of the value of the service actually performed by the Appellee. Therefore, this is not considered an amendment according to the text of Article (40) of the regulation, but represents commercial transactions between the parties to the contract and counter-collection procedures that are not stipulated as discounts at specific rates and rates in contracts with insurance companies, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

On Tuesday 13/02/2024, the Circuit opened the hearing to consider the appeal submitted, and by appeal to the parties, the representative of the Appellant attended the Zakat, Tax and Customs Authority/ ... (... Nationality) under National Identity No. (...), under Authorization Letter No/.../... On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs, and the Appellant's Undersecretary attended the company... /... (... Nationality) under a national identity (...). Under the power of attorney No. (...). and by asking the appellant's attorney a company ... On her appeal, he replied: He is satisfied with the statement of appeal and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and he adheres to the grounds and defenses contained therein, and by presenting this to the representative of the Appellant, the Zakat, Tax and Customs Authority, he replied: In what does not go beyond what was mentioned in the appellate regulations and the response memorandum, and is satisfied with the memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein, and asks both parties what they would like to add, they replied by contenting with what was previously submitted, and accordingly the pleading was closed and the case was submitted for study in preparation for issuing the judgment and postponing the consideration of the case to a session to be determined later.

On Sunday, 18/02/2024, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or

at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Appellate Circuit rejected the objection of the appellant (company...) Regarding the final evaluation of the tax period related to the month of October 2020, and the fines resulting therefrom, because during the objection study phase, it provided the Authority with a sample of the package invoices issued to insurance companies as well as uninsured individuals, and that the Authority commented only on the sales invoices of the package issued to insurance companies and subject the sales of medicines and medical goods to VAT for the basic rate, contrary to the text of Article (35) of the Executive Regulations of the Value Added Tax Law; In this regard, it submitted a sample of sales invoices issued to uninsured individuals and sales invoices issued to insurance companies, which show that the clause code was included. The drug was classified according to the Saudi Food and Drug Authority as an eligible clause for zero percent within the elements of the company's tax invoice. Whereas, it is established that the nature of the appellant's activity is expected to have qualified supplies to be subject to zero percent and the appellant did not pay against them by not being eligible to supply zero percent, and since the "Final Evaluation Notice" and the "Reply Memorandum" did not clarify the direct reason for subjecting that part despite the appellant's submission of a statement of invoices subject to zero percent, including the national identity and identical to the amount approved and submitted For the "FDA Classification of Medicines and Medical Commodities", where it was clarified that the "registration number" was relied upon by writing it in the "code" column on the invoice, which does not show the direct reason for subjecting that part, with which it is not clear the basis for calculating the valuation, which violates the text of paragraph (2) Article (64) of the Executive Regulations of the Value Added Tax Law, where no invoice was monitored that was subject to zero, although it is subject to the basic percentage or contrary to the texts related to subjecting it to zero. Rather, it was sufficient to cite a procedural violation of the invoice, although this is in the event that the

subject of the dispute is the imposition of a fine for "violating the provisions of the law or the regulation" according to the text of paragraph (2) of Article (45) of the Law. As for basing the decision on the procedural violation and being satisfied with this as evidence that the medical goods and tools are subject to the basic percentage, it is not considered valid because the zero rate applies to the supplies of any qualified medicines or qualified medical goods " according to the text of paragraph (1) of Article (35) of the Regulations, which are qualified according to any classifications that may be issued by the Ministry of Health or any competent authority in the Kingdom According to the text of paragraph (2) of Article (35) of the Regulations, it has not been proven to monitor an invoice that has been subjected to zero percentage, despite the fact that it is subject to the basic percentage or contrary to the texts related to subjecting it to the aforementioned zero percentage, which is not consistent with subjecting it to the basic percentage, which is contrary to what was stated in the decision of the Adjudication Committee, which leads the Appellate Circuit to accept the appeal regarding " medical goods and tools ".

With regard to the two fines for error in declaration and late payment, and the appellant's claim (company ...) By canceling those fines that resulted from calculating the tax in an amount greater than what is legally due, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal in relation to the two fines of error in acknowledgment and delay in payment.

With regard to the appeal submitted by the (Zakat, Tax and Customs Authority) and since it objects to the decision of the Adjudication Circuit to cancel its decision on the final revaluation of the tax period for the month of October 2020, and the resulting fines, because it was clear from the documents submitted by the company that what it called deductions or settlements in favor of insurance companies are only insurance rejections, that is, the insurance company refuses to pay part of the value of the service actually performed by the appellee, and therefore this is not an amendment according to the text of Article (40) From the regulation, but it represents commercial transactions between the parties to the contract and counter-collection procedures that are not stipulated as deductions in percentages and rates specified in contracts with insurance companies, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit undertook the examination of the dispute and concluded with regard to it to the conclusion reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before This circuit, which ends with a decision that it does not affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:



Decision:

First: Concerning the appeal of a company ... , Commercial Register No. (...)

- 1- Accepting the appeal procedurally.
- 2- Accepting the appeal on the merits and subjecting the sales clause related to the "medical goods and instruments" in dispute to the zero-rate tax, and canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-2582) and canceling the decision of the Zakat, Tax and Customs Authority.
- 3- Accepting the appeal with regard to the fine of the error in the declaration, canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-2582) and canceling the decision of the Zakat, Tax and Customs Authority.
- 4- Accepting the appeal in respect of the late payment fine, canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2023-2582) and canceling the decision of the Zakat, Tax and Customs Authority.

Second: regarding the Zakat, Tax and Customs Authority appeal:

- 1- Accepting the appeal procedurally.
- 2- Rejecting the appeal on the merits.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA-2024-171053

Case No. V-2023-171053

Keywords

VAT -Reassessment of the Tax Return -Sales - Real estate supply - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate (VJ-2022-2367), where his appeal lies in the fact that the Authority relied on the value of a property (SAR 470,000) according to the data of the Ministry of Justice, while the Taxpayer disclosed in his tax return that the value of the property was only SAR 350,000, and the Authority added the difference between the two values to the taxable sales, considering it part of the sale value, resulting in additional tax and fines for the Taxpayer. However, the Taxpayer argued that this amount was not part of the actual sale price, but rather an additional financing amount paid by the buyer as an advance payment and later refunded, as it was transferred from the Taxpayer's account to the buyer's account after receiving it from the bank. The Appellate Committee found that the Authority did not provide proof from the Ministry of Justice data that the buyer purchased the property for SAR 470,000. This means accepting the Taxpayer's appeal so that the amount of the real estate supply is (350,000 riyals) and canceling the decision of the Adjudication Circuit.

Document:

- Paragraph (1) of Article (15) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal filed on 23/01/2023, from ..., National ID No. (...) Was considered On his own behalf, based on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2367), in the lawsuit filed by the appellant against the appellant against it.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:



- First: To dismiss the Plaintiff's claim regarding the clause of domestic sales subject to tax for the basic tax period in question to prove the validity of the Defendant's decision.
- Second: To dismiss the Plaintiff's claim regarding the objection to the fine for the error in the declaration for the tax period in question to prove the validity of the Defendant's decision.
- Third: To dismiss the Plaintiff's lawsuit regarding the objection to the late payment fine for the tax period in question to prove the validity of the Defendant's decision.
- Fourth: To dismiss the Plaintiff's lawsuit regarding the objection to the delay fine in the declaration for the tax period in question to prove the validity of the Defendant's decision.

Whereas this decision was not accepted by the appellant, he submitted to the Appellate Circuit a statement of appeal that included his objection to the decision of the Adjudication Circuit to dismiss his case in relation to the final assessment of the tax period for the second quarter of 2018 and the fines resulting therefrom, because in relation to the appellant's disclosure of the value of a property less than the value shown in Instrument No. (...) In its acknowledgment of the value of (350,000) riyals, while the actual value in fact is (470,000) according to the data of the Ministry of Justice, because the amount of sales added as an additional amount of sales belongs to an additional financing amount for the customer, which is amounts paid by the customer in excess of the amount of sale as advance payments, and therefore it was transferred from the appellant's account to the account of the customer and does not belong to him, but it was transferred after receiving it from the bank, and with regard to the supply of real estate before the entry into force of the law, which was added by the Authority in sales, as it belongs to sales made before the effective date of the law, which are sales completed in 2017, and with regard to the transfer of Malika (15) real estate as it is owned by his brother but not registered in his name, and with regard to the fine for the delay in submitting the acknowledgment and for the invalidity of the decision of the Appellee to impose the fine, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's case regarding the final assessment of the tax period for the second quarter of 2018 and the fines resulting therefrom, and since the appellant objects to the decision of the Adjudication Circuit, as it relates to the appellant's disclosure of the value of a property less than the value shown in Instrument No. (...) In its acknowledgment of the value of (350,000) riyals, while the actual value in fact is (470,000) according to the data of the Ministry of Justice, because the amount of sales added as an additional amount for sales belongs to an additional financing amount for the customer, which is amounts paid by the customer in excess of the amount of sale as advance payments, and therefore it was transferred from the appellant's account to the customer's account and does not belong to him, but it was transferred after receiving it from the bank, and after reviewing the documents submitted by the appellant, including a check deposit document for the appellant's account of (470,000) riyals, and a check withdrawal document from the appellant's account for the appellant's customer from the bank ... With a value of (320,000) riyals, it is clear that the check was withdrawn on 30/05/2018, meaning that after the date of sale of the property in accordance with the contract of sale submitted, and since the appellee did not provide the data received from the Ministry of Justice, which indicates that the buyer purchased the property from the appellant for an amount of (470,000) riyals, which ends with the Appellate Circuit accepting the appeal regarding the real estate supply of the instrument No. (...) The supply amount is (350,000) riyals.

With regard to the supply of real estate before the entry into force of the law, which was added by the appellee in the sales, and since the appellant objects to the decision of the Adjudication Circuit because it belongs to sales made before the date of entry into force of the law, which are sales that were completed in 2017, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it undertook a scrutiny of the dispute and concluded with regard to it to the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which ends up deciding not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report

of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the transfer of ownership of (15) properties, and since the appellant objects to the decision of the Adjudication Circuit because it is owned by his brother but not registered in his name, and where the appellant submitted an agreement document showing that the transfer of ownership of the (fifteen) properties was done as a way of distributing the rights resulting from the dissolution of the partnership, this is supported by the fact that the instruments issued by the Ministry of Justice stated that the transfer of ownership was done as a gift on the grounds that there is no other option to distribute land based on the partnership dissolution agreement. Moreover, the Appellee did not provide evidence of the existence of a consideration for these property transfer actions, which leads the Appellant Circuit to accept the appeal regarding the transfer of ownership of (15) properties to the appellant's brother.

With regard to the fine for error in the declaration and the fine for late payment, and since the appellant is demanding the cancellation of the decision issued to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the taxable domestic sales clause for the basic ratio has partially led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

With regard to the fine for the delay in submitting the declaration, and since the appellant objects to the decision of the adjudication Circuit due to the invalidity of the decision of the appellee to impose the fine, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it scrutinized the dispute and concluded with regard to it to the conclusion it reached in its operative part, and where the appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which ended up determining that it did not affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ... , National ID No. (...), in connection with the supply of real estate in Instrument No. (...) So that the amount of the supply is (350,000) Riyals, and cancel



the decision of the first Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2367) and cancel the decision of the Appellee.

3-Rejection of the appeal submitted by the Taxpayer/ ... , National ID No. (...), regarding the supply of real estate before the entry into force of the law, which was added by the Zakat, Tax and Customs Authority in the sales clause, and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No.(VJ-2022-2367).

4- Accepting the appeal submitted by (...), National ID No. (...), regarding the transfer of ownership of (15) properties to the appellant's brother, and canceling the decision of the first Circuit for adjudicating VAT violations and disputes in Jeddah Governorate (VJ-2022-2367) and canceling the decision of the appellant against it.

5- Accepting the appeal submitted by (...), National ID No. (...), in part regarding the penalty for error in a tax return, and amending the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2367) and amending the decision of the appellant against her as stated in paragraph (II, IV) above.

6- Accepting the appeal submitted by (...), National ID No. (...), in part regarding the late payment penalty, and amending the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2367) and amending the decision of the appellant against her as stated in paragraph (II, IV) above.

7- Rejection of the appeal submitted by the Taxpayer/ ..., National ID No. (...), regarding the fine for delay in submitting the declaration, and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2367).



Purchases



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA-2024-201152

Case No. V-2023-201152

Keywords

VAT -Reassessment of the Tax Return - purchases - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer objected to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186), related to the revaluation of the fourth quarter of 2018, the imposition of a tax in the amount of (102,690.16) riyals, and the two fines of error in the declaration and delay in payment in a total amount of (268,514.62) riyals. The objection was based on the Taxpayer submitting all the required documents and objecting to the final evaluation of sales, purchases and imports. Whereas, it was proven to the Appellate Circuit that the document on which the Authority relied on in the valuation is insufficient to prove the entitlement to tax on the amount of (1,525,624) riyals, and that the Taxpayer submitted an accounting proof supported by the required settlements, which necessitates the acceptance of the appeal for this clause. It was also found that the exclusion of purchases with a value of (43,750) riyals did not clarify its basis accurately, and the Authority did not provide evidence of the Taxpayer's intolerance, which makes its exclusion not based on sufficient evidence. This resulted in accepting the appeal of the partially assigned person to cancel the subjection of the amount (1,525,624) riyals within the sales, and to cancel the exclusion of purchases with a value of (43,750) riyals, while supporting the rest of the decision.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (23) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (1) of Article (40) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Paragraph (2) of Article (60) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:



The appeal submitted on 01/06/2023 AD, by the Taxpayer ..., National ID No. (...), against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186) in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: On the Merits: Reject Plaintiff's lawsuit to cancel the Defendant's decision regarding the revaluation of the fourth quarter of 2018, the imposition of value-added tax in the amount of (102,690.16) riyals, the fine for error in acknowledgment in the amount of (41,063.06) riyals, and the fine for late payment in the amount of (227,451.56) riyals.

Whereas this decision was not accepted by the appellant, he submitted to the Appellate Circuit a statement of appeal that included his objection to the decision of the Adjudication Circuit to reject his claim regarding his objection to the final evaluation of the tax period for the fourth quarter of 2018 and the fines resulting from it, in order to submit all the documents requested by the Appellee and with proof of this before the Adjudication Circuit, but it did not request the evidence that proves its validity, and this is a lack of consideration by the Circuit and pure harm to the appellant, with regard to sales subject to tax for the basic amount of (1,525,624) riyals, and with regard to purchases subject to tax for the basic amount of (43,750) riyals, as it relates to the invoice of the Foundation ... It does not contain two serial numbers on one invoice and it contains only one serial number for the supplier. The other number is handwritten and belongs to the number that was registered with the appellant in the accounting program and what is related to its stamp on the supplier's invoices is on receipt, which is the stamp of the warehouse indicating receipt. With regard to the taxable imports in the basic ratio paid upon import in the amount of (122,848) riyals, because the accountant erred when entering the import invoice and recorded it in one clause in invoice No. 103, while the commercial invoice issued by the supplier in the UAE includes two clauses. Therefore, refunds were made for invoice No. 103, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the lawsuit papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit rejected the appellant's lawsuit regarding his objection to the final evaluation of the tax period for the fourth quarter of 2018 and the fines resulting therefrom, and since the appellant objects to the decision of the Adjudication Circuit regarding the clause of domestic sales subject to tax for the basic amount of (1,525,624) riyals, This is due to the submission of all the documents requested by the Appellee and with the proof of this before the Adjudication Circuit, but it did not request the evidence that proves its validity and this is a lack of consideration from the Circuit and pure harm to the appellant, and since it was found by the Appellate Circuit under the "final evaluation notice" that the basis for calculating the valuation is "adding the difference between revenues in the trial balance and sales in the VAT declarations based on Article 14 of the executive regulations" and since the value of the supply must be adjusted when one of the cases mentioned in the text of paragraph (1) of Article (40) of the executive regulations of the VAT law is realized, and that the amendment is made upon possession of Evidentiary documents proving that the amount relates to sales and represents returns due for settlement during the period in dispute, and whereas the Appellee stated that the document on which the submission was made is the accounting proof that resulted in differences between the trial balance and the tax declarations, which is not sufficient evidence of the occurrence of one of the determinants of tax entitlement due on the date of "supply", "issuance of the invoice" or "receipt of the consideration in part or in whole" (whichever is earlier) as stated in the text of paragraph (1) of Article (23) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, which unless it is proven that it occurred on the amount in dispute, which the basis of calculating the valuation is not clear, which violates the text of paragraph (2) Article (64) of the Executive Regulations of the Value Added Tax Law, and where the Appellant submitted a document under settlement for the amount in dispute, which the Appellee acknowledged that it represents "a settlement record in which the wrong registration was corrected at the level of the year" Entry No. 809 entitled "Settlement of its commercial and factory sales returns - a mistake carried over" from two mentioned: SAR 407,744.58/Factory Product Sales Returns "A/C No" SAR 1,117,880.78/ Returns on sales of products for sale "Account No" To the aforementioned: 407,744.58 riyals/full production costs "Account No. ..." 1,117,880.78 riyals/cost of goods sold "Account No. ..." The appellant also submitted the detailed account statements of the four accounts subject to the above settlement, which include the movement of the settlement record and the impact of that movement on the balance of each account, and since it is an accounting proof corresponding to the accounting proof on which the appellant relied against it in subjecting the amount in dispute, which leads the Appellate Circuit to accept the appeal related to subjecting the amount of (1,525,624) riyals to the clause "sales".

With regard to the clause of local purchases subject to tax for the basic amount of (43,750) riyals, and since the appellant objects to the decision of the Adjudication Circuit because it is related to the invoice of the institution ... It does not contain two serial numbers on one invoice and it contains only one serial number for the supplier. The other number is handwritten and belongs to the number that was registered with the appellant in the accounting program and what is related to its stamp on the supplier's invoices is upon receipt, which is the stamp of the warehouse indicating receipt, and since it was found by the Appellate Circuit that the basis of exclusion under the "final evaluation notice" (excluding purchases that do not match the conditions of tax invoices in accordance with Article 53 of the Regulations), and since the notice referred to general provisions that bear more From the reason and did not specify the paragraph on which the decision was based, and a part of the purchases was excluded without a statement of the invoices subject to exclusion, which does not clarify the basis for calculating the valuation, which is contrary to the text of paragraph (2) Article (64) of the executive regulations of the value added tax law, and since the possession of tax invoices is "one of the" acceptable documentary evidence to prove "bearing the" purchases "and the value of the tax due" for the purpose of proving (the right of deduction), the Appellee did not provide evidence to the contrary and prove the "intolerance" of the Taxpayer for those purchases, which confirms the absence of a relationship between The error in the form of the invoice and the appellant's failure to actually bear those purchases, due to the existence of supporting documents for the invoice proving its association with it in the absence of "all" or "part" of the procedural conditions of the invoice such as "receipt voucher" or "bank receipt for the payment process" identical to the value of the invoice, and since the appellant's request against it to provide other documentary evidence before making the exclusion decision was not proven, which does not make it appropriate for the appellant to be held accountable for errors in the form of the invoice being a "customer" and not a "supplier" and therefore does not have the authority to "issue" or "amend" the invoice, and the grounds for exclusion did not include a provision related to the absence of a document, but the grounds were limited to the violation of the procedural conditions, and since the invoice includes "two numbers", one of which is handwritten, the appellant explained that the number added manually for the purpose of linking, is represented in the invoice number as purchases in his records and what is related to his stamp on the supplier's invoice as explained in the sales clause above, which the Appellant ends up with accepting the appeal related to the exclusion of an amount of (43,750) riyals from the clause "purchases".

With regard to the imports subject to tax for the basic and paid upon import in the amount of (122,848) riyals, and since the appellant objects to the decision of the Adjudication Circuit, because the accountant erred when entering the import invoice and recorded it in one clause with invoice No. 103, while the commercial invoice issued by the supplier in the UAE includes two clauses, and therefore the returns were made for invoice No. 103, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry out its judiciary, as the issuing Circuit undertook the examination of the dispute and concluded with its conclusion in its operative part, and where the appellate circuit did not notice what required redress or comment in light of the defenses raised before this circuit, which ends with a report that it did not affect the result of the

decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the two fines of error in acknowledgment and delay in payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the above result led to the partial acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ..., National ID No. (...), related to subjecting the amount of (1,525,624) riyals to the clause "Sales", and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186) and canceling the decision of the Appellee.
- 3- Acceptance of the appeal submitted by the Taxpayer/ ..., National ID No. (...), relating to the exclusion of an amount of (43,750) riyals from the clause "Procurement", and the cancellation of the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186) and the cancellation of the decision of the appellant against it.
- 4- Rejection of the appeal submitted by the Taxpayer/ ..., National ID No. (...), relating to the exclusion of an amount of (122,848) riyals from the clause "Taxable imports paid upon importation", and to support the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186) and to support the decision of the Appellee.
- 5- Acceptance of the appeal submitted by the Taxpayer/ ..., National ID No. (...), partially with regard to the fine for error in the declaration, amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186) and amending the decision of the Appellee in accordance with paragraphs (second, and third) above.
- 6- Accepting the appeal submitted by the Taxpayer/ ..., national ID No. (...), partially with regard to the late payment fine, and amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-95186) and amending the decision of the appellee in accordance with paragraphs (II and III) above.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. V-2023-98952

Case No. V-2022-98952

Keywords

VAT -Reassessment of the Tax Return - purchases -purchases subject to 5% - acceptance of the Taxpayer's appeal

Summary:

The Taxpayer objected to the decision of the First Circuit to adjudicate VAT violations and disputes in Dammam No. (VD-2022-387), where his appeal lies on the final revaluation of the tax period for the fourth quarter of 2019, and the exclusion of purchases worth (3,818,972) riyals, on the pretext of not submitting invoices on time. The Taxpayer's appeal lies on the clause (purchases for the tax at the basic rate (15%), demanding the cancellation of the decision. Whereas, it was proven to the Appeal Committee that the Taxpayer submitted a statement of purchases that included duplicate invoices, and after the examination, the statement did not match the amount approved, and he did not submit all the invoices required during the examination, which led to the partial rejection of his appeal in the amount of (3,782,629.08) riyals, and the acceptance of the amount proven by valid documents of (36,343.67) riyals. This means accepting the partially costly appeal.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (42) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (43) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (1) of Article (48) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)



- Paragraph (5,8) of Article (53) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:



The appeal was considered on 22/03/2022, from the Taxpayer/ ... National ID number (...) On his own behalf, the First Circuit's decision to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-387) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following: dismiss the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, he submitted to the Appellate Circuit an appeal statement that included his objection to the decision of the Adjudication Circuit to reject his case for the final re-evaluation of the tax period related to the fourth quarter of 2019 and the fines resulting therefrom, in connection with the exclusion of purchases (3,818,972) riyals for being a holder of purchase invoices and did not have enough time to submit them, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which stipulates that: The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat. " The case file, memoranda, and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the adjudication Circuit to reject his case regarding the final re-evaluation of the tax period related to the fourth quarter of 2019 and the fines resulting therefrom, and since the



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the purpose of proving (the right of deduction) and the Appellee did not provide evidence to the contrary and prove the "intolerance" of the appellant for those purchases, It is clear that there is no relationship between the error in the form of the invoice and the actual intolerance of the appellant to those purchases because of the existence of documents supporting the invoice proving its link to it in the absence of "all" or "part" of the customer's data on the invoice, such as a receipt or a bank statement of the amount of the invoice, but the invoices in question clarified the name of the customer, and it was not clear to us that the appellant requested documentary evidence to support the validity of the invoices during the examination, which proves that there is no relationship between the error in the form of the invoice and its actual intolerance of those purchases, which is not appropriate to hold the appellant accountable for other errors in the form of the invoice because he is a "customer" on the invoice and not a "supplier" and therefore does not have the authority to "issue or amend" those invoices, which is an unproductive payment in the case, which ends with the Appellate Circuit partially accepting the appeal in the amount of (36,343.67) riyals and rejecting (3,782,629.08) riyals and amending the decision of the Adjudication Circuit.

With regard to the fine of error in the declaration, and because the assessment resulted in the calculation of the tax in an amount greater than the amount due in accordance with the abovementioned law, and where the Circuit in the first clause ended up partially accepting the appeal and amending the decision of the Adjudication Circuit and amending the decision of the Appellee, and since the fine of error in the declaration resulted from this, what is related to it is affected by its judgment, which leads the Circuit to partially accept the appeal regarding the fine clause of error in the declaration by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause based on the text of paragraph (1) of Article (42) of the value added tax law and amending the decision of the Adjudication Circuit and amending the decision of the Appellee.

With regard to the fine and delay in payment, and since the evaluation resulted in the calculation of the tax in an amount greater than what is due in accordance with the above mentioned law, and where the Circuit in the first clause ended up partially accepting the appeal and amending the decision of the Adjudication Circuit and amending the decision of the Appellee, and since the fine of error in the declaration resulted from this, what is related to it is affected by its judgment, which leads the Circuit to partially accept the appeal regarding the fine clause of error in the declaration by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause based on the text of Article (43) of the Value Added Tax Law and amending the decision of the Adjudication Circuit and amending the decision of the Appellee.

For these grounds and after deliberation, the Circuit unanimously decided as follows:



Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the appeal in part submitted by the Taxpayer/ ..., National ID No. (...), in relation to the clause of purchases subject to the basic percentage, in the amount of (36,343.67) riyals, amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-387) and amending the decision of the Appellee (the Authority).
- 3- Accepting the appeal submitted by the Taxpayer/ ..., National ID No. (...), with regard to the fine clause of error in the declaration, by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause, and stating otherwise, and amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-387) and amending the decision of the Appellee (the Authority).
- 4- Accepting the appeal submitted by the Taxpayer/ ..., National ID No. (...), with regard to the late payment penalty clause, by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause, and stating otherwise, and amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-387) and amending the decision of the Appellee (the Authority).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA-2024-192718

Case No. V-2023-192718

Keywords

VAT -Reassessment of the Tax Return - purchases - local purchases subject to tax at a rate of (5%) - acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-96385), where the Authority's appeal lies on the clause of local taxable purchases at a rate of (5%), stressing that the Taxpayer did not provide sufficient documents to justify his classification of some purchases within the category of taxable purchases at different rates. Whereas, the Taxpayer's appeal lies on the same clause, explaining that he applied a percentage of (5%) on purchases based on his actual use of them in taxable activities, and that some tax classifications were modified based on an unintentional accounting error. The Appeal Committee found that the Taxpayer did not provide sufficient evidence to support his objection to some classifications related to local procurement, however, some tax classifications were modified based on the facts reached. This means partially accepting the Authority's appeal, and partially accepting the Taxpayer's appeal, with the amendment of some tax classifications.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (79) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:



The appeal filed on 25/04/2023 by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-96385) was considered in the lawsuit filed by the Taxpayer ...against the Zakat, Tax and Customs Authority.

The appeal submitted on 25/04/2023 was also considered by the Taxpayer ... – National ID No. (...), on the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-96385) in the lawsuit filed by the Taxpayer ...against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To dismiss the Plaintiff's claim regarding the clause of domestic sales subject to tax for the basic tax period in question to prove the validity of the Defendant's decision.
- Second: Amendment of the Defendant's decision regarding the clause of local purchases subject to tax at the basic rate (5%) for the tax period in question.
- Third: Amendment of the Defendant's decision regarding the clause of local purchases subject to tax at the basic rate (15%) for the tax period in question.
- Fourth: Modify the Defendant's decision regarding the fine for the error in the declaration in question in line with the provisions of the second and third paragraphs.
- Fifth: Modify the Defendant's decision regarding the fine for the error in the declaration in question in line with the provisions of the second and third paragraphs.

Since this decision was not accepted by the parties, the appellant (Zakat, Tax and Customs Authority) submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the Adjudication Circuit to amend its decision related to the final evaluation for the second quarter of 2021, because the sales disclosed in the sales subject to 5% are subject to 15% because they were made in the second period of 2021 and therefore were subject to 15% with regard to sales. With regard to purchases, during the examination stage, a request was made to submit all purchase invoices, and the Taxpayer submitted a number of them and examined them, it was found that they do not belong to his activity (gasoline invoices and oil exchange) and included daily restrictions and bank transfers. Based on his failure to submit sufficient and supporting documents for the validity of his declaration, the disclosed amount was excluded, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

As submitted by the Appellant (...) To the Appellate Circuit with an appeal regulation that included his objection to the decision of the Adjudication Circuit, as it was based on the fact that the four contracts expire before the tax period in question, that he did not submit proof of their renewal before 11/05/2020 and that

they continue without expiry or renewal until he has the right to subject them to 5% until 30/06/2021, and that they did not meet the conditions contained in the text of Article (79) of the Executive Regulations of the Value Added Tax Law, that the supplier and the customer are registered as subject because they have not been proven to be subject and the appellant has not submitted all the contracts and that the entire contracts conform to the conditions contained in Article (79) and that the contract is automatically renewed for a similar period in the event that the first party "the owner" agrees in writing to the renewal as it meets the requirements of the transitional provisions for the application of 5% with regard to sales, and with regard to purchases, because the invoice related to the supplier/ company ... Contracting does not match the amount recorded in the file because it is recorded in the amount of (1,320,49.21) riyals and in the invoice recorded in the amount of (776,896.96) and that the reason for its non-conformity is the existence of another invoice not included in the Excel file and it belongs to extract No. (7) and that the invoices are included in the tax return based on the value of the payment made to the supplier, and that the invoices submitted represent a sample of invoices of intrinsic and influential value that have not been calculated, in relation to purchases subject to 5% of the amount of (2,489,961.20) riyals, and in relation to purchases subject to the basic percentage of 15% of the amount of (3,004,990.67) riyals, in relation to a part of the amount subject to rejection before tax (982,598.38) riyals, which is represented in Invoice No. 0378 issued on 16/05/2021 from the supplier/ company ... With a total amount of (20,350) riyals, it does not contain a tax rate, but the invoice conforms to the requirements and contains a field showing the tax. Accordingly, the Taxpayer has the right to deduct the invoice based on the invoice submitted in the documents, which guarantees the right of deduction, and that Invoice No. D1.01.2021 issued on 12/05/2021 from the supplier company ... The total amount of (98,280) riyals in English conforms to all conditions and may be used as an alternative document to the invoice in Arabic to prove the right to discount, while the invoice No. 027272 issued on 18/04/2021 from the supplier/ company ... Furniture with a total amount of (1,328,041.85) riyals does not match what was stated in the statement, where it was recorded in the statement with a total amount of (265,608.14) riyals and a total amount of (662,375.01) riyals, where the invoice corresponding to the amount recorded in the statement was submitted, and invoice No. 298240 issued on 21/04/2021 from the supplier/ company ... The total amount of (166,750) riyals does not match the amount recorded in the statement, as it is registered in the statement with an amount of (83,375) riyals, in order to acknowledge the appellant based on the amount paid to the supplier, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged,

and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Appellant Circuit to amend the decision of the Appellant (Zakat, Tax and Customs Authority) related to the final evaluation for the second quarter of 2021, and that the Appellant objects to the decision of the Appellant Circuit because the sales disclosed in the sales subject to 5% are subject to 15% because they were made in the second period Since 2021, it has been subject to 15% with regard to sales, and with regard to purchases, as during the examination stage, a request was made to submit all purchase invoices, and the Taxpayer submitted a number of them, and by examining them, it was found that they do not relate to his activity (gasoline and oil bills) and included daily restrictions and bank transfers, and based on his failure to provide sufficient and supporting documents for the validity of his declaration, the disclosed amount was excluded, and since it was established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry his judiciary, as the issuing Circuit undertook a scrutiny of it The dispute lies in it and ended with its conclusion in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this Circuit, which ends with a decision not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

Regarding the appeal submitted by (...) Because it was based on the fact that the four contracts expire before the tax period in question and that no proof of renewal was submitted before the date of 11/05/2020 and continued without expiry or renewal until he has the right to subject them to 5% until 30/06/2021 and did not meet the conditions mentioned in the text of Article (79) of the Executive Regulations of the Value Added Tax Law, that the supplier and the customer are registered as subject because they have not been proven to be subject and the appellant has not submitted all contracts and that all contracts comply with the conditions mentioned in Article (79) and that the contract It shall be automatically renewed for a similar



period in the event that the first party "the owner" agrees in writing to the renewal as it meets the requirements of the transitional provisions for the application of 5% with regard to sales, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it undertook an examination of the dispute in it and concluded with regard to it to the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which concludes with a determination that it does not affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to purchases subject to a rate of 5% for the amount of (2,489,961.20) riyals, and where the appellant (...) Objects to the decision of the Adjudication Circuit because the invoice related to the supplier/ company ... Contracting does not match the amount recorded in the file because it is recorded in the amount of (1,320,49.21) riyals and in the invoice recorded in the amount of (776,896.96) and that the reason for its non-conformity is the existence of another invoice not included in the Excel file and it belongs to extract No. (7) and that the invoices are included in the tax return based on the value of the payment made to the supplier, and that the invoices submitted represent a sample of invoices of intrinsic and influential value that have not been calculated, and since it is established that the appellant submitted one invoice and did not submit the rest of the invoices contained in the statement despite the fact that they were the subject of examination during the evaluation of the period in dispute, as it was sufficient for the invoice submitted to the Adjudication Committee related to the supplier company ... For contracting totaling 776,896.96 riyals. Since the discount is applied before imposing the tax rate and not as shown in the invoice, the original amount of purchases before tax is $776,896.96/1.05=739,901.86$, which is the original amount on which 5% tax should be calculated. Accordingly, the Circuit sees accepting the invoice value. As for the argument regarding the existence of another invoice and that the total amount incurred was 1,320,49.21 riyals for those purchases, the Taxpayer did not provide the other invoice referred to or justify the payment despite the supplier not issuing an invoice regarding the remaining amount in case it was not invoiced, and justify paying the amount without receiving the claim document, which is the invoice. He also did not provide a credible document supporting the supplier's account statement, such as a bank statement showing the total amount incurred and a journal entry showing the details of purchase invoices from the supplier and the tax rate calculated on them. As for the remaining amount of the clause under appeal, the Taxpayer was asked for all invoices during the examination stage while he only provided the previously detailed invoice. Consequently, we see partial acceptance of the Taxpayer's appeal for the basic amount of the submitted invoice (739,901.86).



With regard to purchases subject to the basic percentage of 15% for the amount of (3,004,990.67) riyals, and where the appellant (...) Objects to the decision of the Adjudication Circuit regarding part of the amount rejected before tax amounting to SR (982,598.38), which is represented in Invoice No. ... issued on 16/05/2021 from the supplier/ company ... With a total amount of (20,350) riyals, it does not contain a tax rate, but the invoice conforms to the requirements and contains a field showing the tax. Accordingly, the Taxpayer has the right to deduct the invoice based on the invoice submitted in the documents, which guarantees the right of deduction, and that Invoice No. ... issued on 12/05/2021 from the supplier company ... The total amount of (98,280) riyals in English conforms to all conditions and may be used as an alternative document to the invoice in Arabic to prove the right of discount, as for the invoice No. ... issued on 18/04/2021 from the supplier/ company ... With a total amount of (1,328,041.85) riyals, which does not match what was stated in the statement, where it was recorded in the statement with a total amount of (265,608.14) riyals and a total amount of (662,375.01) riyals, where the invoice corresponding to the amount recorded in the statement was submitted, and invoice No. ... issued on 21/04/2021 from the supplier/ company ... The total amount of (166,750) riyals does not match the amount recorded in the statement as it is registered in the statement with an amount of (83,375) riyals for the appellant's acknowledgment based on the amount paid to the supplier, and where it was proven to the Appellate Circuit by reviewing Invoice No. ... issued on 16/05/2021 AD that it contains a special "field" showing the amount of the applicable tax at 15% of the value of the basic invoice before taxation in the amount of (17,695.65) riyals and therefore there is no reason to reject it because of the two forms of the invoice showing the amount of tax, which implicitly shows the applicable tax rate, The request for an alternative document supporting the invoice to verify the validity of what was stated in it was not proven, as it was rejected based on procedural matters. The customer has no authority to change it as a customer on the invoice and not its source, and therefore does not have the authority to amend it, which the Circuit ends up accepting. With regard to Invoice No. ... issued on 12/05/2021 AD, which shows the value of the basic invoice before tax in the amount of (85,460.87) riyals and clarifies the amount of tax incurred by the Taxpayer and therefore there is no merit to reject it because of the procedural nature of the invoice proving its attachment to the Taxpayer and the request for an alternative document supporting the invoice to verify the validity of what It stated that it was rejected based on procedural matters that the customer has no authority to change because he is a customer on the invoice and does not source it and does not have the authority to amend it, which the Circuit ends up accepting, and with regard to the two invoices related to the supplier/ company ... Which was submitted by the Taxpayer and represents the amounts mentioned in the statement, where he submitted invoice No. ... issued on 02/06/2021 with a basic amount before tax of (230,963.60) riyals and invoice No. ... issued on 08/06/2021 with a basic amount before tax of (575,978.26) riyals and the amounts are identical to what was stated in the procurement statement submitted by the Taxpayer, which the Circuit ends up accepting, and with regard to invoice No. ... issued by the supplier/ company For fire extinguishers, they are issued during the disputed quarter on 21/04/2021 with a basic pre-tax amount of

(145,000) riyals. The Taxpayer has requested to deduct an amount representing 50% of the value of the invoice through the statement of purchases for the disputed quarter, where the amount in question is the basic pre-tax amount of (72,500) riyals, which is less than the value of the deduction document by 50%, which the Circuit does not see merit in rejecting the claim for an amount less than what is stated in a document that guarantees him the right to deduct and issued during the disputed quarter, which ends with the Appellate Circuit accepting the appeal submitted by (...) Partially for an amount of (982,598.38) riyals.

With regard to the two fines of error in acknowledgment and delay in payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the above procurement clause partially led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal in the fines in question.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

First: regarding the Zakat, Tax and Customs Authority appeal:

- 1- Acceptance of the appeal procedurally.
- 2- Rejection of the appeal on the merits.

Second: Regarding the Taxpayer's appeal... National ID number (...)

- 1- Acceptance of the appeal procedurally.
- 2- Rejection of the appeal related to subjecting the disputed amount to the clause "Local sales subject to tax in the basic ratio" and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-96385).
- 3- Partially accept the appeal in relation to the clause "Purchases subject to 5%" for the basic number of invoices submitted in the amount of (739,901.86) riyals and reject otherwise.
- 4- Partially accept the appeal in relation to the clause "Purchases subject to the basic rate of 15%" for the basic number of invoices submitted in the amount of (982,598.38) riyals and reject otherwise.
- 5- Accepting the appeal in part regarding the fine for error in the declaration, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-96385) and amending the decision of the Zakat, Tax and Customs Authority in accordance with the above.
- 6- Accepting the appeal in part regarding the late payment fine, amending the decision of the First Circuit to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2023-96385) and amending the decision of the Zakat, Tax and Customs Authority in accordance with the above.



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and Disputes
In Riyadh

Decision No. VSR-2024- 189867

Case No. V-2023-189867

Keywords

VAT -Reassessment of the Tax Return - purchases -tax resulting from the purchase of a property -rejection of the Plaintiff's claim

Summary:

The Plaintiff claim to oblige the Defendant to recover an amount of (10,000) riyals as value-added tax resulting from the purchase of real estate through Murabaha financing from the bank (the Defendant). It was established to the Adjudication Committee that the tax had already been paid from the bank when the property was purchased from its first owner. Accordingly, the Plaintiff is not entitled to claim recovery in accordance with the text of the definition of the consideration in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf. Consequently, the lawsuit was dismissed.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (14) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Article (1) of [The GCC Unified VAT Agreement](#)

Facts:

The facts of this case are summarized in the fact that the Taxpayer ..., National ID No. (...), on his own behalf, submitted a statement of claim that included a claim to oblige the Defendant to bank ... , Commercial Register No. (...), to recover an amount of (10,000) riyals resulting from the purchase of a property from the Taxpayer ... Through Murabaha financing from a bank ... (Defendant).

By presenting the Statement of Claim to the Defendant, she submitted a Reply, which was shared with the Circuit.

On Wednesday, 03/01/2024, the session was opened, which was held via videoconference in accordance with the procedures of remote visual litigation; Based on what was stated in Clause No. (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees, and by calling on the parties to the case, the Plaintiff attended the original / ... (Saudi National) under National ID No. (...) The Defendant's attorney was present/ ... (Saudi National) under National ID No. (...) Under Power of Attorney No. (...), by asking the Plaintiff about his case, he answered in accordance with what was stated in the statement of claim and adheres to what was stated in it, and by asking the Defendant's attorney about his response, he answered in accordance with what was stated in the response memorandum and adheres to what was stated in it, and by asking the parties what they would like to add, they decided to be satisfied with what was previously presented in this case, and accordingly the Circuit decided to adjourn the session for deliberation, in preparation for issuing the decision.

Grounds:



After reviewing the case papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the Zakat, Tax and Customs Authority No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the committees for the adjudication of tax violations and disputes issued by Royal Decree No. (25711) dated: 08/04/1445Hijri, the Unified Value Added Tax Agreement for the States of the Gulf Cooperation Council, and the relevant laws and regulations.

In terms of form, and where the lawsuit was submitted in its capacity and during the statutory period, the lawsuit must be accepted procedurally.

In terms of the merits, by examining the lawsuit papers and the response of the two parties after giving them enough time to express and present what they have, it was proven to the Circuit that the dispute lies in the Plaintiff's request for a refund of (10,000) riyals resulting from the purchase of real estate from the Taxpayer ... Through Murabaha financing from a bank ... (Defendant), while the Defendant replied that the tax amount was supplied to the Authority. By reviewing the case file, by reviewing the instrument of transfer of ownership on 30/1/2019 corresponding to 24/5/1440 AH, a bid/ offer for sale, and the financing contract between the Plaintiff and the Defendant bank, it was found that the first supply operation took place between the owner of the property and the bank ... Therefore, the Plaintiff is not entitled to claim the refund of the value added tax paid to (the owner of the property) as it is a second supply, based on the definition



of the consideration in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf on: "All that has been or will be obtained by the taxable supplier from the customer or from a third party in return for the supply of goods or services, including VAT." Article (14) of the Executive Regulations of the Value Added Tax Law stipulates: "Without prejudice to Article 2 of the Law, and for the purposes of implementing the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the importation of goods into the Kingdom." The matter with which the Circuit ends up dismissing the Plaintiff's claim.

Decision:

Dismissal of the case.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Services



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and
Selective Goods Tax Violations and Disputes

Decision No. VA-2023-144230

Case No. V-2022-144230

Keywords

VAT - Reassessment of the Tax Return - services - provision of customer training services -acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897), where the Authority's appeal lies on the clause "Revaluation of VAT for 2019" and "Imposition of fines for late payment", noting that the Taxpayer did not submit the required documents to settle the late tax. The Taxpayer's appeal lies in the clauses "providing training services to customers" and "supplies outside the Kingdom's territory", explaining that these services are not subject to VAT according to the applicable regulations. Whereas, it was proven to the Appeal Committee that the Taxpayer did not submit the necessary documents to prove his appeal, and the tax was recalculated based on the available data. This means accepting the Authority's appeal regarding fines and re-evaluation. And partially accept the Taxpayer's appeal of clauses related to non-taxable services and activities.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (2) of Article (20) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Paragraph (1, 2, 3) of Article (23) of [The Unified Agreement on Value Added Tax for the States of the Cooperation Council for the Arab States of the Gulf](#)

Facts:



The appeal was considered on 14/09/2022, from the Taxpayer ..., Resident ID No. (...) In his capacity as an agent for the appellant company, on the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897) in the lawsuit filed by the company ... Against the Zakat, Tax and Customs Authority.

The appeal filed on 18/09/2022 by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897) was also considered in the lawsuit filed by the company ...against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

First: To accept the claim procedurally.

Second: On the Merits: Cancellation of the Authority's decision regarding the revaluation of the month of December 2019, the imposition of value-added tax in the amount of (452,762.92) riyals, the fine of the error in the declaration in the amount of (226,381.46) riyals, the fine of late payment in the amount of (339,572.19) riyals, and the recalculation of the amount of the tax and the resulting fines according to the grounds.

As this decision was not accepted by the parties, the appellant (company ...) To the Appellate Circuit with an statement of appeal that included its objection to the decision of the Adjudication Circuit to amend the decision of the Defendant (the Authority) for the tax period in December 2019, and with regard to the clause (providing customer training services with a value of (3,739,950.46) riyals), it claims that it provides inspection, verification, documentation and training services that are carried out on an ongoing basis and periodic invoices are issued in accordance with Article (20) of the Executive Regulations, which are recorded in the records according to the basis of accounting entitlement and acknowledged when invoices are issued in subsequent periods and within twelve months. The amount in dispute has been subject to The Appellee (the Authority) accepted supporting this with a contract, a detailed statement and an invoice issued in February 2020. With regard to the clause (Supplies outside the Kingdom's territory with a value of (337,963.50) riyals), the Appellant claims that it supplied equipment outside the Kingdom, as its customer imported it into the Kingdom in accordance with the customs declaration, which is outside the scope of the tax. With regard to the clause (Supplies for services before the application of VAT with a value of (601,114.91) riyals), the Appellant claims that the invoices were issued in 2019 while they were issued before the entry into force of the VAT and are outside the scope of the tax, and ended with a request to accept Appeal and revoke the decision of the Adjudication Circuit.

The Appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit, because the decision came to cancel the entire decision of the Appellant, while the other clauses represented in supplies of customer training services, supplies outside the Kingdom's territory and supplies of services before the application of VAT. The Appellant's action was supported as a contradiction in the decision, adding that the supplies by paying government agencies on behalf of customers are equal to the amounts paid on behalf of the Appellant, while the Appellee (Company ...) It did not provide a detailed analysis and all the necessary documents to show the value of the collected commissions and that the decision of the Adjudication Circuit was a reduction of the appellant's (the Authority) arguments for the existence of service agreements in exchange for the collected commission, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided to amend the decision of the Defendant (the Authority) for the tax period in December 2019, and with regard to the clause (providing customer training services with a value of (3,739,950.46) riyals), and since the Appellant (Company ...) It objects to the decision of the Adjudication Circuit, where it claims that it provides inspection, verification, documentation and training services that are carried out on an ongoing basis. Periodic invoices are issued in accordance with Article (20) of the Executive Regulations, which are recorded in the records in

accordance with the accounting basis of entitlement and acknowledged when invoices are issued in subsequent periods and within twelve months. The amount in dispute was subject to the Appellee (the Authority), supported by a contract, a detailed statement and an invoice issued in February 2020, while the Appellee (the Authority) In its memorandum to the Adjudication Circuit, it indicated that the appellant did not provide a detailed analysis at the customer level of the projects under implementation and linking them to the invoices and all the required and necessary documents, which makes it difficult to verify the amounts invoiced in the following month and the supply of her tax, and it turns out that the appellant's declaration of the existence of differences in sales between the financial statements and the tax declaration was not disclosed, and since the subject of the dispute is on the due date of the tax, and since paragraph (1), (2/d) and (3) of Article (23) of the Agreement and paragraph (2) of Article (20) of the Regulations stipulate that the date of supply It is the date of completion of the performance of the service or the issuance of an invoice or payment, whichever is earlier, and where the appellant submitted a purchase order concluded on (...) For the training program from the date of (...) To (16/03/2020) and Invoice No. (...) On 13/02/2020 for the month of December 2019 and a statement of the disclosure of the invoice in the tax return for the month of February 2020, and since the Appellee (the Authority) indicated that the sales differences between the financial statements and the tax returns are subject to the validity of the appellant's action against it (the Authority) and the negligence of paragraph (3) of Article (23) of the Convention and paragraph (2) of Article (20) of the Executive Regulations, which ends with the Appellate Circuit to accept the appeal and cancel the decision of the Adjudication Circuit and cancel the decision of the Authority on the above clause.

With regard to the clause (Supplies outside the Kingdom's territory with a value of (337,963.50) riyals), and the clause (Supplies for services before the application of VAT with a value of (601,114.91) riyals), and where the appellant claims (Company ...) The invoices were issued in 2019, while they were issued before the entry into force of the value-added tax and are outside the scope of the tax. It also claims that it supplied equipment outside the Kingdom, as its customer imported it into the Kingdom in accordance with the customs declaration, which is outside the scope of the tax. Whereas it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry out its judiciary, as the exporting Circuit undertook a scrutiny of the dispute in it and concluded with regard to it to the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the objection of the appellant (company ...) On the cancellation of the two fines of error in the declaration and delay in payment, and since the appellant is demanding the cancellation of the decision issued to amend those fines that resulted from the decision of the Authority for the tax period in question,

and since the above clause has led to the acceptance of the appeal in part where the appeal was accepted and rejected in other clauses, and since the fines resulted from this, what is related to it takes its judgment, which ends with the Appellate Circuit accepting the appeal filed in the fines subject of the appeal in part and amending the decision of the Class Circuit.

With regard to the appeal submitted by the (Zakat, Tax and Customs Authority) and since it objects to the decision of the Adjudication Circuit because the decision was contradictory, it added that the supplies by paying government agencies on behalf of customers are equal to the amounts paid on behalf of the appellant, while the appellee (a company ...) It did not provide a detailed analysis and all the necessary documents to indicate the value of the commissions collected, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the issuing Circuit examined the dispute and concluded with regard to it the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the defenses raised before this circuit, which ends with a decision that it does not affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

First: Regarding the Taxpayer's appeal... – Resident ID No. (...):

- 1- Accepting the appeal procedurally.
- 2- Accepting the appeal in part regarding the clause (providing customer training services) with a value of (3,739,950.46) riyals and rejecting otherwise, and amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897) and amending the decision of the Authority accordingly.
- 3- Accepting the partial appeal related to the late payment fine, amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897) and amending the decision of the Authority in accordance with what is stated in (2) above.
- 4- Accepting the partial appeal related to the fine of the error in the declaration, amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897) and amending the decision of the Authority in accordance with what is stated in (2) above.

Second: regarding the Zakat, Tax and Customs Authority appeal:

- 1- Accepting the appeal procedurally.
- 2- Rejecting the appeal on the merits, and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-897).



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Dammam

Decision No. VD-2024-233402

Case No. V -2024-233402

Keywords

VAT -Reassessment of the Tax Return - services - supply of consulting services - acceptance of the Plaintiff's claim

Summary:

The Plaintiff's claim for an amount of (230,148 riyals) as value added tax for consulting services, in addition to (210,946.80 riyals) as attorneys' fees. The Defendant explained in the agreement on which the Plaintiff relied that it was signed without validity, and that it had already paid the Plaintiff's fees in implementation of a judgment issued by the General Court in Riyadh, and confirmed its readiness to pay the tax upon receipt of a valid tax invoice. It also argued that it was not responsible for the attorneys' fees because it was an agreement between the Plaintiff and its legal representative, and pointed out the lack of competence of the General Secretariat of Zakat, Tax and Customs Committees to consider professional services fees disputes. This resulted in obliging the Defendant to pay the tax amount upon receipt of a valid tax invoice, and refusing to claim attorneys' fees.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (14) of [The Executive Regulations of the Income Tax Law issued by Decision No. \(1535\) of the Minister of Finance dated 11/06/1425AH.](#)
- Article (1) of [The GCC Unified VAT Agreement](#)

Facts:

The facts of this case, to the extent necessary to issue the decision, are summarized in the fact that the company ..., Commercial Registration No. (...), submitted by ... Identity number (...) As agent for the Plaintiff under agency number (...) And the lawyer's license No. (...), a statement of claim that included his claim to

oblige the Defendant/ company ..., Commercial Register No. (...), to pay an amount and capacity of (230,148) two hundred and thirty thousand, one hundred and forty-eight riyals, representing the value added tax, resulting from the supply of consultancy services, and obliging the Defendant to pay attorney's fees in the amount of 210,946.80 two hundred and ten thousand nine hundred and forty-six riyals, and eighty halalas.

On 12/06/2024, the Defendant submitted a response memorandum stating the following: We would like to respond to the statement of claim submitted by the Plaintiff / company ... As follows: First: Obliging our Defendant company to pay an amount of (230,148 riyals), representing the amount of value added tax resulting from the provision of services by the Plaintiff company: We would like to clarify for your assistance that we are the Defendant company/company..., when we received compensation from the Human Resources Development Fund "HadaF" for the decision to increase the annual work license fees previously incurred by the company in the amount of (10,228,800 riyals), we were surprised that the Plaintiff company/ company... In management I have made an agreement with the company / Under an agreement to provide services

Dated 23/01/1443 AH, corresponding to 31/08/2021 AD, the Plaintiff Company shall submit compensation requests to the Human Resources Development Fund "HadaF" for the decision to increase the annual work permit fees; provided that the Plaintiff Company shall follow up and comment until the payment of the compensation amount is approved in favor of the Defendant, provided that the Plaintiff Company's fees shall be (15%) of the amount of compensation paid in favor of the Company ... This was a point of disagreement between us and the Plaintiff company, as the agreement was signed without authority to represent the company and that the elected board of directors and the company's manager were not aware of this agreement. The company tried to communicate to the Plaintiff company its lack of knowledge of the agreement, but we did not deny the work done by the Plaintiff and it did not benefit us and tried to negotiate with the Plaintiff company on satisfactory and appropriate fees for the volume of work carried out, but the Plaintiff company did not listen to us, and therefore the Plaintiff company filed a lawsuit in the General Court in Riyadh registered under No. (...) Dated of 23/04/1444 AH, according to which the judicial judgment instrument No. (...) Was issued Date 10/10/1444AH : "The Circuit ruled to oblige the Defendant to hand over to the Plaintiff an amount of (1,534,320 riyals) only one million five hundred and thirty-four thousand three hundred and twenty riyals,...", supported by the Court of Appeal in Riyadh Region; by virtue of the judicial judgment instrument No. (...) Dated 04/02/1445AH , which represents the total amount of the fees. Respecting the judgments of our just judiciary and as soon as the judgment of the Court of Appeal in Riyadh Region – Twelfth Legal Circuit is issued under the judicial judgment instrument No. (...) On 04/02/1445 AH, " attached ", as well as informing us of the issuance of an execution order No On 07/02/1445AH " attached " and obligated us to pay an amount of (1,534,320 riyals) only one million five hundred and thirty-four thousand three hundred and twenty riyals and we have

implemented and paid " attached ". As we explained to Your Excellency, the company tried to negotiate with the Plaintiff company satisfactory and appropriate fees for the workload carried out, but we did not receive any tax invoices from the Plaintiff company/ company ... In the administration of the fees that were the subject of the dispute as well as the value added tax on them previously or upon the issuance of the judgment of the Court of Appeal in Riyadh Region – Twelfth Legal Circuit under the instrument of the judicial ruling No. (...) On 04/02/1445 AH, otherwise we had to pay it, as the invoice submitted and attached to the case file was not delivered to us, and the company is fully prepared, out of respect for the judicial regulations and rulings, to pay the due tax as soon as a valid and newly dated tax invoice is issued and delivered to us bearing the value of the due tax.

Second: Obliging our Defendant company to pay the Plaintiff company an amount of (210,946.80 riyals), representing the attorneys' fees.

As we explained to Your Excellency above, the subject of the lawsuit, but the Plaintiff company/ company ... In the administration, they also demand that we pay an amount of (210,946.80 riyals), representing the attorneys' fees for the previous cases submitted by the Plaintiff company and based on the "Fees and Bank Transfers Agreement" in the attached case file

We would like to respond as follows:

1- That the fee agreement concluded between the Plaintiff company/ company ... In the administration and between its legal representative and its lawyer, it is not binding on us and we are not the body responsible for evaluating and examining its validity and the extent to which its value is commensurate with the services provided and therefore it is not binding on us, the company /

2- Disputes of professional service fees agreements are the competence of commercial courts or general courts and not the competence of the General Secretariat of Zakat, Tax and Customs Committees.

Orders: In light of the above arguments and clarifications in our response, we hope that Your Excellency: Issuing your decision to the Plaintiff company/ company ... In the administration, it is necessary to issue and deliver a valid tax invoice to us bearing the value of the tax due and recently dated. Failure to oblige us to pay an amount of (210,946.80 riyals) representing the attorneys' fees of the Plaintiff company/ company ... In the Circuit by virtue of an agreement between it and its legal representative and its attorney that is not binding on us.

On Tuesday 25/06/2024, the Circuit held its remote session to consider the case, with the participation of the Plaintiff's representative... National ID number (...) By proxy (.....) He attended ... ID No ... He submitted a power of attorney No. (...) He did not submit a lawyer's license and was warned to attend a person authorized to plead in accordance with the law. Accordingly, it was decided to postpone the hearing of the lawsuit to 8/7/2024.

On Monday 08/07/2024, the Circuit held its session remotely to consider the case, and by calling on the parties, he attended /... (Saudi National) National ID No. (...). As agent for the Plaintiff under agency number (...) The Defendant attended the power of attorney / ... National ID number (...) In his capacity as an agent under Power of Attorney No. (...), and by asking the parties what they wish to add, they decided to suffice with what was previously submitted in this case, the Plaintiff's host that the last memorandum was submitted before the start of the session, and accordingly the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:



After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (...) On 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case:

In terms of form, and since the Plaintiff aims from her lawsuit to oblige the Defendant to pay an amount representing the value added tax resulting from the supply of the consultancy contract, based on the value added tax law and its executive regulations, and since this dispute is one of the tax disputes, and therefore this dispute is one of the disputes within the jurisdiction of the Circuit. Whereas, the date of maturity of the claim amount: July 21, 2022AD, and the Plaintiff filed the lawsuit through the electronic portal on (14/03/2024AD), accordingly, the lawsuit was submitted within the prescribed period in accordance with the text of paragraph (8) of Article (67) of the Income Tax Law, and where the lawsuit was submitted by a person of competent capacity, which requires the Circuit to accept the lawsuit procedurally.

In terms of the merits, the Circuit contemplated the lawsuit and what was submitted in it, and after granting its parties sufficient deadlines to submit what they have, it was proven to the Circuit that the dispute lies in the Plaintiff's claim to the Defendant to recover an amount of 230,148 riyals as value added tax for the supply of consulting services, and an amount of 210,946.80 riyals as attorneys' fees, and based on Article (14) of the Executive Regulations of the Value Added Tax Law: "Without prejudice to Article 2 of the Law, and for the purposes of implementing the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the importation of goods into the Kingdom," and the definition of consideration contained in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf: "All that has been or will be obtained by the taxable supplier from the customer or from a third party in return for

the supply of goods or services, including value-added tax", and after referring to the lawsuit documents represented in (an agreement to provide consulting services dated March 31, 2021, which was clarified in Clause (V) of it as "... A financial claim will be issued by the second party for any amounts due and VAT will be added to it " - Preliminary Judgment No. (4430841152) obligating the Defendant with an amount of 1,534,320 riyals - Appeal Judgment No. (4530102895) to uphold the judgment of the Court of First Instance - Tax invoice dated 21 July 2022 in the amount of 1,534,320 riyals, and a value added tax of 15% in the amount of 230,148 riyals - VAT registration certificate dated 12 November 2018AD, and the effective date of 01 January 2019AD - Attorney fees agreement, by taking over the company ... Advocates and Legal Consultants (the "Law Firm") file a lawsuit against the Defendant Company to claim an amount of SAR 1,764,486), and where it is found that the Plaintiff is registered for VAT on the date of supply, and that the value of the agreement to provide consulting services is not inclusive of VAT based on Clause (V) of the agreement, which requires the Circuit to oblige the Defendant to pay an amount of SAR 230,148 as VAT at 15% of the value of the supply of consulting services SAR 1,534,320.

With regard to the Plaintiff's attorney's request to be obligated to pay attorney's fees in the amount of 210,946.80 riyals, and after referring to the attorney's fees agreement, it is clear that the scope of work (filing a lawsuit against the Defendant company in the amount of 1,764,486 riyals) while the value of the claim in this lawsuit is 230,148 riyals, which requires the Circuit to respond to the Plaintiff's request.

Based on the foregoing, and after deliberation, the Circuit unanimously decided:

Decision:

1-Obliging the Defendant/ company ... Commercial Register No. (...) Paying an amount of (230,148) riyals to the Plaintiff/ company ... In the Circuit, Commercial Registration No. (...) Other requests received.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Riyadh

Decision No. VR-2024- 235099

Case No. V-2024- 235099

Keywords

VAT -Reassessment of the Tax Return - Services - Supply of legal services -Rejection of the Plaintiff's claim

Summary:

Requesting the Plaintiff to oblige the Defendant to pay an amount of (2,004) riyals as value added tax for the supply of legal services. Whereas, the adjudication committee established that the fee contract concluded between the Plaintiff and the Defendant was in its personal capacity and not in its capacity as a director or partner in the company mentioned in the tax invoice, and it was also found that the contract was devoid of any obligation to bear the tax, and the Plaintiff had not previously claimed it, in addition to the fact that the VAT registration certificate submitted belongs to a professional limited liability company, which is an entity independent of its owners, which results in the invalidity of the claim in question. Consequently: Reject the Plaintiff's claim.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Facts:

The facts of this case are that the Taxpayer ... Identity number (...) On his own behalf, he submitted a statement of claim that included a claim to oblige the Defendant to pay an amount of (2,004) riyals as VAT for the supply of legal services.

On Tuesday, 09/07/2024, and by reviewing paragraph No. (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees, which includes the permissibility of holding the sessions of the Circuit by means of modern technology, and by calling on the two parties, neither the Defendant nor his representative attended, while the representative of the Plaintiff failed to attend and did not send an excuse

for his failure, despite the validity of his notification of the date of the session through the electronic portal of the General Secretariat of the Zakat, Tax and Customs Committees, which is considered as a waste of his right to attend and plead. Whereas, the Circuit decided to proceed with the lawsuit for the validity of adjudication in accordance with the provisions of paragraph (1) of Article (19) of the rules of work of the Zakat, Tax and Customs Committees, and after deliberation, the Circuit decided unanimously.

Grounds:

After reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/06/1425 AH and its amendments, and after reviewing the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 21/04/2024 AD, and the due date of the amount in question is 08/01/2024 AD, and therefore the lawsuit is filed within the regular period stipulated in paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit in tax disputes shall not be heard after the lapse of five years from the due date of the amount in question or from the date of knowledge of the incident in dispute, except in the case of an excuse accepted by the committee), which must be accepted procedurally.

In terms of the merits, by reflecting on the lawsuit papers and the response of the two parties after giving them enough time to express and submit what they have, it was proven to the Circuit that the dispute lies in the Plaintiff's claim to oblige the Defendant to pay an amount of (2,004) riyals as value added tax for the supply of legal services based on the lawyer's fees contract concluded, while the Defendant clarified that the fees contract was concluded with ... In his personal capacity and in his capacity as a lawyer, and not as a director or partner in the company referred to in the tax invoice he is claiming, and there is no relationship between me and the aforementioned company, and the fee contract concluded with the Plaintiff is free of any obligation to bear VAT, and what confirms this is that it paid the advance fee without any tax, and it has never been claimed by the Plaintiff at any time, as the agreed amount is inclusive of tax, so it requests the dismissal of the case for non-entitlement. Reflecting on the facts of the case, and after reviewing the contract for attorneys' fees and legal advice, concluded on 08 January 2024 between ... In his capacity as lawyer and Defendant, which is clarified in Clause (Seventh) thereof: "The principal shall bear the expenses related to third parties that are required by the need (such as the fees of accountants, translators and real estate residents, the fees for the conclusion of the lawsuit or the judicial costs... Etc.) If there is any need at all, and shall not be paid or contracted except after written consent with the principal. " And by reviewing the VAT registration certificate of the company ... F ..., dated 12 September 2023 and effective 01 October 2023. After reviewing the Memorandum of Association of the Company ... And (...) On May 26, 2023,



corresponding to 07 Dhu al-Qa 'dah 1444AH - a professional limited liability company - which shows the contracting of... With the Defendant in his personal capacity, while the certificate of registration submitted in favor of the company ... And (...) Therefore, it is not valid to submit a VAT registration certificate for a company ... And (...) The professional company is a civil company with a legal personality independent of its owners, which leads the Circuit to reject the Plaintiff's claim.

Decision:

1- Acceptance of the claim procedurally.

2-On the merits: Rejection of the Plaintiff's claim

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and
Disputes In Riyadh

Decision No. VTR-2024-233209

Case No. V-2024-233209

Keywords

VAT -Reassessment of the Tax Return - services - supply of professional services - acceptance of the Plaintiff's claim

Summary:

The Plaintiff claim to oblige the Defendant to pay the value added tax in the amount of (7,087.50) riyals on professional fees in accordance with the concluded contract. Whereas, the Adjudication Committee established the Plaintiff's entitlement to the amount claimed for non-payment of the Defendant and the non-applicability of any statutory exception. Whereas, the origin of the VAT is the responsibility of the service recipient, and it has not been proven to the Circuit that there is a statutory exception that exempts the Defendant from paying it, and it has not provided proof of payment. Accordingly, it has been proven that the Plaintiff is entitled to the amount in question. The effect of this is to oblige the Defendant to pay (7,087.50) riyals.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (30) of [The GCC Unified VAT Agreement](#)

Facts:

The facts of this case, to the extent necessary to issue the decision, are that the company ... Accountants and Statutory Auditors, Commercial Registration No. (...), submitted by ... Saudi national, under national ID number (...) In his capacity as the statutory representative of the Plaintiff under the Memorandum of Association, to demand that the Defendant be obligated to pay an amount of (7,087.50) riyals representing value added tax in exchange for a professional fees service.

Although the Plaintiff's statement of claim was presented to the Defendant, she did not submit a response.

On Sunday, 28/07/2024, corresponding to: 22/01/1446AH, the Circuit held its remote session to consider the case in accordance with the procedures of remote visual litigation; and based on what was stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the legal representative attended... Saudi national, under national ID number (...) In his capacity as the legal representative of the Plaintiff under the memorandum of association attached to the case file, and the representative of the Defendant did not attend, and at the beginning of the session, the Plaintiff's representative adhered to his statement of claim, and submitted documents during the session that the Circuit included in the case file, and decided to postpone the consideration of the case until 04/08/2024 at 5:30 pm, provided that the Defendant is informed of this and submits its response in the case before 31 July 2024.

On Sunday, 04/08/2024, corresponding to: 29/01/1446AH, the Circuit held its session remotely to consider the case, and by calling on the parties to the case; the regular representative attended... Saudi national, under national ID number (...) In his capacity as the legal representative of the Plaintiff under the memorandum of association attached to the case file, and no representative of the Defendant was present, and at the beginning of the session the Plaintiff's representative adhered to the above and submitted. Accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:



After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case:

In terms of form, and since the Plaintiff aims from her lawsuit to demand that the Defendant be obligated to pay an amount of (7,087.50) riyals representing the value added tax in exchange for a professional fees service, and therefore this dispute is one of the disputes within the jurisdiction of the Circuit.

In terms of the merits, it was found that the dispute lies in the Plaintiff's claim to oblige the Defendant to pay an amount of (7,087.50) riyals, representing value added tax in exchange for the supply of professional services, and to inform the Circuit of the case file, and the documents submitted therein, and the presentation of the work submitted by the Plaintiff to the Defendant and signed by the two parties, dated 23/07/2022AD, which includes the Plaintiff providing professional services to the Defendant in exchange

for a fee of (94,500) riyals excluding value added tax, of which (50%) is paid upon signing the contract, and (50%) upon issuance of the draft report, and to inform the Circuit of the invoice issued by the Plaintiff to the Defendant on 25/08/2022AD, which includes an amount of value added tax of (7,087.50) riyals, and the judgment issued by the Fourth Legal Circuit of the Court of Appeal in Jeddah Governorate No. (...) On 21/08/1445 AH, which includes the confirmation of the judgment issued by the twenty-first General Circuit of the General Court in Jeddah Governorate No. (...) The date of 29/06/1445 AH, which includes obliging the Defendant to pay an amount of (47,250) riyals to the Plaintiff, which represents the remaining amount of the contract free of the value added tax, and since the asset in bearing the burden of paying the tax as an indirect tax on the goods and services it receives is the recipient of the goods and services, except for what was excluded by a special provision from paying the tax on the goods and services it receives according to certain cases mentioned in Article (30) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and since the Circuit's reflection of the facts of the case did not show the applicability of any of the cases of the exception to the Defendant, and where the Circuit did not find that the Defendant paid the amount of the tax in question, and did not provide evidence to the contrary, and for the foregoing, the matter with which the Circuit ends up obliging the Defendant to pay an amount of (7,087.50) seven thousand and eighty seven hundred and fifty riyals to the Plaintiff, represents the value added tax subject of the lawsuit.

Based on the foregoing, and after deliberation, the Circuit unanimously decided:

Decision:

1-Obliging the Defendant/ company ... Ltd., Commercial Registration No. (...), to pay the Plaintiff a company ... Accountants and Statutory Auditors, Commercial Registration No. (...) An amount of (7,087.50) riyals seven thousand eighty-seven riyals and fifty halalas, representing the tax claim in question.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2023-135691

Case No. V-2022-135691

Keywords

VAT-Reassessment of the Tax Return-services-Food delivery platform-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2022-1153), where the Taxpayer's appeal is based on the clause "Food Delivery Platform", which concerns the refusal to process VAT on cancellation fees on passengers and local sales related to delivery services. The Taxpayer also objected to the imposition of late payment penalties and the imposition of penalties for an error in the tax return. The Appellate Committee found that the Taxpayer had submitted the necessary documents about the cancellation fees, and that the delivery platform falls under abstract supply, which means that the delivery services provided by the platform are not considered essential services subject to VAT directly, but are merely a means of facilitating the transportation of food from restaurants to customers. Local sales related to this service must be processed in accordance with the VAT controls for e-services. Consequently: accepting the Taxpayer's objection regarding the fees charged to passengers, rejecting the Taxpayer's objection regarding local sales related to delivery, and partially accepting the Taxpayer's objection regarding penalties for late payment.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (9) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (1) of [The GCC Unified VAT Agreement](#)

Facts:



The appeal submitted on 28/06/2022 AD, by the Taxpayer ..., national ID No. (...), in his capacity as an agent for the appellant company under the power of attorney No. (...), against the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No.(VSR-2022-1153) in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: Acceptance of the lawsuit procedurally.
- Second: Reject the Plaintiff's lawsuit on the merits, regarding the final evaluation of the sales clause subject to the basic percentage of the tax period in question.
- Third: Rejection of the Plaintiff's lawsuit in substance, with regard to the two penalties of error in the declaration and delay in payment resulting from the final assessment of the tax period in question.

Since this decision was not accepted by the appellant, the appellant submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Classification Circuit to reject its claim regarding the taxable local sales clause for the basic tax period for February of 2019 and the resulting fines. With regard to the passenger transport platform, the appellant claims that the role of the (passenger transport platform) is to be a destination where the applicants (customers) meet with the service providers (the courier) and both of them register on the electronic platforms, and agree to the terms and conditions for using the application, to provide the transport service from one place to another and thus demand that the relationship of the electronic platforms with the parties to the application be considered an intermediary, and that the cancellation fees charged to the passengers not be subject to tax. The appellant also objects to the decision of the Classification Circuit regarding the food delivery platform, in order to provide proof of VAT on the delivery fees imposed on the food seekers and on the commission imposed on the restaurants in full. The appellant also demands the cancellation of the fines resulting from the re-evaluation subject of the lawsuit, and the acceptance of the appeal and the decision of the Class Circuit.

On Tuesday, 14/05/1445 AH corresponding to 28/11/2023AD, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which states that: The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat. " Appealing to the parties, the appellant's attorney/ ... (Saudi National) under National ID No. (...) And the agency number (...), and the representative of the Appellee also attended the Zakat, Tax and Customs Authority/ ... (Saudi national) and attended ... (Saudi National), pursuant to Authorization Letter No. 1445/.../.../... On 19/03/1445 AH, issued by the Deputy

Governor for Legal Affairs, and upon asking the Appellant's Deputy about her appeal, he replied: He is satisfied with the statement of appeal and memorandums submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein. He added that a memorandum has been submitted by the appellee and we have not reviewed it and we adhere to our right to review what has been submitted to the Circuit to respond to it. By presenting this to the representative of the Appellee, the Zakat, Tax and Customs Authority replied: The authority shall adhere to what is stated in the regulations and the response notes submitted by the appellee.

By asking both parties what they would like to add, they replied by contenting themselves with what has already been submitted. Accordingly, the Circuit unanimously decided to postpone the hearing of the case to study the supplementary memorandum submitted by the Authority yesterday, provided that the appellant submits his final response no later than 7 December if he wishes to do so. The Authority submits its final response on 14 December if it wishes to do so, and the pleading is closed after 14 December 2023.

On Monday 12/06/1445 AH corresponding to 25/12/2023 AD, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which stipulates that: "The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat." The case file, memoranda, and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit rejected the appellant's claim regarding the taxable domestic sales clause for the basic tax period of February 2019 and the imposition of the two fines of error in the declaration and delay in payment, and with regard to the taxable domestic sales clause for the basic ones represented in the following clauses: (Delivery application, cancellation fees charged to riders, food delivery platform), and in relation to the delivery application clause, and where the appellant objects to the decision of the Adjudication circuit to consider the relationship of the electronic platforms

with the parties to the application as an intermediary, and where the appellant pays that the appellant's relationship in the delivery process as an original, and where it is established according to the nature of the relationship between the appellant and the service provider that the driver relies in the delivery process carried out by him mainly on his assets (including his car and phone) and bear the costs of performing the task (including costs related to the service; such as fuel, insurance, maintenance, spare parts), in addition to the fact that the main risks associated with the performance of the task are not borne by the appellant company, and since it is established that the nature of the contractual relationship is that the appellant is an intermediary in providing the service, and this is not affected by what the appellant pays against her that the appellant is an original in the delivery service on the basis of her control over the delivery process in accordance with the terms and conditions of using the application, which makes it clear that her control is over the use of the platform in a manner that does not violate the terms and conditions in order to preserve the trademark and its trade name, and since the representative does not work under the management of The appellant under an employment contract, but for the account of the delivery service provider "the shipping company" or "his personal account", and that he can work at the same time with more than one electronic platform, according to the program proposed by the Human Resources Development Fund in cooperation with the Ministry of Human Resources and Social Development, the Communications and Information Technology Commission and ... , which targets the self-employment program and through which, in accordance with certain controls, the self-employment document is issued in addition to disbursing material support to the freelancer in the delivery of orders through smart phone applications, and where the appellee based its action on Article (9) of the VAT law, which reads: "In the event that the taxable person - in his own name - supplies or receives goods or services on behalf of another person, he shall be treated - for the purposes of applying the law and the regulation - as having supplied or received those goods or services for himself." Considering the nature of the appellant's work as an agent for the service provider, the text of the article does not apply to this case, as it is not proven that the appellant supplied a service for herself or on behalf of another person, and since the supplies in dispute in this case were made by the drivers and not by the appellant company as mentioned above, the latter is not charged with collecting the tax on those supplies, which leads the Appellate Circuit to accept the appeal submitted.

With regard to the clause of cancellation fees charged to passengers, and since the appellant objects to the decision of the Adjudication Circuit, due to the invalidity of the appellant's decision to subject the cancellation fees charged to passengers to the basic tax, and since the appellant pays that the cancellation fees constitute a consideration for the right of the passenger to the trip and for the time and effort exerted by the driver to reach the passenger without receiving any other requests, and since the cancellation fees are a fee imposed in the event of cancellation of the trip by the passenger after linking him with the driver, or if the passenger is not present at the meeting point, it is compensation for the loss incurred as a result of canceling the trip and aims to discourage the behavior of canceling the trips, and since it has not been proven that it is a supply of a service in the concept of supply, the driver did not provide any service to the

passenger and it is not linked to any time or effort, and where Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf States defines the supply as: "Any form of supply of goods and services for remuneration in accordance with the cases stipulated in Part II of this Agreement.", and since it has been concluded that (the driver) is considered as an original in the delivery process as he performs his work independently, therefore, the cancellation fee is considered compensation to the driver for its association with him, which ends with the Circuit accepting the appeal submitted.

With regard to the clause of the food delivery platform, and since the appellant objects to the decision of the Adjudication Circuit to provide evidence of its calculation of VAT on the delivery fees imposed on the two customers and the commission imposed on the restaurants in full, and since the appellant pays that the fees collected from the customer for the delivery of orders in addition to the commission collected from the restaurant contracted for the presentation of the menu in the electronic platform are all subject to VAT for the basic and undisclosed, and since the role of the (food delivery platform) is to be a destination where providers meet Orders (customers) with restaurants and with service providers (delivery representative) where they register on electronic platforms, and the tax treatment by the appellant company was to charge a commission fee to restaurants in exchange for displaying the menu on the platform, and also to charge delivery fees to the two customers, and calculate the tax on them, and since the appellant submitted a sample of the food delivery invoice and a sample of the brokerage fee invoice, which proves that the company subject the delivery fees and brokerage commission fees to VAT, and since it is established by the Appellate Circuit that the tax treatment carried out by the appellant company complies With the appellant against her, which ends with the acceptance of the appeal filed.

With regard to the fine for error in the declaration and the fine for delay in payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which ends with the Appellate Circuit accepting the appeal, canceling the decision of the Fines Adjudication Circuit in question, and canceling the decision of the Appellee.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the appeal filed by ... - Commercial Registration No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal submitted by ... - Commercial Registration No. (...), regarding the clause of local sales subject to tax in the basic ratio, and canceling the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-1153) and canceling the decision of the Appellee.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the penalty for error in a tax return, and canceling the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City (VSR-2022-1153) and canceling the decision of the appellant against her.



4- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the late payment penalty, and canceling the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City (VSR-2022-1153) and canceling the decision of the appellant against her.



Tax refund



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2024-196811

Case No. V-2023-196811

Keywords

VAT - Tax Refund - VAT Refund - Authority Appeal Acceptance

Summary:

The Zakat, Tax and Customs Authority objected to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-131416), where its objection lies on the decision issued by the Adjudication Circuit, which decided to cancel the appellant's decision regarding the rejection of the tax refund request for the second quarter of 2021 without addressing the details of the amounts that were accepted, as the total amount in dispute is (94,286) riyals. Whereas, it has been proven to the Appeal Committee regarding the amount of (59,875.25) riyals, the appellee acknowledges that another recovery request has been submitted, including the referred amount of the total value of the clause in dispute, based on the text of the decision of the Board of Directors of the Zakat, Tax and Customs Authority No. (04/08/22), which allowed the claim for recovery through specific requests for specific periods, and where it has been proven that she recovered this part of the amount in a subsequent recovery period for the period in dispute. This resulted in the acceptance of the Authority's appeal in part on the amount of (59,875.25) riyals and the amendment of the decision of the Circuit of Adjudication.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (4,6) of Article (70) of [The Executive Regulations of the Value Added Tax Law issued by the Zakat, Tax and Customs Authority Council Resolution No. \(3839\) dated 14/12/1438AH.](#)

Facts:

The appeal filed on 11/05/2023 by the Zakat, Tax and Customs Authority against the First Circuit's decision to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-131416) was considered in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: On the Merits: Accept the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to cancel its decision on the rejection of the tax refund request for the second quarter of 2021, because its decision was canceled without addressing the details of the amounts that were accepted, as the total amount in dispute is (94,286) riyals and its following statement: First: Amount of (10,848.38) related to invoices issued during the fourth quarter of 2020, Second: An amount of (62,066.03) riyals related to invoices issued during the first quarter of 2021, where I applied for the recovery of invoices issued earlier than the date of the period in question, which violates paragraph (4) and paragraph (6) of Article 70 of the Executive Regulations of the Value Added Tax Law, Third: An amount of (21,371.59) riyals related to instruments that are not in the name of the appellee, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the two parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit decided to cancel the appellant's decision on rejecting the tax refund request for the second quarter of 2021, and since the appellant objects to the

decision of the Adjudication Circuit, because its decision was canceled without addressing the details of the amounts that were accepted, as the total amount in dispute is (94,286) riyals and its following statement: First: Amount of (10,848.38) related to invoices issued during the fourth quarter of 2020, Second: An amount of (62,066.03) riyals related to invoices issued during the first quarter of 2021, where I applied for the recovery of invoices issued earlier than the date of the period in question, which violates paragraph (4) and paragraph (6) of Article 70 of the Executive Regulations of the Value Added Tax Law, Third: An amount of (21,371.59) riyals related to instruments that are not in the name of the appellee, and to inform the Appellate Circuit of the grounds for the decision subject of the appeal and the statement of appeal and the documents submitted by the parties, it becomes clear that the sub-detail of the amount in dispute about the main clause, according to the documents submitted, is as follows: First: With regard to the amount of (59,875.25) riyals, and where the appellee acknowledged that another recovery request was filed, including the amount referred to from the total value of the clause in dispute, based on the text of the decision of the Board of Directors of the Zakat, Tax and Customs Authority No. (04/08/22), which allowed the claim for recovery through specific requests for specific periods, and where it was proven that it recovered this part of the amount in a subsequent recovery period for the period in dispute, which leads the Appellate Circuit to accept the appeal on the amount of (59,875.25) riyals.

Second: With regard to the remainder of the total value of the clause in dispute, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with regard to it the conclusion it reached in its operative part, and where the Appellate Circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which leads to a decision that it does not affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, procedurally for submitting it within the legally specified period.
- 2- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, partially on the amount of (59,875.25) riyals regarding the "tax refund request", and amending the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-131416) and rejecting otherwise.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA -2023-198730

Case No. V-2023-198730

Keywords

VAT- Tax Refund -Tax Principal-Acceptance of Plaintiff's objection

Summary:

The Plaintiff's appeal against the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam (VD-2023-92857), where his (the seller) appeal is to compel the Defendant (the buyer) to pay the tax due as a result of the sale of a property and cancel the resulting fines. The Appellate Committee found that the burden of paying the tax as an indirect tax on the goods and services received is mainly borne by the (buyer) who receives the goods and services, except as exempted by a special provision from paying according to certain cases stipulated in Article (30) of the GCC Unified VAT Agreement, and the obligation to supply and pay the tax collected from the customer or buyer who receives the goods and services to the competent tax authority falls on the supplier (seller) of the goods and services in accordance with the provisions of the agreement. The appellant (the seller) provided proof of payment of the tax resulting from the sale under the payment notice, which allows him to claim the appellant (the buyer) for the tax due on the sale of the said property. As a result, the Plaintiff's appeal is accepted and the company is ordered to pay the amount of the tax.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (2) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Article (1,30) of [The Unified VAT Agreement for the States of the Cooperation Council for the Arab States of the Gulf](#)



- Paragraph (1,2) of Article (40) of [The Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf](#)

Facts:



The appeal filed on 29/05/2023, from ..., National ID No. (...) Was considered On his own behalf, the First Circuit's decision to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2023-92857) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- Dismissal of the Plaintiff's

Whereas this decision was not accepted by the appellant, he submitted to the Appellant Circuit an appeal statement that included his objection to the decision of the Adjudication Circuit to dismiss his claim regarding his claim to oblige the appellant to pay the due tax resulting from the sale of a property on 10/12/2018 and cancel the fines resulting therefrom, because the price of the property subject of sale did not include VAT at the time, on the basis that the appellant would pay it to the Zakat, Tax and Customs Authority after being satisfied by the buyer, as the purchase of the property is a real estate financing for a citizen, and the company did not pay the tax to the Authority, and the assessment was issued by the Authority in addition to late payment fines and late filing of the declaration, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible

because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the two parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's case on his claim to oblige the appellant against her to pay the due tax resulting from the sale of a property on 10/12/2018 and to cancel the fines resulting therefrom. With regard to the appellant's claim to oblige the appellant against her to pay the tax resulting from the sale of the property, and since the appellant objects to the decision of the Adjudication Circuit because the price The property in question did not include VAT at the time, on the basis that the appellee will pay it to the Zakat, Tax and Customs Authority after it is fulfilled by the buyer, as the purchase of the property is real estate financing for a citizen, and the company did not pay the tax to the Authority, and the assessment was issued by the Authority in addition to late payment fines and late filing fines, and by reviewing the value added tax law issued by Royal Decree No. (M/113) dated 02/11/1438 AD and its executive regulations, and by reference to the text of the definition of (taxable) contained in Article (1) of the Unified Value Added Tax Agreement for the GCC States Cooperation for the Arab States of the Gulf issued by the decision of the Supreme Council of the Gulf Cooperation Council at its thirty-sixth session held in Riyadh on 27-28/2/1437 AH on: "A person who carries out an economic activity independently with the aim of generating income and is registered or obliged to register for tax purposes in accordance with the provisions of this Agreement." The definition of "consideration" in the same article also stipulates: "All that has been or will be obtained by the taxable supplier from the customer or from a third party in return for the supply of goods or services, including VAT." Article (2) of the Executive Regulations of the Value Added Tax Law issued by the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH stipulates: "For the purposes of applying the Law and these Regulations, a taxable person in the Kingdom shall be deemed to be a person who engages in an independent economic activity with the intention of generating income, and has been registered for VAT purposes in the Kingdom or has been deemed obligated to register for VAT purposes in accordance with the Law and these Regulations." According to the above statutory texts, the asset in bearing the burden of paying the tax as an indirect tax for the goods and services it receives is the customer or buyer (the recipient of the goods and services), except for what is exempted by a special provision from paying the tax on the goods and services it receives in accordance with certain cases mentioned in Article (30) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf. The obligation to supply and pay the tax collected from the customer or buyer (the recipient of the goods and services) to the competent tax authority falls on the supplier (the seller of the goods and services) in accordance with the provisions of paragraphs (1) and (2) of Article (40) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and since the appellant submitted proof of payment of the tax resulting from the sale under the payment notice issued No. (...) Regarding the property subject to sale, the ownership of which was

transferred to the buyer on 28/11/2018 pursuant to the submitted check. Accordingly, tax liability is determined according to the date of supply, invoice issuance, or partial payment of the price, whichever is earlier, for non-continuous supply in accordance with paragraph (1) of Article (Twenty-Three) of the same Agreement. Based on this, tax is due on the date of concluding the sale transaction corresponding to 28/11/2018, at which time the appellant was subject to the provisions of Value Added Tax and was obligated to register in accordance with the provisions of Article (One) of the same Agreement and Article (Two) of the Executive Regulation of the Value Added Tax Law. The provisions of the Agreement, Law, and Regulation apply to him, considering that the supply value exceeds the mandatory registration threshold stipulated in the Agreement, which entitles him to demand from the Defendant (the buyer) the tax due on the sale of the mentioned property. Based on the foregoing, the Appellate Circuit concluded by deciding to accept the appeal regarding the principal tax.

With regard to the appellant's claim to oblige the appellee to pay the fines resulting from the tax in question, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable grounds on which it was based and sufficient to carry its judiciary, as the circuit issuing it examined the dispute and concluded with its conclusion in its operative part, and where the appellate circuit did not notice what required correction or comment in light of the arguments raised before this circuit, which ends with a decision not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the appeal submitted by the Taxpayer/ ..., National ID No. (...), Procedurally to be submitted within the period specified by law.
- 2- Accepting the appeal submitted by the Taxpayer/ ..., National ID No. (...), related to the tax asset, and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2023-92857), and the ruling to oblige the company..., Commercial Register No. (...) By paying an amount of (53,625) fifty-three thousand six hundred and twenty-five Saudi riyals.
- 3- Rejecting the appeal submitted by the Taxpayer/ ..., National ID No. (...), related to the fines clause, and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2023-92857).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. V -2023-84870

Case No. V-2021-84870

Keywords

VAT- Tax Refunds - Refunded Costs - Acceptance of Taxpayer's Objection

Summary:

The Taxpayer objected to the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2021-916), where his appeal lies on the club's revenues because the authority did not provide the statutory basis in accordance with the legislation of the VAT law and where it relied on the income tax law, considering the club as a fixed base from which an activity is practiced inside the Kingdom through the UAE company in its capacity as club manager and therefore subjecting management fees and commission for using ships as services provided to a fixed establishment practicing its business from inside the Kingdom and subjecting the supply to VAT at the legally prescribed rate. Whereas the Appellate Committee proved that the appellant company and its branch in the UAE is responsible for managing the club during the period of the Commission's examination and that the branch is a legal person registered for operational and VAT purposes in the UAE according to the registration certificate of the company's branch in the UAE and where it provided a sample of management letters and distribution of profit shares to the participating club member, and where the Commission did not provide and refer to the documents and legal support on which it relied in its procedure, and it was proven that the transactions were made in the United Arab Emirates and are not related to supplies made in Saudi Arabia and the Commission did not provide proof to the contrary. This means that the Taxpayer's appeal is accepted and the Authority's decision is overturned.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (c) of Article (2) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (2) of Article (64) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:



The appeal filed on 02/12/2021 was considered by the Taxpayer ...- Commercial Register No. (...), on the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VSR-2021-916) in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.

- Second: Rejection of the Plaintiff's lawsuit, the company, Commercial Registration No. (...) On the merits:

Whereas this decision was not accepted by the appellant, it submitted to the Appellate Circuit a statement of appeal that included its objection to the decision of the Adjudication Circuit to reject its claim for the final re-evaluation of the period related to December 2018 and the fines resulting therefrom, in relation to the revenues of the Club ... Relevant to the month of December 2018 for the failure of the appellee to provide the legal basis in accordance with the legislation of the value added tax law, as it was based on the income tax law, and the revenues related to this activity are managed by the company's branch in the United Arab Emirates and that the activity took place outside the Kingdom and may not be subject to tax, and with regard to the clause of recovered costs and the clause of commission of the club ... And the management fees clause for the failure of the Adjudication Circuit to adjudicate its requests submitted on these clauses, and it ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

On Sunday, 06/11/2022, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which states: The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat. " The case file, all memoranda and documents, and the decision of the Adjudication Circuit subject of appeal were reviewed, and the two parties were called, so the appellant's attorney was present/ ... Civil Registry No. (...) Also attended/... And ... Attended, National ID No. (...), representative of the Zakat, Tax and Customs Authority pursuant to the authorization issued by the Zakat, Tax and Customs Authority No. (.../.../1442), dated 17/08/1442 AH and issued by the Deputy Governor for Legal Affairs. Accordingly, the Circuit decided to open the pleading by asking the appellant's representative about the lawsuit, and he responded: That he is satisfied with the statement of appeal and memorandums submitted on the portal of the General Secretariat of Tax Committees, and adheres to the grounds and defenses contained therein. By presenting this to the representative of the Appellee, he replied: From the date of being notified of the dates,

the Authority was unable to review the attached documents in the case file due to a technical defect, and we request a period of time to review the documents and set a date for a subsequent hearing. Accordingly, the Circuit decided to postpone the hearing of the case to a session to be determined to inform all parties, provided that the Authority submits its response within a week before 14/11/2022. In the case file.

On Sunday, 18/12/2022, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (2) of Article (15) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes, which stipulates that: The sessions of the Circuit may be held by means of modern technical means provided by the General Secretariat. " The case file, all memoranda and documents, and the decision of the Adjudication Circuit subject of appeal were reviewed, and the two parties were called, so the appellant's attorney was present/ ... Civil Registry No. (...) By virtue of Power of Attorney No. (...), also attended/ ... Under a national ID No. (...), in his capacity as a representative of the Appellee (Zakat, Tax and Customs Authority), under the authorization letter No. (.../.../...) On 17/08/1442 AH, issued by the Deputy Governor for Legal Affairs, and by asking the representative of the appellee about the lawsuit, he replied: The appellant company was contacted and it was agreed to stop the progress of the case, and the appellee submitted a memorandum requesting the suspension of the progress of the case based on the consent of the parties. By presenting this to the appellant, he replied: What was mentioned by the representative of the appellee is correct, as it was agreed to stop the progress of the case, so we request to stop the progress of it. By asking both parties what they would like to add, they replied by contenting themselves with what has already been submitted. Accordingly, the pleading was closed and the case was submitted for study and deliberation. After study and deliberation, the Circuit unanimously decided: Suspension of the lawsuit based on Article 31 of the Working Rules of the Committees for the Settlement of Tax Violations and Disputes.

On 06/08/2023, the appellant submitted a request to proceed with the case.

On Sunday, 24/12/2023, the First Appellate Circuit for Violations and Disputes of Value Added Tax and Excise Goods held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.



Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the adjudication Circuit to reject its case regarding the final re-evaluation of the period related to December 2018 and the fines resulting therefrom, and since the appellant objects to the adjudication Circuit's decision with regard to the revenues of the club ... Relevant to the month of December 2018 for the failure of the Appellee to provide the legal basis in accordance with the legislation of the value-added tax law, as it was based on the income tax law, and the revenues related to this activity are managed by the company's branch in the United Arab Emirates and that the activity was carried out outside the Kingdom and may not be subject to tax, and where it was proven to the Circuit through the final evaluation notice for the tax period in dispute (December 2018) that the Appellee relied on the following grounds for the amendment: (According to Article 2(c) of the Income Tax Law, a club...is considered a fixed base from which it conducts its activity within the Kingdom through the company... As a director of the ... Management fees and commission for the use of vessels in a club are therefore subject to... As services provided to a fixed establishment doing business from within the Kingdom and subject to Tawereda Nadi's ... For the years 2018 and 2019 for VAT at the statutory rate), which proves its reliance on the Income Tax Law, and whereas the final assessment notice must include the basis for calculating the assessment according to paragraph (2) of Article (64) of the Executive Regulations of the VAT Law, and whereas the Appellant Company indicates that its branch in the UAE is responsible for managing the club during the period of the Defendant's examination and that the branch is a legal person registered for operational and VAT purposes in the UAE under the the registration certificate of the company's branch in the UAE with a registration date of 01/01/2018 and where it provided a sample of the letters of management and distribution of profit shares to the participating club member, and where the appellant did not provide and refer to the statutory documents and supports it relied on in its procedure, and where it is proven that the transactions were made in the United Arab Emirates and are not related to supplies made in Saudi Arabia and the appellant did not provide proof to the contrary, which concludes the Appellate Circuit to accept the appeal.

With regard to the reimbursable costs clause and the commission clause of the club ... And the administrative fees clause, and since the appellant objects to the decision of the adjudication Circuit due to the failure of the adjudication Circuit to adjudicate its requests submitted on these clauses, and where it has been proven to the Appellate Circuit that the adjudication Circuit has not exhausted its jurisdiction over the

clauses subject to appeal in view of the appellant's objection on the above clauses, which leads the Appellate Circuit to accept the appeal submitted on the clause of recovered costs and the clause of the commission of the club ... And the Management Fee Clause.

With regard to the objection to the two fines of error in the declaration and delay in payment, and since the appellant is demanding the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clauses have led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal filed in the fines in question.

With regard to the clause of time contracts trips (...), and since the lawsuit is held with the availability of the litigation pillar and when this pillar fails or disappears for any reason whatsoever at any stage of the lawsuit, it is necessary to rule on the end of the litigation, and since the appellee submitted a reconciliation report signed between the parties to the dispute on 19/12/2023 for the tax period in question, the Appellate Circuit ends up proving the end of the dispute between the parties.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Accepting the company's appeal. - Commercial Registration No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the company's appeal. - commercial Register No. (...), in relation to the revenues of the ... Club, and canceling the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City (VSR-2021-916) and canceling the decision of the appellant against her.
- 3- Accepting the company's appeal. - commercial Register No. (...), regarding the clause of reimbursed costs, canceling the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VSR-2021-916) and returning the clause to the Circuit issuing the decision for consideration in accordance with the grounds explained.
- 4- Accepting the company's appeal. - commercial Register No. (...), in relation to the commission clause of Club ..., canceling the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VSR-2021-916) and returning the clause to the Circuit issuing the decision for consideration in accordance with the grounds explained.
- 5- Accepting the company's appeal. - commercial Register No. (...), regarding the clause of management fees, canceling the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh City No. (VSR-2021-916) and returning the clause to the Circuit issuing the decision for consideration in accordance with the grounds explained.



6- Accepting the company's appeal. , Commercial Register No. (...) The decision of the second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2021-916) is annulled and the decision of the Defendant on the penalty for error in a tax return is annulled, and the clause is returned to the Circuit issuing the decision to consider the penalty imposed on the other clauses (management fees - club commission ... - reimbursed costs).

7- Accepting the company's appeal. , Commercial Register No. (...) Regarding the late payment penalty, canceling the decision of the second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2021-916) and canceling the decision of the Defendant in the penalty up to the amount of revenue ..., and returning the clause to the Circuit issuing the decision to consider the penalty imposed on other clauses (management fees - club commission ... - reimbursed costs).

8- Proving the end of the dispute regarding the time contract travel clause (...).



Tax Claims Between Individuals or Legal Entities



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA -2024-197324

Case No. V-2023-197324

Keywords

VAT - Tax claims between individuals or legal entities - Refund of bank guarantee -Acceptance of the Taxpayer's objection

Summary:

The Taxpayer's appeal against the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Riyadh (VR-2023-134579), where his appeal is based on the rejection of his claim for the refund of the cash bank guarantee paid to the Authority, and he objects to the decision of the Adjudication Circuit because the purpose of the bank guarantee has been fulfilled, as there are no pending cases because it was terminated by waiving the case and in another case by closing it to include him in the initiative of exemption from fines, and he has no outstanding amounts owed to him. The Appellate Committee found that there were lawsuits filed by the Taxpayer against the Authority with the General Secretariat of the Zakat, Tax and Customs Committees, and by reviewing the pages of the lawsuits, it was proven that the Taxpayer waived and one of them was extinguished by the initiative to exempt from fines. The Authority did not provide evidence to support its statement that the claims still exist and to support its right to set off the amounts owed against the amount of the guarantee. This means; accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (2) of Article (65) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The appeal filed on 22/05/2023, from ..., National ID No. (...) Was considered On his own behalf, the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-134579), in the lawsuit filed by the appellant against the Appellee.



Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: On the Merits: Reject the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, he submitted to the Appellate Circuit an appeal statement that included his objection to the decision of the Adjudication Circuit to reject his claim for the recovery of the cash bank guarantee paid to the appellant against her for the period of the first quarter of 2018 and the first and fourth quarters of 2019, due to the absence of the purpose of the bank guarantee for the absence of any pending cases to end his waiver of the lawsuit and in another lawsuit to close it to include him in the initiative of exemption from fines, and that he does not have any amounts due, according to documents that are a copy of his account with the appellant against her (invoices) showing that she is free of invoices, and other are text messages from the General Secretariat of the Zakat, Tax and Customs Committees addressed to the appellant against her stating that he waived the lawsuits, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by informing the Appellant Circuit of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellant Circuit found that the decision issued by the Appellant Circuit rejected the Appellant's claim for the recovery of the cash bank guarantee paid to the Appellee for the period of the first quarter of 2018 and the first and fourth quarters of 2019, and that the Appellant objects to the decision of the Appellant Circuit due to the absence of the purpose of the bank guarantee due to the absence of any pending cases

for its termination by waiving the case and in another case by closing it to include him in the initiative for exemption from fines, and that he does not have any amounts due, according to documents that are a copy of his account with the Appellee's website (my invoices) showing that they are free of invoices, and another is text messages from the General Secretariat of the Zakat and Customs Committees addressed to the Appellant stating that he waived the cases, and where it was proven at the Appellate Circuit that there are cases filed by the Appellant against the Appellee with the General Secretariat of Zakat and Customs in the following numbers:

(V-93857-2022) - (V-93865-2022) - (V-113345-2022) - (V-93851-2022) and it is proven by reviewing the pages of the cases that the appellant waived them and one of them expired by the initiative of exemption from fines, and whereas, according to paragraph (f) of Article 65 of the Executive Regulations of the VAT Law, the Defendant has the option to return the bank guarantee to the Taxpayer upon request or keep it for the purpose of offsetting when the Taxpayer's liabilities the appellant has no outstanding invoice with the Defendant, and the Defendant did not provide any evidence to support her statement that the claims are still outstanding and to support her right to set off the amounts owed and the amount of the guarantee, as she did not provide a copy of her account showing the claims between them according to her she did not provide a copy of his account showing the claims between them according to her authority, nor did she provide any evidence to disprove the appellant's claim that he was exempted from all fines by exempting him from the fines initiative, which supports the validity of his claim, and since the appellant did not provide a justification for keeping the cash escrow amount, especially since the appellant's account is free of any liabilities, she cannot exercise her right of set-off without its presence therefore, there is no justification for the application of Article 65 of the Executive Regulations of the VAT Law, and since the decision of the Adjudication Circuit to dismiss the case was based on the existence of unresolved receivables, and this has been negated by the aforementioned, the Appellate Circuit concludes that the appeal should be accepted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2-Accepting the appeal submitted by the Taxpayer/ ..., National ID No. (...), merits, and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-134579), and canceling the decision of the appellant against her and obliging her to refund the cash guarantee in the amount of (209,117.09) two hundred and nine thousand one hundred and seventeen riyals and nine halalas.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2024-196521

Case No. V-2023-196521

Keywords

VAT – Tax claims between individuals or legal entities - Claim for payment of VAT - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in Riyadh No. (VR-2023-133962), where the Taxpayer's appeal lies on the claim for payment of VAT on renting a property, as it was considered that the burden falls on the service recipient. Whereas, it has been proven to the Appeal Committee that the supply took place during the period of the appellant's registration in VAT, and therefore he is entitled to claim the tax. This means accepting the appeal, canceling the decision of the Adjudication Circuit and obliging the appellee to pay an amount of (79,723.45 riyals) to the appellant.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The appeal filed on 07/05/2023 AD, by the Taxpayer ..., National ID No. (...), in his capacity as the representative of the appellant under the power of attorney No. (...), against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-133962), was considered in the lawsuit filed by the appellant against the appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: On the Merits: Reject the Plaintiff's claim.

Since this decision was not accepted by the appellant, he submitted to the Appellate Circuit a statement of appeal that included his objection to the decision of the Adjudication Circuit to reject his claim regarding his claim to pay the amount of value added tax resulting from renting a property, because the burden of collecting and paying the tax lies on the recipient of the good or service and not on the supplier, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit rejected the appellant's claim regarding his claim for payment of the amount of value added tax resulting from renting a property, and since the appellant objects to the decision of the Adjudication Circuit because the burden of collecting and paying the tax falls on the recipient of the good or service and not on the supplier, and where it was proven to the Appellate Circuit by reviewing the lease contract concluded on (21/03/1438 AH) corresponding to (20/12/2016AD) between the first party (the appellant) and the second party (the appellant), provided that the second party rents the sixth floor of the tower owned by the first party (the tower ...) Located in the city of ... On the road ... Neighborhood ... The contract shall start from the date of (03/04/1438 AH) corresponding to (01/01/2017AD) and the duration of the contract is three Gregorian years, and the contract shall be automatically renewed unless one of the parties notifies the other of its unwillingness to renew, at least two months before the end of the original period by letter, with an annual rent of (612,750) riyals paid in advance in two installments every six months. Whereas, the certificate of registration of the appellant in the



value added tax was issued on (13/10/2020) and the registration was effective on (01/01/2018); that is, the supply was made during the period of its registration and during the period of effectiveness of its registration, so it is entitled to claim the Appellee to pay the value added tax, as the original under the provisions of the articles of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf states that the recipient of the good or service bears the value added tax, which ends with the Appellate Circuit to accept the appeal submitted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ... , National ID No. (...), merits, and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2023-133962), and ruling on the following: Obligating the Appellee Company ... , Commercial Register No. (...) To pay the appellant ... , National ID No. (...Bahrain) in the amount of (79,723.45) seventy-nine thousand seven hundred and twenty-three riyals and forty-five halalas.



Fees and Commissions



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2024-195503

Case No. V-2023-195503

Keywords

VAT - tax claims between individuals or legal entities - fees and commissions - attorneys' fees - rejection of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-66304), where the appeal of the Taxpayer lies in obliging the appellee (the university) to pay VAT in the amount of (84,773.40 riyals) after registering it in the grace period and calculating the previous periods retroactively. He also demanded that the appellee be obligated to pay attorneys' fees at a rate of 10% of the value of the tax in dispute (i.e. In the amount of 8,477 riyals). The Authority replied that it did not submit an objection to the tax claim clause, but objected to the attorneys' fees clause, as it considered that the claim is not due because the attorneys' fees depend on the existence of error and damage, which are not achieved according to the interpretation of the statutory texts. Whereas, it was proven to the Appeal Committee that the Taxpayer registered for VAT on 30/06/2020, but the entry into force was on 01/01/2018. It has also been proven that the Taxpayer is obliged to register since the beginning of 2018 in accordance with Article (50) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf. The Taxpayer has declared the tax due and paid the required amount. The effect of this is to accept the Taxpayer's appeal regarding the tax reimbursement claim (84,773.40 riyals) and to cancel the decision of the First Circuit of the dismissal. Rejection of the Taxpayer's appeal regarding the claim for attorneys' fees, as the decision of the First Circuit in this regard was upheld.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (6) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)



- Article (1) of [The GCC Unified VAT Agreement](#)
- Article (50) of [The GCC Unified VAT Agreement](#)

Facts:



The appeal filed on 07/05/2023 AD, by the Taxpayer ...— National ID No. (...), in his capacity as the representative of the appellant under the power of attorney No. (...), against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-66304), was considered in the lawsuit filed by the appellant against the appellant.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- dismissal of the Plaintiff's claim.

Whereas this decision was not accepted by the appellant, he submitted to the appellant circuit a statement of appeal that included his objection to the decision of the adjudication Circuit to dismiss his case by demanding that the appellant be obligated to pay the value-added tax in the amount of (84,773.40 riyals), because he registered in the tax in the grace period and the previous periods were calculated retroactively in addition to his claim to oblige the appellant to pay the value of the attorneys' fees in the amount of (8,477 riyals) represented by 10% of the total value of the tax in dispute, and ended with a request to accept the appeal and cancel the decision of the adjudication circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Circuit subject of appeal was reviewed. After discussion and deliberation, the Circuit decided to adjourn the session and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appeals Circuit found that the decision issued by the Adjudication Circuit ruled to dismiss the appellant's case by demanding that the appellant be obligated to pay the value-added tax in the amount of (84,773.40 riyals), and that the appellant objects to the decision of the Adjudication Circuit because he registered for the tax in the grace period and the previous periods were calculated retroactively in addition to his claim. Whereas, it was proven to the Appellate Circuit through the documents submitted that the appellant registered for VAT on 30/06/2020 and that the registration was effective on 01/01/2018, meaning that the effective date is prior to the date of registration, and according to the executive regulations of VAT, the case in which the effective date is allowed to be a date prior to the date of registration is the case mentioned in the text of paragraph (3) of Article (6) of the executive regulations of the VAT law, which included the authority of the Zakat, Tax and Customs Authority to approve the application submitted by the applicant for registration, considering its effectiveness from any date prior to the date of registration, provided that The applicant is "eligible for registration" on that date, and since it was proven that the contract in dispute was expected to exceed the value of the mandatory registration limit, and therefore the appellant is obligated to register since the beginning of 2018 according to the text of Article (50) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and it was also proven that the appellant is subject to tax according to the definition of the taxable person contained in the text of Article (1) of the same agreement, Because it was proven through the contract in dispute that the appellant is obligated to register from the beginning of the entry into force of the law, which was paid by the appellant, as he explained that the registration was delayed during the validity of the exemption initiative period and certified the validity of his payment by submitting a form "Notice of Invoice Issuance" for the tax period for the first quarter of 2018, which proves that he is subject to tax from the beginning of its entry into force, and proves that a tax due in the amount of (84,773.40) riyals, which is the amount corresponding to the amount in dispute, was recognized, and the appellant also submitted a payment receipt issued by the National Bank, through which it is proven that the tax is supplied to the Zakat, Tax and Customs Authority, and therefore the appellant is authorized to impose VAT In the disputed period, which contradicts the decision of the Adjudication Circuit, which leads the Appellate Circuit to accept the appeal submitted.

With regard to the appellant's claim to oblige the appellee to pay the value of the attorneys' fees in the amount of (8,477 riyals) represented by 10% of the total value of the tax in question, and since the claim for attorneys' fees is one of the compensation requests, which are based on the existence of error and damage and the causal relationship between error and damage, and where it was proven through the documents of the lawsuit and the decision in question that the right is ambiguous between the parties, with a difference in the interpretation of the statutory texts, and in the event that the decision is issued against one of the parties, the other party's entitlement to attorneys' fees does not necessarily require, as the request for



attorneys' fees is one of the compensation requests as submitted, which leads the Appellate Circuit to reject the appeal regarding the claim for attorneys' fees.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

1-Accepting the appeal submitted by the/ Taxpayer , national ID No. (...), Procedurally to submit it within the period specified by law.

2- Accepting the appeal submitted by/the Taxpayer , national ID No. (...), with regard to the claim for payment of the tax and canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-66304), and obliging the Appellee (University ...) To pay the appellant (... National ID number (...)) An amount of (84,773.40) eighty-four thousand seven hundred and seventy-three riyals and forty halalas.

3- Rejection of the appeal submitted by the Taxpayer , national ID No. (...), regarding the claim for attorney fees and supporting the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-66304).



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Dammam

Decision No. VD-2024-219488

Case No. V-2023- 219488

Keywords

VAT - tax claims between individuals or legal entities - fees and commissions - expert fees - acceptance of the Plaintiff's claim

Summary:

The Plaintiff claim to oblige the Defendant to pay an amount of (4,500) riyals, which is the value added tax resulting from the fees of an expert in Case No. (421120423). Whereas, the adjudication committee established that the Plaintiff is registered in the value added tax law, and that the original right is established by a court ruling obliging the Defendant to pay (30,000) riyals to the expert body, and that the tax due on this amount is (4,500) riyals in accordance with the law and the executive regulations. The effect of this is to accept the lawsuit and oblige the Defendant to pay an amount of (4,500) riyals.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Article (14) of [The Executive Regulations of the Income Tax Law issued by Decision No. \(1535\) of the Minister of Finance dated 11/06/1425AH.](#)
- [Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)
- Paragraph (1) of Article (23) of [The Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)
- Paragraph (8) of Article(40) of [The Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)



Facts:



The facts of this case are that the group of ... Commercial Register (...) Filed by/ ... , National Identity (...) Holder of a license to defend the legal personality No. (...) In his capacity as an agent for the representative of the Plaintiff company under the power of attorney No. (...) By a statement of claim against/ a company ... Contracting, Commercial Register (...) The claim included the payment of a value-added tax amount of (4,500) riyals resulting from the payment of expert fees in Case No.: (...) And the date 05/03/1442 AH.

On Wednesday, 24/04/2024, the hearing was held in accordance with the procedures of remote visual litigation with the participation of the Plaintiff and the power of attorney ... Identity number (...) By proxy (.....) The Defendant did not attend despite the fact that it was proven that he was notified, and by asking the Plaintiff about his lawsuit, he answered in accordance with what is stated in the regulation submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhering to what is stated in it. Accordingly, the Circuit decided to temporarily vacate the visual hall for deliberation and issuance of the decision. After deliberation, the following decision was issued:

Grounds:



In terms of form, since the Plaintiff aims from her lawsuit to demand the Defendant to pay the amount of value added tax resulting from the payment of expert fees, and since this dispute is one of the disputes within the jurisdiction of the Zakat and Tax Adjudication Committee Circuits under the rules of work of the Zakat, Tax and Customs Committees, and since the lawsuit was registered on 02/10/2023, and since the lawsuit was filed within the period prescribed by law in accordance with paragraph (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113). Whereas, the lawsuit was submitted by a person of competent capacity, which requires the Circuit to accept the lawsuit procedurally.

In terms of the merits, the Circuit contemplates the case papers regarding the Plaintiff's claim to oblige the Defendant to pay the value-added tax of (4,500) riyals resulting from the payment of the fees of an expert in Case No. (...) On 05/03/1442 AH, where paragraph (1) of Article (23) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf stipulates that "Tax shall be due on the date of supply of goods or services or on the date of issuance of the tax invoice or on the date of receipt of the consideration in part or in whole and within the limits of the amount received, whichever is earlier." Paragraph (1) of Article (40) (General Principle) of the Unified Value Added Tax Agreement for the States of the Cooperation Council for the Arab States of the Gulf stipulates that "The taxable person shall pay the tax due on the supplies of goods or services subject to tax to the competent tax authority in the Member State in which the place of supply is located." Article (14) of the Executive Regulations of the Value Added Tax Law also stipulates that "Without prejudice to the provisions of Article II of the Law and for the purposes of implementing the Convention and the Law in the Kingdom, the tax shall be imposed on all taxable supplies



of goods and services carried out by any taxable person in the Kingdom in the context of the exercise of economic activity, or on those received by any taxable person in the Kingdom in the context of the exercise of economic activity in cases where the reverse calculation (assignment) mechanism is applied, and on the importation of goods into the Kingdom." After reviewing the lawsuit and the documents submitted by the Plaintiff, including the invoice of the expert's fees and a copy of the final judgment issued by the Fifth General Circuit in Jeddah Governorate No.: (...) On 16/03/1445 AH, the judge ordered the Defendant to pay an amount of (30,000) riyals of the value of the fees to the expert body that performed its work in the original lawsuit. After reviewing the registration certificate of the Plaintiff in the value added tax on 03/12/1438 AH, and since the original right is fixed according to the aforementioned Sharia decision, and since the tax of the adjudicated amount represents 4500 riyals and based on the executive regulations of the value added tax law and the unified agreement, the Circuit ends up obliging the Defendant to pay an amount of (4,500) four thousand five hundred riyals. Based on the above and in accordance with the provisions of the Unified Agreement, the VAT Law and its Executive Regulations, and the working rules of the committees for adjudicating tax violations and disputes, the Circuit decided after deliberation unanimously:

Decision:

1-Obliging a company ... Commercial Register (...) Paying an amount of (4,500) four thousand five hundred riyals to the group ... Commercial Register (...)

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and
Disputes In Riyadh

Decision No. VTR-2024-228752

Case No. V-2023- 228752

Keywords

VAT - tax claims between individuals or legal entities - Fees and commissions -Compensation for litigation procedures - Rejection of the case

Summary:

The Taxpayer objected to the decision of the Zakat, Tax and Customs Authority regarding the recovery of the value-added tax associated with the customs procedures, where he claims a refund of (13,503.74 riyals) and compensation of (10,000 riyals) for the damages resulting from the Authority's procrastination in refunding the tax. The Authority argued that the delay was due to the non-submission of the certificate of rejection of the Standards and Metrology Authority, and accordingly the request for refund was rejected, but later the request was partially accepted and an amount of (13,479.74 riyals) was refunded, with the refusal to refund the tax for some non-refundable fees. The Authority also denied the existence of procrastination or error that requires compensation, stressing that the judiciary is free of charge and does not result in financial damages to the Plaintiff. This means that the lawsuit has been rejected in relation to the claim for compensation, because it has not been proven that the delay or the legal damage subject to compensation has been proven.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The facts of this case, to the extent necessary to issue the decision, are summarized in the fact that the Taxpayer ..., a Saudi national under National ID No. (...), submitted by his son/ ... Saudi national, under national ID number (...) In his capacity as his attorney under the power of attorney No. (...), with a statement of claim that included his claim for the recovery of value-added tax associated with the customs procedures of Statement No. (6814) for the following clauses: (Carrier, service fees, customs fees, financial

compensation, exchange fees, vehicle value) in the amount of (13,503.74) thirteen thousand five hundred and three riyals and seventy-four halalas, and claim compensation for litigation procedures in the amount of (10,000 riyals) for the procrastination of the Defendant.

On 07/03/2024, the Defendant submitted a response memorandum stating the following: " First: On the Merits: By reviewing the merits of the lawsuit, it becomes clear that it relates to the Plaintiff's objection to the Authority's decision to reject the VAT refund request related to the customs procedures of Statement No. (6814). The Authority shall summarize its response as follows: VAT Amount on Fees: The Authority states that during the study of the Plaintiff's request, he did not submit a certificate of rejection to the Standards and Metrology Authority. Accordingly, the request for the refund of VAT fees associated with the customs declaration No. (6814) was rejected, and by communicating later with the Plaintiff, he stated that the refusal to enter the car was by the customs. Accordingly, the refund request was accepted and the tax amount of (13,479.74) riyals was refunded to the Plaintiff (payment remittances attached). For the above, the Authority requests the end of the dispute regarding VAT fees for clauses, customs duties, and the financial consideration of the value of the imported vehicle. We will explain to you in the table below the total returned tax and other fees that cannot be refunded according to the following:

Actions	Value Added Tax (VAT) in SAR	Fees in SAR	Clauses
Non-Refundable	6.00	40.00	Carrier
Non-Refundable	3.00	20.00	Service Fee
Refunded on 14/02/2024	499.04	3,326.90	Customs duties
Refunded on 03/03/2024	3,000.00	20,000.00	Financial Consideration
Non-Refundable	15.00	100.00	Exchange fees
Refunded on 14/02/2024	9,980.7	66,538.00	Vehicle Value

Non-Refundable Service Charge Tax: According to the relevant provisions of the Unified Customs Law in its paragraph (13) of Article (2), which defines fees as the amounts collected by customs in exchange for performing a service, and paragraph (a) of Article (107) of the same law, which stipulates: "Goods placed in yards and warehouses of the Customs Circuit shall be subject to storage, handling, insurance and other services fees required by the process of storing and inspecting the goods in accordance with the prescribed rates. In no case may the storage fee exceed half of the estimated value of the goods." For the above, the Authority states that the service fee tax of (24) riyals is not refunded for the benefit of the Plaintiff from the services during the import process, as the nature of the fees is for services provided on the imported vehicle. The Authority shall request the rejection of the Plaintiff's claim with regard to the following clauses: (Carrier - service fees - exchange fees). In respect of the Plaintiff's Claim for Litigation Damages: The Authority exercised its authority and procedures subject of the lawsuit according to the regulations in processing and examining the Plaintiff's requests and did not delay in studying them or issuing decisions. As previously

explained, the Plaintiff did not submit a certificate of rejection of the Standards and Metrology Authority. Accordingly, the request for the refund of VAT fees associated with the customs declaration No. (...) Was rejected, and the Plaintiff later communicated that the refusal of entry of the car was by the customs. Accordingly, the Authority accepted the request for partial refund and refund of the tax amount as detailed above. In addition, the principles on which the judiciary in the Kingdom of Saudi Arabia is based, specifically before the Zakat, Tax and Customs Committees, are free of litigation, and the fact that litigation is a right guaranteed to all, as the Plaintiff does not bear any sums of money in exchange for filing and pleading the lawsuit. The Plaintiff did not provide proof of the Authority's negligence or deliberate in procrastination or error and the elements of compensation - the error - the causal relationship - the Authority requests a ruling to reject the Plaintiff's request in relation to this clause. Second: Orders: Based on the above, the Authority requests the esteemed Committee to rule on the following: First: Tax charge clause.

Value added with an amount of (13,479.74) riyals proving the end of the dispute. li: Service Charge Tax and Litigation Fees Clause: Rejection of the lawsuit for the grounds explained above, and the Authority reserves the right to provide further responses and clarifications before the closure of the pleading." Its reply is completed. On Sunday 05/05/2024, the Circuit held its remote session to consider the case based on what is stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the son of the Plaintiff attended... (Saudi National) under National ID No. (...), in his capacity as his attorney under the power of attorney attached to the case file, and the legal representative attended... (Saudi National) under National ID No. (...) For Zakat, Tax and Customs Authority under Authorization Letter No. (.../.../.../...) On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs and Compliance, at the beginning of the session, the Plaintiff's attorney stated that his client recovered from the Defendant the amount of the tax in question, except for the non-refundable fees tax. His request for compensation is limited to 10,000 riyals in compensation for damages from procrastination and recourse to litigation and law, as the Defendant procrastinated in refunding the tax until after filing the lawsuit. By requesting the comment of the representative of the Defendant, she stated that she was satisfied with what was stated in the memorandum of her representative attached to the case file. By asking the Plaintiff's attorney about the nature of the damages that occurred on his client and their financial amount, he stated that the damage is moral damage and that his client leaves the assessment of compensation to the Circuit. By asking the parties to the lawsuit what they would like to add, they decided to settle for what was previously presented. Accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the lawsuit and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated



03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the lawsuit in terms of form, and since the Plaintiff aims of his lawsuit to claim compensation for resorting to litigation, lawsuit and damages from procrastination in the return of the tax in question, and therefore this dispute is one of the jurisdiction of the Circuit, and where the lawsuit was submitted by a person, and within the prescribed period, which the case must be accepted by the Circuit procedurally.

In terms of the merits, the Circuit contemplated the lawsuit and what was submitted in it, and after granting the two parties sufficient deadlines to submit what they have, it found that the dispute lies in the Plaintiff's request to oblige the Defendant to compensate him for the damages resulting from procrastination and resorting to litigation and lawsuit, where he claims that the Defendant procrastinated in refunding the tax until after filing the lawsuit, and by informing the Circuit of the case file and the documents submitted in it, it did not find that the Plaintiff submitted what would prove the Defendant's error, in addition to his failure to provide proof of his damage, and since the responsibility is only based on the availability of its three pillars: The error, the damage, and the causal relationship between them, with which the Circuit ends up rejecting the Plaintiff's claim. Based on the foregoing, and after deliberation, the Circuit unanimously decided:

Decision:

Reject the Plaintiff's claim.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees..



Imports



The Tax Violations and Disputes Committee
First Adjudication Circuit for VAT Violations and Disputes
in Dammam

Decision No. VD -2024-230685

Case No. V-2024-230685

Keywords

VAT - tax claims between individuals or legal entities - imports - supply of sheep - acceptance of the Plaintiff's claim

Summary:

The Plaintiff claim to oblige the Defendant to pay an amount of 92,309.97 riyals as value-added tax, resulting from an agreed supply of sheep, according to an invoice with a total value of 615,399.83 riyals excluding tax. Whereas, it was proven to the adjudication committee that the Plaintiff is registered in the VAT law, and that the supply was made after the date of registration, which means that the tax is due to be collected in accordance with the applicable regulations. The invoice issued clearly indicates that the value of the supply does not include the tax, which must be added to the amount due. This resulted in obliging the Defendant to pay the Plaintiff an amount of 92,309.97 Saudi riyals.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (14) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)
- Article (1) of [The GCC Unified VAT Agreement](#)

Facts:

The facts of this case are summarized in the fact that the Plaintiff/ ..., ID No. (...) Acting on behalf of the Plaintiff under Power of Attorney No. (...) And the lawyer's license No. (...), I submitted a statement of claim

that included a claim to oblige the Defendant to pay the value-added tax in the amount of (92,309.97) riyals resulting from the supply of a number of sheep in the amount of (615,399.83) riyals.

On Monday, 06/05/2024, the hearing was held in accordance with the procedures of remote visual litigation and by calling on the parties to the case, the Plaintiff attended a power of attorney ... National ID number (...) Agency number (...) The Defendant did not attend and the session was opened that the present Circuit asked what it would like to add other than what was added before, so it stuck to its previous statements. Accordingly, the Circuit decided to temporarily vacate the visual hall for deliberation and issuance of the decision.

Grounds:



In terms of form, and since the Plaintiff aims from her lawsuit to oblige the Defendant to pay the amount of value added tax in the amount of (92,309.97) riyals, based on the Value Added Tax Law and its executive regulations, and since this dispute is one of the tax disputes, it is considered one of the disputes within the jurisdiction of the Committee for the Settlement of Tax Violations and Disputes under Royal Decree No. (25711) dated 08/04/1445 AH, and since the due date of the claim amount is 10/07/2023 AD, and where the Plaintiff submitted his lawsuit before the Zakat, Tax and Customs Committees on 17/01/2024 AD, accordingly, the lawsuit was submitted within the prescribed period in accordance with the text of paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), and where the lawsuit was submitted in a capacity, which the Circuit must accept the lawsuit procedurally.

In terms of the merits, with regard to the recovery of the value-added tax in question, and where it is clear that the dispute lies in the Plaintiff's claim to oblige the Defendant to pay the value-added tax in the amount of (92,309.97) riyals resulting from the supply of a number of sheep in the amount of (615,399.83) riyals. Based on the text of the definition of the consideration in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf on: "All that has been or will be received by the taxable supplier from the customer or from a third party in return for the supply of goods or services, including VAT.". Based on Article (14) of the Executive Regulations of the Value Added Tax Law, issued by virtue of the decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/11/2016 corresponding to 14/12/1438AH, as follows: "Without prejudice to Article 2 of the Law, and for the purposes of implementing the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the importation of goods into the Kingdom." After reviewing the entire case file and the defenses it contained, it became clear to the Circuit that the contract for the supply of sheep was concluded on 22/05/2023, and invoice No. (...) Supplying medium-sized meat on 10/07/2023, with a total amount of (615,399.83) riyals, and a value-added tax of (15%) in the amount of (92,309.97) riyals. And the value



added tax certificate dated 26/07/2021, and the effective date of 01/08/2021. Which shows that the Plaintiff is registered for VAT on the date of supply, and the invoice No. (...) The value of the supply does not include value-added tax, and based on the aforementioned materials, which ends with the Circuit accepting the case in substance and obliging the Defendant to pay an amount of 92,309.97riyals.

Based on the above and in accordance with the provisions of the Unified Agreement, the VAT Law and its Executive Regulations, and the working rules of the committees for adjudicating tax violations and disputes, the Circuit decided after deliberation unanimously:

Decision:

1-Obliging a company ... Commercial Registration No. (...), a distinctive number (...), to pay the Plaintiff an establishment ... Commercial Register No. (...) An amount of (92,309.97) Saudi riyals.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Real Estate



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and Disputes
In Riyadh

Decision No. VTR-2024-235027

Case No. V-2024- 235027

Keywords

Value added tax - real estate - real estate finance – acceptance of the Plaintiff's objection

Summary:

The Plaintiff claim to cancel the value added tax on the owned property, which was financed by the Defendant (the bank), as the Plaintiff purchased the property on 14/02/2018 in the amount of SAR 1,630,000, the amount included all fees and tax in accordance with the financing contract with the bank. However, the bank later demanded the payment of an amount of 39,000 riyals under the name of added tax upon the release of the mortgage after the full payment of the installments. This means accepting the Plaintiff's objection to not imposing an additional tax after paying the amount agreed upon in the financing contract, and rejecting the claim from the bank.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)

Facts:

The facts of this case, to the extent necessary for the issuance of the decision, are summarized in the fact that the Taxpayer ..., a Saudi national under National ID No. (...), on his own behalf, submits a statement of claim against the Defendant/ bank ... , Commercial Registration No. (...), included the following: " I submit to you this lawsuit, in which I refer to a problem in the payment of tax between me and a bank ..., and its details are as follows: I bought a house by financing from a bank ... On 14/02/2018, an amount of SR 1,630,000 was paid, of which 780,000 was paid as an advance payment upon signature. The remaining amount is real estate financing at a rate of SR 996,956, including bank profit, tax and all other fees and shown in mortgage deed No According to the instrument issued by the Ministry of Justice on 01/04/1441AH and according to the financing contract (copy attached) No. (...) The amount of the tax is

included in the total value of the financing, which was deducted in monthly installments, which I paid in full on 25/02/2024. But now the bank is asking me to pay a tax (39,000 riyals) for releasing the mortgage on the house. The bank also did not submit any tax invoice or contract between me and it obliges me to pay a tax separately from the contract, but the signed contract shows that the tax was calculated from the value of the mortgage paid. I ask you to do justice and lift the injustice inflicted on me from the bank."

On 30/06/2024, the Plaintiff submitted a statement that included the following: "In reference to the lawsuit you filed regarding the taxation of the house by a bank ... In case No. 235027-2024, which I submitted on 18/4/2024, in which I request the following: First: Regarding your kind request to attach the VAT invoice paid to a bank ..., as I bought a house through financing from a bank ... On 14/2/2018 in the amount of 1,630,000 riyals, 780,000 of which were paid as an advance payment and the rest is real estate financing by ... Riyals, including bank profit, tax and all other fees and shown in the mortgage deed No According to the instrument issued by the Ministry of Justice on 1/4/1441 AH. According to the financing contract (copy attached), the tax amount is included in the total value of the financing, which was deducted in monthly installments, which I paid in full on 25/2/2024. But now the bank is asking me to pay a tax (39,000 riyals) for releasing the mortgage on the house. The bank also did not submit any tax invoice or contract between me and it obliges me to pay a tax separately from the contract, but the signed contract shows that the tax was calculated from the value of the mortgage paid."

On 14/07/2024 AD, the Circuit held its remote session to consider the case based on what is stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the Plaintiff attended in person ... (Saudi National) under National ID No. (...), and the legal representative attended... (Saudi national) under National ID No. (...), on behalf of the Defendant bank under Power of Attorney No. (...), and the license to defend the private legal personality No. (...), at the beginning of the session, the Plaintiff stated that he was claiming a refund of 39,000 riyals in value added tax paid to the Defendant after he concluded the payment of financing installments, which were inclusive of tax. By requesting the Defendant's attorney to comment, he stated that his client submitted a memorandum that included the Plaintiff's request to release his lawsuit. He added that after listening to the Plaintiff's statement, he understood the Plaintiff's lawsuit and demanded a delay to submit a response in the lawsuit. Accordingly, the Circuit postponed the consideration of the lawsuit until 28 July 2024 at 4:00 pm, provided that the Plaintiff submits independent copies of the financing contract and the instrument and proves the payment of an amount of 39 thousand riyals to the Defendant before 16 July 2024, and that he informs the Defendant and submits a response memorandum before 23 July 2024.

On 16/07/2024, the Plaintiff submitted a statement that included the following: "In reference to the lawsuit you filed regarding the taxation of the house by a bank ... In case No. 235027-2024, which I submitted on 18/4/2024 and subsequent to the session held with the esteemed committee in the Third Circuit in Riyadh, which requested that the committee be provided with a copy of the full financing contract, a copy of the tax

payment receipt of the bank and a list of the grounds for which I request the refund of the tax. The subject of the lawsuit was as follows: I bought a house by financing from a bank ... On 14/2/2018, an amount of SR 1,630,000 was paid, of which SR 779,309 was paid as an advance payment. The remaining amount is real estate financing at a rate of SR 996,956, including the bank's profit and administrative fees at a rate of SR 5,250 and all other fees described in the financing contract No. (...) Which was emptied in favor of the bank on 9/5/1439 AH with a deed number..., so that the total amount to be paid to the bank is 1.002.206 riyals in installments for a period of 72 months ending on 25/2/2024. The full amount was paid by me on the specified date, but the bank refused to release the mortgage to me after the completion of the payment and imposed a real estate disposal tax in the amount of 39,000 riyals that was not indicated in any of the financing contract signed between me and the bank or from the instrument issued by the Ministry of Justice mortgaging the house with the same amount and stipulated the payment of the said amount for the release of the mortgage. I had to pay on 9/5/2024 for my need to dispose of the property, which held the deed for several months, by paying the bank in the form of a deduction from the customer's account and not in favor of the approved tax account. Despite my official request from the bank through their complaints center to provide me with the alleged tax invoice or to clarify the type of tax and the grounds for its imposition, the bank did not clarify any of this and insisted on paying the said amount by deducting it from my current account with them. I place before your esteemed committee this lawsuit and base the invalidity of imposing the tax from the bank after paying the full dues of the bank on the following: First: Article 7 of the financing contract signed between me and the bank stipulates that "the first party and its agent shall empty the property and transfer its ownership from the name of the agent to the name of the second party when paying the total dues due from this contract in addition to paying the documentation fees and any other fees." It was mentioned in the financing statement table on the first page of the contract No. (...) The notarial fees are zero riyals and the other fees are "none". Accordingly, the commitment of the first party is assumed by a bank ... And his agent to empty the property and transfer its ownership from the name of the agent to my name in order to complete the payment of the total dues resulting from this contract and comply with all its clauses, noting that the financing statement clarified beyond any doubt that the authentication fees are zero riyals and other fees "there is no". Second: In the financing contract No. (...) The site is between me and the bank and consists of 10 pages in which the value of the property and its specifications, the financing amount, the duration of the financing contract, the monthly installment schedule for the payment of all fees imposed by the bank and the total amount due, and the following phrase was mentioned in all pages of the contract and was marked with a sign (*) confirming compliance with all the contents of the contract and wrote a text "The amount includes VAT if it is applicable". According to the regulation of the investment sector in the lease contract p. 13, which states that "in the event that the bank is considered to be the supplier in the absence of the seller of the property or not registered in the tax, it is obligated to issue the invoice and collect the tax in advance or include it in the amount of the loan", which is actually what was stipulated in the financing contract by including the value added tax, which was paid within the financing amount. Third:

According to the Authority's regulation contained in Article 6 of Paragraph 3 in determining the person obligated to pay the tax, "its fulfillment is the responsibility of the disposer (seller), while both parties can agree that it is borne by the buyer by explicitly stating this in the concluded contract and clarifying the amount of tax and the total value of the property separately in the contract. The Disposer and the Disposer shall also be jointly liable for any tax obligations. " Where this is not expressly stipulated in the concluded contract, and the amount of tax and the total value of the property have not been clarified separately in the contract, its fulfillment shall be the responsibility of the Disposer (the seller) at the time. Accordingly, and based on the text of paragraph (b) of Article 3 of the Real Estate Actions Regulations and the fourth paragraph of Article 2, the transaction shall not be subject to the Real Estate Acts Tax except once, as the disposition is assumed to have been subject to the Real Estate Acts Tax before upon transfer of ownership and possession, which is clarified by the instrument attached to the bank's possession of the property before mortgaging it to me for the purpose of leasing in 2018. Fourth: Article IV, Paragraph A Clause 3: Lease contracts ending in ownership shall be paid on or before the date of notarization, as the regulation defined notarization as "the procedures that ensure the proof of the right in a manner that can be invoked... Such as the conclusion of the sale contract between two parties" According to Article 3,3 of the definition of documentation, the date of concluding the contract is the due date of the tax and therefore it is assumed that the bank supplied the tax in 2018 when concluding the contract with me and committed to it before the Authority. Further to the above, it was stated in the investment sector document issued by the General Authority for Tax, Zakat and Income in paragraph 2.2 in the Ijarah clause (p. 12): There are two sales of the property, where it is stated that "the transfer of ownership at the end of the contract is not considered a separate supply of the property and does not result in tax obligations, and the sale of the property is considered to have taken place in the Ijara transactions upon the transfer of possession to the buyer (bank). This is contrary to the Bank's imposition of a tax provided that the mortgage is released at the end of the contract. Attachments: 1 Financing Contract No. (...) 2-Receipt of tax payment to the bank. 3 The bank's deed of ownership of the property upon the conclusion of the contract. Orders: Based on the above, I request the honorable committee to oblige the bank to refund the amount paid under the name of a tax of (39,000) Saudi riyals."

On 25/07/2024, the Defendant submitted a response memorandum that included the following: " Subject: First Response Memorandum submitted by the Bank of... In Case No. 235027-2024-V filed by the Taxpayer ...against the Bank of.... With reference to the above subject, and to what was stated in the Plaintiff's lawsuit regarding obligating my client to return an amount of (39,000) riyals representing the value added tax that he paid in favor of my client,

We submit to Your Excellency a response as detailed below: Facts:

1. On 09/01/2018, my client purchased the property located in Qurtoba neighborhood in Riyadh, owned by ... Instrument No In the amount of (1,630,000) riyals, at the request of the Plaintiff/ ... This is for the purpose of selling the property on it through financing. 2 On 14/02/2018, a real estate financing contract

in the form of Murabaha was concluded between the Plaintiff and my client in the amount of 1,600,000 riyals. The Plaintiff paid an amount of 780,000 riyals as an advance payment and the remaining amounts are paid as monthly installments. Taking into account that the total value of the property without the profits of the bank according to the contract is an amount of (1,630,000) riyals and what is more than that in the contract is profits. 3 On 25/02/2024, the Plaintiff paid the entire indebtedness of the financing contract related to the property. 4 The Plaintiff was informed that he is obligated to pay VAT on the property, and accordingly, on 09/05/2024, the Plaintiff paid VAT on the property. Pleas: Whereas my client sold the aforementioned property to the Plaintiff through financing in the amount of (1,630,000) riyals without calculating the profits of the bank, and as stipulated in Article (14) of the Executive Regulations of the Value Added Tax Law on "Without prejudice to Article II of the Law and for the purposes of implementing the Agreement and the Law in the Kingdom, the tax is imposed on all supplies of goods and services carried out by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse calculation (charging) mechanism is applied, and on the importation of goods into the Kingdom." Therefore, it is clear that the burden of bearing the tax is on the recipient of the commodity, which is the Plaintiff (buyer) in this lawsuit. Whereas, the value added tax on the property is estimated at (81,500) riyals, and that the Plaintiff is a beneficiary of the tax exemption for the first dwelling, not exceeding (42,500) riyals, according to Certificate No, to make it clear that the amount due on him is estimated at (39,00) riyals. Orders: Based on the above, and as the Plaintiff is obliged to pay VAT related to the sale of the referenced property, we request that the Plaintiff's claim be dismissed." His reply is completed.

On Sunday 28/07/2024 AD, the Circuit held its remote session to consider the case based on what is stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the Plaintiff attended in person ... (Saudi National) under National ID No. (...), and the legal representative attended... (Saudi national) under National ID No. (...), on behalf of the Defendant bank under Power of Attorney No. (...), and the license to defend the private legal personality No. (...), and at the beginning of the session, each party adhered to the above and submitted. Accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its

amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case: In terms of form, since the Plaintiff aims from his lawsuit to claim to oblige the Defendant to recover the value-added tax on the sale of a property, based on the value-added tax law and its executive regulations, and therefore this dispute is one of the disputes within the jurisdiction of the Circuit.

In terms of the merits, the Circuit contemplated the lawsuit and what was submitted in it, and after granting the parties sufficient deadlines to submit what they have, it found that the dispute lies in the Plaintiff's claim to oblige the Defendant to recover an amount of (39,000) riyals, representing the value of the value added tax that he paid to the Defendant after he completed paying the financing installments, because the financing installments were inclusive of the tax, and the Circuit's access to the case file and the documents submitted in it, and to Instrument No. (...) On 01/04/1441AH, and on a single real estate sale contract No. (...) Between the Plaintiff (the buyer) and the Defendant (the seller) on 28/05/1439 AH corresponding to 14/02/2018AD, and on the financing contract summary form (sale of a single property) with reference number (...) Issued by the Defendant in the name of the Plaintiff as a beneficiary on 14/02/2018, and on the transfer issued by the Plaintiff in the amount of (39,000.00) riyals and in the name of the beneficiary (the tax due on the customers of the property), it was found that the Plaintiff purchased from the Defendant the plot of land No. (.../...) From Scheme No. (...) Located in the Cordoba neighborhood of Riyadh city with a total amount of (1,776,265.24) riyals with his obligation to pay this amount in two installments, the first payment is made upon signing the contract amounting to (779309) riyals, and the second payment is (996956.24) riyals to be paid in successive monthly installments in detail in the payment schedule attached to the contract and based on the financing contract concluded between them, and where it was found by the Circuit that the financing contract included at its end the following: "The amount includes value-added tax if it is applicable." Accordingly, it is clear that the amount includes value-added tax and that the Defendant is not entitled to the tax imposed on the Plaintiff after completing the payment of the financing installments, which ends with the Circuit accepting the Plaintiff's claim and obliging the Defendant to pay the Plaintiff an amount of (39,000) thirty-nine thousand riyals representing the tax claim in question.

Based on the foregoing, and after deliberation, the Circuit unanimously decided:

Decision:

1-Obliging the Defendant/ bank ... Commercial Registration No. (...), to pay the Plaintiff ... (Saudi National) under National ID No. (...) An amount of (39,000) thirty-nine thousand riyals representing the tax claim in question.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and Disputes
In Riyadh

Decision No. VR -2024- 231619

Case No. V -2024-231619

Keywords

Value added tax -real estate -sale of a real estate deed -acceptance of the Plaintiff's claim

Summary:

The Plaintiff claim to oblige the Defendant to pay the value-added tax due on the sale of the property in dispute, which amounts to (94,031.25) riyals, based on the tax invoice issued by the Plaintiff, while also obligating him to pay the legal costs resulting from this claim. The Plaintiff submits that the Defendant refrained from paying the tax despite it being due by law, which resulted in a financial obligation to be fulfilled. Whereas, it has been proven to the adjudication committee that the Defendant is obligated to pay the amount of tax claimed to prove its entitlement, while rejecting the request for legal costs for the Plaintiff's failure to provide proof, and obliging the Plaintiff to issue a tax invoice in accordance with the laws and regulations in force. This means accepting the Plaintiff's claim.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Article (30) of [The GCC Unified VAT Agreement](#)

Facts:

The facts of this case are summarized in the fact that the Taxpayer ..., National ID No. (...) On his own behalf, he submitted a statement of claim that included a claim to oblige the Defendant, the bank ... Saudi, Commercial Register No. (...), to pay the value added tax in the amount of (94,031.25) riyals resulting from the sale of the property deed No. (...) On 23/12/2019, and demands the payment of legal costs estimated at (9,403) riyals.



By presenting the statement of claim to the Defendant, he submitted a response memorandum, which the Circuit reviewed.

On Thursday 27/06/2024, the session was opened and held via videoconference in accordance with the procedures of remote visual litigation. Based on the provisions of paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, neither the Plaintiff nor his representative attended with proof informing him of the date of this session, and attended ... , (Saudi National) under National ID No. (...), in his capacity as an agent for the Defendant under Power of Attorney No. (...) And the lawyer's license No. (...), and since neither the Plaintiff nor his representative attended this session with a proof informing him of its date, the Circuit decided to dismiss the lawsuit.

On Tuesday, 16/07/2024, and by reviewing paragraph No. (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees, including the permissibility of holding the sessions of the Circuit by means of modern technology, and by calling on the two parties, the Plaintiff attended... , under ID No. (...) , and the Defendant was present/ ... National ID number (...) Under Power of Attorney No. (...), by asking the Plaintiff's attorney about his case, he answered in accordance with what was stated in the statement of claim and adheres to what was stated in it, and by asking the Defendant about his response in accordance with what was stated in the memorandum of reply and adheres to what was stated in it, and by asking the parties what they would like to add, they decided to be satisfied with what was previously presented in this case and the representative of the Defendant requested a grace period to start reconciliation procedures with the Defendant, and accordingly the Circuit decided to give the parties to the lawsuit until 23/7/2024.

On Tuesday, 23/07/2024, and by reviewing paragraph No. (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees, including the permissibility of holding the sessions of the Circuit by means of modern technology, and by calling on both parties, he attended/ ... -Saudi nationality- National ID number (...) The representative of the Defendant did not attend, by asking the Plaintiff about his lawsuit, he answered in accordance with what was stated in the statement of claim and adhered to what was stated in it and stamped his statements on it. Accordingly, the circuit decided to adjourn the session for deliberation, in preparation for issuing the decision.

Grounds:

After reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/06/1425 AH and its amendments, and after reviewing the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 09/02/2024 AD, and the due date of the amount in question is 23/12/2019AD, and therefore the lawsuit is filed within the regular period stipulated in paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit in tax disputes shall not be heard after five years from the due date of the amount in question or from the date of knowledge of the incident in dispute, except in the case of an excuse accepted by the committee), which must be accepted procedurally.

In terms of the merits, by considering the lawsuit papers and the response of the two parties after giving them enough time to express and submit what they have, it has been proven to the Circuit that the dispute lies in the Plaintiff's claim to the Defendant to pay the value added tax in the amount of (94,031.25) Saudi riyals resulting from the sale of the property deed No. (...) On 23/12/2019, an amount of (1,880,625) riyals. Since the asset in bearing the burden of paying the tax as an indirect tax for the goods and services it receives is the customer or buyer (the recipient of the goods and services), except for what was exempted by a special provision from paying the tax on the goods and services it receives according to certain cases mentioned in Article (30) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and by examining the facts of the case, it was not found that any of the cases of exception apply to the Defendant (the buyer), where the Defendant is obligated to pay the tax for the property he purchased on 23/12/2019 according to the registration certificate of the Plaintiff, the date of entry into force of its registration is dated 01/10/2019, and therefore by reference to the date of the supply incident and the Plaintiff's claim against the Defendant is consistent with the provisions of the articles of the agreement and the law and the regulation being a taxable person at the time of concluding the sale with the Defendant, and where Article (14) of the executive regulations of the value added tax law stipulates: "Without prejudice to Article 2 of the Law, and for the purposes of implementing the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the importation of goods into the Kingdom," which leads the Circuit to accept the Plaintiff's claim in this clause.

As for the Plaintiff's claim to pay the legal costs estimated at (9,403) riyals, by reviewing the case file, it was found that the Plaintiff did not submit any contract or file proving the costs assigned to the Plaintiff and supporting the validity of the claim, which leads the Circuit to reject the Plaintiff's claim in this clause.

As for obliging the Plaintiff to issue a tax invoice for the property sold in favor of the Defendant, Article 48 of the Unified Gulf Agreement stipulates that, for the purposes of exercising the right of deduction, the taxable person must possess the following documents: a. Tax invoice obtained pursuant to the provisions of this Agreement, b. Customs documents proving that he is an importer of goods in accordance with the provisions of the Unified Customs Law."As stipulated in Article 53 of the Executive Regulations of the Law: "Every taxable person shall issue or cause to be issued a tax invoice containing at least the details mentioned



in the fifth paragraph of this article in any of the following cases: (a) Supplies of subject goods or services made by him to another taxable person, to a non-taxable legal person, to a sole proprietorship, or to any other entity established in the Kingdom in accordance with the laws in force therein.” Whereas, the Plaintiff was obligated to submit a tax invoice in accordance with the requirements of the Law and its Executive Regulations, in order to enable the Defendant to apply for the deduction of the input tax with the Zakat, Tax and Customs Authority, which leads the Circuit to oblige the Plaintiff to issue a tax invoice in favor of the Defendant.

Decision:

1- Acceptance of the claim procedurally.

2- On the merits:

A. Obliging the Plaintiff to issue a tax invoice for the property sold for the benefit of the bank ... Saudi.

B. Obliging the Defendant to oblige the bank ... Saudi, Commercial Registration No. (...), to pay the Plaintiff ... National ID No. (...), VAT amount of (94,031.25) ninety-four thousand thirty-one riyals and twenty-five halalas, and other requests were rejected.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and Disputes
In Riyadh

Decision No. VTR-2024-227520

Case No. V -2023-227520

Keywords

Value added tax -real estate - real estate disposal -rejection of the Taxpayer's objection

Summary:

The Taxpayer objected to the decision of the Zakat, Tax and Customs Authority to reject his request for the refund of VAT for the first quarter of 2023, as the Taxpayer relies on the fact that he has fulfilled all the statutory conditions for refund, while the Authority considers that the real estate in question was not owned by the Taxpayer when submitting the request, in violation of the approved controls. Whereas the Committee has established that the ownership of real estate has not been transferred to the Taxpayer until after the period in question, and that recovery requires the realization of ownership during the same period, which means: Rejected the Taxpayer's objection.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The facts of this case, to the extent necessary to issue the decision, are that the company ... Commercial Registration No. (...), submitted by ..., Saudi National under National ID No. (...) In his capacity as agent for the Plaintiff company under the power of attorney No. (...) Lawyer's License No. (...) , with a statement of claim that included its claim for the refund of VAT for the tax period related to the first quarter of 2023, in a total amount of (44,025) Saudi riyals.

On 26/02/2024, the Defendant submitted a response memorandum stating the following: " First: procedural: Paragraph (b) of Article (6) of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes issued by Royal Decree No. (25711) dated 08/04/1445 AH stipulates that "Cases of fortification of the Authority's decision without prejudice to the provisions of Article (5) of the Rules, the Authority's decision shall not be subject to grievance before any other party in the following cases: B- If the

Taxpayer does not file a lawsuit before the Adjudication Circuits, or does not request the referral of his grievance to the Internal Committee for the purpose of settlement within thirty days from the day following the date of his notification of the decision issued by the Authority to amend the decision complained of or reject his grievance," and since the Authority's decision was issued rejecting the Plaintiff's objection No. (...) On (31/10/2023 AD), while the Plaintiff did not file her lawsuit before the Adjudication Committee except on (06/12/2023 AD). Accordingly, the difference in the number of days between the date of the Authority's decision and the date of filing the lawsuit is more than thirty days. Accordingly, by the statutory period for accepting the grievance procedurally, the Authority's decision becomes immune to the lapse of the period and is not subject to appeal. Second: Substantively (as a precaution): By reviewing the Plaintiff's statement of claim, the authority summarizes its response as follows: First: The Authority would like to clarify the action it has taken and the grounds on which the decision was based, as the Plaintiff submitted a tax refund request for the inputs related to the value-added tax incurred on a live project... For the first quarter of 2023, when studying the application and referring to the Real Estate Disposals Portal, it became clear to the Authority that all real estate associated with the purchases had been emptied and sold to the buyers before the recovery period in question (a statement of the sukuk and an extract from the Real Estate Disposals Portal are attached). Accordingly, the Authority refused to recover the amount claimed by the Plaintiff, because the Plaintiff's request to recover VAT related to purchases of projects that were not incurred in the tax period in question, as paragraph (14) of Article (70) of the Executive Regulations of the Value Added Tax Law stipulates that: "In accordance with the provisions of the first paragraph of this article, a person who exercises an economic activity in his capacity as a licensed real estate developer - in accordance with the conditions and controls specified by the Authority - may apply for registration as a person eligible to recover the tax paid by him on the goods and services received in the Kingdom related to that economic activity in accordance with the recovery controls specified in this article. The Authority may set other rules and procedures for the recovery of the tax by these qualified persons." Whereas Ministerial Decision No. (1754) dated 15/04/1442 AH specified the conditions and controls necessary for the real estate developer to recover the value added tax on purchases related to exempt real estate supplies, where Clause VI stipulates that: Sixth: When submitting a refund request, the following conditions are required: (a) That the real estate subject of the real estate supply eligible for redemption is owned by the real estate developer under official documents. B or that the real estate developer is in possession of that property as a buyer under a finance lease contract ending in ownership, or a lease contract ending in ownership from a legally licensed entity... (c) That the property subject of the redemption request is allocated to one of the off-plan sales projects... D. Or that the property subject of the refund request is allocated to one of the off-plan sales projects...." Accordingly, and since the real estate developer, in order to recover the value added tax, must be the owner of the property according to official documents when submitting the refund request, and since the Authority has proven through the data extracted from the Real Estate Actions Portal that the real estate that the Plaintiff claims to recover the value added tax incurred on it is no longer in the ownership of



the Plaintiff while submitting the refund request for the tax period in question, your Excellency therefore finds the validity of the Authority's decision to refuse the refund of the value added tax claimed for the first quarter of 2023. Second: As for the pleadings submitted by the Plaintiff in its list submitted to the committee, the authority summarizes them in the following: The company stated in its regulations the following: "We inform you that we work as a real estate developer, and the nature of our work requires that we continue to pay the dues that were contracted during the developer's ownership of the property and before it was sold to the customer, there is no reason not to calculate VAT within the recovery period, and as a result, the Authority is required to return VAT." The Authority states that it operates within, implements, and acts in accordance with laws, regulations, and legislations. Paragraph (14) of Article (70) of the Executive Regulations of the Value Added Tax Law stipulates that: "In accordance with the provisions of the first paragraph of this article, a person who exercises an economic activity in his capacity as a licensed real estate developer - in accordance with the conditions and controls specified by the Authority - may apply for registration as a person eligible to recover the tax paid by him on the goods and services received in the Kingdom related to that economic activity in accordance with the recovery controls specified in this article. The Authority may set other rules and procedures for the recovery of tax by these qualified persons." Whereas, Ministerial Decision No. (1754) dated 15/04/1442 AH specified the conditions and controls necessary for the real estate developer to recover value added tax on purchases related to exempt real estate supplies, as clause VI stipulates that: Sixth: When submitting a refund request, the following conditions are required: (a) The real estate subject of the supply of real estate eligible for redemption shall be owned by the real estate developer under official documents. (b) The real estate developer is in possession of that property as a buyer under a finance lease contract terminated by ownership, or a lease contract terminated by ownership from a legally licensed entity... (c) The property subject of the redemption request is allocated to one of the off-plan sales projects... D. Or that the property subject of the refund request is allocated to one of the off-plan sales projects...". Whereas, the Authority has proven through the data extracted from the Real Estate Actions Portal that the real estate that the Plaintiff claims to recover the value added tax incurred on it is no longer in the ownership of the Plaintiff during the filing of the recovery request for the tax period in question, so it becomes clear to you the validity of the Authority's decision to refuse to recover the value added tax claimed for the first quarter of 2023, based on what is stated in the laws and regulations governing the recovery of real estate developers for value added tax. The company stated in its regulations the following: "Whereas, the Authority has cancelled the request for review " Tax Refund " submitted by us, and based on the fifth paragraph of the Rules and Procedures for VAT Refund by Real Estate Developers Eligible for VAT Refund, the paragraph stipulates the following: "An eligible developer has the right to claim a VAT refund..." ". The Authority notes that the Plaintiff relied on a general text and avoided going into details of the conditions and controls stipulated in Ministerial Decision No. (1754) dated 15/04/1442 AH, which specified the conditions and controls necessary for the real estate developer to recover the value-added tax on purchases related to exempted real estate supplies. The Authority confirms, as explained above, that the



Plaintiff has claimed value-added tax on real estate purchases that she does not own during the submission of the refund request and for the tax period in question. In order to prevent repetition and prolongation, the Authority refers you to what was explained above. Based on the above, and where the Authority has proven the Plaintiff company's violation of Article (70) of the Executive Regulations of the Value Added Tax Law and Clause (VI) of Ministerial Decision No. (1754) dated 15/04/1442 AH, according to the data extracted from the Real Estate Actions Portal, which confirms that the Plaintiff does not own real estate during her request for recovery and in the tax period in question, the Authority adheres to the validity of its decision to reject the Plaintiff's refund of VAT as explained in this response memorandum. Third: Orders: Based on the above, the Authority requests the esteemed Committee to rule on the following: First: As an original request, the case is not procedurally admissible, for the grounds explained in Clause "First". Second: As a precautionary request, dismiss the case for the grounds set out in clause (ii), and support the action of the authority in question. The Authority also reserves the right to provide further responses and clarifications prior to the closure of the pleading. "Its reply is completed.

On 10/03/2024, the Plaintiff submitted a response memorandum stating the following: "Reference to Case No. (V-2023-227520), filed by us on behalf of / Company ... Real Estate, Commercial Register No. (...), against /Zakat, Tax and Customs Authority, we inform you of our response to the Authority's memorandum dated 26/02/2024, which is as follows: First: Procedurally: It is not true that my client, the Plaintiff, exceeded the period specified in paragraph (b) of Article (6) of the work rules of the committees for the settlement of tax violations and disputes, which is limited to thirty days from the date of the decision. It is true that my client filed her case against the Authority's decision No. (...) Issued on 31/10/2023, and where she filed her lawsuit on 30/11/2023, that is, the lawsuit was filed during the statutory period, and since the committee's website was exposed during this period to a technical defect that prevented the lawsuit from appearing with its submission within the specified period, the committee directed my client to prove this defect via e-mail, which my client did at the direction of the committee and proved this via the e-mail attached to you (Attachment 1) : For all of the above, this lawsuit is admissible procedurally to be submitted on the regular date according to the text of paragraph (b) of Article (6). Second: On the merits: All that the Commission stated in its response memorandum is absolutely incorrect and contrary to the explicit statutory text and in which there is an explicit and blatant transgression of the appearance of the text, and the Commission may not go beyond the implementation of the applicable statutory text and rely on an interpretation of the concept of the text; as long as the implementation of the text is first of the implementation of the concept as stipulated in the rule of implementation of the text is first of its negligence; this is an explicit transgression of the applicable law and opens the door to manipulation and reliance on incorrect understanding and interpretation; and the correct statement is as follows: 1 The legal criterion is to prove the ownership of the property to the real estate developer for the tax invoices in question during the submission of the refund request and not the continued possession of the property by the real estate developer during the submission of the refund request. According to Ministerial Decision No. (1754) dated 15/04/1442AH, Article (6), the

following is required when submitting the refund request: (a) The real estate subject of the supply of real estate eligible for redemption shall be owned by the real estate developer under official documents. "; therefore, if the applicant proves the refund

- At the time of submitting the application, he owns the property for the tax invoices subject of the supply. He is entitled to a refund explicitly, not in the sense thereof. Since my client is the owner of the property for the tax invoices subject of the supply while applying for a refund, the above text applies to her and she is entitled to a refund based on the text. 2 Neither in the aforementioned ministerial decision nor in any of the other tax laws did it stipulate that the applicant for restitution must continue to own and own the property. The statutory text only obliges the qualified person, while submitting the application, to prove his ownership of the property, not to prove that he continues to own the property. There is a clear difference between the two matters. 3 Accordingly, my client submitted a request to recover the input tax related to the value added tax incurred by (King Fahd Neighborhood Project) for the first quarter of 2023 as an approved developer eligible for recovery, and attached in her request all invoices related to the request, and all these invoices are related to the same project and the same contracts concluded by the developer in favor of the project owned by the developer applying for recovery, which the Authority accepted the request for recovery in the tax periods preceding the first quarter of 2023. The Authority may not accept part of the recovery requests for the same project and reject the other part except by an explicit legal text, not by interpreting the text and adding a concept that was not stipulated in the law, in addition to that it violates all the legal objectives and principles on which the tax refund law was built. 4 Finally.. It is no secret to the esteemed committee that my client's behavior is based on the explicit statutory text. As for the authority's behavior in trying to find irregular justifications on which to base its judgment with the aim of not accepting the extradition request, it is an unwarranted interpretation. Therefore, the application of the explicit statutory text is more important than finding interpretations that are not based on a valid statutory basis, although my client is a real estate developer eligible for restitution. In her project, she aims to sell, not accumulate projects for her king. The legal texts are texts that were developed for application. If the authority is unable to make the statutory text without the need for further interpretation from her, let her be sure that her understanding is wrong and not the statutory text. Third: Orders: Accordingly, and based on the foregoing, and where we have proven that the Authority has explicitly violated the text of Article (70) of the Executive Regulations of the Value Added Tax Law and has explicitly violated the text of Clause (Sixth) of Ministerial Decision No. (1754) dated 15/04/1442 AH, in accordance with the attachments proving the ownership of the real estate subject of supply for the tax invoices for the refund request, we request the esteemed Committee to do the following: 1- Accepting the lawsuit procedurally to be submitted within the period specified by law in accordance with paragraph (b) of Article (6), as we filed the lawsuit on 30/11/2023. 2- Accepting the lawsuit in substance and canceling the Authority's decision No. (90000117948) dated 31/10/2023 AD; and obliging it to accept the extradition request No. (...) For the

period from 01/01/2023 to 31/03/2023, which is the first quarter of 2023, with a total amount of SAR 44,025.

On Sunday 05/05/2024 AD, the Circuit held its remote session to consider the case based on what is stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the lawyer attended... (Saudi National) under National ID No. (...), in his capacity as an agent for the Plaintiff under Power of Attorney No. (...) And the lawyer's license No. (.../...), and the legal representative attended... (Saudi National) under National ID No. (...) For Zakat, Tax and Customs Authority under Authorization Letter No. (.../.../.../...) On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs and Compliance, at the beginning of the session, the agent of the Plaintiff company stated that his client adheres to her request according to the statement of claim attached to the case file. By a request for comment, the representative of the Defendant stated that all the properties that the Plaintiff claims for restitution on its purchases were emptied before the beginning of the first quarter of 2023. The Circuit reviewed with the parties the Excel file submitted by the Defendant in the case file, which includes that all the properties were emptied before 2023, and by requesting the suspension of the Plaintiff's attorney, he was satisfied with what was submitted, as well as the representative of the Defendant. By asking the parties to the lawsuit what they would like to add to the lawsuit, they decided to be satisfied with what was previously submitted. Accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for the issuance of the decision.

Grounds:

After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case:

In terms of form, and since the Plaintiff aims to recover the value added tax for the tax period related to the first quarter of 2023, based on the value added tax law and its executive regulations, and therefore this dispute is one of the disputes within the jurisdiction of the Circuit, and where the Defendant's decision was issued to reject the Plaintiff's objection No. (...) On 31/10/2023, the Plaintiff filed her case before the Circuit, but she faced a technical problem on the website of the General Secretariat of Zakat, Tax and Customs Committees and documented this via e-mail on 30/11/2023,

Accordingly, the lawsuit was filed within the prescribed period, which requires the Circuit to accept the lawsuit procedurally.



In terms of the merits, the Circuit contemplated the case and what was submitted in it, and after granting its parties sufficient time to submit what they have, it found that the dispute lies in the Plaintiff's request for the refund of VAT for the tax period related to the first quarter of 2023, with a total amount of (44,025) Saudi riyals. While the Defendant argued that the property was emptied and sold to buyers before the recovery period in question. By reviewing the case file, the documents submitted in it, the statement of claim and the response memoranda, the real estate deeds and building permits submitted by the Plaintiff, and the excel file submitted by the Defendant showing the dates of the transfer of ownership of the real estate from the Plaintiff, it was found that the transfer of ownership of all the real estate subject of the recovery request before the date of 01/01/2023 AD, that is, before the date of the Plaintiff's submission of the recovery request in question, and where paragraph (sixth) of the rules and procedures for licensed real estate developers, issued by the Zakat, Tax and Customs Authority Board of Directors Resolution No. (15-4-22) dated 19/06/2022 AD, stipulates that: "When submitting an extradition request, the following shall be required: A- The real estate subject of the real estate supply eligible for recovery shall be owned by the real estate developer under official documents...", which leads the Circuit to reject the Plaintiff's claim.

Based on the foregoing, and after deliberation, the Circuit unanimously decided:

Decision:

Reject the Plaintiff's claim.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Adjudication Committee for Tax Violations and Disputes
The Third Adjudication Circuit for VAT Violations and Disputes
In Riyadh

Decision No. VTR -2024-229855

Case No. V-2023-229855

Keywords

Value added tax - real estate - transfer of ownership of real estate -rejection of the Plaintiff's claim

Summary:

Requesting the Plaintiff to oblige the Defendant to pay an amount of 215,000 riyals representing the value added tax resulting from the transfer of ownership of two properties valued at 4,300,000 riyals, as well as obliging him to pay an amount of 30,000 riyals as attorneys' fees. Whereas, the Committee established that the lawsuit relates to a dispute over the value-added tax that resulted from the transfer of ownership of two properties, based on the sale of two plots of land, and that the Defendant acknowledged his purchase of the two lands and submitted documents proving the agreement to sell and pay the amounts. This means rejecting the lawsuit on the merits and obliging the Defendant to pay.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (14) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The facts of this case, to the extent necessary for the issuance of the decision, are summarized in the fact that the Taxpayer ..., a Saudi national under National ID No. (...), submitted by ... Saudi national, under national ID number (...) Acting on behalf of the Plaintiff under Power of Attorney No. (...), and Lawyer's License No. (...), with a statement of claim against the Defendant ... Saudi national, under national ID number (...) His claim included obliging the Defendant to pay an amount of (215,000 riyals) representing



the value added tax resulting from the transfer of ownership of the two properties of the instrument No. (...) Instrument No. (...) With a value of (4,300,000 riyals), and obliging him to pay an amount of (30,000 riyals) representing attorneys' fees.

On 06/03/2024, the Defendant submitted a response memorandum stating the following: "Subject/Response Memorandum in Case No.229855-2023-V dated 28/12/2023AD. Filed by the Plaintiff/... Against the Defendant/... . First: The Defendant submits that the Tax Violations and Disputes Settlement Committee does not have the jurisdiction to consider this case based on paragraph (1/31) of the Sharia Pleadings Law, which states: "The general courts shall have the jurisdiction to consider all final lawsuits, cases, proofs, and the like outside the jurisdiction of other courts, notaries public, and the Board of Grievances. In particular, they may consider the following: (a) Lawsuits related to real estate, such as a dispute over ownership, a right related to it, a lawsuit for damage from the real estate itself or from its beneficiaries, a lawsuit for the establishment of benefits, eviction, payment of rent or contribution to it, or a lawsuit). Therefore, the competent authority to consider this lawsuit is the general courts, and the lawsuit is outside the authority of the committee as it is related to a lawsuit related to the real estate sold by the Defendant against the Defendant. Whereas, the distribution of the jurisdiction of judicial and quasi-judicial bodies is from the public order specified under applicable regulations in force and may not be violated, which must be with him, and in the event that the ruling that the committee does not have jurisdiction to hear this case. Second: Alternatively, the Defendant submits that: 1- The Plaintiff is not entitled to claim the obligation of the Defendant to pay the value of the real estate disposal tax (5%) of the value of the sale, based on Article 5 of the Executive Regulations of the Real Estate Disposal Tax, which stipulates that (the tax on real estate disposals shall be collected in accordance with the following: (1- The tax shall be collected from the disposer "the seller" and he shall be obligated to pay it), and since the Plaintiff did not agree with the Defendant on any condition that violates this obligation, he shall be solely responsible under the law for its payment, which requires a ruling to reject the lawsuit." His reply is completed.

On 10/03/2024, the Plaintiff submitted a response memorandum stating the following: "On behalf of my client, we respond to the Defendant's response to the lawsuit in a brief manner as follows: We conclude from the Defendant's answer two things: 1-The Defendant is a party to the facts of the lawsuit and is not disputed. 2-The Defendant is either ignorant of the regulations and does not understand the provisions on which he relied or evades the obligation owed to him to pay the tax. As for the jurisdiction to block the lawsuit, it is a disbursement to the Tax Disputes Committee, as it is the only one competent to consider disputes related to the obligation arising from the value added tax law or the real estate disposal tax law, and no other judicial authority has the right to consider it, even if it is due to the sale of a property or rent, and therefore the work was done. As for his reference to relying on Article Five of the Executive Regulation of Real Estate Transactions Tax, this is surprising since the applicable law for the disputed incident is Value Added Tax, as the transfer was in April of 2018. Furthermore, both the Value Added Tax Law and the Real

Estate Transactions Tax Law require the buyer to bear the applicable tax and obligate the seller to remit it. Based on the above, and because the Defendant acknowledged the facts of the case, and because he has not complied with the payment of the tax due to date, but is trying to evade it before the authority, and since the law obligated the buyer to pay the value added tax resulting from the sale to the seller, and because my client has committed to supplying the tax as explained in the lawsuit. We adhere to our previous requests." His reply is completed.

On Sunday 12/05/2024 AD, the Circuit held its remote session to consider the case based on what is stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the lawyer attended... Saudi national, under national ID number (...) As agent for the Plaintiff under agency number (...) And a lawyer's license No. (...), and the Defendant or his representative did not attend. At the beginning of the session, the Plaintiff's attorney stated that his client adheres to his requests according to the statement of claim and the documents attached to it, and an answer to the Circuit's question about what proves his client's lawsuit. Accordingly, the Circuit postponed the consideration of the lawsuit until 26/05/2024 at 6:00 pm, provided that the Plaintiff submits what the deadline request for, before 16 May 2024, and that he informs the Defendant of this and submits his response to the lawsuit before 22 May 2024.

On 15/05/2024, the Plaintiff submitted a response memorandum stating the following: "Subject/ Reply: With reference to the session held on 12/5/2024, we attach to your Excellency the evidences of this lawsuit and our requests as follows: 1 A copy of the sale contracts of the two plots of land with numbers (... - ...) And signed by the Defendant. 2 The Defendant's acknowledgment of his purchase of the two lands issued on 30/11/2021. 3 A letter issued by Al-Jarbou Real Estate Office proving the Defendant's purchase of the two lands on 01/12/2021. 4 A copy of the two checks paid to my client for emptying the two lands. 5 A copy of the lawyer's contract to plead in this case on 30/11/2023.

On Sunday 26/05/2024 AD, the Circuit held its remote session to consider the case based on what is stated in paragraph (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the lawyer attended..., (Saudi nationality) under National ID No. (...) As agent for the Plaintiff under agency number (...) And a lawyer's license No. (...), and the Defendant or his representative did not attend. At the beginning of the session, the Plaintiff's attorney stated that he submitted what was requested of him in the previous session and adheres to what was stated in it, and for the validity of the lawsuit to decide on it, in accordance with the provisions of Article (XX) of the rules of work of the Zakat, Tax and Customs Committees. Accordingly, the Circuit decided to adjourn the session for deliberation, in preparation for issuing the decision.



Grounds:



After reviewing the case and what was submitted in it, and after reviewing the unified value added tax agreement for the Gulf Cooperation Council countries ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, and based on the value added tax law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations, the Circuit considered the case:

In terms of form, and since the Plaintiff aims from his lawsuit to oblige the Defendant to pay the amount of value-added tax, based on the value-added tax law and its executive regulations, and therefore this dispute is one of the disputes within the jurisdiction of the Circuit.

In terms of the merits, the Circuit contemplated the lawsuit and what was submitted in it, and after granting the two parties sufficient deadlines to submit what they have, it found that the dispute lies in the Plaintiff's demand to oblige the Defendant to pay an amount of (215,000) riyals, representing the value added tax, resulting from the transfer of ownership of the two properties of the instrument No. (...) Instrument No. (...) With a value of (4,300,000 riyals), and obliging him to pay an amount of (30,000 riyals) representing attorneys' fees. And to inform the Circuit of the case file, the documents submitted therein, and instrument No. (...) And on 25/03/1435AH, and on Instrument No. (...) And on 25/03/1435AH, and on the sale contract No. (...) Concluded between the parties to the lawsuit on 15/03/2017, and the sale contract No. (...) Concluded between the parties to the lawsuit on 15/03/2017, and the Defendant's acknowledgment on 30/11/2021, in which the Defendant acknowledged his purchase of the two plots of land bearing the instrument No. (...) And the number (...), and on the letter issued by the real estate broker (... Real Estate) dated 01/12/2021, and on the check No. (...) 13/05/2018 with an amount of (2,200,000) riyals issued by a bank ... , and check No. (...) In the amount of (2,100,000) riyals issued by the Bank of... And on the invoice issued by the General Authority of Zakat and Tax No. (...) On 07/11/2021, it was found that the Plaintiff agreed with the Defendant to sell plot No. 71/1 of Plot No In the neighborhood of... In the city of Riyadh with an amount of (2,415,000 riyals), and plot No. 72/1 of Plan No Located in the neighborhood of... In the city of Riyadh with an amount of (2,331,000 riyals), it was also found that the Plaintiff received from the Defendant a total amount of (4,400,000) riyals, and it was also found that the Plaintiff returned a tax of (215,000) riyals, meaning that the total value of supplies of the two properties according to the supplied tax is an amount of (4,300,000) riyals, which is what the Plaintiff mentioned in his memorandum that it is the total value of the sale of the two properties, and where Article (14) of the Executive Regulations of the Value Added Tax Law stipulates that: "Without prejudice to Article 2 of the Law and for the purposes of the application of the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services carried out by any taxable person in the Kingdom, or on those received by any taxable person

in the Kingdom in cases where the reverse calculation (commissioning) mechanism is applied, and on the importation of goods into the Kingdom." Whereas the origin in bearing the burden of paying the tax as an indirect tax for the goods and services received is the customer or buyer (the recipient of the goods and services), except for what was exempted by a special provision from paying the tax on the goods and services received according to specific cases mentioned in Article (30) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and where the Circuit finds from what the Plaintiff did not pay the tax, and where the Defendant did not provide evidence to the contrary, and did not attend the two hearings held on 12/05/2024 and on 26/05/2024, which ends with the Circuit to obligating the Defendant to pay an amount of (215,000.00) two hundred and fifteen thousand riyals, representing the value added tax subject of the lawsuit.

With regard to the Plaintiff's claim for attorney's fees, the Circuit reviewed the contract concluded between the Plaintiff and ... Lawfirm dated 16/05/1445 AH, corresponding to 30/11/2023 AD, and upon reviewing the facts of the case, the Circuit concluded that the Plaintiff's attorney submitted the statement of claim and a rejoinder, and attended the hearings, so the Circuit estimated the Plaintiff's compensation for this in the amount of (21,500) twenty-one thousand and five hundred riyals.

Decision:

1-Obliging the Defendant/ ... Saudi national, under national ID number (...) To pay the Plaintiff/ ... (Saudi National) under National ID No. (...) An amount of (215,000.00) two hundred and fifteen thousand riyals, representing the value added tax in question.

2- Obliging the Defendant/ ... Saudi national, under national ID number (...) To pay the Plaintiff/ ... (Saudi National) under National ID No. (...) An amount of (21,500) twenty-one thousand five hundred riyals, representing the value of attorneys' fees.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Riyadh

Decision No. VR-2024- 231233

Case No. V -2024-231233

Keywords

VAT -Real estate -Tax arising from the construction contract -Acceptance of the Plaintiff's claim

Summary:

The Plaintiff claim to oblige the Defendant to pay an amount of 7,292,466.67 riyals as VAT on the project construction contract. After reviewing the case papers, submitting the required documents by the Plaintiff, postponing the consideration of the case more than once due to the absence of the Defendant from the sessions, and by the Circuit's scrutiny of the VAT law and the relevant regulations, it was proven that the Plaintiff had concluded a contract with a company that waived the contract to the Defendant. It was also confirmed that the claimed amount was due based on the tax invoices submitted, and the Plaintiff's VAT registration on the date of supply. This means accepting the Plaintiff's claim and obliging the Defendant to pay the claimed amount.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (8) of Article (67) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Article (14) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The facts of this case are that the branch of a company ... Commercial Registration No. (...), applied by ... Identity number (...) As agent for the Plaintiff under agency number (...) In a statement of claim that included

a claim to oblige the Defendant company ... One person company, Commercial Registration No. (...), to pay the value added tax in the amount of (7,292,466.67) riyals, resulting from the construction contract.

On Tuesday 11/06/2024, the session was opened and held via videoconference in accordance with the procedures of remote visual litigation; and based on what was stated in the first paragraph of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case; the lawyer attended... Identity number (...) In his capacity as an agent for the Plaintiff under the power of attorney No. (...), and the representative of the Defendant did not attend despite the fact that it was proven that she was notified, and by asking the representative of the Plaintiff about his representative's lawsuit, he answered according to what was stated in the statement of claim, and by asking him what he would like to add, he decided to suffice with the above and submitted. Accordingly, the Circuit decided to postpone the consideration of the case until Tuesday, 02/07/2024 at 12:00 pm, due to the need for the case to be studied further.

On Tuesday 2/07/2024, the session was opened and held via videoconference in accordance with the procedures of remote visual litigation; and based on what was stated in the first paragraph of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case; the lawyer attended... Identity number (...) In his capacity as an agent for the Plaintiff under the power of attorney No. (...), and the representative of the Defendant did not attend despite the fact that it was proven that she was notified, and by asking the representative of the Plaintiff about his representative's lawsuit, he answered according to what was stated in the statement of claim, and by asking him what he would like to add, he decided to suffice with the above and submitted. Accordingly, the Circuit decided to postpone the consideration of the case until Tuesday, 16/07/2024 at 12:00 pm, due to the need for the case to be studied further.

On Tuesday, 16/07/2024, and by reviewing paragraph No. (1) of Article (15) of the rules of work of the Zakat, Tax and Customs Committees, including the permissibility of holding the sessions of the Circuit by means of modern technology, and by calling on the two parties, the lawyer attended... Identity number (...) As agent for the Plaintiff under agency number (...) The representative of the Defendant did not attend. The Circuit decided to adjourn the session for deliberation in preparation for the issuance of the decision.

Grounds:



After reviewing the case papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the Zakat, Tax and Customs Authority No. (3839) dated 14/12/1438 AH and its amendments, and on the

rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) Date: 08/04/1445Hijri, the Unified Value Added Tax Agreement for the States of the Gulf Cooperation Council, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 30/01/2420 AD, and the due date of the amount in question on 31/01/2019AD, and on 07/02/2019AD, and on 01/03/2019AD, and therefore the lawsuit is filed during the regular period stipulated in paragraph (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit shall not be heard in tax disputes after the lapse of five years from the due date of the amount in question or from the date of knowledge of the incident in dispute, unless there is an excuse accepted by the committee), which must be accepted procedurally.

In terms of the merits, by considering the lawsuit papers and the response of the two parties after giving them enough time to express and submit what they have, it was proven to the Circuit that the dispute lies in the claim of the Plaintiff's attorney to the Defendant to pay the value added tax in the amount of (7,292,466.67) riyals, resulting from the construction contract related to the complex project... Residential, while the Defendant did not submit her response to the lawsuit despite being informed of the lawsuit against her. By reviewing the case file, it was found that the Plaintiff concluded a construction contract with the Investment Company... To implement a complex project... Residential, and then the investment company... By referring the contract and assigning it to a company ... (The Defendant), by virtue of the notice sent to the Plaintiff on 14 February 2019, based on its right stipulated in paragraph (1-7) of the construction contract, the text of which is as follows: "... The Employer shall be entitled to assign or transfer all of its rights or obligations under this Contract in full at any time to any person or persons without the consent of the Contractor. However, the Contractor may, subject to the approval of the Employer, assign its rights to any monies due, or to become due under the Contract as security in favour of a bank or financial institution. " As a result, the Plaintiff's attorney requests to oblige the company ... (The Defendant) to pay the value-added tax for the complex project contract... Residential, the Circuit also reviewed the Plaintiff's attorney's tax invoice No. (...) On January 31, 2019, with a tax rate of 5% and an amount of (1,527,936.94) riyals, and tax invoice No. (...) On 31 January 2019, with a tax rate of 5% and an amount of (1,788,512.02) riyals, and tax invoice No. (2019005) dated 07 February 2019, with a tax rate of 5% and an amount of (1,300,149.03) riyals, and tax invoice No. (...) On 01 March 2019, at a rate of 5% tax and an amount of (2,675,868.68) riyals, with a total amount of (7,292,466.67) riyals, and where it was proven that the Plaintiff was registered in the value added tax on 28/08/2017 and the effective date of 01/01/2018, and therefore the Plaintiff is registered with the value added tax on the date of supply, and since the asset in bearing the burden of paying the tax as an indirect tax for the goods and services it receives is the customer or the buyer (the recipient of the goods and services), except for what was excluded by a special provision from paying the tax on the goods and services it receives in accordance with certain cases mentioned in Article (30) of the Unified Value

Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and where the definition of the consideration in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf states of: "All that has been or will be obtained by the taxable supplier from the customer or from a third party in return for the supply of goods or services, including VAT." Article (14) of the Executive Regulations of the Value Added Tax Law stipulates: "Without prejudice to Article 2 of the Law, and for the purposes of implementing the Convention and the Law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the importation of goods into the Kingdom." The matter with which the Circuit ends up accepting the Plaintiff's claim.

Accordingly, the Circuit, after unanimous deliberation, decided:

Decision:

1- Acceptance of the claim procedurally.

2-On the subject: Accepting the Plaintiff's claim to oblige the Defendant (company ... One Person Company) Commercial Registration (...) Paying an amount of (7,292,466.67) seven million two hundred and ninety-two thousand four hundred and sixty-six Saudi riyals and sixty-seven halalas to the Plaintiff (branch of the company ...) Commercial Register No. (...) As VAT on supplies related to the project of the residential complex ...

3- This decision was issued in presence of the Plaintiff and in legal presence of the Defendant, and was read publicly in the hearing. The Circuit has set a date of thirty days to receive the copy of the decision, and the Circuit may extend this date in accordance with paragraph (1) of Article (31) of the rules of work of the Zakat, Tax and Customs Committees

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Riyadh

Decision No. V-2024- 235365

Case No. V -2023-229861

Keywords

VAT – Real Estate – Contracting Contract – Plaintiff's Claim Rejected

Summary:

The Plaintiff claim to recover the value-added tax in the amount of (54,862) riyals from the Defendant, which was imposed as a result of the contracting contract concluded between them on 06/09/2020 in the amount of (365,745) riyals. The Adjudication Committee found that there was no breach by the Defendant in collecting the tax, as the basis of the contracting contract was subject to tax, and that the Plaintiff's request to benefit from the state's certificate of bearing the first housing tax was rejected by the Ministry of Municipal and Rural Affairs and Housing, which makes the Plaintiff's claim unfounded. This resulted in the dismissal of the Plaintiff's claim.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [The Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Facts:

The facts of this case are summarized in the fact that the Taxpayer ..., National ID No. (...) On his own behalf, he submitted a statement of claim that included a claim to oblige the Defendant ... , National ID No. (...), to recover the value added tax in the amount of (54,862) riyals as a result of the contracting contract concluded between them on 06/09/2020 in the amount of (365,745) riyals.

By presenting the statement of claim to the Defendant, he replied with a response note, which was reviewed by the Circuit.

On Tuesday 12/03/2024, the first session was opened and held via videoconference in accordance with the procedures of remote visual litigation; and based on what was stated in the first paragraph of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case, the Plaintiff attended in person ... (Saudi National) under National ID No. (...), and the Defendant attended... (Saudi national) under National ID No. (...), and by asking the Plaintiff about his lawsuit, he answered according to what was stated in the statement of claim submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhering to what was stated in it, and by asking the Defendant about his response, he answered by adhering to what was stated in the response memorandum. By asking the parties to the lawsuit what they would like to add, they decided to settle for what was previously presented. Whereas the matter was mentioned, and after discussion, the Circuit decided to close the pleading and adjourn the session for deliberation and issuance of the decision.

Grounds:



After reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/06/1425 AH and its amendments, and after reviewing the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and the relevant laws and regulations.

In terms of form, and since the Plaintiff filed the lawsuit through the electronic portal on 28/12/2023 AD, and the due date of the amount in question is 06/09/2020AD, and therefore the lawsuit is filed within the regular period stipulated in paragraph No. (8) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113): (The lawsuit in tax disputes shall not be heard after the lapse of five years from the due date of the amount in question or from the date of knowledge of the incident in dispute, unless there is an excuse accepted by the Committee), which must be accepted procedurally.

In terms of the merits, it was proven to the Circuit that the dispute lies in the Plaintiff's claim to the Defendant to recover the value added tax in the amount of (54,862) riyals as a result of the contracting contract concluded between them on 06/09/2020 in the amount of (365,745) riyals, as the Plaintiff stated that he submitted a request to benefit from the State's certificate of bearing the first residence tax with the Ministry of Municipal and Rural Affairs and Housing, and the request for recovery was rejected. By reviewing the case file, and after considering the contracting contract concluded between the two parties, it is clear that it stipulated the amount of the tax at a rate of (15%) of (54,862) riyals, which is the same amount claimed by the Plaintiff, and since the Plaintiff based his claim on the rejection of the recovery request from the Ministry of Municipal and Rural Affairs and Housing, which does not show a breach or default by the Defendant in collecting the amount of the tax, as the basis of the contracting contract is subject to tax under the invoices



issued by the Defendant, which include his tax number, which shows that the Plaintiff's claim to recover the tax amount is based on an incorrect document, which ends with the rejection of the Plaintiff's claim.

Decision:

1- Accepting the claim procedurally.

2-Rejection of the Plaintiff's claim.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Fines



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Riyadh

Decision No. VR -2024-209911

Case No. V-2023-209911

Keywords

VAT— Fines— Late Payment Penalty — Acceptance of the Taxpayer's Objection

Summary:

The Taxpayer objected to the decision of the Zakat, Tax and Customs Authority regarding the imposition of a late payment fine for the second quarter of 2023 with a value of (2,138.75) riyals, and requests the cancellation of the decision. Whereas, the Adjudication Committee has proven the existence of a technical problem on the Authority's website, which prevented the timely submission of the tax return. Although the Authority confirmed that the problem was addressed before the end of the statutory period, the ticket was resolved late, after the deadline for submitting the declaration. This means accepting the Taxpayer's objection.

Document:

- [Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425AH.](#)
- Article (5) of [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)

Facts:

The facts of this case are summarized to the extent necessary to issue the decision, that the Taxpayer ... National ID number (...) In his capacity as the representative of the heirs under the power of attorney No. (...), and under the deed of the heirs' document No. (...), he submitted a statement of claim that included his objection to the Authority's decision regarding the late payment fine for the second quarter of 2023, with a value of (2,138.75) riyals, and requested the cancellation of the decision.

By presenting the statement of claim to the Defendant, she submitted a response memorandum, which the Circuit reviewed.



On Tuesday 13/02/2024, the first session was opened and held via videoconference in accordance with the procedures of remote visual litigation; and based on what was stated in the first paragraph of Article (15) of the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH; and by calling on the parties to the case; attended ... (Saudi National) under National ID No. (...), in his capacity as an agent for the Plaintiffs under Power of Attorney No. (...), and attended ... , National ID No. (...), the representative of the Zakat, Tax and Customs Authority under the authorization issued by the Zakat, Tax and Customs Authority No. (.../.../...), and after verifying the validity of the attendance of the parties to the case by presenting their national ID cards through a magnifying window and verifying their status, I decided to proceed with the case. By asking the attorney of the Plaintiffs about the lawsuit of his clients, he answered according to what was stated in the statement of claim submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhering to what was stated in it, and by asking the representative of the Defendant about his response, he answered by adhering to what was stated in the response memorandum. By asking the parties to the lawsuit whether they have anything to add? Each party was satisfied with what was provided. Whereas the matter was mentioned, and after discussion, the Circuit decided to close the pleading and adjourn the session for deliberation and issuance of the decision.

Grounds:



After reviewing the lawsuit papers and after auditing, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/6/1425 AH and its amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M /113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, and on the unified value added tax agreement for the Gulf Cooperation Council countries, and the relevant laws and regulations.

Procedurally: Whereas this dispute is considered one of the disputes within the jurisdiction of the Tax Adjudication Committee Circuits under the rules of work of the Zakat, Tax and Customs Committees, and where the Plaintiff is informed of the result of the objection on (22/08/2023), and filed the lawsuit through the electronic portal on (19/09/2023), accordingly, the lawsuit was submitted within the prescribed period in accordance with the text of Article (5) of the rules of work of the Zakat, Tax and Customs Committees, and where the lawsuit was submitted in a capacity, which requires the Circuit to accept the lawsuit procedurally.

In terms of the merits, after reviewing the entire case file and the arguments it contained, it was proven to the Circuit that the dispute lies in the claim of the Plaintiff's attorney to cancel the Authority's decision to impose a fine for late payment for the second quarter of 2023 with a value of (2,138.75) riyals, where the Plaintiff submits that there is a technical problem on the Authority's website that did not enable him to submit the tax return for the tax period, and that he submitted the ticket No. (...) To solve the problem, but it was not resolved until (01/08/2023 AD) according to the letter received from the Authority, and that he submitted the declaration on (03/08/2023 AD). While the Defendant replied that the ticket that the Plaintiff filed was processed on (30/07/2023 AD), before the expiry of the time period specified by law, as the deadline for submitting the declaration was on (31/07/2023 AD), and explained that the submission of the tax return on (03/08/2023 AD) is proven to be late for the Plaintiff despite the treatment of the technical defect on (30/07/2023 AD), and therefore the Authority requests the dismissal of the case. After reviewing the case file and the documents contained therein, it appears that the dispute is based on the imposition of the late payment fine, which the Plaintiff argues for the existence of a technical defect that did not entitle him to enter the Authority's website and submit the declaration on the regular date, as he submitted a ticket to solve the problem, and it was not resolved until (01/08/2023), and the Plaintiff submitted his declaration only on (03/08/2023), that is, after the expiry of the time period specified in the law for submitting the declaration, which was specified on (31/07/2023), and after considering the entire arguments submitted by the parties to the lawsuit, and since it is proven by the letter sent by the Authority that the ticket submitted regarding the technical problem was not resolved until (01/08/2023), and that it is proven that there is a technical problem beyond the control of the Plaintiff, and that he communicated with the Authority before the end of the statutory period in order to resolve it, but it was not resolved until after the expiry of the statutory period for submitting the declaration, which the Circuit considers accepting the Plaintiff's claim.

The Circuit, after unanimous deliberation, decided:

Decision:

- 1- Accepting the claim procedurally.
2. On the merits: Cancellation of the Authority's decision regarding the imposition of the late payment fine in the merits of the lawsuit.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Adjudication Committee for Tax Violations and Disputes
First Adjudication Circuit for VAT Violations and Disputes
in Dammam

Decision No. VD-2024-202710

Case No. V-2023- 202710

Keywords

VAT - Fines-Delay in filing the declaration - Acceptance of the Taxpayer's objection

Summary:

The Taxpayer objected to the decision of the Zakat, Tax and Customs Authority to impose a fine for error in submitting the tax return for the fourth quarter of 2022, as the fine was imposed at a value of (9,000) riyals as a result of the Authority's amendment to the procurement clause. The Taxpayer reported that he paid the due amount of rent and VAT, but the lessor was late in issuing the tax invoice. Procurement was also excluded by the Authority, resulting in the imposition of the penalty in accordance with Article (42) of the VAT Law. Upon review, it was found that there was no difference between the tax charged and due. This means accepting the Taxpayer's objection.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (42) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)

Facts:

The facts of this case are summarized in the fact that the Taxpayer ..., National ID No. (...) The owner of an establishment ... To serve beverages, Commercial Registration (...) I submitted a statement of claim that included an objection to the fine for error in submitting the return of (9,000) riyals resulting from the revaluation of the tax period related to the fourth quarter of 2022, and requested the cancellation of the fine imposed. The rent amount was paid (100,000) riyals and the value added tax (15,000) riyals for a lease contract; the lessor was late in granting the tax invoice and a receipt was granted in its place.

By presenting the statement to the Defendant, she submitted a response memorandum stating: The Authority has exercised its power granted to it under paragraph (1) of Article (26) of the Value Added Tax

Law and paragraph (1) of Article (64) of the Executive Regulations of the Value Added Tax. This means that the Authority has amended the clause of local purchases subject to tax in the basic ratio. As a result of the above, a fine has been imposed for the error in submitting the declaration based on paragraph (1) of Article (42) of the Value Added Tax Law. The Authority requests the dismissal of the lawsuit. Its reply is completed.

The Defendant then submitted a supplementary memorandum stating: The Authority adheres to the arguments and requests contained in its first response memorandum and refers to it in order to prevent repetition. The Authority also confirms the validity of its decision to impose a fine for error in the declaration for the period in question as a result of what it reached after conducting the examination and auditing process and re-evaluating the Plaintiff's declaration, as the addition of an incorrect and undocumented purchase amount by the Plaintiff would create an undue credit balance, and it is no secret to Your Excellency that this matter affects its tax returns and dues with the Authority, including the amount of the tax due. It should also be noted that the decision of the Appellate Circuit No. (2023-160457-VA) was previously issued, which ended up supporting the Authority's action in this regard. Based on the foregoing, the Authority shall adhere to the validity and integrity of its procedure by imposing the fine in question.

On Sunday, 25/02/2024, the hearing was held in accordance with the procedures of remote visual litigation, where the Defendant attended and it was not proven that the Plaintiff attended despite being informed of the date and manner of this hearing, and the participation of the Defendant's representative... National ID number (...) In its capacity as a representative of the Zakat, Tax and Customs Authority under the authorization letter No. (.../.../.../1445) dated 19/03/1445 AH issued by the Deputy Governor for Legal Affairs and Compliance, and in response to this request to proceed with the case and issue the decision. After deliberation, the following decision was issued:

Grounds:



After reviewing the case papers and after auditing, and based on the Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH and its amendments, and on the executive regulations of the law issued by a decision of the Board of Directors of the General Authority for Zakat and Tax No. (3839) dated 14/12/1438 AH and its amendments, and on the rules of work of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. And the Unified Value Added Tax Agreement for the States of the Gulf Cooperation Council, and the relevant laws and regulations.

In terms of form, since the Plaintiff aims from her lawsuit to cancel the fine of the error in submitting the declaration of (9,000) riyals resulting from the revaluation of the tax period related to the fourth quarter of 2022, and since this dispute is one of the disputes within the jurisdiction of the Zakat and Tax Adjudication Committee Circuits under the rules of work of the Zakat, Tax and Customs Committees, and since the date of the result of the objection was on 13/06/2023 and the date of filing the lawsuit on 08/07/2023, accordingly, the lawsuit was submitted within the period prescribed by law in accordance with Article (5)



of the rules of work of the Zakat, Tax and Customs Committees. Whereas, the lawsuit was submitted by a person of competent capacity, which requires the Circuit to accept the lawsuit procedurally.

In terms of the merits, and where the dispute lies, it is clear that the fine for the error in submitting the declaration is (9,000) riyals for the fourth quarter of 2022 due to the Defendant's amendment to the procurement clause. By reviewing the final evaluation notice No. (...) Dated 11/4/2023 issued by the Defendant, it becomes clear that the entire procurement clause with a value of (200,000) riyals has been excluded, which resulted in a fine for error in submitting the declaration. Paragraph (1) of Article (42) of the Value Added Tax Law stipulates that: "Whoever submits to the Authority a false tax return, or amends a tax return after submitting it, or submits any document to the Authority regarding the tax due on him, and this results in an error in calculating the amount of the tax less than the due amount, shall be punished by a fine equivalent to (50%) of the value of the difference between the tax calculated and the due."

After reviewing the entire case file and the defenses it contained, where the Plaintiff's request to cancel the fine of the error lies in submitting the declaration of (9,000) riyals, which resulted from the Defendant's amendment of the Plaintiff's declaration for the tax period related to the fourth quarter of 2022, where it excluded the entire purchases of (200,000) riyals, and by referring to the final evaluation notice, it is clear that the Plaintiff did not disclose any sales related to the tax period, so there is no tax due that the Plaintiff did not disclose.

Whereas Paragraph (1) of Article (42) of the Value Added Tax Law stipulates that "whoever submits to the Authority a false tax return, or amends a tax return after submitting it, or submits any document to the Authority regarding the tax due on it, and this results in an error in calculating the amount of the tax less than the due, shall be punished by a fine equivalent to (50%) of the value of the difference between the tax calculated and the due." Therefore, it has not been proven that what is stated in the article has been achieved in the case of the Plaintiff, as the net tax on its approval after the Authority's exclusion of purchases is equal to zero riyals, and there is no difference between the tax calculated and due, which leads the Circuit to cancel the Defendant's decision.

Based on the above and in accordance with the provisions of the Unified Agreement, the VAT Law and its Executive Regulations, and the working rules of the committees for adjudicating tax violations and disputes, the Circuit decided after deliberation unanimously:

Decision:

Cancelling the Defendant's decision regarding the imposition of a fine for error in filing the declaration for the tax period in question.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2023-131495

Case No. V-2022-131495

Keywords

VAT – Fines – Tax Evasion Penalty – Acceptance of Taxpayer Appeal

Summary:

The Taxpayer's objection to the decision of the Second Circuit to adjudicate VAT violations and disputes in Riyadh No. (VRS-2022-1005), where the Taxpayer's appeal lies on the evaluation notice for the clause of local sales subject to the basic tax rate for the tax periods (January - June) 2019, and the imposition of fines related to tax evasion, late payment, error in declaration, and failure to keep records. The Taxpayer based her objection on the existence of errors from the accountant in charge that resulted in undisclosed sales, and their subsequent correction, in addition to the appellant's classification of some revenues outside the scope of tax as sales subject to the basic percentage. Whereas, it was proven to the Appeal Committee to cancel the tax evasion fine for lack of proof of intent, as the appellant disclosed the sales in subsequent declarations, and the error was from the accountant. It also partially eliminated the penalty for error in declaration and late payment, as it relates to tax periods that are appealable. This meant partially accepting the appeal by canceling the tax evasion fine, accepting its objection to the local sales clause for the periods (January, February, May, June) 2019, and the fines resulting therefrom, and otherwise supporting the decision.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (39) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)

Facts:

The appeal submitted on 16/05/2022 was considered by the Taxpayer ...— National ID No. (...), in her capacity as the owner of an institution ... For Trade, under the Commercial Register No. (...), on the decision

of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

" First: To accept the claim procedurally.

Second: The Plaintiff objected on the merits, in relation to the Valuation Notice, to the domestic sales clause subject to the base rate of the tax periods at issue.

Third: Reject the Plaintiff's objection regarding the tax evasion fine in question.

Fourth: Reject the Plaintiff's objection regarding the late payment penalty resulting from the notice of the final evaluation of the tax periods in question.

FIFTH: Reject the Plaintiff's objection regarding the fine for error in the declaration resulting from the notice of the final evaluation of the tax periods in question.

Sixth: Reject the Plaintiff's objection regarding the fine for keeping records, documents and tax invoices in the amount of (50,000) riyals.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to reject its claim regarding the evaluation notice for the local sales clause subject to the basic percentage of the tax periods related to the months (January, February, March, April, May, June) for the year 2019, and the resulting fines, due to the errors of the responsible accountant that led to the existence of undisclosed sales for the tax periods (January, February, March, April, May) 2018, and the tax returns were corrected when the error was discovered and undisclosed amounts were added, in addition to the appellant's consideration of revenues that classify supplies outside the scope of VAT as taxable income for the basic period in relation to the months (January, February) of 2019 with a value of (9,899,946.25) riyals, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit dismissed the appellant's claim regarding the appellant's notice of evaluation of the local sales subject to the basic ratio of the tax periods related to the months (January, February, March, April, May, June) of 2019, and with regard to the clause (local sales subject to the basic ratio) related to the tax periods (January, February, March, April, May) 2018, Whereas the appellant objects to the decision of the adjudication Circuit, due to the errors of the responsible accountant that led to the existence of undisclosed sales for the aforementioned periods, and whereas it is established by the appellant Circuit that the appellant's claim lies in the cancellation of the decision of the adjudication Circuit on this clause, and whereas it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justified grounds on which it was based and sufficient to carry out its judiciary, as the issuing Circuit examined the dispute and concluded with regard to it the conclusion it reached in its operative part, and whereas the appellate Circuit did not notice what Requires rectification or comment in the light of the arguments raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the tax periods (January, February, May, and June) 2019 related to the above clause, and where the appellant objects to the decision of the Adjudication Circuit, because the appellant considers revenues that classify supplies outside the scope of VAT as taxable income for the basic period, in relation to the months (January, February) of 2019 with a value of (9,899,946.25) riyals, and where the appellant objected to the amendments made by the Authority to the periods (January, February, May, and June) of 2019, claiming that she was not aware of how the appellant against her reached the amounts, as no grounds were clarified to amend these declarations, and where the appellant submitted the documents related to them while the appellant did not respond or challenge the validity of the documents submitted, which leads the Appellant Circuit to accept the appeal submitted in part.

With regard to the tax evasion fine and the appellant's claim to cancel it, and since Article (39) of the Value Added Tax Law clarified the cases that are considered tax evasion and stipulated that there was an intention

to evade the payment of the due tax, and since the Circuit did not prove this from the facts of the case, where the appellant disclosed the undisclosed sales related to the year 2018 in the subsequent tax return of the same year (June 2018), so it was proven that he was in good faith, especially that the lack of Correcting it for the same period was based on the directive of the Appellee and that the error in non-disclosure is due to the error of the responsible accountant, who has a dispute with the appellant. As for the year 2019, he submitted the documents that he requested as being outside the scope of the tax and the Authority did not indicate their grounds, which makes it clear that there was no deliberate evasion of the supply of the tax due to the Appellee; especially since the fine was imposed on tax periods related to the beginning of the application of the VAT law, as well as periods on which there was no amendment after the examination as in the notice of the end of the assessment submitted for the month of March of 2019 and the notice of imposition of the fine, thus Whereas the appellee did not base her decision on a clear basis, where the fine was imposed on tax periods in which there is no amendment and in accordance with paragraph (5) of Royal Decree (113), which gave the committee the necessary powers to investigate and adjudicate cases, including (the power to impose fines), which ends with the Appellate Circuit accepting the appeal submitted.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax periods in question, and since the clause (local sales subject to the basic ratio) has led to the acceptance of the appeal in relation to the tax periods (January, February, May, June) 2019, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal.

With regard to the fine for not keeping accounting records and documents, and according to the decision to reclassify field violations of VAT issued by the Board of Directors of the Zakat, Tax and Customs Authority, starting from 30/1/2022, the penalties for field violations start by alerting the establishment first about the violation and raising the awareness of the Taxpayer, and fines are not imposed for committing the violation for the first time, which leads the Appellate Circuit to accept the appeal submitted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.

Second: On the merits:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the clause of local sales subject to the basic ratio in part, and amending the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005).



- 2- Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the tax evasion fine, and canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005), and canceling the decision of the appellant against it.
- 3- Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the fine clause of the error in the declaration in part in accordance with paragraph (1), and the amendment of the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005).
- 4- Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the clause of late payment fine in part in accordance with paragraph (1), and amending the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005).
- 5- Acceptance of the appeal submitted by the Taxpayer/ ... – National ID No. (...), regarding the fine for not keeping accounting records and documents, and canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005), and canceling the decision of the appellant against it.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2023-115748

Case No. V-2022-115748

Keywords

VAT – Fines – Penalty for error in declaration – Rejection of the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-403), where the Authority's appeal lies in canceling the calculation of VAT for the third quarter of 2019 in the amount of (42,500) riyals, as well as canceling the late payment fine for the same tax period. The Authority objects to the decision based on the existence of undisclosed revenues according to the data of the Ministry of Justice. It has been proven to the Committee through the documents submitted and that the said property was sold for a price of (850,000) riyals, while the appellee submitted a deed for the property with a value of (1,000,000) riyals, but he did not provide proof that the property was a personal residence, which proves the value added tax on it. Accordingly. Whereas, the appeal of the person charged with objecting to the fine of error lies in the declaration imposed on him for the third quarter of 2019. The Taxpayer considers that the imposition of the fine is incorrect. Whereas, the Appellate Committee established that the decision of the First Circuit in this regard was consistent with the provisions of the Law and with the justifiable grounds on which it was based, which led to the rejection of the Taxpayer's appeal and the upholding of the decision of the First Circuit. This means accepting the Authority's appeal procedurally and merits. Rejecting the Taxpayer's appeal and upholding the decision of the First Circuit.

Document:

- Paragraph (9) of Article (9) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)



Facts:



The appeal filed on 18/04/2022 by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-403) was considered in the lawsuit filed by the Taxpayer ...against the Zakat, Tax and Customs Authority.

The appeal was also considered on 19/04/2022, from the Taxpayer ...— National ID No. (...) On his own behalf, the First Circuit's decision to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-403) in the case filed by the Taxpayer ...against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: Accepting the Plaintiff's claim to cancel the Defendant's decision regarding the calculation of VAT for the third quarter of 2019 in the amount of (42,500) riyals and canceling the Defendant's decision regarding the calculation of the late payment penalty for the same tax period.
- Second: Dismiss the lawsuit regarding the fine of the error by acknowledgment.

Since this decision was not accepted by the parties, the appellant (Zakat, Tax and Customs Authority) submitted to the Appellate Circuit an appeal statement that included her objection to the decision of the Division of Class to cancel its decision regarding the calculation of VAT for the third quarter of 2019 and with regard to the late payment fine, due to the presence of undisclosed revenues according to the data of the Ministry of Justice, and ended with a request to accept the appeal and cancel the decision of the Division of Class.

As submitted by the Appellant (...) To the Appellate Circuit with an statement of appeal that included his objection to the decision of the Adjudication Circuit to dismiss his case with regard to the fine of error in the declaration related to the third quarter of 2019, due to the invalidity of the Appellee's decision to impose the fine, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellant Circuit found that the decision issued by the Adjudication Circuit decided to cancel the decision of the Appellant (Zakat, Tax and Customs Authority) regarding the calculation of VAT for the third quarter of 2019 and with regard to the fine for late payment, and since the Appellant objects to the decision of the Adjudication Circuit due to the existence of undisclosed revenues according to the data of the Ministry of Justice, and where it was proven to the Circuit through the instrument in dispute and its number (...) Dated 04/09/2019, mortgaged in favor of the Real Estate Development Fund, transfer of ownership in favor of (...) At a price of (850,000) riyals, and where the appellee submitted (...) His deed of ownership of the property No. (...) At a price of (1,000,000) riyals mortgaged to the Real Estate Development Fund, but it is not enough to prove that the property was the personal residence of the appellee before the sale; as he did not submit documents from other consumer bills of services, which are, for example, but not limited to telephone, Internet and water services at different periods, and since the bill of water services provided does not have data indicating that it belongs to the property in dispute, and since the appellee did not provide proof of the exemption of the property from tax in accordance with paragraph (9) of Article (9) of the Executive Regulations of the Value Added Tax Law, which ends with the Appellate Circuit accepting the appeal submitted.

With regard to the objection of the appellant (Zakat, Tax and Customs Authority) to the cancellation of the late payment fine, and since the appellant is demanding the cancellation of the decision issued to cancel that fine that resulted from the final evaluation notice for the tax period in question, and since the above clause has led to the acceptance of the appeal, and since the fine resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal filed in the fine in question.

Regarding the appeal submitted by (...) Whereas he objects to the decision of the adjudication Circuit to dismiss his case with regard to the fine of error in the declaration related to the third quarter of 2019, due to the invalidity of the decision of the appellee to impose the fine, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible grounds on which it was based and sufficient to carry out its judiciary, as the Circuit issuing it undertook an examination of the dispute in which it was located and concluded with regard to it to the conclusion it reached in its operative part, and where the appellate Circuit did not notice what required

correction or comment in light of the arguments raised before this Circuit, which ended up deciding not to affect the result of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

For these grounds and after due deliberation, the Circuit unanimously decided as follows:

Decision:

First: regarding the Zakat, Tax and Customs Authority appeal:

- 1- Acceptance of the appeal procedurally.
- 2- Accept the appeal related to the local sales subject to tax in the basic ratio, cancel the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-403) and support the decision of the Zakat, Tax and Customs Authority.
- 3- Accepting the appeal related to the late payment fine, canceling the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-403) and supporting the decision of the Zakat, Tax and Customs Authority.

Second: Regarding the Taxpayer's appeal... National ID number (...)

- 1- Acceptance of the appeal procedurally.
- 2- Reject the appeal related to the fine for error in the declaration, and support the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Dammam No. (VD-2022-403) and support the decision of the Zakat, Tax and Customs Authority.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2023-131495

Case No. V-2022-131495

Keywords

VAT – Fines – Non-Record Retention Penalty – Acceptance of Taxpayer Appeal

Summary:

The Taxpayer's objection to the decision of the Second Circuit to adjudicate VAT violations and disputes in Riyadh No. (VRS-2022-1005), where the Taxpayer's appeal lies on the evaluation notice for the clause of local sales subject to the basic tax rate for the tax periods (January - June) 2019, and the imposition of fines related to tax evasion, late payment, error in declaration, and failure to keep records. The Taxpayer based her objection on the existence of errors from the accountant in charge that resulted in undisclosed sales, and their subsequent correction, in addition to the appellant's classification of some revenues outside the scope of tax as sales subject to the basic percentage. Whereas, it was proven to the Appeal Committee to cancel the tax evasion fine for lack of proof of intent, as the appellant disclosed the sales in subsequent declarations, and the error was from the accountant. It also partially eliminated the penalty for error in declaration, late payment and non-retention of records, as they are related to tax periods that are appealable. This meant partially accepting the appeal by canceling the tax evasion fine, accepting its objection to the local sales clause for the periods (January, February, May, June) 2019, and the fines resulting therefrom, and otherwise supporting the decision.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Article (39) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)

Facts:

The appeal submitted on 16/05/2022 was considered by the Taxpayer ...— National ID No. (...), in her capacity as the owner of an institution ... For Trade, under the Commercial Register No. (...), on the decision

of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

" First: To accept the claim procedurally.

Second: The Plaintiff objected on the merits, in relation to the Valuation Notice, to the domestic sales clause subject to the base rate of the tax periods at issue.

Third: Reject the Plaintiff's objection regarding the tax evasion fine in question.

Fourth: Reject the Plaintiff's objection regarding the late payment penalty resulting from the notice of the final evaluation of the tax periods in question.

FIFTH: Reject the Plaintiff's objection regarding the fine for error in the declaration resulting from the notice of the final evaluation of the tax periods in question.

Sixth: Reject the Plaintiff's objection regarding the fine for keeping records, documents and tax invoices in the amount of (50,000) riyals.

Since this decision was not accepted by the appellant, it submitted to the Appellate Circuit an appeal statement that included its objection to the decision of the Adjudication Circuit to reject its claim regarding the evaluation notice for the local sales clause subject to the basic percentage of the tax periods related to the months (January, February, March, April, May, June) for the year 2019, and the resulting fines, due to the errors of the responsible accountant that led to the existence of undisclosed sales for the tax periods (January, February, March, April, May) 2018, and the tax returns were corrected when the error was discovered and undisclosed amounts were added, in addition to the appellant's consideration of revenues that classify supplies outside the scope of VAT as taxable income for the basic period in relation to the months (January, February) of 2019 with a value of (9,899,946.25) riyals, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:



Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit dismissed the appellant's claim regarding the appellant's notice of evaluation of the local sales subject to the basic ratio of the tax periods related to the months (January, February, March, April, May, June) of 2019, and with regard to the clause (local sales subject to the basic ratio) related to the tax periods (January, February, March, April, May) 2018, Whereas the appellant objects to the decision of the adjudication Circuit, due to the errors of the responsible accountant that led to the existence of undisclosed sales for the aforementioned periods, and whereas it is established by the appellant Circuit that the appellant's claim lies in the cancellation of the decision of the adjudication Circuit on this clause, and whereas it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justified grounds on which it was based and sufficient to carry out its judiciary, as the issuing Circuit examined the dispute and concluded with regard to it the conclusion it reached in its operative part, and whereas the appellate Circuit did not notice what Requires rectification or comment in the light of the arguments raised before this circuit, which ends up deciding not to affect the outcome of the decision. Based on the foregoing, the Circuit concluded the report of the rejection of the appeal and supported the decision of the adjudication Circuit in its conclusion based on its grounds.

With regard to the tax periods (January, February, May, and June) 2019 related to the above clause, and where the appellant objects to the decision of the Adjudication Circuit, because the appellant considers revenues that classify supplies outside the scope of VAT as taxable income for the basic period, in relation to the months (January, February) of 2019 with a value of (9,899,946.25) riyals, and where the appellant objected to the amendments made by the Authority to the periods (January, February, May, and June) of 2019, claiming that she was not aware of how the appellant against her reached the amounts, as no grounds were clarified to amend these declarations, and where the appellant submitted the documents related to them while the appellant did not respond or challenge the validity of the documents submitted, which leads the Appellant Circuit to accept the appeal submitted in part.

With regard to the tax evasion fine and the appellant's claim to cancel it, and since Article (39) of the Value Added Tax Law clarified the cases that are considered tax evasion and stipulated that there was an intention

to evade the payment of the due tax, and since the Circuit did not prove this from the facts of the case, where the appellant disclosed the undisclosed sales related to the year 2018 in the subsequent tax return of the same year (June 2018), so it was proven that he was in good faith, especially that the lack of Correcting it for the same period was based on the directive of the Appellee and that the error in non-disclosure is due to the error of the responsible accountant, who has a dispute with the appellant. As for the year 2019, he submitted the documents that he requested as being outside the scope of the tax and the Authority did not indicate their grounds, which makes it clear that there was no deliberate evasion of the supply of the tax due to the Appellee; especially since the fine was imposed on tax periods related to the beginning of the application of the VAT law, as well as periods on which there was no amendment after the examination as in the notice of the end of the assessment submitted for the month of March of 2019 and the notice of imposition of the fine, thus Whereas the appellee did not base her decision on a clear basis, where the fine was imposed on tax periods in which there is no amendment and in accordance with paragraph (5) of Royal Decree (113), which gave the committee the necessary powers to investigate and adjudicate cases, including (the power to impose fines), which ends with the Appellate Circuit accepting the appeal submitted.

With regard to the fine for error in the declaration and the fine for late payment, and the appellant's request to cancel those fines that resulted from the notice of final evaluation of the tax periods in question, and since the clause (local sales subject to the basic ratio) has led to the acceptance of the appeal in relation to the tax periods (January, February, May, June) 2019, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to partially accept the appeal.

With regard to the fine for not keeping accounting records and documents, and according to the decision to reclassify field violations of VAT issued by the Board of Directors of the Zakat, Tax and Customs Authority, starting from 30/1/2022, the penalties for field violations start by alerting the establishment first about the violation and raising the awareness of the Taxpayer, and fines are not imposed for committing the violation for the first time, which leads the Appellate Circuit to accept the appeal submitted.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.

Second: On the merits:

- 1- Acceptance of the appeal submitted by the Taxpayer / ... – National ID No. (...), regarding the clause of local sales subject to the basic ratio in part, and amending the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005).



- 2- Acceptance of the appeal submitted by the Taxpayer / ... – National ID No. (...), regarding the tax evasion fine, and canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005), and canceling the decision of the appellant against it.
- 3- Acceptance of the appeal submitted by the Taxpayer / ... – National ID No. (...), regarding the fine clause of the error in the declaration in part in accordance with paragraph (1), and the amendment of the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005).
- 4- Acceptance of the appeal submitted by the Taxpayer / ... – National ID No. (...), regarding the clause of late payment fine in part in accordance with paragraph (1), and amending the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005).
- 5- Acceptance of the appeal submitted by the Taxpayer / ... – National ID No. (...), regarding the fine for not keeping accounting records and documents, and canceling the decision of the Second Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VRS-2022-1005), and canceling the decision of the appellant against it.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Value Added Tax and Selective
Goods Tax Violations and Disputes

Decision No. VA-2023-112931

Case No. V-2022-112931

Keywords

Value-added tax - Fines - Fines for obstructing the Authority's employee - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-73), where the Taxpayer's appeal lies on the imposition of an added tax on sales and purchases for 2020, and the fines associated with it (fine for error in declaration, late payment, and obstruction of the Authority's employee). Documents could not be submitted due to the coronavirus pandemic, as the relevant staff member was abroad. Since the Appellate Committee found that no actual obstruction by the appellant was proven, the appeal was accepted and the Commission's decision was overturned.

Document:

- [The Rules of Procedure for the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\), dated 08/04/1445 AH.](#)
- Paragraph (1) of Article (48) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (2) of Article (45) of [The Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (5) of Article (53) of [The Executive Regulations of the Value Added Tax law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Facts:

The appeal was considered on 30/03/2022, from the Taxpayer ...— National ID No. (...) As an entrepreneur... Hotel apartments under Commercial Registration No. (...), based on the decision of the First Circuit to

adjudicate VAT violations and disputes in the city of Riyadh No. (VR-2022-73) in the lawsuit filed by the appellant against the Appellee.

Since the facts of this case have been stated in the decision under appeal, the Appellate Circuit refers to it to prevent repetition. Whereas the decision of the Adjudication Circuit ruled the following:

- First: To accept the claim procedurally.
- Second: On the Merits: Rejecting the Plaintiff's lawsuit..., National ID No. (...), by canceling the Authority's decision regarding the revaluation of the third quarter of 2020, imposing VAT in the amount of (393,746.25) riyals, and a fine for error in acknowledgment in the amount of (224,143.13) riyals, and a fine for late payment in the amount of (39,374.63) riyals, and a fine for obstructing the work of the Authority's employee in the amount of (10,000) riyals.

Since this decision was not accepted by the appellant, he submitted to the Appellate Circuit a statement of appeal that included his objection to the decision of the Adjudication Circuit to reject his claim regarding his objection to the evaluation notice for the third quarter of 2020 and the fine for error in acknowledgment and delay in payment due to it, in addition to a fine for obstruction of the Authority's employee, because it was not possible to submit documents to the Appellee because the competent employee and the account holder was outside the Kingdom as a result of the Corona pandemic, in addition to the suspension of all his activities due to the Corona pandemic, and ended with a request to accept the appeal and cancel the decision of the Adjudication Circuit.

Whereas, the First Appellate Circuit for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via videoconference, based on paragraph (1) of Article (15) of the Zakat, Tax and Customs Committees Rules, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Circuits may, on their own initiative or at the request of one of the parties, hear the statements and pleadings by remote pleading or in presence, at its discretion, and the hearing, in the event that it is held remotely, shall be considered a judgment held in presence, and all its effects shall be arranged, and the Circuit shall record this in the minutes of the hearing." The case file, memoranda and relevant documents were reviewed, and the decision of the adjudication Circuit subject to appeal, and after discussion and deliberation, the Circuit decided to adjourn the hearing and issue the decision.

Grounds:

Upon reviewing the case documents and the statement of appeal submitted, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Circuit found that the decision issued by the Adjudication Circuit rejected the appellant's case regarding his objection to the evaluation notice for the third quarter of 2020 and the fine of error in acknowledgment and delay in payment resulting therefrom, in addition to the fine of obstructing the employee of the Authority, and since the appellant objects to the decision of the Adjudication Circuit because it was not possible to submit the documents to the Appellee because The competent employee based on the accounts was outside the Kingdom as a result of the Corona pandemic, in addition to the cessation of all his activities due to the Corona pandemic, and with regard to the clause of local sales subject to tax for the basic, and since the grounds for the amendment to the sales clause is the failure of the appellant to submit the supporting documents and as a result of which his sales were estimated, and the appellee did not provide the data and the method that was relied upon in estimating the sales, which proves the achievement of the appellant's revenues, that is, the appellee's decision did not meet its elements regarding the inadequacy of the basis on which it relied to issue its assessment decision, as well as the failure to prove the validity of its estimates of revenues in relation to that it is appropriate in the case of the appellant, which leads the Circuit to accept the appeal submitted.

With regard to local purchases subject to tax for the basic, and where the appellant objects to the decision of the Circuit of Adjudication because it was not possible to submit documents to the Appellee because the competent employee and the person responsible for the accounts was outside the Kingdom as a result of the Corona pandemic, in addition to the cessation of all his activities due to the Corona pandemic, and where it was proven to the Circuit that the amount of purchases that the appellant requested to deduct relates to an electricity service receipt invoice on 13/09/2020 for invoice No. (450540) in the amount of (363,600) riyals and the amount of tax (54,540) riyals, and where according to paragraph (1/a) of Article (48) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, the appellant submitted the tax invoice he has the right to exercise the tax deduction for the tax period in dispute, and where it was proven that the invoice in dispute is in accordance with the provisions of paragraph (5) of Article (53) of the executive regulations of the value added tax law, and where the appellant submitted the transfer bond dated 13/09/2020 through a bank ... For the benefit of the supplier company (...) An amount of (418,140) riyals, including the amount of tax, indicating payment and proving the validity of the appellant's claim to deduct his purchase tax, which leads the Appellate Circuit to accept the appeal submitted.

With regard to the objection to the two fines of error in the declaration and delay in payment, and since the appellant requests the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the two clauses of local sales and purchases subject to tax in the basic ratio

have led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Circuit to accept the appeal submitted in the fines in question.

With regard to the fine for obstructing the work of the Authority's employee, and where the Circuit did not prove that the Appellant prevented or hindered the Defendant's employees from performing their job duties in order to prove that the fine is due according to Article 45(2) of the VAT Law, and where the reason for imposing the fine is the Defendant's request to the Appellant to provide supporting documents for his submitted tax return to provide supporting documents for his submitted tax return, and that there is no merit in imposing the fine because the Defendant can amend the Appellant's return and issue its assessment in light of the documents provided to it, and the Appellant will bear the result of that, which concludes that the Appeals Circuit accepts the submitted appeal.

For these grounds and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), related to the clause of taxable local sales for the basic rate, and canceling the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the Appellee.
- 3- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), related to the clause of local purchases subject to tax at the basic rate, and canceling the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the Appellee.
- 4- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), related to the penalty for error in a tax return, and canceling the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the appellant against her.
- 5- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), related to the late payment penalty, and canceling the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the appellant against her.
- 6- Acceptance of the appeal submitted by the Taxpayer/ ... - National ID No. (...), concerning the fine for obstructing the Authority's employee, and canceling the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the appellant against her.

سبحان

